

Tab 2	CS/SB 86 by GO, Negron (CO-INTRODUCERS) Gaetz, Braynon, Margolis, Soto; (Similar to H 0527) Scrutinized Companies						
784986	D	S	RCS	AP, Negron	Delete everything after	11/19 02:26 PM	

Tab 3	SB 92 by Evers; (Identical to H 0351) Contaminated Sites						
138072	A	S	L	WD	AP, Hays	Delete L.44 - 49:	11/18 05:21 PM
971540	A	S	L	RCS	AP, Hays	Delete L.44 - 49:	11/19 03:46 PM

Tab 4	SB 100 by Simpson; (Similar to H 0697) Petroleum Restoration Program						
705458	D	S		AP, Hukill	Delete everything after	11/18 12:58 PM	

Tab 5	CS/SB 158 by TR, Hutson (CO-INTRODUCERS) Negron; (Identical to CS/H 0083) Identification Cards and Driver Licenses						
--------------	---	--	--	--	--	--	--

Tab 6	SB 184 by Bean; (Compare to H 0429) Military and Veterans Affairs						
368388	A	S	L	RCS	AP, Hukill	Delete L.101 - 120:	11/19 03:46 PM

Tab 7	CS/SB 190 by CA, Hutson (CO-INTRODUCERS) Margolis; (Identical to H 0501) Conservation Easements						
--------------	--	--	--	--	--	--	--

Tab 8	CS/SB 218 by CJ, Hutson (CO-INTRODUCERS) Gaetz; (Compare to CS/H 0105) Offenses Involving Electronic Benefits Transfer Cards						
--------------	---	--	--	--	--	--	--

Tab 9	SB 230 by Dean; (Similar to CS/H 0011) Missing Persons with Special Needs						
429010	A	S	RCS	AP, Altman	Delete L.15:	11/19 03:46 PM	
827048	A	S	RCS	AP, Altman	Delete L.19 - 52:	11/19 03:46 PM	

Tab 10	CS/SB 552 by EP, Dean; (Identical to H 7005) Environmental Resources						
813070	A	S	RCS	AP, Simmons	Delete L.386 - 387:	11/19 03:46 PM	
746282	A	S	RCS	AP, Simmons	Delete L.673 - 682:	11/19 03:46 PM	
958272	A	S	RCS	AP, Simmons	Delete L.903:	11/19 03:46 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Lee, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Thursday, November 19, 2015
TIME: 1:00—3:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Lee, Chair; Senator Benacquisto, Vice Chair; Senators Altman, Flores, Gaetz, Galvano, Garcia, Grimsley, Hays, Hukill, Joyner, Latvala, Margolis, Montford, Negron, Richter, Ring, Simmons, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation on Cyber Security by the Agency for State Technology		Presented
2	CS/SB 86 Governmental Oversight and Accountability / Negron (Similar H 527, Compare H 199)	Scrutinized Companies; Requiring the State Board of Administration to identify all companies that are boycotting Israel or are engaged in a boycott of Israel in which the public fund owns direct or indirect holdings in; requiring the public fund to create and maintain a scrutinized companies list that names all such companies; prohibiting a state agency or local governmental entity from contracting for goods and services that exceed a specified amount if the company has been placed on the Scrutinized Companies that Boycott Israel List, etc. GO 10/06/2015 Fav/CS AGG 10/20/2015 Favorable AP 11/19/2015 Fav/CS	Fav/CS Yeas 13 Nays 0
With subcommittee recommendation - General Government			
3	SB 92 Evers (Identical H 351)	Contaminated Sites; Defining the terms "background concentration" and "long-term natural attenuation"; requiring the Department of Environmental Protection to include protocols for the use of long-term natural attenuation where site conditions warrant; providing that institutional controls are not required under certain circumstances if alternative cleanup target levels are used; providing additional contamination cleanup criteria for brownfield sites and brownfield areas, etc. EP 10/07/2015 Favorable AGG 10/20/2015 Favorable AP 11/19/2015 Fav/CS	Fav/CS Yeas 14 Nays 0
With subcommittee recommendation - General Government			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, November 19, 2015, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 100 Simpson (Similar H 697)	Petroleum Restoration Program; Revising the eligibility requirements of the Abandoned Tank Restoration Program; deleting provisions prohibiting the relief of liability for persons who acquired title after a certain date; revising the conditions for eligibility and methods for payment of costs for the low-risk site initiative; revising the eligibility requirements for receiving rehabilitation funding; reducing the number of sites that may be proposed for certain advanced cleanup applications, etc. EP 10/07/2015 Favorable AGG 10/20/2015 Favorable AP 11/19/2015 Temporarily Postponed	Temporarily Postponed
With subcommittee recommendation - General Government			
5	CS/SB 158 Transportation / Hutson (Identical CS/H 83)	Identification Cards and Driver Licenses; Providing for a person's status as a lifetime freshwater fishing, saltwater fishing, hunting, or sportsman licensee, or boater safety identification cardholder, to be indicated on his or her identification card or driver license upon payment of an additional fee and presentation of the person's lifetime freshwater fishing, saltwater fishing, hunting, or sportsman's license, or boater safety identification card; providing a waiver of the replacement fee in certain circumstances, etc. TR 10/08/2015 Fav/CS ATD 11/03/2015 Favorable AP 11/19/2015 Favorable	Favorable Yeas 15 Nays 0
With subcommittee recommendation - Transportation, Tourism, and Economic Development			
6	SB 184 Bean (Compare H 429)	Military and Veterans Affairs; Requiring the application form for an original, renewal, or replacement driver license or identification card to include a voluntary checkoff authorizing veterans to request written or electronic information on federal, state, and local benefits and services for veterans; creating the Military and Overseas Voting Assistance Task Force within the Department of State; providing legislative findings regarding continuing education for veterans of the United States Armed Forces, etc. MS 10/06/2015 Favorable EE 10/21/2015 Favorable AP 11/19/2015 Fav/CS	Fav/CS Yeas 15 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, November 19, 2015, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 190 Community Affairs / Hutson (Identical H 501)	Conservation Easements; Deleting a requirement that an exemption for a conservation easement must be renewed annually; providing that a property owner is not required to file a renewal application until the use of the property no longer complies with conservation easement requirements or restrictions, etc. CA 10/20/2015 Fav/CS FT 11/02/2015 Favorable AP 11/19/2015 Favorable	Favorable Yeas 15 Nays 0
8	CS/SB 218 Criminal Justice / Hutson (Compare CS/H 105)	Offenses Involving Electronic Benefits Transfer Cards; Specifying acts that constitute trafficking in food assistance benefits cards and are subject to criminal penalties; providing criminal penalties, etc. CJ 10/05/2015 Fav/CS ACJ 11/03/2015 Favorable AP 11/19/2015 Favorable	Favorable Yeas 15 Nays 0
With subcommittee recommendation - Criminal and Civil Justice			
9	SB 230 Dean (Similar CS/H 11)	Missing Persons with Special Needs; Creating a pilot project in specified counties to provide personal devices to aid search-and-rescue efforts for persons with special needs; providing for administration of the project; requiring reports; providing for expiration; providing an appropriation, etc. CJ 10/05/2015 Favorable CF 10/22/2015 Favorable AP 11/19/2015 Fav/CS	Fav/CS Yeas 15 Nays 0
10	CS/SB 552 Environmental Preservation and Conservation / Dean (Identical H 7005, Compare H 589)	Environmental Resources; Requiring the Department of Environmental Protection to publish, update, and maintain a database of conservation lands; authorizing certain water management districts to designate and implement pilot projects; prohibiting water management districts from modifying permitted allocation amounts under certain circumstances; creating the "Florida Springs and Aquifer Protection Act", etc. EP 11/04/2015 Fav/CS AP 11/19/2015 Fav/CS	Fav/CS Yeas 15 Nays 0

Other Related Meeting Documents



Cybersecurity: Emerging Threats and Trends

The Florida Senate
Appropriations Committee
November 19, 2015



Introduction

- Legislative Budget Requests
 - Agency for State Technology - \$992,000
 - Florida Dept. of Highway Safety and Motor Vehicles – \$705,000
 - Florida Department of Economic Opportunity – \$1.11M
 - Florida Department of Revenue – \$2.3M
- Cost of the status quo
 - South Carolina - \$14M loss and \$20.1M to cover expenses
 - Utah - \$9M
 - OMB - \$19M - \$21M
- Security training is KEY
- Partnerships and collaborations



IT Security - Threat Reality*

- Approximately 5 malware events are generated every second
- 60% of attacks compromise organizations within minutes
- 75% of compromises spread externally within 24 hours
- Over 40% of compromises spread externally in less than 1 hour

*Source: Ponemon Institute, 2014 Global Report on the Cost of Cyber Crime and Verizon, 2015 Data Breach Investigations Report



2015 Verizon Data Breach Investigations Report (DBIR)

70 Contributing Organizations

79,790 Security Incidents

2,122 Confirmed Data Breaches

61 Countries Represented

Top three industries affected by security incidents*

- Public
- Information
- Financial Services

*Source: North American Industry Classification System (NAICS) for coding the victim industry.
census.gov/eos/www/naics

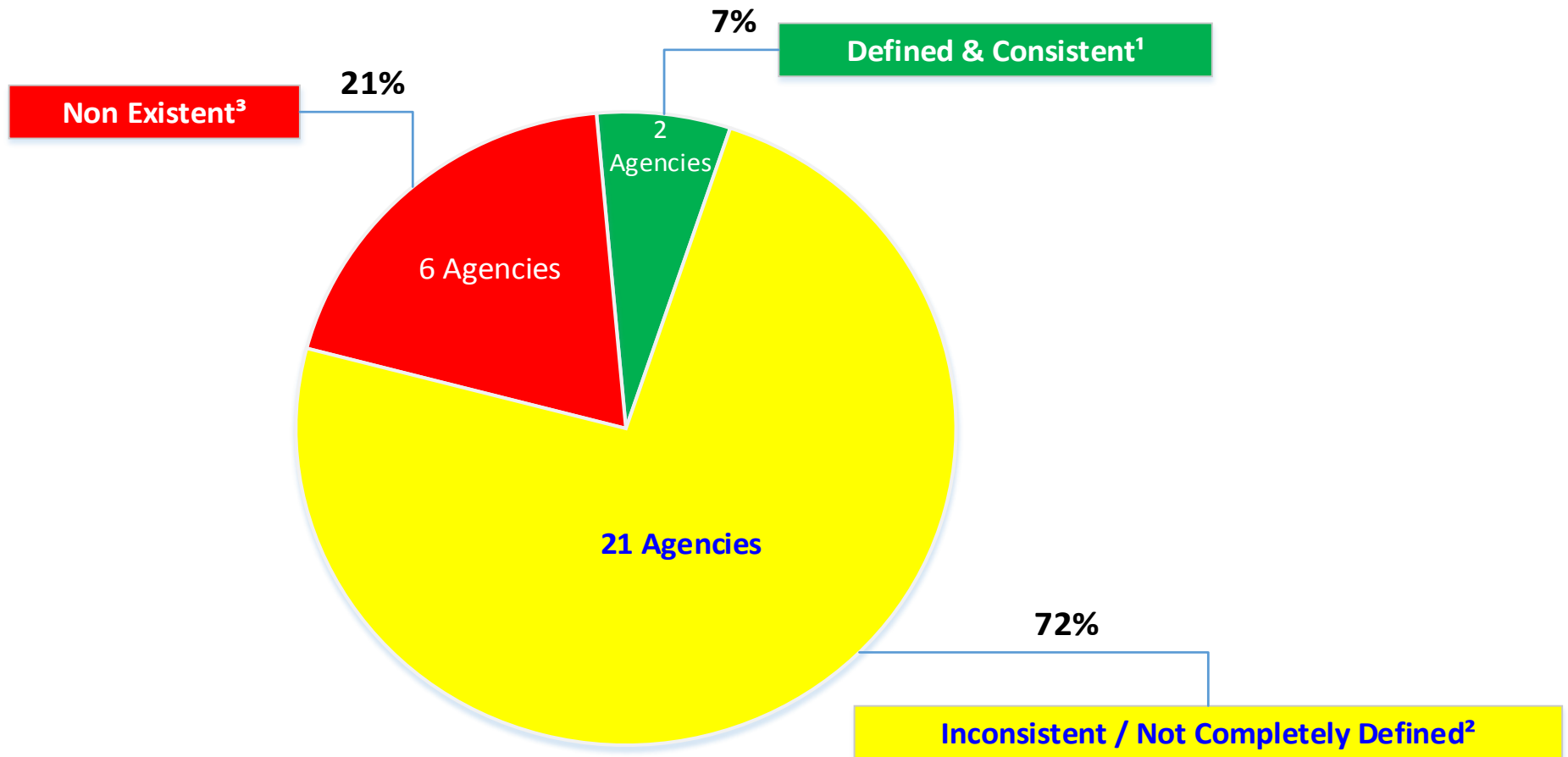


The Cost of Cyber Crime*

RECORDS	PREDICTION (LOWER)	AVERAGE (LOWER)	EXPECTED	AVERAGE (UPPER)	PREDICTION (UPPER)
100	\$1,170	\$18,120	\$24,450	\$35,730	\$555,660
1,000	\$3,110	\$52,260	\$67,480	\$87,140	\$1,461,730
10,000	\$8,280	\$143,360	\$178,960	\$223,400	\$3,866,400
100,000	\$21,900	\$366,500	\$474,600	\$614,600	\$10,283,200
1,000,000	\$57,600	\$892,400	\$1,258,670	\$1,775,350	\$27,500,090
10,000,000	\$150,700	\$2,125,900	\$3,338,020	\$5,241,300	\$73,943,950
100,000,000	\$392,000	\$5,016,200	\$8,852,540	\$15,622,700	\$199,895,100

*Source: 2015 Verizon Data Breach Investigations Report

Overall Maturity Rating Scores



¹ **Defined & Consistent:** There is a defined and consistently implemented control / process in place to address the noted requirement.

² **Inconsistent / Not Completely Defined:** Requirements may be partially addressed through implemented controls/processes, but do not provide full coverage. Alternately, controls/ processes are ad hoc/inconsistent and/or are not documented.

³ **Non Existent:** Complete lack of any recognizable processes or control. In many cases, the enterprise has not recognized that there is an issue to be addressed, or has formally or informally made the decision not to address due to resource, funding, or other limitations.

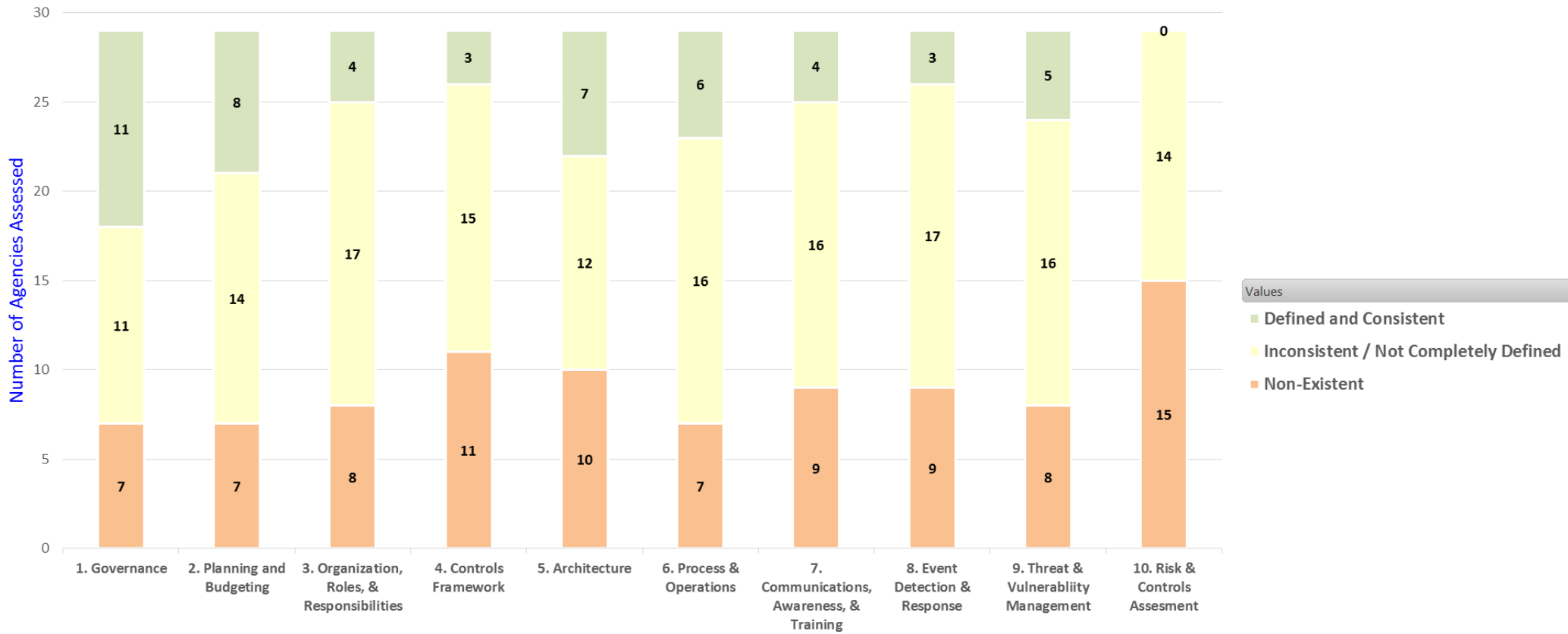


IT Security Risk Assessment

Agency ▾

Non-Existent Inconsistent / Not Completely Defined Defined and Consistent

Security Controls by Category



Security Control Categories

Category ▾

Managed Security Services - *It's a Landlord/Tenant Scenario*



AST owns/protects the property (house)



Agencies protect the keys to the property



Agencies protect their belongings inside the property



Renter vs. Landlord

Renter's Insurance
Utilities
Furnishings
Lawn Care
Groceries

Owner's Insurance
Pest Control
Property Taxes
Appliance Maintenance



Agency vs. Data Center

Security
Mobile Devices
Computers
Servers
Data
Access Control
Applications

Security
Mobile Devices
Computers
Servers
Database
Patching



An agency can:
Have hundreds of applications with multiple versions of each;
Offer dozens of citizen services that interconnect with other agency missions





Emerging Threats & Trends

- One Phish, Two Phish
- Denial of Service Attack
- Malvertising
- Security Professional Shortage



- Legislative Budget Requests
- Cost of the status quo
- Security training is KEY
- Partnerships and collaborations

QUESTIONS?

Jason Allison
Executive Director/State Chief Information Officer
Agency for State Technology
(850) 412-6050
Jason.Allison@ast.myflorida.com

THE FLORIDA SENATE
APPEARANCE RECORD

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

November 19, 2015

Meeting Date

Bill Number (if applicable)

Topic Cybersecurity

Amendment Barcode (if applicable)

Name Jason Allison

Job Title Executive Director/State Chief Information Officer

Address 4050 Esplanade Way, Suite 115

Phone (850) 412-6050

Street

Tallahassee

FL

32399

Email jason.allison@ast.myflorida.com

City

State

Zip

Speaking: For Against Information

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

Representing Agency for State Technology

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)

11/1a/15

Meeting Date

Bill Number (if applicable)

Topic AST Presentation

Amendment Barcode (if applicable)

Name Danielle Alvarez

Job Title Chief Security Officer

Address 4050 Esplanade Way Suite 150

Phone 850-412-6049

Street

Tallahassee FL 32399

Email danielle.alvarez@ast.

City

State

Zip

myflorida.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 86

INTRODUCER: Appropriations Committee; Governmental Oversight and Accountability Committee;
Senator Negron and others

SUBJECT: Scrutinized Companies

DATE: November 23, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Favorable</u>
3.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 86 requires the State Board of Administration (SBA) to identify and assemble a list of companies that boycott Israel. The bill requires the SBA to update and make publicly available on a quarterly basis a Scrutinized Companies that Boycott Israel List (List). The List must be distributed to the trustees of the SBA, the President of the Florida Senate, and the Speaker of the Florida House of Representatives.

The SBA must provide written notice to the companies that may be placed on the List and give those companies an opportunity to respond prior to the company becoming subject to investment prohibition and placement on the List.

In terms of its investment responsibilities relating to the Florida Retirement System (FRS) pension plan, the SBA is not permitted to acquire securities, as direct holdings, of companies that appear on the List. The bill provides an exception for securities that are not subject to this prohibition. The bill requires the investment policy statement for the FRS pension plan to be updated to include the limitations set forth in this bill.

The bill limits governmental entities from contracting with scrutinized companies on the List or companies engaged in a boycott of Israel. Specifically, the bill prohibits a state agency or local governmental entity from contracting for goods and services of \$1 million or more with a company that has been placed on the List, or engaged in a boycott of Israel. In addition, the bill

requires certain governmental contracts to contain provisions allowing the awarding body to terminate the contract if a company is placed on the List, or engaged in a boycott of Israel. Additionally, the bill requires certification by a company that the company is not participating in a boycott of Israel upon submission of bid or renewal of existing contract. A case-by-case exception is provided to state agencies and local governmental entities for contracting with companies on the List under specified circumstances.

The fiscal impact on state and local governments is indeterminate.

II. Present Situation:

State Board of Administration Investing Duties

The State Board of Administration (SBA) was created by Art. IV, s. 4(e) of the Florida Constitution. Its members are the Governor, the Chief Financial Officer, and the Attorney General. The board derives its powers to oversee state funds from Art. XII, s. 9 of the Florida Constitution and ch. 215, F.S.

The SBA has oversight over the Florida Retirement System (FRS) pension plan and the FRS investment plan, which represent approximately \$157.14 billion, or 87.3 percent, of the \$180 billion in assets managed by the SBA, as of June 30, 2015.¹ The pension plan is a defined benefit plan and the investment plan is a defined contribution plan that employees may choose in lieu of the pension plan. The SBA also manages over 30 other investment portfolios, with combined assets of \$22.86 billion, including the Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Prepaid College Plan, and various debt-service accounts for state bond issues.²

State Sponsors of Terrorism

The United States Department of State maintains a list of countries determined to have repeatedly provided support for acts of international terrorism.³ The countries are designated "terrorist nations" under requirements in three federal laws: the Export Administration Act⁴; the Arms Export Control Act⁵; and the Foreign Assistance Act⁶. Taken together, the four main categories of sanctions resulting from designation under these authorities include restrictions on U.S. foreign assistance; a ban on defense exports and sales; certain controls over exports of dual use items; and miscellaneous financial and other restrictions.⁷

Currently, the State Department designates three countries under these authorities: Iran, Sudan and Syria.⁸ The chart on the following page shows the date each country was designated a terrorist nation.

¹ State Board of Administration "Performance Report to the Trustees" dated June 30, 2015, and issued on August 12, 2015.

² *Id.*

³ U.S. Department of State, Diplomacy in Action can be found online at <http://www.state.gov/j/ct/list/c14151.htm> (last visited Sept. 9, 2015).

⁴ 50 U.S.C. App 2405(j)

⁵ 22 U.S.C. s. 2780

⁶ 22 U.S.C. s. 2371

⁷ *See* <http://www.state.gov/s/ct/c14151.htm>.

⁸ *Id.*

Country	Designation Date
Iran	January 19, 1984
Sudan	August 12, 1993
Syria	December 29, 1979

Cuba had been designated as a State Sponsor of Terrorism on March 1, 1982. In December 2014, President Obama requested the Secretary of State to review Cuba's designation as a state sponsor of terrorism, and to provide him a report within six months in regard to Cuba's support for international terrorism.⁹ On April 8, 2015, the Secretary of State completed his review and recommended to the President that Cuba no longer be designated as a state sponsor of terrorism.¹⁰

On April 14, 2015, the President submitted this report to Congress indicating the administration's intent to rescind Cuba's state sponsor of terrorism designation, including the certification that Cuba has not provided any support for international terrorism during the previous six months and that Cuba has provided assurances that it will not support acts of international terrorism in the future.¹¹

After the 45-day Congressional pre-notification period expired, Cuba was officially removed from the list on May 29, 2015.¹²

Protecting Florida Investments Act

In 2007, the Legislature enacted the Protecting Florida's Investments Act (PFIA).¹³ The PFIA requires the SBA, acting on behalf of the Florida Retirement System Trust Fund (FRSTF), to assemble and publish a list of "Scrutinized Companies" that have prohibited business operations in Sudan and Iran. Once placed on the list of Scrutinized Companies, the SBA and its investment managers are prohibited from acquiring those companies' securities¹⁴ and are required to divest those securities if the companies¹⁵ do not cease the prohibited activities or take certain compensating actions. The implementation of the PFIA by the SBA does not affect any FRSTF investments in U.S. companies; the PFIA affects foreign companies with certain business operations in Sudan and Iran involving the petroleum or energy sector, oil or mineral extraction, power production, or military support activities.

The definition of "company" for purposes of the PFIA includes all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations.

⁹ U.S. Department of State, Diplomacy in Action, Recession of Cuba as a State Sponsor of Terrorism, at <http://www.state.gov/r/pa/prs/ps/2015/05/242986.htm> (last visited on Sept. 15, 2015).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Chapter 2007-88, Laws of Florida; *also, see* Senate Bill 2142 (reg. session 2007).

¹⁴ Section 215.473(3)(c), F.S.

¹⁵ Section 215.473(3)(b), F.S.

The term “public fund” is defined as “all funds, assets, trustee, and other designates under the State Board of Administration pursuant to chapter 121.”¹⁶ This means those assets of the Florida Retirement System - both the pension plan as well as the investment plan.

According to staff of the SBA, the PFIA imposes the following reporting, engagement, and investment requirements on the SBA:

- Quarterly reporting to the Board of Trustees of every equity security in which the SBA has invested for the quarter, along with its industry category. This report is posted on the SBA website.
- Quarterly presentation to the Trustees of a “Scrutinized Companies” list for both Sudan and Iran for their approval. Scrutinized Company lists are available on the SBA’s website¹⁷, along with information on the FRSTF direct and indirect holdings of Scrutinized Companies.
- Written notice to external investment managers of all PFIA requirements. Letters request that the managers of actively managed commingled vehicles (i.e., those with FRSTF and other clients’ assets) consider removing Scrutinized Companies from the product or create a similar actively managed product that excludes such companies. Similar written requests must be provided to relevant investment managers within the Investment Plan.
- Written notice to any company with inactive business operations in Sudan or Iran, informing the company of the PFIA and encouraging it to continue to refrain from reinitiating active business operations.¹⁸ Such correspondence continues semiannually.¹⁹
- Written notice to any Scrutinized Company with active business operations, informing the company of its Scrutinized Company status and that it may become subject to divestment.²⁰ The written notice must inform the company of the opportunity to clarify its Sudan-related or Iran-related activities and encourage the company, within 90 days, to cease its scrutinized business operations or convert such operations to inactive status.²¹
- A prohibition on further investment on behalf of the FRSTF in any Scrutinized Company once the Sudan and Iran scrutinized lists have been approved by the Trustees. All publicly traded securities of Scrutinized Companies must be divested within 12 months after the company’s initial (and continued) appearance on the Scrutinized Companies list. Divestment does not apply to indirect holdings in actively managed commingled investment funds—i.e., where the SBA is not the sole investor in the fund. Private equity funds are considered to be actively managed.
- Reporting to each member of the Board of Trustees, President of the Senate, and the Speaker of the House of Representatives of Scrutinized Company lists within 30 days of creation, and public disclosure of each list.²²
- Quarterly reporting to each member of the Board of Trustees, the President of the Senate, the Speaker of the House of Representatives, the United States Presidential Special Envoy to

¹⁶ Section 215.473(1)(r), F.S.

¹⁷ The quarterly reports are available at <http://www.sbafla.com/fsb/Portals/Internet/PFIA/CurrentProhibitedCompaniesList.pdf>

¹⁸ Section 215.473(3)(a)2., F.S.

¹⁹ *Id.*

²⁰ Section 215.473(3)(a)3., F.S.

²¹ *Id.*

²² Section 215.473(4)(a), F.S.

Sudan, and the United States Presidential Special Envoy to Iran.²³ The report must include the following:²⁴

- A summary of correspondence with engaged companies;
- A listing of all investments sold, redeemed, divested, or withdrawn;
- A listing of all prohibited investments;
- A description of any progress related to external managers offering PFIA compliant funds; and
- A list of all publicly traded securities held directly by the state.
- Adoption and incorporation into the FRSTF Investment Policy Statement (IPS) of SBA actions taken in accordance with the PFIA. Changes to the IPS are reviewed by the Investment Advisory Council (IAC) and approved by the Trustees.
- Relevant Sudan or Iran portions of the PFIA are discontinued if the Congress or President of the United States passes legislation, executive order, or other written certification that:
 - Darfur genocide has been halted for at least 12 months;²⁵
 - Sanctions imposed against the Government of Sudan are revoked;²⁶
 - Government of Sudan honors its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons;²⁷
 - Government of Iran has ceased to acquire weapons of mass destruction and support international terrorism;²⁸
 - Sanctions imposed against the government of Iran are revoked;²⁹ or
 - Mandatory divestment of the type provided for by the PFIA interferes with the conduct of U.S. foreign policy.³⁰
- Cessation of divestment and/or reinvestment into previously divested companies may occur if the value of all FRSTF assets under management decreases by 50 basis points (0.5 percent) or more as a result of divestment.³¹ If cessation of divestment is triggered, the SBA is required to provide a written report to each member of the Board of Trustees, the President of the Senate, and the Speaker of the House of Representatives prior to initial reinvestment.³² Such condition is required to be updated semiannually.³³

²³ Section 215.473(4)(b), F.S.

²⁴ Section 215.473(4)(b)1.-5., F.S.

²⁵ Section 215.473(5)(a)1., F.S.

²⁶ Section 215.473(5)(a)2., F.S.

²⁷ Section 215.473(5)(a)3., F.S.

²⁸ Section 215.473(5)(b)1., F.S.

²⁹ Section 215.473(5)(b)2., F.S.

³⁰ Section 215.473(5)(b)3., F.S.

³¹ Section 215.473(7), F.S.

³² *Id.*

³³ *Id.*

Chapter 287, Florida Statutes

Chapter 287, F.S., regulates state agency³⁴ procurement of personal property and services.³⁵ Agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These include the following:

- "Single source contracts," which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- "Invitations to bid," which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- "Requests for proposals," which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- "Invitations to negotiate," which are used when negotiations are determined to be necessary to obtain the best value and involve a request for high complexity, customized, mission-critical services, by an agency dealing with a limited number of vendors.³⁶

Contracts for commodities or contractual services in excess of \$35,000 must be procured utilizing a competitive solicitation process.³⁷ However, specified contractual services and commodities are not subject to competitive-solicitation requirements.³⁸

The chapter establishes a process by which a person may file an action protesting a decision or intended decision pertaining to contracts administered by the Department of Management Services (DMS), a water management district, or state agencies.³⁹

The DMS is statutorily designated as the central executive agency procurement authority and its responsibilities include: overseeing agency implementation of the ch. 287, F.S., competitive procurement process;⁴⁰ creating uniform agency procurement rules;⁴¹ implementing the online procurement program;⁴² and establishing state term contracts.⁴³ The agency procurement process is partly decentralized in that agencies, except in the case of state term contracts, may procure

³⁴ As defined in s. 287.012(1), F.S., "agency" means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges.

³⁵ Local governments are not subject to the provisions of ch. 287, F.S. Local governmental units may look to the chapter for guidance in the procurement of goods and services, but many have local policies or ordinances to address competitive solicitations.

³⁶ See ss. 287.012(6) and 287.057, F.S.

³⁷ Section 287.057(1), F.S., requires all projects that exceed the Category Two (\$35,000) threshold contained in s. 287.017, F.S., to be competitively bid. As defined in s. 287.012(6), F.S., "competitive solicitation" means the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.

³⁸ See s. 287.057(3)(e), F.S.

³⁹ See ss. 287.042(2)(c) and 120.57(3), F.S.

⁴⁰ Sections 287.032 and 287.042, F.S.

⁴¹ Sections 287.032(2) and 287.042(3), (4), and (12), F.S.

⁴² Section 287.057(22), F.S.

⁴³ Sections 287.042(2) and 287.056, F.S.

goods and services themselves in accordance with requirements set forth in statute and rule, rather than placing orders through the DMS.

Prohibition against Contracting with Scrutinized Companies and Companies Engaged in Business Operations in Cuba or Syria

Section 287.135(2), F.S., prohibits a company on the Scrutinized Companies with Activities in Sudan List or on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba⁴⁴ or Syria from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency⁴⁵ or local governmental entity for goods or services of \$1 million or more. “Local governmental entity,” for the purposes of s. 287.135, F.S., means a county, municipality, special district, or other political subdivision of the state.

Section 287.135(3)(b), F.S., provides that any contract with an agency or local governmental entity for goods or services of \$1 million or more entered into or renewed on or after July 1, 2012, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or have been engaged in business operations in Cuba or Syria.

Section 287.135(4)(a)1., F.S., allows an agency or local governmental entity to make a case-by-case exception to the prohibition for a company on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List if:

- The scrutinized business operations⁴⁶ were made before July 1, 2011;
- The scrutinized business operations have not been expanded or renewed after July 1, 2011;
- The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company;
- The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations; *and*
- *One* of the following occurs:
 - The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.

⁴⁴ See *Odebrecht Const., Inc. v. Secretary, Fla. Dep’t of Transp.*, 715 F.3d 1268 (11th Cir. 2013). The Eleventh Circuit Court of Appeals affirmed an injunction against enforcement of the “Cuba Amendment,” a 2012 Florida law (s. 287.135, F.S.) that banned companies with subsidiaries doing business with Cuba, from bidding on state or local contracts in Florida. The Court found that the Cuba Amendment was preempted by extensive federal statutory and administrative sanctions and would undermine the President’s discretionary authority concerning federal policy with Cuba.

⁴⁵ Agency is defined in s. 287.012(1), F.S., as any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. “Agency” does not include the university and college boards of trustees or the state universities and colleges. Also, see s. 287.135(1), F.S. Definitions contained in ss. 287.012 and 215.473, F.S. are incorporated into s. 287.135, F.S.

⁴⁶ Section 215.473(1)(t), F.S., defines “scrutinized business operations” to mean business operations that result in a company becoming a scrutinized company.

- For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.
- For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.

Section 287.135(4)(a)2., F.S., allows an agency or local governmental entity to make a case-by-case exception to the prohibition for a company engaged in business operations in Cuba or Syria if:

- The business operations were made before July 1, 2012;
- The business operations have not been expanded or renewed after July 1, 2012;
- The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company;
- The company has adopted, has publicized, and is implementing a formal plan to cease business operations and to refrain from engaging in any new business operations; *and*
- *One* of the following occurs:
 - The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.
 - For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.
 - For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.

An agency or local governmental entity must require a company that submits a bid or proposal for, or that otherwise proposes to enter into or renew, a contract with the agency or local governmental entity for goods or services of \$1 million or more to certify, at the time a bid or proposal is submitted or before a contract is executed or renewed, that the company is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or that it does not have business operation in Cuba or Syria.⁴⁷

If an agency or local governmental entity determines that a company has submitted a false certification, it shall provide the company with written notice, and the company will have 90 days to respond in writing to such determination.⁴⁸ If the company fails to demonstrate that the determination of false certification was made in error, then the awarding body *must* bring a civil action against the company.⁴⁹ If a civil action is brought and the court determines that the company submitted a false certification, the company shall pay all reasonable attorney's fees and costs (including costs for investigations that led to the finding of false certification).⁵⁰ Also, a

⁴⁷ Section 287.135(5), F.S.

⁴⁸ Section 287.135(5)(a), F.S.

⁴⁹ *Id.*

⁵⁰ *Id.*

civil penalty equal to the greater of \$2 million or twice the amount of the contract for which the false certification was submitted shall be imposed.⁵¹ The company is ineligible to bid on any contract with an agency or local governmental entity for three years after the date the agency or local governmental entity determined that the company submitted a false certification.⁵² A civil action to collect the penalties must commence within three years after the date the false certification is made.⁵³

Section 287.135(6), F.S., specifies that only the awarding body may cause a civil action to be brought, and that the section does not create or authorize a private right of action or enforcement of the provided penalties. An unsuccessful bidder, or any other person other than the awarding body, may not protest the award or contract renewal on the basis of a false certification.

Section 287.135(7), F.S., specifies that this section preempts any ordinance or rule of any agency or local governmental entity involving public contracts for goods or services of \$1 million or more with a company engaged in scrutinized business operations.

Section 287.135 (8), F.S., provides that this provision becomes inoperative on the date that federal law ceases to authorize the state to adopt and enforce the contracting prohibitions of the type provided for in this section.

III. Effect of Proposed Changes:

Section 1 creates s. 215.4725, F.S., entitled “Prohibited Investments by the State Board of Administration; companies that boycott Israel,” and defines certain terms. This section is effective upon becoming a law.

The section defines “boycott Israel” or “boycott of Israel” as refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner.

This definition does not include:

- Restrictive trade practices; or
- Boycotts fostered or imposed by foreign countries against Israel.

Also, a statement by a company that it is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of calls for a boycott of Israel, may be considered by the State Board of Administration (SBA) as evidence that a company is participating in a boycott of Israel.

The term “company” is defined as a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, that exists for the purpose of making profit.

⁵¹ Section 287.135(5)(a)1., F.S.

⁵² Section 287.135(5)(a)2., F.S.

⁵³ Section 287.135(5)(b), F.S.

“Direct holdings” in a company means all securities of that company that are held directly by the public fund or in an account or fund in which the public fund owns all shares or interests.

“Indirect holdings” in a company means all securities of that company that are held in a commingled fund or other collective investment, such as a mutual fund, in which the public fund owns shares or interests together with other investors not subject to this section or which are held in an index fund.

"Public fund" is defined as all funds, assets, trustee; and other designates under the State Board of Administration pursuant to Part I of ch. 121, F.S. This means only those assets of the Florida Retirement System (FRS) pension plan are impacted.

The term “scrutinized companies” is defined as companies that boycott Israel or engage in a boycott of Israel.

By August 1, 2016, the SBA is required to use its best efforts to identify all scrutinized companies that boycott Israel in which the SBA has direct or indirect holdings or could possibly have such holdings in the future. The bill directs the SBA to use the following efforts to identify scrutinized companies:

- Reviewing and relying, as appropriate in the SBA’s judgment, on publicly available information regarding companies that boycott Israel, such as nonprofit organizations, research firms, international organizations, and government entities;
- Contacting asset managers contracted by the SBA for information regarding companies that boycott Israel; and
- Contacting other institutional investors that prohibit such investments or that have engaged with companies that boycott Israel.

By its first meeting following the identification of scrutinized companies, the SBA must compile and make available the Scrutinized Companies that Boycott Israel List (List). The SBA is required to update and make publicly available quarterly the List based on unfolding information from other sources, including publicly available information, asset managers contracted by SBA and other institutional investors.

The SBA must immediately determine companies on the List in which the SBA owns direct or indirect holdings.

This section requires the SBA to send written notice informing a company when it is identified as a scrutinized company and advising the company that it may become subject to investment prohibition by the SBA. Such notice must inform the company of the opportunity to clarify activities, evidence of boycott of Israel and encourage the company, within 90 days, to cease the boycott of Israel in order to avoid qualifying for investment prohibition by the SBA.

If, within 90 days after notification by the SBA, a company ceases a boycott of Israel, that company will be removed from the List, and the provisions of this bill shall cease to apply to that company unless such company resumes a boycott of Israel.

Further, this section prohibits the SBA from acquiring securities of companies on the List as direct holdings. Certain securities, however, are excluded from the prohibition of acquiring securities of companies on the List. These securities include the following:

- Indirect holdings;
- Securities that are not publicly traded. These are deemed to be indirect holdings;
- Alternative investment as defined by s. 215.4401, F.S.⁵⁴ These are deemed to be indirect holdings; and
- Exchange-traded funds.

For indirect holdings of the SBA, the SBA is required to submit letters to managers of investment funds which contain companies that boycott Israel requesting that such companies be removed from the fund or create a similar fund having indirect holdings devoid of companies that boycott Israel. If the investment manager creates a similar fund, the SBA is required to replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards.

The SBA is required to file a report with each member of the SBA, the President of the Florida Senate, and the Speaker of the Florida House of Representatives within 30 days after the List is created. Such report shall be made available to the public.

At each quarterly meeting, the SBA must file a report, which shall be made available to the public and to each member of the SBA, the President of the Senate, and the Speaker of the House of Representatives. This report must include the following:

- A summary of correspondence with companies identified as scrutinized companies;
- All prohibited investments;
- A description of any progress related to external managers of investment funds offering holdings devoid of companies that boycott Israel; and
- A list of all publicly traded securities held directly by the SBA.

The SBA is required to adopt and incorporate the obligations of this act into the SBA's investment policy statement as set forth in s. 215.475, F.S.⁵⁵

Notwithstanding any other provisions of the bill to the contrary, the SBA may cease the investment prohibitions contained in the bill in certain scrutinized companies if clear and

⁵⁴ Section 215.4401(3)(a)1., F.S., defines "alternative investment" as an investment by the State Board of Administration in a private equity fund, venture fund, hedge fund, or distress fund or a direct investment in a portfolio company through an investment manager.

⁵⁵ Section 215.475, F.S., entitled 'Investment policy statement' provides:

(1) In making investments for the System Trust Fund pursuant to ss. [215.44-215.53](#), the board shall make no investment which is not in conformance with the Florida Retirement System Defined Benefit Plan Investment Policy Statement, hereinafter referred to as "the IPS," as developed by the executive director and approved by the board. The IPS must include, among other items, the investment objectives of the System Trust Fund; permitted types of securities in which the board may invest; and evaluation criteria necessary to measure the investment performance of the fund. As required from time to time, the executive director of the board may present recommended changes in the IPS to the board for approval.

(2) Prior to any recommended changes in the IPS being presented to the board, the executive director of the board shall present such changes to the Investment Advisory Council for review. The council shall present the results of its review to the board prior to the board's final approval of the IPS or changes in the IPS.

convincing evidence shows the value of the assets under management of the SBA becomes equal to or less than 99.50 percent, or 50 basis points, of the hypothetical value of all assets under management of the SBA assuming no investment prohibitions for any company had occurred under the section. For cessation of these investment prohibitions, the SBA must submit a written report to the Board of Trustees, the President of the Florida Senate and the Speaker of the Florida House of Representatives in advance of the new investment, setting forth its justification supported by clear and convincing evidence. Such condition is required to be updated semiannually.

Section 2 amends and reenacts s. 287.135, F.S., regarding prohibition against contracting with scrutinized companies. This section is effective October 1, 2016.

Each state agency or local governmental entity is prohibited from contracting for goods and services of \$1 million or more if the company has been placed on the List, or is engaged in a boycott of Israel.

Any contract with a state agency or local governmental entity for goods and services of \$1 million or more entered into or renewed on or after October 1, 2016, must contain a provision that authorizes the termination of the contract by the awarding body if the company:

- Is found to have submitted a false certification regarding non-placement on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or that it does not have business operations in Cuba or Syria;
- Has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel;
- Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- Has been engaged in business operations in Cuba or Syria.

A state agency or local governmental entity is permitted to make a case-by-case exception to the prohibition for a company on the List if all of the following occur:

- The boycott of Israel was initiated before October 1, 2016;
- The company certifies in writing that it has ceased its boycott of Israel;
- The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company;
- The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations; *and*
- *One* of the following occurs:
 - The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.
 - For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.

- For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.

At the time a company submits a bid or proposal for a contract or before the company enters into or renews a contract with an agency or governmental entity for goods or services of \$1 million or more, the bill requires the company to certify that the company is not participating in a boycott of Israel.

Section 3 provides a severability clause. Specifically, the bill provides if any provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provision or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 4 provides that the bill takes effect upon becoming a law except as expressly provided in the act.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 86 has an indeterminate fiscal impact. Companies that choose to boycott Israel may not be eligible to contract with state and local governmental entities in Florida which may have an adverse effect. In addition, any investment instruments of those companies may not be held by the State Board of Administration (SBA) as an asset of the Florida Retirement System (FRS) pension plan which may also have an adverse effect.

C. Government Sector Impact:

The bill has an indeterminate fiscal impact. State agencies and local governments will not be permitted to contract with certain companies that boycott Israel in certain instances. This may eliminate companies that would otherwise have been the least expensive source for certain goods and services.

The SBA will not be permitted to hold certain investments relating to companies that boycott Israel. The financial impact of this limitation is indeterminate. In addition, according to the SBA, compliance to the requirement to identify those scrutinized companies is estimated to be less than \$25,000 per year, which can be handled within existing resources.⁵⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 215.4725 of the Florida Statutes and an undesignated section of Florida law.

This bill amends section 287.135 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/CS by Appropriations on November 19, 2015:

The committee substitute:

- Modifies the definition of “boycott Israel” or “boycott of Israel”. Specifies the term does not include restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel.
- Modifies certification provisions to require a company certify that it is not participating in a boycott of Israel upon submission of bid or renewal of existing contract.
- Includes a severability clause.

CS by Governmental Oversight and Accountability on October 6, 2015:

CS/SB 86 differs from SB 86 in the following ways:

⁵⁶ Based on telephone conversation with the SBA staff on October 14, 2015.

- Limits the newly scrutinized companies to those that boycott Israel rather than companies that boycott any member of the World Trade Organization or other nation with a trade agreement with the United States.
- Limits the State Board of Administration's obligations to new acquisitions of securities related to the scrutinized companies rather than divesting in current holdings relating those companies.
- Limits the application of the investment limitations to the assets of the Florida Retirement System pension plan rather than the pension plan and the investment plan.
- Limits the contractual restrictions to contracts worth \$1 million or more rather than a total potential value of less than \$10,000 or to contracts in which a business agrees to provide the goods or services at a cost at least 20 percent less than the next lowest bidder.

B. Amendments:

None.



784986

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/19/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 215.4725, Florida Statutes, is created
to read:

215.4725 Prohibited investments by the State Board of
Administration; companies that boycott Israel.-

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

(a) "Boycott Israel" or "boycott of Israel" means refusing



784986

11 to deal, terminating business activities, or taking other
12 actions to limit commercial relations with Israel, or persons or
13 entities doing business in Israel or in Israeli-controlled
14 territories, in a discriminatory manner. A statement by a
15 company that it is participating in a boycott of Israel, or that
16 it has initiated a boycott in response to a request for a
17 boycott of Israel or in compliance with, or in furtherance of,
18 calls for a boycott of Israel, may be considered by the State
19 Board of Administration to be evidence that a company is
20 participating in a boycott of Israel. The term does not include
21 restrictive trade practices or boycotts fostered or imposed by
22 foreign countries against Israel.

23 (b) "Company" means a sole proprietorship, organization,
24 association, corporation, partnership, joint venture, limited
25 partnership, limited liability partnership, limited liability
26 company, or other entity or business association, including all
27 wholly owned subsidiaries, majority-owned subsidiaries, and
28 parent companies, that exists for the purpose of making profit.

29 (c) "Direct holdings" in a company means all securities of
30 that company that are held directly by the public fund or in an
31 account or fund in which the public fund owns all shares or
32 interests.

33 (d) "Indirect holdings" in a company means all securities
34 of that company that are held in a commingled fund or other
35 collective investment, such as a mutual fund, in which the
36 public fund owns shares or interests, together with other
37 investors not subject to this section or which are held in an
38 index fund.

39 (e) "Public fund" means all funds, assets, trustee, and



784986

40 other designates under the State Board of Administration
41 pursuant to part I of chapter 121.

42 (f) "Scrutinized companies" means companies that boycott
43 Israel or engage in a boycott of Israel.

44 (2) IDENTIFICATION OF COMPANIES.—

45 (a) By August 1, 2016, the public fund shall make its best
46 efforts to identify all scrutinized companies in which the
47 public fund has direct or indirect holdings or could possibly
48 have such holdings in the future. Such efforts include:

49 1. To the extent that the public fund finds it appropriate,
50 reviewing and relying on publicly available information
51 regarding companies that boycott Israel, including information
52 provided by nonprofit organizations, research firms,
53 international organizations, and government entities;

54 2. Contacting asset managers contracted by the public fund
55 for information regarding companies that boycott Israel; or

56 3. Contacting other institutional investors that prohibit
57 such investments or that have engaged with companies that
58 boycott Israel.

59 (b) By the first meeting of the public fund following the
60 identification of scrutinized companies in accordance with
61 paragraph (a), the public fund shall compile and make available
62 the "Scrutinized Companies that Boycott Israel List."

63 (c) The public fund shall update and make publicly
64 available quarterly the Scrutinized Companies that Boycott
65 Israel List based on evolving information from, among other
66 sources, those listed in paragraph (a).

67 (3) REQUIRED ACTIONS.—The public fund shall adhere to the
68 following procedures for assembling companies on the Scrutinized



784986

69 Companies that Boycott Israel List.

70 (a) Engagement.—

71 1. The public fund shall immediately determine the
72 companies on the Scrutinized Companies that Boycott Israel List
73 in which the public fund owns direct or indirect holdings.

74 2. For each company newly identified under this paragraph
75 after August 1, 2016, the public fund shall send a written
76 notice informing the company of its scrutinized company status
77 and that it may become subject to investment prohibition by the
78 public fund. The notice must inform the company of the
79 opportunity to clarify its activities regarding the boycott of
80 Israel and encourage the company to cease the boycott of Israel
81 within 90 days in order to avoid qualifying for investment
82 prohibition.

83 3. If, within 90 days after the public fund's first
84 engagement with a company pursuant to this paragraph, the
85 company ceases a boycott of Israel, the company shall be removed
86 from the Scrutinized Companies that Boycott Israel List, and the
87 provisions of this section shall cease to apply to that company
88 unless that company resumes a boycott of Israel.

89 (b) Prohibition.—The public fund may not acquire securities
90 of companies on the Scrutinized Companies that Boycott Israel
91 List, except as provided in paragraph (c) and subsection (6).

92 (c) Excluded securities.—Notwithstanding the provisions of
93 this section, paragraph (b) does not apply to:

94 1. Indirect holdings. However, the public fund shall submit
95 letters to the managers of such investment funds containing
96 companies that boycott Israel requesting that they consider
97 removing such companies from the fund or create a similar fund



784986

98 having indirect holdings devoid of such companies. If the
99 manager creates a similar fund, the public fund shall replace
100 all applicable investments with investments in the similar fund
101 in an expedited timeframe consistent with prudent investing
102 standards. For the purposes of this section, an alternative
103 investment, as the term is defined in s. 215.4401, and
104 securities that are not publicly traded are deemed to be
105 indirect holdings.

106 2. Exchange-traded funds.

107 (4) REPORTING.—

108 (a) The public fund shall file a report with each member of
109 the Board of Trustees of the State Board of Administration, the
110 President of the Senate, and the Speaker of the House of
111 Representatives which includes the Scrutinized Companies that
112 Boycott Israel List within 30 days after the list is created.
113 This report shall be made available to the public.

114 (b) At each quarterly meeting of the Board of Trustees
115 thereafter, the public fund shall file a report, which shall be
116 made available to the public and to each member of the Board of
117 Trustees of the State Board of Administration, the President of
118 the Senate, and the Speaker of the House of Representatives,
119 which includes:

120 1. A summary of correspondence with companies engaged by
121 the public fund under subparagraph (3) (a)2.;

122 2. All prohibited investments under paragraph (3) (b);

123 3. Any progress made under paragraph (3) (c); and

124 4. A list of all publicly traded securities held directly
125 by the public fund.

126 (5) INVESTMENT POLICY STATEMENT OBLIGATIONS.—The public



784986

127 fund's actions taken in compliance with this section, including
128 all good faith determinations regarding companies as required by
129 this act, shall be adopted and incorporated into the public
130 fund's investment policy statement as provided in s. 215.475.

131 (6) INVESTMENT IN CERTAIN SCRUTINIZED COMPANIES.—

132 Notwithstanding any other provision of this section, the public
133 fund may invest in certain scrutinized companies if clear and
134 convincing evidence shows that the value of all assets under
135 management by the public fund becomes equal to or less than
136 99.50 percent, or 50 basis points, of the hypothetical value of
137 all assets under management by the public fund, assuming no
138 investment prohibition for any company had occurred under
139 paragraph (3) (b). Cessation of the investment prohibition and
140 any new investment in a scrutinized company is limited to the
141 minimum steps necessary to avoid the contingency described in
142 this subsection. For any cessation of the investment prohibition
143 and new investment authorized by this subsection, the public
144 fund shall provide a written report to each member of the Board
145 of Trustees of the State Board of Administration, the President
146 of the Senate, and the Speaker of the House of Representatives
147 in advance of the new investment, updated semiannually
148 thereafter as applicable, setting forth the reasons and
149 justification, supported by clear and convincing evidence, for
150 its decisions to cease the investment prohibition in scrutinized
151 companies.

152 Section 2. Effective October 1, 2016, section 287.135,
153 Florida Statutes, is reenacted and amended to read:

154 287.135 Prohibition against contracting with scrutinized
155 companies.—



784986

156 (1) In addition to the terms defined in ss. 287.012 and
157 215.473, as used in this section, the term:

158 (a) "Awarding body" means, for purposes of state contracts,
159 an agency or the department, and for purposes of local
160 contracts, the governing body of the local governmental entity.

161 (b) "Boycott of Israel" has the same meaning as defined in
162 s. 215.4725.

163 (c) ~~(b)~~ "Business operations" means, for purposes
164 specifically related to Cuba or Syria, engaging in commerce in
165 any form in Cuba or Syria, including, but not limited to,
166 acquiring, developing, maintaining, owning, selling, possessing,
167 leasing, or operating equipment, facilities, personnel,
168 products, services, personal property, real property, military
169 equipment, or any other apparatus of business or commerce.

170 (d) ~~(e)~~ "Local governmental entity" means a county,
171 municipality, special district, or other political subdivision
172 of the state.

173 (2) A company is ineligible to, and may not, bid on, submit
174 a proposal for, or enter into or renew a contract with an agency
175 or local governmental entity for goods or services of \$1 million
176 or more if ~~that,~~ at the time of bidding or submitting a proposal
177 for a new contract or renewal of an existing contract, the
178 company:

179 (a) Is on the Scrutinized Companies that Boycott Israel
180 List, created pursuant to s. 215.4725, or is engaged in a
181 boycott of Israel;

182 (b) Is on the Scrutinized Companies with Activities in
183 Sudan List or the Scrutinized Companies with Activities in the
184 Iran Petroleum Energy Sector List, created pursuant to s.



784986

185 215.473; ~~7~~ or

186 (c) Is engaged in business operations in Cuba or Syria, ~~is~~
187 ~~ineligible for, and may not bid on, submit a proposal for, or~~
188 ~~enter into or renew a contract with an agency or local~~
189 ~~governmental entity for goods or services of \$1 million or more.~~

190 ~~(3)(a)~~ Any contract with an agency or local governmental
191 entity for goods or services of \$1 million or more entered into
192 or renewed on or after:

193 (a) July 1, 2011, through June 30, 2012, must contain a
194 provision that allows for the termination of such contract at
195 the option of the awarding body if the company is found to have
196 submitted a false certification as provided under subsection (5)
197 or been placed on the Scrutinized Companies with Activities in
198 Sudan List or the Scrutinized Companies with Activities in the
199 Iran Petroleum Energy Sector List.

200 ~~(b) Any contract with an agency or local governmental~~
201 ~~entity for goods or services of \$1 million or more entered into~~
202 ~~or renewed on or after~~ July 1, 2012, through September 30, 2016,
203 must contain a provision that allows for the termination of such
204 contract at the option of the awarding body if the company is
205 found to have submitted a false certification as provided under
206 subsection (5), been placed on the Scrutinized Companies with
207 Activities in Sudan List or the Scrutinized Companies with
208 Activities in the Iran Petroleum Energy Sector List, or been
209 engaged in business operations in Cuba or Syria.

210 (c) October 1, 2016, must contain a provision that allows
211 for the termination of such contract at the option of the
212 awarding body if the company:

213 1. Is found to have submitted a false certification as



784986

214 provided under subsection (5);

215 2. Has been placed on the Scrutinized Companies that
216 Boycott Israel List, or is engaged in a boycott of Israel;

217 3. Has been placed on the Scrutinized Companies with
218 Activities in Sudan List or the Scrutinized Companies with
219 Activities in the Iran Petroleum Energy Sector List; or

220 4. Has been engaged in business operations in Cuba or
221 Syria.

222 (4) Notwithstanding subsection (2) or subsection (3), an
223 agency or local governmental entity, on a case-by-case basis,
224 may permit a company on the Scrutinized Companies that Boycott
225 Israel List, the Scrutinized Companies with Activities in Sudan
226 List or the Scrutinized Companies with Activities in the Iran
227 Petroleum Energy Sector List, or a company with business
228 operations in Cuba or Syria, to be eligible for, bid on, submit
229 a proposal for, or enter into or renew a contract for goods or
230 services of \$1 million or more under the conditions set forth in
231 paragraph (a) or the conditions set forth in paragraph (b):

232 (a)1. With respect to a company on the Scrutinized
233 Companies with Activities in Sudan List or the Scrutinized
234 Companies with Activities in the Iran Petroleum Energy Sector
235 List, all of the following occur:

236 a. The scrutinized business operations were made before
237 July 1, 2011.

238 b. The scrutinized business operations have not been
239 expanded or renewed after July 1, 2011.

240 c. The agency or local governmental entity determines that
241 it is in the best interest of the state or local community to
242 contract with the company.



784986

243 d. The company has adopted, has publicized, and is
244 implementing a formal plan to cease scrutinized business
245 operations and to refrain from engaging in any new scrutinized
246 business operations.

247 2. With respect to a company engaged in business operations
248 in Cuba or Syria, all of the following occur:

249 a. The business operations were made before July 1, 2012.

250 b. The business operations have not been expanded or
251 renewed after July 1, 2012.

252 c. The agency or local governmental entity determines that
253 it is in the best interest of the state or local community to
254 contract with the company.

255 d. The company has adopted, has publicized, and is
256 implementing a formal plan to cease business operations and to
257 refrain from engaging in any new business operations.

258 3. With respect to a company on the Scrutinized Companies
259 that Boycott Israel List, all of the following occur:

260 a. The boycott of Israel was initiated before October 1,
261 2016.

262 b. The company certifies in writing that it has ceased its
263 boycott of Israel.

264 c. The agency or local governmental entity determines that
265 it is in the best interest of the state or local community to
266 contract with the company.

267 d. The company has adopted, has publicized, and is
268 implementing a formal plan to cease scrutinized business
269 operations and to refrain from engaging in any new scrutinized
270 business operations.

271 (b) One of the following occurs:



784986

272 1. The local governmental entity makes a public finding
273 that, absent such an exemption, the local governmental entity
274 would be unable to obtain the goods or services for which the
275 contract is offered.

276 2. For a contract with an executive agency, the Governor
277 makes a public finding that, absent such an exemption, the
278 agency would be unable to obtain the goods or services for which
279 the contract is offered.

280 3. For a contract with an office of a state constitutional
281 officer other than the Governor, the state constitutional
282 officer makes a public finding that, absent such an exemption,
283 the office would be unable to obtain the goods or services for
284 which the contract is offered.

285 (5) At the time a company submits a bid or proposal for a
286 contract or before the company enters into or renews a contract
287 with an agency or governmental entity for goods or services of
288 \$1 million or more, the company must certify that the company is
289 not participating in a boycott of Israel, on the Scrutinized
290 Companies with Activities in Sudan List or the Scrutinized
291 Companies with Activities in the Iran Petroleum Energy Sector
292 List, or that it does not have business operations in Cuba or
293 Syria.

294 (a) If, after the agency or the local governmental entity
295 determines, using credible information available to the public,
296 that the company has submitted a false certification, the agency
297 or local governmental entity shall provide the company with
298 written notice of its determination. The company shall have 90
299 days following receipt of the notice to respond in writing and
300 to demonstrate that the determination of false certification was



784986

301 made in error. If the company does not make such demonstration
302 within 90 days after receipt of the notice, the agency or the
303 local governmental entity shall bring a civil action against the
304 company. If a civil action is brought and the court determines
305 that the company submitted a false certification, the company
306 shall pay the penalty described in subparagraph 1. and all
307 reasonable attorney fees and costs, including any costs for
308 investigations that led to the finding of false certification.

309 1. A civil penalty equal to the greater of \$2 million or
310 twice the amount of the contract for which the false
311 certification was submitted shall be imposed.

312 2. The company is ineligible to bid on any contract with an
313 agency or local governmental entity for 3 years after the date
314 the agency or local governmental entity determined that the
315 company submitted a false certification.

316 (b) A civil action to collect the penalties described in
317 paragraph (a) must commence within 3 years after the date the
318 false certification is submitted.

319 (6) Only the agency or local governmental entity that is a
320 party to the contract may cause a civil action to be brought
321 under this section. This section does not create or authorize a
322 private right of action or enforcement of the penalties provided
323 in this section. An unsuccessful bidder, or any other person
324 other than the agency or local governmental entity, may not
325 protest the award of a contract or contract renewal on the basis
326 of a false certification.

327 (7) This section preempts any ordinance or rule of any
328 agency or local governmental entity involving public contracts
329 for goods or services of \$1 million or more with a company



784986

330 engaged in scrutinized business operations.

331 (8) The contracting prohibitions in this section applicable
332 to companies on the Scrutinized Companies with Activities in
333 Sudan List or the Scrutinized Companies with Activities in the
334 Iran Petroleum Energy Sector List or to companies engaged in
335 business operations in Cuba or Syria become ~~This section becomes~~
336 inoperative on the date that federal law ceases to authorize the
337 states to adopt and enforce such ~~the~~ contracting prohibitions ~~of~~
338 ~~the type provided for in this section.~~

339 Section 3. If any provision of this act or its application
340 to any person or circumstance is held invalid, the invalidity
341 does not affect other provisions or applications of this act
342 which can be given effect without the invalid provision or
343 application, and to this end the provisions of this act are
344 declared severable.

345 Section 4. Except as otherwise expressly provided in this
346 act, this act shall take effect upon becoming a law.

347
348 ===== T I T L E A M E N D M E N T =====

349 And the title is amended as follows:

350 Delete everything before the enacting clause
351 and insert:

352 A bill to be entitled
353 An act relating to scrutinized companies; creating s.
354 215.4725, F.S.; providing definitions; requiring the
355 State Board of Administration to identify all
356 companies that are boycotting Israel or are engaged in
357 a boycott of Israel in which the public fund owns
358 direct or indirect holdings; requiring the public fund



784986

359 to create and maintain the Scrutinized Companies that
360 Boycott Israel List that names all such companies;
361 requiring the public fund to provide written notice to
362 a company that is identified as a scrutinized company;
363 specifying the contents of the notice; specifying
364 circumstances under which a company may be removed
365 from the list; prohibiting the acquisition of certain
366 securities of scrutinized companies; prescribing
367 reporting requirements; requiring that certain
368 information be included in the investment policy
369 statement; authorizing the public fund to invest in
370 certain scrutinized companies if the value of all
371 assets under management by the public fund becomes
372 equal to or less than a specified amount; requiring
373 the public fund to provide a written report to the
374 board of trustees of the state board and the
375 Legislature before such investment occurs; specifying
376 required contents of the report; reenacting and
377 amending s. 287.135, F.S., relating to the prohibition
378 against contracting with scrutinized companies;
379 providing a definition; prohibiting a state agency or
380 local governmental entity from contracting for goods
381 and services that exceed a specified amount if the
382 company has been placed on the Scrutinized Companies
383 that Boycott Israel List; requiring inclusion of a
384 contract provision that authorizes termination of a
385 contract if a company submits certain false
386 certification, has been placed on the scrutinized
387 companies list or is engaged in a boycott of Israel;



784986

388 providing exceptions; requiring certification upon
389 submission of a bid or proposal for certain contracts,
390 or before a company enters into or renews certain
391 contracts, with an agency or local governmental entity
392 that the company is not participating in a boycott of
393 Israel; providing procedures upon determination that a
394 company has submitted a false certification; providing
395 for civil action; providing penalties; providing
396 attorney fees and costs; providing a statute of
397 repose; prohibiting a private right of action;
398 providing for preemption of conflicting ordinances and
399 rules; revising provisions relating to federal
400 preemption; providing for severability; providing
401 effective dates.

By the Committee on Governmental Oversight and Accountability;
and Senators Negron and Gaetz

585-00723-16

201686c1

1 A bill to be entitled
2 An act relating to scrutinized companies; creating s.
3 215.4725, F.S.; providing definitions; requiring the
4 State Board of Administration to identify all
5 companies that are boycotting Israel or are engaged in
6 a boycott of Israel in which the public fund owns
7 direct or indirect holdings in; requiring the public
8 fund to create and maintain a scrutinized companies
9 list that names all such companies; requiring the
10 public fund to provide written notice to a company
11 that is identified as a scrutinized company;
12 specifying contents of the notice; specifying
13 circumstances under which a company may be removed
14 from the list; prohibiting the acquisition of certain
15 securities of scrutinized companies; prescribing
16 reporting requirements; requiring certain information
17 to be included in the investment policy statement;
18 authorizing the public fund to invest in certain
19 scrutinized companies if the value of all assets under
20 management by the public fund becomes equal to or less
21 than a specified amount; requiring the public fund to
22 provide a written report to the Board of Trustees of
23 the state board and the Legislature before such
24 investment occurs; specifying required contents of the
25 report; reenacting and amending s. 287.135, F.S.,
26 relating to the prohibition against contracting with
27 scrutinized companies; prohibiting a state agency or
28 local governmental entity from contracting for goods
29 and services that exceed a specified amount if the

Page 1 of 14

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

585-00723-16

201686c1

30 company has been placed on the Scrutinized Companies
31 that Boycott Israel List; requiring inclusion of a
32 contract provision that authorizes termination of a
33 contract if a company has been placed on the
34 Scrutinized Companies that Boycott Israel List;
35 providing exceptions; requiring certification upon
36 submission of a bid or proposal for a contract, or
37 before a company enters into or renews a contract,
38 with an agency or governmental entity that the
39 company; providing procedures upon determination that
40 a company has submitted a false certification;
41 providing for civil action; providing penalties;
42 providing attorney fees and costs; providing a statute
43 of repose; prohibiting a private right of action;
44 providing for preemption of conflicting ordinances and
45 rules; revising provisions relating to federal
46 preemption; providing effective dates.
47
48 Be It Enacted by the Legislature of the State of Florida:
49
50 Section 1. Section 215.4725, Florida Statutes, is created
51 to read:
52 215.4725 Prohibited investments by the State Board of
53 Administration; companies that boycott Israel.—
54 (1) DEFINITIONS.—As used in this section, the term:
55 (a) "Boycott Israel" or "boycott of Israel" means refusing
56 to deal, terminating business activities, or taking other
57 actions that are intended to penalize, inflict economic harm, or
58 otherwise limit commercial relations with Israel, or persons or

Page 2 of 14

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

585-00723-16

201686c1

59 entities doing business in Israel or in Israeli-controlled
 60 territories for reasons other than a business, investment, or
 61 commercial reason. The term does not apply to decisions made
 62 during the course of a company's ordinary business or for other
 63 business, investment or commercial reasons. A statement by a
 64 company that it is participating in a boycott of Israel, or that
 65 it has initiated a boycott in response to a request for a
 66 boycott of Israel or in compliance with, or in furtherance of,
 67 calls for a boycott of Israel, may be considered by the State
 68 Board of Administration to be evidence that a company is
 69 participating in a boycott of Israel.

70 (b) "Company" means a sole proprietorship, organization,
 71 association, corporation, partnership, joint venture, limited
 72 partnership, limited liability partnership, limited liability
 73 company, or other entity or business association, including all
 74 wholly owned subsidiaries, majority-owned subsidiaries, and
 75 parent companies, that exists for the purpose of making profit.

76 (c) "Direct holdings" in a company means all securities of
 77 that company that are held directly by the public fund or in an
 78 account or fund in which the public fund owns all shares or
 79 interests.

80 (d) "Indirect holdings" in a company means all securities
 81 of that company that are held in a commingled fund or other
 82 collective investment, such as a mutual fund, in which the
 83 public fund owns shares or interests, together with other
 84 investors not subject to this section or which are held in an
 85 index fund.

86 (e) "Public fund" means all funds, assets, trustee, and
 87 other designates under the State Board of Administration

585-00723-16

201686c1

88 pursuant to part I of chapter 121.

89 (f) "Scrutinized companies" means companies that boycott
 90 Israel or engage in a boycott of Israel.

91 (2) IDENTIFICATION OF COMPANIES.—

92 (a) By August 1, 2016, the public fund shall make its best
 93 efforts to identify all scrutinized companies in which the
 94 public fund has direct or indirect holdings or could possibly
 95 have such holdings in the future. Such efforts include:

96 1. To the extent that the public fund finds it appropriate,
 97 reviewing and relying on publicly available information
 98 regarding companies that boycott Israel, including information
 99 provided by nonprofit organizations, research firms,
 100 international organizations, and government entities;

101 2. Contacting asset managers contracted by the public fund
 102 for information regarding companies that boycott Israel; or

103 3. Contacting other institutional investors that prohibit
 104 such investments or that have engaged with companies that
 105 boycott Israel.

106 (b) By the first meeting of the public fund following the
 107 identification of scrutinized companies in accordance with
 108 paragraph (a), the public fund shall compile and make available
 109 the "Scrutinized Companies that Boycott Israel List."

110 (c) The public fund shall update and make publicly
 111 available quarterly the Scrutinized Companies that Boycott
 112 Israel List based on evolving information from, among other
 113 sources, those listed in paragraph (a).

114 (3) REQUIRED ACTIONS.—The public fund shall adhere to the
 115 following procedures for assembling companies on the Scrutinized
 116 Companies that Boycott Israel List.

585-00723-16

201686c1

117 (a) Engagement.—
 118 1. The public fund shall immediately determine the
 119 companies on the Scrutinized Companies that Boycott Israel List
 120 in which the public fund owns direct or indirect holdings.
 121 2. For each company newly identified under this paragraph
 122 after August 1, 2016, the public fund shall send a written
 123 notice informing the company of its scrutinized company status
 124 and that it may become subject to investment prohibition by the
 125 public fund. The notice must inform the company of the
 126 opportunity to clarify its activities regarding the boycott of
 127 Israel and encourage the company to cease the boycott of Israel
 128 within 90 days in order to avoid qualifying for investment
 129 prohibition.
 130 3. If, within 90 days after the public fund's first
 131 engagement with a company pursuant to this paragraph, the
 132 company ceases a boycott of Israel, the company shall be removed
 133 from the Scrutinized Companies that Boycott Israel List, and the
 134 provisions of this section shall cease to apply to that company
 135 unless that company resumes a boycott of Israel.
 136 (b) Prohibition.—The public fund may not acquire securities
 137 of companies on the Scrutinized Companies that Boycott Israel
 138 List, except as provided in paragraph (c) and subsection (6).
 139 (c) Excluded securities.—Notwithstanding the provisions of
 140 this section, paragraph (b) does not apply to:
 141 1. Indirect holdings. However, the public fund shall submit
 142 letters to the managers of such investment funds containing
 143 companies that boycott Israel requesting that they consider
 144 removing such companies from the fund or create a similar fund
 145 having indirect holdings devoid of such companies. If the

Page 5 of 14

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

585-00723-16

201686c1

146 manager creates a similar fund, the public fund shall replace
 147 all applicable investments with investments in the similar fund
 148 in an expedited timeframe consistent with prudent investing
 149 standards. For the purposes of this section, an alternative
 150 investment, as the term is defined in s. 215.4401, and
 151 securities that are not publicly traded are deemed to be
 152 indirect holdings.
 153 2. Exchange-traded funds.
 154 (4) REPORTING.—
 155 (a) The public fund shall file a report with each member of
 156 the Board of Trustees of the State Board of Administration, the
 157 President of the Senate, and the Speaker of the House of
 158 Representatives which includes the Scrutinized Companies that
 159 Boycott Israel List within 30 days after the list is created.
 160 This report shall be made available to the public.
 161 (b) At each quarterly meeting of the Board of Trustees
 162 thereafter, the public fund shall file a report, which shall be
 163 made available to the public and to each member of the Board of
 164 Trustees of the State Board of Administration, the President of
 165 the Senate, and the Speaker of the House of Representatives,
 166 which includes:
 167 1. A summary of correspondence with companies engaged by
 168 the public fund under subparagraph (3) (a)2.;
 169 2. All prohibited investments under paragraph (3) (b);
 170 3. Any progress made under paragraph (3) (c); and
 171 4. A list of all publicly traded securities held directly
 172 by the public fund.
 173 (5) INVESTMENT POLICY STATEMENT OBLIGATIONS.—The public
 174 fund's actions taken in compliance with this section, including

Page 6 of 14

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

585-00723-16

201686c1

175 all good faith determinations regarding companies as required by
 176 this act, shall be adopted and incorporated into the public
 177 fund's investment policy statement as provided in s. 215.475.

178 (6) INVESTMENT IN CERTAIN SCRUTINIZED COMPANIES.—
 179 Notwithstanding any other provision of this section, the public
 180 fund may invest in certain scrutinized companies if clear and
 181 convincing evidence shows that the value of all assets under
 182 management by the public fund becomes equal to or less than
 183 99.50 percent, or 50 basis points, of the hypothetical value of
 184 all assets under management by the public fund assuming no
 185 investment prohibition for any company had occurred under
 186 paragraph (3) (b). Cessation of the investment prohibition and
 187 any new investment in a scrutinized company is limited to the
 188 minimum steps necessary to avoid the contingency described in
 189 this subsection. For any cessation of the investment prohibition
 190 and new investment authorized by this subsection, the public
 191 fund shall provide a written report to each member of the Board
 192 of Trustees of the State Board of Administration, the President
 193 of the Senate, and the Speaker of the House of Representatives
 194 in advance of the new investment, updated semiannually
 195 thereafter as applicable, setting forth the reasons and
 196 justification, supported by clear and convincing evidence, for
 197 its decisions to cease the investment prohibition in scrutinized
 198 companies.

199 Section 2. Effective October 1, 2016, section 287.135,
 200 Florida Statutes, is reenacted and amended to read:

201 287.135 Prohibition against contracting with scrutinized
 202 companies.—

203 (1) In addition to the terms defined in ss. 287.012 and

585-00723-16

201686c1

204 215.473, as used in this section, the term:

205 (a) "Awarding body" means, for purposes of state contracts,
 206 an agency or the department, and for purposes of local
 207 contracts, the governing body of the local governmental entity.

208 (b) "Business operations" means, for purposes specifically
 209 related to Cuba or Syria, engaging in commerce in any form in
 210 Cuba or Syria, including, but not limited to, acquiring,
 211 developing, maintaining, owning, selling, possessing, leasing,
 212 or operating equipment, facilities, personnel, products,
 213 services, personal property, real property, military equipment,
 214 or any other apparatus of business or commerce.

215 (c) "Local governmental entity" means a county,
 216 municipality, special district, or other political subdivision
 217 of the state.

218 (2) A company is ineligible to, and may not, bid on, submit
 219 a proposal for, or enter into or renew a contract with an agency
 220 or local governmental entity for goods or services of \$1 million
 221 or more if ~~that~~, at the time of bidding or submitting a proposal
 222 for a new contract or renewal of an existing contract, the
 223 company:

224 (a) Is on the Scrutinized Companies that Boycott Israel
 225 List, created pursuant to s. 215.4725;

226 (b) Is on the Scrutinized Companies with Activities in
 227 Sudan List or the Scrutinized Companies with Activities in the
 228 Iran Petroleum Energy Sector List, created pursuant to s.
 229 215.473;~~7~~ or

230 (c) Is engaged in business operations in Cuba or Syria, ~~is~~
 231 ineligible for, and may not bid on, submit a proposal for, or
 232 enter into or renew a contract with an agency or local

585-00723-16

201686c1

233 ~~governmental entity for goods or services of \$1 million or more.~~

234 (3) ~~(a)~~ Any contract with an agency or local governmental
235 entity for goods or services of \$1 million or more entered into
236 or renewed on or after:

237 (a) July 1, 2011, through June 30, 2012, must contain a
238 provision that allows for the termination of such contract at
239 the option of the awarding body if the company is found to have
240 submitted a false certification as provided under subsection (5)
241 or been placed on the Scrutinized Companies with Activities in
242 Sudan List or the Scrutinized Companies with Activities in the
243 Iran Petroleum Energy Sector List.

244 ~~(b) Any contract with an agency or local governmental~~
245 ~~entity for goods or services of \$1 million or more entered into~~
246 ~~or renewed on or after July 1, 2012, through September 30, 2016,~~
247 must contain a provision that allows for the termination of such
248 contract at the option of the awarding body if the company is
249 found to have submitted a false certification as provided under
250 subsection (5), been placed on the Scrutinized Companies with
251 Activities in Sudan List or the Scrutinized Companies with
252 Activities in the Iran Petroleum Energy Sector List, or been
253 engaged in business operations in Cuba or Syria.

254 (c) October 1, 2016, must contain a provision that allows
255 for the termination of such contract at the option of the
256 awarding body if the company:

257 1. Is found to have submitted a false certification as
258 provided under subsection (5);

259 2. Has been placed on the Scrutinized Companies that
260 Boycott Israel List;

261 3. Has been placed on the Scrutinized Companies with

585-00723-16

201686c1

262 Activities in Sudan List or the Scrutinized Companies with

263 Activities in the Iran Petroleum Energy Sector List; or

264 4. Has been engaged in business operations in Cuba or
265 Syria.

266 (4) Notwithstanding subsection (2) or subsection (3), an
267 agency or local governmental entity, on a case-by-case basis,
268 may permit a company on the Scrutinized Companies that Boycott
269 Israel List, the Scrutinized Companies with Activities in Sudan
270 List or the Scrutinized Companies with Activities in the Iran
271 Petroleum Energy Sector List, or a company with business
272 operations in Cuba or Syria, to be eligible for, bid on, submit
273 a proposal for, or enter into or renew a contract for goods or
274 services of \$1 million or more under the conditions set forth in
275 paragraph (a) or the conditions set forth in paragraph (b):

276 (a)1. With respect to a company on the Scrutinized
277 Companies with Activities in Sudan List or the Scrutinized
278 Companies with Activities in the Iran Petroleum Energy Sector
279 List, all of the following occur:

280 a. The scrutinized business operations were made before
281 July 1, 2011.

282 b. The scrutinized business operations have not been
283 expanded or renewed after July 1, 2011.

284 c. The agency or local governmental entity determines that
285 it is in the best interest of the state or local community to
286 contract with the company.

287 d. The company has adopted, has publicized, and is
288 implementing a formal plan to cease scrutinized business
289 operations and to refrain from engaging in any new scrutinized
290 business operations.

585-00723-16 201686c1

291 2. With respect to a company engaged in business operations
292 in Cuba or Syria, all of the following occur:

293 a. The business operations were made before July 1, 2012.

294 b. The business operations have not been expanded or
295 renewed after July 1, 2012.

296 c. The agency or local governmental entity determines that
297 it is in the best interest of the state or local community to
298 contract with the company.

299 d. The company has adopted, has publicized, and is
300 implementing a formal plan to cease business operations and to
301 refrain from engaging in any new business operations.

302 3. With respect to a company on the Scrutinized Companies
303 that Boycott Israel List, all of the following occur:

304 a. The scrutinized business operations were made before
305 October 1, 2016.

306 b. The scrutinized business operations have not been
307 expanded or renewed after October 1, 2016.

308 c. The agency or local governmental entity determines that
309 it is in the best interest of the state or local community to
310 contract with the company.

311 d. The company has adopted, has publicized, and is
312 implementing a formal plan to cease scrutinized business
313 operations and to refrain from engaging in any new scrutinized
314 business operations.

315 (b) One of the following occurs:

316 1. The local governmental entity makes a public finding
317 that, absent such an exemption, the local governmental entity
318 would be unable to obtain the goods or services for which the
319 contract is offered.

585-00723-16 201686c1

320 2. For a contract with an executive agency, the Governor
321 makes a public finding that, absent such an exemption, the
322 agency would be unable to obtain the goods or services for which
323 the contract is offered.

324 3. For a contract with an office of a state constitutional
325 officer other than the Governor, the state constitutional
326 officer makes a public finding that, absent such an exemption,
327 the office would be unable to obtain the goods or services for
328 which the contract is offered.

329 (5) At the time a company submits a bid or proposal for a
330 contract or before the company enters into or renews a contract
331 with an agency or governmental entity for goods or services of
332 \$1 million or more, the company must certify that the company is
333 not on the Scrutinized Companies that Boycott Israel List, the
334 Scrutinized Companies with Activities in Sudan List or the
335 Scrutinized Companies with Activities in the Iran Petroleum
336 Energy Sector List, or that it does not have business operations
337 in Cuba or Syria.

338 (a) If, after the agency or the local governmental entity
339 determines, using credible information available to the public,
340 that the company has submitted a false certification, the agency
341 or local governmental entity shall provide the company with
342 written notice of its determination. The company shall have 90
343 days following receipt of the notice to respond in writing and
344 to demonstrate that the determination of false certification was
345 made in error. If the company does not make such demonstration
346 within 90 days after receipt of the notice, the agency or the
347 local governmental entity shall bring a civil action against the
348 company. If a civil action is brought and the court determines

585-00723-16

201686c1

349 that the company submitted a false certification, the company
 350 shall pay the penalty described in subparagraph 1. and all
 351 reasonable attorney fees and costs, including any costs for
 352 investigations that led to the finding of false certification.

353 1. A civil penalty equal to the greater of \$2 million or
 354 twice the amount of the contract for which the false
 355 certification was submitted shall be imposed.

356 2. The company is ineligible to bid on any contract with an
 357 agency or local governmental entity for 3 years after the date
 358 the agency or local governmental entity determined that the
 359 company submitted a false certification.

360 (b) A civil action to collect the penalties described in
 361 paragraph (a) must commence within 3 years after the date the
 362 false certification is submitted.

363 (6) Only the agency or local governmental entity that is a
 364 party to the contract may cause a civil action to be brought
 365 under this section. This section does not create or authorize a
 366 private right of action or enforcement of the penalties provided
 367 in this section. An unsuccessful bidder, or any other person
 368 other than the agency or local governmental entity, may not
 369 protest the award of a contract or contract renewal on the basis
 370 of a false certification.

371 (7) This section preempts any ordinance or rule of any
 372 agency or local governmental entity involving public contracts
 373 for goods or services of \$1 million or more with a company
 374 engaged in scrutinized business operations.

375 (8) The contracting prohibitions in this section applicable
 376 to companies on the Scrutinized Companies with Activities in
 377 Sudan List or the Scrutinized Companies with Activities in the

585-00723-16

201686c1

378 Iran Petroleum Energy Sector List or to companies engaged in
 379 business operations in Cuba or Syria become ~~This section becomes~~
 380 inoperative on the date that federal law ceases to authorize the
 381 states to adopt and enforce such ~~the~~ contracting prohibitions ~~of~~
 382 ~~the type provided for in this section.~~

383 Section 3. Except as otherwise expressly provided in this
 384 act, this act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/19/15
Meeting Date

SB 86
Bill Number (if applicable)

Topic Scrutinized Companies

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise
Street

Phone _____

Largo Fla. 33773
City State Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/19/15
Meeting Date

SR 86
Bill Number (if applicable)

Topic Boycott Prevention

Amendment Barcode (if applicable)

Name Arnon O'Neil

Job Title PhD student School of Theatre FSU

Address Caroline St.

Phone 727 726 6660

Tallahassee 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11-19-2015

Meeting Date

86

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email _____

Speaking: For Against Information

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

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

APPEARANCE RECORD

November 19, 2015

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

SB86

Meeting Date

Bill Number (if applicable)

Topic Preventing Involvement of Commercial Boycotts of Israel

Amendment Barcode (if applicable)

Name Daniel Aronstam

Job Title Stand With Us Emerson Fellow

Address 799 W Gaines ST

Phone 561-454-9845

Street

Tallahassee

Florida

32304

Email duaronstam@yahoo.com

City

State

Zip

Speaking: For Against Information

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

Representing Stand With Us

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

November 19, 2015

Meeting Date

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

SB86

Bill Number (if applicable)

Topic Preventing Involvement of Commercial Boycotts of Israel

Amendment Barcode (if applicable)

Name Jenna Lazarus

Job Title Student

Address 700 N Woodward Avenue

Phone (561) 862-7007

Street

Tallahassee

FL

32304

Email JL73b@my.fsu.edu

City

State

Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

November 19, 2015

Meeting Date

SB86

Bill Number (if applicable)

Topic Preventing Involvement of Commercial Boycotts of Israel

Amendment Barcode (if applicable)

Name Dr. Russell McClanahan

Job Title Archbishop

Address 2807 Trebark Dr.

Phone 850/531-0694

Street

Tallahassee

FL

32312

City

State

Zip

Email Dr.RussMac@aol.com

Speaking: For Against Information

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

Representing COMMUNITY of Evangelical Episcopal Churches

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

November 19, 2015

Meeting Date

SB86

Bill Number (if applicable)

Topic Preventing Involvement of Commercial Boycotts of Israel

Amendment Barcode (if applicable)

Name Angelo D'Amico

Job Title President and CEO/Owner D'Amico International NM Inc. &

Address 12736 Bay Plantation Drive

Phone 9046264200

Street

Jacksonville, Florida 32223

Email angelo55@comcast.net

City

State

Zip

Speaking: For Against Information

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

Representing Family and Self as a Small Business Owner and Property Owner Manager

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

November 19, 2015

Meeting Date

SB86

Bill Number (if applicable)

Topic Preventing Involvement of Commercial Boycotts of Israel

Amendment Barcode (if applicable)

Name Elyssa Ronik

Job Title Student

Address 700 N Woodward Ave

Phone (954)551-8475

Street

Tallahassee FL 32304

Email er13d@my.fsu.edu

City

State

Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

November 19, 2015

Meeting Date

SB86

Bill Number (if applicable)

Topic Preventing Involvement of Commercial Boycotts of Israel

Amendment Barcode (if applicable)

Name Michael Hohman

Job Title Pastor

Address 11334 Carlsburg Ct.

Phone 904-345-1208

Street

Jacksonville

FL

32246

Email mike@eaglesnestjax.com

City

State

Zip

Speaking: For Against Information

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

Representing National Day Of Prayer Task Force & Transform Jacksonville & NE FL (25 assoc. minis.)

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)

November 19, 2015

Meeting Date

SB86

Bill Number (if applicable)

Topic Preventing Involvement of Commercial Boycotts of Israel

Amendment Barcode (if applicable)

Name Daniel Williams

Job Title Bishop Diocese of Florida

Address 6278 Autumn Berry Circle Phone (904) 868-4112

Street

Jacksonville FL 32258

City

State

Zip

Email act4daniel@gmail.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

November 19, 2015

Meeting Date

SB86

Bill Number (if applicable)

Topic Preventing Involvement of Commercial Boycotts of Israel

Amendment Barcode (if applicable)

Name Joseph Sabag

Job Title Attorney

Address 6115 SW 146 Ct

Phone 561-285-1550

Street

Miami

FL

33183

Email JSabag@gmail

City

State

Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 92

INTRODUCER: Appropriations Committee and Senator Evers

SUBJECT: Contaminated Sites

DATE: November 23, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Rogers</u>	<u>EP</u>	Favorable
2.	<u>Howard</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Favorable
3.	<u>Howard</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 92 amends sections 376.30701 and 376.81, Florida Statutes, to provide clarifying language and allow for additional considerations in the use of risk-based corrective action (RBCA) in contamination cleanup and brownfield site rehabilitation. It authorizes the Department of Environmental Protection (department) to use alternative cleanup target levels without requiring institutional controls in remediating contaminated sites under section 376.30701, Florida Statutes. The bill amends sections 376.301 and 376.79, Florida Statutes, to provide definitions for “background concentration” and “long-term natural attenuation.” The bill also makes conforming changes to correct cross references related to RBCA.

The bill has a positive, indeterminate fiscal impact to the department based on the reduced costs to remediate contaminated sites and brownfields that are funded by a state cost-share agreement. The department will have nominal costs associated with rulemaking.

The bill is effective July 1, 2016.

II. Present Situation:

Risk-Based Corrective Action

Risk-based corrective action (RBCA) (pronounced “Rebecca”) is a decision-making process used to assess and respond to incidents of contamination. The American Society of Materials and Testing established RBCA in 1994 based on guidance from the U.S. Environmental Protection Agency (EPA), which directs states to consider the current and prospective use of groundwater and the relative risk to human health and the environment when remediating contaminated sites.¹

The RBCA process uses a tiered approach that couples site assessment and response actions with human health, public safety, and environmental risk assessment to determine the extent and urgency of corrective action used in remediating contaminated sites. Alternative cleanup target levels,² institutional³ and engineering controls,⁴ and remediation by natural attenuation⁵ are RBCA strategies used by the department on a case-by-case basis that allows the use of cost-effective remediation measures in lieu of conventional cleanup technologies. RBCA is implemented in all 50 states for the remediation of contaminated sites.⁶

Section 376.30701, F.S., was created in 2003 to apply RBCA principles to all contaminated sites (referred to as “Global RBCA”) resulting from a discharge of pollutants when site rehabilitation is required.⁷ The department is required to develop a site rehabilitation program by rule that use RBCA concepts already developed for the petroleum cleanup, brownfield, and dry cleaning programs. Specifically, the law requires the department to:

- Consider current exposure and potential risk of exposure to humans and the environment;
- Establish the point of compliance at the source of the contamination;
- Ensure that site-specific cleanup goals are that all contaminated sites being cleaned ultimately achieve the applicable cleanup target levels;
- Allow the use of institutional or engineering controls at contaminated sites;
- Consider the additive effects of contaminants, including synergistic and antagonistic effects;
- Provide for the department to issue a “No Further Action” order;
- Establish appropriate cleanup target levels for soils;

¹ EPA, Use of Risk-Based Decision-Making in UST Corrective Action Programs, OSWER Directive 9610.17 1 (1995) <http://www2.epa.gov/risk/human-health-risk-assessment> (last visited Oct 1, 2015).

² Section 376.301(7), F.S., defines “cleanup target level” as “the concentration for each contaminant identified by an applicable analytical test method, in the medium of concern, at which a site rehabilitation program is deemed complete.”

³ Section 376.301(21), F.S., defines “institutional control” as “the restriction on use or access to a site to eliminate or minimize exposure to petroleum products’ chemicals of concern, dry cleaning solvents, or other contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.”

⁴ Section 376.301(16), F.S., defines “engineering controls” as “modifications to a site to reduce or eliminate the potential for exposure to petroleum products’ chemicals of concern, dry cleaning solvents, or other contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.”

⁵ Section 376.301(24), F.S., defines “natural attenuation” as a “verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.”

⁶ EPA, *supra* note 1, at 2-3.

⁷ Ch. 2003-173, s. 1, Laws of Fla.

- Allow for alternative cleanup target levels in conjunction with institutional and engineering controls; and
- Consider the additive effects of contaminants.

The department adopted F.A.C. Rule 62-780 in 2005, to implement these provisions and provide the procedures necessary to implement site rehabilitation for all sites using RBCA criteria. RBCA criteria are administered in conjunction with F.A.C. Rule 62-777, which provides the default groundwater, surface water, and soil cleanup target levels, as well as the natural attenuation default concentrations for groundwater, in order to determine the appropriate cleanup target levels for a contaminated site.

No Further Action

RBCA principles provide a three-tiered approach to close contaminated sites and issue a No Further Action (NFA) order. The first tier is the Risk Management Option Level I, which grants an NFA without institutional controls or engineering controls if the following conditions are met:

- Free product is not present and there is no risk of fire or explosion;
- Contaminated soil is not present in the unsaturated zone;
- Contaminated groundwater is not present;
- Contaminated surface water is not present; and
- Soil data indicates the contaminants do not exceed the default cleanup target levels or background concentrations.⁸

The second tier is the Risk Management Option Level II, which grants an NFA with institutional controls and engineering controls, if appropriate, if the controls are protective of human health, public safety, and the environment and agreed to by the property owner and:

- Free product is not present or free product removal is not feasible and there is no risk of fire or explosion;
- Alternative soil cleanup target levels have been established by the person responsible for the site rehabilitation and certain criteria are met for soil in the unsaturated zone; and
- Alternative groundwater cleanup target levels have been established by the person responsible for the site rehabilitation depending on current and projects use of groundwater near the site and certain criteria are met.⁹

The third tier is the Risk Management Option Level III, which grants an NFA with institutional controls and engineering controls if the controls are protective of human health, public safety, and the environment and agreed to by the property owner and:

- Free product is not present or free product removal is not feasible and there is no risk of fire or explosion;
- Alternative soil contamination levels have been established by the person responsible for the site rehabilitation and certain criteria are met for soil in the unsaturated zone; and

⁸ Fla. Admin. Code R. 62-780.680(1), (2014).

⁹ Fla. Admin. Code R. 62-780.680(2), (2014).

- Alternative groundwater contamination levels have been established by the person responsible for the site rehabilitation depending on the current and projected use of groundwater near the site and certain criteria are met.¹⁰

Alternative Cleanup Target Levels

Section 376.30701(2)(g)3., F.S., authorizes the department to approve alternative cleanup target levels in conjunction with institutional and engineering controls. Alternative cleanup target levels are established using site specific data, modeling results, risk assessment studies, toxicity assessments, exposure assessments, and any other relevant public health information. The department may approve alternative cleanup target levels once the responsible party has demonstrated that human health, public safety, and the environment are protected based on these factors. The law specifies that alternative cleanup target levels may only be established on a site specific basis under careful evaluation by the department.¹¹

Natural Attenuation

Florida Administrative Code Rule 62-780.690 provides for natural attenuation depending on the individual site characteristics if human health, public safety, and the environment are protected. “Natural attenuation” is defined as, “a verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.”¹² The criteria to allow for natural attenuation monitoring are:

- Free product is not present or free product removal is not technology feasible and there is no risk of fire or explosion;
- Contaminated soil is not present in the unsaturated zone;
- Contaminants present in the groundwater above background concentrations or applicable cleanup target levels are not migrating beyond the temporary compliance point or vertically;
- The physical, chemical, and biological characteristics of each contaminant and its transformation product are conducive to natural attenuation;
- The available data shows an overall decrease in contamination; and
- One of the following are met:
 - The site is expected to achieve NFA criteria in five years or less, background concentrations or the applicable cleanup target levels are not exceeded at the temporary point of compliance, and contamination concentrations do not exceed certain criteria;¹³ or
 - Appropriateness of natural attenuation is demonstrated by:
 - A technical evaluation of groundwater and soil characteristics that confirms the contaminants have the capacity to degrade under site-specific conditions;
 - A scientific evaluation of the plume migration, the estimate of the annual reduction in contaminant concentrations in monitoring wells, and an estimate of the time required to achieve NFA status; and

¹⁰ Fla. Admin. Codes R. 62-780.680(3) (2014) See also EPA, Human Health Risk Assessment (2015), <http://www2.epa.gov/risk/human-health-risk-assessment> (last visited Mar. 27, 2015).

¹¹ Section 376.30701(2)(g)3., F.S.

¹² Section 376.301(24), F.S.

¹³ Fla. Admin. Codes R. 62-777

- A life-cycle cost analysis of remedial alternatives.

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.”¹⁴ In 1995, the EPA created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment. The program was designed to provide local communities access to federal funds allocated for redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.¹⁵

In 1997, the Florida Legislature enacted the Brownfields Redevelopment Act (Act).¹⁶ 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.¹⁷ 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, 1997.¹⁸

III. Effect of Proposed Changes:

Sections 1 and 3 amend ss. 376.301 and 376.79, F.S., related to contaminated sites and the Brownfield Program, respectively, to define “background concentration” as “the concentration of contaminants naturally occurring or resulting from the anthropogenic [(manmade)] impacts unrelated to the discharge of pollutants or hazardous substances at a contaminated site undergoing site rehabilitation.” The department may not require site rehabilitation to achieve a cleanup level that is more stringent than the site-specific background concentration for that contaminant.

The bill defines “long-term natural attenuation” as “natural attenuation approved by the department as a site rehabilitation program task for a period of more than five years.” In current law, “natural attenuation” means a “verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. . .”¹⁹ The department will be required to adopt rules that include using long-term natural attenuation as a technique for site rehabilitation.

¹⁴ 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 Oct. 1, 2015).

¹⁵ The Florida Brownfields Association, Brownfields 101 2, available at <http://c.ymcdn.com/sites/www.floridabrownfields.org/resource/resmgr/imported/Brownfields101.pdf> (last visited Oct. 1, 2015).

¹⁶ Ch. 97-173, s. 1, Laws of Fla.

¹⁷ 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 Oct. 1, 2015).

¹⁸ Section 376.82, F.S.

¹⁹ Sections 376.301(24) and 376.79(12), F.S.

Sections 2 and 4 amend ss. 376.30701 and 376.81, F.S., related to contaminated sites and the Brownfield Program, respectively, to require the department to establish rules for the use of long-term natural attenuation, which will allow contaminated sites that are currently in natural attenuation to remain in natural attenuation longer than five years.

The bill directs the department to consider interactive, rather than additive effects of contaminants, and clarifies that additive, synergistic, and antagonistic effects should be considered equally when determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task or site rehabilitation program.

The bill allows the department to establish alternative cleanup target levels based on the site-specific background concentration for a particular contaminant.

The department is required to base cleanup target levels for contaminants on the more protective of the groundwater or surface water standards, as established by rule. The bill exempts cleanup target levels from being based on these standards if it is shown that the contaminants do not cause or contribute to the exceedance of applicable surface water quality criteria.

In establishing alternative cleanup target levels for soil and groundwater, any relevant data and information, risk assessment modeling results, and results from probabilistic risk assessment modeling may be used. Probabilistic risk assessment is a risk assessment that yields a probability distribution for risk, generally by assigning a probability distribution to represent variability or uncertainty in one or more inputs to the risk equation.²⁰ The bill allows the department to consider alternative cleanup target levels based on comprehensive assessments and information. This provision does not apply to nonprogram petroleum-contaminated sites unless requested by the person responsible for site rehabilitation.

Section 2 also amends s. 376.30701(2)(g)3., F.S., to allow the use of alternative cleanup target levels that do not require institutional controls if:

- The only cleanup target levels exceeded are the groundwater cleanup target levels derived from nuisance, organoleptic (meaning something that a person can sense, e.g., smell, taste, see), or aesthetic factors;
- Concentrations of all contaminants meet state water quality standards or minimum criteria, based on the protection of human health, public safety, and the environment;
- All of the established groundwater cleanup target levels are met at the property boundary;
- The responsible party has demonstrated that the contaminants will not migrate beyond the property boundary at concentrations that exceed the groundwater cleanup target levels established as state water quality standards;
- The property has access to and is using an offsite water supply, and an unplugged private well is not used for domestic purposes; and
- The real property owner does not object to the NFA proposal submitted to the department or to the local pollution control program.

²⁰ EPA, Risk Assessment Guidance for Superfund (RAGS) Volume III - Part A: Process for Conducting Probabilistic Risk Assessment at 1-3 (December 2001), available at <http://www.epa.gov/oswer/riskassessment/rags3adt/> (last visited Oct. 4, 2015).

Sections 5, 6, and 7 amend ss. 196.1995, 287.0595, and 288.1175, F.S., respectively, to correct cross references related to the department's Brownfields program.

Section 8 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 92 provides an indeterminate positive fiscal impact to those financially responsible for the cleanup of contaminated site and brownfields.

C. Government Sector Impact:

The department will incur nominal, non-recurring costs associated with rulemaking to amend F.A.C. Rule 62-780. These costs can be absorbed within existing resources.

The department will experience a positive, indeterminate fiscal impact as the costs to remediate contaminated sites and brownfields that are funded by a state cost-share agreement are reduced.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As noted by the department, except for some of the proposed definition changes in section 1 of the bill that are more broadly applicable, the proposed changes apply primarily to waste cleanup sites and brownfield cleanup sites. The proposed changes would not modify similar wording for

petroleum discharges and dry cleaning facilities. The department recommends that proposed changes also be applied to other RBCA programs.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 376.301, 376.30701, 376.79, and 376.81.

IX. Additional Information:

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

CS by Appropriations on November 19, 2015:

The CS clarifies that nonprogram petroleum-contaminated sites are exempt from the Global Risk-Based Corrective Action (RBCA) unless application is requested by the person responsible for the site rehabilitation.

- B. **Amendments:**

None.



138072

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
11/18/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 44 - 49

and insert:

Section 2. Paragraph (b) of subsection (1) and subsection (2) of section 376.30701, Florida Statutes, are amended to read:

376.30701 Application of risk-based corrective action principles to contaminated sites; applicability; legislative intent; rulemaking authority; contamination cleanup criteria; limitations; reopeners.-



138072

11 (1) APPLICABILITY.—

12 (b) This section shall apply to all contaminated sites
13 resulting from a discharge of pollutants or hazardous substances
14 where legal responsibility for site rehabilitation exists
15 pursuant to other provisions of this chapter or chapter 403,
16 except for those contaminated sites subject to the risk-based
17 corrective action cleanup criteria established for the
18 petroleum, brownfields, and drycleaning programs pursuant to ss.
19 376.3071, 376.81, and 376.3078, respectively, and except for
20 nonprogram petroleum contaminated sites unless application of
21 this section is requested by the person responsible for site
22 rehabilitation.

23

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

25 And the title is amended as follows:

26 Delete line 5

27 and insert:

28 amending s. 376.30701, F.S.; exempting nonprogram
29 petroleum contaminated sites from the application of
30 risk-based corrective action principles under certain
31 circumstances; requiring the Department



971540

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/19/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 44 - 49

and insert:

Section 2. Paragraph (b) of subsection (1) and subsection (2) of section 376.30701, Florida Statutes, are amended to read:

376.30701 Application of risk-based corrective action principles to contaminated sites; applicability; legislative intent; rulemaking authority; contamination cleanup criteria; limitations; reopeners.-



971540

11 (1) APPLICABILITY.—

12 (b) This section shall apply to all contaminated sites
13 resulting from a discharge of pollutants or hazardous substances
14 where legal responsibility for site rehabilitation exists
15 pursuant to other provisions of this chapter or chapter 403,
16 except for those contaminated sites subject to the risk-based
17 corrective action cleanup criteria established for the
18 petroleum, brownfields, and drycleaning programs pursuant to ss.
19 376.3071, 376.81, and 376.3078, respectively. This section does
20 not apply to nonprogram petroleum-contaminated sites unless
21 application of this section is requested by the person
22 responsible for site rehabilitation.

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

24 And the title is amended as follows:

25 Delete line 5

26 and insert:

27 amending s. 376.30701, F.S.; exempting nonprogram
28 petroleum-contaminated sites from the application of
29 risk-based corrective action principles under certain
30 circumstances; requiring the Department

By Senator Evers

2-00112-16

201692__

1 A bill to be entitled
 2 An act relating to contaminated sites; amending s.
 3 376.301, F.S.; defining the terms "background
 4 concentration" and "long-term natural attenuation";
 5 amending s. 376.30701, F.S.; requiring the Department
 6 of Environmental Protection to include protocols for
 7 the use of long-term natural attenuation where site
 8 conditions warrant; requiring specified interactive
 9 effects of contaminants to be considered as cleanup
 10 criteria; revising how cleanup target levels are
 11 applied where surface waters are exposed to
 12 contaminated groundwater; authorizing the use of
 13 relevant data and information when assessing cleanup
 14 target levels; providing that institutional controls
 15 are not required under certain circumstances if
 16 alternative cleanup target levels are used; amending
 17 s. 376.79, F.S.; defining the terms "background
 18 concentration" and "long-term natural attenuation";
 19 amending s. 376.81, F.S.; providing additional
 20 contamination cleanup criteria for brownfield sites
 21 and brownfield areas; amending ss. 196.1995, 287.0595,
 22 and 288.1175, F.S.; conforming cross-references;
 23 providing an effective date.
 24
 25 Be It Enacted by the Legislature of the State of Florida:
 26
 27 Section 1. Present subsections (4) through (22) of section
 28 376.301, Florida Statutes, are redesignated as subsections (5)
 29 through (23), respectively, present subsections (23) through

Page 1 of 22

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

2-00112-16

201692__

30 (48) of that section are redesignated as subsections (25)
 31 through (50), respectively, and new subsections (4) and (24) are
 32 added to that section, to read:
 33 376.301 Definitions of terms used in ss. 376.30-376.317,
 34 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
 35 376.75, unless the context clearly requires otherwise, the term:
 36 (4) "Background concentration" means the concentration of
 37 contaminants naturally occurring or resulting from anthropogenic
 38 impacts unrelated to the discharge of pollutants or hazardous
 39 substances at a contaminated site undergoing site
 40 rehabilitation.
 41 (24) "Long-term natural attenuation" means natural
 42 attenuation approved by the department as a site rehabilitation
 43 program task for a period of more than 5 years.
 44 Section 2. Subsection (2) of section 376.30701, Florida
 45 Statutes, is amended to read:
 46 376.30701 Application of risk-based corrective action
 47 principles to contaminated sites; applicability; legislative
 48 intent; rulemaking authority; contamination cleanup criteria;
 49 limitations; reopeners.—
 50 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is
 51 the intent of the Legislature to protect the health of all
 52 people under actual circumstances of exposure. By July 1, 2004,
 53 the secretary of the department shall establish criteria by rule
 54 for the purpose of determining, on a site-specific basis, the
 55 rehabilitation program tasks that comprise a site rehabilitation
 56 program, including a voluntary site rehabilitation program, and
 57 the level at which a rehabilitation program task and a site
 58 rehabilitation program may be deemed completed. In establishing

Page 2 of 22

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

2-00112-16

201692__

59 these rules, the department shall apply, to the maximum extent
 60 feasible, a risk-based corrective action process to achieve
 61 protection of human health and safety and the environment in a
 62 cost-effective manner based on the principles set forth in this
 63 subsection. These rules shall prescribe a phased risk-based
 64 corrective action process that is iterative and that tailors
 65 site rehabilitation tasks to site-specific conditions and risks.
 66 The department and the person responsible for site
 67 rehabilitation are encouraged to establish decision points at
 68 which risk management decisions will be made. The department
 69 shall provide an early decision, when requested, regarding
 70 applicable exposure factors and a risk management approach based
 71 on the current and future land use at the site. These rules must
 72 ~~shall also~~ include protocols for the use of natural attenuation,
 73 including long-term natural attenuation where site conditions
 74 warrant, the use of institutional and engineering controls, and
 75 the issuance of "No Further Action" orders. The criteria for
 76 determining what constitutes a rehabilitation program task or
 77 completion of a site rehabilitation program task or site
 78 rehabilitation program, including a voluntary site
 79 rehabilitation program, must:

80 (a) Consider the current exposure and potential risk of
 81 exposure to humans and the environment, including multiple
 82 pathways of exposure. The physical, chemical, and biological
 83 characteristics of each contaminant must be considered in order
 84 to determine the feasibility of a risk-based corrective action
 85 assessment.

86 (b) Establish the point of compliance at the source of the
 87 contamination. However, the department may ~~is authorized to~~

Page 3 of 22

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

2-00112-16

201692__

88 temporarily move the point of compliance to the boundary of the
 89 property, or to the edge of the plume when the plume is within
 90 the property boundary, while cleanup, including cleanup through
 91 natural attenuation processes in conjunction with appropriate
 92 monitoring, is proceeding. The department ~~may also be~~
 93 ~~authorized~~, pursuant to criteria provided in this section, ~~to~~
 94 temporarily extend the point of compliance beyond the property
 95 boundary with appropriate monitoring, if such extension is
 96 needed to facilitate natural attenuation or to address the
 97 current conditions of the plume, provided human health, public
 98 safety, and the environment are protected. When temporarily
 99 extending the point of compliance beyond the property boundary,
 100 it cannot be extended further than the lateral extent of the
 101 plume, if known, at the time of execution of a cleanup
 102 agreement, if required, or the lateral extent of the plume as
 103 defined at the time of site assessment. Temporary extension of
 104 the point of compliance beyond the property boundary, as
 105 provided in this paragraph, must include actual notice by the
 106 person responsible for site rehabilitation to local governments
 107 and the owners of any property into which the point of
 108 compliance is allowed to extend and constructive notice to
 109 residents and business tenants of the property into which the
 110 point of compliance is allowed to extend. Persons receiving
 111 notice pursuant to this paragraph shall have the opportunity to
 112 comment within 30 days after receipt of the notice. Additional
 113 notice concerning the status of natural attenuation processes
 114 shall be similarly provided to persons receiving notice pursuant
 115 to this paragraph every 5 years.

116 (c) Ensure that the site-specific cleanup goal is that all

Page 4 of 22

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

2-00112-16

201692__

117 contaminated sites being cleaned up pursuant to this section
 118 ultimately achieve the applicable cleanup target levels provided
 119 in this subsection. In the circumstances provided in this
 120 subsection, and after constructive notice and opportunity to
 121 comment within 30 days after receipt of the notice to local
 122 government, owners of any property into which the point of
 123 compliance is allowed to extend, and residents of any property
 124 into which the point of compliance is allowed to extend, the
 125 department may allow concentrations of contaminants to
 126 temporarily exceed the applicable cleanup target levels while
 127 cleanup, including cleanup through natural attenuation processes
 128 in conjunction with appropriate monitoring, is proceeding, if
 129 human health, public safety, and the environment are protected.

130 (d) Allow the use of institutional or engineering controls
 131 at contaminated sites being cleaned up pursuant to this section,
 132 where appropriate, to eliminate or control the potential
 133 exposure to contaminants of humans or the environment. The use
 134 of controls must be preapproved by the department and only after
 135 constructive notice and opportunity to comment within 30 days
 136 after receipt of notice is provided to local governments, owners
 137 of any property into which the point of compliance is allowed to
 138 extend, and residents on any property into which the point of
 139 compliance is allowed to extend. When institutional or
 140 engineering controls are implemented to control exposure, the
 141 removal of the controls must have prior department approval and
 142 must be accompanied by the resumption of active cleanup, or
 143 other approved controls, unless cleanup target levels under this
 144 section have been achieved.

145 (e) Consider the interactive additive effects of

Page 5 of 22

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

2-00112-16

201692__

146 contaminants, including additive, synergistic, and antagonistic
 147 effects. ~~The synergistic and antagonistic effects shall also be~~
 148 ~~considered when the scientific data become available.~~

149 (f) Take into consideration individual site
 150 characteristics, which shall include, but not be limited to, the
 151 current and projected use of the affected groundwater and
 152 surface water in the vicinity of the site, current and projected
 153 land uses of the area affected by the contamination, the exposed
 154 population, the degree and extent of contamination, the rate of
 155 contaminant migration, the apparent or potential rate of
 156 contaminant degradation through natural attenuation processes,
 157 the location of the plume, and the potential for further
 158 migration in relation to site property boundaries.

159 (g) Apply state water quality standards as follows:

160 1. Cleanup target levels for each contaminant found in
 161 groundwater shall be the applicable state water quality
 162 standards. Where such standards do not exist, the cleanup target
 163 levels for groundwater shall be based on the minimum criteria
 164 specified in department rule. The department shall apply the
 165 following, as appropriate, in establishing the applicable
 166 cleanup target levels: calculations using a lifetime cancer risk
 167 level of 1.0E-6; a hazard index of 1 or less; the best
 168 achievable detection limit; and nuisance, organoleptic, and
 169 aesthetic considerations. However, the department ~~may shall~~ not
 170 require site rehabilitation to achieve a cleanup target level
 171 for any individual contaminant that is more stringent than the
 172 site-specific, ~~naturally-occurring~~ background concentration for
 173 that contaminant.

174 2. Where surface waters are exposed to contaminated

Page 6 of 22

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

2-00112-16

201692__

175 groundwater, the cleanup target levels for the contaminants must
 176 ~~shall~~ be based on the more protective of the groundwater or
 177 surface water standards as established by department rule,
 178 unless it has been demonstrated that the contaminants do not
 179 cause or contribute to the exceedance of applicable surface
 180 water quality criteria. In such circumstance, the point of
 181 measuring compliance with the surface water standards shall be
 182 in the groundwater immediately adjacent to the surface water
 183 body.

184 3. Using risk-based corrective action principles, the
 185 department shall approve alternative cleanup target levels in
 186 conjunction with institutional and engineering controls, if
 187 needed, based upon an applicant's demonstration, using site-
 188 specific or other relevant data and information, risk assessment
 189 modeling results, including results from probabilistic risk
 190 assessment modeling, risk assessment studies, risk reduction
 191 techniques, or a combination thereof, that human health, public
 192 safety, and the environment are protected to the same degree as
 193 provided in subparagraphs 1. and 2. Where a state water quality
 194 standard is applicable, a deviation may not result in the
 195 application of cleanup target levels more stringent than the
 196 standard. In determining whether it is appropriate to establish
 197 alternative cleanup target levels at a site, the department must
 198 consider the effectiveness of source removal, if any, that has
 199 been completed at the site and the practical likelihood of the
 200 use of low yield or poor quality groundwater, the use of
 201 groundwater near marine surface water bodies, the current and
 202 projected use of the affected groundwater in the vicinity of the
 203 site, or the use of groundwater in the immediate vicinity of the

Page 7 of 22

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

2-00112-16

201692__

204 contaminated area, where it has been demonstrated that the
 205 groundwater contamination is not migrating away from such
 206 localized source, provided human health, public safety, and the
 207 environment are protected. Groundwater resource protection
 208 remains the ultimate goal of cleanup, particularly in light of
 209 the state's continued growth and consequent demands for drinking
 210 water resources. The Legislature recognizes the need for a
 211 protective yet flexible cleanup approach that risk-based
 212 corrective action provides. Only where it is appropriate on a
 213 site-specific basis, using the criteria in this paragraph and
 214 careful evaluation by the department, shall proposed alternative
 215 cleanup target levels be approved. If alternative cleanup target
 216 levels are used, institutional controls are not required if:

217 a. The only cleanup target levels exceeded are the
 218 groundwater cleanup target levels derived from nuisance,
 219 organoleptic, or aesthetic considerations;

220 b. Concentrations of all contaminants meet the state water
 221 quality standards or the minimum criteria, based on the
 222 protection of human health, public safety, and the environment,
 223 as provided in subparagraph 1.;

224 c. All of the groundwater cleanup target levels established
 225 pursuant to subparagraph 1. are met at the property boundary;

226 d. The person responsible for site rehabilitation has
 227 demonstrated that the contaminants will not migrate beyond the
 228 property boundary at concentrations that exceed the groundwater
 229 cleanup target levels established pursuant to subparagraph 1.;

230 e. The property has access to and is using an offsite water
 231 supply, and an unplugged private well is not used for domestic
 232 purposes; and

Page 8 of 22

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

2-00112-16

201692__

233 f. The real property owner does not object to the "No
 234 Further Action" proposal to the department or the local
 235 pollution control program.

236 (h) Provide for the department to issue a "No Further
 237 Action" order, with conditions, including, but not limited to,
 238 the use of institutional or engineering controls where
 239 appropriate, when alternative cleanup target levels established
 240 pursuant to subparagraph (g)3. have been achieved or when the
 241 person responsible for site rehabilitation can demonstrate that
 242 the cleanup target level is unachievable with the use of
 243 available technologies. Before ~~Prior to~~ issuing such an order,
 244 the department shall consider the feasibility of an alternative
 245 site rehabilitation technology at the contaminated site.

246 (i) Establish appropriate cleanup target levels for soils.
 247 Although there are existing state water quality standards, there
 248 are no existing state soil quality standards. The Legislature
 249 does not intend, through the adoption of this section, to create
 250 such soil quality standards. The specific rulemaking authority
 251 granted pursuant to this section merely authorizes the
 252 department to establish appropriate soil cleanup target levels.
 253 These soil cleanup target levels shall be applicable at sites
 254 only after a determination as to legal responsibility for site
 255 rehabilitation has been made pursuant to other provisions of
 256 this chapter or chapter 403.

257 1. In establishing soil cleanup target levels for human
 258 exposure to each contaminant found in soils from the land
 259 surface to 2 feet below land surface, the department shall apply
 260 the following, as appropriate: calculations using a lifetime
 261 cancer risk level of 1.0E-6; a hazard index of 1 or less; and

2-00112-16

201692__

262 the best achievable detection limit. However, the department may
 263 ~~shall~~ not require site rehabilitation to achieve a cleanup
 264 target level for an individual contaminant that is more
 265 stringent than the site-specific, ~~naturally occurring~~ background
 266 concentration for that contaminant. Institutional controls or
 267 other methods shall be used to prevent human exposure to
 268 contaminated soils more than 2 feet below the land surface. Any
 269 removal of such institutional controls shall require such
 270 contaminated soils to be remediated.

271 2. Leachability-based soil cleanup target levels shall be
 272 based on protection of the groundwater cleanup target levels or
 273 the alternate cleanup target levels for groundwater established
 274 pursuant to this paragraph, as appropriate. Source removal and
 275 other cost-effective alternatives that are technologically
 276 feasible shall be considered in achieving the leachability soil
 277 cleanup target levels established by the department. The
 278 leachability goals are ~~shall~~ not be applicable if the department
 279 determines, based upon individual site characteristics, and in
 280 conjunction with institutional and engineering controls, if
 281 needed, that contaminants will not leach into the groundwater at
 282 levels that pose a threat to human health, public safety, and
 283 the environment.

284 3. Using risk-based corrective action principles, the
 285 department shall approve alternative cleanup target levels in
 286 conjunction with institutional and engineering controls, if
 287 needed, based upon an applicant's demonstration, using site-
 288 specific or other relevant data and information, risk assessment
 289 modeling results, including results from probabilistic risk
 290 assessment modeling, risk assessment studies, risk reduction

2-00112-16 201692__

291 techniques, or a combination thereof, that human health, public
 292 safety, and the environment are protected to the same degree as
 293 provided in subparagraphs 1. and 2.
 294

295 The department shall require source removal as a risk reduction
 296 measure if warranted and cost-effective. Once source removal at
 297 a site is complete, the department shall reevaluate the site to
 298 determine the degree of active cleanup needed to continue.
 299 Further, the department shall determine if the reevaluated site
 300 qualifies for monitoring only or if no further action is
 301 required to rehabilitate the site. If additional site
 302 rehabilitation is necessary to reach "No Further Action" status,
 303 the department is encouraged to utilize natural attenuation
 304 monitoring, including long-term natural attenuation and
 305 monitoring, where site conditions warrant.

306 Section 3. Present subsections (3) through (11) of section
 307 376.79, Florida Statutes, are redesignated as subsections (4)
 308 through (12), respectively, present subsections (12) through
 309 (19) are redesignated as subsections (14) through (21),
 310 respectively, and new subsections (3) and (13) are added to that
 311 section, to read:

312 376.79 Definitions relating to Brownfields Redevelopment
 313 Act.—As used in ss. 376.77-376.85, the term:

314 (3) "Background concentration" means the concentration of
 315 contaminants naturally occurring or resulting from anthropogenic
 316 impacts unrelated to the discharge of pollutants or hazardous
 317 substances at a contaminated site undergoing site
 318 rehabilitation.

319 (13) "Long-term natural attenuation" means natural

2-00112-16 201692__

320 attenuation approved by the department as a site rehabilitation
 321 program task for a period of more than 5 years.
 322 Section 4. Section 376.81, Florida Statutes, is amended to
 323 read:
 324 376.81 Brownfield site and brownfield areas contamination
 325 cleanup criteria.—
 326 (1) It is the intent of the Legislature to protect the
 327 health of all people under actual circumstances of exposure. By
 328 July 1, 2001, the secretary of the department shall establish
 329 criteria by rule for the purpose of determining, on a site-
 330 specific basis, the rehabilitation program tasks that comprise a
 331 site rehabilitation program and the level at which a
 332 rehabilitation program task and a site rehabilitation program
 333 may be deemed completed. In establishing the rule, the
 334 department shall apply, to the maximum extent feasible, a risk-
 335 based corrective action process to achieve protection of human
 336 health and safety and the environment in a cost-effective manner
 337 based on the principles set forth in this subsection. The rule
 338 must prescribe a phased risk-based corrective action process
 339 that is iterative and that tailors site rehabilitation tasks to
 340 site-specific conditions and risks. The department and the
 341 person responsible for brownfield site rehabilitation are
 342 encouraged to establish decision points at which risk management
 343 decisions will be made. The department shall provide an early
 344 decision, when requested, regarding applicable exposure factors
 345 and a risk management approach based on the current and future
 346 land use at the site. The rule ~~must shall also~~ include protocols
 347 for the use of natural attenuation, including long-term natural
 348 attenuation where site conditions warrant, the use of

2-00112-16

201692__

349 institutional and engineering controls, and the issuance of "no
350 further action" letters. The criteria for determining what
351 constitutes a rehabilitation program task or completion of a
352 site rehabilitation program task or site rehabilitation program
353 must:

354 (a) Consider the current exposure and potential risk of
355 exposure to humans and the environment, including multiple
356 pathways of exposure. The physical, chemical, and biological
357 characteristics of each contaminant must be considered in order
358 to determine the feasibility of risk-based corrective action
359 assessment.

360 (b) Establish the point of compliance at the source of the
361 contamination. However, the department may ~~is authorized to~~
362 temporarily move the point of compliance to the boundary of the
363 property, or to the edge of the plume when the plume is within
364 the property boundary, while cleanup, including cleanup through
365 natural attenuation processes in conjunction with appropriate
366 monitoring, is proceeding. The department may ~~also is~~
367 ~~authorized~~, pursuant to criteria provided for in this section,
368 ~~to~~ temporarily extend the point of compliance beyond the
369 property boundary with appropriate monitoring, if such extension
370 is needed to facilitate natural attenuation or to address the
371 current conditions of the plume, provided human health, public
372 safety, and the environment are protected. When temporarily
373 extending the point of compliance beyond the property boundary,
374 it cannot be extended further than the lateral extent of the
375 plume at the time of execution of the brownfield site
376 rehabilitation agreement, if known, or the lateral extent of the
377 plume as defined at the time of site assessment. Temporary

Page 13 of 22

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

2-00112-16

201692__

378 extension of the point of compliance beyond the property
379 boundary, as provided in this paragraph, must include actual
380 notice by the person responsible for brownfield site
381 rehabilitation to local governments and the owners of any
382 property into which the point of compliance is allowed to extend
383 and constructive notice to residents and business tenants of the
384 property into which the point of compliance is allowed to
385 extend. Persons receiving notice pursuant to this paragraph
386 shall have the opportunity to comment within 30 days of receipt
387 of the notice.

388 (c) Ensure that the site-specific cleanup goal is that all
389 contaminated brownfield sites and brownfield areas ultimately
390 achieve the applicable cleanup target levels provided in this
391 section. In the circumstances provided below, and after
392 constructive notice and opportunity to comment within 30 days
393 from receipt of the notice to local government, to owners of any
394 property into which the point of compliance is allowed to
395 extend, and to residents on any property into which the point of
396 compliance is allowed to extend, the department may allow
397 concentrations of contaminants to temporarily exceed the
398 applicable cleanup target levels while cleanup, including
399 cleanup through natural attenuation processes in conjunction
400 with appropriate monitoring, is proceeding, if human health,
401 public safety, and the environment are protected.

402 (d) Allow brownfield site and brownfield area
403 rehabilitation programs to include the use of institutional or
404 engineering controls, where appropriate, to eliminate or control
405 the potential exposure to contaminants of humans or the
406 environment. The use of controls must be preapproved by the

Page 14 of 22

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

2-00112-16

201692__

407 department and only after constructive notice and opportunity to
 408 comment within 30 days from receipt of notice is provided to
 409 local governments, to owners of any property into which the
 410 point of compliance is allowed to extend, and to residents on
 411 any property into which the point of compliance is allowed to
 412 extend. When institutional or engineering controls are
 413 implemented to control exposure, the removal of the controls
 414 must have prior department approval and must be accompanied by
 415 the resumption of active cleanup, or other approved controls,
 416 unless cleanup target levels under this section have been
 417 achieved.

418 (e) Consider the interactive additive effects of
 419 contaminants, including additive, synergistic, and antagonistic
 420 effects. ~~The synergistic and antagonistic effects shall also be~~
 421 ~~considered when the scientific data become available.~~

422 (f) Take into consideration individual site
 423 characteristics, which shall include, but not be limited to, the
 424 current and projected use of the affected groundwater and
 425 surface water in the vicinity of the site, current and projected
 426 land uses of the area affected by the contamination, the exposed
 427 population, the degree and extent of contamination, the rate of
 428 contaminant migration, the apparent or potential rate of
 429 contaminant degradation through natural attenuation processes,
 430 the location of the plume, and the potential for further
 431 migration in relation to site property boundaries.

432 (g) Apply state water quality standards as follows:

433 1. Cleanup target levels for each contaminant found in
 434 groundwater shall be the applicable state water quality
 435 standards. Where such standards do not exist, the cleanup target

2-00112-16

201692__

436 levels for groundwater shall be based on the minimum criteria
 437 specified in department rule. The department shall apply the
 438 following, as appropriate, in establishing the applicable
 439 cleanup target levels: calculations using a lifetime cancer risk
 440 level of 1.0E-6; a hazard index of 1 or less; the best
 441 achievable detection limit; and nuisance, organoleptic, and
 442 aesthetic considerations. However, the department ~~may shall~~ not
 443 require site rehabilitation to achieve a cleanup target level
 444 for any individual contaminant which is more stringent than the
 445 site-specific, ~~naturally occurring~~ background concentration for
 446 that contaminant.

447 2. Where surface waters are exposed to contaminated
 448 groundwater, the cleanup target levels for the contaminants must
 449 shall be based on the more protective of the groundwater or
 450 surface water standards as established by department rule,
 451 unless it has been demonstrated that the contaminants do not
 452 cause or contribute to the exceedance of applicable surface
 453 water quality criteria. In such circumstances, the point of
 454 measuring compliance with the surface water standards shall be
 455 in the groundwater immediately adjacent to the surface water
 456 body.

457 3. Using risk-based corrective action principles, the
 458 department shall approve alternative cleanup target levels in
 459 conjunction with institutional and engineering controls, if
 460 needed, based upon an applicant's demonstration, using site-
 461 specific or other relevant data and information, risk assessment
 462 modeling results, including results from probabilistic risk
 463 assessment modeling, risk assessment studies, risk reduction
 464 techniques, or a combination thereof, that human health, public

2-00112-16

201692__

465 safety, and the environment are protected to the same degree as
 466 provided in subparagraphs 1. and 2. Where a state water quality
 467 standard is applicable, a deviation may not result in the
 468 application of cleanup target levels more stringent than the
 469 standard. In determining whether it is appropriate to establish
 470 alternative cleanup target levels at a site, the department must
 471 consider the effectiveness of source removal, if any, which has
 472 been completed at the site and the practical likelihood of the
 473 use of low yield or poor quality groundwater, the use of
 474 groundwater near marine surface water bodies, the current and
 475 projected use of the affected groundwater in the vicinity of the
 476 site, or the use of groundwater in the immediate vicinity of the
 477 contaminated area, where it has been demonstrated that the
 478 groundwater contamination is not migrating away from such
 479 localized source, provided human health, public safety, and the
 480 environment are protected. When using alternative cleanup target
 481 levels at a brownfield site, institutional controls are shall
 482 not ~~be~~ required if:

- 483 a. The only cleanup target levels exceeded are the
 484 groundwater cleanup target levels derived from nuisance,
 485 organoleptic, or aesthetic considerations;
- 486 b. Concentrations of all contaminants meet the state water
 487 quality standards or the minimum criteria, based on the
 488 protection of human health, provided in subparagraph 1.;
- 489 c. All of the groundwater cleanup target levels established
 490 pursuant to subparagraph 1. are met at the property boundary;
- 491 d. The person responsible for brownfield site
 492 rehabilitation has demonstrated that the contaminants will not
 493 migrate beyond the property boundary at concentrations exceeding

Page 17 of 22

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

2-00112-16

201692__

- 494 the groundwater cleanup target levels established pursuant to
 495 subparagraph 1.;
- 496 e. The property has access to and is using an offsite water
 497 supply and no unplugged private wells are used for domestic
 498 purposes; and
- 499 f. The real property owner provides written acceptance of
 500 the "no further action" proposal to the department or the local
 501 pollution control program.
- 502 (h) Provide for the department to issue a "no further
 503 action order," with conditions, including, but not limited to,
 504 the use of institutional or engineering controls where
 505 appropriate, when alternative cleanup target levels established
 506 pursuant to subparagraph (g)3. have been achieved, or when the
 507 person responsible for brownfield site rehabilitation can
 508 demonstrate that the cleanup target level is unachievable within
 509 available technologies. Before ~~Prior to~~ issuing such an order,
 510 the department shall consider the feasibility of an alternative
 511 site rehabilitation technology at ~~in~~ the brownfield site area.
- 512 (i) Establish appropriate cleanup target levels for soils.
- 513 1. In establishing soil cleanup target levels for human
 514 exposure to each contaminant found in soils from the land
 515 surface to 2 feet below land surface, the department shall apply
 516 the following, as appropriate: calculations using a lifetime
 517 cancer risk level of 1.0E-6; a hazard index of 1 or less; and
 518 the best achievable detection limit. However, the department may
 519 ~~shall~~ not require site rehabilitation to achieve a cleanup
 520 target level for an individual contaminant which is more
 521 stringent than the site-specific, ~~naturally-occurring~~ background
 522 concentration for that contaminant. Institutional controls or

Page 18 of 22

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

2-00112-16

201692__

523 other methods shall be used to prevent human exposure to
 524 contaminated soils more than 2 feet below the land surface. Any
 525 removal of such institutional controls shall require such
 526 contaminated soils to be remediated.

527 2. Leachability-based soil cleanup target levels shall be
 528 based on protection of the groundwater cleanup target levels or
 529 the alternate cleanup target levels for groundwater established
 530 pursuant to this paragraph, as appropriate. Source removal and
 531 other cost-effective alternatives that are technologically
 532 feasible shall be considered in achieving the leachability soil
 533 cleanup target levels established by the department. The
 534 leachability goals are ~~shall not be~~ applicable if the department
 535 determines, based upon individual site characteristics, and in
 536 conjunction with institutional and engineering controls, if
 537 needed, that contaminants will not leach into the groundwater at
 538 levels that pose a threat to human health, public safety, and
 539 the environment.

540 3. Using risk-based corrective action principles, the
 541 department shall approve alternative cleanup target levels in
 542 conjunction with institutional and engineering controls, if
 543 needed, based upon an applicant's demonstration, using site-
 544 specific or other relevant data and information, risk assessment
 545 modeling results, including results from probabilistic risk
 546 assessment modeling, risk assessment studies, risk reduction
 547 techniques, or a combination thereof, that human health, public
 548 safety, and the environment are protected to the same degree as
 549 provided in subparagraphs 1. and 2.

550 (2) The department shall require source removal, as a risk
 551 reduction measure, if warranted and cost-effective. Once source

Page 19 of 22

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

2-00112-16

201692__

552 removal at a site is complete, the department shall reevaluate
 553 the site to determine the degree of active cleanup needed to
 554 continue. Further, the department shall determine if the
 555 reevaluated site qualifies for monitoring only or if no further
 556 action is required to rehabilitate the site. If additional site
 557 rehabilitation is necessary to reach "no further action" status,
 558 the department is encouraged to utilize natural attenuation
 559 monitoring, including long-term natural attenuation and
 560 monitoring, where site conditions warrant.

561 (3) The cleanup criteria described in this section govern
 562 only site rehabilitation activities occurring at the
 563 contaminated site. Removal of contaminated media from a site for
 564 offsite relocation or treatment must be in accordance with all
 565 applicable federal, state, and local laws and regulations.

566 Section 5. Subsection (3) of section 196.1995, Florida
 567 Statutes, is amended to read:

568 196.1995 Economic development ad valorem tax exemption.—

569 (3) The board of county commissioners or the governing
 570 authority of the municipality that calls a referendum within its
 571 total jurisdiction to determine whether its respective
 572 jurisdiction may grant economic development ad valorem tax
 573 exemptions may vote to limit the effect of the referendum to
 574 authority to grant economic development tax exemptions for new
 575 businesses and expansions of existing businesses located in an
 576 enterprise zone or a brownfield area, as defined in s. 376.79(5)
 577 ~~s. 376.79(4)~~. If an area nominated to be an enterprise zone
 578 pursuant to s. 290.0055 has not yet been designated pursuant to
 579 s. 290.0065, the board of county commissioners or the governing
 580 authority of the municipality may call such referendum prior to

Page 20 of 22

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

2-00112-16

201692__

581 such designation; however, the authority to grant economic
 582 development ad valorem tax exemptions does not apply until such
 583 area is designated pursuant to s. 290.0065. The ballot question
 584 in such referendum shall be in substantially the following form
 585 and shall be used in lieu of the ballot question prescribed in
 586 subsection (2):

587
 588 Shall the board of county commissioners of this county (or the
 589 governing authority of this municipality, or both) be authorized
 590 to grant, pursuant to s. 3, Art. VII of the State Constitution,
 591 property tax exemptions for new businesses and expansions of
 592 existing businesses that are located in an enterprise zone or a
 593 brownfield area and that are expected to create new, full-time
 594 jobs in the county (or municipality, or both)?

595
 596Yes-For authority to grant exemptions.

597No-Against authority to grant exemptions.

598 Section 6. Paragraph (a) of subsection (1) of section
 599 287.0595, Florida Statutes, is amended to read:

600 287.0595 Pollution response action contracts; department
 601 rules.-

602 (1) The Department of Environmental Protection shall
 603 establish, by adopting administrative rules as provided in
 604 chapter 120:

605 (a) Procedures for determining the qualifications of
 606 responsible potential vendors prior to advertisement for and
 607 receipt of bids, proposals, or replies for pollution response
 608 action contracts, including procedures for the rejection of
 609 unqualified vendors. Response actions are those activities

Page 21 of 22

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

2-00112-16

201692__

610 described in s. 376.301(39) ~~s. 376.301(37)~~.

611 Section 7. Paragraph (c) of subsection (5) of section
 612 288.1175, Florida Statutes, is amended to read:

613 288.1175 Agriculture education and promotion facility.-

614 (5) The Department of Agriculture and Consumer Services
 615 shall competitively evaluate applications for funding of an
 616 agriculture education and promotion facility. If the number of
 617 applicants exceeds three, the Department of Agriculture and
 618 Consumer Services shall rank the applications based upon
 619 criteria developed by the Department of Agriculture and Consumer
 620 Services, with priority given in descending order to the
 621 following items:

622 (c) The location of the facility in a brownfield site as
 623 defined in s. 376.79(4) ~~s. 376.79(3)~~, a rural enterprise zone as
 624 defined in s. 290.004, an agriculturally depressed area as
 625 defined in s. 570.74, or a county that has lost its agricultural
 626 land to environmental restoration projects.

627 Section 8. This act shall take effect July 1, 2016.

Page 22 of 22

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



The Florida Senate

Committee Agenda Request

To: Senator Lee
Chair, Appropriations Committee

Subject: Committee Agenda Request

October 20, 2015

Dear Senator Lee,

I respectfully request that **Senate Bill 92**, regarding **Contaminated Sites**, be placed on the:

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

C

A handwritten signature in cursive script that reads "Greg Evers".

Senator Greg Evers
Florida Senate, District 2

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 100

INTRODUCER: Senator Simpson

SUBJECT: Petroleum Restoration Program

DATE: November 18, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Rogers</u>	<u>EP</u>	Favorable
2.	<u>Howard</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Favorable
3.	<u>Howard</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

I. Summary:

SB 100 revises certain provisions of the Petroleum Restoration Program. Specifically, the bill:

- Expands the eligibility requirements of the Abandoned Tanks Restoration Program (ATRP);
- Specifies that sites participating in the Petroleum Cleanup Participation Program (PCPP) are not eligible for the ATRP;
- Removes the provision that a property owner must provide evidence that he or she had a complete understanding of the previous ownership and use of the property prior to acquiring the property;
- Removes the exclusion eligibility for sites which are owned by a person who had knowledge of the polluting condition when title was acquired;
- Changes the name of the “low-scored site initiative” (LSSI) to the “low-risk site initiative” (LRSI) and revises the criteria that must be met to participate in the LRSI;
- Increases the amount of money that may be encumbered from the Inland Protection Trust Fund each year to fund the LRSI from \$10 million to \$15 million, increasing the funding limit per site from \$30,000 to \$35,000, and allowing for an additional \$35,000 for limited remediation activities needed to achieve a “No Further Action” order;
- Removes the reporting deadline for sites to participate in the PCPP;
- Decreases the number of sites that may be bundled and eligible to compete for performance based contracts under the Advanced Cleanup Program (ACP) from 20 to 10;
- Increases the annual funding cap from \$15 million to \$25 million for the ACP; and
- Allows a property owner or responsible party to enter into a voluntary cost share agreement for bundling multiple sites and specifies the sites are not subject to the agency term contractor assignment pursuant to rule.

While the bill has a significant fiscal impact (see Section V. Fiscal Impact Statement), the

Fiscal Year 2015-2016 General Appropriations Act provided \$125 million from the Inland Protection Trust Fund within the Department of Environmental Protection (DEP) to support these programs.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Water Quality Standards

Under s. 303 of the federal Clean Water Act (CWA), states are incentivized to adopt water quality standards (WQSs) for their navigable waters and must review and update those standards at least once every three years. These standards include:

- Designation of a waterbody's beneficial uses, such as water supply, recreation, fish propagation, and navigation;
- Water quality criteria that define the amounts of pollutants, in either numeric or narrative standards, that the waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.¹

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.² These discharges pose a significant threat to groundwater quality, and Florida relies on groundwater for 90 percent of its drinking water.³ 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.⁴

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.⁵ 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.⁶ The SUPER Act authorized the DEP 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.

¹ 33 U.S.C. s. 1313(c)(2)(A) (2014); 40 C.F.R. ss. 131.6 and 131.10-131.12.

² DEP, Guide to Florida's Petroleum Cleanup Program 1 (2002), (on file with the Senate Committee on Environmental Preservation and Conservation.

³ *Id.*

⁴ *Id.*

⁵ Ch. 83-310, Laws of Fla.

⁶ Ch. 86-159, Laws of Fla.

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 twice, to 1992 and then to 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, 1990.⁷

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

State Funding Assistance for Rehabilitation

In 2002, the average cost to rehabilitate a site was approximately \$300,000, 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.

⁷ Chapter 89-188, Laws of Fla.

⁸ Section 376.3071(5)(b)3., 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.

¹¹ DEP, Guide to Florida’s Petroleum Cleanup Program 24 (2002), (on file with the Senate Committee on Environmental Preservation and Conservation.

¹² *Id.* at 26.

¹³ Section 376.308, F.S.

To receive rehabilitation funding assistance, a site must qualify under one of the programs 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.)	Applications must have been submitted between June 1, 1990, and June 30, 1996 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
Petroleum Cleanup Participation Program (PCPP) (s. 376.3071(13), F.S.)	PCPP began on July 1, 1996, and accepted applications until December 31, 1998	<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
Consent Order (aka “Hardship” or “Indigent”) (s. 376.3071(7)(c), F.S.)	The program began in 1986 and remains open	<ul style="list-style-type: none"> • Created to provide financial assistance under certain circumstances for sites that the DEP initiates an enforcement action to clean up • An agreement is formed whereby the DEP conducts the cleanup and the site owner or responsible party pays for a portion of the costs

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.

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.

As of January 2015, there are 19,261 sites eligible for state funding through one of the above programs. Of these, approximately 8,348 have been rehabilitated and closed, approximately 5,059 are currently undergoing some phase of rehabilitation, and approximately 5,854 await rehabilitation.¹⁶

Inland Protection Trust Fund

To fund the cleanup of contaminated sites, the SUPER Act created the Inland Protection Trust Fund (IPTF).¹⁷ The IPTF is funded by an excise tax per barrel on petroleum and petroleum products in or imported into the state.¹⁸ The amount of the excise tax per barrel is determined by a formula, which is dependent upon the unobligated balance of the IPTF.¹⁹ At present, the excise tax is \$10.80 per barrel.²⁰ For the last three years, on average approximately \$193 million from the excise tax is deposited into the IPTF, of which \$120 million has been appropriated for site rehabilitation.

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.²¹ Sites currently in the Restoration Program range in score from 5 to 115 points, with a score of 115 representing a substantial threat and a score of 5 representing a very low threat. Sites are rehabilitated in priority order beginning with the highest score, with funding based on available budget.²² The DEP 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. Currently, the threshold is set at 30 points.²³

Expediting Site Rehabilitation

As described above, 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

Advanced Cleanup (formerly known as Preapproved Advanced Cleanup) is a program that was created in 1996 to allow an eligible site to receive state rehabilitation funding even if the site's

¹⁶ DEP, *Senate Bill 314 Agency Analysis*, (Mar. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁷ Section 376.3071(3)-(4), F.S.

¹⁸ Sections 206.9935(3) and 376.3071(6), F.S.

¹⁹ 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.

²⁰ DOR, Pollutants Tax, <http://dor.myflorida.com/dor/taxes/fuel/pollutants.html> (last visited Oct. 19, 2015).

²¹ Fla. Admin. Code R. 62-771.100.

²² Fla. Admin. Code R. 62-771.300.

²³ DEP, *Senate Bill 314 Agency Analysis*, (Mar. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

priority score does not fall within the threshold currently being funded.²⁴ The purpose of creating Advanced Cleanup was to facilitate property transactions or public works projects on contaminated sites.²⁵ To participate in Advanced Cleanup, a site must be eligible for state rehabilitation funding under the Early Detection Incentive Program (EDI), the Petroleum Liability and Restoration Insurance Program (PLRIP), the Abandoned Tank Restoration Program (ATRP), the Innocent Victim Petroleum Storage System Restoration Program (Innocent Victim), or the Petroleum Cleanup Participation Program (PCPP).²⁶

To apply for Advanced Cleanup, a site owner or responsible party must bid a cost share of the total site rehabilitation.²⁷ The cost share must be at least 25 percent of the total cost of rehabilitation.²⁸ For PCPP sites, the cost share must be at least 25 percent of the state's share of the rehabilitation, as the site owner or responsible party is already required to pay for 25 percent of the total cost of rehabilitation to be eligible for PCPP.²⁹ Alternatively, an applicant may use a commitment to pay, a demonstrated cost savings to the DEP, or both to meet this requirement if the application proposes a performance-based contract for the cleanup of 20 or more sites.³⁰

In years when the DEP runs a bid cycle, bids may be accepted in two windows of May 1 through June 30 and November 1 through December 31.³¹ Bids are awarded based solely on the proposed cost-share percentage and not the estimated dollar amount of that share.³² The DEP may enter into Advanced Cleanup contracts for a total of up to \$15 million per fiscal year,³³ and no more than \$5 million per fiscal year may be approved for rehabilitation work at an individual facility.³⁴

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. To participate in LSSI, a site owner or responsible party must demonstrate that the following criteria are met:

- Upon assessment, the site retains a priority ranking score of 29 points or less;
- No excessively contaminated soil exists onsite;
- A minimum of six months of groundwater monitoring indicates that the plume is shrinking or stable;
- The remaining contamination resulting from petroleum products does not adversely affect adjacent surface waters;

²⁴ Section 376.30713(1), F.S.

²⁵ *Id.*

²⁶ For PCPP sites, Advanced Cleanup is only available if the 25 percent copay requirement of PCPP has not been reduced or eliminated. Section 376.30713(1)(d), F.S.

²⁷ Section 376.30713(2)(a), F.S.

²⁸ *Id.*

²⁹ Section 376.30713(1)(d)-(2)(a), F.S.

³⁰ Section 376.30713(2)(a)1., F.S.

³¹ Section 376.30713(2)(a), F.S.

³² Section 376.30713(2)(b), F.S.

³³ Section 376.30713(4), F.S.

³⁴ A "facility" includes, but is not limited to, "multiple site facilities such as airports, port facilities, and terminal facilities even though such enterprises may be treated as separate facilities for other purposes under this chapter." Section 376.30713(4), F.S.

- The area of groundwater contamination is less than one-quarter acre and is confined to the source property boundary; and
- Soils onsite found between the land surface and two feet below the land surface must meet the soil cleanup target levels (SCTLs) established by the DEP unless human exposure is limited by appropriate institutional or engineering controls.³⁵

An assessment is conducted to determine whether the above criteria are met.³⁶ The state pays the assessment costs for sites eligible for funding under EDI, ATRP, Innocent Victim, PLRIP, or PCPP.³⁷ Funding for LSSI is limited to \$10 million per fiscal year, which may only be used to fund site assessments.³⁸ Each site has a funding cap of \$30,000, and each site owner or responsible party is limited to ten eligible sites per fiscal year.³⁹ Funds are allocated on a first-come, first-served basis.⁴⁰ Sites not eligible for state rehabilitation funding may still qualify for closure under LSSI if an assessment reveals that the above criteria are met, but the state will not pay for the assessment.⁴¹

If the assessment shows the above criteria are met, there are three options for site closure:

- If no contamination is detected during the assessment, the DEP may issue a site rehabilitation completion order;⁴²
- If the assessment demonstrates that minimal contamination exists onsite, but the above criteria are met, the DEP may issue an LSSI no further action administrative order. This determination acknowledges that the contamination is not a threat to human health or the environment; or⁴³
- If soil between the land surface and two feet below the land surface exceeds SCTLs, but the above criteria are otherwise met, the DEP may issue a site rehabilitation completion order with conditions. This determination requires that institutional and/or engineering controls be put in place to prevent human or environmental exposure to the contamination. The state is not authorized to fund such controls.⁴⁴

If at any time data collected during the assessment indicate that the above criteria for closure will not be met, assessment activities will be terminated.⁴⁵ LSSI funding will be discontinued if it is determined at any point that a closure cannot be accomplished within the \$30,000 funding limit, unless the site owner or responsible party is willing to contribute funds to the assessment work.⁴⁶ A site determined to be ineligible for LSSI funding retains its current program eligibility and will receive rehabilitation funding in priority order.

³⁵ Section 376.3071(11)(b)1., F.S.

³⁶ DEP Petroleum Restoration Program, Procedural and Technical Guidance for the Low-Scored Site Initiative 9 (2013), available at http://www.dep.state.fl.us/Waste/quick_topics/publications/pss/pcp/screening/LSSI-Guidance_30Aug13.pdf (last accessed Oct. 5, 2015).

³⁷ *Id.* at 3.

³⁸ Section 376.3071(11)(b)3.c., F.S.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ DEP, Petroleum Restoration Program, Procedural and Technical Guidance for the Low-Scored Site Initiative 1-2 (2013).

⁴² Section 376.3071(12)(b)2., F.S.

⁴³ *Id.*

⁴⁴ DEP Petroleum Restoration Program, Procedural and Technical Guidance for the Low-Scored Site Initiative 3 (2013).

⁴⁵ *Id.* at 11.

⁴⁶ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 376.305, F.S., concerning the Abandoned Tank Restoration Program.

The bill expands the Abandoned Tank Restoration Program (ATRP) program by removing the reporting deadline, which currently separates eligible from ineligible sites. The expansion of the program will provide state funding eligibility for remediation of a large but indeterminate number of discharges. It also specifies that a site eligible for the PCPP may not participate in the ATRP.

The bill removes a provision specifying that the owner of a site in the ATRP must provide evidence that he or she had a complete understanding of the use of the property prior to acquisition.

The bill removes a section that excludes site owners from eligibility for site rehabilitation funding when the site owner, “had knowledge of the polluting condition when title was acquired, unless the person acquired title to the site after issuance of a notice of site eligibility by the Department of Environmental Protection (DEP).”

Section 2 amends s. 376.3071, F.S., concerning the Low Risk Site Initiative.

The bill changes the name of the Low Scored Site Initiative to the Low-Risk Site Initiative (LRSI) and makes various changes to the program. The bill requires a responsible party who wishes to participate in LRSI to provide evidence of authorization from the property owner.

To participate in LRSI, the bill requires a property owner or responsible party to submit a “No Further Action” proposal that demonstrates the required criteria are met. In addition, the bill revises the criteria in the following manner:

- Removes the requirement that a contaminated site must have a priority ranking score of 29 points or less;
- Provides a more specific standard for the prohibition on the presence of excessively contaminated soil on the site. Specifically, soil saturated with petroleum or petroleum products, or soil that causes a total corrected hydrocarbon measurement of 500 parts per million (ppm) or higher for Gasoline Analytical Group or 50 ppm or higher for Kerosene Analytical Group, as defined by DEP rule, must not exist onsite as a result of a release of petroleum products;
- Specifies that the requirement that contamination remaining at the site does not adversely affect adjacent surface waters includes the effects of those waters on human health and the environment;
- Removes the requirement that the area of groundwater contamination is less than one-quarter acre;
- Allows the presence of groundwater containing petroleum products’ chemicals of concern that is not confined to the source property boundaries if the chemicals only migrate to a transportation facility of the Florida Department of Transportation; and
- Adds a requirement that the groundwater contamination containing the petroleum products’ chemicals of concern is not a threat to any permitted potable water supply well.

If the DEP determines that the property owner or responsible party has demonstrated that these conditions are met, the DEP must issue a site rehabilitation completion order that incorporates the “No Further Action” proposal. This determination acknowledges that minimal contamination exists onsite and that such contamination is not a threat to the public health, safety, or welfare, water resources, or the environment. If the DEP determines that a discharge for which a site rehabilitation completion order was issued pursuant to LRSI may pose a threat to the public health, safety, or welfare, water resources, or the environment, the issuance of the site rehabilitation completion order does not alter eligibility for state-funded rehabilitation that would otherwise apply.

Under current law, the DEP can approve the cost of the assessment, including six months of groundwater monitoring. The bill authorizes the DEP to approve the cost of both the assessment *and* remediation if the DEP determines that it will result in a finding of “No Further Action”. The approval may be provided in one or more task assignments or modifications. The total amount authorized for a particular site is increased from \$30,000 to \$35,000. The bill authorizes the DEP to pay the costs associated with a professional land survey or specific purpose survey, if needed, and costs associated with obtaining a title report and recording fees. The bill also authorizes the DEP to approve up to an additional \$35,000 for limited remediation, if needed, to achieve a determination of "No Further Action", after the DEP approves the initial site assessment provided by the property owner or a responsible party.

The bill increases the amount of time within which assessment and remediation work must be completed from six months to nine months. If groundwater monitoring is required following the assessment in order to satisfy the LRSI conditions, the DEP may authorize an additional six months to complete the monitoring.

The bill also increases the annual amount of money that may be encumbered from the Inland Protection Trust Fund to fund LRSI from \$10 million to \$15 million.

Section 3 amends s. 376.30713, F.S., concerning Advanced Cleanup.

The bill reduces the minimum number of sites that a facility owner or operator or other responsible party must bundle in order to be eligible for performance-based contracts under Advanced Cleanup from 20 to 10.

The bill increases the annual allocation for Advanced Cleanup contracts from \$15 million to \$25 million.

The bill allows a property owner or responsible party to enter into a voluntary cost share agreement for bundling multiple sites and to provide a list of the sites to be included in future bundles. The sites that will be included in a future bundle are not subject to agency term contractor assignment pursuant to rule. The DEP may terminate the voluntary cost share agreement if the application to bundle multiple sites is not submitted during the open application period. This provision will extend the period of time listed sites will be remediated because they are not subject to the agency term contractor assignment.

Section 4 provides an effective date of July 1, 2016.

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:

SB 100 appears to have an indeterminate positive fiscal impact on the private sector since more rehabilitation contracts may be awarded as a result of increasing the total funding limits for the Advanced Cleanup and Low-Risk Site Initiative (LRSI) programs.

C. Government Sector Impact:

The amended eligibility requirements for the Abandoned Tank Restoration Program (ATRP) are estimated to have an increased recurring cost of \$4.7 million, and the revisions to the Petroleum Clean Participation Program (PCPP) are estimated to have a total cost of \$14.9 million.

For the Low-Risk Site Initiative (LRSI), the bill increases the amount of funding from \$10 million to \$15 million and increases the funding limit per site from \$30,000 to \$35,000. In addition, the bill allows for the approval of an additional \$35,000 per site for limited remediation activities to achieve a “No Further Action” order. The estimated total cost is \$16.5 million over four years. It is also estimated that \$6 million in cost savings may be achieved based on a number of sites receiving a “No Further Action” closure order. These savings could reduce the overall cost increases in the program.

Increases to the annual allocation for the Advanced Cleanup Program contracts from \$15 million to \$25 million and reductions to the number of sites that must be bundled to be eligible to compete for performance-based contracts (from 20 to 10), should result in more sites being cleaned up sooner. This may result in an indeterminate cost savings over time.

The Inland Protection Trust Fund within the Department of Environmental Protection (DEP) is the fund source that supports all petroleum restoration programs that is included

each fiscal year in the General Appropriations Act. The changes to the funding levels for each program provided in the bill should not increase the DEP's overall annual appropriation, as this amount is based on annual revenues estimated by the Revenue Estimating Conference and deposited into the trust fund. Increasing the annual funding for the Low-Risk Site Initiative and Preapproved Advanced Cleanup programs could reduce the funds available for other remaining programs supported by this fund. However, all eligibility petroleum restoration programs are prioritized and funded based on the risk to public health and safety.

The DEP was appropriated \$125 million in the Fiscal Year 2015-2016 General Appropriations Act from the Inland Protection Trust Fund for the Petroleum Tanks Cleanup programs. The DEP has requested \$110 million for the 2016-2017 fiscal year for the programs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 376.305, 376.3071, and 376.30713.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



705458

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Appropriations (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) of section 376.305, Florida
Statutes, is amended to read:

376.305 Removal of prohibited discharges.—

(6) The Legislature created the Abandoned Tank Restoration
Program in response to the need to provide financial assistance
for cleanup of sites that have abandoned petroleum storage



705458

11 systems. For purposes of this subsection, the term "abandoned
12 petroleum storage system" means a petroleum storage system that
13 has not stored petroleum products for consumption, use, or sale
14 since March 1, 1990. The department shall establish the
15 Abandoned Tank Restoration Program to facilitate the restoration
16 of sites contaminated by abandoned petroleum storage systems.

17 (a) To be included in the program:

18 1. An application must be submitted to the department ~~by~~
19 ~~June 30, 1996,~~ certifying that the system has not stored
20 petroleum products for consumption, use, or sale at the facility
21 since March 1, 1990.

22 2. The owner or operator of the petroleum storage system
23 when it was in service must have ceased conducting business
24 involving consumption, use, or sale of petroleum products at
25 that facility on or before March 1, 1990.

26 3. The site is not otherwise eligible for the cleanup
27 programs pursuant to ~~s. 376.3071~~ or s. 376.3072.

28 4. The site is not otherwise eligible for the Petroleum
29 Cleanup Participation Program under s. 376.3071(13) based on any
30 discharge reporting form received by the department before
31 January 1, 1995, or a written report of contamination submitted
32 to the department on or before December 31, 1998.

33 (b) In order to be eligible for the program, petroleum
34 storage systems from which a discharge occurred must be closed
35 pursuant to department rules before an eligibility
36 determination. However, if the department determines that the
37 owner of the facility cannot financially comply with the
38 department's petroleum storage system closure requirements and
39 all other eligibility requirements are met, the petroleum



705458

40 storage system closure requirements shall be waived. The
41 department shall take into consideration the owner's net worth
42 and the economic impact on the owner in making the determination
43 of the owner's financial ability. ~~The June 30, 1996, application~~
44 ~~deadline shall be waived for owners who cannot financially~~
45 ~~comply.~~

46 (c) Sites accepted in the program are eligible for site
47 rehabilitation funding as provided in s. 376.3071.

48 (d) The following sites are excluded from eligibility:

49 1. Sites on property of the Federal Government;
50 2. Sites contaminated by pollutants that are not petroleum
51 products; or

52 3. Sites where the department has been denied site access;
53 ~~or~~

54 ~~4. Sites which are owned by a person who had knowledge of~~
55 ~~the polluting condition when title was acquired unless the~~
56 ~~person acquired title to the site after issuance of a notice of~~
57 ~~site eligibility by the department.~~

58 (e) Participating sites are subject to a deductible as
59 determined by rule, not to exceed \$10,000.

60
61 ~~This subsection does not relieve a person who has acquired title~~
62 ~~after July 1, 1992, from the duty to establish by a~~
63 ~~preponderance of the evidence that he or she undertook, at the~~
64 ~~time of acquisition, all appropriate inquiry into the previous~~
65 ~~ownership and use of the property consistent with good~~
66 ~~commercial or customary practice in an effort to minimize~~
67 ~~liability, as required by s. 376.308(1)(c).~~

68 Section 2. Subsection (4), paragraph (b) of subsection (5),



69 paragraph (b) of subsection (12), and subsection (13) of section
70 376.3071, Florida Statutes, are amended to read:

71 376.3071 Inland Protection Trust Fund; creation; purposes;
72 funding.—

73 (4) USES.—Whenever, in its determination, incidents of
74 inland contamination related to the storage of petroleum or
75 petroleum products may pose a threat to the public health,
76 safety, or welfare, water resources, or the environment, the
77 department shall obligate moneys available in the fund to
78 provide for:

79 (a) Prompt investigation and assessment of contamination
80 sites.

81 (b) Expeditious restoration or replacement of potable water
82 supplies as provided in s. 376.30(3)(c)1.

83 (c) Rehabilitation of contamination sites, which shall
84 consist of cleanup of affected soil, groundwater, and inland
85 surface waters, using the most cost-effective alternative that
86 is technologically feasible and reliable and that provides
87 adequate protection of the public health, safety, and welfare,
88 and water resources, and that minimizes environmental damage,
89 pursuant to the site selection and cleanup criteria established
90 by the department under subsection (5), except that this
91 paragraph does not authorize the department to obligate funds
92 for payment of costs which may be associated with, but are not
93 integral to, site rehabilitation, such as the cost for
94 retrofitting or replacing petroleum storage systems.

95 (d) Maintenance and monitoring of contamination sites.

96 (e) Inspection and supervision of activities described in
97 this subsection.



705458

98 (f) Payment of expenses incurred by the department in its
99 efforts to obtain from responsible parties the payment or
100 recovery of reasonable costs resulting from the activities
101 described in this subsection.

102 (g) Payment of any other reasonable costs of
103 administration, including those administrative costs incurred by
104 the Department of Health in providing field and laboratory
105 services, toxicological risk assessment, and other assistance to
106 the department in the investigation of drinking water
107 contamination complaints and costs associated with public
108 information and education activities.

109 (h) Establishment and implementation of the compliance
110 verification program as authorized in s. 376.303(1)(a),
111 including contracting with local governments or state agencies
112 to provide for the administration of such program through
113 locally administered programs, to minimize the potential for
114 further contamination sites.

115 (i) Funding of the provisions of ss. 376.305(6) and
116 376.3072.

117 (j) Activities related to removal and replacement of
118 petroleum storage systems, exclusive of costs of any tank,
119 piping, dispensing unit, or related hardware, if soil removal is
120 approved as a component of site rehabilitation and requires
121 removal of the tank where remediation is conducted under this
122 section or if such activities were justified in an approved
123 remedial action plan.

124 (k) Reasonable costs of restoring property as nearly as
125 practicable to the conditions which existed before activities
126 associated with contamination assessment or remedial action



705458

127 taken under s. 376.303(4).

128 (l) Repayment of loans to the fund.

129 (m) Expenditure of sums from the fund to cover ineligible
130 sites or costs as set forth in subsection (13), if the
131 department in its discretion deems it necessary to do so. In
132 such cases, the department may seek recovery and reimbursement
133 of costs in the same manner and pursuant to the same procedures
134 established for recovery and reimbursement of sums otherwise
135 owed to or expended from the fund.

136 (n) Payment of amounts payable under any service contract
137 entered into by the department pursuant to s. 376.3075, subject
138 to annual appropriation by the Legislature.

139 (o) Petroleum remediation pursuant to this section
140 throughout a state fiscal year. The department shall establish a
141 process to uniformly encumber appropriated funds throughout a
142 state fiscal year and shall allow for emergencies and imminent
143 threats to public health, safety, and welfare, water resources,
144 and the environment as provided in paragraph (5)(a). This
145 paragraph does not apply to appropriations associated with the
146 free product recovery initiative provided in paragraph (5)(c) or
147 the advanced cleanup program provided in s. 376.30713.

148 (p) Enforcement of this section and ss. 376.30-376.317 by
149 the Fish and Wildlife Conservation Commission. The department
150 shall disburse moneys to the commission for such purpose.

151 (q) Payments for program deductibles, copayments, and
152 limited contamination assessment reports that otherwise would be
153 paid by another state agency for state-funded petroleum
154 contamination site rehabilitation. ~~This paragraph expires July~~
155 ~~1, 2016.~~



705458

156
157 Upon the issuance of a site rehabilitation completion order
158 pursuant to subsection (5) or an order pursuant to paragraph
159 (12) (b), for contamination eligible for programs funded by this
160 section, the issuance of such orders does not alter eligibility
161 for state-funded remediation where the department determines
162 that site conditions are not protective of human health under
163 actual or proposed circumstances of exposure under subsection
164 (5).
165

166 The Inland Protection Trust Fund may only be used to fund the
167 activities in ss. 376.30-376.317 except ss. 376.3078 and
168 376.3079. Amounts on deposit in the fund in each fiscal year
169 shall first be applied or allocated for the payment of amounts
170 payable by the department pursuant to paragraph (n) under a
171 service contract entered into by the department pursuant to s.
172 376.3075 and appropriated in each year by the Legislature before
173 making or providing for other disbursements from the fund. This
174 subsection does not authorize the use of the fund for cleanup of
175 contamination caused primarily by a discharge of solvents as
176 defined in s. 206.9925(6), or polychlorinated biphenyls when
177 their presence causes them to be hazardous wastes, except
178 solvent contamination which is the result of chemical or
179 physical breakdown of petroleum products and is otherwise
180 eligible. Facilities used primarily for the storage of motor or
181 diesel fuels as defined in ss. 206.01 and 206.86 are not
182 excluded from eligibility pursuant to this section.

183 (5) SITE SELECTION AND CLEANUP CRITERIA.—

184 (b) It is the intent of the Legislature to protect the



705458

185 health of all people under actual circumstances of exposure. The
186 secretary shall establish criteria by rule for the purpose of
187 determining, on a site-specific basis, the rehabilitation
188 program tasks that compose ~~comprise~~ a site rehabilitation
189 program and the level at which a rehabilitation program task and
190 a site rehabilitation program are completed. In establishing the
191 rule, the department shall incorporate, to the maximum extent
192 feasible, risk-based corrective action principles to achieve
193 protection of the public health, safety, and welfare, water
194 resources, and the environment in a cost-effective manner as
195 provided in this subsection. Criteria for determining what
196 constitutes a rehabilitation program task or completion of site
197 rehabilitation program tasks and site rehabilitation programs
198 shall be based upon the factors set forth in paragraph (a) and
199 the following additional factors:

200 1. The current exposure and potential risk of exposure to
201 humans and the environment including multiple pathways of
202 exposure.

203 2. The appropriate point of compliance with cleanup target
204 levels for petroleum products' chemicals of concern. The point
205 of compliance must ~~shall~~ be at the source of the petroleum
206 contamination. However, the department may temporarily move the
207 point of compliance to the boundary of the property, or to the
208 edge of the plume when the plume is within the property
209 boundary, while cleanup, including cleanup through natural
210 attenuation processes in conjunction with appropriate
211 monitoring, is proceeding. The department may also, pursuant to
212 criteria provided ~~for~~ in this paragraph, temporarily extend the
213 point of compliance beyond the property boundary with



705458

214 appropriate monitoring, if such extension is needed to
215 facilitate natural attenuation or to address the current
216 conditions of the plume, if the public health, safety, and
217 welfare, water resources, and the environment are adequately
218 protected. Temporary extension of the point of compliance beyond
219 the property boundary, as provided in this subparagraph, must
220 include notice to local governments and owners of any property
221 into which the point of compliance is allowed to extend.

222 3. The appropriate site-specific cleanup goal. The site-
223 specific cleanup goal is ~~shall be~~ that all petroleum
224 contamination sites ultimately achieve the applicable cleanup
225 target levels provided in this paragraph. However, the
226 department may allow concentrations of the petroleum products'
227 chemicals of concern to temporarily exceed the applicable
228 cleanup target levels while cleanup, including cleanup through
229 natural attenuation processes in conjunction with appropriate
230 monitoring, is proceeding, if the public health, safety, and
231 welfare, water resources, and the environment are adequately
232 protected.

233 4. The appropriateness of using institutional or
234 engineering controls. Site rehabilitation programs may include
235 the use of institutional or engineering controls to eliminate
236 the potential exposure to petroleum products' chemicals of
237 concern to humans or the environment. Use of such controls must
238 have prior department approval, and institutional controls may
239 not be acquired with moneys from the fund, with the exception of
240 the costs associated with a specific purpose survey, if needed,
241 or a professional land survey, and costs associated with
242 obtaining a title report and recording fees. When institutional



705458

243 or engineering controls are implemented to control exposure, the
244 removal of such controls must have prior department approval and
245 must be accompanied immediately by the resumption of active
246 cleanup or other approved controls unless cleanup target levels
247 pursuant to this paragraph have been achieved.

248 5. The additive effects of the petroleum products'
249 chemicals of concern. The synergistic effects of petroleum
250 products' chemicals of concern must also be considered when the
251 scientific data becomes available.

252 6. Individual site characteristics which must include, but
253 not be limited to, the current and projected use of the affected
254 groundwater in the vicinity of the site, current and projected
255 land uses of the area affected by the contamination, the exposed
256 population, the degree and extent of contamination, the rate of
257 contaminant migration, the apparent or potential rate of
258 contaminant degradation through natural attenuation processes,
259 the location of the plume, and the potential for further
260 migration in relation to site property boundaries.

261 7. Applicable state water quality standards.

262 a. Cleanup target levels for petroleum products' chemicals
263 of concern found in groundwater shall be the applicable state
264 water quality standards. Where such standards do not exist, the
265 cleanup target levels for groundwater shall be based on the
266 minimum criteria specified in department rule. The department
267 shall consider the following, as appropriate, in establishing
268 the applicable minimum criteria: calculations using a lifetime
269 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
270 best achievable detection limit; the naturally occurring
271 background concentration; or nuisance, organoleptic, and



705458

272 aesthetic considerations.

273 b. Where surface waters are exposed to petroleum
274 contaminated groundwater, the cleanup target levels for the
275 petroleum products' chemicals of concern shall be based on the
276 surface water standards as established by department rule. The
277 point of measuring compliance with the surface water standards
278 shall be in the groundwater immediately adjacent to the surface
279 water body.

280 8. Whether deviation from state water quality standards or
281 from established criteria is appropriate. The department may
282 issue a "No Further Action Order" based upon the degree to which
283 the desired cleanup target level is achievable and can be
284 reasonably and cost-effectively implemented within available
285 technologies or engineering and institutional control
286 strategies. Where a state water quality standard is applicable,
287 a deviation may not result in the application of cleanup target
288 levels more stringent than the standard. In determining whether
289 it is appropriate to establish alternate cleanup target levels
290 at a site, the department may consider the effectiveness of
291 source removal that has been completed at the site and the
292 practical likelihood of the use of low yield or poor quality
293 groundwater; the use of groundwater near marine surface water
294 bodies; the current and projected use of the affected
295 groundwater in the vicinity of the site; or the use of
296 groundwater in the immediate vicinity of the storage tank area,
297 where it has been demonstrated that the groundwater
298 contamination is not migrating away from such localized source,
299 if the public health, safety, and welfare, water resources, and
300 the environment are adequately protected.



705458

301 9. Appropriate cleanup target levels for soils.
302 a. In establishing soil cleanup target levels for human
303 exposure to petroleum products' chemicals of concern found in
304 soils from the land surface to 2 feet below land surface, the
305 department shall consider the following, as appropriate:
306 calculations using a lifetime cancer risk level of 1.0E-6; a
307 hazard index of 1 or less; the best achievable detection limit;
308 or the naturally occurring background concentration.
309 b. Leachability-based soil target levels shall be based on
310 protection of the groundwater cleanup target levels or the
311 alternate cleanup target levels for groundwater established
312 pursuant to this paragraph, as appropriate. Source removal and
313 other cost-effective alternatives that are technologically
314 feasible shall be considered in achieving the leachability soil
315 target levels established by the department. The leachability
316 goals do not apply if the department determines, based upon
317 individual site characteristics, that petroleum products'
318 chemicals of concern will not leach into the groundwater at
319 levels which pose a threat to public health, safety, and
320 welfare, water resources, or the environment.
321
322 This paragraph does not restrict the department from temporarily
323 postponing completion of any site rehabilitation program for
324 which funds are being expended whenever such postponement is
325 necessary in order to make funds available for rehabilitation of
326 a contamination site with a higher priority status.
327 (12) SITE CLEANUP.—
328 (b) *Low-scored site initiative.*—Notwithstanding subsections
329 (5) and (6), a site with a priority ranking score of 29 points



705458

330 or less may voluntarily participate in the low-scored site
331 initiative regardless of whether the site is eligible for state
332 restoration funding.

333 1. To participate in the low-scored site initiative, the
334 ~~responsible party or property owner, or a responsible party that~~
335 provides evidence of authorization from the property owner, must
336 submit a "No Further Action" proposal and affirmatively
337 demonstrate that the following conditions under subparagraph 4.
338 are met.

339 a. ~~Upon reassessment pursuant to department rule, the site~~
340 ~~retains a priority ranking score of 29 points or less.~~

341 b. ~~Excessively contaminated soil, as defined by department~~
342 ~~rule, does not exist onsite as a result of a release of~~
343 ~~petroleum products.~~

344 c. ~~A minimum of 6 months of groundwater monitoring~~
345 ~~indicates that the plume is shrinking or stable.~~

346 d. ~~The release of petroleum products at the site does not~~
347 ~~adversely affect adjacent surface waters, including their~~
348 ~~effects on human health and the environment.~~

349 e. ~~The area of groundwater containing the petroleum~~
350 ~~products' chemicals of concern is less than one-quarter acre and~~
351 ~~is confined to the source property boundaries of the real~~
352 ~~property on which the discharge originated.~~

353 f. ~~Soils onsite that are subject to human exposure found~~
354 ~~between land surface and 2 feet below land surface meet the soil~~
355 ~~cleanup target levels established by department rule or human~~
356 ~~exposure is limited by appropriate institutional or engineering~~
357 ~~controls.~~

358 2. Upon affirmative demonstration that ~~of~~ the conditions



705458

359 under subparagraph 4. are met ~~subparagraph 1.~~, the department
360 shall issue a site rehabilitation completion order incorporating
361 the determination of "No Further Action." proposal submitted by
362 the property owner or the responsible party which provides
363 evidence of authorization from the property owner ~~Such~~
364 ~~determination acknowledges that minimal contamination exists~~
365 ~~onsite and that such contamination is not a threat to the public~~
366 ~~health, safety, or welfare, water resources, or the environment.~~
367 If no contamination is detected, the department may issue a site
368 rehabilitation completion order.

369 3. Sites that are eligible for state restoration funding
370 may receive payment of costs for the low-scored site initiative
371 as follows:

372 a. A ~~responsible party or~~ property owner, or a responsible
373 party that provides evidence of authorization from the property
374 owner, may submit an assessment and limited remediation plan
375 designed to affirmatively demonstrate that the site meets the
376 conditions under subparagraph 4 ~~subparagraph 1.~~ Notwithstanding
377 the priority ranking score of the site, the department may
378 approve the cost of the assessment and limited remediation,
379 including up to 6 months and 12 months, respectively, of
380 groundwater monitoring and limited remediation activities, in
381 one or more task assignments, or modifications thereof, not to
382 exceed the threshold amount provided in s. 287.017 for CATEGORY
383 TWO, \$30,000 for each site where the department has determined
384 that the assessment and limited remediation, if applicable, will
385 likely result in a determination of "No Further Action." ~~The~~
386 department may not pay the costs associated with the
387 establishment of institutional or engineering controls, with the



705458

388 exception of the costs associated with a specific purpose
389 survey, if needed, or a professional land survey, and the costs
390 associated with obtaining a title report and paying recording
391 fees.

392 b. After the approval of initial site assessment results
393 provided pursuant to state funding under sub-subparagraph a.,
394 the department may approve an additional amount not to exceed
395 the threshold amount provided in s. 287.017 for CATEGORY TWO for
396 limited remediation where needed to achieve a determination of
397 "No Further Action."

398 ~~c.b.~~ The assessment and limited remediation work shall be
399 completed no later than 15 ~~6~~ months after the department
400 authorizes the start of a state-funded, low-scored site
401 initiative task ~~issues its approval.~~ If groundwater monitoring
402 is required after the assessment and limited remediation in
403 order to satisfy the conditions under subparagraph 4., the
404 department may authorize an additional 6 months to complete the
405 monitoring.

406 ~~d.e.~~ No more than \$15 ~~\$10~~ million for the low-scored site
407 initiative may be encumbered from the fund in any fiscal year.
408 Funds shall be made available on a first-come, first-served
409 basis and shall be limited to 10 sites in each fiscal year for
410 each ~~responsible party or~~ property owner or each responsible
411 party that provides evidence of authorization from the property
412 owner.

413 ~~e.d.~~ Program deductibles, copayments, and the limited
414 contamination assessment report requirements under paragraph
415 (13) (d) ~~(13) (e)~~ do not apply to expenditures under this
416 paragraph.



705458

417 4. The department shall issue an order incorporating the
418 "No Further Action" proposal submitted by a property owner or a
419 responsible party that provides evidence of authorization from
420 the property owner upon affirmative demonstration that all of
421 the following conditions are met:

422 a. Excessively contaminated soil, as defined by department
423 rule, does not exist onsite as a result of a release of
424 petroleum products.

425 b. A minimum of 6 months of groundwater monitoring
426 indicates that the plume is shrinking or stable.

427 c. The release of petroleum products at the site does not
428 adversely affect adjacent surface waters, including their
429 effects on human health and the environment.

430 d. The area of groundwater containing the petroleum
431 products' chemicals of concern is confined to the source
432 property boundaries of the real property on which the discharge
433 originated, or has migrated from the source property to only a
434 transportation facility of the Department of Transportation.

435 e. The groundwater contamination containing the petroleum
436 products' chemicals of concern is not a threat to any permitted
437 potable water supply well.

438 f. Soils onsite found between land surface and 2 feet below
439 land surface which are subject to human exposure meet the soil
440 cleanup target levels established in subparagraph (5)(b)9., or
441 human exposure is limited by appropriate institutional or
442 engineering controls.

443
444 Issuance of a site rehabilitation completion order under this
445 paragraph acknowledges that minimal contamination exists onsite



705458

446 and that such contamination is not a threat to the public
447 health, safety, or welfare; water resources; or the environment.
448 Pursuant to subsection (4), the issuance of the site
449 rehabilitation completion order, with or without conditions,
450 does not alter eligibility for state-funded rehabilitation which
451 would otherwise be applicable under this section.

452 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage
453 detection, reporting, and cleanup of contamination caused by
454 discharges of petroleum or petroleum products, the department
455 shall, within the guidelines established in this subsection,
456 implement a cost-sharing cleanup program to provide
457 rehabilitation funding assistance for all property contaminated
458 by discharges of petroleum or petroleum products from a
459 petroleum storage system occurring before January 1, 1995,
460 subject to a copayment provided for in a Petroleum Cleanup
461 Participation Program site rehabilitation agreement. Eligibility
462 is subject to an annual appropriation from the fund.
463 Additionally, funding for eligible sites is contingent upon
464 annual appropriation in subsequent years. Such continued state
465 funding is not an entitlement or a vested right under this
466 subsection. Eligibility shall be determined in the program,
467 notwithstanding any other provision of law, consent order,
468 order, judgment, or ordinance to the contrary.

469 (a)1. The department shall accept any discharge reporting
470 form received before January 1, 1995, as an application for this
471 program, and the facility owner or operator need not reapply.

472 2. Owners or operators of property, regardless of whether
473 ownership has changed, contaminated by petroleum or petroleum
474 products from a petroleum storage system may apply for such



705458

475 program by filing a written report of the contamination
476 incident, including evidence that such incident occurred before
477 January 1, 1995, with the department. Incidents of petroleum
478 contamination discovered after December 31, 1994, at sites which
479 have not stored petroleum or petroleum products for consumption,
480 use, or sale after such date shall be presumed to have occurred
481 before January 1, 1995. An operator's filed report shall be an
482 application of the owner for all purposes. ~~Sites reported to the~~
483 ~~department after December 31, 1998, are not eligible for the~~
484 ~~program.~~

485 (b) Subject to annual appropriation from the fund, sites
486 meeting the criteria of this subsection are eligible for up to
487 \$400,000 of site rehabilitation funding assistance in priority
488 order pursuant to subsections (5) and (6). Sites meeting the
489 criteria of this subsection for which a site rehabilitation
490 completion order was issued before June 1, 2008, do not qualify
491 for the 2008 increase in site rehabilitation funding assistance
492 and are bound by the pre-June 1, 2008, limits. Sites meeting the
493 criteria of this subsection for which a site rehabilitation
494 completion order was not issued before June 1, 2008, regardless
495 of whether they have previously transitioned to nonstate-funded
496 cleanup status, may continue state-funded cleanup pursuant to
497 this section until a site rehabilitation completion order is
498 issued or the increased site rehabilitation funding assistance
499 limit is reached, whichever occurs first. The department may not
500 pay expenses incurred beyond the scope of an approved contract.

501 (c) The department may approve an additional amount up to
502 \$100,000 for additional remediation and monitoring where needed
503 to achieve a determination of "No Further Action."



705458

504 (d)~~(e)~~ Upon notification by the department that
505 rehabilitation funding assistance is available for the site
506 pursuant to subsections (5) and (6), the property owner,
507 operator, or person otherwise responsible for site
508 rehabilitation shall provide the department with a limited
509 contamination assessment report and shall enter into a Petroleum
510 Cleanup Participation Program site rehabilitation agreement with
511 the department. ~~The agreement must provide for a 25-percent~~
512 ~~copayment by the owner, operator, or person otherwise~~
513 ~~responsible for conducting site rehabilitation. The owner,~~
514 ~~operator, or person otherwise responsible for conducting site~~
515 ~~rehabilitation shall adequately demonstrate the ability to meet~~
516 ~~the copayment obligation. The limited contamination assessment~~
517 ~~report and the copayment costs may be reduced or eliminated if~~
518 ~~the owner and all operators responsible for restoration under s.~~
519 ~~376.308 demonstrate that they cannot financially comply with the~~
520 ~~copayment and limited contamination assessment report~~
521 ~~requirements. The department shall take into consideration the~~
522 ~~owner's and operator's net worth in making the determination of~~
523 ~~financial ability. In the event the department and the owner,~~
524 ~~operator, or person otherwise responsible for site~~
525 ~~rehabilitation cannot complete negotiation of the cost sharing~~
526 ~~agreement within 120 days after beginning negotiations, the~~
527 ~~department shall terminate negotiations and the site shall be~~
528 ~~ineligible for state funding under this subsection and all~~
529 ~~liability protections provided for in this subsection shall be~~
530 ~~revoked.~~

531 (e)~~(d)~~ A report of a discharge made to the department by a
532 person pursuant to this subsection or any rules adopted pursuant



705458

533 to this subsection may not be used directly as evidence of
534 liability for such discharge in any civil or criminal trial
535 arising out of the discharge.

536 (f)~~(e)~~ This subsection does not preclude the department
537 from pursuing penalties under s. 403.141 for violations of any
538 law or any rule, order, permit, registration, or certification
539 adopted or issued by the department pursuant to its lawful
540 authority.

541 (g)~~(f)~~ Upon the filing of a discharge reporting form under
542 paragraph (a), the department or local government may not pursue
543 any judicial or enforcement action to compel rehabilitation of
544 the discharge. This paragraph does not prevent any such action
545 with respect to discharges determined ineligible under this
546 subsection or to sites for which rehabilitation funding
547 assistance is available pursuant to subsections (5) and (6).

548 (h)~~(g)~~ The following are excluded from participation in the
549 program:

550 1. Sites at which the department has been denied reasonable
551 site access to implement this section.

552 2. Sites that were active facilities when owned or operated
553 by the Federal Government.

554 3. Sites that are identified by the United States
555 Environmental Protection Agency to be on, or which qualify for
556 listing on, the National Priorities List under Superfund. This
557 exception does not apply to those sites for which eligibility
558 has been requested or granted as of the effective date of this
559 act under the Early Detection Incentive Program established
560 pursuant to s. 15, chapter 86-159, Laws of Florida.

561 4. Sites for which contamination is covered under the Early



705458

562 Detection Incentive Program, the Abandoned Tank Restoration
563 Program, or the Petroleum Liability and Restoration Insurance
564 Program, in which case site rehabilitation funding assistance
565 shall continue under the respective program.

566 Section 3. Paragraph (d) of subsection (1) and subsections
567 (2) and (4) of section 376.30713, Florida Statutes, are amended
568 to read:

569 376.30713 Advanced cleanup.—

570 (1) In addition to the legislative findings provided in s.
571 376.3071, the Legislature finds and declares:

572 (d) It is appropriate for a person who is responsible for
573 site rehabilitation to share the costs associated with managing
574 and conducting advanced cleanup, to facilitate the opportunity
575 for advanced cleanup, and to mitigate the additional costs that
576 will be incurred by the state in conducting site rehabilitation
577 in advance of the site's priority ranking. Such cost sharing
578 will result in more contaminated sites being cleaned up and
579 greater environmental benefits to the state. This section is
580 only available for sites eligible for restoration funding under
581 EDI, ATRP, or PLRIP. This section is available for discharges
582 eligible for restoration funding under the petroleum cleanup
583 participation program for the state's cost share of site
584 rehabilitation. ~~Applications must include a cost-sharing~~
585 ~~commitment for this section in addition to the 25-percent-~~
586 ~~copayment requirement of the petroleum cleanup participation~~
587 ~~program. This section is not available for any discharge under a~~
588 ~~petroleum cleanup participation program where the 25-percent-~~
589 ~~copayment requirement of the petroleum cleanup participation~~
590 ~~program has been reduced or eliminated pursuant to s.~~



705458

591 ~~376.3071(13)(c).~~

592 (2) The department may approve an application for advanced
593 cleanup at eligible sites, notwithstanding ~~before funding based~~
594 ~~on~~ the site's priority ranking established pursuant to s.
595 376.3071(5)(a), pursuant to this section. Only the facility
596 owner or operator or the person otherwise responsible for site
597 rehabilitation qualifies as an applicant under this section.

598 (a) Advanced cleanup applications may be submitted between
599 May 1 and June 30 and between November 1 and December 31 of each
600 fiscal year. Applications submitted between May 1 and June 30
601 shall be for the fiscal year beginning July 1. An application
602 must consist of:

603 1. A commitment to pay 25 percent or more of the total
604 cleanup cost deemed recoverable under this section along with
605 proof of the ability to pay the cost share.

606 a. An application proposing that the department enter into
607 a performance-based contract for the cleanup of five ~~20~~ or more
608 sites may use a commitment to pay, a demonstrated cost savings
609 to the department, or both to meet the cost-share requirement.
610 For an application relying on a demonstrated cost savings to the
611 department, the applicant shall, in conjunction with the
612 proposed agency term contractor, establish and provide in the
613 application the percentage of cost savings in the aggregate that
614 is being provided to the department for cleanup of the sites
615 under the application compared to the cost of cleanup of those
616 same sites using the current rates provided to the department by
617 the proposed agency term contractor. The department shall
618 determine whether the cost savings demonstration is acceptable.
619 Such determination is not subject to chapter 120.



705458

620 b. An application proposing that the department enter into
621 a performance-based contract for the cleanup of an individual
622 site may use a commitment to pay, a demonstrated cost savings to
623 the department, or both to meet the cost-share requirement. For
624 an individual site application relying on a demonstrated cost
625 savings to the department, the applicant shall, in conjunction
626 with the proposed agency term contractor, establish and
627 demonstrate in the application a 25-percent cost savings to the
628 department for cleanup of the site under the application
629 compared to the cost of cleanup of the same site using the
630 current rates provided to the department by the proposed agency
631 term contractor. The department shall determine whether the
632 demonstration of cost savings is acceptable. Such determination
633 is not subject to chapter 120.

634 2. A nonrefundable review fee of \$250 to cover the
635 administrative costs associated with the department's review of
636 the application.

637 3. A limited contamination assessment report.

638 4. A proposed course of action.

639 5. A site access agreement from the property owner and
640 evidence of authorization from the property owner for petroleum
641 site rehabilitation program tasks consistent with the proposed
642 course of action when the applicant is not the property owner of
643 any of the sites contained in the application.

644
645 The limited contamination assessment report must be sufficient
646 to support the proposed course of action and to estimate the
647 cost of the proposed course of action. Costs incurred related to
648 conducting the limited contamination assessment report are not



705458

649 refundable from the Inland Protection Trust Fund. Site
650 eligibility under this subsection or any other provision of this
651 section is not an entitlement to advanced cleanup or continued
652 restoration funding. The applicant shall certify to the
653 department that the applicant has the prerequisite authority to
654 enter into an advanced cleanup contract with the department. The
655 certification must be submitted with the application.

656 (b) The department shall rank the applications based on the
657 percentage of cost-sharing commitment proposed by the applicant,
658 with the highest ranking given to the applicant who proposes the
659 highest percentage of cost sharing. If the department receives
660 applications that propose identical cost-sharing commitments and
661 that exceed the funds available to commit to all such proposals
662 during the advanced cleanup application period, the department
663 shall proceed to rerank those applicants. Those applicants
664 submitting identical cost-sharing proposals that exceed funding
665 availability must be so notified by the department and offered
666 the opportunity to raise their individual cost-share
667 commitments, in a period specified in the notice. At the close
668 of the period, the department shall proceed to rerank the
669 applications pursuant to this paragraph.

670 (4) The department may enter into contracts for a total of
671 up to \$25 ~~\$15~~ million of advanced cleanup work in each fiscal
672 year. However, a facility or an applicant who bundles multiple
673 sites as specified in subparagraph (2)(a)1. may not be approved
674 for more than \$5 million of cleanup activity in each fiscal
675 year. A property owner or responsible party may enter into a
676 voluntary cost-share agreement where the property owner or
677 responsible party commits to bundle multiple sites and lists the



705458

678 facilities that will be included in those future bundles. The
679 facilities listed are not subject to agency term contractor
680 assignment pursuant to department rule. The department shall
681 reserve the right to terminate or amend the voluntary cost-share
682 agreement, for any identified site under the voluntary cost-
683 share agreement, if the property owner or responsible party
684 fails to submit an application to bundle any site under such the
685 voluntary cost-share agreement, not already covered by an
686 advance cleanup contract, within a subsequent open application
687 period during which it is eligible to participate. A property
688 owner or responsible party may not enter into a voluntary cost-
689 share agreement for future individual sites. For the purposes of
690 this section, the term "facility" includes, but is not limited
691 to, multiple site facilities such as airports, port facilities,
692 and terminal facilities even though such enterprises may be
693 treated as separate facilities for other purposes under this
694 chapter.

695 Section 4. This act shall take effect July 1, 2016.

696
697 ===== T I T L E A M E N D M E N T =====

698 And the title is amended as follows:

699 Delete everything before the enacting clause
700 and insert:

701 A bill to be entitled
702 An act relating to the Petroleum Restoration Program;
703 amending s. 376.305, F.S.; revising the eligibility
704 requirements of the Abandoned Tank Restoration
705 Program; deleting provisions prohibiting the relief of
706 liability for persons who acquired title after a



707 certain date; amending s. 376.3071, F.S.; deleting an
708 expiration date for a requirement that the Department
709 of Environmental Protection obligate certain funds to
710 provide payment for deductibles, copayments, and
711 certain reports in certain circumstances; specifying
712 that the issuance of a site rehabilitation completion
713 order does not affect eligibility for state-funded
714 remediation under certain circumstances; providing an
715 exception for the payment of certain survey, title,
716 and recording expenses; revising the conditions for
717 eligibility and methods for payment of costs for the
718 low-score site initiative; revising the eligibility
719 requirements for receiving rehabilitation funding;
720 clarifying that a change in ownership does not
721 preclude a site from entering into the program;
722 providing additional funding for remediation and
723 monitoring under certain circumstances; deleting
724 requirements for the Petroleum Cleanup Participation
725 Program site rehabilitation agreement; amending s.
726 376.30713, F.S.; conforming provisions to changes made
727 by the act; reducing the number of sites that may be
728 proposed for certain advanced cleanup applications;
729 providing for advanced cleanup applications for
730 individual sites; requiring a performance-based
731 contract for such cleanup; amending the application
732 requirements for the advanced cleanup program;
733 increasing the total amount for which the department
734 may contract for advanced cleanup work in a fiscal
735 year; authorizing property owners and responsible



705458

736 parties to enter into voluntary cost-share agreements
737 under certain circumstances; prohibiting property
738 owners and responsible parties from entering into such
739 agreement for future individual sites; providing an
740 effective date.

By Senator Simpson

18-00070-16

2016100__

A bill to be entitled

An act relating to the Petroleum Restoration Program; amending s. 376.305, F.S.; revising the eligibility requirements of the Abandoned Tank Restoration Program; deleting provisions prohibiting the relief of liability for persons who acquired title after a certain date; amending s. 376.3071, F.S.; renaming "the low-scored site initiative" as "the low-risk site initiative"; revising the conditions for eligibility and methods for payment of costs for the low-risk site initiative; revising the eligibility requirements for receiving rehabilitation funding; clarifying that a change in ownership does not preclude a site from entering into the program; amending s. 376.30713, F.S.; reducing the number of sites that may be proposed for certain advanced cleanup applications; increasing the total amount for which the department may contract for advanced cleanup work in a fiscal year; authorizing property owners and responsible parties to enter into voluntary cost-share agreements under certain circumstances; providing an effective date.

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

Section 1. Subsection (6) of section 376.305, Florida Statutes, is amended to read:

376.305 Removal of prohibited discharges.—

(6) The Legislature created the Abandoned Tank Restoration

Page 1 of 14

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

18-00070-16

2016100__

Program in response to the need to provide financial assistance for cleanup of sites that have abandoned petroleum storage systems. For purposes of this subsection, the term "abandoned petroleum storage system" means a petroleum storage system that has not stored petroleum products for consumption, use, or sale since March 1, 1990. The department shall establish the Abandoned Tank Restoration Program to facilitate the restoration of sites contaminated by abandoned petroleum storage systems.

(a) To be included in the program:

1. An application must be submitted to the department ~~by June 30, 1996,~~ certifying that the system has not stored petroleum products for consumption, use, or sale at the facility since March 1, 1990.

2. The owner or operator of the petroleum storage system when it was in service must have ceased conducting business involving consumption, use, or sale of petroleum products at that facility on or before March 1, 1990.

3. The site is not otherwise eligible for the cleanup programs pursuant to ~~s. 376.3071~~ or s. 376.3072.

4. The site is not otherwise eligible for the Petroleum Cleanup Participation Program under s. 376.3071(13) based on any discharge reporting form received by the department before January 1, 1995, or a written report of contamination submitted to the department on or before December 31, 1998.

(b) In order to be eligible for the program, petroleum storage systems from which a discharge occurred must be closed pursuant to department rules before an eligibility determination. However, if the department determines that the owner of the facility cannot financially comply with the

Page 2 of 14

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

18-00070-16

2016100__

59 department's petroleum storage system closure requirements and
60 all other eligibility requirements are met, the petroleum
61 storage system closure requirements shall be waived. The
62 department shall take into consideration the owner's net worth
63 and the economic impact on the owner in making the determination
64 of the owner's financial ability. ~~The June 30, 1996, application~~
65 ~~deadline shall be waived for owners who cannot financially~~
66 ~~comply.~~

67 (c) Sites accepted in the program are eligible for site
68 rehabilitation funding as provided in s. 376.3071.

69 (d) The following sites are excluded from eligibility:

- 70 1. Sites on property of the Federal Government;
- 71 2. Sites contaminated by pollutants that are not petroleum
72 products; or
- 73 3. Sites where the department has been denied site access;
74 ~~or~~
- 75 4. ~~Sites which are owned by a person who had knowledge of~~
76 ~~the polluting condition when title was acquired unless the~~
77 ~~person acquired title to the site after issuance of a notice of~~
78 ~~site eligibility by the department.~~

79 (e) Participating sites are subject to a deductible as
80 determined by rule, not to exceed \$10,000.

81 ~~This subsection does not relieve a person who has acquired title~~
82 ~~after July 1, 1992, from the duty to establish by a~~
83 ~~preponderance of the evidence that he or she undertook, at the~~
84 ~~time of acquisition, all appropriate inquiry into the previous~~
85 ~~ownership and use of the property consistent with good~~
86 ~~commercial or customary practice in an effort to minimize~~
87

Page 3 of 14

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

18-00070-16

2016100__

88 ~~liability, as required by s. 376.308(1)(c).~~

89 Section 2. Paragraph (b) of subsection (12) and subsection
90 (13) of section 376.3071, Florida Statutes, are amended, and
91 paragraph (c) is added to subsection (12) of that section, to
92 read:

93 376.3071 Inland Protection Trust Fund; creation; purposes;
94 funding.—

95 (12) SITE CLEANUP.—

96 (b) Low-risk ~~Low-scored~~ site initiative.—Notwithstanding
97 subsections (5) and (6), a site ~~with a priority ranking score of~~
98 ~~29 points or less~~ may voluntarily participate in the low-risk
99 ~~low-scored~~ site initiative regardless of whether the site is
100 eligible for state restoration funding.

101 1. To participate in the low-risk ~~low-scored~~ site
102 initiative, the ~~responsible party or~~ property owner, or a
103 responsible party that provides evidence of authorization from
104 the property owner, must submit a "No Further Action" proposal
105 and affirmatively demonstrate that the following conditions
106 under subparagraph 4. are met.:

107 a. ~~Upon reassessment pursuant to department rule, the site~~
108 ~~retains a priority ranking score of 29 points or less.~~

109 b. ~~Excessively contaminated soil, as defined by department~~
110 ~~rule, does not exist onsite as a result of a release of~~
111 ~~petroleum products.~~

112 c. ~~A minimum of 6 months of groundwater monitoring~~
113 ~~indicates that the plume is shrinking or stable.~~

114 d. ~~The release of petroleum products at the site does not~~
115 ~~adversely affect adjacent surface waters, including their~~
116 ~~effects on human health and the environment.~~

Page 4 of 14

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

18-00070-16

2016100__

117 e. ~~The area of groundwater containing the petroleum~~
 118 ~~products' chemicals of concern is less than one quarter acre and~~
 119 ~~is confined to the source property boundaries of the real~~
 120 ~~property on which the discharge originated.~~

121 ~~f. Soils onsite that are subject to human exposure found~~
 122 ~~between land surface and 2 feet below land surface meet the soil~~
 123 ~~cleanup target levels established by department rule or human~~
 124 ~~exposure is limited by appropriate institutional or engineering~~
 125 ~~controls.~~

126 2. Upon affirmative demonstration that ~~of~~ the conditions
 127 under subparagraph 4. ~~are met~~ ~~subparagraph 1.~~, the department
 128 shall issue a site rehabilitation completion order incorporating
 129 the determination of "No Further Action." ~~proposal submitted by~~
 130 the property owner or the responsible party that provides
 131 evidence of authorization from the property owner ~~Such~~
 132 ~~determination acknowledges that minimal contamination exists~~
 133 ~~onsite and that such contamination is not a threat to the public~~
 134 ~~health, safety, or welfare, water resources, or the environment.~~
 135 If no contamination is detected, the department may issue a site
 136 rehabilitation completion order.

137 3. Sites that are eligible for state restoration funding
 138 may receive payment of costs for the low-risk ~~low-scored~~ site
 139 initiative as follows:

140 a. ~~A responsible party or~~ property owner, or a responsible
 141 party that provides evidence of authorization from the property
 142 owner, may submit an assessment and limited remediation plan
 143 designed to affirmatively demonstrate that the site meets the
 144 conditions under subparagraph 4 ~~subparagraph 1.~~ Notwithstanding
 145 the priority ranking score of the site, the department may

18-00070-16

2016100__

146 approve the cost of the assessment and limited remediation,
 147 including up to 6 months of groundwater monitoring, in one or
 148 more task assignments, or modifications thereof, not to exceed
 149 the threshold amount provided in s. 287.017 for CATEGORY TWO,
 150 ~~\$30,000~~ for each site where the department has determined that
 151 the assessment and limited remediation, if applicable, will
 152 likely result in a determination of "No Further Action." The
 153 department may not pay the costs associated with the
 154 establishment of institutional or engineering controls, with the
 155 exception of the costs associated with a professional land
 156 survey or specific purpose survey, if needed, and the costs
 157 associated with obtaining a title report and paying recording
 158 fees.

159 b. After the approval of initial site assessment results
 160 provided pursuant to state funding under sub-subparagraph a.,
 161 the department may approve an additional amount not to exceed
 162 the threshold amount provided in s. 287.017 for CATEGORY TWO for
 163 limited remediation where needed to achieve a determination of
 164 "No Further Action."

165 ~~c.b.~~ The assessment and limited remediation work shall be
 166 completed no later than 9 ~~6~~ months after the department
 167 authorizes the start of a state-funded, low-risk site initiative
 168 task issues its approval. If groundwater monitoring is required
 169 after the assessment and limited remediation in order to satisfy
 170 the conditions under subparagraph 4., the department may
 171 authorize an additional 6 months to complete the monitoring.

172 ~~d.e.~~ No more than \$15 ~~\$10~~ million for the low-risk ~~low-~~
 173 ~~scored~~ site initiative may be encumbered from the fund in any
 174 fiscal year. Funds shall be made available on a first-come,

18-00070-16

2016100__

175 first-served basis and shall be limited to 10 sites in each
 176 fiscal year for each ~~responsible party or~~ property owner or each
 177 responsible party that provides evidence of authorization from
 178 the property owner.

179 ~~e.~~ Program deductibles, copayments, and the limited
 180 contamination assessment report requirements under paragraph
 181 (13) (c) do not apply to expenditures under this paragraph.

182 4. The department shall issue a site rehabilitation
 183 completion order incorporating the "No Further Action" proposal
 184 submitted by a property owner or a responsible party that
 185 provides evidence of authorization from the property owner upon
 186 affirmative demonstration that all of the following conditions
 187 are met:

188 a. Soil saturated with petroleum or petroleum products, or
 189 soil that causes a total corrected hydrocarbon measurement of
 190 500 parts per million or higher for Gasoline Analytical Group or
 191 50 parts per million or higher for Kerosene Analytical Group, as
 192 defined by department rule, does not exist onsite as a result of
 193 a release of petroleum products.

194 b. A minimum of 6 months of groundwater monitoring
 195 indicates that the plume is shrinking or stable.

196 c. The release of petroleum products at the site does not
 197 adversely affect adjacent surface waters, including their
 198 effects on human health and the environment.

199 d. The area of groundwater containing the petroleum
 200 products' chemicals of concern is confined to the source
 201 property boundaries of the real property on which the discharge
 202 originated, or has migrated from the source property to only a
 203 transportation facility of the Department of Transportation.

Page 7 of 14

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

18-00070-16

2016100__

204 e. The groundwater contamination containing the petroleum
 205 products' chemicals of concern is not a threat to any permitted
 206 potable water supply well.

207 f. Soils onsite found between land surface and 2 feet below
 208 land surface which are subject to human exposure meet the soil
 209 cleanup target levels established in subparagraph (5) (b) 9., or
 210 human exposure is limited by appropriate institutional or
 211 engineering controls.

212 Issuance of a site rehabilitation completion order under this
 213 paragraph acknowledges that minimal contamination exists onsite
 214 and that such contamination is not a threat to the public
 215 health, safety, or welfare, water resources, or the environment.
 216 If the department determines that a discharge for which a site
 217 rehabilitation completion order was issued pursuant to this
 218 paragraph may pose a threat to the public health, safety, or
 219 welfare, water resources, or the environment, the issuance of
 220 the site rehabilitation completion order, with or without
 221 conditions, does not alter eligibility for state-funded
 222 rehabilitation that would otherwise be applicable under this
 223 section.

224 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage
 225 detection, reporting, and cleanup of contamination caused by
 226 discharges of petroleum or petroleum products, the department
 227 shall, within the guidelines established in this subsection,
 228 implement a cost-sharing cleanup program to provide
 229 rehabilitation funding assistance for all property contaminated
 230 by discharges of petroleum or petroleum products from a
 231 petroleum storage system occurring before January 1, 1995,
 232

Page 8 of 14

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

18-00070-16

2016100__

233 subject to a copayment provided for in a Petroleum Cleanup
 234 Participation Program site rehabilitation agreement. Eligibility
 235 is subject to an annual appropriation from the fund.
 236 Additionally, funding for eligible sites is contingent upon
 237 annual appropriation in subsequent years. Such continued state
 238 funding is not an entitlement or a vested right under this
 239 subsection. Eligibility shall be determined in the program,
 240 notwithstanding any other provision of law, consent order,
 241 order, judgment, or ordinance to the contrary.

242 (a)1. The department shall accept any discharge reporting
 243 form received before January 1, 1995, as an application for this
 244 program, and the facility owner or operator need not reapply.

245 2. Owners or operators of property, regardless of whether
 246 ownership has changed, which is contaminated by petroleum or
 247 petroleum products from a petroleum storage system may apply for
 248 such program by filing a written report of the contamination
 249 incident, including evidence that such incident occurred before
 250 January 1, 1995, with the department. Incidents of petroleum
 251 contamination discovered after December 31, 1994, at sites which
 252 have not stored petroleum or petroleum products for consumption,
 253 use, or sale after such date shall be presumed to have occurred
 254 before January 1, 1995. An operator's filed report shall be an
 255 application of the owner for all purposes. ~~Sites reported to the~~
 256 ~~department after December 31, 1998, are not eligible for the~~
 257 ~~program.~~

258 (b) Subject to annual appropriation from the fund, sites
 259 meeting the criteria of this subsection are eligible for up to
 260 \$400,000 of site rehabilitation funding assistance in priority
 261 order pursuant to subsections (5) and (6). Sites meeting the

Page 9 of 14

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

18-00070-16

2016100__

262 criteria of this subsection for which a site rehabilitation
 263 completion order was issued before June 1, 2008, do not qualify
 264 for the 2008 increase in site rehabilitation funding assistance
 265 and are bound by the pre-June 1, 2008, limits. Sites meeting the
 266 criteria of this subsection for which a site rehabilitation
 267 completion order was not issued before June 1, 2008, regardless
 268 of whether they have previously transitioned to nonstate-funded
 269 cleanup status, may continue state-funded cleanup pursuant to
 270 this section until a site rehabilitation completion order is
 271 issued or the increased site rehabilitation funding assistance
 272 limit is reached, whichever occurs first. The department may not
 273 pay expenses incurred beyond the scope of an approved contract.

274 (c) Upon notification by the department that rehabilitation
 275 funding assistance is available for the site pursuant to
 276 subsections (5) and (6), the owner, operator, or person
 277 otherwise responsible for site rehabilitation shall provide the
 278 department with a limited contamination assessment report and
 279 shall enter into a Petroleum Cleanup Participation Program site
 280 rehabilitation agreement with the department. The agreement must
 281 provide for a 25-percent copayment by the owner, operator, or
 282 person otherwise responsible for conducting site rehabilitation.
 283 The owner, operator, or person otherwise responsible for
 284 conducting site rehabilitation shall adequately demonstrate the
 285 ability to meet the copayment obligation. The limited
 286 contamination assessment report and the copayment costs may be
 287 reduced or eliminated if the owner and all operators responsible
 288 for restoration under s. 376.308 demonstrate that they cannot
 289 financially comply with the copayment and limited contamination
 290 assessment report requirements. The department shall take into

Page 10 of 14

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

18-00070-16

2016100__

291 consideration the owner's and operator's net worth in making the
 292 determination of financial ability. In the event the department
 293 and the owner, operator, or person otherwise responsible for
 294 site rehabilitation cannot complete negotiation of the cost-
 295 sharing agreement within 120 days after beginning negotiations,
 296 the department shall terminate negotiations and the site shall
 297 be ineligible for state funding under this subsection and all
 298 liability protections provided for in this subsection shall be
 299 revoked.

300 (d) A report of a discharge made to the department by a
 301 person pursuant to this subsection or any rules adopted pursuant
 302 to this subsection may not be used directly as evidence of
 303 liability for such discharge in any civil or criminal trial
 304 arising out of the discharge.

305 (e) This subsection does not preclude the department from
 306 pursuing penalties under s. 403.141 for violations of any law or
 307 any rule, order, permit, registration, or certification adopted
 308 or issued by the department pursuant to its lawful authority.

309 (f) Upon the filing of a discharge reporting form under
 310 paragraph (a), the department or local government may not pursue
 311 any judicial or enforcement action to compel rehabilitation of
 312 the discharge. This paragraph does not prevent any such action
 313 with respect to discharges determined ineligible under this
 314 subsection or to sites for which rehabilitation funding
 315 assistance is available pursuant to subsections (5) and (6).

316 (g) The following are excluded from participation in the
 317 program:

318 1. Sites at which the department has been denied reasonable
 319 site access to implement this section.

Page 11 of 14

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

18-00070-16

2016100__

320 2. Sites that were active facilities when owned or operated
 321 by the Federal Government.

322 3. Sites that are identified by the United States
 323 Environmental Protection Agency to be on, or which qualify for
 324 listing on, the National Priorities List under Superfund. This
 325 exception does not apply to those sites for which eligibility
 326 has been requested or granted as of the effective date of this
 327 act under the Early Detection Incentive Program established
 328 pursuant to s. 15, chapter 86-159, Laws of Florida.

329 4. Sites for which contamination is covered under the Early
 330 Detection Incentive Program, the Abandoned Tank Restoration
 331 Program, or the Petroleum Liability and Restoration Insurance
 332 Program, in which case site rehabilitation funding assistance
 333 shall continue under the respective program.

334 Section 3. Paragraph (a) of subsection (2) and subsection
 335 (4) of section 376.30713, Florida Statutes, are amended to read:
 336 376.30713 Advanced cleanup.—

337 (2) The department may approve an application for advanced
 338 cleanup at eligible sites, before funding based on the site's
 339 priority ranking established pursuant to s. 376.3071(5) (a),
 340 pursuant to this section. Only the facility owner or operator or
 341 the person otherwise responsible for site rehabilitation
 342 qualifies as an applicant under this section.

343 (a) Advanced cleanup applications may be submitted between
 344 May 1 and June 30 and between November 1 and December 31 of each
 345 fiscal year. Applications submitted between May 1 and June 30
 346 shall be for the fiscal year beginning July 1. An application
 347 must consist of:

348 1. A commitment to pay 25 percent or more of the total

Page 12 of 14

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

18-00070-16

2016100__

349 cleanup cost deemed recoverable under this section along with
 350 proof of the ability to pay the cost share. An application
 351 proposing that the department enter into a performance-based
 352 contract for the cleanup of 10 ~~20~~ or more sites may use a
 353 commitment to pay, a demonstrated cost savings to the
 354 department, or both to meet the cost-share requirement. For an
 355 application relying on a demonstrated cost savings to the
 356 department, the applicant shall, in conjunction with the
 357 proposed agency term contractor, establish and provide in the
 358 application the percentage of cost savings in the aggregate that
 359 is being provided to the department for cleanup of the sites
 360 under the application compared to the cost of cleanup of those
 361 same sites using the current rates provided to the department by
 362 the proposed agency term contractor. The department shall
 363 determine whether the cost savings demonstration is acceptable.
 364 Such determination is not subject to chapter 120.

365 2. A nonrefundable review fee of \$250 to cover the
 366 administrative costs associated with the department's review of
 367 the application.

368 3. A limited contamination assessment report.

369 4. A proposed course of action.

370
 371 The limited contamination assessment report must be sufficient
 372 to support the proposed course of action and to estimate the
 373 cost of the proposed course of action. Costs incurred related to
 374 conducting the limited contamination assessment report are not
 375 refundable from the Inland Protection Trust Fund. Site
 376 eligibility under this subsection or any other provision of this
 377 section is not an entitlement to advanced cleanup or continued

18-00070-16

2016100__

378 restoration funding. The applicant shall certify to the
 379 department that the applicant has the prerequisite authority to
 380 enter into an advanced cleanup contract with the department. The
 381 certification must be submitted with the application.

382 (4) The department may enter into contracts for a total of
 383 up to ~~\$25~~ \$15 million of advanced cleanup work in each fiscal
 384 year. However, a facility or an applicant who bundles multiple
 385 sites as specified in subparagraph (2)(a)1. may not be approved
 386 for more than \$5 million of cleanup activity in each fiscal
 387 year. A property owner or responsible party may enter into a
 388 voluntary cost-share agreement in which the property owner or
 389 responsible party commits to bundle multiple sites and lists the
 390 facilities that will be included in those future bundles. The
 391 facilities listed are not subject to agency term contractor
 392 assignment pursuant to department rule. The department reserves
 393 the right to terminate the voluntary cost-share agreement if the
 394 property owner or responsible party fails to submit an
 395 application to bundle multiple sites within an open application
 396 period during which it is eligible to participate. For the
 397 purposes of this section, the term "facility" includes, but is
 398 not limited to, multiple site facilities such as airports, port
 399 facilities, and terminal facilities even though such enterprises
 400 may be treated as separate facilities for other purposes under
 401 this chapter.

402 Section 4. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Environmental Preservation and Conservation,
Vice Chair
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON

18th District

October 20, 2015

Honorable Tom Lee
Committee on Appropriation
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Lee,

Please place Senate Bill 100 relating to the Petroleum Restoration Program, on the next Committee on Appropriation agenda.

Please contact my office with any questions. Thank you.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

CC: Cindy Kynoch, Staff Director

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
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 Committee on Appropriations

BILL: CS/SB 158

INTRODUCER: Transportation Committee and Senators Hutson and Negron

SUBJECT: Identification Cards and Driver Licenses

DATE: November 18, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Eichin</u>	<u>TR</u>	Fav/CS
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	Recommend: Favorable
3.	<u>Gusky</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 158 provides that an individual who holds a lifetime fishing, hunting, or sportsman's license or a lifetime boater safety identification card may have a symbol displaying that lifetime status added to the individual's driver license or identification card, when the driver license or identification card is being issued, renewed, or replaced for a purpose other than solely including the symbol on the card (i.e., an address or name change). Adding the recreational symbol requires the payment of a \$1 fee, in addition to the applicable issuance, renewal, or replacement fee.

An individual who surrenders and replaces his or her driver license or identification card before its expiration date, with the sole purpose of including the applicant's status as a lifetime fishing, hunting, or sportsman license holder or lifetime boater safety cardholder, is only required to pay a \$2 fee for the replacement license or card.

A driver license or identification card that has a recreational symbol can be used as proof that the individual possesses the lifetime recreational license or card.

To the extent that individuals apply for and obtain the designations authorized in the bill at the time their driver licenses or identification cards are issued, renewed, or replaced for a purpose other than solely including the recreational license or card symbol, the additional \$1 fee will have a positive fiscal impact on the Highway Safety Operating Trust Fund within the Department of Highway Safety and Motor Vehicles (DHSMV).

The bill provides an effective date of July 1, 2016. However, the bill specifies that changes made to driver licenses and identification cards will apply upon implementation of new designs for the driver license and identification cards by the DHSMV, which is anticipated to be in 2017.

II. Present Situation:

Designations on Driver Licenses or Identification Cards

Currently, the only designation an individual may have placed on his or her driver license or identification card, for an additional fee, is a “V” for a veteran.¹ The designation is available at the request of a military veteran who presents proof of military service and pays an additional \$1 fee when the card or license is being issued or renewed, or pays a \$2 fee for a replacement card or license. The \$2 fee covers the \$1.97 cost of the card stock.² If the applicant is not conducting any other transaction affecting the license or card, the applicant does not have to pay the \$25 replacement fee. A veteran may be issued a driver license or identification card that displays “Veteran” instead of “V” upon implementation of the new design for the driver license and identification card by the Department of Highway Safety and Motor Vehicles (DHSMV).³

Other states, including New York and West Virginia, allow symbols on driver licenses and identification cards to represent that an individual holds a certain hunting or fishing license.⁴

Replacement Driver Licenses and Identification Cards

A replacement Class E driver license is \$25. If the replacement license is issued by the tax collector, \$7 is retained by the tax collector, otherwise the \$7 is deposited into the Highway Safety Operating Trust Fund. The remaining \$18 is deposited into the General Revenue Fund.⁵

A replacement identification card is \$25. If the replacement card is issued by the tax collector, \$9 is retained by the tax collector, otherwise the \$9 is deposited into the Highway Safety Operating Trust Fund. The remaining \$16 is deposited into the General Revenue Fund.⁶

Section 322.19, F.S., requires a person to obtain a replacement license reflecting changes to their legal residence or address within 10 days of the change. Generally, an individual who replaces his or her driver license or identification card to display changes such as a name change, address change, or organ donor designation must pay a \$25 fee.

Recreational Lifetime Hunting and Fishing Licenses

The Florida Fish and Wildlife Conservation Commission (FWC) issues recreational fishing, and hunting licenses for the State of Florida, as well as boater safety identification cards.

¹ See ss. 322.051(8)(b) and 322.14(1)(c), F.S.

² Department of Highway Safety and Motor Vehicles, *HB 83/SB 158 Agency Bill Analysis* (Sept. 24, 2015) (on file with the Senate Committee on Transportation).

³ Section 4, ch. 2015-85, Laws of Fla.

⁴ See West Virginia Division of Natural Resources, <http://www.wvdnr.gov/2015news/15news017.shtm> and New York State Department of Environmental Conservation, <http://www.dec.ny.gov/permits/6099.html> (last visited Oct. 1, 2015).

⁵ Section 322.21(1)(e), F.S.

⁶ Section 322.21(1)(f)3., F.S.

Every person, unless exempt as provided in s. 379.353, F.S., taking game, fish, or fur-bearing animals within this state is required to have a hunting or fishing license, permit, or authorization number authorizing that activity.⁷ The license, permit, or authorization number must be in the personal possession of the person to whom it was issued while that person is taking, attempting to take, or possessing game, fish, or fur-bearing animals.⁸

Lifetime hunting and fishing licenses are only available to Florida residents, and are valid from the date they are issued until the death of the individual to whom the license is issued, unless revoked.⁹ As of September 2015, there are 54,502 active lifetime recreational licenses. More than 2,600 people hold two or more lifetime licenses.¹⁰

Resident Lifetime Freshwater or Saltwater Fishing Licenses¹¹

Lifetime fishing licenses are available to residents for a fee of:

- \$125 for persons age 4 or younger;
- \$225 for persons age 5 to 12; and
- \$300 for persons age 13 or older.

As of September 2015, the FWC has 2,898 active lifetime freshwater fishing licenses.¹² A lifetime freshwater fishing license also allows all activities authorized by a management area permit¹³, excluding hunting.

As of September 2015, the FWC has 18,506 active lifetime saltwater fishing licenses.¹⁴ A lifetime saltwater fishing license also allows the license holder to take or possess snook and spiny lobster.

Resident Lifetime Hunting Licenses¹⁵

As of September 2015, the FWC has 1,595 active lifetime hunting licenses.¹⁶ Lifetime hunting licenses are available to residents for a fee of:

- \$200 for persons age 4 or younger;
- \$350 for persons age 5 to 12; and
- \$500 for persons age 13 or older.

⁷ Section 379.354(1), F.S.

⁸ Section 379.354(2), F.S.

⁹ As provided for in ss. 379.401 or 379.404, F.S.

¹⁰ Florida Fish and Wildlife Conservation Commission, *Lifetime Customer Counts with Suspensions and Revocations* (October 21, 2015) (on file with the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development).

¹¹ Section 379.354(10), F.S.

¹² FWC Lifetime Customer Counts, *supra* note 10.

¹³ Section 379.354(8)(g), F.S., provides that a management area permit holder may hunt on, fish on, or otherwise use for outdoor recreational purposes land owned, leased, or managed by the commission, or by the state for the use and benefit of the commission.

¹⁴ FWC Lifetime Customer Counts, *supra* note 10.

¹⁵ Section 379.354(11), F.S.

¹⁶ FWC Lifetime Customer Counts, *supra* note 10.

In addition to authorizing the take, attempted take or possession of game animals¹⁷, a lifetime hunting license also allows all activities authorized by a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, an archery season permit, a Florida waterfowl permit, a deer permit, and a management area permit, excluding fishing.

Resident Lifetime Sportsman's Licenses¹⁸

As of September 2015, the FWC has 31,503 active lifetime Sportsman's licenses.¹⁹ A Lifetime Sportsman's license provides individuals with the same authorizations as having a lifetime freshwater fishing license, a lifetime saltwater fishing license, *and* a lifetime hunting license. A lifetime sportsman's license is available to residents for a fee of:

- \$400 for persons age 4 or younger;
- \$700 for persons age 5 to 12; and
- \$1,000 for persons age 13 or older.

Boater Safety Identification Cards²⁰

A person born on or after January 1, 1988, who operates a boat powered by a motor of more than 10 horsepower, must have in his or her possession a boater safety identification card, acquired from the FWC for completing an approved boater safety education course. A person is exempt from this requirement if he or she:

- Is licensed by the Coast Guard to serve as a master of a vessel;
- Is operating a vessel only on a private lake or pond;
- Is accompanied on the boat by a person who is at least 18 years of age, who is exempt or who has complied with the requirement, and is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs while it is being operated;
- Is a nonresident who has in his or her possession proof of completion of a boater education course or equivalency examination in another state which meets or exceeds Florida's requirements;
- Is operating a vessel within 90 days of purchase with a valid bill of sale; or
- Is operating a vessel within 90 days of completing the boater safety education course and has valid photo identification as well as the boater safety completion certificate in his or her possession.

Any person, regardless of age, may complete the boater safety education course, and all who do so will be issued a boater safety identification card. A boater safety identification card issued to a person who has completed a boater education course or a course equivalency examination is valid for life. More than 441,000 people hold Florida boater safety identification cards.²¹

¹⁷ As defined in s. 379.101(20), F.S., "Game" means deer, bear, squirrel, rabbits, and, where designated by commission rules, wild hogs, ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves.

¹⁸ Section 379.354(12), F.S.

¹⁹ DHSMV Agency Analysis, *supra* note 2.

²⁰ Section 327.395, F.S.

²¹ FWC, *Senate Bill 158 Agency Bill Analysis* (September 4, 2015)(on file with the Senate Committee on Transportation).

III. Effect of Proposed Changes:

Sections 1 and 2 of the bill allow an individual who holds and presents a lifetime freshwater fishing license, a lifetime saltwater fishing license, a lifetime hunting license, a lifetime sportsman's license, or a lifetime boater safety identification card to have a symbol displaying that lifetime status voluntarily added to his or her driver license or identification card when the driver license or identification card is being issued, renewed, or replaced for a purpose other than solely including the recreational symbol on the card (i.e., an address or name change). Adding the symbol requires the payment of a \$1 fee, in addition to the applicable issuance, renewal or replacement fee.

An individual who surrenders and replaces his or her driver license or identification card for the sole purpose of including his or her status as a lifetime fishing, hunting, or sportsman's licensee holder or a lifetime boater safety cardholder is only required to pay a \$2 fee that will be deposited into the Highway Safety Operating Trust Fund. The replacement license or card is not subject to the \$25 replacement fee required by s. 322.21(1), F.S.

The bill also makes a technical change to ensure the issuance of a replacement driver license or identification card *shall*, rather than *may*, be issued with the word "Veteran" without paying the \$25 replacement fee. This aligns with the DHSMV's current practice.²²

Sections 3 and 4 allow the state-issued identification card or driver license displaying the lifetime designation to be used as proof of possession of that lifetime license or card.

Section 5 provides that the changes made to the driver license and identification card by this bill will apply upon implementation of new designs for the driver license and identification card by the DHSMV, which is currently anticipated to be in 2017²³.

Section 6 provides that the bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²² DHSMV Agency Analysis, *supra* note 2.

²³ DHSMV Agency Analysis, *supra* note 2

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

Not applicable.

B. Private Sector Impact:

Under CS/SB 158, individuals requesting lifetime hunting, fishing, or sportsman's license, or lifetime boater safety identification card designations must pay an additional \$1 fee when a driver license or identification card is being issued, renewed, or replaced for a purpose other than solely including the recreational symbol on the card. The \$1 fee is in addition to the applicable issuance, renewal or replacement fee. An individual who surrenders and replaces his or her driver license or identification card with the sole purpose of adding such designations must pay a \$2 fee, which covers the cost of the card stock.

C. Government Sector Impact:

According to the FWC, there are over 495,000 active lifetime hunting, fishing, or sportsman's licenses and boater safety identification cards.²⁴ The additional \$1 fee will have a positive fiscal impact on the DHSMV's Highway Safety Operating Trust Fund, to the extent that individuals apply for and obtain the designations authorized in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

While the bill does not specify how a suspension or revocation of one or more of the recreational lifetime licenses would be accommodated, according to FWC staff, the current practice of FWC officers is to either perform a web based query or call in to verify the status of a license issued by the FWC using the license holder's driver license or identification card.²⁵

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 322.051, 322.14, 327.395, and 379.354.

²⁴ FWC Lifetime Customer Counts, *supra* note 10.

²⁵ E-mail, FWC Legislative Affairs Office (October 27, 2015) (on file with Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development).

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 October 8, 2015:

The CS requires the DHSMV to include symbols on the identification card or driver license representing the lifetime recreational license or card instead of specified language or abbreviations. The CS adds that the identification card or driver license displaying such symbol is a valid proof of possession of the indicated lifetime card or recreational license. Additionally, the CS adds that the changes made by the bill to the identification card and driver license will apply upon implementation of new designs for the driver license and identification card by the DHSMV.

- B. **Amendments:**

None.

By the Committee on Transportation; and Senator Hutson

596-00773-16

2016158c1

1 A bill to be entitled
 2 An act relating to identification cards and driver
 3 licenses; amending ss. 322.051 and 322.14, F.S.;
 4 providing for a person's status as a lifetime
 5 freshwater fishing, saltwater fishing, hunting, or
 6 sportsman licensee, or boater safety identification
 7 cardholder, to be indicated on his or her
 8 identification card or driver license upon payment of
 9 an additional fee and presentation of the person's
 10 lifetime freshwater fishing, saltwater fishing,
 11 hunting, or sportsman's license, or boater safety
 12 identification card; providing a waiver of the
 13 replacement fee in certain circumstances; amending s.
 14 327.395, F.S.; prohibiting a person born on or after a
 15 certain date from operating a certain vessel unless
 16 such person has in his or her possession aboard the
 17 vessel photographic identification and a boater safety
 18 identification card or a state-issued identification
 19 card or driver license which meets certain
 20 requirements; amending s. 379.354, F.S.; requiring
 21 each state-issued identification card or driver
 22 license indicating possession of certain recreational
 23 licenses to be in the personal possession of the
 24 person to whom such license is issued while the person
 25 is taking, attempting to take, or possessing game,
 26 freshwater or saltwater fish, or fur-bearing animals;
 27 providing applicability; providing an effective date.
 28
 29 Be It Enacted by the Legislature of the State of Florida:

Page 1 of 6

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

596-00773-16

2016158c1

30
 31 Section 1. Paragraph (b) of subsection (8) of section
 32 322.051, Florida Statutes, is amended, and paragraph (c) is
 33 added to that subsection, to read:
 34 322.051 Identification cards.—
 35 (8)
 36 (b) The word "Veteran" shall be exhibited on the
 37 identification card of a veteran upon the payment of an
 38 additional \$1 fee for the identification card and the
 39 presentation of a copy of the person's DD Form 214, issued by
 40 the United States Department of Defense, or another acceptable
 41 form specified by the Department of Veterans' Affairs. Until a
 42 veteran's identification card is next renewed, the veteran may
 43 have the word "Veteran" added to his or her identification card
 44 upon surrender of his or her current identification card,
 45 payment of a \$2 fee to be deposited into the Highway Safety
 46 Operating Trust Fund, and presentation of a copy of his or her
 47 DD Form 214 or another acceptable form specified by the
 48 Department of Veterans' Affairs. If the applicant is not
 49 conducting any other transaction affecting the identification
 50 card, a replacement identification card shall ~~may~~ be issued with
 51 the word "Veteran" without payment of the fee required in s.
 52 322.21(1)(f)3.
 53 (c) The department shall include symbols representing the
 54 following on an identification card upon the payment of an
 55 additional \$1 fee by an applicant who meets the requirements of
 56 subsection (1) and presents his or her:
 57 1. Lifetime freshwater fishing license;
 58 2. Lifetime saltwater fishing license;

Page 2 of 6

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

596-00773-16

2016158c1

59 3. Lifetime hunting license;

60 4. Lifetime sportsman's license; or

61 5. Lifetime boater safety identification card.

62
63 A person may replace his or her identification card before its
64 expiration date with a card that includes his or her status as a
65 lifetime licensee or boater safety cardholder upon surrender of
66 his or her current identification card, payment of a \$2 fee to
67 be deposited into the Highway Safety Operating Trust Fund, and
68 presentation of the person's lifetime license or card. If the
69 sole purpose of the replacement identification card is the
70 inclusion of the applicant's status as a lifetime licensee or
71 cardholder, the replacement identification card must be issued
72 without payment of the fee required in s. 322.21(1)(f)3.

73 Section 2. Paragraph (c) of subsection (1) of section
74 322.14, Florida Statutes, is amended, and paragraph (d) is added
75 to that subsection, to read:

76 322.14 Licenses issued to drivers.—

77 (1)

78 (c) The word "Veteran" shall be exhibited on the driver
79 license of a veteran upon the payment of an additional \$1 fee
80 for the license and the presentation of a copy of the person's
81 DD Form 214, issued by the United States Department of Defense,
82 or another acceptable form specified by the Department of
83 Veterans' Affairs. Until a veteran's license is next renewed,
84 the veteran may have the word "Veteran" added to his or her
85 license upon surrender of his or her current license, payment of
86 a \$2 fee to be deposited into the Highway Safety Operating Trust
87 Fund, and presentation of a copy of his or her DD Form 214 or

Page 3 of 6

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

596-00773-16

2016158c1

88 another acceptable form specified by the Department of Veterans'
89 Affairs. If the applicant is not conducting any other
90 transaction affecting the driver license, a replacement license
91 ~~shall~~ may be issued with the word "Veteran" without payment of
92 the fee required in s. 322.21(1)(e).

93 (d) The department shall include symbols representing the
94 following on a driver license upon the payment of an additional
95 \$1 fee by an applicant who meets the requirements of s. 322.08
96 and presents his or her:

97 1. Lifetime freshwater fishing license;

98 2. Lifetime saltwater fishing license;

99 3. Lifetime hunting license;

100 4. Lifetime sportsman's license; or

101 5. Lifetime boater safety identification card.

102
103 A person may replace his or her driver license before its
104 expiration date with a license that includes his or her status
105 as a lifetime licensee or boater safety cardholder upon
106 surrender of his or her current driver license, payment of a \$2
107 fee to be deposited into the Highway Safety Operating Trust
108 Fund, and presentation of the person's lifetime license or
109 identification card. If the sole purpose of the replacement
110 driver license is the inclusion of the applicant's status as a
111 lifetime licensee or cardholder, the replacement driver license
112 must be issued without payment of the fee required in s.
113 322.21(1)(e).

114 Section 3. Subsection (1) of section 327.395, Florida
115 Statutes, is amended to read:

116 327.395 Boating safety identification cards.—

Page 4 of 6

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

596-00773-16

2016158c1

117 (1) A person born on or after January 1, 1988, may not
 118 operate a vessel powered by a motor of 10 horsepower or greater
 119 unless such person has in his or her possession aboard the
 120 vessel photographic identification and a boater safety
 121 identification card issued by the commission, or a state-issued
 122 identification card or driver license indicating possession of
 123 the boater safety identification card, which shows that he or
 124 she has:

125 (a) Completed a commission-approved boater education course
 126 that meets the minimum 8-hour instruction requirement
 127 established by the National Association of State Boating Law
 128 Administrators;

129 (b) Passed a course equivalency examination approved by the
 130 commission; or

131 (c) Passed a temporary certificate examination developed or
 132 approved by the commission.

133 Section 4. Subsection (3) of section 379.354, Florida
 134 Statutes, is amended to read:

135 379.354 Recreational licenses, permits, and authorization
 136 numbers; fees established.—

137 (3) PERSONAL POSSESSION REQUIRED.—Each recreational
 138 license, state-issued identification card or driver license
 139 indicating possession of a recreational license, permit, or
 140 authorization number must be in the personal possession of the
 141 person to whom it is issued while ~~the~~ ~~such~~ person is taking,
 142 attempting to take, or possessing game, freshwater or saltwater
 143 fish, or fur-bearing animals. Any person taking, attempting to
 144 take, or possessing game, freshwater or saltwater fish, or fur-
 145 bearing animals who fails to produce a recreational license,

Page 5 of 6

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

596-00773-16

2016158c1

146 state-issued identification card or driver license indicating
 147 possession of a recreational license, permit, or authorization
 148 number at the request of a commission law enforcement officer
 149 commits a violation of the law.

150 Section 5. The amendments made by this act to s. 322.051
 151 and s. 322.14, Florida Statutes, shall apply upon implementation
 152 of new designs for the driver license and identification card by
 153 the Department of Highway Safety and Motor Vehicles.

154 Section 6. This act shall take effect July 1, 2016.

Page 6 of 6

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 184

INTRODUCER: Senator Bean

SUBJECT: Military and Veterans Affairs

DATE: November 19, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Hrdlicka	MS	Favorable
2.	Fox	Roberts	EE	Favorable
3.	Sneed	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 184:

- Establishes a voluntary check-off on driver license and identification card applications to allow a veteran to request written or electronic information on federal, state, and local veterans benefits and services;
- Creates the Military and Overseas Voting Assistance Task Force within the Department of State to the possible development and implementation of an online voting system that allows overseas military voters to return completed absentee ballots; and
- Provides legislative intent regarding academic credit for military training and coursework and collaboration between the State Board of Education and the Board of Governors on student veteran issues.

The fiscal impact of the bill is expected to be insignificant for the Department of Highway Safety and Motor Vehicles, Department of Veterans' Affairs, and Department of State. The fiscal impact to the State Board of Education, Board of Governors, and individual colleges and universities is indeterminate but is expected to be absorbed within existing resources.

The bill takes effect July 1, 2016.

II. Present Situation:

Voluntary Contributions on Driver License/Identification Card Applications

The voluntary contribution process, also known as voluntary check-offs, provides the opportunity for citizens to make a donation by checking a box on a form when registering a vehicle or renewing a registration, as well as when applying for a new or replacement driver license or identification card.¹

The Florida Statutes specifically authorize which organizations can receive a voluntary contribution. Section 320.023, F.S., establishes requirements for organizations seeking to establish a voluntary contribution on motor vehicle registration application forms, and s. 322.081, F.S., establishes similar requirements for driver license and identification card applications. Both sections require:

- A request for the voluntary contribution being sought, describing the voluntary contribution in general terms;
- An application fee,² not to exceed \$10,000, to defray the Department of Highway Safety and Motor Vehicles' (DHSMV) cost for reviewing the application and developing the voluntary contribution check-off, if authorized;
- A marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution; and
- A financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

There are three veteran or military-related voluntary contributions authorized for driver license and identification card applications. An applicant may elect to contribute \$1 to the State Homes for Veterans Trust Fund, the Disabled American Veterans, and Support Our Troops, Inc.³

The Florida Vets Connect Program

In 2010, the Chief Financial Officer directed the DHSMV and the Florida Department of Veterans' Affairs (FDVA) to partner to create the Florida Vets Connect Program to stimulate outreach efforts to veterans in Florida.⁴ Through the Florida Vets Connect Program, veterans have the opportunity to voluntarily identify their veteran status when applying for or renewing Florida driver licenses or state identification cards. Beginning in 2010, present on each driver license and identification card application is the option for an individual to indicate status as a veteran and interest in receiving information on benefits, services, and support available to veterans.⁵ The DHSMV and the FDVA entered into a Memorandum of Understanding to facilitate the sharing of a veteran's contact information from the DHSMV to the FDVA. The

¹ Sections 320.02(8), (14), and (15) and 328.72(11) and (16), F.S., provide motor vehicle registration applicants with 27 options for voluntary contributions. Section 322.08(8), F.S., provides driver license applicants with 20 options for voluntary contributions.

² State funds may not be used to pay the application fee.

³ See Section 322.08(7)(n), (o), and (q), F.S.

⁴ See Press Release, Florida Dep't of Financial Services, CFO, 'Florida Vets Connect' Connects Nearly 30,000 Florida Veterans with Benefits (Nov. 10, 2010), available at <http://www.myfloridacfo.com/sitePages/newsroom/pressRelease.aspx?id=3738> (last visited Oct. 2, 2015).

⁵ *Id.*

FDVA, through a third party provider, distributes general state of Florida veterans' benefits information via e-mail to those individuals who request such information on the driver license or identification card application.⁶ The FDVA distributed 50,350 e-mails on a monthly basis during the 2014 calendar year under the Vets Connect Program.⁷

County and City Veteran Service Officers

Section 292.11, F.S., authorizes each county and city to employ a county or city veteran service officer. These local officers provide information on current federal, state, and local veterans' programs, entitlements, and referral services, and can assist veterans with applying for these benefits.⁸ County veteran service officers are county employees, but are certified by the FDVA.⁹ Each county currently employs a veteran service officer, and, in some cases one veteran service officer may service two counties.¹⁰ There are currently no certified city veteran service officers in Florida.¹¹

Military Voters Overseas

Florida currently does not provide for the *return of voted* absentee ballots through an online system or by other Internet-related or electronic means, except for overseas voters who may return their ballots via secure facsimile.¹² Florida law, however, *does* provide a special extension of time — 10 extra days — for overseas voters to return voted ballots in general elections and presidential preference primaries, *provided* the ballot is sent by Election Day.¹³ Additionally, the Federal Write-In Absentee Ballot (FWAB) serves as an emergency back-up ballot for overseas voters who have requested a regular absentee ballot but didn't receive it.¹⁴

Further expediting the voting process is the fact that, in addition to mailing a ballot, county election supervisors may *e-mail, fax, or provide blank ballots online* to voters at their request — an important time-saving measure for overseas electors who submit ballot requests close to an election or who otherwise do not timely receive their ballot.¹⁵

⁶ E-mail correspondence with Colleen Krepstekies, Legislative Affairs Director, FDVA (Sept. 30, 2015) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security.). According to the FDVA, it is cost prohibitive to distribute printouts of the veterans' benefits information via the United States mail.

⁷ E-mail correspondence with Jessica Kraynak, Legislative Analyst, FDVA (Oct. 2, 2015) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

⁸ Florida Dep't of Veterans' Affairs, *Locations*, (updated Oct. 1, 2015) available at <http://floridavets.org/locations/> (last visited Oct. 2, 2015).

⁹ Section 292.11(2), F.S.

¹⁰ Florida Dep't of Veterans' Affairs, *County Veteran Service Officers*, (Oct. 2015), available at http://floridavets.org/wp-content/uploads/2015/09/CVSO_Directory_1-October-2015.pdf (last visited Oct. 2, 2015).

¹¹ E-mail correspondence with Colleen Krepstekies, Legislative Affairs Director, FDVA (Sept. 30, 2015) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

¹² Section 101.697, F.S.; Rule 1S-2.030, F.A.C. Notwithstanding, the law directs the Department of State to adopt rules providing for the receipt of absentee ballots from "overseas" (civilian and military) voters by "secure electronic means," if the Department of State determines such security can be established (i.e., verification of the voter, security of the transmission, etc.) Section 101.697, F.S.

¹³ Section 101.6952(5), F.S.

¹⁴ Section 101.6952(2)(a), F.S.

¹⁵ Section 101.62, F.S.; Rule 1S-2.030, F.A.C. Supervisors begin sending absentee ballots 45 days before each election for those with requests on file with the supervisor, and thereafter upon receipt of a timely request. Overseas voters can request a ballot from their local supervisor when they register to vote using the Federal Post Card Application (FPCA).

Notwithstanding such accommodations, overseas military voters “often face unique challenges in obtaining and returning absentee ballots within state deadlines.”¹⁶ There have been attempts over the years to establish some form of secure electronic balloting for Florida’s overseas military voters, but none have enjoyed widespread success due primarily to concerns involving security¹⁷ and cost.¹⁸ Interestingly, however, two states — Alaska and Arizona — *do* provide for web-based absentee ballot return, though the vast majority of states authorizing electronic return limit it to *e-mail* or *fax* ballots.¹⁹

Veterans’ Training and Coursework

State Board of Education – Florida College System

Article IX, section 2 of the Florida Constitution establishes the State Board of Education, which is responsible for supervising the system of free public education as provided by law. The State Board of Education is “the chief implementing and coordinating body of public education in Florida, except for the State University System.”²⁰ Appointed by the State Board of Education, the Commissioner of Education serves as the chief executive officer of Florida’s K-20 System, which includes the Florida College System.²¹

“There are 28 locally-governed public colleges in the Florida College System. While governed by local boards, the colleges are coordinated under the jurisdiction of the State Board of Education.”²² Administratively, the Chancellor of Florida Colleges is the chief executive officer of the system, reporting directly to the Commissioner of Education.

Section 101.694, F.S. Otherwise, they can timely request absentee ballots telephone, mail, fax or e-mail. Section 101.62, F.S.; Rule 1S-2.030, F.A.C.

¹⁶ National Conference of State Legislatures, *Electronic Submission of Ballots*, (July 27, 2015), available at <http://www.ncsl.org/research/elections-and-campaigns/internet-voting.aspx> (last visited Oct. 12, 2015) [hereinafter NCSL, *Electronic Ballots*].

¹⁷ See *infra* **Section VII, Related Issues** (discussing the Department of State’s conclusion that secure means do not currently exist for the online return of voted ballots); see also, section 101.697, F.S. (directing the Department of State to adopt rules for the electronic return of overseas ballots when such security can be established); Letter from Florida Voters Coalition to Florida Secretary of State Kurt Browning (May 29, 2008) (discussing a 2008 attempt in Okaloosa County to pilot an electronic system for overseas military voters), available at <http://www.floridavoters.org/downloads/BrowningLetter052908.pdf> (last visited Oct. 12, 2015). For a primer on security issues involved with electronic voting, see National Institute of Standards and Technology, *Security Best Practices for the Electronic Transmission of Election Materials for UOCAVA Voters*, NISTIR 7711 (Sept. 2011), available at <http://nist.gov/itl/vote/upload/nistir7711-Sept2011.pdf> (last visited Oct. 12, 2015).

¹⁸ As early as the 2000 general election, a handful of electronically-transmitted overseas military votes (about 30 or 35 in total, most in Okaloosa County) were received and counted by Florida elections supervisors of elections as part of a national pilot project with the Department of Defense’s Federal Voting Assistance Program (FVAP); the FVAP ultimately abandoned the project, anecdotally because of the prohibitive per-ballot costs involved.

¹⁹ NCSL, *Electronic Ballots*. According to the National Conference of State Legislatures: Twenty-three states plus the District of Columbia allow some voters to return ballots via e-mail or fax; six states (including Florida) provide for return by fax; but, 19 states still require ballots to be returned by mail. *Id.*

²⁰ Section 1001.02(1), F.S.

²¹ Florida Dep’t of Education, *About Us*, available at <http://www.fldoe.org/schools/higher-ed/fl-college-system/about-us> (last visited Oct. 2, 2015).

²² *Id.*

Board of Governors - State University System

The Board of Governors is the governing body for the State University System of Florida. In accordance with article IX, section 7(d) of the Florida Constitution, it is required to “operate, regulate, control, and be fully responsible for the management of the whole university system.” Currently, there are 12 institutions within the State University System (SUS).²³ The SUS enrolls over 337,000 students, offers nearly 1,800 degree programs at the baccalaureate, graduate, and professional levels, and annually awards over 81,000 degrees at all levels.²⁴

College Credit for Military Training and Education

Section 1004.096, F.S., requires the State Board of Education to adopt rules and the Board of Governors to adopt regulations that enable eligible members of the U.S. Armed Forces to earn academic college credit at public postsecondary educational institutions for college-level training and education acquired while serving in the military.²⁵ Accordingly, State Board of Education Rule 6A-14.0302 of the Florida Administrative Code and Board of Governors Regulation 6.013 require all Florida colleges and universities, respectively, to have an established policy and process in place for evaluating military training and education. Pursuant to both the rule and regulation, such military training and education must be recognized by the American Council on Education (ACE).

Priority Course Registration for Veterans

Section 1004.075, F.S., requires each Florida College System institution and state university to provide priority course registration for veterans receiving GI Bill benefits if the institution offers priority course registration for any segment of the student population.²⁶ Additionally, a spouse or dependent child of a veteran to whom GI Bill benefits have been transferred are also entitled to priority course registration until the expiration of their GI Bill benefits.

III. Effect of Proposed Changes:

Section 1 amends s. 322.08, F.S., to provide a voluntary check-off on the application form for an original, renewal, or replacement driver license or identification card to allow veterans of the U.S. Armed Forces to request written or electronic information on federal, state, and local benefits and services available to veterans. The veteran may elect to receive the information through the U.S. mail or by e-mail from a non-profit third-party provider selected by the Florida Department of Veterans’ Affairs (FDVA) that has sufficient ability to communicate with veterans throughout the state.

The Department of Highway Safety and Motor Vehicles (DHSMV) and the FDVA will collaborate to administer the voluntary check-off. The DHSMV will report monthly to the FDVA the name and mailing address or e-mail address of each veteran who selects the voluntary check-off. The FDVA will then distribute the veterans’ contact information to the third-party provider providing information via the indicated preferred method of delivery (U.S. mail or e-mail). The

²³ State University System of Florida Board of Governors, *2025 System Strategic Plan*, 5 (Nov. 2014), available at http://www.flbog.edu/pressroom/doc/2025_System_Strategic_Plan_Revised_FINAL.pdf (last visited Oct. 2, 2015).

²⁴ *Id.*

²⁵ Chapter 2012-169, Laws of Fla.

²⁶ Chapter 2012-159, Laws of Fla.

FDVA will also disseminate the contact information for veterans who select the voluntary check-off to the appropriate county or city veteran service officer in order to facilitate further outreach to veterans.

Additionally, the bill requires that a veteran's contact information obtained by the third-party provider may only be used for purposes outlined in the bill, prohibits the provider from selling a veteran's contact information, and requires the provider to maintain confidentiality of the contact information in accordance with Ch. 119, F.S., and the federal Driver's Privacy Protection Act of 1994. Any person who willfully and knowingly violates the aforementioned conditions commits a misdemeanor of the first degree.²⁷

Section 2 establishes the Military and Overseas Voting Assistance Task Force (Task Force) within the Department of State to study issues involving the development and implementation of an online voting system that allows overseas uniformed services voters to electronically submit voted ballots. The Task Force consists of the following 11 members:

- The Secretary of State or his or her designee, who is the chair of the Task Force;
- The Adjutant General or his or her designee;
- The executive director of the Agency for State Technology or his or her designee;
- One member of the Senate appointed by the President of the Senate;
- One member of the House of Representatives appointed by the Speaker of the House of Representatives;
- Three supervisors of elections appointed by the Florida State Association of Supervisors of Elections; and
- Three individuals appointed by the Secretary of State, with relevant expertise in computers, the Internet, or other associated technologies.

Members of the Task Force serve without compensation, but are entitled to reimbursement for per diem and travel expenses.

The bill directs the Task Force to study and report on:

- Any factor that limits the ability of absent uniformed services voters to request, receive, and return absentee ballots within the current statutory time period for casting absentee ballots;
- The costs associated with the development and implementation of an online voting system;
- The feasibility of absent uniformed services voters using an online voting system to electronically submit a voted ballot;
- The security of electronically submitting a voted ballot through an online voting system; and
- Procedures adopted by other states to facilitate greater electoral participation among absent uniformed services voters who are overseas.

The Secretary of State must submit a report by the Task Force to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2017, that recommends whether or not the state should pursue the development and implementation of an online voting system for overseas uniformed services voters. If the Task Force recommends pursuit of an

²⁷ A first degree misdemeanor is punishable by up to one year incarceration in county jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

online voting system, the report must include steps for developing and implementing such a system.

The Task Force expires upon submission of the report.

Additionally, the bill requires the Division of Elections within the Department of State to provide support staff for the Task Force and requires the Agency for State Technology to assist the Task Force upon request.

Section 3 provides legislative intent regarding the provision of academic credit for military training and coursework and other services to student veterans. The bill provides that it is the intent of the Legislature that the State Board of Education and the Board of Governors of the State University System work collaboratively to do the following:

- Align existing degree programs with applicable military training and experience to maximize academic credit awarded for such training and experience;
- Appoint and train specific faculty within each degree program at each institution as liaisons and contacts for veterans;
- Incorporate outreach services tailored to disabled veterans to inform disabled veterans of disability services provided by the U.S. Department of Veterans Affairs, other federal and state agencies, and private entities;
- Facilitate statewide meetings for personnel who provide student services for veterans to discuss and develop best practices, exchange ideas and experiences, and hear presentations by individuals with expertise in the unique needs of veterans; and
- Provide veterans with sufficient courses required for graduation, including but not limited to, giving priority registration for veterans.

Section 4 provides an effective date of July 1, 2016.

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 DHSMV currently transmits information collected from the Florida Vets Connect Program to the FDVA using eWareness, Inc. Under the contractual agreement with eWareness, Inc., the FDVA pays the web marketing service provider \$12,107 annually²⁸ to administer the emailing of information to veterans. Under CS/SB 184, the FDVA may incur additional program expenses, including postage fees, packaging materials, and additional outreach materials for²⁹ the voluntary check-off program. However, those costs are currently indeterminate.

Additionally, the DHSMV will have programming costs to develop the check-off box on the forms, but these costs are indeterminate and expected to be minimal.

With respect to the Military and Overseas Voting Assistance Task Force, the Department of State is responsible for the reimbursement of per diem and travel expenses for task force members. The Division of Elections within the Department of State is also required to provide support staff for the Task Force. The department has raised concerns regarding the possibility of incurring additional workload and operating costs to support this Task Force.³⁰ However, it appears more likely that the costs to support this time-limited task force will be of a minimal amount that can be absorbed within the department's operating budget.

The Board of Governors (BOG) also raised concerns about this bill's potential for increased workload for the state universities and colleges and for the Board itself.³¹ According to the Board, some institutions have already implemented various improvements depending on the needs of their student veteran populations. Because each institution is at a different stage in incorporating the changes in this bill, the fiscal impact to the State Board of Education, the Board of Governors, and the individual universities and colleges is indeterminate but is expected to be absorbed within existing resources.

VI. Technical Deficiencies:

None.

²⁸ FDVA purchase order #AC8A7D dated July 1, 2015, Florida Accountability Contract Tracking System available at <https://facts.fldfs.com/Search/ContractSearch.aspx>.

²⁹ Florida Dep't of Veterans' Affairs, *Senate Bill 184 Agency Analysis* (Oct. 2, 2015) (on file with Senate Committee on Military and Veterans Affairs, Space and Domestic Security).

³⁰ Florida Dep't of State, *Senate Bill 184 Agency Analysis*, p.3 (Sept. 29, 2015) (on file with Senate Committee on Ethics and Elections and the Committee on Military and Veterans Affairs, Space and Domestic Security).

³¹ State University System of Florida Board of Governors, *Senate Bill 184 Agency Analysis*, p.4 (Oct. 7, 2015) (on file with Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development).

VII. Related Issues:

The Department of State's recent agency bill analysis contains its public position on a web-based voting system:

Based upon existing studies of online voting and the capabilities of current certified voting systems, the Department of State has determined that secure electronic means do not satisfactorily exist to permit the casting of online ballots by voters, including overseas voters.³²

Given this conclusion, it is worth noting that the Secretary of State is a voting member and Chair of the Task Force, and appoints 3 of the 10 of the 19 remaining members.

Also, the Department's analysis identifies the potential disruptive impact of the Task Force (July 1, 2016 - July 1, 2017) because of the partial overlap with the 2016 election cycle. It states that Task Force staffing duties "could impact the ability of the Division (of Elections) (to) [sic] perform its regular duties during an election year," and notes the possible need for additional full-time employees.³³

The Board of Governors in a recent agency bill analysis notes the following concerns with the bill:

... Any law requiring the Board of Governors to "align degree programs" at the universities with specified types of military experience and/or training can be perceived to be in conflict with established Board regulations and accreditation standards.

...Should there be a state-level attempt to align existing university programs with military programs, litigation can be expected from the universities because it will put them in violation of SACSCOC³⁴ accreditation requirements.

Section 3.(2) that calls for the identification and training of "specific faculty within each degree program at each state university" would be difficult and costly to implement due to the number of academic degree programs (1,733 programs) in the State University System.³⁵

VIII. Statutes Affected:

This bill substantially amends section 322.08 of the Florida Statutes.

³² *Id.* at pp. 4-5.

³³ *Id.* at pp. 3-4.

³⁴ Southern Association of Colleges and Schools Commission on Colleges.

³⁵ State University System of Florida Board of Governors, *Senate Bill 184 Agency Analysis*, p.5 (Oct. 7, 2015) (on file with Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development).

The bill creates undesignated sections of Florida law.

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 Appropriations on November 19, 2015:

The CS reduces the Task Force membership from 20 to 11 members as follows:

- The Secretary of State or his or her designee (*task force chair*);
- The Adjutant General or his or her designee;
- The executive director of the Agency for State Technology or his or her designee;
- One member of the Senate appointed by the President of the Senate;
- One member of the House of Representatives appointed by the Speaker of the House of Representatives;
- Three supervisors of elections appointed by the Florida State Association of Supervisors of Elections; and
- Three individuals appointed by the Secretary of State, with relevant expertise in computers, the Internet, or other associated technologies.

- B. **Amendments:**

None.



368388

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/19/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Hukill) recommended the following:

Senate Amendment

Delete lines 101 - 120

and insert:

(1) The task force is composed of 11 members, as follows:

(a) The Secretary of State or his or her designee, who shall serve as chair of the task force.

(b) The Adjutant General or his or her designee.

(c) The executive director of the Agency for State Technology or his or her designee.



368388

11 (d) One member of the Senate appointed by the President of
12 the Senate.

13 (e) One member of the House of Representatives appointed by
14 the Speaker of the House of Representatives.

15 (f) Three supervisors of elections appointed by the Florida
16 State Association of Supervisors of Elections.

17 (g) Three individuals appointed by the Secretary of State,

By Senator Bean

4-00253-16

2016184__

1 A bill to be entitled
 2 An act relating to military and veterans affairs;
 3 amending s. 322.08, F.S.; requiring the application
 4 form for an original, renewal, or replacement driver
 5 license or identification card to include a voluntary
 6 checkoff authorizing veterans to request written or
 7 electronic information on federal, state, and local
 8 benefits and services for veterans; requiring the
 9 requested information to be delivered by a third-party
 10 provider; requiring the Department of Highway Safety
 11 and Motor Vehicles to report monthly to the Department
 12 of Veterans' Affairs the names and mailing or e-mail
 13 addresses of veterans who request information;
 14 requiring the Department of Veterans' Affairs to
 15 disseminate veteran contact information to the third-
 16 party provider; requiring that the third-party
 17 provider be a nonprofit organization; defining the
 18 term "nonprofit organization"; requiring that the
 19 Department of Veterans' Affairs provide veteran
 20 contact information to the appropriate county or city
 21 veteran service officer; specifying that a third-party
 22 provider may use veteran contact information only as
 23 authorized; prohibiting a third-party provider from
 24 selling veteran contact information; requiring a
 25 third-party provider to maintain confidentiality of
 26 veteran contact information under specified
 27 provisions; providing a penalty; creating the Military
 28 and Overseas Voting Assistance Task Force within the
 29 Department of State; specifying membership of the task

Page 1 of 7

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

4-00253-16

2016184__

30 force; authorizing reimbursement for per diem and
 31 travel expenses; prescribing duties of the task force;
 32 requiring submission of a report to the Governor and
 33 the Legislature by a specified date; providing for
 34 expiration of the task force; providing for staffing;
 35 providing legislative findings regarding continuing
 36 education for veterans of the United States Armed
 37 Forces; providing legislative intent to require
 38 collaboration between the State Board of Education and
 39 the Board of Governors of the State University System
 40 in achieving specified goals regarding educational
 41 opportunities for veterans; providing an effective
 42 date.

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

45
 46 Section 1. Present subsection (9) of section 322.08,
 47 Florida Statutes, is renumbered as subsection (10), and a new
 48 subsection (9) is added to that section, to read:

49 322.08 Application for license; requirements for license
 50 and identification card forms.—

51 (9) (a) To support the carrying out of the duties of the
 52 Department of Veterans' Affairs prescribed in s. 292.05 and to
 53 facilitate its outreach to veterans residing in this state, the
 54 application form for an original, a renewal, or a replacement
 55 driver license or identification card must include a voluntary
 56 checkoff authorizing a veteran of the United States Armed Forces
 57 to request written or electronic information on federal, state,
 58 and local benefits and services available to veterans. The

Page 2 of 7

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

4-00253-16

2016184__

59 veteran may elect to receive requested information through
 60 United States mail or by e-mail. The requested information shall
 61 be delivered to the veteran by any third-party provider selected
 62 by the Department of Veterans' Affairs to act on its behalf.

63 (b) The department shall collaborate with the Department of
 64 Veterans' Affairs to administer this subsection. The department
 65 shall report monthly to the Department of Veterans' Affairs the
 66 name and mailing address or e-mail address of each veteran who
 67 requests information as provided in paragraph (a). Following
 68 receipt of the monthly report, the Department of Veterans'
 69 Affairs shall disseminate the contact information for each such
 70 veteran to the third-party provider acting on its behalf. The
 71 third-party provider must be a nonprofit organization with
 72 sufficient ability to communicate with veterans residing
 73 throughout this state. For purposes of this paragraph, the term
 74 "nonprofit organization" means an organization exempt from the
 75 federal income tax under s. 501 of the Internal Revenue Code of
 76 1986 or any federal, state, or local governmental entity.

77 (c) In addition to the requirements of paragraph (b), the
 78 Department of Veterans' Affairs shall disseminate the contact
 79 information for a veteran who selects the voluntary checkoff to
 80 the appropriate county or city veteran service officer in order
 81 to facilitate further outreach to veterans.

82 (d)1. The contact information of a veteran which is
 83 obtained by a third-party provider pursuant to this subsection
 84 may be used only as authorized by this subsection. The third-
 85 party provider may not sell such contact information. Except as
 86 otherwise provided, the third-party provider must maintain the
 87 confidentiality of the contact information in accordance with

Page 3 of 7

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

4-00253-16

2016184__

88 chapter 119 and the federal Driver's Privacy Protection Act of
 89 1994, 18 U.S.C. ss. 2721 et seq.

90 2. A person who willfully and knowingly violates this
 91 paragraph commits a misdemeanor of the first degree, punishable
 92 as provided in s. 775.082 or s. 775.083.

93 Section 2. Military and Overseas Voting Assistance Task
 94 Force.—The Military and Overseas Voting Assistance Task Force, a
 95 task force as defined in s. 20.03, Florida Statutes, is created
 96 within the Department of State. The task force is created for
 97 the express purpose of studying issues involving the development
 98 and implementation of an online voting system that allows absent
 99 uniformed services voters who are overseas to electronically
 100 submit voted ballots.

101 (1) The task force is composed of 20 members, as follows:

102 (a) The Secretary of State or his or her designee, who
 103 shall serve as chair of the task force.

104 (b) The Adjutant General or his or her designee.

105 (c) The executive director of the Department of Veterans'
 106 Affairs or his or her designee.

107 (d) The executive director of the Agency for State
 108 Technology or his or her designee.

109 (e) One member of the Senate appointed by the President of
 110 the Senate.

111 (f) One member of the House of Representatives appointed by
 112 the Speaker of the House of Representatives.

113 (g) One member of the Senate appointed by the Minority
 114 Leader of the Senate.

115 (h) One member of the House of Representatives appointed by
 116 the Minority Leader of the House of Representatives.

Page 4 of 7

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

4-00253-16

2016184__

- 117 (i) One member appointed by the Governor.
- 118 (j) Six supervisors of elections appointed by the Secretary
- 119 of State.
- 120 (k) Five individuals appointed by the Secretary of State,
- 121 with relevant expertise in computers, the Internet, or other
- 122 associated technologies.
- 123 (2) Members of the task force shall serve without
- 124 compensation, but are entitled to reimbursement for per diem and
- 125 travel expenses pursuant to s. 112.061, Florida Statutes.
- 126 (3) The task force, at a minimum, shall study and report on
- 127 the following issues:
- 128 (a) Any factor that limits the ability of absent uniformed
- 129 services voters who are overseas to request, receive, and return
- 130 absentee ballots within the current statutory time period for
- 131 casting absentee ballots.
- 132 (b) The costs associated with the development and
- 133 implementation of an online voting system.
- 134 (c) The feasibility of absent uniformed services voters who
- 135 are overseas using an online voting system to electronically
- 136 submit a voted ballot.
- 137 (d) The security of electronically submitting a voted
- 138 ballot through an online voting system.
- 139 (e) Procedures adopted by other states to facilitate
- 140 greater electoral participation among absent uniformed services
- 141 voters who are overseas.
- 142 (4) The Secretary of State shall submit a report to the
- 143 Governor, the President of the Senate, and the Speaker of the
- 144 House of Representatives by July 1, 2017, containing the task
- 145 force's recommendation concerning whether the state should

Page 5 of 7

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

4-00253-16

2016184__

- 146 pursue the development and implementation of an online voting
- 147 system that allows absent uniformed services voters who are
- 148 overseas to electronically submit voted ballots. If the task
- 149 force favorably recommends an online voting system, the report
- 150 must include recommended steps for developing and implementing
- 151 such a system. Upon submission of the report, the task force
- 152 shall expire.
- 153 (5) The Division of Elections of the Department of State
- 154 shall provide support staff for the task force. The Agency for
- 155 State Technology shall assist the task force upon request.
- 156 Section 3. Legislative findings and intent; continuing
- 157 education of veterans of the United States Armed Forces.—The
- 158 Legislature finds that many veterans of the United States Armed
- 159 Forces in this state have completed training and coursework
- 160 during their military service, including overseas deployments,
- 161 resulting in tangible and quantifiable strides in their pursuit
- 162 of a postsecondary degree. The Legislature further finds that
- 163 the State Board of Education and the Board of Governors of the
- 164 State University System must work together to ensure that
- 165 military training and coursework are granted academic credit in
- 166 order to assist veterans in continuing their education.
- 167 Therefore, it is the intent of the Legislature that the State
- 168 Board of Education and the Board of Governors work
- 169 collaboratively to:
- 170 (1) Align existing degree programs, including, but not
- 171 limited to, vocational and technical degrees, at each state
- 172 university and Florida College System institution with
- 173 applicable military training and experience to maximize academic
- 174 credit awarded for such training and experience.

Page 6 of 7

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

4-00253-16

2016184__

175 (2) Appoint and train specific faculty within each degree
176 program at each state university and Florida College System
177 institution as liaisons and contacts for veterans.

178 (3) Incorporate outreach services tailored to disabled
179 veterans into existing disability services on the campus of each
180 state university and Florida College System institution to make
181 available to such veterans information on disability services
182 provided by the United States Department of Veterans Affairs,
183 other federal and state agencies, and private entities.

184 (4) Facilitate statewide meetings for personnel at state
185 universities and Florida College System institutions who provide
186 student services for veterans to discuss and develop best
187 practices, exchange ideas and experiences, and attend
188 presentations by individuals with expertise in the unique needs
189 of veterans.

190 (5) Make every effort to provide veterans with sufficient
191 courses required for graduation, including, but not limited to,
192 giving priority registration to veterans.

193 Section 4. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: November 5, 2015

I respectfully request that **Senate Bill # 184**, relating to Military and Veterans Affairs, 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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11-19-2015

Meeting Date

184

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email _____

Speaking: For Against Information

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

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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)

11/19/15
Meeting Date

SB 184
Bill Number (if applicable)

Topic Military & Veterans Affairs

Amendment Barcode (if applicable)

Name Col. Mike Prendergast

Job Title Executive Director

Address Suite 2105 The Capitol
Street

Phone 850-~~487~~ 487-1533

Tallahassee FL
City State Zip

Email cxdir@fdva.state.fl.us

Speaking: For Against Information

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

Representing The FL Dept. of Veterans Affairs

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 Committee on Appropriations

BILL: CS/SB 190

INTRODUCER: Community Affairs Committee and Senators Hutson and Margolis

SUBJECT: Conservation Easements

DATE: November 18, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.	Babin	Diez-Arguelles	FT	Favorable
3.	Babin	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 190 provides that once an original application for an ad valorem tax exemption for property subject to a perpetual conservation easement has been granted, the property owner is not required to file a renewal application until the use of the property no longer complies with the restrictions and requirements of the conservation easement.

The Revenue Estimating Conference has determined that this bill will not affect state or local tax revenues.

The bill has an effective date of July 1, 2016.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, cities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the

¹ Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla.

taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,⁴ and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard requires consideration of the highest and best use of property.⁶ The Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments). Properties that receive classified use treatment include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Conservation Easements

Section 704.06(1), F.S., provides that a conservation easement is "a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses" The section also provides a list of activities which must be prohibited or limited by the conservation easement.

Conservation easements are perpetual, undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in any deed, will or other instrument executed by or on behalf of the property owner.¹¹ Conservation easements may be acquired by any governmental body or agency or by a charitable corporation or trust that meets the statutory purposes of a conservation easement.¹² Conservation easements run with the land and are binding on all subsequent owners.¹³ Conservation easements must be recorded in the same manner as any other instrument affecting the title to real property.¹⁴

1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a)

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ Section 704.06(2), F.S.

¹² Section 704.06(3), F.S.

¹³ Section 704.06(4), F.S.

¹⁴ Section 704.06(5), F.S.

Conservation Easement Tax Preferences

Florida has long provided that land subject to a conservation easement of at least 10 years is assessed based on its current use and not its highest and best use.¹⁵

In November 2008, Florida's voters amended the Florida Constitution to provide an ad valorem tax exemption for real property dedicated in perpetuity for conservation purposes, including real property encumbered by perpetual conservation easements or by other perpetual conservation protections, as defined by general law.¹⁶ Thus, Florida provides two tax preferences related to property dedicated to conservation: (1) an ad valorem tax exemption for property subject to a perpetual conservation easement,¹⁷ and (2) a classified use assessment for property subject to a conservation easement of at least 10 years.¹⁸

Annual Application

Generally, Florida requires that every person entitled to an ad valorem exemption annually apply with the property appraiser before March 1, listing and describing the property for which the exemption is claimed and certifying its ownership and use;¹⁹ however, there are exceptions. For instance, certain types of properties are exempt from the annual application,²⁰ a property appraiser may modify the annual application requirement in some situations,²¹ and a county may waive the annual application requirement for most exemptions.²² Applications filed after the first year the exemption is granted are referred to as "renewal applications."²³ Failure to timely file a required application constitutes a waiver of the exemption for that year.²⁴

Florida currently requires annual applications for both the ad valorem exemption for property subject to a perpetual conservation easement and the classified use assessment for property subject to a conservation easement of at least 10 years.²⁵ Property owners must apply by March 1.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 196.011, F.S., to provide that once an original application for ad valorem tax exemption for property subject to a perpetual conservation easement has been granted, the property owner is not required to file a renewal application until the use of the property no longer complies with the restrictions and requirements of the perpetual conservation easement.

¹⁵ See Chapter 67-528, Laws of Fla.; s. 193.501, F.S.

¹⁶ FLA. CONST. art. VII, s. 3(f).

¹⁷ Section 196.26, F.S.

¹⁸ Section 194.501, F.S.

¹⁹ Section 196.011(1), F.S.

²⁰ Section 196.011(3), F.S.

²¹ Section 196.011(4), F.S.

²² Section 196.011(9)(a), F.S.

²³ See s. 196.011(6), F.S.

²⁴ Section 196.011(1), F.S.

²⁵ Sections 196.011(6)(b) and 193.501(8), F.S.

²⁶ *Id.*

Section 2 provides an effective date of July 1, 2016.

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:

The Revenue Estimating Conference has determined that CS/SB 190 will not reduce state or local revenues.

B. Private Sector Impact:

Property owners will no longer have to apply annually to maintain their tax exemption.

C. Government Sector Impact:

Property appraisers will have to process fewer renewal applications.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.011 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 Community Affairs on October 20, 2015:

Clarifies that a property owner is not required to file a renewal application until the use of

the property no longer complies with the restrictions and requirements of the conservation easement.

B. Amendments:

None.

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

By the Committee on Community Affairs; and Senator Hutson

578-00903-16

2016190c1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

A bill to be entitled

An act relating to conservation easements; amending s. 196.011, F.S.; deleting a requirement that an exemption for a conservation easement must be renewed annually; providing that a property owner is not required to file a renewal application until the use of the property no longer complies with conservation easement requirements or restrictions; providing an effective date.

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

Section 1. Paragraph (b) of subsection (6) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.—
(6)

(b) Once an original application for tax exemption has been granted under s. 196.26, the property owner is not required to file a renewal application until in each succeeding year on or before February 1, the property appraiser shall mail a renewal application to the applicant on a form prescribed by the Department of Revenue. The applicant must certify on the form that the use of the property no longer complies with the restrictions and requirements of the conservation easement. The form shall include a statement that the exemption granted under s. 196.26 will not be renewed unless the application is returned to the property appraiser.

Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11-19-2015

Meeting Date

190

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email _____

Speaking: For Against Information

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

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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 Committee on Appropriations

BILL: CS/SB 218

INTRODUCER: Criminal Justice Committee and Senators Hutson and Gaetz

SUBJECT: Offenses Involving Electronic Benefits Transfer Cards

DATE: November 19, 2015 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
2.	<u>Clodfelter</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	<u>Clodfelter</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 218 amends section 414.39, Florida Statutes, which punishes public assistance fraud. Currently this statute, in part, punishes a person who knowingly “traffics” (or knowingly attempts to traffic or knowingly aids another person in trafficking) in a food assistance card, an authorization for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law.

The bill specifies acts included in the term “traffic.” The bill also punishes a person who possesses two or more electronic benefits transfer cards issued to other persons and sells or attempts to sell one or more of these cards. The first violation is a first degree misdemeanor; a second or subsequent violation is a third degree felony.

The Criminal Justice Impact Conference met on October 28, 2015, and determined the bill has a positive, insignificant prison bed impact.

The bill has an effective date of October 1, 2016.

II. Present Situation:

Public Assistance Fraud

“Public assistance” refers to benefits paid for temporary cash assistance,¹ food assistance,² Medicaid,³ or optional state supplementation program.^{4, 5} The Division of Public Assistance Fraud in the Department of Financial Services (DFS) is authorized to investigate public assistance fraud.⁶

Relevant to the bill, s. 414.39(2), F.S., provides that a person is subject to the criminal penalties provided in s. 414.39(5), F.S., if the person knowingly uses, transfers, acquires, *traffics*, alters, forges, or possesses a food assistance identification card, an authorization, including, but not limited to, an electronic authorization, for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law.⁷ Subsection (2) also provides that a person is subject to the criminal penalties provided in s. 414.39(5), F.S., if the person knowingly attempts or knowingly aids or abets another person to commit any of the previously-described acts of public assistance fraud.

Section 414.39(5), F.S., provides that:

- If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is less than an aggregate value of \$200 in any 12 consecutive months, such person commits a first degree misdemeanor;⁸
- If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more, but less than \$20,000 in any 12 consecutive months, such person commits a third degree felony;⁹

¹ Temporary cash assistance provides cash assistance to families with children to help families become self-supporting.

² Food assistance helps low-income individuals and families buy healthy food.

³ Medicaid provides medical coverage to low-income individuals and families.

⁴ Optional state supplementation provides monthly cash payments to indigent elderly or disabled individuals.

⁵ Section 414.0252(10), F.S.

⁶ Section 414.411, F.S.; “Division of Public Assistance Fraud (Retailer Food Stamp Trafficking),” Department of Financial Services, available at <http://www.myfloridacfo.com/Division/PAF/SLEB/reportRetailFraud.htm> (last viewed on October 28, 2015). “On the State level, the Division partners with the Department of Children and Families, the Agency for Health Care Administration, the Department of Health, and the Office of Early Learning to investigate fraud in programs administered by those entities. On the Federal level[,] the Division partners with the United States Department of Agriculture’s Food and Nutrition Services, the Social Security Administration, and the Department of Health and Human Services.” “Division of Public Assistance Fraud,” Department of Financial Services, available at <http://www.myfloridacfo.com/Division/PAF/> (last viewed on October 28, 2015).

⁷ Federal law also punishes public assistance fraud. *See* 7 U.S.C. sec. 2024. Further, the Florida Department of Children and Families states: “According to [7 C.F.R. sec. 273.16], persons convicted in court of trafficking more than \$500 (aggregate) in food assistance benefits are permanently disqualified from receiving food assistance (lifetime ineligibility). Recipients are permanently disqualified on a third Intentional Program Violation (IPV or “fraud”) or receiving benefits in a transaction involving a controlled substance, firearms, ammunition, or explosives.” 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

⁸ A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁹ A third degree felony is punishable by up to five years in state prison and a fine of up to \$5,000. However, if the third degree felony is not a forcible felony or a third degree felony under chapter 810, F.S., and if total sentence points are 22 points or fewer, the court must sentence the offender to a nonprison sanction unless the court makes written findings that this sanction could present a danger to the public. Sections 775.082 and 775.083, F.S.

- If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$20,000 or more, but less than \$100,000 in any 12 consecutive months, such person commits a second degree felony;¹⁰ and
- If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$100,000 or more in any 12 consecutive months, such person commits a first degree felony.¹¹

Relevant to the bill, s. 414.39(2), F.S., does not currently describe acts included in the term “traffics.”¹² The Code of Federal Regulation defines “trafficking” as:

- The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;
- The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;
- Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;
- Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food;
- Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or
- Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.¹³

SNAP Fraud and Electronic Benefits Transfer Card Fraud

The United States Department of Agriculture (USDA), under federal-state agreements, issues food assistance benefits to low-income individuals and households. These benefits used to be

¹⁰ A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

¹¹ A first degree felony is punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

¹² According to the Florida Department of Children and Families, “[c]riminal prosecution of public assistance trafficking has met some resistance from prosecutors due in part to the lack of a definition. In SFY 2014-15, 496 recipients were administratively disqualified under trafficking regulations, while only 5 were sent to a State Attorney’s Office for criminal prosecution. (Note: This number does not include local law enforcement efforts.)” 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

¹³ 7 C.F.R. sec. 271.2 (Definitions).

issued in the form of paper food coupons that were commonly referred to as “food stamps.” Previously these coupons were issued under the federal Food Stamp Program. This program is now called the Supplemental Nutrition Assistance Program (SNAP). SNAP benefits are “deposited into a cash or food assistance (SNAP) account each month” by the USDA. These benefits are accessed using an Electronic Benefits Transfer (EBT) card.¹⁴ In Florida this card is referred to as an EBT ACCESS card.¹⁵ The Florida Department of Children and Families (DCF) administers the EBT card program.¹⁶

“Households can use food assistance benefits to buy breads, cereals, fruits, vegetables, meats, fish, poultry, dairy and plants and seeds to grow food for ... [a] household to eat. Households cannot use food assistance benefits to buy nonfood items such as pet foods, soaps, paper products, household supplies, grooming items, alcoholic beverages, tobacco, vitamins, medicines, food to eat in the store, or hot foods.”¹⁷ “SNAP benefits ... cannot be used to withdraw cash.”¹⁸

A retailer that would like to accept SNAP benefits (EBT) must be licensed by the USDA’s Food and Nutrition Service to participate. A retailer must either sell three varieties of qualifying foods in four specified staple food groups (with perishable foods in at least two of the categories) or “more than one-half (50%) of the total dollar amount of all retail sales (food, nonfood, gas and services) sold in the store must be from the sale of eligible staple foods.”¹⁹ Florida law specifically prohibits use or acceptance of EBT cards at certain establishments that sell distilled spirits and at bottle clubs, adult entertainment establishments, casinos, and gambling and gaming facilities.²⁰

Fraudulent activity involving SNAP benefits occurs in a number of different ways:

¹⁴ According to the USDA, in FY 2014, SNAP provided over \$5 billion (\$5,472,834,001) in food assistance benefits to a monthly average of 3,526,311 persons in Florida. *Supplemental Nutrition Assistance Program, State Activity Report, Fiscal Year 2014* (June 2015), Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/sites/default/files/FY14%20State%20Activity%20Report.pdf> (last viewed on October 28, 2015). The Florida Department of Children and Families states: “EBT cards are produced with the name of the Head of Household – even though several family members may be on the public assistance case. There is no law prohibiting eligible clients from giving their EBT cards to someone for the purposes of obtaining those benefits for them. (Example: A grandmother may give her EBT card to her son or neighbor to get her groceries.) In some situations, an EBT card also can be issued and used by a representative on behalf of the client.” 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

¹⁵ “Welcome to EBT,” Florida Department of Children and Families, available at <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/welcome-ebt> (last viewed on October 28, 2015).

¹⁶ Section 402.82, F.S.

¹⁷ What is SNAP Fraud?” Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/fraud/what-snap-fraud> (last viewed on October 28, 2015).

¹⁸ “Restrictions on Use of Public Assistance Electronic Benefit Transfer Cards” (May 8, 2015), National Conference of State Legislatures, available at <http://www.ncsl.org/research/human-services/ebt-electronic-benefit-transfer-card-restrictions-for-public-assistance.aspx> (last viewed on October 28, 2015).

¹⁹ “Retail Store Eligibility USDA Supplemental Nutrition Assistance Program,” Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/snap/retail-store-eligibility-usda-supplemental-nutrition-assistance-program> (last viewed on October 28, 2015).

²⁰ Section 402.82, F.S.

SNAP fraud is when SNAP benefits are exchanged for cash. This is called trafficking and it is against the law.²¹

SNAP fraud also happens when someone lies on their application to get benefits or to get more benefits than they are supposed to get.

SNAP fraud also happens when a retailer has been disqualified from the program for past abuse and lies on the application to get in the program again.²²

State and federal investigations of SNAP fraud involve fraud that occurs before and after certification of eligibility for SNAP benefits.²³ The DFS's Division of Public Assistance Fraud states that EBT card trafficking, which is a type of fraud involving SNAP benefits, occurs:

...when through the use of EBT cards there is an exchange of ... [SNAP] benefits with a retail store for cash. Trafficking also includes the buying or selling of EBT cards by citizens and stores. The advent of social networking has given rise to open selling of EBT cards by advertising them on social networking sites or on public listings such as Craigslist and EBay.^{24, 25}

²¹ This act is also known as "cash back." "Owner of Lakeland Market Sentenced to Federal Prison for Food Stamp Fraud" (April 17, 2015), United States Attorney's Office (Middle District of Florida), available at <http://www.justice.gov/usao-mdfl/pr/owner-lakeland-market-sentenced-federal-prison-food-stamp-fraud> (last viewed on October 28, 2015).

²² "What is SNAP Fraud?" Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/fraud/what-snap-fraud> (last viewed on October 28, 2015).

²³ According to the USDA, in FY 2014 fraud dollars determined by pre-certification investigations (Florida) totaled \$23,633,173 and fraud dollars determined by post-certification eligibility (Florida) totaled \$14,605,207. *Supplemental Nutrition Assistance Program, State Activity Report, Fiscal Year 2014* (June 2015), Food and Nutrition Service, United States Department of Agriculture, available at

<http://www.fns.usda.gov/sites/default/files/FY14%20State%20Activity%20Report.pdf> (last viewed on October 28, 2015).

²⁴ "Division of Public Assistance Fraud (Retailer Food Stamp Trafficking)," Department of Financial Services, available at <http://www.myfloridacfo.com/Division/PAF/SLEB/reportRetailFraud.htm> (last viewed on October 28, 2015). The division further notes that SNAP trafficking is "a cash business that spawns other crimes in the community" and such trafficking supports drugs, prostitution, and illegal gambling. *Id.*

²⁵ The extent of EBT card fraud in Florida cannot be determined based on available data. Data from the USDA does not disaggregate EBT card fraud from SNAP fraud. The Division of Public Assistance Fraud in the Department of Financial Services has provided the following information regarding cases that office has handled:

In calendar year 2014, the Division of Public Assistance Fraud (PAF) completed 1,671 trafficking cases totaling \$2,613,546. The average recovery for a trafficking case is \$1,615.

However, PAF has shifted focus from EBT food stamp trafficking to fraud that is detected through data-matching processes. These are cases where PAF finds inconsistencies between wages being reported to DOR vs. what is reported to DCF - where people are fraudulently receiving benefits based on unreported income or by concealing material facts. The expense to the state is much higher in this type of fraud - so far in calendar year 2015, PAF has closed 265 cases involving eligibility totaling \$1.494 million. The average recovery per case is \$5,636.

In calendar year 2015, PAF completed an additional 15 cases for \$110,113. Trafficking investigations are still ongoing - just on a far smaller scale. When PAF has sufficient evidence the cases are elevated to the level that is appropriate for criminal prosecution. This bill will make the prosecution of trafficking much clearer and PAF will continue to work those cases to the full extent of the law.

According to the USDA, the EBT card creates an “‘audit trail’ from EBT transactions to identify trafficking and other suspicious activities.” Investigators with the USDA’s Food and Nutrition Service “analyze retailer data, conduct undercover investigations, and process cases – including fines and administrative disqualifications- against violating retailers.”²⁶ The USDA “also works with State law enforcement authorities to provide them with SNAP benefits that are used in sting operations, supporting anti-trafficking actions at the local level.”

As previously noted, EBT card fraud may be prosecuted under s. 414.39, F.S. Furthermore, according to the DCF, “EBT cards are also currently covered under the definition of ‘credit cards’ in s. 817.58, F.S.”²⁷ This definition is relevant to s. 817.60, F.S., which punishes theft by taking or retaining possession of a credit card taken; theft of a credit card that has been lost, mislaid, or delivered by mistake; the unauthorized purchase or selling of another person’s credit card; unlawfully obtaining control of a credit card as a security for debt; and dealing in other cardholders’ credit cards.

As previously noted, the DFS’s Division of Public Assistance Fraud is authorized to investigate SNAP fraud. Some of these cases may involve “allegations of clients/recipients trafficking in benefits” that are referred by the DCF to the division.²⁸ EBT card trafficking sting operations may involve multiple agencies such as the USDA and other federal agencies, local law enforcement and the Department of Law Enforcement, Florida or federal prosecutors, and the Department of Financial Services and other state agencies.

III. Effect of Proposed Changes:

The bill amends s. 414.39, F.S., which punishes public assistance fraud. Currently this statute, in part, punishes a person who knowingly “traffics” (or knowingly attempts to traffic or knowingly aids another person in trafficking) in a food assistance card, an authorization for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law.

The bill specifies acts included in the term “traffic.” “Traffic” includes:

- Buying, selling, stealing, or otherwise effecting an exchange of food assistance benefits issued and accessed via electronic benefits transfer (EBT) cards, electronic benefits transfer (EBT) card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

Bill Analysis and Fiscal Impact Statement (SB 218) (September 23, 2015), Department of Financial Services (on file with the Senate Committee on Criminal Justice).

²⁶ What is SNAP Fraud?” Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/fraud/what-snap-fraud> (last viewed on October 28, 2015).

²⁷ 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

²⁸ 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice); “Public Benefits Integrity,” Florida Department of Children and Families, <http://www.myflfamilies.com/service-programs/public-benefits-integrity> (last viewed on October 28, 2015).

- Attempting to buy, sell, steal, or otherwise effect an exchange of food assistance benefits issued and accessed via electronic benefits transfer (EBT) cards, electronic benefits transfer (EBT) card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;
- Exchanging firearms, ammunition, explosives, or controlled substances, as defined in s. 893.02, F.S., for food assistance benefits;
- Purchasing with food assistance benefits a product with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with food assistance benefits in exchange for cash or consideration other than eligible food; or
- Intentionally purchasing products originally purchased with food assistance benefits in exchange for cash or consideration other than eligible food.

The acts described in the bill are substantively similar to the acts described in the federal definition of “trafficking” in 7 C.F.R. sec. 271.2 (Code of Federal Regulations).

The bill also punishes a person who possesses two or more electronic benefits transfer cards issued to other persons and sells or attempts to sell one or more of these cards. The first violation is a first degree misdemeanor; a second or subsequent violation is a third degree felony.

The bill reenacts s. 921.0022(3)(a), F.S., (offense severity ranking chart of Criminal Punishment Code), which currently ranks offenses in s. 414.39(2), F.S., as Level 1 offenses. This reenactment incorporates the amendment to s. 414.39(2), F.S., made by the bill. Therefore, the new third degree felony for EBT card fraud (second or subsequent violation) would be a Level 1 offense.

The effective date of the bill is October 1, 2016.

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:

Under CS/SB 218, an EBT card retailer who commits the new EBT card fraud offense could lose its license to accept SNAP benefits (EBT). A person receiving SNAP benefits (EBT) could be determined ineligible for further SNAP benefits if he or she commits the new EBT card fraud offense.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, met on October 28, 2012 and determined the bill has a positive, insignificant impact on prison beds. Although it is anticipated that defining the term “trafficking” will increase the number of criminal prosecutions, the great majority of cases involve small monetary amounts that would be punishable as misdemeanors or felonies not involving incarceration.

According to the DFS, the bill will not have a fiscal impact on the department.²⁹

The Florida Department of Children and Families did not indicate that the bill will have an impact on the department.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 414.39 of the Florida Statutes.

This bill reenacts section 921.0022(3)(a), F.S., for the purpose of incorporating the amendment made by the bill to section 414.39, F.S., in reference to that statute in section 921.0022(3)(a), F.S.

²⁹ Bill Analysis and Fiscal Impact Statement (SB 218) (September 23, 2015), Department of Financial Services (on file with the Senate Committee on Criminal Justice).

³⁰ 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

IX. Additional Information:

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

CS by Criminal Justice on October 5, 2015:

- Removes mandatory community service for a violation of the new EBT card fraud offense created by the bill.
- Provides that a first violation of the new EBT card fraud offense is a first degree misdemeanor; a second or subsequent violation is a third degree felony.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Hutson

591-00707-16

2016218c1

1 A bill to be entitled
 2 An act relating to offenses involving electronic
 3 benefits transfer cards; amending s. 414.39, F.S.;
 4 specifying acts that constitute trafficking in food
 5 assistance benefits cards and are subject to criminal
 6 penalties; providing criminal penalties; reenacting s.
 7 921.0022(3) (a), F.S., relating to level 1 of the
 8 offense severity ranking chart, to incorporate the
 9 amendment made to s. 414.39, F.S., in a reference
 10 thereto; providing an effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Subsection (2) of section 414.39, Florida
 15 Statutes, is amended to read:
 16 414.39 Fraud.—
 17 (2) (a) Any person who knowingly:
 18 1. ~~(a)~~ Uses, transfers, acquires, traffics, alters, forges,
 19 or possesses;
 20 2. ~~(b)~~ Attempts to use, transfer, acquire, traffic, alter,
 21 forge, or possess; or
 22 3. ~~(c)~~ Aids and abets another person in the use, transfer,
 23 acquisition, traffic, alteration, forgery, or possession of,
 24
 25 a food assistance identification card, an authorization,
 26 including, but not limited to, an electronic authorization, for
 27 the expenditure of food assistance benefits, a certificate of
 28 eligibility for medical services, or a Medicaid identification
 29 card in any manner not authorized by law commits a crime and

Page 1 of 9

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

591-00707-16

2016218c1

30 shall be punished as provided in subsection (5).
 31 (b) As used in this subsection, the term "traffic"
 32 includes:
 33 1. Buying, selling, stealing, or otherwise effecting an
 34 exchange of food assistance benefits issued and accessed via
 35 electronic benefits transfer (EBT) cards, electronic benefits
 36 transfer (EBT) card numbers and personal identification numbers
 37 (PINs), or by manual voucher and signature, for cash or
 38 consideration other than eligible food, either directly,
 39 indirectly, in complicity or collusion with others, or acting
 40 alone;
 41 2. Attempting to buy, sell, steal, or otherwise effect an
 42 exchange of food assistance benefits issued and accessed via
 43 electronic benefits transfer (EBT) cards, electronic benefits
 44 transfer (EBT) card numbers and personal identification numbers
 45 (PINs), or by manual voucher and signature, for cash or
 46 consideration other than eligible food, either directly,
 47 indirectly, in complicity or collusion with others, or acting
 48 alone;
 49 3. Exchanging firearms, ammunition, explosives, or
 50 controlled substances, as defined in s. 893.02, for food
 51 assistance benefits;
 52 4. Purchasing with food assistance benefits a product with
 53 the intent of obtaining cash or consideration other than
 54 eligible food by reselling the product, and subsequently
 55 intentionally reselling the product purchased with food
 56 assistance benefits in exchange for cash or consideration other
 57 than eligible food; or
 58 5. Intentionally purchasing products originally purchased

Page 2 of 9

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

591-00707-16 2016218c1

59 with food assistance benefits in exchange for cash or
 60 consideration other than eligible food.

61 (c) Any person who has possession of two or more electronic
 62 benefits transfer (EBT) cards issued to other persons and who
 63 sells or attempts to sell one or more of these cards commits a
 64 misdemeanor of the first degree, punishable as provided in s.
 65 775.082 or s. 775.083. A second or subsequent violation of this
 66 paragraph constitutes a felony of the third degree, punishable
 67 as provided in s. 775.082, s. 775.083, or s. 775.084.

68 Section 2. For the purpose of incorporating the amendment
 69 made by this act to section 414.39, Florida Statutes, in a
 70 reference thereto, paragraph (a) of subsection (3) of section
 71 921.0022, Florida Statutes, is reenacted to read:

72 921.0022 Criminal Punishment Code; offense severity ranking
 73 chart.-

74 (3) OFFENSE SEVERITY RANKING CHART
 75 (a) LEVEL 1

Florida Statute	Felony Degree	Description
24.118(3) (a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2) (b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2) (b)	3rd	Failure to remit sales

591-00707-16 2016218c1

80 taxes, amount greater than
 \$300 but less than \$20,000.

81 316.1935(1) 3rd Fleeing or attempting to
 elude law enforcement
 officer.

82 319.30(5) 3rd Sell, exchange, give away
 certificate of title or
 identification number plate.

83 319.35(1) (a) 3rd Tamper, adjust, change,
 etc., an odometer.

84 320.26(1) (a) 3rd Counterfeit, manufacture, or
 sell registration license
 plates or validation
 stickers.

85 322.212 3rd Possession of forged,
 (1) (a)-(c) stolen, counterfeit, or
 unlawfully issued driver
 license; possession of
 simulated identification.

86 322.212(4) 3rd Supply or aid in supplying
 unauthorized driver license
 or identification card.

	591-00707-16		2016218c1
	322.212(5)(a)	3rd	False application for driver license or identification card.
87	414.39(2)	3rd	Unauthorized use, possession, forgery, or alteration of food assistance program, Medicaid ID, value greater than \$200.
88	414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
89	443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
90	509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
91	517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
92	562.27(1)	3rd	Possess still or still

Page 5 of 9

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

	591-00707-16		2016218c1
			apparatus.
93	713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
94	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
95	812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
96	815.04(5)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
97	817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
98	817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
99			

Page 6 of 9

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

	591-00707-16		2016218c1
100	826.01	3rd	Bigamy.
101	828.122(3)	3rd	Fighting or baiting animals.
	831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
102	831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
103	832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.
104	832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
105	838.15(2)	3rd	Commercial bribe receiving.
106	838.16	3rd	Commercial bribery.
107	843.18	3rd	Fleeing by boat to elude a law enforcement officer.

Page 7 of 9

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

	591-00707-16		2016218c1
108	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
109	849.01	3rd	Keeping gambling house.
110	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
111	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
112	849.25(2)	3rd	Engaging in bookmaking.
113	860.08	3rd	Interfere with a railroad signal.
114	860.13(1)(a)	3rd	Operate aircraft while under the influence.
115	893.13(2)(a)2.	3rd	Purchase of cannabis.
116	893.13(6)(a)	3rd	Possession of cannabis (more

Page 8 of 9

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

591-00707-16

2016218c1

than 20 grams).

117

934.03(1) (a)

3rd

Intercepts, or procures any
other person to intercept,
any wire or oral
communication.

118

119

Section 3. This act shall take effect October 1, 2016.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 230

INTRODUCER: Appropriations Committee and Senator Dean

SUBJECT: Missing Persons with Special Needs

DATE: November 23, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Favorable
3.	<u>Brown</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

I. Summary:

CS/SB 230 creates the “Project Leo” pilot project in five North Florida counties – Alachua, Baker, Columbia, Hamilton, and Suwanee – to provide personal devices to aid search-and-rescue efforts for persons with special needs in the case of elopement. The bill creates a separate pilot project for the same purpose in two South Florida counties – Broward and Palm Beach.

The North Florida project will be developed and administered by the Center for Autism and Related Disabilities at the University of Florida (“CARD/UF”) while the South Florida project will be developed and administered by Center for Autism and Related Disabilities at Florida Atlantic University (“CARD/FAU”). The bill directs the CARD/UF and the CARD/FAU to develop criteria for selecting project participants. The CARD/UF and the CARD/FAU will select qualifying participants on a first-come, first-served basis to the extent that funding is available. The project will be voluntary and free of charge to participants. The CARD/UF and the CARD/FAU will distribute the personal devices to the sheriff’s offices of the participating counties and will fund any device monitoring costs.

The CARD/UF and the CARD/FAU will submit preliminary and final reports to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The final reports must include recommendations for modifications or continued implementation of the projects.

The bill appropriates \$100,000 to the CARD/UF and \$100,000 to the CARD/FAU from the General Revenue Fund for Fiscal Year 2016-2017 for the purpose of implementing this act.

The effective date of the bill is July 1, 2016.

II. Present Situation:

Elopement of Individuals with Special Needs

Elopement, also referred to as wandering, is a safety issue that affects some individuals with disabilities, their families, and the community. Wandering occurs when someone leaves a safe area or a responsible caregiver. This typically includes situations where the person may be injured or harmed as a result.¹

Elopement and Wandering of Individuals with Autism

Elopement in children with autism might include running away from adults at school or in the community, leaving a classroom without permission, or leaving the house when the family is not looking. This behavior is considered common and short-lived in toddlers, but it may persist or re-emerge in children and adults with autism. Children with autism have challenges with social and communication skills and safety awareness. This makes wandering a potentially dangerous behavior.²

There are various reasons someone with autism may wander; typically he or she will wander to an area of interest (especially bodies of water) or away from something that is bothersome or stressful (such as uncomfortable noise or bright lights).³

Approximately 50 percent of children with autism have a tendency to wander or elope.⁴ Families report that about half of such children who have a tendency to wander succeeded and went missing long enough to cause serious concern. A substantial portion of those children who wander are at risk of bodily harm.⁵ Of those children who went missing, 24 percent were in danger of drowning and 65 percent were in danger of traffic injury.⁶

Elopement and Wandering of Individuals with Alzheimer's Disease

Wandering and elopement can also be dangerous for individuals with Alzheimer's disease and other forms of dementia. The individual may not remember his or her name or address in order to assist rescuers. They can become disoriented even in familiar places. An individual with

¹“Wandering (Elopement),” Centers for Disease Control and Prevention, available at <http://www.cdc.gov/ncbddd/disabilityandsafety/wandering.html> (last viewed on September 23, 2015).

² Information provided by the AWAARE Collaboration, available at <http://awaare.nationalautismassociation.org/> (last viewed on September 23, 2015).

³ “Why is My Child Eloping and What Can I Do?” Autism Community, available at <http://www.autism-community.com/why-is-my-child-elooping-and-what-can-i-do/> (last viewed on September 23, 2015).

⁴ Michelle Diamant, “Autism Wandering Poses ‘Critical Safety Issue,’ Survey Suggests,” *Autism Wandering Poses “Critical* (April 21, 2011), disability scoop, available at <http://www.disabilityscoop.com/2011/04/21/autism-wandering-survey/12953/> (last viewed on September 23, 2015).

⁵ Connie Anderston, et al., “Occurrence and Family Impact of Elopement in Children With Autism Spectrum Disorders,” *PEDIATRICS* (October 8, 2012), available at <http://pediatrics.aappublications.org/content/early/2012/10/02/peds.2012-0762.full.pdf+html> (last viewed on September 23, 2015).

⁶ *Id.*

Alzheimer's disease who wanders or elopes is most often looking for someone or something familiar, escaping a source of stress or anxiety, or may be reliving the past.⁷

Statistics indicate that in the United States, more than 34,000 individuals with Alzheimer's disease wander out of their homes or care facilities each year.⁸ Six in 10 people with some type of dementia will wander or elope;⁹ additionally, it is estimated that 11-24 percent of institutionalized dementia patients wander.¹⁰

Anti-wandering and GPS tracking devices can be worn or attached to an individual's shoe or belt loop or sewn into clothing. In the event that an individual goes missing, a caregiver can utilize products and services from the monitoring company for the device to pinpoint the wearer's location. There are a number of anti-wandering and GPS tracking devices on the market that can aid in search and rescue for individuals with special needs who are prone to wander. Two examples are the Protect and Locate (PAL) tracking system through Project Lifesaver and the Amber Alert GPS.

- The PAL is a tracking device that is worn as a watch by the individual at risk of wandering and has a companion portable receiver which notifies the caregiver of a wandering event. Through the use of cell phone ID location and GPS technologies, it provides the location of a wearer accurate to nine feet.¹¹ If an individual wearing a PAL device wanders outside of a set perimeter, the caregiver's receiver will receive an alert and the caregiver will receive an email alert and the device will send a text message with the date and location of the wandering event.¹² Additionally, a caregiver can press the "find" button on his or her receiver to have the location of the individual and the address displayed on the portable receiver. If the individual wearing the PAL watch/transmitter is lost, he or she can push the panic button on the PAL watch to have the current address shown on the caregiver's portable receiver.¹³ The PAL tracking system costs \$249.99 per unit and requires a monitoring/service plan of \$29.95 per month.¹⁴
- The Amber Alert GPS is a small disk that can be put in an individual's purse or backpack or, with the purchase of an accessory, can be attached to the individual. The Amber Alert GPS syncs with an online tracking portal and mobile application for iPhone, Blackberry, and Droid cellular phones to provide the real-time location of the wearer.¹⁵ It allows the caregiver to designate up to 20 "safe zones" and receive an alert each time a wearer leaves one of the designated safe zones. It also has a two-way voice feature to allow the caregiver and wearer to talk to each other through the device and an SOS button that the wearer can push in the

⁷ "Alzheimer's: Understand wandering and how to address it," Mayo Clinic, available at <http://www.mayoclinic.org/healthy-living/caregivers/in-depth/alzheimers/art-20046222> (last viewed on September 23, 2015).

⁸ "Wandering and Elopement Resources," National Council of Certified Dementia Practitioners, available at <http://www.nccdp.org/wandering.htm> (last viewed on September 23, 2015).

⁹ "Wandering and Getting Lost," Alzheimer's Association, available at <http://www.alz.org/care/alzheimers-dementia-wandering.asp> (last viewed on September 23, 2015).

¹⁰ See footnote 8.

¹¹ Information about PAL (Protect And Locate) Tracking System is available from Project Lifesaver at <http://www.projectlifesaver.org/Pal-info/> (last viewed on September 23, 2015).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Information about the Amber Alert GPS Smart Locator is available from Amber Alert GPS at <https://www.amberalertgps.com/products> (last viewed on September 23, 2015).

event of an emergency to notify the caregiver and up to ten additional individuals.¹⁶ Amber Alert GPS costs \$145 per unit and requires a monitoring/service plan of \$15-18 per month.¹⁷

Centers for Autism and Related Disabilities (CARD)

There are seven non-residential CARD centers across the state. The centers work with families, caregivers, and professionals to optimize the potential of people with autism and related disabilities. The centers serve children and adults of all levels of intellectual functioning who have autism, autistic-like disabilities, pervasive developmental disorder, dual sensory impairments (hearing and vision impaired), or a vision or hearing loss with another disabling condition.^{18, 19} The CARD/UF serves fourteen counties in North Central Florida,²⁰ and the CARD/FAU serves five counties in South Florida.²¹

III. Effect of Proposed Changes:

The bill creates s. 937.041, F.S., which creates the “Project Leo” pilot in Alachua, Baker, Columbia, Hamilton, and Suwanee counties to provide personal devices to aid search-and-rescue efforts for persons with special needs in the case of elopement. The project will be developed and administered by the Center for Autism and Related Disabilities at the University of Florida (CARD/UF).

The bill creates an additional pilot project in Broward and Palm Beach counties for the same purpose as Project Leo. The additional pilot project will be developed and administered by the Center for Autism and Related Disabilities at Florida Atlantic University (CARD/FAU).

Under the bill, the CARD/UF and the CARD/FAU select project participants based on criteria developed by the centers, which must include, at a minimum, the individual’s risk of elopement. Participants are selected on a first-come, first-served basis. The number of participants is determined based on available funding within the centers’ existing resources.

Participation in the project is voluntary and free of charge. Participants are provided a personal device to aid search and rescue efforts. This device is attachable to clothing or otherwise wearable. The CARD/UF and the CARD/FAU distribute the personal devices to the sheriff’s offices of the participating counties. The CARD/UF and the CARD/FAU will fund any device monitoring costs.

The CARD/UF and the CARD/FAU are directed to submit preliminary and final reports to the Governor, the Speaker of the House of Representatives, and the President of the Senate. Both reports must include all of the following for each pilot project:

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ “About CARD FAQ,” Center for Autism and Related Disabilities, University of Florida, available at <http://card.ufl.edu/about-card/faq/> (last viewed on September 23, 2015).

¹⁹ “About FAU Center for Autism & Related Disorders,” Florida Atlantic University, available at <http://coe.fau.edu/centersandprograms/card/aboutcard.php> (last viewed on November 19, 2015).

²⁰ *Supra*, note 18. The counties served by the CARD/UF are Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Levy, Marion, Putnam, Suwannee, and Union.

²¹ *Supra*, note 19. The counties served by the CARD/FAU are Indian River, Martin, Okeechobee, Palm Beach, and St. Lucie.

- The criteria used to select the participants;
- The number of participants;
- The nature of the participants' special needs;
- The number of participants who elope;
- The amount of time taken to rescue a participant following elopement; and
- The outcome of any rescue attempts.

Additionally, the final reports must include recommendations for modifications or continued implementation of the respective projects. The projects operate to the extent of available funding within the centers' existing resources. Since the bill provides that s. 937.041, F.S., expires on June 30, 2018, the projects effectively end on that date.

The bill appropriates \$100,000 to the CARD/UF and an additional \$100,000 to the CARD/FAU from the General Revenue Fund for FY 2016-2017 for the purpose of implementing this act.

The effective date of the bill is July 1, 2016.

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 number of participants is determined based on available funding within the existing resources of the CARD/UF and the CARD/FAU. The centers distribute the personal devices to the sheriff's offices of the participating counties. The centers will fund any device monitoring costs.

CS/SB 230 provides \$100,000 to the CARD/UF and an additional \$100,000 to the CARD/FAU from the General Revenue Fund for the purpose of implementing this act.

The Board of Governors states that there is no determinable fiscal impact to the state universities from the bill and the bill has no fiscal impact on the Board of Governors office.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The intent of the bill regarding funding is unclear. Section 1 of the bill indicates that the pilot projects will operate to the extent of available funding within the existing resources of the CARD/UF and the CARD/FAU. However, Section 2 appropriates a total of \$200,000 from the General Revenue Fund (\$100,000 to CARD/UF and \$100,000 to CARD/FAU) for the purpose of implementing the pilot projects.

VIII. Statutes Affected:

This bill creates section 937.041 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations on November 19, 2015:

The committee substitute:

- Adds Alachua County to the list of counties in which the “Project Leo” pilot project may be implemented;
- Creates an additional pilot project in Broward and Palm Beach counties which will have the same purpose as Project Leo and operate identically to Project Leo, except that the additional pilot will be developed and administered by the Center for Autism and Related Disabilities at Florida Atlantic University (CARD/FAU);
- Removes the underlying bill’s requirement for reports submitted by the pilot projects to include the age of participants; and
- Appropriates \$100,000 in general revenue to the CARD/FAU for the purpose of implementing the bill, bringing the bill’s total appropriation to \$200,000 in general revenue.

²² 2016 Legislative Bill Analysis (SB 230) (September 9, 2015), State University System of Florida Board of Governors (on file with the Senate Committee on Criminal Justice).

B. Amendments:

None.

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



429010

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/19/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Altman) recommended the following:

Senate Amendment

Delete line 15
and insert:
(1) There is created a pilot project in Alachua, Baker,
Columbia,



827048

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/19/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 19 - 52

and insert:

(2) There is created an additional pilot project in Broward and Palm Beach Counties to provide personal devices to aid search-and-rescue efforts for persons with special needs in the case of elopement.

(3) Participants for the pilot project in the counties specified in subsection (1) shall be selected based on criteria



827048

11 developed by the Center for Autism and Related Disabilities at
12 the University of Florida. Participants for the pilot project
13 specified in subsection (2) shall be selected based on criteria
14 developed by the Center for Autism and Related Disabilities at
15 Florida Atlantic University. Criteria for participation in the
16 pilot projects must include, at a minimum, the person's risk of
17 elopement. The qualifying participants shall be selected on a
18 first-come, first-served basis by the respective centers to the
19 extent of available funding within their existing resources. The
20 project must be voluntary and free of charge to participants.

21 (4) Under the pilot projects, personal devices to aid
22 search-and-rescue efforts which are attachable to clothing or
23 otherwise worn shall be provided by the centers to the sheriff's
24 offices of the participating counties. The devices shall be
25 distributed to project participants by the county sheriff's
26 offices in conjunction with the centers. The centers shall fund
27 any costs associated with monitoring the devices.

28 (5) The centers shall submit a preliminary report by
29 December 1, 2016, and a final report by December 15, 2017, to
30 the Governor, the President of the Senate, and the Speaker of
31 the House of Representatives describing the implementation and
32 operation of the pilot projects. At a minimum, the report must
33 include the criteria used to select participants, the number of
34 participants, the nature of the participants' special needs, the
35 number of participants who elope, the amount of time taken to
36 rescue such participants following elopement, and the outcome of
37 any rescue attempts. The final report must also provide
38 recommendations for modification or continued implementation of
39 the projects.



827048

40 (6) The projects shall operate to the extent of available
41 funding within the respective centers' existing resources.

42 (7) This section expires June 30, 2018.

43 Section 2. For the 2016-2017 fiscal year, the sum of
44 \$100,000 is appropriated from the General Revenue Fund to the
45 Center for Autism and Related Disabilities at the University of
46 Florida and the sum of \$100,000 is appropriated from the General
47 Revenue Fund to the Center for Autism and Related Disabilities
48 at Florida Atlantic University for the purpose of implementing
49 this act.

50
51 ===== T I T L E A M E N D M E N T =====

52 And the title is amended as follows:

53 Delete line 3

54 and insert:

55 creating s. 937.041, F.S.; creating pilot projects in

By Senator Dean

5-00275A-16

2016230__

A bill to be entitled

An act relating to missing persons with special needs; creating s. 937.041, F.S.; creating a pilot project in specified counties to provide personal devices to aid search-and-rescue efforts for persons with special needs; providing for administration of the project; requiring reports; providing for expiration; providing an appropriation; providing an effective date.

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

Section 1. Section 937.041, Florida Statutes, is created to read:

937.041 Missing persons with special needs pilot project.-

(1) There is created a pilot project in Baker, Columbia, Hamilton, and Suwannee Counties to be known as "Project Leo" to provide personal devices to aid search-and-rescue efforts for persons with special needs in the case of elopement.

(2) Participants for the pilot project shall be selected based on criteria developed by the Center for Autism and Related Disabilities at the University of Florida. Criteria for participation shall include, at a minimum, the person's risk of elopement. The qualifying participants shall be selected on a first-come, first-served basis by the center to the extent of available funding within the center's existing resources. The project shall be voluntary and free to participants.

(3) Under the pilot project, personal devices to aid search-and-rescue efforts that are attachable to clothing or otherwise worn shall be provided by the center to the sheriff's

Page 1 of 2

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

5-00275A-16

2016230__

offices of the participating counties. The devices shall be distributed to project participants by the county sheriff's offices in conjunction with the center. The center shall fund any costs associated with monitoring the devices.

(4) The center shall submit a preliminary report by December 1, 2016, and a final report by December 15, 2017, to the Governor, the President of the Senate, and the Speaker of the House of Representatives describing the implementation and operation of the pilot project. At a minimum, the report shall include the criteria used to select participants, the number of participants, the age of the participants, the nature of the participants' special needs, the number of participants who elope, the amount of time taken to rescue such participants following elopement, and the outcome of any rescue attempts. The final report shall also provide recommendations for modification or continued implementation of the project.

(5) The project shall operate to the extent of available funding within the center's existing resources.

(6) This section expires June 30, 2018.

Section 2. For the 2016-2017 fiscal year, the sum of \$100,000 is appropriated from the General Revenue Fund to the Center for Autism and Related Disabilities at the University of Florida for the purpose of implementing this act.

Section 3. This act shall take effect July 1, 2016.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11-19-2015

Meeting Date

230

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S

Phone 727/897-9291

Street

St Petersburg

City

FL

State

33705

Zip

Email _____

Speaking: For Against Information

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

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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)

11-19-2015

Meeting Date

230

Bill Number (if applicable)

Topic Rescue Devices For People w/ Disabilities

Amendment Barcode (if applicable)

Name Michael Daniels

Job Title Executive Director

Address 3333 W Pensacola Street

Phone 850-4187-3278

Street

Tallahassee FL 32304

City

State

Zip

Email

Speaking: For Against Information

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

Representing FAAST

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
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 552

INTRODUCER: Appropriations Committee; Environmental Preservation and Conservation Committee;
and Senator Dean

SUBJECT: Environmental Resources

DATE: November 23, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Rogers</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Howard</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 552:

- Creates the Florida Springs and Aquifer Protection Act to provide for the protection and restoration of Outstanding Florida Springs (OFSs);
- Codifies the Central Florida Water Initiative (CFWI) and ensures that the appropriate governmental entities continue to develop and implement uniform water supply planning, consumptive use permitting, and resource protection programs for the Central Florida Water Initiative;
- Updates and restructures the Northern Everglades and Estuaries Protection Program (NEEPP) to reflect and build upon the Department of Environmental Protection's (DEP) completion of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary, and the Department of Agriculture and Consumer Services' (DACCS) implementation of best management practices (BMPs);
- Modifies water supply and resource planning and processes to make them more stringent;
- Requires the Office of Economic and Demographic Research to conduct an annual assessment of water resources and conservation lands;
- Requires the DEP to publish an online, publicly accessible database of conservation lands on which public access is compatible with conservation and recreation purposes;
- Requires the DEP to conduct a feasibility study for creating and maintaining a web-based, interactive map of the state's waterbodies as well as regulatory information about each waterbody;

- Creates a pilot program for alternative water supply in restricted allocation areas and a pilot program for innovative nutrient and sediment reduction and conservation; and
- Revises certain considerations for water resource permits.

The bill requires a number of activities that will result in significant long-term costs for several government entities, including the DEP, the DACS, and the water management districts (WMDs). The total fiscal impact is indeterminate (see Section V. Fiscal Impact Statement). Resources to support the costs associated with this bill may be included each fiscal year in the General Appropriation Act.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

State Lands Database

The Department of Environmental Protection (DEP) maintains a comprehensive system and automated inventory of all state lands and real property leased, owned, rented, occupied, or maintained by a state agency, judicial branch, or water management district (WMD).¹ In order to meet the requirement, the DEP created the Florida State Owned Lands and Records Information System (FL-SOLARIS). The database includes all state owned lands in which the state has a fee interest, including conservation easements acquired through a formal acquisition process for conservation.

The FL-SOLARIS system has been implemented by the DEP and the Department of Management Services (DMS) and includes two main components: the Facility Information Tracking System, which includes 332 users and 65 different agencies, and the Lands Information Tracking System, which includes 140 users and 50 different agencies.²

Florida's Springs

Florida's springs are unique and beautiful resources. The historically crystal clear waters provide not only a variety of recreational opportunities and habitats, but also great economic value for recreation and tourism. Springs are major sources of stream flow in a number of rivers such as the Rainbow, Chassahowitzka, Homosassa, and Ichetucknee.³ Additionally, Florida's springs provide a "window" into the Floridan aquifer system, which provides most of the state's drinking water.

The Floridan aquifer system is a limestone aquifer that has enormous freshwater storage and transmission capacity. The upper portion of the aquifer consists of thick carbonate rocks that have been heavily eroded and covered with unconsolidated sand and clay. The surficial aquifer is located within the sand deposits and forms the land surface that is present today. In portions of

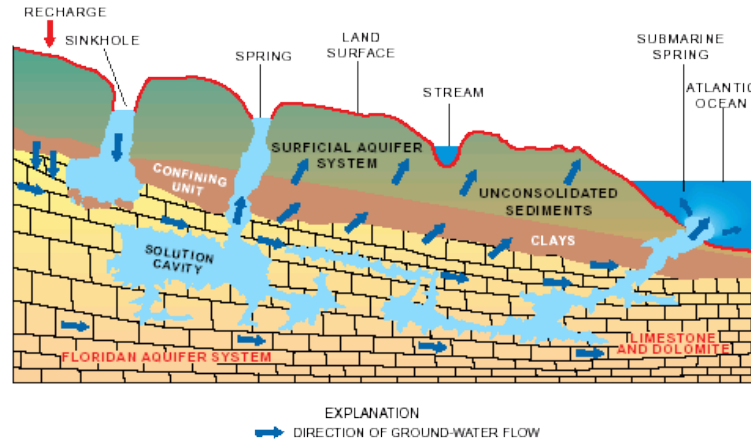
¹ Section 216.0153, F.S.

² State of Florida Lands and Facilities Inventory Search, <http://webapps.dep.state.fl.us/DslPi/splash?Create=new> (last visited Oct. 18, 2015).

³ Department of Community Affairs, *Protecting Florida's Springs: An Implementation Guidebook*, 3-1 (Feb. 2008), available at <http://www.dep.state.fl.us/springs/reports/files/springsimplementguide.pdf> (last visited Oct. 18, 2015).

Florida, the surficial aquifer lies on top of deep layers of clay sediments that prevent the downward movement of water. Springs form when groundwater is forced out through natural openings in the ground.⁴

The Water Cycle – Springs⁵



Florida has more than 700 recognized springs, categorized by flow in cubic feet per second. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily from the Floridan aquifer, are used to determine groundwater quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to groundwater chemistry.⁶

The springshed is the area within the groundwater and surface water basins that contributes to the discharge of the spring. The spring recharge basin consists of all areas where water can be shown to contribute to groundwater flow discharging from the spring.

Spring protection zones are sub-areas of the groundwater and surface water basins of each spring or spring system that supply water to the spring and within which human activities, such as waste disposal or water use, are most likely to negatively impact the water discharging from the spring. When adverse conditions occur within a spring protection zone, the conditions can be minimized by:

- Land-use management and zoning regulations adopted by county or municipal government;
- Adoption of best management practices (BMPs);
- Educating the public concerning environmental sensitivity; and
- Regulatory action, if necessary.⁷

⁴ *Id.* at 3-1 to 3-2.

⁵ EPA, *The Water Cycle: Springs*, <http://water.usgs.gov/edu/watercyclesprings.html> (last visited Oct. 18, 2015).

⁶ Florida Geological Survey, *Springs of Florida Bulletin No. 66*, available at <http://www.dep.state.fl.us/geology/geologictopics/springs/bulletin66.htm> (last visited Oct. 18, 2015).

⁷ Upchurch, S.B. and Champion, K.M., *Delineation of Spring Protection Areas at Five, First-Magnitude Springs in North-Central Florida (Draft)*, 1 (Apr. 28, 2004), available at www.waterinstitute.ufl.edu/suwannee-hydro-observ/pdf/delineation-of-spring-protection-zones.pdf (last visited Oct. 18, 2015). See also chs. 373 and 403, F.S.

Nutrients

Phosphorus and nitrogen are essential nutrients for plants and animals and are the limiting nutrients in aquatic environments. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems. Typically, nitrogen is the limiting nutrient in spring systems. Therefore, even modest increases in nitrogen above optimum levels can accelerate algae and plant growth, and deplete oxygen levels.

Phosphorus and nitrogen are derived from natural and anthropogenic sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Anthropogenic sources include sewage disposal systems (wastewater treatment facilities and septic tanks), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and generally impair the aesthetics and tastes of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.

While springs are valuable recreational and tourist attractions, they are also an indicator of reduced quality of the water in the aquifer. In pristine conditions, spring water is high quality and lacks contaminants. It can be used directly for public water supplies or for irrigation. When pollutants are introduced to the land surface, some will be retained, but some will travel into the aquifer and later appear in spring flow. Often, nutrients introduced close to a spring will quickly reach the spring, especially in unconfined areas of the aquifer.⁸

Water Pollution Control Programs

Water Quality Standards (WQSs)

Under s. 303 of the Federal Clean Water Act (CWA), states are incentivized to adopt WQSs for their navigable waters and must review and update those standards at least once every three years.⁹ These standards include:

- Designation of a waterbody's beneficial uses, such as water supply, recreation, fish propagation, and navigation;
- Water quality criteria that define the amounts of pollutants, in either numeric or narrative standards, that a waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.¹⁰

⁸ Department of Community Affairs, *Protecting Florida's Springs: An Implementation Guidebook*, 3-4 (Feb. 2008), available at <http://www.dep.state.fl.us/springs/reports/files/springsimplementguide.pdf> (last visited Oct. 18, 2015).

⁹ 33 U.S.C. s. 1313(b)(1) and (c)(4). If states do not submit water quality standards within a certain time, or if the standards are not consistent with certain requirements, the EPA may step in and establish water quality standards.

¹⁰ 33 U.S.C. s. 1313(c)(2)(A); 40 C.F.R. ss. 131.6 and 131.10-131.12.

The CWA requires that the surface waters of each state be classified according to their designated uses.¹¹ Florida has six classes that are arranged in order of the degree of protection required:

- Class I - Potable Water Supply
- Class II - Shellfish propagation or harvesting;
- Class III - Fish consumption, recreation, propagation and maintenance of a healthy, well-balanced population of fish and wildlife;
- Class III Limited - Fish consumption, recreation or limited recreation, and/or propagation and maintenance of a limited population of fish and wildlife;
- Class IV - Agricultural water supplies; and
- Class V - Navigation, utility, and industrial use.¹²

Each class has specific water quality criteria that must be met to maintain that classification.¹³ Criteria applicable to a classification are designed to maintain the minimum conditions necessary to assure the suitability of water for the designated use of the classification. Activities allowed under a lower classification are allowable when withdrawing water from higher class waters. So, for example, a Class II surface water may also be used for any other use except for Class I purposes.¹⁴

Reclassification

Reclassification of a waterbody's designated beneficial use can be initiated by the DEP or by petition from another entity. A designation may be upgraded, but there must be credible information showing the existence or attainability of the beneficial use. For example, a waterbody designated as Class III may be upgraded to Class II if there is credible information showing that shellfish harvesting and consumption are routinely conducted in the waterbody and that the water quality criteria for Class II is attainable.¹⁵

For a waterbody to be considered for reclassification as a drinking water source, a petitioner must demonstrate that the water quality meets Class I water quality criteria or can meet those criteria after conventional treatment. Potential influences of reclassification on other users of the waterbody must be evaluated and permitting requirements must also be considered.¹⁶

Petitions to add a waterbody's designated use as drinking water source should determine if it is an existing use (now or since 1975) or an attainable use. Factors to consider when determining whether the use is an existing use can include the presence of drinking water withdrawals and permits authorizing withdrawal for consumptive use. Factors to consider when determining whether the designation is an attainable use can include proximity to wastewater sources and effects on water quality.¹⁷

¹¹ 33 U.S.C. s. 1313(c).

¹² Fla. Admin. Code R. 62-302.400.

¹³ See Fla. Admin. Code R. 62-302.500 and 62-302.530.

¹⁴ Fla. Admin. Code R. 62-302.400(6).

¹⁵ DEP, *Process for reclassifying the Designated Uses of Florida Surface Waters* 7, (June, 2010), available at http://www.dep.state.fl.us/water/wqssp/docs/reclass/process_document_080510.pdf (last visited Oct. 27, 2015).

¹⁶ *Id.* at 7-8.

¹⁷ *Id.* at 6-7.

Total Maximum Daily Load (TMDLs)

A TMDL, which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet WQSs.¹⁸ Waterbodies, or sections of waterbodies, that do not meet the established WQSs are deemed impaired and, pursuant to the CWA, the DEP must establish a TMDL for the waterbody or section of the waterbody that is impaired.¹⁹ A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.²⁰ Waste load allocations are pollutant loads attributable to existing and future point sources. Load allocations are pollutant loads attributable to existing and future nonpoint sources. Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.²¹

The U.S. Environmental Protection Agency (EPA) and the DEP enforce WQSs through the implementation and enforcement of the National Pollutant Discharge Elimination System (NPDES) permitting program. Every point source that discharges a pollutant into waters of the United States must obtain an NPDES permit establishing the amount of a particular pollutant that an individual point source can discharge into a specific waterbody. The amount of the pollutant that a point source can discharge under an NPDES permit is determined through the establishment of a technology-based effluent limitation. If a waterbody fails to meet the applicable WQS through the application of a technology-based effluent limitation, a more stringent pollution control program called the water quality based effluent limitation is applied.

Basin Management Action Plans (BMAPs) and Best Management Practices (BMPs)

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

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Non-regulatory and incentive-based programs, including best management practices (BMPs), cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), F.S., and public education;²²

¹⁸ Section 403.067, F.S.

¹⁹ *Id.*

²⁰ Section 403.031(21), F.S.

²¹ Fla. Admin. Code R. 62-620.200(37). Point source means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are essentially sources of pollution that are not point sources. They can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

²² Section 403.061, F.S., grants the DEP the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows the DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

- Public works projects, including capital facilities; and
- Land acquisition.²³

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources.²⁴ Then the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP process has the flexibility to allow for adaptive changes if necessary. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the general public to collectively determine and share water quality clean-up responsibilities.²⁵

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years and revisions to the plan must be made as appropriate.²⁶

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.²⁷ A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district (WMD) based on a failure to implement these requirements.²⁸ BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, silviculture (forestry) operations, and stormwater management.²⁹

BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and help reduce water use. Because much of the state is built on limestone, which allows water to return relatively unfiltered to the aquifer, pollutants can enter the water supply quickly, endangering the public and ecosystems.³⁰

The DEP, in cooperation with the WMDs, establishes BMPs for nonagricultural nonpoint sources. The Department of Agriculture and Consumer Services (DACS) establishes BMPs for agricultural nonpoint sources.³¹ The DACS has created two types of BMPs: management and structural BMPs. Management BMPs involve nutrient, pesticide, and irrigation management,

²³ Section 403.067(7)(b), F.S.

²⁴ Section 403.067(7), F.S.

²⁵ DEP, *Basin Management Action Plans (BMAPs)*, available at <http://www.dep.state.fl.us/central/Home/Watershed/BMAP.htm> (last visited Oct. 18, 2015).

²⁶ Section 403.067(7)(a)5., F.S.

²⁷ Section 403.067(7)(b)2.g., F.S. BMPs for agriculture, for example, include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

²⁸ Section 403.067(7)(b)2.h., F.S.

²⁹ DEP, *Best Management Practices, Public Information, and Environmental Education Resources*, available at <http://www.dep.state.fl.us/water/nonpoint/pubs.htm#SILVICULTURE> BMP (last visited Oct. 27, 2015).

³⁰ *Id.*

³¹ Section 403.067(7)(c), F.S.

such as when and how long to irrigate and how to use fertilizers and pesticides.³² Structural BMPs involve changes to the land or installation of structures. Structural BMPs can include water control structures, fencing, and tailwater recovery systems.³³ The DACS works cooperatively with agricultural producers, industry groups, the DEP, the state university system, the WMDs, and other interested parties to develop and implement BMP programs that are economically and technically feasible.³⁴

Provisions of a BMAP must be included in subsequent NPDES permits. The DEP is prohibited from imposing limits or conditions associated with an adopted TMDL in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted BMAP.³⁵ NPDES permits issued between the time a TMDL is established and a BMAP is adopted contain a compliance schedule allowing time for the BMAP to be developed. Once the BMAP is developed, a permit will be reopened and individual allocations consistent with the BMAP will be established in the permit. The timeframe for this to occur cannot exceed five years. NPDES permittees may request an individual allocation during the interim, and the DEP may include an individual allocation in the permit.³⁶

Urban Fertilizer Usage and Florida's Model Ordinance

Application of fertilizer in urban areas impacts springsheds when it runs off lawns and impervious surfaces into stormwater collection systems or directly into the surface water. The DEP has provided guidelines to minimize the impact of urban fertilizer use and adopted the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. The model ordinance provides counties and municipalities with a range of options to help minimize fertilizer inputs from urban applications. Some of the suggestions contained in the model ordinance are:

- Restricting the times fertilizer may be applied, such as restricting its application during the rainy season;
- Creating fertilizer free zones around sensitive waterbodies such as ponds, streams, watercourses, lakes, canals, or wetlands;
- Controlling application practices by, for example, restricting fertilizer application on impervious surfaces and requiring prompt cleanup of any fertilizer that is spilled on impervious surfaces; and
- Managing grass clipping and vegetative matter by disposing of such materials properly rather than simply blowing them into the street, ditches, stormwater drains, or waterbodies.³⁷

³² University of Florida Institute of Food and Agricultural Sciences, *Best Management Practices*, available at http://solutionsforyourlife.ufl.edu/hot_topics/agriculture/bmps.shtml (last visited Oct. 18, 2015).

³³ DACS, *Agriculture and Water Quality*, available at

http://www.freshfromflorida.com/content/download/33106/813038/BMP_Backgrounder.pdf (last visited Oct. 27, 2015).

³⁴ DACS, Office of Agricultural Water Policy, *Home Page* (Jan. 8, 2014), available at

<http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Water-Policy> (last visited Oct. 18, 2015).

³⁵ Section 403.067(7)(b)2., F.S.

³⁶ Section 403.067(7)(b)2.a., F.S.

³⁷ Section 403.9337, F.S. See also DEP, *Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes*, 6-9 (2015), available at <http://www.dep.state.fl.us/water/nonpoint/docs/nonpoint/dep-fert-modelord.pdf> (last visited Oct. 18, 2015).

Onsite Sewage Treatment and Disposal Systems (OSTDs)

In Florida, septic systems are referred to as onsite sewage treatment and disposal systems. An OSTDS can contain any one of the following components: a septic tank; a subsurface drainfield; an aerobic treatment unit (ATU); a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless, incinerating or organic waste-composting toilet; and a sanitary pit privy.³⁸ OSTDSs are located underground and treat sewage without the presence of oxygen. Sewage flows from a home or business through a pipe into the first chamber, where solids settle out. The liquid then flows into the second chamber where anaerobic bacteria in the sewage break down the organic matter, allowing cleaner water to flow out of the second chamber into a drainfield.³⁹ Engineers licensed in Florida may specially design OSTDSs to meet the needs of individual property owners. Engineer-designed OSTDS plans are subject to review by the local county health department and must be certified by the engineer as complying with all requirements pertaining to such system.⁴⁰

The Department of Health (DOH) administers onsite sewage programs, develops statewide rules, and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.⁴¹ The DOH also licenses over 700 septic tank contractors and oversees 2.6 million onsite wastewater systems in Florida.⁴² OSTDSs serve approximately 31 percent of Florida's population⁴³ and approximately 25 percent of homes nationwide.⁴⁴

The EPA concluded in its 1997 Report to Congress that "adequately managed decentralized wastewater systems are a cost-effective and long-term option for meeting public health and water quality goals, particularly in less densely populated areas."⁴⁵ In Florida, development is dependent on OSTDSs due to the cost and time it takes to install central sewer systems. In rural areas and low-density developments, central sewer systems are not cost effective. Less than one percent of OSTDSs in Florida are actively managed. The remainder are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine

³⁸ DEP, *Wastewater: Septic Systems*, available at <http://www.dep.state.fl.us/water/wastewater/dom/septic.htm> (last visited Oct. 18, 2015).

³⁹ EPA, *Primer for Municipal Wastewater Treatment Systems*, 22 (2004), available at http://water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf (last visited Oct. 18, 2015).

⁴⁰ See Fla. Admin. Code R. 64E-6.004.

⁴¹ Section 381.0056, F.S. The DOH does not permit the use of onsite sewage treatment and disposal systems where the estimated domestic sewage flow from the establishment is over 10,000 gallons per day (gpd) or the commercial sewage flow is over 5,000 gpd; where there is a likelihood that the system will receive toxic, hazardous or industrial wastes; where a sewer system is available; or of any system or flow from the establishment is currently regulated by the DEP. The DEP issues the permits for systems that discharge more than 10,000 gpd.

⁴² Hall, P. and Clancy, S.J., *Statewide Inventory of Onsite Sewage Treatment and Disposal Systems in Florida, Final Report*, 6 (June 29, 2009), available at http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/_documents/research-reports/_documents/inventory-report.pdf (last visited Oct. 18, 2015).

⁴³ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, 1 (Oct. 2008), available at http://www.floridahealth.gov/environmental-health/onsite-sewage/research/_documents/rrac/2008-11-06.pdf (last visited Oct. 23, 2015).

⁴⁴ EPA, *Water: Septic (Onsite/Decentralized) Systems, Frequently Asked Questions*, (Mar. 8, 2013), available at <http://water.epa.gov/infrastructure/septic/FAQs.cfm> (last visited Oct. 23, 2015).

⁴⁵ EPA, *Handbook for Managing Onsite and Clustered (Decentralized) Wastewater Treatment Systems*, 1 (Dec. 2005), available at http://water.epa.gov/infrastructure/septic/upload/onsite_handbook.pdf (last visited Mar. 26, 2015).

maintenance.⁴⁶ In Florida, approximately 30-40 percent of effluent nitrogen is typically removed in the septic tank and drain field.⁴⁷ This still leaves significant amounts to percolate through the ground into the groundwater. Further, several studies have found that OSTDS drain field effluent is a significant contributor of nitrogen to groundwater.⁴⁸

While most of Florida's OSTDSs are conventional OSTDSs, or "passive" septic systems, there are other advanced systems capable of providing additional or advanced treatment of wastewater prior to disposal in the drainfield.⁴⁹ Advanced systems differ in three respects from conventional treatment systems that consist of a septic tank with a drainfield. First, the design of advanced systems is more variable than that of conventional systems. Second, they need more frequent checkups and maintenance and they require operating permits. Third, the performance expectations are more specific, while failures for advanced systems are less defined.⁵⁰

Biosolids

Biosolids are the solid, semisolid, or liquid residue generated during the biological wastewater treatment process. Florida generates approximately 320,000 dry tons of biosolids annually. Biosolids are normally high in organic content and contain moderate amounts of nutrients such as nitrogen and phosphorus, making them valuable as a fertilizer or soil amendment.⁵¹ They may be used beneficially or disposed of in landfills.⁵²

Biosolids are classified as AA, A, or B. AA biosolids are considered the highest quality biosolids. They must be treated to a level that essentially eliminates pathogens and meets strict concentration limits for heavy metals. They may be used as fertilizer through commercial distribution.⁵³ Class A biosolids are biosolids that meet the same pathogen reduction

⁴⁶ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, 1 (Oct. 2008), available at http://www.floridahealth.gov/environmental-health/onsite-sewage/research/_documents/rrac/2008-11-06.pdf (last visited Oct. 23, 2015).

⁴⁷ University of Florida Institute of Food and Agricultural Sciences, *Onsite Sewage Treatment and Disposal Systems: Nitrogen 2*, available at <https://edis.ifas.ufl.edu/pdffiles/SS/SS55000.pdf> (last visited Oct. 19, 2015).

⁴⁸ See MACTEC, *Final Report Wekiva River Basin Nitrate Sourcing Study* (March 2010), available at <http://www.dep.state.fl.us/water/wekiva/docs/wekiva-basin-nitrate-sourcing-fr0310.pdf> (last visited Oct. 19, 2015); DOH, *Revised Estimates of Nitrogen Inputs and Nitrogen Loads in the Wekiva Study Area*, (May 19, 2008), available at <http://www.dep.state.fl.us/water/wekiva/docs/doh-wekiva-estimate-final2008.pdf> (last visited Oct. 19, 2015); University of Florida Institute of Food and Agricultural Sciences, *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, available at <http://edis.ifas.ufl.edu/ss550> (last visited Oct. 19, 2015); EPA, *Onsite Wastewater Treatment Systems Manual*, (Feb. 2002), available at http://water.epa.gov/aboutow/owm/upload/2004_07_07_septics_septic_2002_osdm_all.pdf (last visited Oct. 19, 2015).

⁴⁹ DOH, Assessment of Water Quality Protection, *Advanced Onsite Sewage Treatment and Disposal Systems: Performance, Management, Monitoring, Draft Final Report*, 14 (August 19, 2013), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/advancedostdsfinalreportdraft.pdf> (last visited Oct. 23, 2015).

⁵⁰ Prepared for DEP by DOH, Bureau of Onsite Sewage Programs, *Revised Quality Assurance Project Plan Assessment of Water Quality Protection by Advanced Onsite Sewage Treatment and Disposal Systems (OSTDS): Performance, Management, Monitoring*, 8 (Aug. 22, 2011), available at http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/_documents/final319qapp.pdf (last visited Oct. 18, 2015).

⁵¹ DEP, *Biosolids in Florida: 2013 Summary*, 3 (Dec. 2014), available at <https://www.dep.state.fl.us/water/wastewater/dom/docs/BiosolidsFlorida-2013-Summary.pdf> (last accessed Oct. 23, 2015).

⁵² *Id.*

⁵³ *Id.*

requirements as Class AA biosolids, meet the same vector attraction (meaning the attraction of disease spreading animals) requirements as Class B biosolids, and meet a series of concentration limits for nine different elements.⁵⁴ Class B biosolids must be treated to significantly reduce pathogens and must meet certain concentration limits for heavy metals. Application rates are limited to crop nutrient needs. They are subject to site application restrictions and restrictions on harvesting, grazing, and public access. Also, cumulative heavy metals must be tracked for Class A and B biosolids; however, in Florida, land applied biosolids are almost exclusively Class B. In 2013, approximately 102,534 dry tons of Class B biosolids were land applied.⁵⁵

Minimum Flows and Levels (MFLs)

MFLs are established for waterbodies in order to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.⁵⁶ MFLs are typically determined based on evaluations of natural seasonal fluctuations in water flows or levels, nonconsumptive uses, and environmental values associated with coastal, estuarine, riverine, spring, aquatic, wetlands ecology, and other pertinent information associated with the water resource.⁵⁷ MFLs take into account the ability of wetlands and aquatic communities to adjust to changes in hydrologic conditions and allow for an acceptable level of hydrologic change to occur. When uses of water resources shift the hydrologic conditions below levels defined by MFLs, significant ecological harm can occur.⁵⁸ The goal of establishing an MFL is to ensure that there is enough water to satisfy the consumptive use of the water resource without causing significant harm to the resource.⁵⁹ Consumptive uses of water draw down water levels and reduce pressure in the aquifer.⁶⁰ By establishing MFLs for non-consumptive uses, the WMDs are able to determine how much water is available for consumptive use. This is useful when evaluating new or renewal consumptive use permit (CUP) applications.⁶¹

While the DEP has the authority to adopt MFLs under ch. 373, F.S., the WMDs have the primary responsibility for MFL adoption. The WMDs submit annual MFL priority lists and schedules to the DEP for review and approval. MFLs are calculated using the best information available⁶² and are considered rules by the WMDs and are subject to ch. 120, F.S., challenges.⁶³ MFLs are subject to independent scientific peer review at the election of the DEP, a WMD, or, if requested, by a third party.⁶⁴

⁵⁴ Fla. Admin. Code R. 62-640.200(9).

⁵⁵ DEP, *Biosolids in Florida: 2013 Summary*, 13 (Dec. 2014), available at <https://www.dep.state.fl.us/water/wastewater/dom/docs/BiosolidsFlorida-2013-Summary.pdf> (last accessed Oct. 23, 2015).

⁵⁶ Section 373.042, F.S.

⁵⁷ Fla. Admin. Code R. 62-40.473(1).

⁵⁸ SJRWMD, *Water Supply: An Overview of Minimum Flows and Levels*, <http://www.sjrwmd.com/minimumflowsandlevels/> (last visited Oct. 18, 2015).

⁵⁹ DEP, *Minimum Flows and Levels*, available at <http://www.dep.state.fl.us/water/waterpolicy/mfl.htm> (last visited Oct. 18, 2015).

⁶⁰ Department of Community Affairs, *Protecting Florida's Springs: An Implementation Guidebook*, 3-5 (Feb. 2008), available at <http://www.dep.state.fl.us/springs/reports/files/springsimplementguide.pdf> (last visited Oct. 18, 2015).

⁶¹ SJRWMD, *Water Supply*, available at <http://floridaswater.com/minimumflowsandlevels/FAQs.html> (last visited Oct. 28, 2015).

⁶² Section 373.042(1), F.S.

⁶³ Section 373.042(6), F.S.

⁶⁴ Section 373.042(5)(a), F.S.

MFLs inform decisions affecting permit applications, declarations of water shortages, and assessments of water supply sources. Computer water budget models for surface waters and groundwater are used to evaluate the effects of existing and proposed consumptive uses and the likelihood they might cause significant harm. The WMD governing boards are required to expeditiously implement recovery or prevention strategies in those cases where a waterbody or watercourse currently does not or is anticipated to not meet an adopted MFL.⁶⁵

Consumptive Use Permits (CUPs)

A CUP establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the DEP and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as “the three-prong test.” Specifically, the proposed water use must:

- Be a “reasonable-beneficial use”;⁶⁶
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.⁶⁷

If two or more competing applications qualify equally, the applicable WMD or the DEP must give preference to a renewal application over an initial application.⁶⁸

Alternative Water Supply Development

One of the ways water demands can be met is through the development of alternative water supplies (AWSs).⁶⁹ Alternative water supplies include:

- Salt water;
- Brackish surface water and groundwater;
- Sources made available through the addition of new storage capacity for surface or groundwater, water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses;
- The downstream augmentation of waterbodies with reclaimed water;
- Stormwater; and
- Any other water supply source that is designated as a nontraditional source for a water supply planning region in a regional water supply plan.⁷⁰

⁶⁵ Section 373.0421(2), F.S.

⁶⁶ Section 373.019(16), F.S., defines reasonable-beneficial use as, “the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.” *See also* Fla. Admin. Code R. 62-40.410(2) for additional factors to help determine if a water use is a reasonable-beneficial use.

⁶⁷ Fla. Admin. Code R. 62-40.410(1).

⁶⁸ Section 373.233(2), F.S.

⁶⁹ Sections 373.707(1)(a)-(b) and 373.1961(2)(a), F.S.

⁷⁰ Section 373.019(1), F.S.

Funding for the development of AWSs is a shared responsibility between water suppliers and users, the state, and the WMDs.⁷¹ Water suppliers and users have the primary responsibility for providing funding, while the state and WMDs have the responsibility to provide funding assistance.⁷²

AWS development projects may receive state funding through specific appropriation or through the Water Protection and Sustainability Program (WPSP) if funded by the Legislature.⁷³ Applicants for projects that receive funding through the WPSP are required to pay at least 60 percent of the project's construction costs.⁷⁴ A WMD may waive this requirement for projects developed by financially disadvantaged small local governments. Additionally, a WMD may, at its discretion, use ad valorem or federal revenues to assist a project applicant in meeting the match requirement.⁷⁵

Consolidated Water Management District Annual Reports

Each WMD must prepare and submit to the DEP, the Governor, and the Legislature a consolidated water management district annual report on the management of water resources. Copies of the report are available to the public.⁷⁶

Each report must contain:

- A district water management plan annual report or the annual work plan report,⁷⁷ which details the implementation of the strategic plan for the previous fiscal year, addressing success indicators, deliverables, and milestones;⁷⁸
- The DEP approved MFLs annual priority list and schedule;
- The annual 5-year capital improvements plan;
- The alternative water supplies annual report;
- The final annual 5-year water resource development work program;
- The Florida Forever Water Management District Work Plan annual report;
- The mitigation donation annual report; and
- Any additional information the WMD deems appropriate.⁷⁹

Additionally, the South Florida Water Management District's (SFWMD's) report must include the:

- Lake Okeechobee Protection Program annual progress report;
- Everglades annual progress reports;
- Everglades restoration annual report; and
- Everglades Trust Fund annual expenditure report.⁸⁰

⁷¹ Section 373.707(2)(c), F.S.

⁷² *Id.*

⁷³ Section 373.707(1)(d), and (6), F.S.

⁷⁴ Section 373.707(8)(e), F.S.

⁷⁵ *Id.*

⁷⁶ Section 373.036(7)(a), F.S.

⁷⁷ Section 373.036(7)(b)1., F.S.

⁷⁸ Section 373.036(2)(e)4., F.S.

⁷⁹ Section 373.036(7)(b) and (d), F.S.

⁸⁰ Section 373.036(7)(e), F.S.

Rural Areas of Opportunity

Rural areas of opportunity are rural communities and regions composed of rural communities designated by the Governor that have been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that present a unique economic development opportunity of regional impact.⁸¹

Rural communities are defined as:

- Counties with a population of 75,000 or fewer;
- Counties with a population of 125,000 or fewer that are contiguous to a county with a population of 75,000 or fewer;
- Designated municipalities within a county that meet the thresholds of the two previous criteria; or
- An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or less, and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more specified economic distress factors.⁸²

Central and Southern Florida Project for Flood Control and Other Purposes (C&SF)

After a major hurricane caused extensive flooding in 1947, Congress passed the Flood Control Act of 1948, authorizing the first phase of the comprehensive water resource project known as the Central and Southern Florida Project for Flood Control and Other Purposes (C&SF). The C&SF Project was authorized to provide flood control and water supply for municipal, industrial, and agricultural uses; to prevent salt water intrusion; and to protect fish and wildlife in the Everglades. The project included 1,000 miles of levees, 720 miles of canals, and approximately 200 water control structures. The C&SF Project also authorized the channelization of the Kissimmee River in order to provide flood protection for the surrounding agricultural areas. A portion of the area drained was designated the Everglades Agricultural Area, which spans approximately 700,000 acres south of Lake Okeechobee. The C&SF Project also included extending and raising the Herbert Hoover Dike to its present day elevation of 32 to 46 feet, which was accomplished in the 1960s. Most of these structures were constructed by the Army Corps of Engineers and are operated and maintained by the SFWMD.⁸³ The SFWMD continues to make infrastructure improvements to the area, and the levees are inspected by the Army Corps of Engineers.⁸⁴

⁸¹ Section 288.0656(2)(d), F.S.

⁸² Section 288.0656(2)(e), F.S.

⁸³ South Florida Water Management District, Canal Structure and Operations, *available at* <http://www.sfwmd.gov/portal/page/portal/xweb%20drought%20%20and%20%20flood/canal%20and%20structure%20operations> (last visited Nov. 3, 2015).

⁸⁴ South Florida Water Management District, Maintenance of South Florida's Levee System *available at* http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/jtf_levee_maintenance.pdf (last visited Nov. 3, 2015).

Northern Everglades and Estuaries Protection Program



In 2000, the Legislature passed the Lake Okeechobee Protection Act (LOPA), which established a restoration and protection program for the lake. The Legislature amended the LOPA in 2007,⁸⁵ which expanded restoration efforts to include the St. Lucie and Caloosahatchee River Watersheds. It is now known as the Northern Everglades and Estuaries Protection Program (NEEPP). The NEEPP promotes a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie River watersheds. It includes the Lake Okeechobee Watershed Protection Program and the Caloosahatchee and St. Lucie Watershed Protection Program.⁸⁶

⁸⁵ Chapter 2007-253, LAWS of Fla.

⁸⁶ SFWMD, *2014 South Florida Environmental Report: Lake Okeechobee Watershed Protection Program Annual and Three-Year Update*, 8-2 (2014), available at http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2014_sfer/v1/chapters/v1_ch8.pdf (last visited Oct. 18, 2015).

The plans developed under the NEEPP for each of the three Northern Everglades watersheds identify actions to help achieve water quality and water quantity objectives for the watersheds and to restore habitat. Water quality objectives are based on TMDLs developed by the DEP. The TMDL for Lake Okeechobee is 140 metric tons of total phosphorus per year, of which 105 metric tons can come from the watershed tributaries and 35 metric tons can come from atmospheric deposition.⁸⁷

The SFWMD, in cooperation with the DACS and the DEP, collectively known as the coordinating agencies, developed the Lake Okeechobee Watershed Protection Program (LOWPP), which is reevaluated every three years pursuant to NEEPP. The LOWPP’s components are:

Lake Okeechobee Watershed Protection Program
<ul style="list-style-type: none"> • Lake Okeechobee Protection Plan; • Lake Okeechobee Watershed Construction Project, including the Phase I and II Technical Plans; • Lake Okeechobee Watershed Phosphorus Control Program; • Lake Okeechobee Watershed Research and Water Quality Monitoring Program; • Lake Okeechobee Exotic Species Control Program; and • Lake Okeechobee Internal Phosphorus Management Program.

88

Section 373.4595, F.S., describes the purposes of the six programs. The Lake Okeechobee Protection Plan describes the geographic extent of the watershed and contains an implementation schedule for phosphorus reduction. The Lake Okeechobee Watershed Construction Project improves the hydrology and water quality of Lake Okeechobee and downstream receiving waters, including the Caloosahatchee and St. Lucie Rivers and Estuaries. The Lake Okeechobee Watershed Phosphorus Control Program is designed to be a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed. The Lake Okeechobee Watershed Research and Water Quality Monitoring Program assesses sources of phosphorus, evaluates the feasibility of alternative nutrient reduction technologies, and evaluates water quality data. The Lake Okeechobee Exotic Species Control Program identifies the exotic species that threaten the native flora and fauna within the Lake Okeechobee watershed and develops and implements measures to protect the native flora and fauna. Lastly, The Lake Okeechobee Internal Phosphorus Management Program addresses phosphorus removal.

The Caloosahatchee and St. Lucie River Watershed Protection Program

The Caloosahatchee and St. Lucie River Watershed Protection Program is designed to protect and restore surface water resources by addressing the reduction of pollutant loadings, restoration of natural hydrology, and compliance with applicable state water quality standards through a

⁸⁷ *Id.* at 8-10.

⁸⁸ Section 373.4595, F.S.

phased program.⁸⁹ The program's objectives are to reduce pollutant loads based upon adopted TMDLs. Both the Caloosahatchee and St. Lucie River Watershed Protection Plans, developed under the program, consist of a river watershed construction project, a watershed pollutant control program, and watershed research and water quality monitoring program.⁹⁰ To address nutrient pollution in the Caloosahatchee and St. Lucie Watersheds, the DEP adopted the Caloosahatchee Estuary BMAP in November 2012, and the St. Lucie River and Estuary BMAP in May 2013.⁹¹

Works of the District Permits

The Works of the District rule⁹² was implemented in 1989. The scope of the original rule was to implement the Surface Water Improvement and Management Plan for Lake Okeechobee, which was designed to reduce loading to Lake Okeechobee to 397 tons of phosphorus per year. In 2000, the passage of the Lake Okeechobee Protection Act required landowners in the Lake Okeechobee watershed to either implement BMPs or monitor to demonstrate compliance with the Works of the District program.⁹³

In Lake Okeechobee, a Works of the District permit is required if an entity owns a parcel of land half an acre or greater within a Lake Okeechobee Drainage Basin that connects to or makes use of the Works of the District within the Lake Okeechobee Drainage Basin. The Works of the District are those projects and works including structures, remnant oxbows and sloughs, floodways and all tributaries, lakes, canals, channels, levees, structures, impoundments, reservoirs, wells, streams, and other water courses, together with associated facilities, lands, and wetlands.⁹⁴ The land areas and uses subject to the permits are described in Florida Administrative Code Rules 40E-61.041 and 40E-61.042, both of which relate to permits required in the Lake Okeechobee Drainage Basin. Works of the District Permits are also required for activities in the Everglades Agricultural Area and the C-139 Basin. Rules concerning permits in both areas may be found in Florida Administrative Code Rule 40E-63.

Pumping by the 298 Water Control Districts and Closter Farms:

Chapter 298, F.S., governs water control districts. Districts created under that chapter are called "298 districts." Prior to 1986, four 298 districts and Closter Farms, along the southern and eastern shore of Lake Okeechobee, discharged into the lake by back pumping into the lake to drain excess stormwater from the northern half of the Everglades Agricultural Area. Back pumping was performed without a permit issued by the Department of Environmental Preservation. Back pumping was accomplished by sending water through three pump stations,

⁸⁹ See s. 373.4595, F.S.

⁹⁰ SFWMD, *2014 South Florida Environmental Report: Lake Okeechobee Watershed Protection Program Annual and Three-Year Update*, App. 10-2-3 (2012), available at http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/crwpp_2012update_sfer_voli_app10_2.pdf (last visited Oct. 18, 2015).

⁹¹ DEP, *Basin Management Action Plans*, available at <http://www.dep.state.fl.us/water/watersheds/bmap.htm> (last visited Oct. 5, 2015).

⁹² Fla. Admin. Code R. 40E-61.

⁹³ Section 373.4595(3)(c)1.b., F.S.

⁹⁴ Fla. Admin. Code R. 40E-61.021; Works of the District within the Lake Okeechobee Basin are detailed in Fla. Admin. Code R. 40E-61.024.

designated S-2, S-3, and S-4.⁹⁵ In 1985, the Governor of Florida issued Executive Order Number 86-150, which directed the DEP to regulate back pumping into Lake Okeechobee.⁹⁶ The water control districts and Closter Farms agreed to new pumping practices which went into effect following the construction of structures necessary to accommodate sending water south rather than north into the lake. The consent orders for the 298 districts provided the following conditions:

- Discharge pumping may only be performed after significant rainfall events and/or when farm canal water levels reach excessively high levels;
- Initiation of pumping must be delayed after a rainfall event;
- The duration of pumping events is limited; and
- The minimum water level each associated SFWMD canal can be lowered is limited.⁹⁷

Closter Farms was limited by a different set of criteria that had the effect of limiting backpumping water into Lake Okeechobee based on canal levels, growing seasons, and potential harm to crops.

The 298 districts' and Closter Farms' pumping operations are controlled by the terms of the consent orders.⁹⁸ Except in emergency situations, the 298 districts and Closter Farms now send discharged water south into the stormwater treatment areas. Additionally, the areas controlled by the consent orders fall within an area that is permitted under two overlapping regulatory schemes, the SFWMD Works of the District under s. 373.4595, F.S., and Everglades Program under s. 373.4592, F.S. Consequently, entities in the four 298 districts and Closter Farms are statutorily required to have a NEEPP permit and may also be required to be permitted under the Everglades Program.

Central Florida Water Initiative (CFWI)

The areas encompassed by the CFWI Planning Area, which consists of all of Orange, Osceola, Seminole, and Polk counties and southern Lake County, have traditionally relied on groundwater from the Floridan aquifer system as the primary source of water. The three WMDs serving the area are the SFWMD, the Southwest Florida Water Management District (SWFWMD), and the St. Johns River Water Management District (SJRWMD).⁹⁹

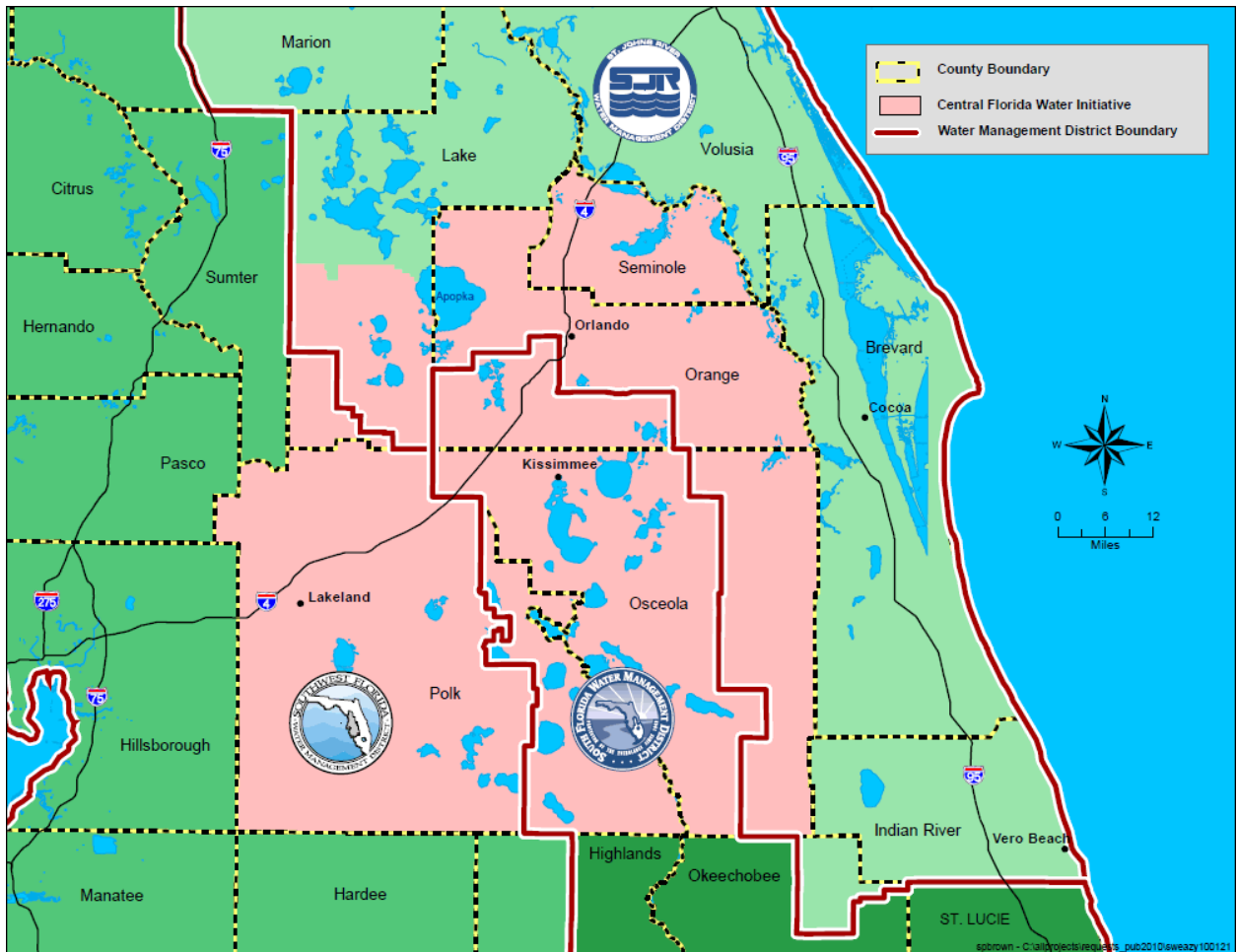
⁹⁵ SFWMD, *Assessing the Capability to Discharge Excess Lake Okeechobee Water South: Review of Systems Operations (January through mid-June 2013)* 4, available at http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/final_lake_okeechobee_jan_jun_operations_report_2013.pdf (last visited Oct. 22, 2015).

⁹⁶ 91-0695 South Shore Drainage District Consent Agreement 2 (on file with senate committee on Environmental Preservation and Conservation).

⁹⁷ *Id.* at 22 (Appendix A).

⁹⁸ See consent orders 91-0694-South Shore Drainage Dist Consent Agreement, 91-0705-East Beach Water Control Consent Agreement, 91-0706-East Shore Water Control Consent Agreement, 91-0707-South Florida Conservancy Consent Agreement, and RT50-205564-Closter Farms Consent Agreement (on file with the Senate Committee on Environmental Preservation and Conservation).

⁹⁹ Central Florida Water Initiative, *An Overview*, http://cfwiwater.com/pdfs/2012/06-28/CFWI_Overview_fact_sheet.pdf (last accessed Oct. 18, 2015).



Map of the CFWI area.

In the past, the three WMDs worked independently to resolve water resource issues, but the decisions of one district can affect the water resources of another. Currently, the WMDs are working collaboratively with other agencies and stakeholders to implement consistent water resource planning, development, and management through the CFWI. However, each WMD currently relies on its own existing criteria to review CUP applications, which leads to inconsistencies and confusion as it relates to permit applications for projects that overlap multiple WMD boundaries.¹⁰⁰

In 2006, the three WMDs agreed to a Central Florida Coordination Area Action Plan to address the near-term and long-term development of water supplies in the central Florida region.¹⁰¹ Phase I of the action plan created a framework to deal with the short-term water resource issues and concluded with interim water use regulations limiting groundwater withdrawals to projected 2013 demands and required development of alternative water supplies for future needs. The

¹⁰⁰ *Id.*

¹⁰¹ Central Florida Water Initiative, *Central Florida Water Initiative Guiding Document*, 2 (Jan. 30, 2015), available at http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf (last visited Oct. 18, 2015).

interim Central Florida Coordination Area rules expired on December 31, 2013, and additional rules specific to the Central Florida Coordination Area have not been promulgated.¹⁰²

Phase II of the action plan began in 2009. The initial objective was to establish new rules prior to the December 31, 2013, sunset date and to implement a long-term approach to water resource management in central Florida. Phase II of the action plan involved coordinated activities on a variety of issues including:

- Regional water supply planning;
- Investigations and development of traditional and alternative water supply projects;
- Assessment of environmental impacts and groundwater sustainability; and
- Development of water use rules and permitting criteria.¹⁰³

The main planning tool for the Phase II process was the development and calibration of the necessary hydrologic models to determine the sustainability of the groundwater supplies. The Phase II process was suspended, however, because of the complexity of the effort and the desire for consensus among stakeholders. Because of those problems, the Phase II effort did not meet the rulemaking deadlines prior to expiration of the interim rule. Additionally, because of the economic downturn in central Florida, the need for and use of permitted water demands in 2013 was lower than expected.¹⁰⁴

To address the limitations of the 2006 Central Florida Coordination Area Action Plan schedule and still fulfill the overarching objectives outlined in the plan, the CFWI was created in 2011. The CFWI builds on the work of the Central Florida Coordination Area. Both efforts focus on an area that includes all of Orange, Osceola, Seminole, and Polk Counties, and southern Lake County. The three affected WMDs, along with the DEP, the DACS, regional public water supply utilities, and other stakeholders are collaborating to develop a unified process to address central Florida's current and long-term water supply needs.¹⁰⁵ The CFWI is led by a steering committee comprised of:

- A public water supply utility representative;
- A designated governing board member from each of the WMDs;
- A representative from the DEP; and
- A representative from the DACS.¹⁰⁶

The guiding principles of the CFWI are:

- Identify the sustainable quantities of traditional groundwater sources available for water supply that can be used without causing unacceptable harm to the water resources and associated natural systems;
- Develop strategies to meet water demands that are in excess of the sustainable yield of existing traditional groundwater sources, implement demand management, and identify alternative water supplies that can be permitted and will be implemented as demands approach the sustainable yield of existing sources; and

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 3.

¹⁰⁵ *Id.* at 3.

¹⁰⁶ *Id.* at 5.

- Establish consistent rules and regulations for the three WMDs which meet the goals of the CFWI.¹⁰⁷

The goals of the CFWI are:

- One hydrologic model;
- A uniform definition of “harm”, as it relates to water resources and associated natural systems;
- One reference condition;
- A process for permit reviews;
- A consistent process, where appropriate, to set MFLs and reservations; and
- A coordinated regional water supply plan, including any needed recovery and prevention strategies.¹⁰⁸

The entities that make up the CFWI are in the process of developing a memorandum of understanding that codifies many of the principles of the initiative and duties of the entities, among other things, though it has not yet been finalized.

The Harris Chain of Lakes Restoration Council

The Harris Chain of Lakes is located north and west of the Orlando metropolitan area and is in Lake and Orange counties.¹⁰⁹ It contains tens of thousands of acres of lakes and wetlands and is at the headwaters of the Ocklawaha River.¹¹⁰ The Harris Chain of Lakes Council was created to:

- Review audits and all data related to lake restoration techniques and sport fish population recovery strategies;
- Evaluate whether additional studies are needed;
- Explore all possible sources of funding to conduct the restoration activities; and
- Report to the President of the Senate and the Speaker of the House of Representatives yearly before November 25 on the progress of the Harris Chain of Lakes restoration program and provide any recommendations for the next fiscal year.¹¹¹

The council consists of nine voting members who are:

- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- An environmental engineer;
- A person with training in biology or another scientific discipline;
- A person with training as an attorney;
- A physician;
- A person with training as an engineer; and

¹⁰⁷ *Id.* at 5

¹⁰⁸ *Id.* at 5

¹⁰⁹ Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and What Does the Restoration Council Do?*, <http://harrischainoflakescouncil.com/> (last visited Oct. 18, 2015).

¹¹⁰ *Id.*

¹¹¹ *Id.*

- Two residents of Lake County appointed by the Lake County legislative delegation who do not meet any of the other qualifications for membership on the council.¹¹²

The council works with an advisory group composed of regional, state, and federal entities.¹¹³

Office of Economic and Demographic Research (EDR)

The Office of Economic and Demographic Research performs research for the Florida Legislature, principally focused on forecasting economic and social trends that affect policy making, revenues, and appropriations.¹¹⁴ The EDR also researches projects for legislative committees, and works with agencies, statewide commissions, and task forces that have legislators among their membership to assess the impact of proposals they are considering submitting to the Legislature.¹¹⁵ The EDR provides information related to:

- Economics;
- Demographics;
- Revenues;
- Education;
- Criminal Justice;
- Social Services;
- Workforce;
- Early Learning Programs;
- Self-Insurance; and
- The Florida Retirement System.¹¹⁶

III. Effect of Proposed Changes:

Section 1 amends s. 259.032, F.S., to require the Department of Environmental Protection (DEP) to develop, publish, update, and maintain a database of state conservation lands where public access is compatible with conservation and recreation. The bill requires the database to be available online by July 1, 2017. The database must include, at a minimum:

- The location of the lands;
- The types of allowable recreational opportunities;
- The points of public access;
- Facilities or other amenities; and
- Land use restrictions.

The DEP is to include any additional information that is appropriate to increase the public awareness of recreational opportunities on conservation lands. The database must be electronically accessible, searchable, and downloadable in a generally acceptable format.

¹¹² Section 373.467, F.S.

¹¹³ *Id.*

¹¹⁴ EDR, *Welcome*, <http://edr.state.fl.us/Content/> (last visited Oct. 18, 2016).

¹¹⁵ EDR, *Function s of EDR*, <http://edr.state.fl.us/Content/about/functions.cfm> (last visited Oct. 26, 2015).

¹¹⁶ Section 216.136, F.S.

The bill directs the DEP, through its own efforts or in partnership with a third party, to create a downloadable mobile application to locate state lands available for public access using the user's current location or activity of interest. The database and application must include information for all publicly accessible state conservation lands that serve a recreational purpose.

The bill requires that beginning January 1, 2018, to the greatest extent practicable, the database must include similar information for recreational lands with public access that are owned by the federal and local governments.

The bill requires the DEP to submit a report by January 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives, describing the percentage of public lands with public access purchased by the Board of Trustees of the Internal Improvement Trust Fund for conservation and recreational purposes, and efforts taken by the DEP to increase public access to such lands.

Section 2 amends s. 373.019, F.S., to amend the definition of "water resource development" to add "self-suppliers" to the list of entities that may receive technical assistance as long as such assistance is consistent with specific legislative policy goals.

Section 3 amends s. 373.036, F.S., to require additional information related to all water quality or water quantity projects as part of a 5-year work program. The following must be included in the Consolidated Water Management District Annual Report:

- All projects identified to implement a Basin Management Action Plan (BMAP) or recovery or prevention strategy;
- Priority ranking of each listed project, for which state funding through the water resources development work program is requested, which must be available for public comment at least 30 days before submission of the consolidated annual report;
- Estimated cost of each project;
- Estimated completion date for each project;
- Source and amount of financial assistance that will be made available by the DEP, a water management district (WMD), or some other entity for each project;
- A quantitative estimate of each project's benefit to the watershed, waterbody, or water segment in which it is located; and
- A grade for each watershed, waterbody, or water segment where a project is located representing the level of impairment and violations of adopted or interim minimum flow or minimum water level. The grading system must reflect the severity of the impairment.

Section 4 creates s. 373.037, F.S., to provide for a pilot program for alternative water supply development in restricted allocation areas.

The bill defines:

- Central Florida Water Initiative Area;
- Lower East Coast Regional Water Supply Planning Authority;
- Southern Water Use Caution Area; and
- Upper East Coast Regional Water Supply Planning Area.

The bill also defines “restricted allocation area” to mean an area within a specified water supply planning region where a WMD has determined that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems and where the WMD has applied allocation restrictions with regard to the use of specific sources of water.

The bill provides the following legislative findings:

- There are significant challenges to securing funds for implementing large-scale alternative water supply projects in certain restricted allocation areas due to a variety of factors including:
 - The magnitude of the water resource challenges;
 - The large number of water users;
 - The difficulty of developing multijurisdictional solutions across district, county, or municipal boundaries; and
 - The expense of developing large-scale alternative water supply projects identified in the regional water supply plans.
- These factors make it necessary to provide other options for the South Florida Water Management District (SFWMD), the Southwest Florida Water Management District (SWFWMD), and the St. Johns River Water Management District (SJRWMD) to be able to take the lead in developing and implementing one alternative water supply project within a restricted allocation area as a pilot alternative water supply development project;
- Each pilot project must provide water supply and environmental benefits; and
- Consideration should be given to projects that provide reductions in damaging discharges to tide or that are part of a recovery or prevention strategy for Minimum Flows and Levels (MFLs).

The bill allows the SFWMD, SWFWMD, and the SJRWMD, at their sole discretion, to each designate and implement an existing alternative water supply project that is identified in each WMD’s regional water supply plan or amend its regional water supply plan to add a new alternative water supply project as its one pilot project.

The bill provides a deadline of July 1, 2017, to designate a pilot project and provides that it is not subject to rulemaking requirements under ch. 120, F.S., or subject to legal challenge pursuant to ss. 120.569 and 120.57, F.S.

The bill allows a WMD to designate an alternative water supply project located in another WMD if the project is located in a restricted allocation area designated by the other WMD and a substantial quantity of water provided by the alternative water supply project will be used within the boundaries of the water management district that designated the alternative water supply project.

The bill details powers and restrictions for the SFWMD, SWFWMD, and SJRWMD in implementing a pilot project under this section:

- The WMDs may not develop and implement a pilot project on privately owned land without the voluntary consent of the landowner as evidenced by deed, easement, license, contract, or other written legal instrument executed by the landowner after July 1, 2016.

- The WMDs may not engage in local water supply distribution or sell water to the pilot project participants.
- For the purpose of carrying out their powers, the WMDs may join with other entities;
- The WMDs may also contract with any of those entities to finance or otherwise implement acquisitions, construction, and operation and maintenance, if the contracts are consistent with the public interest and based upon independent cost estimates, including comparisons with other alternative water supply projects. The contracts may provide for contributions to be made by each party to the contract for the division and apportionment of resulting costs.

The bill allows a WMD to provide up to 50 percent funding assistance for a pilot project.

The bill provides that if the SFWMD, SWFWMD, or the SJRWMD elects to implement a pilot project, it must submit a report to the Governor and Legislature by July 1, 2020, on the effectiveness of its pilot project. The report must include:

- A description of the alternative water supply project selected as a pilot project, including the quantity of water the project has produced or is expected to produce and the consumptive users who are expected to use the water produced by the pilot project to meet their existing and future reasonable-beneficial uses;
- Progress made in developing and implementing the pilot project in comparison to development and implementation of other alternative water supply projects in the restricted allocation area;
- The capital and operating costs to be expended by the WMD in implementing the pilot project in comparison to other alternative water supply projects being developed and implemented in the restricted allocation area;
- The source of funds to be used by the WMD in developing and implementing the pilot project;
- The benefits to the WMD's water resources and natural systems from implementation of the pilot project; and
- A recommendation as to whether the traditional role of WMDs regarding the development and implementation of alternative water supply projects should be revised and, if so, identification of the statutory changes necessary to expand the scope of the pilot program.

Section 5 amends s. 373.042, F.S., to amend the definition of "minimum water level" to add the phrase "or ecology." This changes the definition to: "the minimum water level is the level of groundwater in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources or ecology of the area."

The bill provides that if a minimum flow and level (MFL) has not been adopted for an Outstanding Florida Springs (OFS), a WMD or the DEP must use emergency rulemaking authority to adopt an MFL no later than July 1, 2017, except for the Northwest Florida Water Management District (NFWMD), which must use emergency rulemaking authority to adopt MFLs for OFSs no later than July 1, 2026. The bill requires recovery or prevention strategies to be adopted concurrently with the MFLs authorized adoption using emergency rulemaking procedures.

For OFSs identified on a WMD's priority list, which have the potential to be affected by withdrawals in an adjacent district, the adjacent WMD or WMDs and the DEP must collaboratively develop and implement a recovery or prevention strategy for an OFS not meeting an adopted MFL. Priority lists and schedules for the establishment of MFLs are prepared by the WMDs and submitted to the DEP for review and approval.

The bill provides that rules adopted under this section (s. 373.042, F.S., which concerns the adoption of MFLs) are not subject to legislative ratification.

Section 6 amends s. 373.0421, F.S., to require the DEP or a WMD to adopt or modify a recovery or prevention strategy concurrently with the initial adoption or modification of an MFL if the existing flow or water level is below, or is projected to fall within 20 years below, the applicable MFL. For an existing MFL, the prevention or recovery strategy must be adopted expeditiously if the flow or water level falls below, or is projected to fall within 20 years below, the applicable MFL.

The bill requires applicable regional water supply plans developed by the WMDs to be amended to include any water supply and resource development projects identified in a recovery or prevention strategy. The amendment must be approved concurrently with the relevant portions of the recovery or prevention strategy.

The bill requires a WMD to notify the DEP if an application for a water use permit is denied based upon the impact that the use will have on an adopted MFL. If notified, the DEP, in cooperation with the WMD, must conduct a review of the regional water supply plan to determine the plan's adequacy to provide sufficient water for all current and future users and natural systems and to avoid competition. If the regional water supply plan does not adequately address the legislative intent regarding water resource and supply development found in s. 373.705, F.S., the WMD must immediately initiate an update of the plan.

Section 7 creates s. 373.0465, F.S., to codify the Central Florida Water Initiative (CFWI) in statute and provides legislative findings.

The bill defines the "Central Florida Water Initiative Area" as all of Orange, Osceola, Polk, and Seminole Counties, and southern Lake County, as designated by the CFWI Guiding Document of January 30, 2015.

It directs the DEP, the SFWMD, the SWFWMD, the SJRWMD, and the Department of Agriculture and Consumer Services (DACS) to:

- Provide for the continuation of the collaborative process in the CFWI area among the state agencies, affected WMDs, regional public water supply utilities, and other stakeholders;
- Build on the guiding principles and goals in the CFWI Guiding Document of January 30, 2015, and the work that has already been accomplished by the CFWI participants;
- Develop and implement a single multidistrict regional water supply plan, including any needed recovery or prevention strategies and a list of water resource or supply development projects; and
- Provide for a single hydrologic planning model to assess the availability of groundwater in the CFWI area.

The bill specifies that the development of the water supply planning program must:

- Consider limitations on groundwater use together with opportunities for new, increased, or redistributed groundwater uses based on conditions established through the consumptive use permit (CUP) process;
- Establish a coordinated process for identification of water resources requiring new or revised conditions through the CUP process;
- Consider existing recovery or prevention strategies;
- Include a list of water supply options sufficient to meet the water needs of all existing and future reasonable-beneficial uses which meet CUP conditions; and
- Identify which of the water supply sources are preferred water supply sources.

The bill directs the DEP, in consultation with the SFWMD, the SWFWMD, the SJRWMD, and the DACS, to adopt uniform rules for the CFWI Area that include:

- A single, uniform definition of “harmful to the water resources” consistent with its usage for CUPs;
- A single method for calculating residential per capita water use;
- A single process for permit reviews;
- A single, consistent process, as appropriate, to set MFLs and water reservations;
- A goal for residential per capita water use for each consumptive use permit; and
- An annual conservation goal for each CUP consistent with the regional water supply plan.

The uniform rules must include existing recovery strategies within the CFWI Area adopted before July 1, 2016, and the DEP may grant variances to the uniform rules if there are unique circumstances or hydrogeological factors that make application of the uniform rules unrealistic or impractical.

The DEP is required to initiate rulemaking for the uniform rules by December 31, 2016. Those rules will be applied by the WMDs only in the CFWI Area. The rules must be implemented by the WMDs without further rulemaking and will be considered WMD rules.

The planning programs developed under this section of the bill may not serve to modify planning programs in areas of the affected WMDs that are not within the CFWI Area, but may include interregional projects located outside the CFWI Area if they are consistent with the planning and regulatory programs in the area they are located.

Section 8 amends s. 373.1501, F.S., to provide that the SFWMD will exercise the authority of the state to allocate water within its jurisdiction, including water supply in relation to the Central and Southern Florida (C&SF) Project, and be responsible for allocating water and assigning priorities among the other water uses served by the C&SF Project.

The bill requires the SFWMD to provide recommendations to the U.S. Army Corps of Engineers when developing or implementing water control plans or regulation schedules required for the operation of the C&SF Project.

Section 9 amends s. 373.219, F.S., to require the DEP, for OFSSs, to adopt uniform rules for issuing permits which prevent groundwater withdrawals that are harmful to the water resources and adopt by rule a uniform definition of the term “harmful to the water resources” for OFSSs to provide WMDs with minimum standards necessary to be consistent with the overall water policy of the state. This does not prohibit a WMD from adopting a definition that is more protective of the water resources consistent with local or regional conditions or objectives.

Section 10 amends s. 373.223, F.S., to require a new, renewal of, or modification to a CUP authorizing withdrawal of 100,000 gallons or more per day from a well with an inside diameter of eight inches or more to be monitored by the permit holder for water usage at intervals and using methods determined by the applicable WMD and report the results to the WMD at least annually. The bill allows a WMD to continue to enforce rules in effect on July 1, 2016, and to adopt rules that are more stringent than those required in this section of the bill.

The bill provides rulemaking authority to the WMDs to implement this provision.

Section 11 amends s. 373.2234, F.S., to direct the governing boards of the WMDs to consider the identification of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible. The identification of preferred water supply sources for such water users must be consistent with s. 373.016, F.S., which concerns the policy of Florida with respect to water resources.

Section 12 amends s. 373.227, F.S., regarding water conservation, to:

- Prohibit modification of a CUP allocation during the permit term if documented conservation measures result in decreased water use, and requires WMDs to adopt rules providing water conservation incentives, which may include limited permit extension; and
- Prohibit the reduction of permitted water use authorized by a CUP for agricultural irrigation during the term of the CUP if actual water use is less than permitted use due to weather, crop disease, nursery stock availability, market conditions, or changes in crop type.

Section 13 amends s. 373.233, F.S., to require a WMD or the DEP to give preference to the use or application of water closest to the preferred water source when deciding between two new competing applications that qualify equally.

Section 14 amends s. 373.4591, F.S., to provide that public-private partnerships may be entered into for groundwater recharge on private agricultural lands. It also provides that priority consideration must be given to public-private partnerships for such lands that:

- Store or treat water on private lands for purposes of enhancing hydrologic improvement, improving water quality, or assisting in water supply;
- Provide critical groundwater recharge; or
- Provide for changes in land use to activities that minimize nutrient loads and maximize water conservation.

Currently, when a private landowner enters into an agreement with the DEP or a WMD, a baseline condition of wetlands on the property is established and documented. The bill adds the DACS to the list of entities that should document baseline wetlands in an agreement that the DACS makes with a private entity.

Section 15 amends s. 373.4595, F.S., to make changes to the Northern Everglades and Estuaries Protection Program. Revisions throughout this section are made to clarify that the BMAP is now the primary pollution control planning tool for Lake Okeechobee, the Caloosahatchee River, and the St. Lucie River Watersheds. Similarly, revisions are made in this section to provide that the DEP has the primary responsibility for these BMAPs. This is a substantive change from the current s. 373.4595, F.S., because under existing law the SFWMD is tasked with the responsibilities for administering the pollution control programs for these watersheds.

The bill amends legislative intent, providing that the Lake Okeechobee, the Caloosahatchee River, and the St. Lucie River Watershed Protection Programs should be expeditiously implemented.

The bill defines “biosolids” and “soil amendment” and removes the definitions of “District’s Works of the District Program” and the “Lake Okeechobee Watershed Phosphorous Control Program,” as all references to those programs are removed throughout this section of the bill.

The definition of “Lake Okeechobee Watershed Protection Plan” is amended to specify that the plan consists of the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program.

Revisions to the Lake Okeechobee and the Caloosahatchee and St. Lucie Watershed Protection Programs

The bill makes the following revisions to the provisions of the Lake Okeechobee and the Caloosahatchee and St. Lucie Watershed Protection Programs:

- Reorganizes the watershed protection plans to place the existing watershed construction projects and watershed research and water quality monitoring programs under the umbrella of the plans.
- Replaces the pollutant control programs with the BMAP process.
- Expressly sets forth the following requirements of the BMAP process, which are also included in existing law (s. 403.067(7), F.S.):
 - The BMAP must include milestones for implementation and water quality improvement and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reduction is being achieved over time.
 - An assessment of progress every five years is required.
 - Revisions to the BMAP must be made as the result of each 5-year review as appropriate.
 - Best management practices (BMPs) or other measures must be reviewed and revised if they are leading to water quality problems.
- Requires each five year progress assessment to be submitted to the Governor and the Legislature.
- The bill requires the DEP to develop 5, 10, and 15-year measurable milestones and targets designed to meet the Total Maximum Daily Load (TMDL) no more than 20 years after adoption of the plan. The initial implementation schedule is not subject to chapter 120, F.S., but will be incorporated into the BMAP as part of the 5-year update of the BMAP, which includes adoption by secretarial order through the chapter 120, F.S., process.
- If achieving the TMDL is not practicable within 20 years, the DEP must provide:

- An explanation in the implementation schedule of the constraints that prevent achievement of the TMDL within 20 years;
- An estimate of the time needed to achieve the TMDL; and
- Additional five year milestones, as necessary.
- Requires the DACS to include in its rules relating to entities that land-apply animal manure criteria and thresholds for the following requirements:
 - To develop a conservation or nutrient management plan,
 - For plan approval,
 - Site inspection, and
 - Recordkeeping.
- Deletes the deadlines for developing certain plans because those plans have already been developed.
- Requires the SFWMD to initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality pursuant to the BMAP process. The results of the monitoring must be reported to the coordinating agencies.

Beginning March 2020, and every five years thereafter, concurrent with BMAP revisions, the DEP, in cooperation with coordinating agencies, shall evaluate the pollutant reduction goals and other objectives of the River Watershed Protection Programs for dischargers in the Caloosahatchee and St. Lucie River watersheds.

Components of the Lake Okeechobee Watershed Protection Program (LOWPP) under existing law and under changes proposed in the bill:

Existing Law	Proposed Changes in the Bill
<ul style="list-style-type: none"> ● Lake Okeechobee Watershed Protection Plan; ● Lake Okeechobee Watershed Construction Project, which includes the Phase I and II Technical Plans; ● Lake Okeechobee Watershed Phosphorus Control Program; ● Lake Okeechobee Watershed Research and Water Quality Monitoring Program; ● Lake Okeechobee Exotic Species Control Program; and ● Lake Okeechobee Internal Phosphorus Management Program. 	<ul style="list-style-type: none"> ● Lake Okeechobee Watershed Protection Plan, consisting of: <ul style="list-style-type: none"> ○ Lake Okeechobee Watershed Construction Project; ○ Lake Okeechobee Watershed Research and Water Quality Monitoring Program; ● Lake Okeechobee Basin Management Action Plan, which is based on the Phase II Technical Plan; ● Lake Okeechobee Exotic Species Control Program; and ● Lake Okeechobee Internal Phosphorus Management Program.

The bill amends s. 373.4595(3)(a), F.S., relating to the Lake Okeechobee Watershed Protection Plan, to:

- Require the SFWMD, beginning March 1, 2020, and every five years thereafter, to update the plan to ensure it is consistent with the Lake Okeechobee BMAP;

- Specify that the Phase II technical plan of the Lake Okeechobee Watershed Construction Project provides the basis for the Lake Okeechobee BMAP and remove a requirement that it be ratified by the Legislature;
- Require the DEP, within five years after adoption of the Lake Okeechobee BMAP, and every five years thereafter, to evaluate the Lake Okeechobee Watershed Construction Project to identify any further load reductions needed to achieve compliance with the Lake Okeechobee Total Maximum Daily Load (TMDL). Any modification to the Lake Okeechobee Watershed Construction Project resulting from the evaluation must be incorporated into the Lake Okeechobee BMAP; and
- Revise and reorganize the Lake Okeechobee Watershed Research and Water Quality Monitoring Program to reflect the role of that program in the BMAP process. Changes include:
 - Every five years, beginning March 1, 2020, the DEP will reevaluate water quality and quantity data to ensure the appropriate projects are being designated and incorporated into the Lake Okeechobee BMAP;
 - Information on the sources of phosphorus from the Upper Kissimmee Chain of Lakes and Lake Istokpoga and their relative contribution to the water quality of Lake Okeechobee will be used as part of the Lake Okeechobee BMAP to develop interim measures, BMPs, or regulations; and
 - Any alternative nutrient reduction technologies determined to be feasible will be included in the Lake Okeechobee BMAP.

The bill revises the existing requirement for an interagency agreement to allow the coordinating agencies to develop an intergovernmental agreement with local governments to implement nonagricultural nonpoint source BMPs within their respective geographic boundaries.

The bill also makes the following revisions related to nonpoint sources of pollution:

- When water quality problems are detected despite the appropriate implementation of agricultural or nonagricultural BMPs, the BMPs must be reevaluated and revised if the reevaluation determines that the BMPs require modification. The bill provides that the revised BMPs must be implemented within a reasonable amount of time.
- The DACS, in consultation with the SFWMD, the DEP, and affected parties, shall develop agricultural nonpoint source interim measures, BMPs, or other measures necessary for Lake Okeechobee Watershed TMDL reduction. The DACS shall adopt such practices by rule.
- The DEP, in consultation with the SFWMD and affected parties, shall develop nonagricultural nonpoint source interim measures, BMPs, or other measures necessary for Lake Okeechobee Watershed TMDL reduction. It directs the DEP or the SFWMD to adopt new practices by rule.
- DACS, in cooperation with the DEP and the SFWMD, will provide technical and financial assistance for implementation of agricultural and nonagricultural nonpoint source BMPs, subject to the availability of funds.

The bill amends s. 373.4595(3)(b)12., F.S., to address the requirements of agricultural nonpoint source dischargers located south of Lake Okeechobee. These dischargers are currently subject to regulation under s. 373.4595, F.S. (implemented in rule 40E-61, F.A.C.), which regulates the Lake Okeechobee Watershed, and s. 373.4592, F.S. (implemented in rule 40E-63, F.A.C.), which regulates the Everglades. Agricultural nonpoint source dischargers may either implement BMPs

or monitoring to comply with these regulatory schemes. The revisions to s. 373.4595(3)(b)12., F.S., in the bill state that the BMPs for the Everglades Program meet the BMP requirements for Lake Okeechobee (including the BMP requirements in the BMAP). The Everglades Program permit can be used in lieu of the requirements of the Lake Okeechobee BMAP (which would be BMPs or monitoring for nonpoint source dischargers) if the permit holder is in compliance with the BMPs set forth in the Everglades Program. However, subparagraph five of the section is still intended to apply to those dischargers. That subparagraph states that where water quality problems are detected for agricultural nonpoint sources despite the implementation of BMPs, the BMPs must be reviewed and revised within a reasonable period as specified in rule. The regulatory requirements of the Everglades Program still apply to these dischargers.

The bill provides that management strategies and pollution reduction requirements set forth in a BMAP are not subject to challenge under ch. 120, F.S., at the time they are incorporated into a permit.

The bill requires the SFWMD to revise Florida Administrative Code Rule 40E-61, regarding the Works of the District (WOD) program, to:

- Be consistent with the revised provisions of the Lake Okeechobee Watershed Protection Program and the implementation of TMDLs through the BMAP process,
- Provide for a monitoring program for nonpoint source dischargers required to monitor water quality by s. 403.067, F.S., and
- Provide the results to be reported to the coordinating agencies.

The bill amends s. 373.4595(6), F.S., to require the DEP to report March 1 of every year on the status of the Lake Okeechobee, Caloosahatchee River Watershed, and St. Lucie River Watershed BMAPs. It also requires the DACS to report on the status of the implementation of agricultural nonpoint source BMPs, including an implementation assurance report summarizing survey responses and response rates, site inspections, and other methods used to verify implementation and compliance with BMPs in the Lake Okeechobee, Caloosahatchee, and St. Lucie watersheds.

The bill amends s. 373.4595(7)(c), F.S., to remove the requirement that owners or operators of existing structures that discharge into or from Lake Okeechobee that were subject to certain consent orders must get a permit under s. 373.4595(7), F.S. The holders of the consent orders are primarily water control districts regulated under ch. 298, F.S., that are responsible for canals and other structures that control water flow around the south and east portions of Lake Okeechobee. One consent order is for the holder of a state agricultural lease that operated a culvert that discharged into the Lake and Rim Canal. These structures will still be subject to the requirements of ss. 373.413 and 373.416, F.S., which govern the construction, alteration, maintenance, or operation of these structures. These structures are also subject to the requirements of the Lake Okeechobee BMAP. Owners and operators of existing structures will be deemed in compliance if they meet the conditions of permits under rule 40E-63, F.A.C., governing the Everglades Program.

Section 16 amends s. 373.467, F.S., to revise the membership requirements for the Harris Chain of Lakes Restoration Council. One member must be a person with experience in environmental science or regulation, rather than an environmental engineer. It requires an attorney and an engineer, rather than individuals that have training in either discipline. It also clarifies that the

two members, who are residents of the county, are not required to meet any of the other requirements of membership to be appointed to the council. As the statute is currently written, it appears those two members are prohibited from meeting any of the other requirements for membership. The bill provides that the Lake County legislative delegation may waive the qualifications for membership on a case-by-case basis for good cause. The bill provides that resignation by a council member or the failure of a member to attend three consecutive meetings without being excused by the chair of the committee results in a vacancy.

Section 17 amends s. 373.536, F.S., to require the WMDs to include an annual funding plan for each of the five years included in their plans for water resource and water supply development components of the plans.

The bill specifies that the funding plan must address the water supply projects proposed for funding and assistance. The plan must identify both anticipated available district funding and additional funding needs for the second through fifth years of the funding plan. Projects included in the work program must be shown to support the implementation of MFLs and water reservations and must avoid the adverse effects of competition for water supplies.

The bill requires the DEP to post the proposed work program on its website.

Section 18 amends s. 373.703, F.S., regarding water production, to include private landowners on the list of entities that a WMD is authorized to join with in carrying out its duties.

Section 19 amends s. 373.705, F.S., to specify that for regionally significant water resource development projects, the WMDs are responsible for securing necessary funding for regionally significant projects that: prevent or limit adverse water resource impacts, avoid competition among water users, or support the provision of new water supplies in order to meet an MFL or to implement a recovery or prevention strategy or water reservation.

It also requires the WMDs to include in their annual budget submittals the amount of funds for each project in the annual funding plan.

The bill adds projects that reduce or eliminate the adverse effects of competition between legal users and the natural system to the list of water supply development projects that will be given first consideration for state or WMD funding assistance.

The bill requires the WMDs to promote expanded cost-share criteria for additional conservation practices, such as soil and moisture sensors and other irrigation improvements, water-saving equipment, and water-saving household fixtures, and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.

Section 20 amends s. 373.707, F.S., to include self-suppliers as entities that may receive technical and financial assistance from a WMD for alternative water supply projects if the projects help avoid the adverse effects of competition for limited water supplies.

In addition to the provision of funds via the Water Protection and Sustainability Program, the bill provides that when state funds are provided through specific appropriation, those funds serve to

supplement existing WMD or basin board funding for alternative water supply development assistance and should not result in a reduction of such funding.

WMDs are required to include the amount of funds allocated for water resource development that supports alternative water supply development and funds allocated for alternative water supply projects. The bill specifies that those funds relate to projects identified in the annual funding plans developed by the WMDs as part of a five year water resource development work program.

Under existing law, only fiscally disadvantaged small local governments are eligible for a waiver from the 60 percent cost-share requirement for funding that is set forth in this section. The bill authorizes the WMDs to waive the match requirement for any water user for projects determined by the WMD to be in the public interest and that are not otherwise financially feasible.

Section 21 amends s. 373.709, F.S., to limit water supply development project options in each regional water supply plan to options that are technically and financially feasible.

For the required list of water resource development projects that support water supply development, the bill requires the list to include all existing and future reasonable-beneficial uses and for the natural systems identified in recovery or prevention strategies for adopted MFLs or water reservations.

Each listed water resource development project must include an estimate of the amount of water to become available through the project. The bill requires the estimate to be for all existing and future reasonable-beneficial uses and for natural systems identified in recovery or prevention strategies for adopted MFLs or water reservations.

The bill requires the inclusion of an assessment of how the regional water supply plan, and projects in the funding plans, support the recovery or prevention strategies for implementation of adopted MFLs or water reservations, including MFLs for OFSs, while ensuring that sufficient water will be available for all existing and future reasonable-beneficial uses and for natural systems, and that the adverse effects of competition for water supplies will be avoided.

It also requires the DEP's report on the status of regional water supply planning in each WMD to include an analysis of the sufficiency of potential sources of funding from all sources for water resource development and water supply development projects. The report must also include an explanation of how each project identified in the 5-year water resource development work program will contribute to additional water for MFLs or water reservations

Section 22 creates Part VIII of ch. 373, F.S., to consist of ss. 373.801, 373.802, 373.803, 373.805, 373.807, 373.811, and 373.813, F.S., and provides the title, "Florida Springs and Aquifer Protection Act."

Section 23 creates s. 373.801, F.S., to provide legislative findings and intent:

- Detailing the importance of Florida's springs, and various benefits they provide to the state including providing critical habitat for plants and animals. Springs provide immeasurable natural, recreational, economic, and inherent value. Springs are of great scientific importance

in understanding the diverse functions aquatic ecosystems. Water quality in springs is an indicator of local conditions of the Floridan Aquifer. Water flows in springs reflect regional aquifer conditions. Springs also provide recreational opportunities for Floridians and visitors to the state and economically benefit local and state economies.

- Stating that water quantity and water quality in springs may be related. It also specifies the primary responsibilities of the DEP, WMDs, the DACS, and local governments.
- Recognizing that springs are only as healthy as their local aquifer systems and identifying several of the problems affecting springs, including pollution runoff from urban and agricultural lands, stormwater runoff, and reduced water levels of the Floridan aquifer, which may have led to the degradation of many of Florida's springs.
- Recognizing that without significant action, the quality of Florida's springs will continue to degrade.
- Stating that springshed boundaries need to be delineated using the best available data.
- Recognizing that springsheds often cross WMDs and local government jurisdictional boundaries, which requires a coordinated response.
- Recognizing that aquifers and springs are complex systems affected by many variables and influences.
- Recognizing that action is urgently needed, and action can be modified as additional data is acquired.

Section 24 creates s. 373.802, F.S., to provide definitions for “department,” “local government,” “onsite sewage and treatment disposal system,” “spring run,” “springshed,” and “spring vent.”

The bill also defines:

- “Outstanding Florida Springs,” which includes all historic first magnitude springs, including their associated spring runs, as determined by the DEP using the most recent version of the Florida Geological Survey's springs bulletin. The following springs and their associated spring runs are also considered OFSs: DeLeon Springs, Peacock Springs, Poe Spring Rock Springs, Wekiwa Springs, and Gemini Springs. The term does not include submarine springs or river rises.
- “Priority Focus Area,” meaning “the area or areas of a basin where the Floridan Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the department in consultation with the appropriate water management districts, and delineated in a basin management action plan.”

Section 25 creates s. 373.803, F.S., to direct the DEP, in consultation with the WMDs, to delineate priority focus areas for each OFS or group of springs that contain one or more OFS and is identified as impaired, using the best available data. The DEP must use understood and identifiable boundaries such as roads or political jurisdictions for ease of implementation. The bill requires the delineation of the priority focus areas to be completed by July 1, 2018, and provides that a priority focus area will be effective upon its incorporation in a BMAP. It directs the DEP to consider groundwater travel time, hydrogeology, nutrient load, and any other factors that may lead to degradation of an OFS when delineating the areas.

Section 26 creates s. 373.805, F.S., to direct either a WMD or the DEP to adopt a recovery or prevention strategy concurrently with the adoption of an MFL for an OFS, if it is below, or projected within 20 years to fall below, an MFL.

When an MFL for an OFS is revised, if the spring is below or projected within 20 years to fall below the MFL, a WMD or the DEP must concurrently adopt or modify a recovery or prevention strategy. The bill provides that a WMD or the DEP may adopt the revised MFL before the adoption of a recovery or prevention strategy if the revised MFL is less constraining on existing or projected future consumptive uses.

For any OFS without an adopted recovery or prevention strategy, a WMD or the DEP must expeditiously adopt a recovery or prevention strategy if the WMD or the DEP determines that the OFS has fallen below, or is projected within 20 years to fall below, the adopted MFL.

The bill provides the following minimum requirements for a recovery or prevention strategy for OFSs:

- A list of all specific projects identified for implementation of the plan;
- A priority listing of each project;
- For each project, the estimated cost and date of completion;
- The source and amount of financial assistance from the WMD for each project which may not be less than 25 percent of the total cost unless there are funding sources that provide more than 75 percent of the total cost of the project. The NFWFMD and the Suwannee River Water Management District (SRWMD) are not required to meet the minimum requirement to provide financial assistance;
- An estimate of each project's benefit to an OFS; and
- An implementation plan designed with a target to achieve the adopted MFL within 20 years or less after the adoption of a recovery or prevention strategy.

The WMD or the DEP must develop a schedule of 5, 10, and 15-year targets for achieving the adopted MFL. The schedule is not a rule but is intended to provide guidance for planning and funding purposes.

The bill also provides for a single extension of up to five years for local governments for any project in an adopted recovery or prevention strategy, which may be granted if the local government provides sufficient evidence that an extension is in the best interest of the public. If the local government is in a rural area of opportunity, the DEP may grant a single extension of up to 10 years.

Section 27 creates s. 373.807, F.S., to provide a deadline of July 1, 2016, for the DEP to initiate assessment of any OFSs or spring systems for which a determination of impairment has not been made and under the numeric nutrient standards for spring vents. The assessment must be complete by July 1, 2018. The bill requires that:

- When a TMDL is adopted, the DEP, or the DEP in coordination with a WMD, will concurrently initiate development of a BMAP;
- For an OFS that has an adopted nutrient TMDL before July 1, 2016, the DEP, or the DEP in coordination with a WMD, will initiate development of a BMAP by July 1, 2016; and

- As the BMAP is developed, if Onsite Sewage Treatment and Disposal Systems (OSTDSs) are identified as contributors of at least 20 percent of nonpoint source nitrogen pollution or if the DEP determines remediation is necessary to achieve the TMDL, the BMAP will include an OSTDS remediation plan for those systems identified as requiring remediation.

BMAPs for OFSs must be adopted within two years of their initiation and must include:

- A list of all projects and programs for implementing a nutrient TMDL;
- A list of all projects in any incorporated OSTDS remediation plan, if applicable;
- A priority ranking of all projects;
- A planning-level cost estimate and completion date of each project;
- The source and amount of any financial assistance from the DEP, the WMD, or other entity;
- The estimate of each project's nutrient load reduction;
- The identification of each point source or category of nonpoint sources with an estimated allocation of the pollutant load for each point source and category of nonpoint sources; and
- An implementation plan designed with a target to achieve the nutrient TMDL no more than 20 years after the adoption of a BMAP.

The bill requires the WMD or the DEP to develop a schedule of 5, 10, and 15-year targets for achieving the adopted nutrient TMDL. The schedule is not a rule but is intended to provide guidance for planning and funding purposes and is exempt from rulemaking.

The bill requires BMAPs adopted by July 1, 2016, that address an OFS to be revised by the DEP, or the DEP in conjunction with a WMD, if necessary to comply with this section by July 1, 2018. Additionally, a local government may apply for an extension of up to five years, or 10 years in the case of a local government within a rural area of opportunity, for any project in an adopted BMAP upon showing that an extension is in the best interest of the public.

By July 1, 2017, each local government that has not adopted an ordinance modeled after the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes, must develop, enact, and implement an ordinance based on the model ordinance to control urban fertilizer use in springsheds or priority focus areas of an OFS. The bill also provides legislative intent that ordinances adopted under this subsection should reflect the latest scientific information, advancements, and technological improvements in the industry.

As part of a BMAP that includes an OFS, the DEP, the Department of Health (DOH) and relevant local governments and local public and private wastewater utilities, will develop an OSTDS remediation plan for a spring if the DEP determines OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution, or if the DEP determines remediation is necessary to achieve the TMDL. The plan must identify cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs and it must be completed and adopted as part of the BMAP no later than the first five year milestone.

The DEP is the lead agency in coordinating the preparation of and adoption of the remediation plan. In preparing the plan, the DEP will:

- Collect and evaluate credible scientific information on the effect of nutrients, particularly forms of nitrogen, on springs and springs systems; and

- Develop a public education plan to provide area residents with reliable, understandable information about OSTDSs and springs.

In addition to requirements in s. 403.067, F.S., which details the establishment and implementation of the state's TMDL program, the remediation plan must include options for:

- Repair;
- Upgrade;
- Replacement;
- Drainfield modification;
- Addition of effective nitrogen reducing features;
- Connection to a central sewerage system; or
- Other action for an OSTDS or group of systems within a priority focus area that contribute at least 20 percent of nonpoint source nitrogen pollution, or are determined by the DEP to require remediation.

The DEP will include in the remediation plan a priority ranking for each system or group of systems that requires remediation and will award funds to implement the remediation projects contingent on an appropriation in the General Appropriations Act, which may include all or part of the costs necessary for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, initial connection to a central sewerage system, or other action.

In awarding funds, the DEP may consider expected nutrient reduction benefit per unit cost, size and scope of the project, relative local financial contribution to the project, and financial impact on property owners and the community. The DEP may waive matching funding requirements for proposed projects within an area designated as a rural area of opportunity.

The bill requires the DEP to provide notice to local governments that have any jurisdiction in a priority focus area of an OFS of any permit applicants under s. 403.814(12), F.S., which relates to general permits for the construction, alteration, and maintenance of a stormwater management system serving a total project area of up to 10 acres.

Section 28 creates s. 373.811, F.S., to detail prohibited activities in a priority focus area in effect for an Outstanding Florida Springs.

Activities prohibited within a priority focus area are:

- Construction of domestic wastewater disposal systems with permitted capacities of 100,000 gallons per day or greater unless the system meets a treatment standard of three mg/L total nitrogen on an annual permitted basis, unless the DEP determines a higher standard is necessary to attain a TMDL for the OFS;
- Construction of OSTDSs on lots less than one acre, if the addition of the specific systems conflicts with an onsite treatment and disposal system remediation plan incorporated into a BMAP;
- Construction of facilities for the disposal of hazardous waste;
- Land application of Class A or Class B domestic wastewater biosolids not in accordance with a DEP approved nutrient management plan establishing the rate at which all biosolids, soil

amendments, and sources of nutrients at the land application site can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged to groundwater or waters of the state; and

- New agriculture operations that do not implement BMPs, measures necessary to achieve pollution reduction levels established by the DEP, or groundwater monitoring plans approved by a WMD or the DEP.

Section 29 creates s. 373.813, F.S., to direct the DEP to adopt rules to improve water quantity and quality to administer Florida Springs and Aquifer Protection Act.

The bill specifies the DACS is the lead agency for coordinating the reduction of agricultural nonpoint sources of pollution for the protection of OFSs. The DACS and the DEP will study and, if necessary, initiate rulemaking within a reasonable amount of time to implement new or revised agricultural BMPs, in cooperation with applicable local governments and stakeholders.

The bill directs the DEP, the DACS, and the University of Florida Institute of Food and Agriculture Sciences to conduct research into improved or additional nutrient management tools, with a sensitivity to the necessary balance between water quality improvements and agricultural productivity. As applicable, the tools must be incorporated into revised agricultural BMPs adopted by rule by the DACS.

Section 30 amends s. 403.061, F.S., to require the DEP to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply. Waters classified under this section must have the same water quality criteria as that for Class III waters. This new classification will allow utilities to withdraw water for potable use from a waterbody classified as Class II or III, so long as it does not require significant alteration of permitted treatment processes or prevent compliance with applicable state drinking water standards. Regardless, this classification or the inclusion of treated water supply as a designated use of a surface water does not prevent a surface water used for treated potable water supply from being reclassified as water designated for potable water supply (Class I).

Section 31 creates s. 403.0617, F.S., to implement an innovative nutrient and sediment reduction and conservation pilot project program. Project funding by the DEP is contingent upon a specific appropriation. The intent of the pilot projects are to test the effectiveness of innovative or existing nutrient reduction or water conservation technologies, programs or practices designed to minimize nutrient pollution or restore flows.

The bill directs the DEP to initiate rulemaking by October 1, 2016, to establish criteria to evaluate and rank pilot projects for funding. The projects may not be harmful to the ecological resources in the study area and the criteria must give preference to projects that will result in the greatest improvement to water quality and quantity for the funds expended.

The bill provides the following minimum considerations:

- Level of impairment of the waterbody, watershed, or water segment in which the project is located;
- Quantity of nutrients the project is estimated to remove;

- The potential for the project to provide a cost effective solution to pollution, including pollution caused by OSTDSs;
- The anticipated impact the project will have on restoring or increasing water flow or water level;
- The amount of matching funds for the project which will be provided by the entities responsible for implementing the project;
- Whether the project is located in a rural area of opportunity, with preference given to the local government responsible for implementing the project;
- For multiple-year projects, whether the project has funding sources that are identified and assured through the expected completion date;
- The cost of the project and length of time it will take to complete relative to its expected benefits; and
- Whether the entities responsible for implementing the project have used their own funds for projects to improve water quality or conserve water use, with preference given to those entities that have expended such funds.

Section 32 amends s. 403.0623, F.S., to direct the DEP, in coordination with the WMDs, regional water supply authorities, and the DACS, to establish statewide standards for the collection and analysis of water quantity, water quality, and related data to ensure quality, reliability, and validity of the data and testing results. The bill directs the DEP to coordinate with federal agencies, to the extent practicable, to ensure its collection and analysis of data is consistent with these data collection standards.

The bill requires state agencies and the WMDs to show that they followed the DEP's collection and analysis standards, if available, in order to request state funds for the acquisition of lands or the financing of a water resource project.

The bill provides rulemaking authority to the DEP and the WMDs to implement these standards.

Section 33 amends s. 403.067, F.S., to provide that each new or revised BMAP must include:

- The appropriate management strategies available through existing water quality protection programs to achieve TMDLs, which may provide for phased implementation to promote timely, cost-effective actions;
- A description of BMPs adopted by rule;
- A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion 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, if applicable; and
- A planning-level estimate of each listed project's expected load reduction, if applicable.

The bill provides that BMAPs are enforceable pursuant to ss. 403.067 (establishment and implementation of TMDLs), 403.121 (judicial and administrative remedies available to the DEP for violations of ch. 403, F.S.), 403.141 (concerning civil liability), and 403.161 (concerning prohibitions and penalties), F.S., and that management strategies, including BMPs and water quality monitoring, are enforceable under ch. 403, F.S. The bill also provides authority to the

DACS to include provisions for site inspections in its existing rulemaking authority to address agricultural pollution control.

The bill provides that no later than January 1, 2017:

- The DEP, in consultation with the WMDs and the DACS, will initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of BMPs or other measures;
- The DEP, in consultation with the WMDs and the DACS, will initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, BMPs, or other measures adopted by rule; and
- The DACS, in consultation with the WMDs and the DEP, will initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, BMPs, or other measures adopted by rule.

Those rules are required to include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including BMPs, or water quality monitoring as a result of noncompliance.

Section 34 creates s. 403.0675, F.S., to require the DEP, in conjunction with the WMDs, to post on its website and submit electronically an annual progress report to the Governor and the Legislature on the status of each TMDL, BMAP, MFL, and recovery or prevention strategy adopted pursuant to s. 403.067, F.S., or parts I and VIII of ch. 373, F.S. The report must include the status of each project identified to achieve an adopted TMDL or an adopted minimum flow or minimum water level, as applicable. The report must be posted and submitted by July 1 of each year, beginning in 2018.

If a report indicates that any of the 5, 10, or 15-year milestones, or the 20-year target date, if applicable, for achieving a TMDL or MFL will not be met, the report must include an explanation of the possible causes and potential solutions.

If applicable, the report must include project descriptions, estimated costs, proposed priority ranking for project implementation, and funding needed to achieve the TMDL or the MFL by the target date. Each WMD must also post the DEP's report on its website.

The DACS will post on its website and submit electronically an annual progress report by July 1 of each year, beginning in 2018, to the Governor and the Legislature on the status of the implementation of the agricultural nonpoint source BMPs including an implementation assurance report summarizing survey responses and response rates, site inspections and other methods used to verify implementation of and compliance with BMPs pursuant to BMAPs.

Section 35 amends s. 403.861, F.S. to require the DEP to establish rules concerning the use of surface waters for treated potable public water supply.

The bill provides that when a construction permit is issued to construct a new public water system drinking water treatment facility to provide potable water using a surface water of the state that, at the time of the permit application, is not being used as a potable water supply, and

the classification of which does not include potable water supply as a designated use, the DEP must add treated potable water supply as a designated use of the surface water segment.

The bill provides that for existing public water system drinking water treatment facilities that use a surface water of the state as a treated potable water supply, and the surface water classification does not include potable water as a designated use, the DEP shall add treated potable water supply as a designated use of the surface water segment.

Section 36 creates s. 403.928, F.S. to require the Office of Economic and Demographic Research (EDR) to conduct an annual assessment of Florida's water resources and conservation lands.

Concerning water resources, the assessment must include:

- Historical and current expenditures and projections of future expenditures by federal, state, regional, and local governments and public and private utilities based upon historical trends and ongoing projects or initiatives associated with water supply and demand and water quality protection and restoration;
- An analysis and estimates of future expenditures by federal, state, regional, and local governments and public and private utilities necessary to comply with federal and state laws and regulations. The analysis and estimates must address future expenditures by federal, state, regional, and local governments and all public and private utilities necessary to achieve the legislature's intent that sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that adverse effects of competition for water supplies be avoided. The assessment must include a compilation of projected water supply and demand data developed by each WMD pursuant to s. 373.036, F.S., which relates to the Florida water plan, WMD water management plans, and the consolidated WMD annual reports, and 373.709, F.S., which relates to regional water supply planning. The EDR must note any significant differences between the methods used by the WMDs to calculate the data;
- Forecasts of federal, state, regional, and local government revenues dedicated in current law for the purposes of the water supply demand and water quality protection and restoration, or that have been historically allocated for these purposes, as well as public and private utility revenues; and
- An identification of gaps between projected revenues and projected and estimated expenditures.

Concerning conservation lands, the assessment must also include:

- Historical and current expenditures and projections of future expenditures by federal, state, regional, and local governments based upon historical trends and ongoing projects or initiatives associated with real property interests eligible for funding under the Florida Forever Act;
- An analysis and estimates of future expenditures by federal, state, regional, and local governments necessary to purchase lands identified in plans produced by state agencies or WMDs;
- An analysis of the ad valorem tax impacts, by county, resulting from public ownership of conservation lands;

- Forecasts of federal, state, regional, and local government revenues dedicated in current law to maintain conservation lands and the gap between projected expenditures and revenues;
- The total percentage of Florida real property that is publicly owned for conservation purposes;
- A comparison of the cost of acquiring and maintaining conservation lands under fee simple or less than fee simple ownership.

The assessment must also include:

- Analyses on a statewide, regional, or geographic basis, as appropriate;
- Any analytical challenges in assessing information across the different regions; and
- Any overlap in expenditures for water resources and conservation lands.

Various agencies and local governmental entities are directed to aid the EDR with their respective areas of expertise, and any agency must provide access to the EDR with any information, confidential or otherwise, the EDR considers necessary.

The assessment must be submitted to the President of the Senate and the Speaker of the House of Representatives by January 1, 2017, and by January 1 each year thereafter.

Section 37 creates an undesignated section of law to require the DEP to evaluate the feasibility and cost of creating and maintaining a web-based, interactive map that includes, at a minimum:

- All watersheds and each waterbody within them;
- The county or counties in which the watershed or waterbody is located;
- The WMD or districts in which the watershed or waterbody is located;
- Whether, if applicable, an MFL has been adopted for the waterbody and, if it has not been adopted, when it is anticipated to be adopted;
- Whether, if applicable, a recovery or prevention strategy has been adopted for the watershed or waterbody and, if it has not been adopted, when it is anticipated to be adopted;
- The impairment status of each waterbody;
- Whether, if applicable, a TMDL has been adopted if the waterbody is listed as impaired and, if one has not been adopted, the anticipated adoption date;
- Whether, if applicable, a BMAP has been adopted and, if it has not been adopted, when it is anticipated to be adopted;
- Each project listed on the five year water resources work program;
- The agency or agencies and local sponsor, if any, responsible for overseeing the project;
- The total or estimated cost and completion date of each project and the financial contribution of each entity;
- The estimated quantitative benefit to the watershed or waterbody; and
- The water projects completed within the last five years within the watershed or waterbody.

The bill requires the DEP to submit a report on the feasibility study to the President of the Senate and the Speaker of the House of Representatives by January 1, 2017.

Section 38 creates an undesignated section of law to provide that the act fulfills an important state interest.

Section 39 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill may require local governments to expend funds to comply with planning schedules, adopt fertilizer ordinances, and expend funds for OSTDS remediation. If this bill rises to the level of a mandate, exceptions may apply due to the fact that similarly situated persons are required to comply with the provisions of the bill and funds are likely to be appropriated to cover the cost of the bill to the extent that those costs exceed those already required under current law.

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 exact impact of CS/CS/SB 552 on the private sector and individuals cannot be calculated, as many of the costs are dependent on activities, such as delineation of priority focus areas, that have not occurred. Potential private sector impacts include:

- Provisions that will require some property owners in priority focus areas to upgrade their Onsite Sewage Treatment and Disposal Systems (OSTDSs) or connect to a central sewerage system. This could result in higher rates for sewage disposal compared to the costs of using an OSTDS. Aerobic Treatment Units (ATUs) are also more costly to operate than conventional OSTDSs;
- Rate payers may pay for ongoing operation and maintenance for advanced wastewater treatment plants through rate increases;
- Property owners may have to pay more for passive nitrogen removing systems installed in OSTDSs in new developments with lots of less than one acre. They may also face more expensive pump out costs as a result of more expensive disposal options;
- Urban fertilizer use may decrease because of ordinances causing a reduction in revenue for fertilizer companies;
- Septic tank contractors may benefit due to increased scrutiny and required upgrades to OSTDSs; and

- Entities required to monitor water use could see a negative fiscal impact due to the costs of conducting monitoring.

C. Government Sector Impact:

The bill requires a number of activities that will result in significant increased costs for several government entities, including the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), the Water Management Districts (WMDs), and local governments. The estimated costs are listed below.

The bill requires the DEP to develop, publish, update, and maintain a database of state conservation lands where public access is compatible with conservation and recreation. In addition, DEP is required to evaluate the feasibility and cost of creating and maintaining a web-based, interactive map. The DEP will utilize existing staff to cover the majority of the workload for these requirements; however, additional funding support is needed and listed below.

Description	FTE	Recurring	Non-Recurring	Total
Conservation Lands Public Access Database	2.00	\$251,120	\$739,464	\$990,584
Web-based Interactive Map Feasibility			\$135,700	\$135,700
TOTAL	2.00	\$251,120	\$875,164	\$1,126,284

¹¹⁷

The DACS has requested eight positions and \$22.9 million from the Land Acquisition Trust Fund and \$1.4 million from the General Inspection Trust Fund in the department’s 2016-2017 Legislative Budget Request to assist with BMP development and implementation, and for nutrient reduction and water retention projects in the Lake Okeechobee watershed. In addition, the DACS has requested \$1.5 million in general revenue funding to provide water use data for inclusion in the water management districts’ regional water supply plans.¹¹⁸ Total funding support is listed below.

¹¹⁷ See 2016 Department of Environmental Protection Bill Analysis for SB 552, November 9, 2015 (on file with the Senate Committee on Appropriations.)

¹¹⁸ See 2016 Department of Agriculture and Consumer Services’ Legislative Bill Analysis for SB 552, in the Agency Bill Analysis Request (ABAR) system.

Description	FTE	Recurring	Non-Recurring	Total
BMP Development and Implementation	8.00	\$7,655,149	\$1,657,115	\$9,312,264
Nutrient Reduction & Water Retention Projects			\$15,000,000	\$15,000,000
Water Supply Planning			\$1,500,000	\$1,500,000
TOTAL	8.00	\$7,655,149	\$18,157,115	\$25,812,264

Additional costs that are indeterminate include:

- Minimum Flows and Levels (MFLs) - The bill would require the WMDs and the DEP to adopt MFLs by certain deadlines for springs. According to the DEP, these costs range from \$280,000 to \$2.25 million per MFL, including agency costs for extensive data collection, analysis and modeling, stakeholder coordination, and rulemaking. Costs can vary widely depending on the complexity of the system and the amount and type of scientific and technical data that exists or must be collected.
- MFLs Recovery or Prevention Strategies - The WMDs (excluding the Northwest Florida and Suwannee River WMDs) would be required to fund at least 25 percent of recovery or prevention strategies projects. However, the WMDs may provide less than a 25 percent match if another specific source(s) of funding will provide more than 75 percent of the project cost. Since the number of project applicants and project costs is unknown, the fiscal impact is indeterminate at this time.
- Alternative Water Supply Projects – The water management districts that provide technical and financial assistance to self-suppliers for alternative water supply projects will result in increased costs. The actual cost is indeterminate.
- Alternative Water Supply Pilot Program – The bill allows the South Florida Water Management District, Southwest Florida Water Management District, and the St. Johns River Water Management District to designate and implement alternative water supply projects. WMDs that choose to implement a new alternative water supply project as part of the program could incur additional costs to develop and administer the project. Since the WMDs have the option of developing and implementing an alternative water supply project, actual costs are indeterminate.
- Annual Assessment of Florida’s Water Resources and Conservation Lands – The bill requires the Office of Economic and Demographic Research (EDR) to conduct an annual assessment of Florida’s water resources and conservation lands. Various agencies and local governmental entities are directed to aid EDR with their respective areas of expertise. The DEP estimates they would use existing staff to assist with the assessment. However, additional costs may be needed if new data systems have to be built in order to collect, organize, validate, and supply the information on an ongoing, annual basis. Some of the data does not exist in a single repository. These additional costs are indeterminate.

Potential costs to local governments related to springs and septic tank remediation plans are indeterminate. These costs are dependent on the nature and scale of remediation, the number of affected properties, and the difficulty of building collection and transmission

systems, availability of wastewater treatment facilities, and other factors. Existing grant and loan programs within the DEP, such as the Clean Water State Revolving Fund, may be available to provide financial resources for some costs.

The DEP, the WMDs, and the DACS have indicated that the costs associated with rulemaking and rule revisions should be minimal and will be addressed within existing resources.

Technical Deficiencies:

None.

VI. Related Issues:

“Self Suppliers” is not defined, which could lead to some confusion over its meaning.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 259.032, 373.019, 373.036, 373.042, 373.0421, 373.1501, 373.219, 373.223, 373.2234, 373.227, 373.233, 373.4591, 373.4595, 373.467, 373.536, 373.703, 373.705, 373.707, 373.709, 403.061, 403.0623, 403.067, and 403.861.

This bill creates the following sections of the Florida Statutes: 373.037, 373.0465, 373.801, 373.802, 373.803, 373.805, 373.807, 373.811, 373.813, 403.0617, 403.0675, and 403.928.

This bill creates two undesignated sections of Florida law.

VIII. Additional Information:

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

CS/CS by Appropriations on November 19, 2015:

The committee substitute:

- Clarifies that the Water Management District (WMD) that designated the alternative water supply project is the district that is allowed to designate an alternative water supply project located in another WMD.
- Clarifies that if there is an existing minimum flow or level for a water body and the water body is below or projected to fall below the minimum flow level, prevention or recovery strategies will be established expeditiously, rather than concurrently, with the minimum flow or level.
- Provides an allowance for WMDs to enforce existing rules or adopt more stringent rules relating to consumptive use permits for certain types of groundwater withdrawals.

CS by Environmental Preservation and Conservation on November 4, 2015:

The word “receive” on line 3016 was changed to “provide”.

B. Amendments:

None.

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



813070

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/19/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment

Delete lines 386 - 387
and insert:
be used within the boundaries of the water management district
that designated the alternative water supply project.



746282

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/19/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete lines 673 - 682
and insert:

(2) If, at the time a minimum flow or minimum water level is initially established for a water body pursuant to s. 373.042 or is revised, the existing flow or water level in the a water body is below, or is projected to fall within 20 years below, the applicable minimum flow or minimum water level ~~established pursuant to s. 373.042,~~ the department or governing board, as



746282

11 part of the regional water supply plan described in s. 373.709,
12 shall concurrently adopt or modify and ~~expeditiously~~ implement a
13 recovery or prevention strategy. If a minimum flow or minimum
14 water level has been established for a water body pursuant to s.
15 373.042, and the existing flow or water level in the water body
16 falls below, or is projected to fall within 20 years below, the
17 applicable minimum flow or minimum water level, the department
18 or governing board shall expeditiously adopt a recovery or
19 prevention strategy. A recovery or prevention strategy shall
20 include, ~~which includes~~ the development of additional water
21 supplies and other actions, consistent with the authority
22 granted by this chapter, to:

23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete lines 36 - 38

27 and insert:

28 governing boards to adopt or modify recovery or
29 prevention strategies concurrently with the initial
30 adoption or revision of certain minimum flows and
31 minimum water levels; directing the department or the
32 water management district governing boards to
33 expeditiously adopt a recovery or prevention strategy
34 under certain circumstances;



958272

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/19/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete line 903
and insert:
districts may adopt rules to implement this subsection. In lieu of the requirements of this subsection, a water management district may enforce rules that govern water usage monitoring in effect on July 1, 2016, or may adopt rules that are more stringent than this subsection.



958272

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

12 And the title is amended as follows:

13 Delete line 68

14 and insert:

15 certain amount to be monitored on a specified basis;

16 providing an exception;

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

592-01083A-16

2016552c1

1 A bill to be entitled
2 An act relating to environmental resources; amending
3 s. 259.032, F.S.; requiring the Department of
4 Environmental Protection to publish, update, and
5 maintain a database of conservation lands; requiring
6 the department to submit a report by a certain date
7 each year to the Governor and the Legislature
8 identifying the percentage of such lands which the
9 public has access to and the efforts the department
10 has undertaken to increase public access; amending s.
11 373.019, F.S.; revising the definition of the term
12 "water resource development" to include technical
13 assistance to self-suppliers under certain
14 circumstances; amending s. 373.036, F.S.; requiring
15 certain information to be included in the consolidated
16 annual report for certain projects related to water
17 quality or water quantity; creating s. 373.037, F.S.;
18 defining terms; providing legislative findings;
19 authorizing certain water management districts to
20 designate and implement pilot projects; providing
21 powers and limitations for the governing boards of
22 such water management districts; requiring a
23 participating water management district to submit a
24 report to the Governor and the Legislature on the
25 effectiveness of its pilot project by a certain date;
26 amending s. 373.042, F.S.; requiring the department or
27 the governing board of a water management district to
28 adopt a minimum flow or minimum water level for an
29 Outstanding Florida Spring using emergency rulemaking

Page 1 of 134

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

592-01083A-16

2016552c1

30 authority under certain circumstances; requiring
31 collaboration in the development and implementation of
32 recovery or prevention strategies under certain
33 circumstances; revising the rulemaking authority of
34 the department; amending s. 373.0421, F.S.; directing
35 the department or the water management district
36 governing boards to adopt and implement certain
37 recovery or prevention strategies concurrent with the
38 adoption of minimum flows and minimum water levels;
39 providing criteria for such recovery or prevention
40 strategies; requiring certain amendments to regional
41 water supply plans to be concurrent with relevant
42 portions of the recovery or prevention strategy;
43 directing water management districts to notify the
44 department when water use permit applications are
45 denied for a specified reason; providing for the
46 review and update of regional water supply plans in
47 such cases; creating s. 373.0465, F.S.; providing
48 legislative intent; defining the term "Central Florida
49 Water Initiative Area"; requiring the department, the
50 St. Johns River Water Management District, the South
51 Florida Water Management District, the Southwest
52 Florida Water Management District, and the Department
53 of Agriculture and Consumer Services to develop and
54 implement a multidistrict regional water supply plan;
55 providing plan criteria and requirements; providing
56 applicability; requiring the department to adopt
57 rules; amending s. 373.1501, F.S.; specifying
58 authority of the South Florida Water Management

Page 2 of 134

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

592-01083A-16

2016552c1

59 District to allocate quantities of, and assign
60 priorities for the use of, water within its
61 jurisdiction; directing the district to provide
62 recommendations to the United States Army Corps of
63 Engineers when developing or implementing certain
64 water control plans or regulation schedules; amending
65 s. 373.219, F.S.; requiring the department to adopt
66 certain uniform rules; amending s. 373.223, F.S.;
67 requiring consumptive use permits authorizing over a
68 certain amount to be monitored on a specified basis;
69 amending s. 373.2234, F.S.; directing water management
70 district governing boards to consider the
71 identification of preferred water supply sources for
72 certain water users; amending s. 373.227, F.S.;
73 prohibiting water management districts from modifying
74 permitted allocation amounts under certain
75 circumstances; requiring the water management
76 districts to adopt rules to promote water conservation
77 incentives; amending s. 373.233, F.S.; providing
78 conditions under which the department and water
79 management district governing boards are directed to
80 give preference to certain applications; amending s.
81 373.4591, F.S.; providing priority consideration to
82 certain public-private partnerships for water storage,
83 groundwater recharge, and water quality improvements
84 on private agricultural lands; amending s. 373.4595,
85 F.S.; revising and providing definitions relating to
86 the Northern Everglades and Estuaries Protection
87 Program; clarifying provisions of the Lake Okeechobee

Page 3 of 134

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

592-01083A-16

2016552c1

88 Watershed Protection Program; directing the South
89 Florida Water Management District to revise certain
90 rules and provide for a watershed research and water
91 quality monitoring program; revising provisions for
92 the Caloosahatchee River Watershed Protection Program
93 and the St. Lucie River Watershed Protection Program;
94 revising permitting and annual reporting requirements
95 relating to the Northern Everglades and Estuaries
96 Protection Program; revising requirements for certain
97 basin management action plans; amending s.
98 373.467, F.S.; revising the qualifications for
99 membership on the Harris Chain of Lakes Restoration
100 Council; authorizing the Lake County legislative
101 delegation to waive such membership qualifications for
102 good cause; providing for council vacancies; amending
103 s. 373.536, F.S.; requiring a water management
104 district to include an annual funding plan in the 5-
105 year water resource development work program;
106 directing the department to post the proposed work
107 program on its website; amending s. 373.703, F.S.;
108 authorizing water management districts to join with
109 private landowners for the purpose of carrying out
110 their powers; amending s. 373.705, F.S.; revising
111 legislative intent; requiring water management
112 district governing boards to include certain
113 information in their annual budget submittals;
114 requiring water management districts to promote
115 expanded cost-share criteria for additional
116 conservation practices and software technologies;

Page 4 of 134

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

592-01083A-16

2016552c1

117 amending s. 373.707, F.S.; authorizing water
 118 management districts to provide technical and
 119 financial assistance to certain self-suppliers and to
 120 waive certain construction costs of alternative water
 121 supply development projects sponsored by certain water
 122 users; amending s. 373.709, F.S.; requiring regional
 123 water supply plans to include traditional and
 124 alternative water supply project options that are
 125 technically and financially feasible; directing the
 126 department to include certain funding analyses and
 127 project explanations in regional water supply planning
 128 reports; creating part VIII of ch. 373, F.S., entitled
 129 the "Florida Springs and Aquifer Protection Act";
 130 creating s. 373.801, F.S.; providing legislative
 131 findings and intent; creating s. 373.802, F.S.;
 132 defining terms; creating s. 373.803, F.S.; requiring
 133 the department to delineate a priority focus area for
 134 each Outstanding Florida Spring by a certain date;
 135 creating s. 373.805, F.S.; requiring a water
 136 management district or the department to adopt or
 137 revise various recovery or prevention strategies under
 138 certain circumstances; providing minimum requirements
 139 for recovery or prevention strategies for Outstanding
 140 Florida Springs; authorizing local governments to
 141 apply for an extension for projects in an adopted
 142 recovery or prevention strategy; creating s. 373.807,
 143 F.S.; requiring the department to initiate assessments
 144 of Outstanding Florida Springs by a certain date;
 145 requiring the department to develop basin management

Page 5 of 134

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

592-01083A-16

2016552c1

146 action plans; authorizing local governments to apply
 147 for an extension for projects in an adopted basin
 148 management action plan; requiring certain local
 149 governments to develop, enact, and implement an urban
 150 fertilizer ordinance by a certain date; requiring the
 151 Department of Environmental Protection, the Department
 152 of Health, and relevant local governments and
 153 utilities to develop onsite sewage treatment and
 154 disposal system remediation plans under certain
 155 circumstances; requiring the Department of
 156 Environmental Protection to be the lead agency;
 157 creating s. 373.811, F.S.; specifying prohibited
 158 activities within a priority focus area of an
 159 Outstanding Florida Spring; creating s. 373.813, F.S.;
 160 providing rulemaking authority; amending s. 403.061,
 161 F.S.; directing the department to adopt by rule a
 162 specific surface water classification to protect
 163 surface waters used for treated potable water supply;
 164 providing criteria for such rule; authorizing the
 165 reclassification of surface waters used for treated
 166 potable water supply notwithstanding such rule;
 167 creating s. 403.0617, F.S.; authorizing the department
 168 to fund nutrient and sediment reduction and
 169 conservation pilot projects under certain
 170 circumstances; requiring the department to initiate
 171 rulemaking by a certain date; amending s. 403.0623,
 172 F.S.; requiring the department to establish certain
 173 standards; requiring state agencies and water
 174 management districts to show that they followed the

Page 6 of 134

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

592-01083A-16

2016552c1

175 department's standards in order to receive certain
 176 funding; amending s. 403.067, F.S.; providing
 177 requirements for new or revised basin management
 178 action plans; requiring the department to adopt rules
 179 relating to the enforcement and verification of best
 180 management action plans and management strategies;
 181 creating s. 403.0675, F.S.; requiring the department
 182 and the Department of Agriculture and Consumer
 183 Services to post annual progress reports on their
 184 websites and to submit such reports to the Governor
 185 and the Legislature; requiring each water management
 186 district to post the Department of Environmental
 187 Protection's report on its website; amending s.
 188 403.861, F.S.; directing the department to add treated
 189 potable water supply as a designated use of a surface
 190 water segment under certain circumstances; creating s.
 191 403.928, F.S.; requiring the Office of Economic and
 192 Demographic Research to conduct an annual assessment
 193 of Florida's water resources and conservation lands;
 194 requiring the assessment to be submitted to the
 195 Legislature by a certain date; requiring the
 196 department to evaluate the feasibility and costs of
 197 creating and maintaining a web-based interactive map;
 198 requiring the department to submit a report of its
 199 findings by a certain date; providing a declaration of
 200 important state interest; providing an effective date.

202 Be It Enacted by the Legislature of the State of Florida:
 203

Page 7 of 134

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

592-01083A-16

2016552c1

204 Section 1. Paragraph (f) is added to subsection (9) of
 205 section 259.032, Florida Statutes, to read:

206 259.032 Conservation and recreation lands.—

207 (9)

208 (f) To ensure that the public has knowledge of and access
 209 to conservation lands, as defined in s. 253.034(2)(c), the
 210 department shall publish, update, and maintain a database of
 211 such lands where public access is compatible with conservation
 212 and recreation purposes.

213 1. By July 1, 2017, the database must be available to the
 214 public online and must include, at a minimum, the location,
 215 types of allowable recreational opportunities, points of public
 216 access, facilities or other amenities, restrictions, and any
 217 other information the department deems appropriate to increase
 218 public awareness of recreational opportunities on conservation
 219 lands. Such data must be electronically accessible, searchable,
 220 and downloadable in a generally acceptable format.

221 2. The department, through its own efforts or through
 222 partnership with a third-party entity, shall create an
 223 application downloadable on mobile devices to be used to locate
 224 state lands available for public access using the user's
 225 locational information or based upon an activity of interest.

226 3. The database and application must include information
 227 for all state conservation lands to which the public has a right
 228 of access for recreational purposes. Beginning January 1, 2018,
 229 to the greatest extent practicable, the database shall include
 230 similar information for lands owned by federal and local
 231 governmental entities that allow access for recreational
 232 purposes.

Page 8 of 134

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

592-01083A-16

2016552c1

233 4. By January 1 of each year, the department shall provide
 234 a report to the Governor, the President of the Senate, and the
 235 Speaker of the House of Representatives describing the
 236 percentage of public lands acquired under this chapter to which
 237 the public has access and the efforts undertaken by the
 238 department to increase public access to such lands.

239 Section 2. Subsection (24) of section 373.019, Florida
 240 Statutes, is amended to read:

241 373.019 Definitions.—When appearing in this chapter or in
 242 any rule, regulation, or order adopted pursuant thereto, the
 243 term:

244 (24) "Water resource development" means the formulation and
 245 implementation of regional water resource management strategies,
 246 including the collection and evaluation of surface water and
 247 groundwater data; structural and nonstructural programs to
 248 protect and manage water resources; the development of regional
 249 water resource implementation programs; the construction,
 250 operation, and maintenance of major public works facilities to
 251 provide for flood control, surface and underground water
 252 storage, and groundwater recharge augmentation; and related
 253 technical assistance to local governments, ~~and to government-~~
 254 ~~owned and privately owned water utilities, and self-suppliers to~~
 255 the extent assistance to self-suppliers promotes the policies as
 256 set forth in s. 373.016.

257 Section 3. Paragraph (b) of subsection (7) of section
 258 373.036, Florida Statutes, is amended to read:

259 373.036 Florida water plan; district water management
 260 plans.—

261 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

592-01083A-16

2016552c1

262 (b) The consolidated annual report shall contain the
 263 following elements, as appropriate to that water management
 264 district:

265 1. A district water management plan annual report or the
 266 annual work plan report allowed in subparagraph (2) (e)4.

267 2. The department-approved minimum flows and minimum water
 268 levels annual priority list and schedule required by s.
 269 373.042(3) ~~s. 373.042(2).~~

270 3. The annual 5-year capital improvements plan required by
 271 s. 373.536(6) (a)3.

272 4. The alternative water supplies annual report required by
 273 s. 373.707(8) (n) .

274 5. The final annual 5-year water resource development work
 275 program required by s. 373.536(6) (a)4.

276 6. The Florida Forever Water Management District Work Plan
 277 annual report required by s. 373.199(7) .

278 7. The mitigation donation annual report required by s.
 279 373.414(1) (b)2.

280 8. Information on all projects related to water quality or
 281 water quantity as part of a 5-year work program, including:

282 a. A list of all specific projects identified to implement
 283 a basin management action plan or a recovery or prevention
 284 strategy;

285 b. A priority ranking for each listed project for which
 286 state funding through the water resources development work
 287 program is requested, which must be made available to the public
 288 for comment at least 30 days before submission of the
 289 consolidated annual report;

290 c. The estimated cost for each listed project;

592-01083A-16

2016552c1

291 d. The estimated completion date for each listed project;
 292 e. The source and amount of financial assistance to be made
 293 available by the department, a water management district, or
 294 other entity for each listed project; and
 295 f. A quantitative estimate of each listed project's benefit
 296 to the watershed, water body, or water segment in which it is
 297 located.
 298 9. A grade for each watershed, water body, or water segment
 299 in which a project listed under subparagraph 8. is located
 300 representing the level of impairment and violations of adopted
 301 minimum flow or minimum water levels. The grading system must
 302 reflect the severity of the impairment of the watershed,
 303 waterbody, or water segment.
 304 Section 4. Section 373.037, Florida Statutes, is created to
 305 read:
 306 373.037 Pilot program for alternative water supply
 307 development in restricted allocation areas.—
 308 (1) As used in this section, the term:
 309 (a) "Central Florida Water Initiative Area" means all of
 310 Orange, Osceola, Polk, and Seminole Counties, and southern Lake
 311 County, as designated by the Central Florida Water Initiative
 312 Guiding Document of January 30, 2015.
 313 (b) "Lower East Coast Regional Water Supply Planning Area"
 314 means the areas withdrawing surface and groundwater from Water
 315 Conservation Areas 1, 2A, 2B, 3A, and 3B, Grassy Waters
 316 Preserve/Water Catchment Area, Pal Mar, J.W. Corbett Wildlife
 317 Management Area, Loxahatchee Slough, Loxahatchee River,
 318 Riverbend Park, Dupuis Reserve, Jonathan Dickinson State Park,
 319 Kitching Creek, Moonshine Creek, Cypress Creek, Hobe Grove

Page 11 of 134

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

592-01083A-16

2016552c1

320 Ditch, the Holey Land and Rotenberger Wildlife Management Areas,
 321 and the freshwater portions of the Everglades National Park, as
 322 designated by the South Florida Water Management District.
 323 (c) "Restricted allocation area" means an area within a
 324 water supply planning region of the Southwest Florida Water
 325 Management District, the South Florida Water Management
 326 District, or the St. Johns River Water Management District where
 327 the governing board of the water management district has
 328 determined that existing sources of water are not adequate to
 329 supply water for all existing and future reasonable-beneficial
 330 uses and to sustain the water resources and related natural
 331 systems for the planning period pursuant to ss. 373.036 and
 332 373.709 and where the governing board of the water management
 333 district has applied allocation restrictions with regard to the
 334 use of specific sources of water. For the purposes of this
 335 section, the term includes the Central Florida Water Initiative
 336 Area, the Lower East Coast Regional Water Supply Planning Area,
 337 the Southern Water Use Caution Area, and the Upper East Coast
 338 Regional Water Supply Planning Area.
 339 (d) "Southern Water Use Caution Area" means all of Desoto,
 340 Hardee, Manatee, and Sarasota Counties and parts of Charlotte,
 341 Highlands, Hillsborough, and Polk Counties, as designated by the
 342 Southwest Florida Water Management District.
 343 (e) "Upper East Coast Regional Water Supply Planning Area"
 344 means the areas withdrawing surface and groundwater from the
 345 Central and Southern Florida canals or the Floridan Aquifer, as
 346 designated by the South Florida Water Management District.
 347 (2) The Legislature finds that:
 348 (a) Local governments, regional water supply authorities,

Page 12 of 134

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

592-01083A-16

2016552c1

349 and government-owned and privately owned water utilities face
 350 significant challenges in securing funds for implementing large-
 351 scale alternative water supply projects in certain restricted
 352 allocation areas due to a variety of factors, such as the
 353 magnitude of the water resource challenges, the large number of
 354 water users, the difficulty of developing multijurisdictional
 355 solutions across district, county, or municipal boundaries, and
 356 the expense of developing large-scale alternative water supply
 357 projects identified in the regional water supply plans pursuant
 358 to s. 373.709.

359 (b) These factors make it necessary to provide other
 360 options for the Southwest Florida Water Management District, the
 361 South Florida Water Management District, and the St. Johns River
 362 Water Management District to be able to take the lead in
 363 developing and implementing one alternative water supply project
 364 within a restricted allocation area as a pilot alternative water
 365 supply development project.

366 (c) Each pilot project must provide water supply and
 367 environmental benefits. Consideration should be given to
 368 projects that provide reductions in damaging discharges to tide
 369 or that are part of a recovery or prevention strategy for
 370 minimum flows and minimum water levels.

371 (3) The water management districts specified in paragraph
 372 (2) (b) may, at their sole discretion, designate and implement an
 373 existing alternative water supply project that is identified in
 374 each district's regional water supply plan as its one pilot
 375 project or amend their respective regional water supply plans to
 376 add a new alternative water supply project as their district
 377 pilot project. A pilot project designation made pursuant to this

Page 13 of 134

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

592-01083A-16

2016552c1

378 section should be made no later than July 1, 2017, and is not
 379 subject to the rulemaking requirements of chapter 120 or subject
 380 to legal challenge pursuant to ss. 120.569 and 120.57. A water
 381 management district may designate an alternative water supply
 382 project located within another water management district if the
 383 project is located in a restricted allocation area designated by
 384 the other water management district and a substantial quantity
 385 of water provided by the alternative water supply project will
 386 be used within the designating water management district's
 387 boundaries.

388 (4) In addition to the other powers granted and duties
 389 imposed under this chapter, if a district specified in paragraph
 390 (2) (b) elects to implement a pilot project pursuant to this
 391 section, its governing board has the following powers and is
 392 subject to the following restrictions in implementing the pilot
 393 project:

394 (a) The governing board may not develop and implement a
 395 pilot project on privately owned land without the voluntary
 396 consent of the landowner, which consent may be evidenced by
 397 deed, easement, license, contract, or other written legal
 398 instrument executed by the landowner after July 1, 2016.

399 (b) The governing board may not engage in local water
 400 supply distribution or sell water to the pilot project
 401 participants.

402 (c) The governing board may join with one or more other
 403 water management districts and counties, municipalities, special
 404 districts, publicly owned or privately owned water utilities,
 405 multijurisdictional water supply entities, regional water supply
 406 authorities, self-suppliers, or other entities for the purpose

Page 14 of 134

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

592-01083A-16

2016552c1

407 of carrying out its powers, and may contract with any such other
 408 entities to finance or otherwise implement acquisitions,
 409 construction, and operation and maintenance, if such contracts
 410 are consistent with the public interest and based upon
 411 independent cost estimates, including comparisons with other
 412 alternative water supply projects. The contracts may provide for
 413 contributions to be made by each party to the contract for the
 414 division and apportionment of resulting costs, including
 415 operations and maintenance, benefits, services, and products.
 416 The contracts may contain other covenants and agreements
 417 necessary and appropriate to accomplish their purposes.

418 (5) A water management district may provide up to 50
 419 percent of funding assistance for a pilot project.

420 (6) If a water management district specified in paragraph
 421 (2)(b) elects to implement a pilot project, it shall submit a
 422 report to the Governor, the President of the Senate, and the
 423 Speaker of the House of Representatives by July 1, 2020, on the
 424 effectiveness of its pilot project. The report must include all
 425 of the following information:

426 (a) A description of the alternative water supply project
 427 selected as a pilot project, including the quantity of water the
 428 project has produced or is expected to produce and the
 429 consumptive users who are expected to use the water produced by
 430 the pilot project to meet their existing and future reasonable-
 431 beneficial uses.

432 (b) Progress made in developing and implementing the pilot
 433 project in comparison to the development and implementation of
 434 other alternative water supply projects in the restricted
 435 allocation area.

Page 15 of 134

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

592-01083A-16

2016552c1

436 (c) The capital and operating costs to be expended by the
 437 water management district in implementing the pilot project in
 438 comparison to other alternative water supply projects being
 439 developed and implemented in the restricted allocation area.

440 (d) The source of funds to be used by the water management
 441 district in developing and implementing the pilot project.

442 (e) The benefits to the district's water resources and
 443 natural systems from implementation of the pilot project.

444 (f) A recommendation as to whether the traditional role of
 445 water management districts regarding the development and
 446 implementation of alternative water supply projects, as
 447 specified in ss. 373.705 and 373.707, should be revised and, if
 448 so, identification of the statutory changes necessary to expand
 449 the scope of the pilot program.

450 Section 5. Section 373.042, Florida Statutes, is amended to
 451 read:

452 373.042 Minimum flows and minimum water levels.—

453 (1) Within each section, or within the water management
 454 district as a whole, the department or the governing board shall
 455 establish the following:

456 (a) Minimum flow for all surface watercourses in the area.
 457 The minimum flow for a given watercourse ~~is shall be~~ the limit
 458 at which further withdrawals would be significantly harmful to
 459 the water resources or ecology of the area.

460 (b) Minimum water level. The minimum water level ~~is shall~~
 461 ~~be~~ the level of groundwater in an aquifer and the level of
 462 surface water at which further withdrawals would be
 463 significantly harmful to the water resources or ecology of the
 464 area.

Page 16 of 134

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

592-01083A-16

2016552c1

465
466 The minimum flow and minimum water level shall be calculated by
467 the department and the governing board using the best
468 information available. When appropriate, minimum flows and
469 minimum water levels may be calculated to reflect seasonal
470 variations. The department and the governing board shall ~~also~~
471 consider, and at their discretion may provide for, the
472 protection of nonconsumptive uses in the establishment of
473 minimum flows and minimum water levels.

474 (2) (a) If a minimum flow or minimum water level has not
475 been adopted for an Outstanding Florida Spring, a water
476 management district or the department shall use the emergency
477 rulemaking authority provided in paragraph (c) to adopt a
478 minimum flow or minimum water level no later than July 1, 2017,
479 except for the Northwest Florida Water Management District,
480 which shall use such authority to adopt minimum flows and
481 minimum water levels for Outstanding Florida Springs no later
482 than July 1, 2026.

483 (b) For Outstanding Florida Springs identified on a water
484 management district's priority list developed pursuant to
485 subsection (3) which have the potential to be affected by
486 withdrawals in an adjacent district, the adjacent district or
487 districts and the department shall collaboratively develop and
488 implement a recovery or prevention strategy for an Outstanding
489 Florida Spring not meeting an adopted minimum flow or minimum
490 water level.

491 (c) The Legislature finds as provided in s. 373.801(3) (b)
492 that the adoption of minimum flows and minimum water levels or
493 recovery or prevention strategies for Outstanding Florida

Page 17 of 134

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

592-01083A-16

2016552c1

494 Springs requires immediate action. The department and the
495 districts are authorized, and all conditions are deemed to be
496 met, to use emergency rulemaking provisions pursuant to s.
497 120.54(4) to adopt minimum flows and minimum water levels
498 pursuant to this subsection and to adopt recovery or prevention
499 strategies concurrently with a minimum flow or minimum water
500 level pursuant to s. 373.805(2). The emergency rules shall
501 remain in effect during the pendency of procedures to adopt
502 rules addressing the subject of the emergency rules.

503 (d) As used in this subsection, the term "Outstanding
504 Florida Spring" has the same meaning as in s. 373.802.

505 (3)(2) By November 15, 1997, and annually thereafter, each
506 water management district shall submit to the department for
507 review and approval a priority list and schedule for the
508 establishment of minimum flows and minimum water levels for
509 surface watercourses, aquifers, and surface waters within the
510 district. The priority list and schedule shall identify those
511 listed water bodies for which the district will voluntarily
512 undertake independent scientific peer review; any reservations
513 proposed by the district to be established pursuant to s.
514 373.223(4); and those listed water bodies that have the
515 potential to be affected by withdrawals in an adjacent district
516 for which the department's adoption of a reservation pursuant to
517 s. 373.223(4) or a minimum flow or minimum water level pursuant
518 to subsection (1) may be appropriate. By March 1, 2006, and
519 annually thereafter, each water management district shall
520 include its approved priority list and schedule in the
521 consolidated annual report required by s. 373.036(7). The
522 priority list shall be based upon the importance of the waters

Page 18 of 134

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

592-01083A-16

2016552c1

523 to the state or region and the existence of or potential for
 524 significant harm to the water resources or ecology of the state
 525 or region, and shall include those waters which are experiencing
 526 or may reasonably be expected to experience adverse impacts.
 527 Each water management district's priority list and schedule
 528 shall include all first magnitude springs, and all second
 529 magnitude springs within state or federally owned lands
 530 purchased for conservation purposes. The specific schedule for
 531 establishment of spring minimum flows and minimum water levels
 532 shall be commensurate with the existing or potential threat to
 533 spring flow from consumptive uses. Springs within the Suwannee
 534 River Water Management District, or second magnitude springs in
 535 other areas of the state, need not be included on the priority
 536 list if the water management district submits a report to the
 537 Department of Environmental Protection demonstrating that
 538 adverse impacts are not now occurring nor are reasonably
 539 expected to occur from consumptive uses during the next 20
 540 years. The priority list and schedule is not subject to any
 541 proceeding pursuant to chapter 120. Except as provided in
 542 subsection (4) ~~(3)~~, the development of a priority list and
 543 compliance with the schedule for the establishment of minimum
 544 flows and minimum water levels pursuant to this subsection
 545 satisfies the requirements of subsection (1).
 546 (4) ~~(3)~~ Minimum flows or minimum water levels for priority
 547 waters in the counties of Hillsborough, Pasco, and Pinellas
 548 shall be established by October 1, 1997. Where a minimum flow or
 549 minimum water level for the priority waters within those
 550 counties has not been established by the applicable deadline,
 551 the secretary of the department shall, if requested by the

Page 19 of 134

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

592-01083A-16

2016552c1

552 governing body of any local government within whose jurisdiction
 553 the affected waters are located, establish the minimum flow or
 554 minimum water level in accordance with the procedures
 555 established by this section. The department's reasonable costs
 556 in establishing a minimum flow or minimum water level shall,
 557 upon request of the secretary, be reimbursed by the district.
 558 (5) ~~(4)~~ A water management district shall provide the
 559 department with technical information and staff support for the
 560 development of a reservation, minimum flow or minimum water
 561 level, or recovery or prevention strategy to be adopted by the
 562 department by rule. A water management district shall apply any
 563 reservation, minimum flow or minimum water level, or recovery or
 564 prevention strategy adopted by the department by rule without
 565 the district's adoption by rule of such reservation, minimum
 566 flow or minimum water level, or recovery or prevention strategy.
 567 (6) ~~(5)~~ (a) Upon written request to the department or
 568 governing board by a substantially affected person, or by
 569 decision of the department or governing board, before ~~prior to~~
 570 the establishment of a minimum flow or minimum water level and
 571 before ~~prior to~~ the filing of any petition for administrative
 572 hearing related to the minimum flow or minimum water level, all
 573 scientific or technical data, methodologies, and models,
 574 including all scientific and technical assumptions employed in
 575 each model, used to establish a minimum flow or minimum water
 576 level shall be subject to independent scientific peer review.
 577 Independent scientific peer review means review by a panel of
 578 independent, recognized experts in the fields of hydrology,
 579 hydrogeology, limnology, biology, and other scientific
 580 disciplines, to the extent relevant to the establishment of the

Page 20 of 134

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

592-01083A-16

2016552c1

581 minimum flow or minimum water level.

582 (b) If independent scientific peer review is requested, it
 583 shall be initiated at an appropriate point agreed upon by the
 584 department or governing board and the person or persons
 585 requesting the peer review. If no agreement is reached, the
 586 department or governing board shall determine the appropriate
 587 point at which to initiate peer review. The members of the peer
 588 review panel shall be selected within 60 days of the point of
 589 initiation by agreement of the department or governing board and
 590 the person or persons requesting the peer review. If the panel
 591 is not selected within the 60-day period, the time limitation
 592 may be waived upon the agreement of all parties. If no waiver
 593 occurs, the department or governing board may proceed to select
 594 the peer review panel. The cost of the peer review shall be
 595 borne equally by the district and each party requesting the peer
 596 review, to the extent economically feasible. The panel shall
 597 submit a final report to the governing board within 120 days
 598 after its selection unless the deadline is waived by agreement
 599 of all parties. Initiation of peer review pursuant to this
 600 paragraph shall toll any applicable deadline under chapter 120
 601 or other law or district rule regarding permitting, rulemaking,
 602 or administrative hearings, until 60 days following submittal of
 603 the final report. Any such deadlines shall also be tolled for 60
 604 days following withdrawal of the request or following agreement
 605 of the parties that peer review will no longer be pursued. The
 606 department or the governing board shall give significant weight
 607 to the final report of the peer review panel when establishing
 608 the minimum flow or minimum water level.

609 (c) If the final data, methodologies, and models, including

Page 21 of 134

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

592-01083A-16

2016552c1

610 all scientific and technical assumptions employed in each model
 611 upon which a minimum flow or level is based, have undergone peer
 612 review pursuant to this subsection, by request or by decision of
 613 the department or governing board, no further peer review shall
 614 be required with respect to that minimum flow or minimum water
 615 level.

616 (d) No minimum flow or minimum water level adopted by rule
 617 or formally noticed for adoption on or before May 2, 1997, shall
 618 be subject to the peer review provided for in this subsection.

619 ~~(7)~~ If a petition for administrative hearing is filed
 620 under chapter 120 challenging the establishment of a minimum
 621 flow or minimum water level, the report of an independent
 622 scientific peer review conducted under subsection ~~(5)~~ ~~(4)~~ is
 623 admissible as evidence in the final hearing, and the
 624 administrative law judge must render the order within 120 days
 625 after the filing of the petition. The time limit for rendering
 626 the order shall not be extended except by agreement of all the
 627 parties. To the extent that the parties agree to the findings of
 628 the peer review, they may stipulate that those findings be
 629 incorporated as findings of fact in the final order.

630 (8) The rules adopted pursuant to this section are not
 631 subject to s. 120.541(3).

632 Section 6. Section 373.0421, Florida Statutes, is amended
 633 to read:

634 373.0421 Establishment and implementation of minimum flows
 635 and minimum water levels.—

636 (1) ESTABLISHMENT.—

637 (a) *Considerations.*—When establishing minimum flows and
 638 minimum water levels pursuant to s. 373.042, the department or

Page 22 of 134

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

592-01083A-16

2016552c1

639 governing board shall consider changes and structural
 640 alterations to watersheds, surface waters, and aquifers and the
 641 effects such changes or alterations have had, and the
 642 constraints such changes or alterations have placed, on the
 643 hydrology of an affected watershed, surface water, or aquifer,
 644 provided that nothing in this paragraph shall allow significant
 645 harm as provided by s. 373.042(1) caused by withdrawals.

646 (b) *Exclusions.*—

647 1. The Legislature recognizes that certain water bodies no
 648 longer serve their historical hydrologic functions. The
 649 Legislature also recognizes that recovery of these water bodies
 650 to historical hydrologic conditions may not be economically or
 651 technically feasible, and that such recovery effort could cause
 652 adverse environmental or hydrologic impacts. Accordingly, the
 653 department or governing board may determine that setting a
 654 minimum flow or minimum water level for such a water body based
 655 on its historical condition is not appropriate.

656 2. The department or the governing board is not required to
 657 establish minimum flows or minimum water levels pursuant to s.
 658 373.042 for surface water bodies less than 25 acres in area,
 659 unless the water body or bodies, individually or cumulatively,
 660 have significant economic, environmental, or hydrologic value.

661 3. The department or the governing board shall not set
 662 minimum flows or minimum water levels pursuant to s. 373.042 for
 663 surface water bodies constructed ~~before~~ prior to the requirement
 664 for a permit, or pursuant to an exemption, a permit, or a
 665 reclamation plan which regulates the size, depth, or function of
 666 the surface water body under the provisions of this chapter,
 667 chapter 378, or chapter 403, unless the constructed surface

592-01083A-16

2016552c1

668 water body is of significant hydrologic value or is an essential
 669 element of the water resources of the area.

670

671 The exclusions of this paragraph shall not apply to the
 672 Everglades Protection Area, as defined in s. 373.4592(2)(i).

673 (2) If the existing flow or water level in a water body is
 674 below, or is projected to fall within 20 years below, the
 675 applicable minimum flow or minimum water level established
 676 pursuant to s. 373.042, the department or governing board,
 677 concurrent with the adoption of the minimum flow or minimum
 678 water level and as part of the regional water supply plan
 679 described in s. 373.709, shall adopt and expeditiously implement
 680 a recovery or prevention strategy, which includes the
 681 development of additional water supplies and other actions,
 682 consistent with the authority granted by this chapter, to:

683 (a) Achieve recovery to the established minimum flow or
 684 minimum water level as soon as practicable; or

685 (b) Prevent the existing flow or water level from falling
 686 below the established minimum flow or minimum water level.

687

688 The recovery or prevention strategy ~~must shall~~ include a phased-
 689 in approach ~~phasing~~ or a timetable which will allow for the
 690 provision of sufficient water supplies for all existing and
 691 projected reasonable-beneficial uses, including development of
 692 additional water supplies and implementation of conservation and
 693 other efficiency measures concurrent with and, to the maximum
 694 extent practical, ~~and~~ to offset, reductions in permitted
 695 withdrawals, consistent with ~~the provisions of~~ this chapter. The
 696 recovery or prevention strategy may not depend solely on water

592-01083A-16

2016552c1

697 shortage restrictions declared pursuant to s. 373.175 or s.
698 373.246.

699 (3) To ensure that sufficient water is available for all
700 existing and future reasonable-beneficial uses and the natural
701 systems, the applicable regional water supply plan prepared
702 pursuant to s. 373.709 shall be amended to include any water
703 supply development project or water resource development project
704 identified in a recovery or prevention strategy. Such amendment
705 shall be approved concurrently with relevant portions of the
706 recovery or prevention strategy.

707 (4) The water management district shall notify the
708 department if an application for a water use permit is denied
709 based upon the impact that the use will have on an adopted
710 minimum flow or minimum water level. Upon receipt of such
711 notice, the department shall, as soon as practicable and in
712 cooperation with the water management district, conduct a review
713 of the applicable regional water supply plan prepared pursuant
714 to s. 373.709. Such review shall include an assessment by the
715 department of the adequacy of the plan in addressing the
716 legislative intent of s. 373.705(2)(a) which provides that
717 sufficient water be available for all existing and future
718 reasonable-beneficial uses and natural systems and that the
719 adverse effects of competition for water supplies be avoided. If
720 the department determines, based upon this review, that the
721 regional water supply plan does not adequately address the
722 legislative intent of s. 373.705(2)(a), the water management
723 district shall immediately initiate an update of the plan
724 consistent with s. 373.709.

725 (5)(3) The provisions of this section are supplemental to

Page 25 of 134

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

592-01083A-16

2016552c1

726 any other specific requirements or authority provided by law.
727 Minimum flows and minimum water levels shall be reevaluated
728 periodically and revised as needed.

729 Section 7. Section 373.0465, Florida Statutes, is created
730 to read:

731 373.0465 Central Florida Water Initiative.-

732 (1) The Legislature finds that:

733 (a) Historically, the Floridan Aquifer system has supplied
734 the vast majority of the water used in the Central Florida
735 Coordination Area.

736 (b) Because the boundaries of the St. Johns River Water
737 Management District, the South Florida Water Management
738 District, and the Southwest Florida Water Management District
739 meet within the Central Florida Coordination Area, the three
740 districts and the Department of Environmental Protection have
741 worked cooperatively to determine that the Floridan Aquifer
742 system is locally approaching the sustainable limits of use and
743 are exploring the need to develop sources of water to meet the
744 long-term water needs of the area.

745 (c) The Central Florida Water Initiative is a collaborative
746 process involving the Department of Environmental Protection,
747 the St. Johns River Water Management District, the South Florida
748 Water Management District, the Southwest Florida Water
749 Management District, the Department of Agriculture and Consumer
750 Services, regional public water supply utilities, and other
751 stakeholders. As set forth in the Central Florida Water
752 Initiative Guiding Document of January 30, 2015, the initiative
753 has developed an initial framework for a unified process to
754 address the current and long-term water supply needs of Central

Page 26 of 134

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

592-01083A-16

2016552c1

755 Florida without causing harm to the water resources and
756 associated natural systems.

757 (d) Developing water sources as an alternative to continued
758 reliance on the Floridan Aquifer will benefit existing and
759 future water users and natural systems within and beyond the
760 boundaries of the Central Florida Water Initiative.

761 (2)(a) As used in this section, the term "Central Florida
762 Water Initiative Area" means all of Orange, Osceola, Polk, and
763 Seminole Counties, and southern Lake County, as designated by
764 the Central Florida Water Initiative Guiding Document of January
765 30, 2015.

766 (b) The department, the St. Johns River Water Management
767 District, the South Florida Water Management District, the
768 Southwest Florida Water Management District, and the Department
769 of Agriculture and Consumer Services shall:

770 1. Provide for a continuation of the collaborative process
771 in the Central Florida Water Initiative Area among the state
772 agencies, affected water management districts, regional public
773 water supply utilities, and other stakeholders;

774 2. Build upon the guiding principles and goals set forth in
775 the Central Florida Water Initiative Guiding Document of January
776 30, 2015, and the work that has already been accomplished by the
777 Central Florida Water Initiative participants;

778 3. Develop and implement, as set forth in the Central
779 Florida Water Initiative Guiding Document of January 30, 2015, a
780 single multidistrict regional water supply plan, including any
781 needed recovery or prevention strategies and a list of water
782 supply development projects or water resource projects; and

783 4. Provide for a single hydrologic planning model to assess

592-01083A-16

2016552c1

784 the availability of groundwater in the Central Florida Water
785 Initiative Area.

786 (c) In developing the water supply planning program
787 consistent with the goals set forth in this subsection, the
788 department, the St. Johns River Water Management District, the
789 South Florida Water Management District, the Southwest Florida
790 Water Management District, and the Department of Agriculture and
791 Consumer Services shall:

792 1. Consider limitations on groundwater use together with
793 opportunities for new, increased, or redistributed groundwater
794 uses that are consistent with the conditions established under
795 s. 373.223;

796 2. Establish a coordinated process for the identification
797 of water resources requiring new or revised conditions. Any new
798 or revised condition must be consistent with s. 373.223;

799 3. Consider existing recovery or prevention strategies;

800 4. Include a list of water supply options sufficient to
801 meet the water needs of all existing and future reasonable-
802 beneficial uses consistent with the conditions established under
803 s. 373.223; and

804 5. Identify, as necessary, which of the water supply
805 sources are preferred water supply sources pursuant to s.
806 373.2234.

807 (d) The department, in consultation with the St. Johns
808 River Water Management District, the South Florida Water
809 Management District, the Southwest Florida Water Management
810 District, and the Department of Agriculture and Consumer
811 Services, shall adopt uniform rules for application within the
812 Central Florida Water Initiative Area that include:

592-01083A-16

2016552c1

813 1. A single, uniform definition of the term "harmful to the
 814 water resources" consistent with the term's usage in s. 373.219;
 815 2. A single method for calculating residential per capita
 816 water use;
 817 3. A single process for permit reviews;
 818 4. A single, consistent process, as appropriate, to set
 819 minimum flows and minimum water levels and water reservations;
 820 5. A goal for residential per capita water use for each
 821 consumptive use permit; and
 822 6. An annual conservation goal for each consumptive use
 823 permit consistent with the regional water supply plan.
 824
 825 The uniform rules must include existing recovery strategies
 826 within the Central Florida Water Initiative Area adopted before
 827 July 1, 2016. The department may grant variances to the uniform
 828 rules if there are unique circumstances or hydrogeological
 829 factors that make application of the uniform rules unrealistic
 830 or impractical.
 831 (e) The department shall initiate rulemaking for the
 832 uniform rules by December 31, 2016. The department's uniform
 833 rules shall be applied by the water management districts only
 834 within the Central Florida Water Initiative Area. Upon adoption
 835 of the rules, the water management districts shall implement the
 836 rules without further rulemaking pursuant to s. 120.54. The
 837 rules adopted by the department pursuant to this section are
 838 considered the rules of the water management districts.
 839 (f) Water management district planning programs developed
 840 pursuant to this subsection shall be approved or adopted as
 841 required under this chapter. However, such planning programs may

Page 29 of 134

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

592-01083A-16

2016552c1

842 not serve to modify planning programs in areas of the affected
 843 districts that are not within the Central Florida Water
 844 Initiative Area, but may include interregional projects located
 845 outside the Central Florida Water Initiative Area which are
 846 consistent with planning and regulatory programs in the areas in
 847 which they are located.
 848 Section 8. Subsection (4) of section 373.1501, Florida
 849 Statutes, is amended, present subsections (7) and (8) are
 850 redesignated as subsections (8) and (9), respectively, and a new
 851 subsection (7) is added to that section, to read:
 852 373.1501 South Florida Water Management District as local
 853 sponsor.—
 854 (4) The district is authorized to act as local sponsor of
 855 the project for those project features within the district as
 856 provided in this subsection and subject to the oversight of the
 857 department as further provided in s. 373.026. The district shall
 858 exercise the authority of the state to allocate quantities of
 859 water within its jurisdiction, including the water supply in
 860 relation to the project, and be responsible for allocating water
 861 and assigning priorities among the other water uses served by
 862 the project pursuant to state law. The district may:
 863 (a) Act as local sponsor for all project features
 864 previously authorized by Congress.~~†~~
 865 (b) Continue data gathering, analysis, research, and design
 866 of project components, participate in preconstruction
 867 engineering and design documents for project components, and
 868 further refine the Comprehensive Plan of the restudy as a guide
 869 and framework for identifying other project components.~~†~~
 870 (c) Construct pilot projects that will assist in

Page 30 of 134

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

592-01083A-16

2016552c1

871 determining the feasibility of technology included in the
872 Comprehensive Plan of the restudy, ~~and~~

873 (d) Act as local sponsor for project components.

874 (7) When developing or implementing water control plans or
875 regulation schedules required for the operation of the project,
876 the district shall provide recommendations to the United States
877 Army Corps of Engineers which are consistent with all district
878 programs and plans.

879 Section 9. Subsection (3) is added to section 373.219,
880 Florida Statutes, to read:

881 373.219 Permits required.—

882 (3) For Outstanding Florida Springs, the department shall
883 adopt uniform rules for issuing permits which prevent
884 groundwater withdrawals that are harmful to the water resources
885 and adopt by rule a uniform definition of the term "harmful to
886 the water resources" to provide water management districts with
887 minimum standards necessary to be consistent with the overall
888 water policy of the state. This subsection does not prohibit a
889 water management district from adopting a definition that is
890 more protective of the water resources consistent with local or
891 regional conditions and objectives.

892 Section 10. Subsection (6) is added to section 373.223,
893 Florida Statutes, to read:

894 373.223 Conditions for a permit.—

895 (6) A new consumptive use permit, or the renewal or
896 modification of a consumptive use permit, that authorizes
897 groundwater withdrawals of 100,000 gallons or more per day from
898 a well with an inside diameter of 8 inches or more shall be
899 monitored for water usage at intervals using methods determined

Page 31 of 134

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

592-01083A-16

2016552c1

900 by the applicable water management district, and the results of
901 such monitoring shall be reported to the applicable water
902 management district at least annually. The water management
903 districts may adopt rules to implement this subsection.

904 Section 11. Section 373.2234, Florida Statutes, is amended
905 to read:

906 373.2234 Preferred water supply sources.—

907 (1) The governing board of a water management district is
908 authorized to adopt rules that identify preferred water supply
909 sources for consumptive uses for which there is sufficient data
910 to establish that a preferred source will provide a substantial
911 new water supply to meet the existing and projected reasonable-
912 beneficial uses of a water supply planning region identified
913 pursuant to s. 373.709(1), while sustaining existing water
914 resources and natural systems. At a minimum, such rules must
915 contain a description of the preferred water supply source and
916 an assessment of the water the preferred source is projected to
917 produce.

918 (2) (a) If an applicant proposes to use a preferred water
919 supply source, that applicant's proposed water use is subject to
920 s. 373.223(1), except that the proposed use of a preferred water
921 supply source must be considered by a water management district
922 when determining whether a permit applicant's proposed use of
923 water is consistent with the public interest pursuant to s.
924 373.223(1) (c).

925 (b) The governing board of a water management district
926 shall consider the identification of preferred water supply
927 sources for water users for whom access to or development of new
928 water supplies is not technically or financially feasible.

Page 32 of 134

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

592-01083A-16

2016552c1

929 Identification of preferred water supply sources for such water
 930 users must be consistent with s. 373.016.

931 (c) A consumptive use permit issued for the use of a
 932 preferred water supply source must be granted, when requested by
 933 the applicant, for at least a 20-year period and may be subject
 934 to the compliance reporting provisions of s. 373.236(4).

935 (3) (a) ~~Nothing in~~ This section does not: shall be construed
 936 ~~to~~

937 1. Exempt the use of preferred water supply sources from
 938 ~~the provisions of ss. 373.016(4) and 373.223(2) and (3); or be~~
 939 ~~construed to~~

940 2. Provide that permits issued for the use of a
 941 nonpreferred water supply source must be issued for a duration
 942 of less than 20 years or that the use of a nonpreferred water
 943 supply source is not consistent with the public interest; ~~or~~

944 3. ~~Additionally, nothing in this section shall be~~
 945 ~~interpreted to~~ Require the use of a preferred water supply
 946 source or to restrict or prohibit the use of a nonpreferred
 947 water supply source.

948 (b) Rules adopted by the governing board of a water
 949 management district to implement this section shall specify that
 950 the use of a preferred water supply source is not required and
 951 that the use of a nonpreferred water supply source is not
 952 restricted or prohibited.

953 Section 12. Present subsection (5) of section 373.227,
 954 Florida Statutes, is redesignated as subsection (7), and a new
 955 subsection (5) and subsection (6) are added to that section, to
 956 read:

957 373.227 Water conservation; legislative findings and

Page 33 of 134

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

592-01083A-16

2016552c1

958 intent; objectives; comprehensive statewide water conservation
 959 program requirements.-

960 (5) To incentivize water conservation, if actual water use
 961 is less than permitted water use due to documented
 962 implementation of water conservation measures beyond those
 963 required in a consumptive use permit, including, but not limited
 964 to, those measures identified in best management practices
 965 pursuant to s. 570.93, the permitted allocation may not be
 966 modified solely due to such water conservation during the term
 967 of the permit. To promote water conservation and the
 968 implementation of measures that produce significant water
 969 savings beyond those required in a consumptive use permit, each
 970 water management district shall adopt rules providing water
 971 conservation incentives, which may include limited permit
 972 extensions.

973 (6) For consumptive use permits for agricultural
 974 irrigation, if actual water use is less than permitted water use
 975 due to weather events, crop diseases, nursery stock
 976 availability, market conditions, or changes in crop type, a
 977 district may not, as a result, reduce permitted allocation
 978 amounts during the term of the permit.

979 Section 13. Subsection (2) of section 373.233, Florida
 980 Statutes, is amended to read:

981 373.233 Competing applications.-

982 (2) (a) ~~If In the event that~~ two or more competing
 983 applications qualify equally under ~~the provisions of~~ subsection
 984 (1), the governing board or the department shall give preference
 985 to a renewal application over an initial application.

986 (b) If two or more competing applications qualify equally

Page 34 of 134

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

592-01083A-16

2016552c1

987 under subsection (1) and none of the competing applications is a
 988 renewal application, the governing board or the department shall
 989 give preference to the application for the use where the source
 990 is nearest to the area of use or application consistent with s.
 991 373.016(4) (a).

992 Section 14. Section 373.4591, Florida Statutes, is amended
 993 to read:

994 373.4591 Improvements on private agricultural lands.—

995 (1) The Legislature encourages public-private partnerships
 996 to accomplish water storage, groundwater recharge, and water
 997 quality improvements on private agricultural lands. Priority
 998 consideration shall be given to public-private partnerships
 999 that:

1000 (a) Store or treat water on private lands for purposes of
 1001 enhancing hydrologic improvement, improving water quality, or
 1002 assisting in water supply;

1003 (b) Provide critical groundwater recharge; or

1004 (c) Provide for changes in land use to activities that
 1005 minimize nutrient loads and maximize water conservation.

1006 (2) (a) When an agreement is entered into between the
 1007 department, a water management district, or the Department of
 1008 Agriculture and Consumer Services and a private landowner to
 1009 establish ~~such~~ a public-private partnership that may create or
 1010 impact wetlands or other surface waters, a baseline condition
 1011 determining the extent of wetlands and other surface waters on
 1012 the property shall be established and documented in the
 1013 agreement before improvements are constructed.

1014 (b) When an agreement is entered into between the
 1015 Department of Agriculture and Consumer Services and a private

Page 35 of 134

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

592-01083A-16

2016552c1

1016 landowner to implement best management practices pursuant to s.
 1017 403.067(7) (c), a baseline condition determining the extent of
 1018 wetlands and other surface water on the property may be
 1019 established at the option and expense of the private landowner
 1020 and documented in the agreement before improvements are
 1021 constructed. The Department of Agriculture and Consumer Services
 1022 shall submit the landowner's proposed baseline condition
 1023 documentation to the lead agency for review and approval, and
 1024 the agency shall use its best efforts to complete the review
 1025 within 45 days.

1026 (3) The Department of Agriculture and Consumer Services,
 1027 the department, and the water management districts shall provide
 1028 a process for reviewing these requests in the timeframe
 1029 specified. The determination of a baseline condition shall be
 1030 conducted using the methods set forth in the rules adopted
 1031 pursuant to s. 373.421. The baseline condition documented in an
 1032 agreement shall be considered the extent of wetlands and other
 1033 surface waters on the property for the purpose of regulation
 1034 under this chapter for the duration of the agreement and after
 1035 its expiration.

1036 Section 15. Paragraph (h) of subsection (1) and subsections
 1037 (2) through (7) of section 373.4595, Florida Statutes, are
 1038 amended to read:

1039 373.4595 Northern Everglades and Estuaries Protection
 1040 Program.—

1041 (1) FINDINGS AND INTENT.—

1042 (h) The Legislature finds that the expeditious
 1043 implementation of the Lake Okeechobee Watershed Protection
 1044 Program, the Caloosahatchee River Watershed Protection Program,

Page 36 of 134

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

592-01083A-16

2016552c1

1045 ~~Plan~~ and the St. Lucie River Watershed Protection Program Plans
 1046 is needed to improve the quality, quantity, timing, and
 1047 distribution of water in the northern Everglades ecosystem and
 1048 that this section, in conjunction with s. 403.067, including the
 1049 implementation of the plans developed and approved pursuant to
 1050 subsections (3) and (4), and any related basin management action
 1051 plan developed and implemented pursuant to s. 403.067(7) (a),
 1052 provide a reasonable means of achieving the total maximum daily
 1053 load requirements and achieving and maintaining compliance with
 1054 state water quality standards.

1055 (2) DEFINITIONS.—As used in this section, the term:

1056 (a) "Best management practice" means a practice or
 1057 combination of practices determined by the coordinating
 1058 agencies, based on research, field-testing, and expert review,
 1059 to be the most effective and practicable on-location means,
 1060 including economic and technological considerations, for
 1061 improving water quality in agricultural and urban discharges.
 1062 Best management practices for agricultural discharges shall
 1063 reflect a balance between water quality improvements and
 1064 agricultural productivity.

1065 (b) "Biosolids" means the solid, semisolid, or liquid
 1066 residue generated during the treatment of domestic wastewater in
 1067 a domestic wastewater treatment facility, formerly known as
 1068 "domestic wastewater residuals" or "residuals," and includes
 1069 products and treated material from biosolids treatment
 1070 facilities and septage management facilities regulated by the
 1071 department. The term does not include the treated effluent or
 1072 reclaimed water from a domestic wastewater treatment facility,
 1073 solids removed from pump stations and lift stations, screenings

Page 37 of 134

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

592-01083A-16

2016552c1

1074 and grit removed from the preliminary treatment components of
 1075 domestic wastewater treatment facilities, or ash generated
 1076 during the incineration of biosolids.

1077 ~~(c)(b)~~ "Caloosahatchee River watershed" means the
 1078 Caloosahatchee River, its tributaries, its estuary, and the area
 1079 within Charlotte, Glades, Hendry, and Lee Counties from which
 1080 surface water flow is directed or drains, naturally or by
 1081 constructed works, to the river, its tributaries, or its
 1082 estuary.

1083 ~~(d)(e)~~ "Coordinating agencies" means the Department of
 1084 Agriculture and Consumer Services, the Department of
 1085 Environmental Protection, and the South Florida Water Management
 1086 District.

1087 ~~(e)(d)~~ "Corps of Engineers" means the United States Army
 1088 Corps of Engineers.

1089 ~~(f)(e)~~ "Department" means the Department of Environmental
 1090 Protection.

1091 ~~(g)(f)~~ "District" means the South Florida Water Management
 1092 District.

1093 ~~(g)~~ "District's WOD program" means ~~the program implemented~~
 1094 ~~pursuant to rules adopted as authorized by this section and ss.~~
 1095 ~~373.016, 373.044, 373.085, 373.086, 373.109, 373.113, 373.118,~~
 1096 ~~373.451, and 373.453, entitled "Works of the District Basin."~~

1097 (h) "Lake Okeechobee Watershed Construction Project" means
 1098 the construction project developed pursuant to this section
 1099 ~~paragraph (3)(b).~~

1100 (i) "Lake Okeechobee Watershed Protection Plan" means the
 1101 Lake Okeechobee Watershed Construction Project and the Lake
 1102 Okeechobee Watershed Research and Water Quality Monitoring

Page 38 of 134

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

592-01083A-16

2016552c1

1103 ~~Program plan developed pursuant to this section and ss. 373.451-~~
 1104 ~~373.459.~~

1105 (j) "Lake Okeechobee watershed" means Lake Okeechobee, its
 1106 tributaries, and the area within which surface water flow is
 1107 directed or drains, naturally or by constructed works, to the
 1108 lake or its tributaries.

1109 ~~(k) "Lake Okeechobee Watershed Phosphorus Control Program"~~
 1110 ~~means the program developed pursuant to paragraph (3)(c).~~

1111 ~~(k)(1)~~ "Northern Everglades" means the Lake Okeechobee
 1112 watershed, the Caloosahatchee River watershed, and the St. Lucie
 1113 River watershed.

1114 ~~(l)(m)~~ "Project component" means any structural or
 1115 operational change, resulting from the Restudy, to the Central
 1116 and Southern Florida Project as it existed and was operated as
 1117 of January 1, 1999.

1118 ~~(m)(n)~~ "Restudy" means the Comprehensive Review Study of
 1119 the Central and Southern Florida Project, for which federal
 1120 participation was authorized by the Federal Water Resources
 1121 Development Acts of 1992 and 1996 together with related
 1122 Congressional resolutions and for which participation by the
 1123 South Florida Water Management District is authorized by s.
 1124 373.1501. The term includes all actions undertaken pursuant to
 1125 the aforementioned authorizations which will result in
 1126 recommendations for modifications or additions to the Central
 1127 and Southern Florida Project.

1128 ~~(n)(o)~~ "River Watershed Protection Plans" means the
 1129 Caloosahatchee River Watershed Protection Plan and the St. Lucie
 1130 River Watershed Protection Plan developed pursuant to this
 1131 section.

592-01083A-16

2016552c1

1132 (o) "Soil amendment" means any substance or mixture of
 1133 substances sold or offered for sale for soil enriching or
 1134 corrective purposes, intended or claimed to be effective in
 1135 promoting or stimulating plant growth, increasing soil or plant
 1136 productivity, improving the quality of crops, or producing any
 1137 chemical or physical change in the soil, except amendments,
 1138 conditioners, additives, and related products that are derived
 1139 solely from inorganic sources and that contain no recognized
 1140 plant nutrients.

1141 (p) "St. Lucie River watershed" means the St. Lucie River,
 1142 its tributaries, its estuary, and the area within Martin,
 1143 Okeechobee, and St. Lucie Counties from which surface water flow
 1144 is directed or drains, naturally or by constructed works, to the
 1145 river, its tributaries, or its estuary.

1146 (q) "Total maximum daily load" means the sum of the
 1147 individual wasteload allocations for point sources and the load
 1148 allocations for nonpoint sources and natural background adopted
 1149 pursuant to s. 403.067. Before ~~Prior to~~ determining individual
 1150 wasteload allocations and load allocations, the maximum amount
 1151 of a pollutant that a water body or water segment can assimilate
 1152 from all sources without exceeding water quality standards must
 1153 first be calculated.

1154 (3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.—The Lake
 1155 Okeechobee Watershed Protection Program shall consist of the
 1156 Lake Okeechobee Watershed Protection Plan, the Lake Okeechobee
 1157 Basin Management Action Plan adopted pursuant to s. 403.067, the
 1158 Lake Okeechobee Exotic Species Control Program, and the Lake
 1159 Okeechobee Internal Phosphorus Management Program. The Lake
 1160 Okeechobee Basin Management Action Plan adopted pursuant to s.

592-01083A-16

2016552c1

1161 403.067 shall be the component of the Lake Okeechobee Watershed
 1162 Protection A protection Program for Lake Okeechobee that
 1163 achieves phosphorus load reductions for Lake Okeechobee shall be
 1164 immediately implemented as specified in this subsection. The
 1165 Lake Okeechobee Watershed Protection Program shall address the
 1166 reduction of phosphorus loading to the lake from both internal
 1167 and external sources. Phosphorus load reductions shall be
 1168 achieved through a phased program of implementation. Initial
 1169 implementation actions shall be technology based, based upon a
 1170 consideration of both the availability of appropriate technology
 1171 and the cost of such technology, and shall include phosphorus
 1172 reduction measures at both the source and the regional level.
 1173 The initial phase of phosphorus load reductions shall be based
 1174 upon the district's Technical Publication 81-2 and the
 1175 district's WOD program, with subsequent phases of phosphorus
 1176 load reductions based upon the total maximum daily loads
 1177 established in accordance with s. 403.067. In the development
 1178 and administration of the Lake Okeechobee Watershed Protection
 1179 Program, the coordinating agencies shall maximize opportunities
 1180 provided by federal cost-sharing programs and opportunities for
 1181 partnerships with the private sector.

1182 (a) Lake Okeechobee Watershed Protection Plan.~~In order To~~
 1183 protect and restore surface water resources, the district, in
 1184 cooperation with the other coordinating agencies, shall complete
 1185 a Lake Okeechobee Watershed Protection Plan in accordance with
 1186 this section and ss. 373.451-373.459. Beginning March 1, 2020,
 1187 and every 5 years thereafter, the district shall update the Lake
 1188 Okeechobee Watershed Protection Plan to ensure that it is
 1189 consistent with the Lake Okeechobee Basin Management Action Plan

Page 41 of 134

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

592-01083A-16

2016552c1

1190 adopted pursuant to s. 403.067. The Lake Okeechobee Watershed
 1191 Protection Plan shall identify the geographic extent of the
 1192 watershed, be coordinated with the plans developed pursuant to
 1193 paragraphs (4) (a) and (c) (b), and include the Lake Okeechobee
 1194 Watershed Construction Project and the Lake Okeechobee Watershed
 1195 Research and Water Quality Monitoring Program contain an
 1196 implementation schedule for subsequent phases of phosphorus load
 1197 reduction consistent with the total maximum daily loads
 1198 established in accordance with s. 403.067. The plan shall
 1199 consider and build upon a review and analysis of the following:
 1200 1- the performance of projects constructed during Phase I
 1201 and Phase II of the Lake Okeechobee Watershed Construction
 1202 Project, pursuant to subparagraph 1.; paragraph (b).
 1203 2- relevant information resulting from the Lake Okeechobee
 1204 Basin Management Action Plan Watershed Phosphorus Control
 1205 Program, pursuant to paragraph (b); (e).
 1206 3- relevant information resulting from the Lake Okeechobee
 1207 Watershed Research and Water Quality Monitoring Program,
 1208 pursuant to subparagraph 2.; paragraph (d).
 1209 4- relevant information resulting from the Lake Okeechobee
 1210 Exotic Species Control Program, pursuant to paragraph (c); and
 1211 (e).
 1212 5- relevant information resulting from the Lake Okeechobee
 1213 Internal Phosphorus Management Program, pursuant to paragraph
 1214 (d) (f).
 1215 1. ~~(b)~~ Lake Okeechobee Watershed Construction Project.~~To~~
 1216 improve the hydrology and water quality of Lake Okeechobee and
 1217 downstream receiving waters, including the Caloosahatchee and
 1218 St. Lucie Rivers and their estuaries, the district, in

Page 42 of 134

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

592-01083A-16

2016552c1

1219 cooperation with the other coordinating agencies, shall design
 1220 and construct the Lake Okeechobee Watershed Construction
 1221 Project. The project shall include:

1222 ~~a.1-~~ Phase I.—Phase I of the Lake Okeechobee Watershed
 1223 Construction Project shall consist of a series of project
 1224 features consistent with the recommendations of the South
 1225 Florida Ecosystem Restoration Working Group's Lake Okeechobee
 1226 Action Plan. Priority basins for such projects include S-191, S-
 1227 154, and Pools D and E in the Lower Kissimmee River. ~~In order~~ To
 1228 obtain phosphorus load reductions to Lake Okeechobee as soon as
 1229 possible, the following actions shall be implemented:

1230 ~~(I)a-~~ The district shall serve as a full partner with the
 1231 Corps of Engineers in the design and construction of the Grassy
 1232 Island Ranch and New Palm Dairy stormwater treatment facilities
 1233 as components of the Lake Okeechobee Water Retention/Phosphorus
 1234 Removal Critical Project. The Corps of Engineers shall have the
 1235 lead in design and construction of these facilities. Should
 1236 delays be encountered in the implementation of either of these
 1237 facilities, the district shall notify the department and
 1238 recommend corrective actions.

1239 ~~(II)b-~~ The district shall obtain permits and complete
 1240 construction of two of the isolated wetland restoration projects
 1241 that are part of the Lake Okeechobee Water Retention/Phosphorus
 1242 Removal Critical Project. The additional isolated wetland
 1243 projects included in this critical project shall further reduce
 1244 phosphorus loading to Lake Okeechobee.

1245 ~~(III)c-~~ The district shall work with the Corps of Engineers
 1246 to expedite initiation of the design process for the Taylor
 1247 Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment

Page 43 of 134

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

592-01083A-16

2016552c1

1248 Area, a project component of the Comprehensive Everglades
 1249 Restoration Plan. The district shall propose to the Corps of
 1250 Engineers that the district take the lead in the design and
 1251 construction of the Reservoir Assisted Stormwater Treatment Area
 1252 and receive credit towards the local share of the total cost of
 1253 the Comprehensive Everglades Restoration Plan.

1254 ~~b.2-~~ Phase II technical plan and construction. ~~By February~~
 1255 ~~1, 2008,~~ The district, in cooperation with the other
 1256 coordinating agencies, shall develop a detailed technical plan
 1257 for Phase II of the Lake Okeechobee Watershed Construction
 1258 Project which provides the basis for the Lake Okeechobee Basin
 1259 Management Action Plan adopted by the department pursuant to s.
 1260 403.067. The detailed technical plan shall include measures for
 1261 the improvement of the quality, quantity, timing, and
 1262 distribution of water in the northern Everglades ecosystem,
 1263 including the Lake Okeechobee watershed and the estuaries, and
 1264 for facilitating the achievement of water quality standards. Use
 1265 of cost-effective biologically based, hybrid wetland/chemical
 1266 and other innovative nutrient control technologies shall be
 1267 incorporated in the plan where appropriate. The detailed
 1268 technical plan shall also include a Process Development and
 1269 Engineering component to finalize the detail and design of Phase
 1270 II projects and identify additional measures needed to increase
 1271 the certainty that the overall objectives for improving water
 1272 quality and quantity can be met. Based on information and
 1273 recommendations from the Process Development and Engineering
 1274 component, the Phase II detailed technical plan shall be
 1275 periodically updated. Phase II shall include construction of
 1276 additional facilities in the priority basins identified in sub-

Page 44 of 134

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

592-01083A-16 2016552c1

1277 ~~subparagraph a. subparagraph 1.~~, as well as facilities for other
 1278 basins in the Lake Okeechobee watershed. ~~This detailed technical~~
 1279 ~~plan will require legislative ratification pursuant to paragraph~~
 1280 ~~(i).~~ The technical plan shall:

1281 ~~(I)a-~~ Identify Lake Okeechobee Watershed Construction
 1282 Project facilities designed to contribute to achieving all
 1283 applicable total maximum daily loads established pursuant to s.
 1284 403.067 within the Lake Okeechobee watershed.

1285 ~~(II)b-~~ Identify the size and location of all such Lake
 1286 Okeechobee Watershed Construction Project facilities.

1287 ~~(III)e-~~ Provide a construction schedule for all such Lake
 1288 Okeechobee Watershed Construction Project facilities, including
 1289 the sequencing and specific timeframe for construction of each
 1290 Lake Okeechobee Watershed Construction Project facility.

1291 ~~(IV)d-~~ Provide a schedule for the acquisition of lands or
 1292 sufficient interests necessary to achieve the construction
 1293 schedule.

1294 ~~(V)e-~~ Provide a detailed schedule of costs associated with
 1295 the construction schedule.

1296 ~~(VI)f-~~ Identify, to the maximum extent practicable, impacts
 1297 on wetlands and state-listed species expected to be associated
 1298 with construction of such facilities, including potential
 1299 alternatives to minimize and mitigate such impacts, as
 1300 appropriate.

1301 ~~(VII)g-~~ Provide for additional measures, including
 1302 voluntary water storage and quality improvements on private
 1303 land, to increase water storage and reduce excess water levels
 1304 in Lake Okeechobee and to reduce excess discharges to the
 1305 estuaries.

592-01083A-16 2016552c1

1306 ~~(VIII) The technical plan shall also~~ Develop the
 1307 appropriate water quantity storage goal to achieve the desired
 1308 Lake Okeechobee range of lake levels and inflow volumes to the
 1309 Caloosahatchee and St. Lucie estuaries while meeting the other
 1310 water-related needs of the region, including water supply and
 1311 flood protection.

1312 ~~(IX)h-~~ Provide for additional source controls needed to
 1313 enhance performance of the Lake Okeechobee Watershed
 1314 Construction Project facilities. Such additional source controls
 1315 shall be incorporated into the Lake Okeechobee Basin Management
 1316 Action Plan Watershed Phosphorous Control Program pursuant to
 1317 paragraph (b) (e).

1318 ~~c.3-~~ Evaluation. ~~Within 5 years after the adoption of the~~
 1319 Lake Okeechobee Basin Management Action Plan pursuant to s.
 1320 403.067 and every 5 ~~By January 1, 2004, and every 3~~ years
 1321 thereafter, the department ~~district~~, in cooperation with the
 1322 other coordinating agencies, shall conduct an evaluation of the
 1323 Lake Okeechobee Watershed Construction Project and identify any
 1324 further load reductions necessary to achieve compliance with the
 1325 ~~all~~ Lake Okeechobee ~~watershed~~ total maximum daily loads
 1326 established pursuant to s. 403.067. ~~Additionally,~~ The district
 1327 shall identify modifications to facilities of the Lake
 1328 Okeechobee Watershed Construction Project as appropriate to meet
 1329 the total maximum daily loads. Modifications to the Lake
 1330 Okeechobee Watershed Construction Project resulting from this
 1331 evaluation shall be incorporated into the Lake Okeechobee Basin
 1332 Management Action Plan and ~~The evaluation shall be included in~~
 1333 the applicable annual progress report submitted pursuant to
 1334 subsection (6).

592-01083A-16

2016552c1

1335 ~~d.4-~~ Coordination and review.—To ensure the timely
 1336 implementation of the Lake Okeechobee Watershed Construction
 1337 Project, the design of project facilities shall be coordinated
 1338 with the department and other interested parties, including
 1339 affected local governments, to the maximum extent practicable.
 1340 Lake Okeechobee Watershed Construction Project facilities shall
 1341 be reviewed and commented upon by the department ~~before~~ ~~prior to~~
 1342 the execution of a construction contract by the district for
 1343 that facility.

1344 2. Lake Okeechobee Watershed Research and Water Quality
 1345 Monitoring Program.—The coordinating agencies shall implement a
 1346 Lake Okeechobee Watershed Research and Water Quality Monitoring
 1347 Program. Results from the program shall be used by the
 1348 department, in cooperation with the other coordinating agencies,
 1349 to make modifications to the Lake Okeechobee Basin Management
 1350 Action Plan adopted pursuant to s. 403.067, as appropriate. The
 1351 program shall:

1352 a. Evaluate all available existing water quality data
 1353 concerning total phosphorus in the Lake Okeechobee watershed,
 1354 develop a water quality baseline to represent existing
 1355 conditions for total phosphorus, monitor long-term ecological
 1356 changes, including water quality for total phosphorus, and
 1357 measure compliance with water quality standards for total
 1358 phosphorus, including any applicable total maximum daily load
 1359 for the Lake Okeechobee watershed as established pursuant to s.
 1360 403.067. Beginning March 1, 2020, and every 5 years thereafter,
 1361 the department shall reevaluate water quality and quantity data
 1362 to ensure that the appropriate projects are being designated and
 1363 incorporated into the Lake Okeechobee Basin Management Action

Page 47 of 134

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

592-01083A-16

2016552c1

1364 Plan adopted pursuant to s. 403.067. The district shall
 1365 implement a total phosphorus monitoring program at appropriate
 1366 structures owned or operated by the district and within the Lake
 1367 Okeechobee watershed.

1368 b. Develop a Lake Okeechobee water quality model that
 1369 reasonably represents the phosphorus dynamics of Lake Okeechobee
 1370 and incorporates an uncertainty analysis associated with model
 1371 predictions.

1372 c. Determine the relative contribution of phosphorus from
 1373 all identifiable sources and all primary and secondary land
 1374 uses.

1375 d. Conduct an assessment of the sources of phosphorus from
 1376 the Upper Kissimmee Chain of Lakes and Lake Istokpoga and their
 1377 relative contribution to the water quality of Lake Okeechobee.
 1378 The results of this assessment shall be used by the coordinating
 1379 agencies as part of the Lake Okeechobee Basin Management Action
 1380 Plan adopted pursuant to s. 403.067 to develop interim measures,
 1381 best management practices, or regulations, as applicable.

1382 e. Assess current water management practices within the
 1383 Lake Okeechobee watershed and develop recommendations for
 1384 structural and operational improvements. Such recommendations
 1385 shall balance water supply, flood control, estuarine salinity,
 1386 maintenance of a healthy lake littoral zone, and water quality
 1387 considerations.

1388 f. Evaluate the feasibility of alternative nutrient
 1389 reduction technologies, including sediment traps, canal and
 1390 ditch maintenance, fish production or other aquaculture,
 1391 bioenergy conversion processes, and algal or other biological
 1392 treatment technologies and include any alternative nutrient

Page 48 of 134

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

592-01083A-16

2016552c1

1393 reduction technologies determined to be feasible in the Lake
 1394 Okeechobee Basin Management Action Plan adopted pursuant to s.
 1395 403.067.

1396 g. Conduct an assessment of the water volumes and timing
 1397 from the Lake Okeechobee watershed and their relative
 1398 contribution to the water level changes in Lake Okeechobee and
 1399 to the timing and volume of water delivered to the estuaries.

1400 (b)(c) Lake Okeechobee Basin Management Action Plan
 1401 Watershed Phosphorus Control Program.—The Lake Okeechobee Basin
 1402 Management Action Plan adopted pursuant to s. 403.067 shall be
 1403 the watershed phosphorus control component for Lake Okeechobee.
 1404 The Lake Okeechobee Basin Management Action Plan shall be
 1405 Program is designed to be a multifaceted approach designed to
 1406 achieve the total maximum daily load ~~reducing phosphorus loads~~
 1407 by improving the management of phosphorus sources within the
 1408 Lake Okeechobee watershed through implementation of regulations
 1409 and best management practices, continued development and
 1410 continued implementation of improved best management practices,
 1411 improvement and restoration of the hydrologic function of
 1412 natural and managed systems, and use ~~utilization~~ of alternative
 1413 technologies for nutrient reduction. As provided in s.
 1414 403.067(7) (a) 6., the Lake Okeechobee Basin Management Action
 1415 Plan must include milestones for implementation and water
 1416 quality improvement, and an associated water quality monitoring
 1417 component sufficient to evaluate whether reasonable progress in
 1418 pollutant load reductions is being achieved over time. An
 1419 assessment of progress toward these milestones shall be
 1420 conducted every 5 years and shall be provided to the Governor,
 1421 the President of the Senate, and the Speaker of the House of

Page 49 of 134

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

592-01083A-16

2016552c1

1422 Representatives. Revisions to the plan shall be made, as
 1423 appropriate, as a result of each 5-year review. Revisions to the
 1424 basin management action plan shall be made by the department in
 1425 cooperation with the basin stakeholders. Revisions to best
 1426 management practices or other measures must follow the
 1427 procedures set forth in s. 403.067(7) (c)4. Revised basin
 1428 management action plans must be adopted pursuant to s.
 1429 403.067(7) (a)5. The department shall develop an implementation
 1430 schedule establishing 5-year, 10-year, and 15-year measurable
 1431 milestones and targets to achieve the total maximum daily load
 1432 no more than 20 years after adoption of the plan. The initial
 1433 implementation schedule shall be used to provide guidance for
 1434 planning and funding purposes and is exempt from chapter 120.
 1435 Upon the first 5-year review, the implementation schedule shall
 1436 be adopted as part of the plan. If achieving the total maximum
 1437 daily load within 20 years is not practicable, the
 1438 implementation schedule must contain an explanation of the
 1439 constraints that prevent achievement of the total maximum daily
 1440 load within 20 years, an estimate of the time needed to achieve
 1441 the total maximum daily load, and additional 5-year measurable
 1442 milestones, as necessary. The coordinating agencies shall
 1443 develop an interagency agreement pursuant to ss. 373.046 and
 1444 373.406(5) which is consistent with the department taking the
 1445 lead on water quality protection measures through the Lake
 1446 Okeechobee Basin Management Action Plan adopted pursuant to s.
 1447 403.067; the district taking the lead on hydrologic improvements
 1448 pursuant to paragraph (a); and the Department of Agriculture and
 1449 Consumer Services taking the lead on agricultural interim
 1450 measures, best management practices, and other measures adopted

Page 50 of 134

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

592-01083A-16

2016552c1

1451 pursuant to s. 403.067. The interagency agreement must specify
 1452 how best management practices for nonagricultural nonpoint
 1453 sources are developed and how all best management practices are
 1454 implemented and verified consistent with s. 403.067 and this
 1455 section and must address measures to be taken by the
 1456 coordinating agencies during any best management practice
 1457 reevaluation performed pursuant to subparagraphs 5. and 10. The
 1458 department shall use best professional judgment in making the
 1459 initial determination of best management practice effectiveness.
 1460 The coordinating agencies may develop an intergovernmental
 1461 agreement with local governments to implement nonagricultural
 1462 nonpoint source best management practices within their
 1463 respective geographic boundaries. The coordinating agencies
 1464 shall facilitate the application of federal programs that offer
 1465 opportunities for water quality treatment, including
 1466 preservation, restoration, or creation of wetlands on
 1467 agricultural lands.

1468 1. Agricultural nonpoint source best management practices,
 1469 developed in accordance with s. 403.067 and designed to achieve
 1470 the objectives of the Lake Okeechobee Watershed Protection
 1471 Program as part of a phased approach of management strategies
 1472 within the Lake Okeechobee Basin Management Action Plan, shall
 1473 be implemented on an expedited basis. ~~The coordinating agencies~~
 1474 ~~shall develop an interagency agreement pursuant to ss. 373.046~~
 1475 ~~and 373.406(5) that assures the development of best management~~
 1476 ~~practices that complement existing regulatory programs and~~
 1477 ~~specifies how those best management practices are implemented~~
 1478 ~~and verified. The interagency agreement shall address measures~~
 1479 ~~to be taken by the coordinating agencies during any best~~

Page 51 of 134

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

592-01083A-16

2016552c1

1480 ~~management practice reevaluation performed pursuant to sub-~~
 1481 ~~paragraph d. The department shall use best professional~~
 1482 ~~judgment in making the initial determination of best management~~
 1483 ~~practice effectiveness.~~

1484 2.a. ~~As provided in s. 403.067(7)(e),~~ the Department of
 1485 Agriculture and Consumer Services, in consultation with the
 1486 department, the district, and affected parties, shall initiate
 1487 rule development for interim measures, best management
 1488 practices, conservation plans, nutrient management plans, or
 1489 other measures necessary for Lake Okeechobee watershed total
 1490 maximum daily load reduction. The rule shall include thresholds
 1491 for requiring conservation and nutrient management plans and
 1492 criteria for the contents of such plans. Development of
 1493 agricultural nonpoint source best management practices shall
 1494 initially focus on those priority basins listed in sub-
 1495 paragraph (a)1.a. ~~subparagraph (b)1.~~ The Department of
 1496 Agriculture and Consumer Services, in consultation with the
 1497 department, the district, and affected parties, shall conduct an
 1498 ongoing program for improvement of existing and development of
 1499 new agricultural nonpoint source interim measures and ~~or~~ best
 1500 management practices. The Department of Agriculture and Consumer
 1501 Services shall adopt for the purpose of adoption of such
 1502 practices by rule. The Department of Agriculture and Consumer
 1503 Services shall work with the University of Florida ~~Florida's~~
 1504 Institute of Food and Agriculture Sciences to review and, where
 1505 appropriate, develop revised nutrient application rates for all
 1506 agricultural soil amendments in the watershed.

1507 3.b. ~~As provided in s. 403.067,~~ where agricultural nonpoint
 1508 source best management practices or interim measures have been

Page 52 of 134

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

592-01083A-16

2016552c1

1509 adopted by rule of the Department of Agriculture and Consumer
 1510 Services, the owner or operator of an agricultural nonpoint
 1511 source addressed by such rule shall either implement interim
 1512 measures or best management practices or demonstrate compliance
 1513 with state water quality standards addressed by the Lake
 1514 Okeechobee Basin Management Action Plan adopted pursuant to s.
 1515 403.067 the district's WOD program by conducting monitoring
 1516 prescribed by the department or the district. Owners or
 1517 operators of agricultural nonpoint sources who implement interim
 1518 measures or best management practices adopted by rule of the
 1519 Department of Agriculture and Consumer Services shall be subject
 1520 to the provisions of s. 403.067(7). The Department of
 1521 Agriculture and Consumer Services, in cooperation with the
 1522 department and the district, shall provide technical and
 1523 financial assistance for implementation of agricultural best
 1524 management practices, subject to the availability of funds.

1525 4.e. The district or department shall conduct monitoring at
 1526 representative sites to verify the effectiveness of agricultural
 1527 nonpoint source best management practices.

1528 5.d. Where water quality problems are detected for
 1529 agricultural nonpoint sources despite the appropriate
 1530 implementation of adopted best management practices, ~~the~~
 1531 ~~Department of Agriculture and Consumer Services, in consultation~~
 1532 ~~with the other coordinating agencies and affected parties, shall~~
 1533 institute a reevaluation of the best management practices shall
 1534 be conducted pursuant to s. 403.067(7)(c)4. If the reevaluation
 1535 determines that the best management practices or other measures
 1536 require modification, the rule shall be revised to require
 1537 implementation of the modified practice within a reasonable

Page 53 of 134

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

592-01083A-16

2016552c1

1538 ~~period as specified in the rule and make appropriate changes to~~
 1539 ~~the rule adopting best management practices.~~

1540 6.2. As provided in s. 403.067, nonagricultural nonpoint
 1541 source best management practices, developed in accordance with
 1542 s. 403.067 and designed to achieve the objectives of the Lake
 1543 Okeechobee Watershed Protection Program as part of a phased
 1544 approach of management strategies within the Lake Okeechobee
 1545 Basin Management Action Plan, shall be implemented on an
 1546 expedited basis. ~~The department and the district shall develop~~
 1547 ~~an interagency agreement pursuant to ss. 373.046 and 373.406(5)~~
 1548 ~~that assures the development of best management practices that~~
 1549 ~~complement existing regulatory programs and specifies how those~~
 1550 ~~best management practices are implemented and verified. The~~
 1551 ~~interagency agreement shall address measures to be taken by the~~
 1552 ~~department and the district during any best management practice~~
 1553 ~~reevaluation performed pursuant to sub-subparagraph d.~~

1554 7.a. The department and the district are directed to work
 1555 with the University of Florida ~~Florida's~~ Institute of Food and
 1556 Agricultural Sciences to develop appropriate nutrient
 1557 application rates for all nonagricultural soil amendments in the
 1558 watershed. As provided in s. 403.067 ~~s. 403.067(7)(e)~~, the
 1559 department, in consultation with the district and affected
 1560 parties, shall develop nonagricultural nonpoint source interim
 1561 measures, best management practices, or other measures necessary
 1562 for Lake Okeechobee watershed total maximum daily load
 1563 reduction. Development of nonagricultural nonpoint source best
 1564 management practices shall initially focus on those priority
 1565 basins listed in sub-subparagraph (a)1.a. ~~subparagraph (b)1.~~ The
 1566 department, the district, and affected parties shall conduct an

Page 54 of 134

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

592-01083A-16

2016552c1

1567 ongoing program for improvement of existing and development of
 1568 new interim measures ~~and~~ ~~or~~ best management practices. The
 1569 department or the district shall adopt such practices by rule
 1570 ~~The district shall adopt technology-based standards under the~~
 1571 ~~district's WOD program for nonagricultural nonpoint sources of~~
 1572 ~~phosphorus. Nothing in this sub-subparagraph shall affect the~~
 1573 ~~authority of the department or the district to adopt basin-~~
 1574 ~~specific criteria under this part to prevent harm to the water~~
 1575 ~~resources of the district.~~

1576 8.b. Where nonagricultural nonpoint source best management
 1577 practices or interim measures have been developed by the
 1578 department and adopted by the district, the owner or operator of a
 1579 nonagricultural nonpoint source shall implement interim
 1580 measures or best management practices and be subject to ~~the~~
 1581 ~~provisions of s. 403.067(7). The department and district shall~~
 1582 ~~provide technical and financial assistance for implementation of~~
 1583 ~~nonagricultural nonpoint source best management practices,~~
 1584 ~~subject to the availability of funds.~~

1585 9.e. As provided in s. 403.067, the district or the
 1586 department shall conduct monitoring at representative sites to
 1587 verify the effectiveness of nonagricultural nonpoint source best
 1588 management practices.

1589 10.d. Where water quality problems are detected for
 1590 nonagricultural nonpoint sources despite the appropriate
 1591 implementation of adopted best management practices, ~~the~~
 1592 ~~department and the district shall institute~~ a reevaluation of
 1593 the best management practices shall be conducted pursuant to s.
 1594 403.067(7)(c)4. If the reevaluation determines that the best
 1595 management practices or other measures require modification, the

Page 55 of 134

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

592-01083A-16

2016552c1

1596 rule shall be revised to require implementation of the modified
 1597 practice within a reasonable time period as specified in the
 1598 rule.

1599 11.3. ~~The provisions of Subparagraphs 1. and 2. and 7. do~~
 1600 ~~may~~ not preclude the department or the district from requiring
 1601 compliance with water quality standards or with current best
 1602 management practices requirements set forth in any applicable
 1603 regulatory program authorized by law for the purpose of
 1604 protecting water quality. ~~Additionally,~~ Subparagraphs ~~1. and 2.~~
 1605 ~~and 7.~~ are applicable only to the extent that they do not
 1606 conflict with any rules adopted by the department that are
 1607 necessary to maintain a federally delegated or approved program.

1608 12. The program of agricultural best management practices
 1609 set forth in the Everglades Program of the district meets the
 1610 requirements of this paragraph and s. 403.067(7) for the Lake
 1611 Okeechobee watershed. An entity in compliance with the best
 1612 management practices set forth in the Everglades Program of the
 1613 district may elect to use that permit in lieu of the
 1614 requirements of this paragraph. The provisions of subparagraph
 1615 5. apply to this subparagraph. This subparagraph does not alter
 1616 any requirement of s. 373.4592.

1617 13. The Department of Agriculture and Consumer Services, in
 1618 cooperation with the department and the district, shall provide
 1619 technical and financial assistance for implementation of
 1620 agricultural best management practices, subject to the
 1621 availability of funds. The department and district shall provide
 1622 technical and financial assistance for implementation of
 1623 nonagricultural nonpoint source best management practices,
 1624 subject to the availability of funds.

Page 56 of 134

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

592-01083A-16

2016552c1

1625 ~~14.4-~~ Projects that reduce the phosphorus load originating
 1626 from domestic wastewater systems within the Lake Okeechobee
 1627 watershed shall be given funding priority in the department's
 1628 revolving loan program under s. 403.1835. The department shall
 1629 coordinate and provide assistance to those local governments
 1630 seeking financial assistance for such priority projects.

1631 ~~15.5-~~ Projects that make use of private lands, or lands
 1632 held in trust for Indian tribes, to reduce nutrient loadings or
 1633 concentrations within a basin by one or more of the following
 1634 methods: restoring the natural hydrology of the basin, restoring
 1635 wildlife habitat or impacted wetlands, reducing peak flows after
 1636 storm events, increasing aquifer recharge, or protecting range
 1637 and timberland from conversion to development, are eligible for
 1638 grants available under this section from the coordinating
 1639 agencies. For projects of otherwise equal priority, special
 1640 funding priority will be given to those projects that make best
 1641 use of the methods outlined above that involve public-private
 1642 partnerships or that obtain federal match money. Preference
 1643 ranking above the special funding priority will be given to
 1644 projects located in a rural area of opportunity designated by
 1645 the Governor. Grant applications may be submitted by any person
 1646 or tribal entity, and eligible projects may include, but are not
 1647 limited to, the purchase of conservation and flowage easements,
 1648 hydrologic restoration of wetlands, creating treatment wetlands,
 1649 development of a management plan for natural resources, and
 1650 financial support to implement a management plan.

1651 ~~16.6-a-~~ The department shall require all entities disposing
 1652 of domestic wastewater biosolids residuals within the Lake
 1653 Okeechobee watershed and the remaining areas of Okeechobee,

Page 57 of 134

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

592-01083A-16

2016552c1

1654 Glades, and Hendry Counties to develop and submit to the
 1655 department an agricultural use plan that limits applications
 1656 based upon phosphorus loading consistent with the Lake
 1657 Okeechobee Basin Management Action Plan adopted pursuant to s.
 1658 403.067. ~~By July 1, 2005, phosphorus concentrations originating~~
 1659 ~~from these application sites may not exceed the limits~~
 1660 ~~established in the district's WOD program. After December 31,~~
 1661 ~~2007,~~ The department may not authorize the disposal of domestic
 1662 wastewater biosolids residuals within the Lake Okeechobee
 1663 watershed unless the applicant can affirmatively demonstrate
 1664 that the phosphorus in the biosolids residuals will not add to
 1665 phosphorus loadings in Lake Okeechobee or its tributaries. This
 1666 demonstration shall be based on achieving a net balance between
 1667 phosphorus imports relative to exports on the permitted
 1668 application site. Exports shall include only phosphorus removed
 1669 from the Lake Okeechobee watershed through products generated on
 1670 the permitted application site. This prohibition does not apply
 1671 to Class AA biosolids residuals that are marketed and
 1672 distributed as fertilizer products in accordance with department
 1673 rule.

1674 ~~17.5-~~ Private and government-owned utilities within Monroe,
 1675 Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
 1676 River, Okeechobee, Highlands, Hendry, and Glades Counties that
 1677 dispose of wastewater biosolids residual sludge from utility
 1678 operations and septic removal by land spreading in the Lake
 1679 Okeechobee watershed may use a line item on local sewer rates to
 1680 cover wastewater biosolids residual treatment and disposal if
 1681 such disposal and treatment is done by approved alternative
 1682 treatment methodology at a facility located within the areas

Page 58 of 134

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

592-01083A-16

2016552c1

1683 designated by the Governor as rural areas of opportunity
 1684 pursuant to s. 288.0656. This additional line item is an
 1685 environmental protection disposal fee above the present sewer
 1686 rate and may not be considered a part of the present sewer rate
 1687 to customers, notwithstanding provisions to the contrary in
 1688 chapter 367. The fee shall be established by the county
 1689 commission or its designated assignee in the county in which the
 1690 alternative method treatment facility is located. The fee shall
 1691 be calculated to be no higher than that necessary to recover the
 1692 facility's prudent cost of providing the service. Upon request
 1693 by an affected county commission, the Florida Public Service
 1694 Commission will provide assistance in establishing the fee.
 1695 Further, for utilities and utility authorities that use the
 1696 additional line item environmental protection disposal fee, such
 1697 fee may not be considered a rate increase under the rules of the
 1698 Public Service Commission and shall be exempt from such rules.
 1699 Utilities using ~~the provisions of~~ this section may immediately
 1700 include in their sewer invoicing the new environmental
 1701 protection disposal fee. Proceeds from this environmental
 1702 protection disposal fee shall be used for treatment and disposal
 1703 of wastewater biosolids residuals, including any treatment
 1704 technology that helps reduce the volume of biosolids residuals
 1705 that require final disposal, but such proceeds may not be used
 1706 for transportation or shipment costs for disposal or any costs
 1707 relating to the land application of biosolids residuals in the
 1708 Lake Okeechobee watershed.

1709 ~~18.e-~~ No less frequently than once every 3 years, the
 1710 Florida Public Service Commission or the county commission
 1711 through the services of an independent auditor shall perform a

Page 59 of 134

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

592-01083A-16

2016552c1

1712 financial audit of all facilities receiving compensation from an
 1713 environmental protection disposal fee. The Florida Public
 1714 Service Commission or the county commission through the services
 1715 of an independent auditor shall also perform an audit of the
 1716 methodology used in establishing the environmental protection
 1717 disposal fee. The Florida Public Service Commission or the
 1718 county commission shall, within 120 days after completion of an
 1719 audit, file the audit report with the President of the Senate
 1720 and the Speaker of the House of Representatives and shall
 1721 provide copies to the county commissions of the counties set
 1722 forth in subparagraph 17. ~~sub-subparagraph b.~~ The books and
 1723 records of any facilities receiving compensation from an
 1724 environmental protection disposal fee shall be open to the
 1725 Florida Public Service Commission and the Auditor General for
 1726 review upon request.

1727 ~~19.7-~~ The Department of Health shall require all entities
 1728 disposing of septage within the Lake Okeechobee watershed to
 1729 develop and submit to that agency an agricultural use plan that
 1730 limits applications based upon phosphorus loading consistent
 1731 with the Lake Okeechobee Basin Management Action Plan adopted
 1732 pursuant to s. 403.067. ~~By July 1, 2005, phosphorus~~
 1733 ~~concentrations originating from these application sites may not~~
 1734 ~~exceed the limits established in the district's WOD program.~~

1735 ~~20.g-~~ The Department of Agriculture and Consumer Services
 1736 shall initiate rulemaking requiring entities within the Lake
 1737 Okeechobee watershed which land-apply animal manure to develop
 1738 resource management system level conservation plans, according
 1739 to United States Department of Agriculture criteria, which limit
 1740 such application. Such rules must ~~may~~ include criteria and

Page 60 of 134

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

592-01083A-16

2016552c1

1741 thresholds for the requirement to develop a conservation or
 1742 nutrient management plan, requirements for plan approval, site
 1743 inspection requirements, and recordkeeping requirements.

1744 21. The district shall revise chapter 40E-61, Florida
 1745 Administrative Code, to be consistent with this section and s.
 1746 403.067; provide for a monitoring program for nonpoint source
 1747 dischargers required to monitor water quality by s. 403.067; and
 1748 provide for the results of such monitoring to be reported to the
 1749 coordinating agencies.

1750 9. The district, the department, or the Department of
 1751 Agriculture and Consumer Services, as appropriate, shall
 1752 implement those alternative nutrient reduction technologies
 1753 determined to be feasible pursuant to subparagraph (d)6.

1754 (d) Lake Okeechobee Watershed Research and Water Quality
 1755 Monitoring Program. The district, in cooperation with the other
 1756 coordinating agencies, shall establish a Lake Okeechobee
 1757 Watershed Research and Water Quality Monitoring Program that
 1758 builds upon the district's existing Lake Okeechobee research
 1759 program. The program shall:

1760 1. Evaluate all available existing water quality data
 1761 concerning total phosphorus in the Lake Okeechobee watershed,
 1762 develop a water quality baseline to represent existing
 1763 conditions for total phosphorus, monitor long-term ecological
 1764 changes, including water quality for total phosphorus, and
 1765 measure compliance with water quality standards for total
 1766 phosphorus, including any applicable total maximum daily load
 1767 for the Lake Okeechobee watershed as established pursuant to s.
 1768 403.067. Every 3 years, the district shall reevaluate water
 1769 quality and quantity data to ensure that the appropriate

Page 61 of 134

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

592-01083A-16

2016552c1

1770 ~~projects are being designated and implemented to meet the water~~
 1771 ~~quality and storage goals of the plan. The district shall also~~
 1772 ~~implement a total phosphorus monitoring program at appropriate~~
 1773 ~~structures owned or operated by the South Florida Water~~
 1774 ~~Management District and within the Lake Okeechobee watershed.~~

1775 ~~2. Develop a Lake Okeechobee water quality model that~~
 1776 ~~reasonably represents phosphorus dynamics of the lake and~~
 1777 ~~incorporates an uncertainty analysis associated with model~~
 1778 ~~predictions.~~

1779 ~~3. Determine the relative contribution of phosphorus from~~
 1780 ~~all identifiable sources and all primary and secondary land~~
 1781 ~~uses.~~

1782 ~~4. Conduct an assessment of the sources of phosphorus from~~
 1783 ~~the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their~~
 1784 ~~relative contribution to the water quality of Lake Okeechobee.~~
 1785 ~~The results of this assessment shall be used by the coordinating~~
 1786 ~~agencies to develop interim measures, best management practices,~~
 1787 ~~or regulation, as applicable.~~

1788 ~~5. Assess current water management practices within the~~
 1789 ~~Lake Okeechobee watershed and develop recommendations for~~
 1790 ~~structural and operational improvements. Such recommendations~~
 1791 ~~shall balance water supply, flood control, estuarine salinity,~~
 1792 ~~maintenance of a healthy lake littoral zone, and water quality~~
 1793 ~~considerations.~~

1794 ~~6. Evaluate the feasibility of alternative nutrient~~
 1795 ~~reduction technologies, including sediment traps, canal and~~
 1796 ~~ditch maintenance, fish production or other aquaculture,~~
 1797 ~~bioenergy conversion processes, and algal or other biological~~
 1798 ~~treatment technologies.~~

Page 62 of 134

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

592-01083A-16

2016552c1

1799 7. ~~Conduct an assessment of the water volumes and timing~~
 1800 ~~from the Lake Okeechobee watershed and their relative~~
 1801 ~~contribution to the water level changes in Lake Okeechobee and~~
 1802 ~~to the timing and volume of water delivered to the estuaries.~~

1803 ~~(c)(e)~~ *Lake Okeechobee Exotic Species Control Program.*—The
 1804 coordinating agencies shall identify the exotic species that
 1805 threaten the native flora and fauna within the Lake Okeechobee
 1806 watershed and develop and implement measures to protect the
 1807 native flora and fauna.

1808 ~~(d)(f)~~ *Lake Okeechobee Internal Phosphorus Management*
 1809 *Program.*—The district, in cooperation with the other
 1810 coordinating agencies and interested parties, shall evaluate the
 1811 feasibility of complete a Lake Okeechobee internal phosphorus
 1812 load removal projects feasibility study. The evaluation
 1813 feasibility study shall be based on technical feasibility, as
 1814 well as economic considerations, and shall consider address all
 1815 reasonable methods of phosphorus removal. If projects methods
 1816 are found to be feasible, the district shall immediately pursue
 1817 the design, funding, and permitting for implementing such
 1818 projects methods.

1819 ~~(e)(g)~~ *Lake Okeechobee Watershed Protection Program Plan*
 1820 *implementation.*—The coordinating agencies shall be jointly
 1821 responsible for implementing the Lake Okeechobee Watershed
 1822 Protection Program Plan, consistent with the statutory authority
 1823 and responsibility of each agency. Annual funding priorities
 1824 shall be jointly established, and the highest priority shall be
 1825 assigned to programs and projects that address sources that have
 1826 the highest relative contribution to loading and the greatest
 1827 potential for reductions needed to meet the total maximum daily

Page 63 of 134

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

592-01083A-16

2016552c1

1828 loads. In determining funding priorities, the coordinating
 1829 agencies shall also consider the need for regulatory compliance,
 1830 the extent to which the program or project is ready to proceed,
 1831 and the availability of federal matching funds or other nonstate
 1832 funding, including public-private partnerships. Federal and
 1833 other nonstate funding shall be maximized to the greatest extent
 1834 practicable.

1835 ~~(f)(h)~~ *Priorities and implementation schedules.*—The
 1836 coordinating agencies are authorized and directed to establish
 1837 priorities and implementation schedules for the achievement of
 1838 total maximum daily loads, compliance with the requirements of
 1839 s. 403.067, and compliance with applicable water quality
 1840 standards within the waters and watersheds subject to this
 1841 section.

1842 ~~(i)~~ *Legislative ratification.* The coordinating agencies
 1843 shall submit the Phase II technical plan developed pursuant to
 1844 paragraph (b) to the President of the Senate and the Speaker of
 1845 the House of Representatives prior to the 2008 legislative
 1846 session for review. If the Legislature takes no action on the
 1847 plan during the 2008 legislative session, the plan is deemed
 1848 approved and may be implemented.

1849 (4) CALOOSAHATCHEE RIVER WATERSHED PROTECTION PROGRAM AND
 1850 ST. LUCIE RIVER WATERSHED PROTECTION PROGRAM.—A protection
 1851 program shall be developed and implemented as specified in this
 1852 subsection. ~~In order~~ To protect and restore surface water
 1853 resources, the program shall address the reduction of pollutant
 1854 loadings, restoration of natural hydrology, and compliance with
 1855 applicable state water quality standards. The program shall be
 1856 achieved through a phased program of implementation. In

Page 64 of 134

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

592-01083A-16

2016552c1

1857 addition, pollutant load reductions based upon adopted total
 1858 maximum daily loads established in accordance with s. 403.067
 1859 shall serve as a program objective. In the development and
 1860 administration of the program, the coordinating agencies shall
 1861 maximize opportunities provided by federal and local government
 1862 cost-sharing programs and opportunities for partnerships with
 1863 the private sector and local government. The program plan shall
 1864 include a goal for salinity envelopes and freshwater inflow
 1865 targets for the estuaries based upon existing research and
 1866 documentation. The goal may be revised as new information is
 1867 available. This goal shall seek to reduce the frequency and
 1868 duration of undesirable salinity ranges while meeting the other
 1869 water-related needs of the region, including water supply and
 1870 flood protection, while recognizing the extent to which water
 1871 inflows are within the control and jurisdiction of the district.

1872 (a) Caloosahatchee River Watershed Protection Plan. ~~No~~
 1873 ~~later than January 1, 2009,~~ The district, in cooperation with
 1874 the other coordinating agencies, Lee County, and affected
 1875 counties and municipalities, shall complete a River Watershed
 1876 Protection Plan in accordance with this subsection. The
 1877 Caloosahatchee River Watershed Protection Plan shall identify
 1878 the geographic extent of the watershed, be coordinated as needed
 1879 with the plans developed pursuant to paragraph (3) (a) and
 1880 paragraph (c) ~~(b)~~ of this subsection, and ~~contain an~~
 1881 ~~implementation schedule for pollutant load reductions consistent~~
 1882 ~~with any adopted total maximum daily loads and compliance with~~
 1883 ~~applicable state water quality standards. The plan shall include~~
 1884 the Caloosahatchee River Watershed Construction Project and the
 1885 Caloosahatchee River Watershed Research and Water Quality

Page 65 of 134

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

592-01083A-16

2016552c1

1886 Monitoring Program.

1887 1. Caloosahatchee River Watershed Construction Project.—To
 1888 improve the hydrology, water quality, and aquatic habitats
 1889 within the watershed, the district shall, no later than January
 1890 1, 2012, plan, design, and construct the initial phase of the
 1891 Watershed Construction Project. In doing so, the district shall:
 1892 a. Develop and designate the facilities to be constructed
 1893 to achieve stated goals and objectives of the Caloosahatchee
 1894 River Watershed Protection Plan.

1895 b. Conduct scientific studies that are necessary to support
 1896 the design of the Caloosahatchee River Watershed Construction
 1897 Project facilities.

1898 c. Identify the size and location of all such facilities.
 1899 d. Provide a construction schedule for all such facilities,
 1900 including the sequencing and specific timeframe for construction
 1901 of each facility.

1902 e. Provide a schedule for the acquisition of lands or
 1903 sufficient interests necessary to achieve the construction
 1904 schedule.

1905 f. Provide a schedule of costs and benefits associated with
 1906 each construction project and identify funding sources.

1907 g. To ensure timely implementation, coordinate the design,
 1908 scheduling, and sequencing of project facilities with the
 1909 coordinating agencies, Lee County, other affected counties and
 1910 municipalities, and other affected parties.

1911 2. Caloosahatchee River Watershed Research and Water
 1912 Quality Monitoring Program.—The district, in cooperation with
 1913 the other coordinating agencies and local governments, shall
 1914 implement a Caloosahatchee River Watershed Research and Water

Page 66 of 134

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

592-01083A-16

2016552c1

1915 Quality Monitoring Program that builds upon the district's
 1916 existing research program and that is sufficient to carry out,
 1917 comply with, or assess the plans, programs, and other
 1918 responsibilities created by this subsection. The program shall
 1919 also conduct an assessment of the water volumes and timing from
 1920 Lake Okeechobee and the Caloosahatchee River watershed and their
 1921 relative contributions to the timing and volume of water
 1922 delivered to the estuary.

1923 (b)2- Caloosahatchee River Watershed Basin Management
 1924 Action Plans Pollutant Control Program.-The basin management
 1925 action plans adopted pursuant to s. 403.067 for the
 1926 Caloosahatchee River watershed shall be the Caloosahatchee River
 1927 Watershed Pollutant Control Program. The plans shall be ~~is~~
 1928 designed to be a multifaceted approach to reducing pollutant
 1929 loads by improving the management of pollutant sources within
 1930 the Caloosahatchee River watershed through implementation of
 1931 regulations and best management practices, development and
 1932 implementation of improved best management practices,
 1933 improvement and restoration of the hydrologic function of
 1934 natural and managed systems, and utilization of alternative
 1935 technologies for pollutant reduction, such as cost-effective
 1936 biologically based, hybrid wetland/chemical and other innovative
 1937 nutrient control technologies. As provided in s.
 1938 403.067(7)(a)6., the Caloosahatchee River Watershed Basin
 1939 Management Action Plans must include milestones for
 1940 implementation and water quality improvement, and an associated
 1941 water quality monitoring component sufficient to evaluate
 1942 whether reasonable progress in pollutant load reductions is
 1943 being achieved over time. An assessment of progress toward these

Page 67 of 134

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

592-01083A-16

2016552c1

1944 milestones shall be conducted every 5 years and shall be
 1945 provided to the Governor, the President of the Senate, and the
 1946 Speaker of the House of Representatives. Revisions to the plans
 1947 shall be made, as appropriate, as a result of each 5-year
 1948 review. Revisions to the basin management action plans shall be
 1949 made by the department in cooperation with the basin
 1950 stakeholders. Revisions to best management practices or other
 1951 measures must follow the procedures set forth in s.
 1952 403.067(7)(c)4. Revised basin management action plans must be
 1953 adopted pursuant to s. 403.067(7)(a)5. The department shall
 1954 develop an implementation schedule establishing 5-year, 10-year,
 1955 and 15-year measurable milestones and targets to achieve the
 1956 total maximum daily load no more than 20 years after adoption of
 1957 the plan. The initial implementation schedule shall be used to
 1958 provide guidance for planning and funding purposes and is exempt
 1959 from chapter 120. Upon the first 5-year review, the
 1960 implementation schedule shall be adopted as part of the plans.
 1961 If achieving the total maximum daily load within 20 years is not
 1962 practicable, the implementation schedule must contain an
 1963 explanation of the constraints that prevent achievement of the
 1964 total maximum daily load within 20 years, an estimate of the
 1965 time needed to achieve the total maximum daily load, and
 1966 additional 5-year measurable milestones, as necessary. The
 1967 coordinating agencies shall facilitate the use ~~utilization~~ of
 1968 federal programs that offer opportunities for water quality
 1969 treatment, including preservation, restoration, or creation of
 1970 wetlands on agricultural lands.

1971 1.a- Nonpoint source best management practices consistent
 1972 with s. 403.067 ~~paragraph (3)(e)~~, designed to achieve the

Page 68 of 134

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

592-01083A-16

2016552c1

1973 objectives of the Caloosahatchee River Watershed Protection
 1974 Program, shall be implemented on an expedited basis. The
 1975 coordinating agencies may develop an intergovernmental agreement
 1976 with local governments to implement the nonagricultural,
 1977 nonpoint-source best management practices within their
 1978 respective geographic boundaries.

1979 ~~2.b.~~ This subsection does not preclude the department or
 1980 the district from requiring compliance with water quality
 1981 standards, adopted total maximum daily loads, or current best
 1982 management practices requirements set forth in any applicable
 1983 regulatory program authorized by law for the purpose of
 1984 protecting water quality. This subsection applies only to the
 1985 extent that it does not conflict with any rules adopted by the
 1986 department or district which are necessary to maintain a
 1987 federally delegated or approved program.

1988 ~~3.e.~~ Projects that make use of private lands, or lands held
 1989 in trust for Indian tribes, to reduce pollutant loadings or
 1990 concentrations within a basin, or that reduce the volume of
 1991 harmful discharges by one or more of the following methods:
 1992 restoring the natural hydrology of the basin, restoring wildlife
 1993 habitat or impacted wetlands, reducing peak flows after storm
 1994 events, or increasing aquifer recharge, are eligible for grants
 1995 available under this section from the coordinating agencies.

1996 ~~4.d.~~ The Caloosahatchee River Watershed Basin Management
 1997 Action Plans Pollutant Control Program shall require assessment
 1998 of current water management practices within the watershed and
 1999 shall require development of recommendations for structural,
 2000 nonstructural, and operational improvements. Such
 2001 recommendations shall consider and balance water supply, flood

Page 69 of 134

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

592-01083A-16

2016552c1

2002 control, estuarine salinity, aquatic habitat, and water quality
 2003 considerations.

2004 ~~5.e.~~ After ~~December 31, 2007~~, The department may not
 2005 authorize the disposal of domestic wastewater biosolids
 2006 ~~residuals~~ within the Caloosahatchee River watershed unless the
 2007 applicant can affirmatively demonstrate that the nutrients in
 2008 the biosolids residuals will not add to nutrient loadings in the
 2009 watershed. This demonstration shall be based on achieving a net
 2010 balance between nutrient imports relative to exports on the
 2011 permitted application site. Exports shall include only nutrients
 2012 removed from the watershed through products generated on the
 2013 permitted application site. This prohibition does not apply to
 2014 Class AA biosolids residuals that are marketed and distributed
 2015 as fertilizer products in accordance with department rule.

2016 ~~6.f.~~ The Department of Health shall require all entities
 2017 disposing of septage within the Caloosahatchee River watershed
 2018 to develop and submit to that agency an agricultural use plan
 2019 that limits applications based upon nutrient loading consistent
 2020 with any basin management action plan adopted pursuant to s.
 2021 403.067. By July 1, 2008, nutrient concentrations originating
 2022 from these application sites may not exceed the limits
 2023 established in the district's WOD program.

2024 ~~7.g.~~ The Department of Agriculture and Consumer Services
 2025 shall require ~~initiate rulemaking requiring~~ entities within the
 2026 Caloosahatchee River watershed which land-apply animal manure to
 2027 develop a resource management system level conservation plan,
 2028 according to United States Department of Agriculture criteria,
 2029 which limit such application. Such rules shall ~~may~~ include
 2030 criteria and thresholds for the requirement to develop a

Page 70 of 134

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

592-01083A-16

2016552c1

2031 conservation or nutrient management plan, requirements for plan
 2032 approval, site inspection requirements, and recordkeeping
 2033 requirements.

2034 8. The district shall initiate rulemaking to provide for a
 2035 monitoring program for nonpoint source dischargers required to
 2036 monitor water quality pursuant to s. 403.067(7)(b)2.g. or s.
 2037 403.067(7)(c)3. The results of such monitoring must be reported
 2038 to the coordinating agencies.

2039 ~~3. Caloosahatchee River Watershed Research and Water~~
 2040 ~~Quality Monitoring Program. The district, in cooperation with~~
 2041 ~~the other coordinating agencies and local governments, shall~~
 2042 ~~establish a Caloosahatchee River Watershed Research and Water~~
 2043 ~~Quality Monitoring Program that builds upon the district's~~
 2044 ~~existing research program and that is sufficient to carry out,~~
 2045 ~~comply with, or assess the plans, programs, and other~~
 2046 ~~responsibilities created by this subsection. The program shall~~
 2047 ~~also conduct an assessment of the water volumes and timing from~~
 2048 ~~the Lake Okeechobee and Caloosahatchee River watersheds and~~
 2049 ~~their relative contributions to the timing and volume of water~~
 2050 ~~delivered to the estuary.~~

2051 (c)(b) St. Lucie River Watershed Protection Plan. No later
 2052 than January 1, 2009, The district, in cooperation with the
 2053 other coordinating agencies, Martin County, and affected
 2054 counties and municipalities shall complete a plan in accordance
 2055 with this subsection. The St. Lucie River Watershed Protection
 2056 Plan shall identify the geographic extent of the watershed, be
 2057 coordinated as needed with the plans developed pursuant to
 2058 paragraph (3)(a) and paragraph (a) of this subsection, and
 2059 contain an implementation schedule for pollutant load reductions

Page 71 of 134

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

592-01083A-16

2016552c1

2060 ~~consistent with any adopted total maximum daily loads and~~
 2061 ~~compliance with applicable state water quality standards. The~~
 2062 ~~plan shall include the St. Lucie River Watershed Construction~~
 2063 ~~Project and St. Lucie River Watershed Research and Water Quality~~
 2064 ~~Monitoring Program.~~

2065 1. St. Lucie River Watershed Construction Project.—To
 2066 improve the hydrology, water quality, and aquatic habitats
 2067 within the watershed, the district shall, no later than January
 2068 1, 2012, plan, design, and construct the initial phase of the
 2069 Watershed Construction Project. In doing so, the district shall:
 2070 a. Develop and designate the facilities to be constructed
 2071 to achieve stated goals and objectives of the St. Lucie River
 2072 Watershed Protection Plan.
 2073 b. Identify the size and location of all such facilities.
 2074 c. Provide a construction schedule for all such facilities,
 2075 including the sequencing and specific timeframe for construction
 2076 of each facility.
 2077 d. Provide a schedule for the acquisition of lands or
 2078 sufficient interests necessary to achieve the construction
 2079 schedule.
 2080 e. Provide a schedule of costs and benefits associated with
 2081 each construction project and identify funding sources.
 2082 f. To ensure timely implementation, coordinate the design,
 2083 scheduling, and sequencing of project facilities with the
 2084 coordinating agencies, Martin County, St. Lucie County, other
 2085 interested parties, and other affected local governments.

2086 2. St. Lucie River Watershed Research and Water Quality
 2087 Monitoring Program.—The district, in cooperation with the other
 2088 coordinating agencies and local governments, shall establish a

Page 72 of 134

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

592-01083A-16

2016552c1

2089 St. Lucie River Watershed Research and Water Quality Monitoring
 2090 Program that builds upon the district's existing research
 2091 program and that is sufficient to carry out, comply with, or
 2092 assess the plans, programs, and other responsibilities created
 2093 by this subsection. The district shall also conduct an
 2094 assessment of the water volumes and timing from Lake Okeechobee
 2095 and the St. Lucie River watershed and their relative
 2096 contributions to the timing and volume of water delivered to the
 2097 estuary.

2098 (d)2- St. Lucie River Watershed Basin Management Action
 2099 Plan Pollutant Control Program.-The basin management action plan
 2100 for the St. Lucie River watershed adopted pursuant to s. 403.067
 2101 shall be the St. Lucie River Watershed Pollutant Control Program
 2102 and shall be ~~is~~ designed to be a multifaceted approach to
 2103 reducing pollutant loads by improving the management of
 2104 pollutant sources within the St. Lucie River watershed through
 2105 implementation of regulations and best management practices,
 2106 development and implementation of improved best management
 2107 practices, improvement and restoration of the hydrologic
 2108 function of natural and managed systems, and ~~use utilization~~ of
 2109 alternative technologies for pollutant reduction, such as cost-
 2110 effective biologically based, hybrid wetland/chemical and other
 2111 innovative nutrient control technologies. As provided in s.
 2112 403.067(7)(a)6., the St. Lucie River Watershed Basin Management
 2113 Action Plan must include milestones for implementation and water
 2114 quality improvement, and an associated water quality monitoring
 2115 component sufficient to evaluate whether reasonable progress in
 2116 pollutant load reductions is being achieved over time. An
 2117 assessment of progress toward these milestones shall be

Page 73 of 134

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

592-01083A-16

2016552c1

2118 conducted every 5 years and shall be provided to the Governor,
 2119 the President of the Senate, and the Speaker of the House of
 2120 Representatives. Revisions to the plan shall be made, as
 2121 appropriate, as a result of each 5-year review. Revisions to the
 2122 basin management action plan shall be made by the department in
 2123 cooperation with the basin stakeholders. Revisions to best
 2124 management practices or other measures must follow the
 2125 procedures set forth in s. 403.067(7)(c)4. Revised basin
 2126 management action plans must be adopted pursuant to s.
 2127 403.067(7)(a)5. The department shall develop an implementation
 2128 schedule establishing 5-year, 10-year, and 15-year measurable
 2129 milestones and targets to achieve the total maximum daily load
 2130 no more than 20 years after adoption of the plan. The initial
 2131 implementation schedule shall be used to provide guidance for
 2132 planning and funding purposes and is exempt from chapter 120.
 2133 Upon the first 5-year review, the implementation schedule shall
 2134 be adopted as part of the plan. If achieving the total maximum
 2135 daily load within 20 years is not practicable, the
 2136 implementation schedule must contain an explanation of the
 2137 constraints that prevent achievement of the total maximum daily
 2138 load within 20 years, an estimate of the time needed to achieve
 2139 the total maximum daily load, and additional 5-year measurable
 2140 milestones, as necessary. The coordinating agencies shall
 2141 facilitate the ~~use utilization~~ of federal programs that offer
 2142 opportunities for water quality treatment, including
 2143 preservation, restoration, or creation of wetlands on
 2144 agricultural lands.

2145 1.a- Nonpoint source best management practices consistent
 2146 with s. 403.067 ~~paragraph (3)(e)~~, designed to achieve the

Page 74 of 134

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

592-01083A-16

2016552c1

2147 objectives of the St. Lucie River Watershed Protection Program,
 2148 shall be implemented on an expedited basis. The coordinating
 2149 agencies may develop an intergovernmental agreement with local
 2150 governments to implement the nonagricultural nonpoint source
 2151 best management practices within their respective geographic
 2152 boundaries.

2153 ~~2.b.~~ This subsection does not preclude the department or
 2154 the district from requiring compliance with water quality
 2155 standards, adopted total maximum daily loads, or current best
 2156 management practices requirements set forth in any applicable
 2157 regulatory program authorized by law for the purpose of
 2158 protecting water quality. This subsection applies only to the
 2159 extent that it does not conflict with any rules adopted by the
 2160 department or district which are necessary to maintain a
 2161 federally delegated or approved program.

2162 ~~3.e.~~ Projects that make use of private lands, or lands held
 2163 in trust for Indian tribes, to reduce pollutant loadings or
 2164 concentrations within a basin, or that reduce the volume of
 2165 harmful discharges by one or more of the following methods:
 2166 restoring the natural hydrology of the basin, restoring wildlife
 2167 habitat or impacted wetlands, reducing peak flows after storm
 2168 events, or increasing aquifer recharge, are eligible for grants
 2169 available under this section from the coordinating agencies.

2170 ~~4.d.~~ The St. Lucie River Watershed Basin Management Action
 2171 Plan Pollutant Control Program shall require assessment of
 2172 current water management practices within the watershed and
 2173 shall require development of recommendations for structural,
 2174 nonstructural, and operational improvements. Such
 2175 recommendations shall consider and balance water supply, flood

Page 75 of 134

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

592-01083A-16

2016552c1

2176 control, estuarine salinity, aquatic habitat, and water quality
 2177 considerations.

2178 ~~5.e.~~ After ~~December 31, 2007~~, The department may not
 2179 authorize the disposal of domestic wastewater biosolids
 2180 ~~residuals~~ within the St. Lucie River watershed unless the
 2181 applicant can affirmatively demonstrate that the nutrients in
 2182 the biosolids residuals will not add to nutrient loadings in the
 2183 watershed. This demonstration shall be based on achieving a net
 2184 balance between nutrient imports relative to exports on the
 2185 permitted application site. Exports shall include only nutrients
 2186 removed from the St. Lucie River watershed through products
 2187 generated on the permitted application site. This prohibition
 2188 does not apply to Class AA biosolids residuals that are marketed
 2189 and distributed as fertilizer products in accordance with
 2190 department rule.

2191 ~~6.f.~~ The Department of Health shall require all entities
 2192 disposing of septage within the St. Lucie River watershed to
 2193 develop and submit to that agency an agricultural use plan that
 2194 limits applications based upon nutrient loading consistent with
 2195 any basin management action plan adopted pursuant to s. 403.067.
 2196 ~~By July 1, 2008, nutrient concentrations originating from these~~
 2197 ~~application sites may not exceed the limits established in the~~
 2198 ~~district's WOD program.~~

2199 ~~7.g.~~ The Department of Agriculture and Consumer Services
 2200 shall initiate rulemaking requiring entities within the St.
 2201 Lucie River watershed which land-apply animal manure to develop
 2202 a resource management system level conservation plan, according
 2203 to United States Department of Agriculture criteria, which limit
 2204 such application. Such rules shall ~~may~~ include criteria and

Page 76 of 134

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

592-01083A-16

2016552c1

2205 thresholds for the requirement to develop a conservation or
 2206 nutrient management plan, requirements for plan approval, site
 2207 inspection requirements, and recordkeeping requirements.

2208 8. The district shall initiate rulemaking to provide for a
 2209 monitoring program for nonpoint source dischargers required to
 2210 monitor water quality pursuant to s. 403.067(7)(b)2.g. or s.
 2211 403.067(7)(c)3. The results of such monitoring must be reported
 2212 to the coordinating agencies.

2213 ~~3. St. Lucie River Watershed Research and Water Quality~~
 2214 ~~Monitoring Program. The district, in cooperation with the other~~
 2215 ~~coordinating agencies and local governments, shall establish a~~
 2216 ~~St. Lucie River Watershed Research and Water Quality Monitoring~~
 2217 ~~Program that builds upon the district's existing research~~
 2218 ~~program and that is sufficient to carry out, comply with, or~~
 2219 ~~assess the plans, programs, and other responsibilities created~~
 2220 ~~by this subsection. The program shall also conduct an assessment~~
 2221 ~~of the water volumes and timing from the Lake Okeechobee and St.~~
 2222 ~~Lucie River watersheds and their relative contributions to the~~
 2223 ~~timing and volume of water delivered to the estuary.~~

2224 (e)(e) River Watershed Protection Plan implementation.—The
 2225 coordinating agencies shall be jointly responsible for
 2226 implementing the River Watershed Protection Plans, consistent
 2227 with the statutory authority and responsibility of each agency.
 2228 Annual funding priorities shall be jointly established, and the
 2229 highest priority shall be assigned to programs and projects that
 2230 have the greatest potential for achieving the goals and
 2231 objectives of the plans. In determining funding priorities, the
 2232 coordinating agencies shall also consider the need for
 2233 regulatory compliance, the extent to which the program or

592-01083A-16

2016552c1

2234 project is ready to proceed, and the availability of federal or
 2235 local government matching funds. Federal and other nonstate
 2236 funding shall be maximized to the greatest extent practicable.

2237 ~~(f)(d) Evaluation.~~—Beginning ~~By~~ March 1, 2020 ~~2012~~, and
 2238 every 5 ~~3~~ years thereafter, concurrent with the updates of the
 2239 basin management action plans adopted pursuant to s. 403.067,
 2240 the department, district in cooperation with the other
 2241 coordinating agencies, shall conduct an evaluation of any
 2242 pollutant load reduction goals, as well as any other specific
 2243 objectives and goals, as stated in the River Watershed
 2244 Protection Programs Plans. ~~Additionally,~~ The district shall
 2245 identify modifications to facilities of the River Watershed
 2246 Construction Projects, as appropriate, or any other elements of
 2247 the River Watershed Protection Programs Plans. The evaluation
 2248 shall be included in the annual progress report submitted
 2249 pursuant to this section.

2250 (g)(e) Priorities and implementation schedules.—The
 2251 coordinating agencies are authorized and directed to establish
 2252 priorities and implementation schedules for the achievement of
 2253 total maximum daily loads, the requirements of s. 403.067, and
 2254 compliance with applicable water quality standards within the
 2255 waters and watersheds subject to this section.

2256 ~~(f) Legislative ratification. The coordinating agencies~~
 2257 ~~shall submit the River Watershed Protection Plans developed~~
 2258 ~~pursuant to paragraphs (a) and (b) to the President of the~~
 2259 ~~Senate and the Speaker of the House of Representatives prior to~~
 2260 ~~the 2009 legislative session for review. If the Legislature~~
 2261 ~~takes no action on the plan during the 2009 legislative session,~~
 2262 ~~the plan is deemed approved and may be implemented.~~

592-01083A-16

2016552c1

2263 (5) ADOPTION AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY
 2264 LOADS AND DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS.—The
 2265 department is directed to expedite development and adoption of
 2266 total maximum daily loads for the Caloosahatchee River and
 2267 estuary. The department is further directed to, ~~no later than~~
 2268 ~~December 31, 2008,~~ propose for final agency action total maximum
 2269 daily loads for nutrients in the tidal portions of the
 2270 Caloosahatchee River and estuary. The department shall initiate
 2271 development of basin management action plans for Lake
 2272 Okeechobee, the Caloosahatchee River watershed and estuary, and
 2273 the St. Lucie River watershed and estuary as provided in s.
 2274 403.067 s. 403.067(7)(a) as follows:

2275 (a) Basin management action plans shall be developed as
 2276 soon as practicable as determined necessary by the department to
 2277 achieve the total maximum daily loads established for the Lake
 2278 Okeechobee watershed and the estuaries.

2279 (b) The Phase II technical plan development pursuant to
 2280 paragraph (3) (a) ~~(3)(b)~~, and the River Watershed Protection
 2281 Plans developed pursuant to paragraphs (4) (a) and ~~(c)(b)~~, shall
 2282 provide the basis for basin management action plans developed by
 2283 the department.

2284 (c) As determined necessary by the department ~~in order~~ to
 2285 achieve the total maximum daily loads, additional or modified
 2286 projects or programs that complement those in the legislatively
 2287 ratified plans may be included during the development of the
 2288 basin management action plan.

2289 (d) As provided in s. 403.067, management strategies and
 2290 pollution reduction requirements set forth in a basin management
 2291 action plan subject to permitting by the department under

Page 79 of 134

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

592-01083A-16

2016552c1

2292 subsection (7) must be completed pursuant to the schedule set
 2293 forth in the basin management action plan, as amended. The
 2294 implementation schedule may extend beyond the 5-year permit
 2295 term.

2296 (e) As provided in s. 403.067, management strategies and
 2297 pollution reduction requirements set forth in a basin management
 2298 action plan for a specific pollutant of concern are not subject
 2299 to challenge under chapter 120 at the time they are
 2300 incorporated, in an identical form, into a department or
 2301 district issued permit or a permit modification issued in
 2302 accordance with subsection (7).

2303 ~~(d) Development of basin management action plans that~~
 2304 ~~implement the provisions of the legislatively ratified plans~~
 2305 ~~shall be initiated by the department no later than September 30~~
 2306 ~~of the year in which the applicable plan is ratified. Where a~~
 2307 ~~total maximum daily load has not been established at the time of~~
 2308 ~~plan ratification, development of basin management action plans~~
 2309 ~~shall be initiated no later than 90 days following adoption of~~
 2310 ~~the applicable total maximum daily load.~~

2311 (6) ANNUAL PROGRESS REPORT.—Each March 1 the district, in
 2312 cooperation with the other coordinating agencies, shall report
 2313 on implementation of this section as part of the consolidated
 2314 annual report required in s. 373.036(7). The annual report shall
 2315 include a summary of the conditions of the hydrology, water
 2316 quality, and aquatic habitat in the northern Everglades based on
 2317 the results of the Research and Water Quality Monitoring
 2318 Programs, the status of the Lake Okeechobee Watershed
 2319 Construction Project, the status of the Caloosahatchee River
 2320 Watershed Construction Project, and the status of the St. Lucie

Page 80 of 134

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

592-01083A-16

2016552c1

2321 River Watershed Construction Project. In addition, the report
 2322 shall contain an annual accounting of the expenditure of funds
 2323 from the Save Our Everglades Trust Fund. At a minimum, the
 2324 annual report shall provide detail by program and plan,
 2325 including specific information concerning the amount and use of
 2326 funds from federal, state, or local government sources. In
 2327 detailing the use of these funds, the district shall indicate
 2328 those designated to meet requirements for matching funds. The
 2329 district shall prepare the report in cooperation with the other
 2330 coordinating agencies and affected local governments. The
 2331 department shall report on the status of the Lake Okeechobee
 2332 Basin Management Action Plan, the Caloosahatchee River Watershed
 2333 Basin Management Action Plan, and the St. Lucie River Watershed
 2334 Basin Management Action Plan. The Department of Agriculture and
 2335 Consumer Services shall report on the status of the
 2336 implementation of the agricultural nonpoint source best
 2337 management practices, including an implementation assurance
 2338 report summarizing survey responses and response rates, site
 2339 inspections, and other methods used to verify implementation of
 2340 and compliance with best management practices in the Lake
 2341 Okeechobee, Caloosahatchee River and St. Lucie River watersheds.

2342 (7) LAKE OKEECHOBEE PROTECTION PERMITS.-

2343 (a) The Legislature finds that the Lake Okeechobee
 2344 Watershed Protection Program will benefit Lake Okeechobee and
 2345 downstream receiving waters and is in consistent with the public
 2346 interest. The Lake Okeechobee Watershed Construction Project and
 2347 structures discharging into or from Lake Okeechobee shall be
 2348 constructed, operated, and maintained in accordance with this
 2349 section.

Page 81 of 134

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

592-01083A-16

2016552c1

2350 (b) Permits obtained pursuant to this section are in lieu
 2351 of all other permits under this chapter or chapter 403, except
 2352 those issued under s. 403.0885, if applicable. ~~Ne~~ Additional
 2353 permits are not required for the Lake Okeechobee Watershed
 2354 Construction Project, or structures discharging into or from
 2355 Lake Okeechobee, if such project or structures are permitted
 2356 under this section. Construction activities related to
 2357 implementation of the Lake Okeechobee Watershed Construction
 2358 Project may be initiated before ~~prior to~~ final agency action, or
 2359 notice of intended agency action, on any permit from the
 2360 department under this section.

2361 (c) 1. ~~Within 90 days of completion of the diversion plans~~
 2362 ~~set forth in Department Consent Orders 91-0694, 91-0707, 91-~~
 2363 ~~0706, 91-0705, and RT50-205564, Owners or operators of existing~~
 2364 ~~structures which discharge into or from Lake Okeechobee that~~
 2365 ~~were subject to Department Consent Orders 91-0694, 91-0705, 91-~~
 2366 ~~0706, 91-0707, and RT50-205564 and that are subject to the~~
 2367 ~~provisions of s. 373.4592(4) (a) do not require a permit under~~
 2368 ~~this section and shall be governed by permits issued under apply~~
 2369 ~~for a permit from the department to operate and maintain such~~
 2370 ~~structures. By September 1, 2000, owners or operators of all~~
 2371 ~~other existing structures which discharge into or from Lake~~
 2372 ~~Okeechobee shall apply for a permit from the department to~~
 2373 ~~operate and maintain such structures. The department shall issue~~
 2374 ~~one or more such permits for a term of 5 years upon the~~
 2375 ~~demonstration of reasonable assurance that schedules and~~
 2376 ~~strategies to achieve and maintain compliance with water quality~~
 2377 ~~standards have been provided for, to the maximum extent~~
 2378 ~~practicable, and that operation of the structures otherwise~~

Page 82 of 134

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

592-01083A-16 2016552c1

2379 ~~complies with provisions of ss. 373.413 and 373.416 and the Lake~~
 2380 ~~Okeechobee Basin Management Action Plan adopted pursuant to s.~~
 2381 ~~403.067.~~

2382 ~~1. Permits issued under this paragraph shall also contain~~
 2383 ~~reasonable conditions to ensure that discharges of waters~~
 2384 ~~through structures:~~

2385 ~~a. Are adequately and accurately monitored;~~
 2386 ~~b. Will not degrade existing Lake Okeechobee water quality~~
 2387 ~~and will result in an overall reduction of phosphorus input into~~
 2388 ~~Lake Okeechobee, as set forth in the district's Technical~~
 2389 ~~Publication 81-2 and the total maximum daily load established in~~
 2390 ~~accordance with s. 403.067, to the maximum extent practicable;~~
 2391 ~~and~~

2392 ~~c. Do not pose a serious danger to public health, safety,~~
 2393 ~~or welfare.~~

2394 2. For the purposes of this paragraph, owners and operators
 2395 of existing structures which are subject to ~~the provisions of s.~~
 2396 ~~373.4592(4)(a) and which discharge into or from Lake Okeechobee~~
 2397 ~~shall be deemed in compliance with this paragraph the term~~
 2398 ~~"maximum extent practicable" if they are in full compliance with~~
 2399 ~~the conditions of permits under chapter chapters 40E-61 and 40E-~~
 2400 ~~63, Florida Administrative Code.~~

2401 3. By January 1, 2017 ~~2004~~, the district shall submit to
 2402 the department a complete application for a permit modification
 2403 to the Lake Okeechobee structure permits to incorporate proposed
 2404 changes necessary to ensure that discharges through the
 2405 structures covered by this permit are consistent with the basin
 2406 management action plan adopted pursuant to achieve state water
 2407 quality standards, including the total maximum daily load

592-01083A-16 2016552c1

2408 ~~established in accordance with s. 403.067. These changes shall~~
 2409 ~~be designed to achieve such compliance with state water quality~~
 2410 ~~standards no later than January 1, 2015.~~

2411 (d) The department shall require permits for district
 2412 regional projects that are part of the Lake Okeechobee Watershed
 2413 Construction Project facilities. However, projects ~~identified in~~
 2414 ~~sub-subparagraph (3)(b)1.b.~~ that qualify as exempt pursuant to
 2415 s. 373.406 do shall not require need permits under this section.
 2416 Such permits shall be issued for a term of 5 years upon the
 2417 demonstration of reasonable assurances that:

2418 1. District regional projects that are part of the Lake
 2419 Okeechobee Watershed Construction Project shall facility, based
 2420 upon the conceptual design documents and any subsequent detailed
 2421 design documents developed by the district, will achieve the
 2422 design objectives for phosphorus required in subparagraph
 2423 (3)(a)1. paragraph (3)(b);

2424 2. For water quality standards other than phosphorus, the
 2425 quality of water discharged from the facility is of equal or
 2426 better quality than the inflows;

2427 3. Discharges from the facility do not pose a serious
 2428 danger to public health, safety, or welfare; and

2429 4. Any impacts on wetlands or state-listed species
 2430 resulting from implementation of that facility of the Lake
 2431 Okeechobee Construction Project are minimized and mitigated, as
 2432 appropriate.

2433 (e) At least 60 days ~~before prior to~~ the expiration of any
 2434 permit issued under this section, the permittee may apply for a
 2435 renewal thereof for a period of 5 years.

2436 (f) Permits issued under this section may include any

592-01083A-16

2016552c1

2437 standard conditions provided by department rule which are
2438 appropriate and consistent with this section.

2439 (g) Permits issued under ~~pursuant to~~ this section may be
2440 modified, as appropriate, upon review and approval by the
2441 department.

2442 Section 16. Paragraph (a) of subsection (1) and subsection
2443 (3) of section 373.467, Florida Statutes, are amended, to read:

2444 373.467 The Harris Chain of Lakes Restoration Council.—
2445 There is created within the St. Johns River Water Management
2446 District, with assistance from the Fish and Wildlife
2447 Conservation Commission and the Lake County Water Authority, the
2448 Harris Chain of Lakes Restoration Council.

2449 (1) (a) The council shall consist of nine voting members,
2450 which shall include a representative of waterfront property
2451 owners, a representative of the sport fishing industry, a person
2452 with experience in an environmental science or regulation
2453 engineer, a person with training in biology or another
2454 scientific discipline, ~~a person with training as an attorney, a~~
2455 ~~physician, a person with training as an engineer,~~ and two
2456 residents of the county who are ~~do~~ not required to meet any
2457 additional of the other qualifications for membership ~~enumerated~~
2458 ~~in this paragraph~~, each to be appointed by the Lake County
2459 legislative delegation. The Lake County legislative delegation
2460 may waive the qualifications for membership on a case-by-case
2461 basis if good cause is shown. A ~~No~~ person serving on the council
2462 may not be appointed to a council, board, or commission of any
2463 council advisory group agency. The council members shall serve
2464 as advisors to the governing board of the St. Johns River Water
2465 Management District. The council is subject to ~~the provisions of~~

Page 85 of 134

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

592-01083A-16

2016552c1

2466 chapters 119 and 120.

2467 (3) The council shall meet at the call of its chair, at the
2468 request of six of its members, or at the request of the chair of
2469 the governing board of the St. Johns River Water Management
2470 District. Resignation by a council member, or failure by a
2471 council member to attend three consecutive meetings without an
2472 excuse approved by the chair, results in a vacancy on the
2473 council.

2474 Section 17. Paragraphs (a) and (b) of subsection (6) of
2475 section 373.536, Florida Statutes, are amended to read:

2476 373.536 District budget and hearing thereon.—

2477 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
2478 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

2479 (a) Each district must, by the date specified for each
2480 item, furnish copies of the following documents to the Governor,
2481 the President of the Senate, the Speaker of the House of
2482 Representatives, the chairs of all legislative committees and
2483 subcommittees having substantive or fiscal jurisdiction over the
2484 districts, as determined by the President of the Senate or the
2485 Speaker of the House of Representatives as applicable, the
2486 secretary of the department, and the governing board of each
2487 county in which the district has jurisdiction or derives any
2488 funds for the operations of the district:

2489 1. The adopted budget, to be furnished within 10 days after
2490 its adoption.

2491 2. A financial audit of its accounts and records, to be
2492 furnished within 10 days after its acceptance by the governing
2493 board. The audit must be conducted in accordance with s. 11.45
2494 and the rules adopted thereunder. In addition to the entities

Page 86 of 134

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

592-01083A-16

2016552c1

2495 named above, the district must provide a copy of the audit to
 2496 the Auditor General within 10 days after its acceptance by the
 2497 governing board.

2498 3. A 5-year capital improvements plan, to be included in
 2499 the consolidated annual report required by s. 373.036(7). The
 2500 plan must include expected sources of revenue for planned
 2501 improvements and must be prepared in a manner comparable to the
 2502 fixed capital outlay format set forth in s. 216.043.

2503 4. A 5-year water resource development work program to be
 2504 furnished within 30 days after the adoption of the final budget.
 2505 The program must describe the district's implementation strategy
 2506 and include an annual funding plan for each of the 5 years
 2507 included in the plan for the water resource and water supply,
 2508 development components, including and alternative water supply
 2509 development, ~~components~~ of each approved regional water supply
 2510 plan developed or revised under s. 373.709. The work program
 2511 must address all the elements of the water resource development
 2512 component in the district's approved regional water supply
 2513 plans, as well as the water supply projects proposed for
 2514 district funding and assistance. The annual funding plan shall
 2515 identify both anticipated available district funding and
 2516 additional funding needs for the second through fifth years of
 2517 the funding plan. The work program and must identify projects in
 2518 the work program which will provide water; explain how each
 2519 water resource and water supply, ~~and alternative water supply~~
 2520 ~~development~~ project will produce additional water available for
 2521 consumptive uses; estimate the quantity of water to be produced
 2522 by each project; ~~and~~ provide an assessment of the contribution
 2523 of the district's regional water supply plans in supporting the

Page 87 of 134

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

592-01083A-16

2016552c1

2524 implementation of minimum flows and minimum water levels and
 2525 water reservations; and ensure ~~providing~~ sufficient water is
 2526 available ~~needed~~ to timely meet the water supply needs of
 2527 existing and future reasonable-beneficial uses for a 1-in-10-
 2528 year drought event and to avoid the adverse effects of
 2529 competition for water supplies.

2530 (b) Within 30 days after its submittal, the department
 2531 shall review the proposed work program and submit its findings,
 2532 questions, and comments to the district. The review must include
 2533 a written evaluation of the program's consistency with the
 2534 furtherance of the district's approved regional water supply
 2535 plans, and the adequacy of proposed expenditures. As part of the
 2536 review, the department shall post the proposed work program on
 2537 its website and give interested parties the opportunity to
 2538 provide written comments on each district's proposed work
 2539 program. Within 45 days after receipt of the department's
 2540 evaluation, the governing board shall state in writing to the
 2541 department which of the changes recommended in the evaluation it
 2542 will incorporate into its work program submitted as part of the
 2543 March 1 consolidated annual report required by s. 373.036(7) or
 2544 specify the reasons for not incorporating the changes. The
 2545 department shall include the district's responses in a final
 2546 evaluation report and shall submit a copy of the report to the
 2547 Governor, the President of the Senate, and the Speaker of the
 2548 House of Representatives.

2549 Section 18. Subsection (9) of section 373.703, Florida
 2550 Statutes, is amended to read:

2551 373.703 Water production; general powers and duties.—In the
 2552 performance of, and in conjunction with, its other powers and

Page 88 of 134

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

592-01083A-16

2016552c1

2553 duties, the governing board of a water management district
2554 existing pursuant to this chapter:

2555 (9) May join with one or more other water management
2556 districts, counties, municipalities, special districts, publicly
2557 owned or privately owned water utilities, multijurisdictional
2558 water supply entities, regional water supply authorities,
2559 private landowners, or self-suppliers for the purpose of
2560 carrying out its powers, and may contract with such other
2561 entities to finance acquisitions, construction, operation, and
2562 maintenance, provided that such contracts are consistent with
2563 the public interest. The contract may provide for contributions
2564 to be made by each party to the contract for the division and
2565 apportionment of the expenses of acquisitions, construction,
2566 operation, and maintenance, and for the division and
2567 apportionment of resulting benefits, services, and products. The
2568 contracts may contain other covenants and agreements necessary
2569 and appropriate to accomplish their purposes.

2570 Section 19. Paragraph (b) of subsection (2), subsection
2571 (3), and paragraph (b) of subsection (4) of section 373.705,
2572 Florida Statutes, are amended, and subsection (5) is added to
2573 that section, to read:

2574 373.705 Water resource development; water supply
2575 development.—

2576 (2) It is the intent of the Legislature that:

2577 (b) Water management districts take the lead in identifying
2578 and implementing water resource development projects, and be
2579 responsible for securing necessary funding for regionally
2580 significant water resource development projects, including
2581 regionally significant projects that prevent or limit adverse

Page 89 of 134

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

592-01083A-16

2016552c1

2582 water resource impacts, avoid competition among water users, or
2583 support the provision of new water supplies in order to meet a
2584 minimum flow or minimum water level or to implement a recovery
2585 or prevention strategy or water reservation.

2586 (3) (a) The water management districts shall fund and
2587 implement water resource development as defined in s. 373.019.
2588 The water management districts are encouraged to implement water
2589 resource development as expeditiously as possible in areas
2590 subject to regional water supply plans.

2591 (b) Each governing board shall include in its annual budget
2592 submittals required under this chapter:

2593 1. The amount of funds for each project in the annual
2594 funding plan developed pursuant to s. 373.536(6)(a)4.; and

2595 2. The total amount needed for the fiscal year to implement
2596 water resource development projects, as prioritized in its
2597 regional water supply plans.

2598 (4)

2599 (b) Water supply development projects that meet the
2600 criteria in paragraph (a) and that meet one or more of the
2601 following additional criteria shall be given first consideration
2602 for state or water management district funding assistance:

2603 1. The project brings about replacement of existing sources
2604 in order to help implement a minimum flow or minimum water
2605 level; ~~or~~

2606 2. The project implements reuse that assists in the
2607 elimination of domestic wastewater ocean outfalls as provided in
2608 s. 403.086(9); or

2609 3. The project reduces or eliminates the adverse effects of
2610 competition between legal users and the natural system.

Page 90 of 134

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

592-01083A-16

2016552c1

2611 (5) The water management districts shall promote expanded
 2612 cost-share criteria for additional conservation practices, such
 2613 as soil and moisture sensors and other irrigation improvements,
 2614 water-saving equipment, and water-saving household fixtures, and
 2615 software technologies that can achieve verifiable water
 2616 conservation by providing water use information to utility
 2617 customers.

2618 Section 20. Paragraph (f) of subsection (3), paragraph (a)
 2619 of subsection (6), and paragraph (e) of subsection (8) of
 2620 section 373.707, Florida Statutes, are amended to read:

2621 373.707 Alternative water supply development.—

2622 (3) The primary roles of the water management districts in
 2623 water resource development as it relates to supporting
 2624 alternative water supply development are:

2625 (f) The provision of technical and financial assistance to
 2626 local governments and publicly owned and privately owned water
 2627 utilities for alternative water supply projects and to self-
 2628 suppliers for alternative water supply projects to the extent
 2629 that such assistance to self-suppliers promotes the policies in
 2630 paragraph (1) (f).

2631 (6) (a) If state ~~The statewide~~ funds are provided through
 2632 specific appropriation or pursuant to the Water Protection and
 2633 Sustainability Program, such funds serve to supplement existing
 2634 water management district or basin board funding for alternative
 2635 water supply development assistance and should not result in a
 2636 reduction of such funding. For each project identified in the
 2637 annual funding plans prepared pursuant to s. 373.536(6) (a)4.
 2638 ~~Therefore,~~ the water management districts shall include in the
 2639 annual tentative and adopted budget submittals required under

Page 91 of 134

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

592-01083A-16

2016552c1

2640 this chapter the amount of funds allocated for water resource
 2641 development that supports alternative water supply development
 2642 and the funds allocated for alternative water supply projects
 2643 ~~selected for inclusion in the Water Protection and~~
 2644 ~~Sustainability Program.~~ It shall be the goal of each water
 2645 management district and basin boards that the combined funds
 2646 allocated annually for these purposes be, at a minimum, the
 2647 equivalent of 100 percent of the state funding provided to the
 2648 water management district for alternative water supply
 2649 development. If this goal is not achieved, the water management
 2650 district shall provide in the budget submittal an explanation of
 2651 the reasons or constraints that prevent this goal from being
 2652 met, an explanation of how the goal will be met in future years,
 2653 and affirmation of match is required during the budget review
 2654 process as established under s. 373.536(5). The Suwannee River
 2655 Water Management District and the Northwest Florida Water
 2656 Management District shall not be required to meet the match
 2657 requirements of this paragraph; however, they shall try to
 2658 achieve the match requirement to the greatest extent
 2659 practicable.

2660 (8)

2661 (e) Applicants for projects that may receive funding
 2662 assistance pursuant to the Water Protection and Sustainability
 2663 Program shall, at a minimum, be required to pay 60 percent of
 2664 the project's construction costs. The water management districts
 2665 may, at their discretion, totally or partially waive this
 2666 requirement for projects sponsored by:

2667 1. Financially disadvantaged small local governments as
 2668 defined in former s. 403.885(5); or

Page 92 of 134

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

592-01083A-16

2016552c1

2669 2. Water users for projects determined by a water
 2670 management district governing board to be in the public interest
 2671 pursuant to paragraph (1) (f), if the projects are not otherwise
 2672 financially feasible.

2673
 2674 The water management districts or basin boards may, at their
 2675 discretion, use ad valorem or federal revenues to assist a
 2676 project applicant in meeting the requirements of this paragraph.

2677 Section 21. Subsection (2) and paragraphs (a) and (e) of
 2678 subsection (6) of section 373.709, Florida Statutes, are amended
 2679 to read:

2680 373.709 Regional water supply planning.—

2681 (2) Each regional water supply plan must be based on at
 2682 least a 20-year planning period and must include, but need not
 2683 be limited to:

2684 (a) A water supply development component for each water
 2685 supply planning region identified by the district which
 2686 includes:

2687 1. A quantification of the water supply needs for all
 2688 existing and future reasonable-beneficial uses within the
 2689 planning horizon. The level-of-certainty planning goal
 2690 associated with identifying the water supply needs of existing
 2691 and future reasonable-beneficial uses must be based upon meeting
 2692 those needs for a 1-in-10-year drought event.

2693 a. Population projections used for determining public water
 2694 supply needs must be based upon the best available data. In
 2695 determining the best available data, the district shall consider
 2696 the University of ~~Florida~~ Florida's Bureau of Economic and
 2697 Business Research (BEBR) medium population projections and

592-01083A-16

2016552c1

2698 population projection data and analysis submitted by a local
 2699 government pursuant to the public workshop described in
 2700 subsection (1) if the data and analysis support the local
 2701 government's comprehensive plan. Any adjustment of or deviation
 2702 from the BEBR projections must be fully described, and the
 2703 original BEBR data must be presented along with the adjusted
 2704 data.

2705 b. Agricultural demand projections used for determining the
 2706 needs of agricultural self-suppliers must be based upon the best
 2707 available data. In determining the best available data for
 2708 agricultural self-supplied water needs, the district shall
 2709 consider the data indicative of future water supply demands
 2710 provided by the Department of Agriculture and Consumer Services
 2711 pursuant to s. 570.93 and agricultural demand projection data
 2712 and analysis submitted by a local government pursuant to the
 2713 public workshop described in subsection (1), if the data and
 2714 analysis support the local government's comprehensive plan. Any
 2715 adjustment of or deviation from the data provided by the
 2716 Department of Agriculture and Consumer Services must be fully
 2717 described, and the original data must be presented along with
 2718 the adjusted data.

2719 2. A list of water supply development project options,
 2720 including traditional and alternative water supply project
 2721 options that are technically and financially feasible, from
 2722 which local government, government-owned and privately owned
 2723 utilities, regional water supply authorities,
 2724 multijurisdictional water supply entities, self-suppliers, and
 2725 others may choose for water supply development. In addition to
 2726 projects listed by the district, such users may propose specific

592-01083A-16

2016552c1

2727 projects for inclusion in the list of alternative water supply
 2728 projects. If such users propose a project to be listed as an
 2729 alternative water supply project, the district shall determine
 2730 whether it meets the goals of the plan, and, if so, it shall be
 2731 included in the list. The total capacity of the projects
 2732 included in the plan must exceed the needs identified in
 2733 subparagraph 1. and take into account water conservation and
 2734 other demand management measures, as well as water resources
 2735 constraints, including adopted minimum flows and minimum water
 2736 levels and water reservations. Where the district determines it
 2737 is appropriate, the plan should specifically identify the need
 2738 for multijurisdictional approaches to project options that,
 2739 based on planning level analysis, are appropriate to supply the
 2740 intended uses and that, based on such analysis, appear to be
 2741 permissible and financially and technically feasible. The list
 2742 of water supply development options must contain provisions that
 2743 recognize that alternative water supply options for agricultural
 2744 self-suppliers are limited.

2745 3. For each project option identified in subparagraph 2.,
 2746 the following must be provided:

2747 a. An estimate of the amount of water to become available
 2748 through the project.

2749 b. The timeframe in which the project option should be
 2750 implemented and the estimated planning-level costs for capital
 2751 investment and operating and maintaining the project.

2752 c. An analysis of funding needs and sources of possible
 2753 funding options. For alternative water supply projects, the
 2754 water management districts shall provide funding assistance
 2755 pursuant to s. 373.707(8).

Page 95 of 134

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

592-01083A-16

2016552c1

2756 d. Identification of the entity that should implement each
 2757 project option and the current status of project implementation.

2758 (b) A water resource development component that includes:

2759 1. A listing of those water resource development projects
 2760 that support water supply development for all existing and
 2761 future reasonable-beneficial uses as described in paragraph
 2762 (2) (a) and for the natural systems as identified in the recovery
 2763 or prevention strategies for adopted minimum flows and minimum
 2764 water levels or water reservations.

2765 2. For each water resource development project listed:

2766 a. An estimate of the amount of water to become available
 2767 through the project for all existing and future reasonable-
 2768 beneficial uses as described in paragraph (2) (a) and for the
 2769 natural systems as identified in the recovery or prevention
 2770 strategies for adopted minimum flows and minimum water levels or
 2771 water reservations.

2772 b. The timeframe in which the project option should be
 2773 implemented and the estimated planning-level costs for capital
 2774 investment and for operating and maintaining the project.

2775 c. An analysis of funding needs and sources of possible
 2776 funding options.

2777 d. Identification of the entity that should implement each
 2778 project option and the current status of project implementation.

2779 (c) The recovery and prevention strategy described in s.
 2780 373.0421(2).

2781 (d) A funding strategy for water resource development
 2782 projects, which shall be reasonable and sufficient to pay the
 2783 cost of constructing or implementing all of the listed projects.

2784 (e) Consideration of how the project options addressed in

Page 96 of 134

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

592-01083A-16

2016552c1

2785 paragraph (a) serve the public interest or save costs overall by
 2786 preventing the loss of natural resources or avoiding greater
 2787 future expenditures for water resource development or water
 2788 supply development. However, unless adopted by rule, these
 2789 considerations do not constitute final agency action.

2790 (f) The technical data and information applicable to each
 2791 planning region which are necessary to support the regional
 2792 water supply plan.

2793 (g) The minimum flows and minimum water levels established
 2794 for water resources within each planning region.

2795 (h) Reservations of water adopted by rule pursuant to s.
 2796 373.223(4) within each planning region.

2797 (i) Identification of surface waters or aquifers for which
 2798 minimum flows and minimum water levels are scheduled to be
 2799 adopted.

2800 (j) An analysis, developed in cooperation with the
 2801 department, of areas or instances in which the variance
 2802 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
 2803 create water supply development or water resource development
 2804 projects.

2805 (k) An assessment of how the regional water supply plan and
 2806 the projects identified in the funding plans prepared pursuant
 2807 to sub-subparagraphs (a)3.c. and (b)2.c. support the recovery or
 2808 prevention strategies for implementation of adopted minimum
 2809 flows and minimum water levels or water reservations, including
 2810 minimum flows and minimum water levels for Outstanding Florida
 2811 Springs adopted pursuant to s. 373.805; while ensuring that
 2812 sufficient water will be available for all existing and future
 2813 reasonable-beneficial uses and the natural systems identified

Page 97 of 134

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

592-01083A-16

2016552c1

2814 herein; and that the adverse effects of competition for water
 2815 supplies will be avoided.

2816 (6) Annually and in conjunction with the reporting
 2817 requirements of s. 373.536(6)(a)4., the department shall submit
 2818 to the Governor and the Legislature a report on the status of
 2819 regional water supply planning in each district. The report
 2820 shall include:

2821 (a) A compilation of the estimated costs ~~of~~ and an analysis
 2822 of the sufficiency of potential sources of funding from all
 2823 sources for water resource development and water supply
 2824 development projects as identified in the water management
 2825 district regional water supply plans.

2826 (e) An overall assessment of the progress being made to
 2827 develop water supply in each district, including, but not
 2828 limited to, an explanation of how each project in the 5-year
 2829 water resource development work program developed pursuant to s.
 2830 373.536(6)(a)4., either alternative or traditional, will
 2831 produce, contribute to, or account for additional water being
 2832 made available for consumptive uses, minimum flows and minimum
 2833 water levels, or water reservations; an estimate of the quantity
 2834 of water to be produced by each project; and an assessment of
 2835 the contribution of the district's regional water supply plan in
 2836 providing sufficient water to meet the needs of existing and
 2837 future reasonable-beneficial uses for a 1-in-10-year drought
 2838 event, as well as the needs of the natural systems.

2839 Section 22. Part VIII of chapter 373, Florida Statutes,
 2840 consisting of ss. 373.801-373.813, Florida Statutes, is created
 2841 and entitled the "Florida Springs and Aquifer Protection Act."

2842 Section 23. Section 373.801, Florida Statutes, is created

Page 98 of 134

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

592-01083A-16

2016552c1

2843 to read:

2844 373.801 Legislative findings and intent.-

2845 (1) The Legislature finds that springs are a unique part of
 2846 this state's scenic beauty. Springs provide critical habitat for
 2847 plants and animals, including many endangered or threatened
 2848 species. Springs also provide immeasurable natural,
 2849 recreational, economic, and inherent value. Springs are of great
 2850 scientific importance in understanding the diverse functions of
 2851 aquatic ecosystems. Water quality of springs is an indicator of
 2852 local conditions of the Floridan Aquifer, which is a source of
 2853 drinking water for many residents of this state. Water flows in
 2854 springs may reflect regional aquifer conditions. In addition,
 2855 springs provide recreational opportunities for swimming,
 2856 canoeing, wildlife watching, fishing, cave diving, and many
 2857 other activities in this state. These recreational opportunities
 2858 and the accompanying tourism they provide are a benefit to local
 2859 economies and the economy of the state as a whole.

2860 (2) The Legislature finds that the water quantity and water
 2861 quality in springs may be related. For regulatory purposes, the
 2862 department has primary responsibility for water quality; the
 2863 water management districts have primary responsibility for water
 2864 quantity; and the Department of Agriculture and Consumer
 2865 Services has primary responsibility for the development and
 2866 implementation of agricultural best management practices. Local
 2867 governments have primary responsibility for providing domestic
 2868 wastewater collection and treatment services and stormwater
 2869 management. The foregoing responsible entities must coordinate
 2870 to restore and maintain the water quantity and water quality of
 2871 the Outstanding Florida Springs.

Page 99 of 134

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

592-01083A-16

2016552c1

2872 (3) The Legislature recognizes that:

2873 (a) A spring is only as healthy as its aquifer system. The
 2874 groundwater that supplies springs is derived from water that
 2875 recharges the aquifer system in the form of seepage from the
 2876 land surface and through direct conduits, such as sinkholes.
 2877 Springs may be adversely affected by polluted runoff from urban
 2878 and agricultural lands; discharges resulting from inadequate
 2879 wastewater and stormwater management practices; stormwater
 2880 runoff; and reduced water levels of the Floridan Aquifer. As a
 2881 result, the hydrologic and environmental conditions of a spring
 2882 or spring run are directly influenced by activities and land
 2883 uses within a springshed and by water withdrawals from the
 2884 Floridan Aquifer.

2885 (b) Springs, whether found in urban or rural settings, or
 2886 on public or private lands, may be threatened by actual or
 2887 potential flow reductions and declining water quality. Many of
 2888 this state's springs are demonstrating signs of significant
 2889 ecological imbalance, increased nutrient loading, and declining
 2890 flow. Without effective remedial action, further declines in
 2891 water quality and water quantity may occur.

2892 (c) Springshed boundaries and areas of high vulnerability
 2893 within a springshed need to be identified and delineated using
 2894 the best available data.

2895 (d) Springsheds typically cross water management district
 2896 boundaries and local government jurisdictional boundaries, so a
 2897 coordinated statewide springs protection plan is needed.

2898 (e) The aquifers and springs of this state are complex
 2899 systems affected by many variables and influences.

2900 (4) The Legislature recognizes that action is urgently

Page 100 of 134

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

592-01083A-16

2016552c1

2901 needed and, as additional data is acquired, action must be
 2902 modified.

2903 Section 24. Section 373.802, Florida Statutes, is created
 2904 to read:

2905 373.802 Definitions.—As used in this part, the term:

2906 (1) "Department" means the Department of Environmental
 2907 Protection, which includes the Florida Geological Survey or its
 2908 successor agencies.

2909 (2) "Local government" means a county or municipal
 2910 government the jurisdictional boundaries of which include an
 2911 Outstanding Florida Spring or any part of a springshed or
 2912 delineated priority focus area of an Outstanding Florida Spring.

2913 (3) "Onsite sewage treatment and disposal system" means a
 2914 system that contains a standard subsurface, filled, or mound
 2915 drainfield system; an aerobic treatment unit; a graywater system
 2916 tank; a laundry wastewater system tank; a septic tank; a grease
 2917 interceptor; a pump tank; a solids or effluent pump; a
 2918 waterless, incinerating, or organic waste-composting toilet; or
 2919 a sanitary pit privy that is installed or proposed to be
 2920 installed beyond the building sewer on land of the owner or on
 2921 other land on which the owner has the legal right to install
 2922 such system. The term includes any item placed within, or
 2923 intended to be used as a part of or in conjunction with, the
 2924 system. The term does not include package sewage treatment
 2925 facilities and other treatment works regulated under chapter
 2926 403.

2927 (4) "Outstanding Florida Spring" includes all historic
 2928 first magnitude springs, including their associated spring runs,
 2929 as determined by the department using the most recent Florida

Page 101 of 134

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

592-01083A-16

2016552c1

2930 Geological Survey springs bulletin, and the following additional
 2931 springs, including their associated spring runs:

2932 (a) De Leon Springs;

2933 (b) Peacock Springs;

2934 (c) Poe Springs;

2935 (d) Rock Springs;

2936 (e) Wekiwa Springs; and

2937 (f) Gemini Springs.

2938

2939 The term does not include submarine springs or river rises.

2940 (5) "Priority focus area" means the area or areas of a
 2941 basin where the Floridan Aquifer is generally most vulnerable to
 2942 pollutant inputs where there is a known connectivity between
 2943 groundwater pathways and an Outstanding Florida Spring, as
 2944 determined by the department in consultation with the
 2945 appropriate water management districts, and delineated in a
 2946 basin management action plan.

2947 (6) "Springshed" means the areas within the groundwater and
 2948 surface water basins which contribute, based upon all relevant
 2949 facts, circumstances, and data, to the discharge of a spring as
 2950 defined by potentiometric surface maps and surface watershed
 2951 boundaries.

2952 (7) "Spring run" means a body of flowing water that
 2953 originates from a spring or whose primary source of water is a
 2954 spring or springs under average rainfall conditions.

2955 (8) "Spring vent" means a location where groundwater flows
 2956 out of a natural, discernible opening in the ground onto the
 2957 land surface or into a predominantly fresh surface water body.

2958 Section 25. Section 373.803, Florida Statutes, is created

Page 102 of 134

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

592-01083A-16

2016552c1

2959 to read:

2960 373.803 Delineation of priority focus areas for Outstanding
 2961 Florida Springs.-Using the best data available from the water
 2962 management districts and other credible sources, the department,
 2963 in coordination with the water management districts, shall
 2964 delineate priority focus areas for each Outstanding Florida
 2965 Spring or group of springs that contains one or more Outstanding
 2966 Florida Springs and is identified as impaired in accordance with
 2967 s. 373.807. In delineating priority focus areas, the department
 2968 shall consider groundwater travel time to the spring,
 2969 hydrogeology, nutrient load, and any other factors that may lead
 2970 to degradation of an Outstanding Florida Spring. The delineation
 2971 of priority focus areas must be completed by July 1, 2018, shall
 2972 use understood and identifiable boundaries such as roads or
 2973 political jurisdictions for ease of implementation, and is
 2974 effective upon incorporation in a basin management action plan.

2975 Section 26. Section 373.805, Florida Statutes, is created
 2976 to read:

2977 373.805 Minimum flows and minimum water levels for
 2978 Outstanding Florida Springs.-

2979 (1) At the time a minimum flow or minimum water level is
 2980 adopted pursuant to s. 373.042 for an Outstanding Florida
 2981 Spring, if the spring is below or is projected within 20 years
 2982 to fall below the minimum flow or minimum water level, a water
 2983 management district or the department shall concurrently adopt a
 2984 recovery or prevention strategy.

2985 (2) When a minimum flow or minimum water level for an
 2986 Outstanding Florida Spring is revised pursuant to s.
 2987 373.0421(3), if the spring is below or is projected within 20

Page 103 of 134

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

592-01083A-16

2016552c1

2988 years to fall below the minimum flow or minimum water level, a
 2989 water management district or the department shall concurrently
 2990 adopt a recovery or prevention strategy or modify an existing
 2991 recovery or prevention strategy. A district or the department
 2992 may adopt the revised minimum flow or minimum water level before
 2993 the adoption of a recovery or prevention strategy if the revised
 2994 minimum flow or minimum water level is less constraining on
 2995 existing or projected future consumptive uses.

2996 (3) For an Outstanding Florida Spring without an adopted
 2997 recovery or prevention strategy, if a district or the department
 2998 determines the spring has fallen below, or is projected within
 2999 20 years to fall below, the adopted minimum flow or minimum
 3000 water level, a water management district or the department shall
 3001 expeditiously adopt a recovery or prevention strategy.

3002 (4) The recovery or prevention strategy for each
 3003 Outstanding Florida Spring must, at a minimum, include:

3004 (a) A listing of all specific projects identified for
 3005 implementation of the plan;

3006 (b) A priority listing of each project;

3007 (c) For each listed project, the estimated cost of and the
 3008 estimated date of completion;

3009 (d) The source and amount of financial assistance to be
 3010 made available by the water management district for each listed
 3011 project, which may not be less than 25 percent of the total
 3012 project cost unless a specific funding source or sources are
 3013 identified which will provide more than 75 percent of the total
 3014 project cost. The Northwest Florida Water Management District
 3015 and the Suwannee River Water Management District are not
 3016 required to meet the minimum requirement to provide financial

Page 104 of 134

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

592-01083A-16

2016552c1

3017 assistance pursuant to this paragraph;

3018 (e) An estimate of each listed project's benefit to an
 3019 Outstanding Florida Spring; and

3020 (f) An implementation plan designed with a target to
 3021 achieve the adopted minimum flow or minimum water level no more
 3022 than 20 years after the adoption of a recovery or prevention
 3023 strategy.

3024
 3025 The water management district or the department shall develop a
 3026 schedule establishing 5-year, 10-year, and 15-year targets for
 3027 achieving the adopted minimum flows or minimum water levels. The
 3028 schedule shall be used to provide guidance for planning and
 3029 funding purposes and is exempt from chapter 120.

3030 (5) A local government may apply to the department for a
 3031 single extension of up to 5 years for any project in an adopted
 3032 recovery or prevention strategy. The department may grant the
 3033 extension if the local government provides to the department
 3034 sufficient evidence that an extension is in the best interest of
 3035 the public. For a local government in a rural area of
 3036 opportunity, as defined in s. 288.0656, the department may grant
 3037 a single extension of up to 10 years.

3038 Section 27. Section 373.807, Florida Statutes, is created
 3039 to read:

3040 373.807 Protection of water quality in Outstanding Florida
 3041 Springs.—By July 1, 2016, the department shall initiate
 3042 assessment, pursuant to s. 403.067(3), of Outstanding Florida
 3043 Springs or spring systems for which an impairment determination
 3044 has not been made under the numeric nutrient standards in effect
 3045 for spring vents. Assessments must be completed by July 1, 2018.

Page 105 of 134

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

592-01083A-16

2016552c1

3046 (1) (a) Concurrent with the adoption of a nutrient total
 3047 maximum daily load for an Outstanding Florida Spring, the
 3048 department, or the department in conjunction with a water
 3049 management district, shall initiate development of a basin
 3050 management action plan, as specified in s. 403.067. For an
 3051 Outstanding Florida Spring with a nutrient total maximum daily
 3052 load adopted before July 1, 2016, the department, or the
 3053 department in conjunction with a water management district,
 3054 shall initiate development of a basin management action plan by
 3055 July 1, 2016. During the development of a basin management
 3056 action plan, if the department identifies onsite sewage
 3057 treatment and disposal systems as contributors of at least 20
 3058 percent of nonpoint source nitrogen pollution or if the
 3059 department determines remediation is necessary to achieve the
 3060 total maximum daily load, the basin management action plan shall
 3061 include an onsite sewage treatment and disposal system
 3062 remediation plan pursuant to subsection (3) for those systems
 3063 identified as requiring remediation.

3064 (b) A basin management action plan for an Outstanding
 3065 Florida Spring shall be adopted within 2 years after its
 3066 initiation and must include, at a minimum:

3067 1. A list of all specific projects and programs identified
 3068 to implement a nutrient total maximum daily load;

3069 2. A list of all specific projects identified in any
 3070 incorporated onsite sewage treatment and disposal system
 3071 remediation plan, if applicable;

3072 3. A priority rank for each listed project;

3073 4. For each listed project, a planning level cost estimate
 3074 and the estimated date of completion;

Page 106 of 134

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

592-01083A-16

2016552c1

3075 5. The source and amount of financial assistance to be made
 3076 available by the department, a water management district, or
 3077 other entity for each listed project;

3078 6. An estimate of each listed project's nutrient load
 3079 reduction;

3080 7. Identification of each point source or category of
 3081 nonpoint sources, including, but not limited to, urban turf
 3082 fertilizer, sports turf fertilizer, agricultural fertilizer,
 3083 onsite sewage treatment and disposal systems, wastewater
 3084 treatment facilities, animal wastes, and stormwater facilities.
 3085 An estimated allocation of the pollutant load must be provided
 3086 for each point source or category of nonpoint sources; and

3087 8. An implementation plan designed with a target to achieve
 3088 the nutrient total maximum daily load no more than 20 years
 3089 after the adoption of a basin management action plan.

3090 The department shall develop a schedule establishing 5-year, 10-
 3091 year, and 15-year targets for achieving the nutrient total
 3092 maximum daily load. The schedule shall be used to provide
 3093 guidance for planning and funding purposes and is exempt from
 3094 chapter 120.

3096 (c) For a basin management action plan adopted before July
 3097 1, 2016, which addresses an Outstanding Florida Spring, the
 3098 department or the department in conjunction with a water
 3099 management district must revise the plan if necessary to comply
 3100 with this section by July 1, 2018.

3101 (d) A local government may apply to the department for a
 3102 single extension of up to 5 years for any project in an adopted
 3103 basin management action plan. A local government in a rural area

592-01083A-16

2016552c1

3104 of opportunity, as defined in s. 288.0656, may apply for a
 3105 single extension of up to 10 years for such a project. The
 3106 department may grant the extension if the local government
 3107 provides to the department sufficient evidence that an extension
 3108 is in the best interest of the public.

3109 (2) By July 1, 2017, each local government, as defined in
 3110 s. 373.802(2), that has not adopted an ordinance pursuant to s.
 3111 403.9337, shall develop, enact, and implement an ordinance
 3112 pursuant to that section. It is the intent of the Legislature
 3113 that ordinances required to be adopted under this subsection
 3114 reflect the latest scientific information, advancements, and
 3115 technological improvements in the industry.

3116 (3) As part of a basin management action plan that includes
 3117 an Outstanding Florida Spring, the department, the Department of
 3118 Health, relevant local governments, and relevant local public
 3119 and private wastewater utilities, shall develop an onsite sewage
 3120 treatment and disposal system remediation plan for a spring if
 3121 the department determines onsite sewage treatment and disposal
 3122 systems within a priority focus area contribute at least 20
 3123 percent of nonpoint source nitrogen pollution or if the
 3124 department determines remediation is necessary to achieve the
 3125 total maximum daily load. The plan shall identify cost-effective
 3126 and financially feasible projects necessary to reduce the
 3127 nutrient impacts from onsite sewage treatment and disposal
 3128 systems and shall be completed and adopted as part of the basin
 3129 management action plan no later than the first 5-year milestone
 3130 required by subparagraph (1)(b)8. The department is the lead
 3131 agency in coordinating the preparation of and the adoption of
 3132 the plan. The department shall:

592-01083A-16

2016552c1

3133 (a) Collect and evaluate credible scientific information on
 3134 the effect of nutrients, particularly forms of nitrogen, on
 3135 springs and springs systems; and

3136 (b) Develop a public education plan to provide area
 3137 residents with reliable, understandable information about onsite
 3138 sewage treatment and disposal systems and springs.

3139
 3140 In addition to the requirements in s. 403.067, the plan shall
 3141 include options for repair, upgrade, replacement, drainfield
 3142 modification, addition of effective nitrogen reducing features,
 3143 connection to a central sewerage system, or other action for an
 3144 onsite sewage treatment and disposal system or group of systems
 3145 within a priority focus area that contribute at least 20 percent
 3146 of nonpoint source nitrogen pollution or if the department
 3147 determines remediation is necessary to achieve a total maximum
 3148 daily load. For these systems, the department shall include in
 3149 the plan a priority ranking for each system or group of systems
 3150 that requires remediation and shall award funds to implement the
 3151 remediation projects contingent on an appropriation in the
 3152 General Appropriations Act, which may include all or part of the
 3153 costs necessary for repair, upgrade, replacement, drainfield
 3154 modification, addition of effective nitrogen reducing features,
 3155 initial connection to a central sewerage system, or other
 3156 action. In awarding funds, the department may consider expected
 3157 nutrient reduction benefit per unit cost, size and scope of
 3158 project, relative local financial contribution to the project,
 3159 and the financial impact on property owners and the community.
 3160 The department may waive matching funding requirements for
 3161 proposed projects within an area designated as a rural area of

Page 109 of 134

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

592-01083A-16

2016552c1

3162 opportunity under s. 288.0656.

3163 (4) The department shall provide notice to a local
 3164 government of all permit applicants under s. 403.814(12) in a
 3165 priority focus area of an Outstanding Florida Spring over which
 3166 the local government has full or partial jurisdiction.

3167 Section 28. Section 373.811, Florida Statutes, is created
 3168 to read:

3169 373.811 Prohibited activities within a priority focus
 3170 area.—The following activities are prohibited within a priority
 3171 focus area in effect for an Outstanding Florida Spring:

3172 (1) New domestic wastewater disposal facilities, including
 3173 rapid infiltration basins, with permitted capacities of 100,000
 3174 gallons per day or more, except for those facilities that meet
 3175 an advanced wastewater treatment standard of no more than 3 mg/l
 3176 total nitrogen, expressed as N, on an annual permitted basis, or
 3177 a more stringent treatment standard if the department determines
 3178 the more stringent standard is necessary to attain a total
 3179 maximum daily load for the Outstanding Florida Spring.

3180 (2) New onsite sewage treatment and disposal systems on
 3181 lots of less than 1 acre, if the addition of the specific
 3182 systems conflicts with an onsite treatment and disposal system
 3183 remediation plan incorporated into a basin management action
 3184 plan in accordance with s. 373.807(3).

3185 (3) New facilities for the disposal of hazardous waste.

3186 (4) The land application of Class A or Class B domestic
 3187 wastewater biosolids not in accordance with a department
 3188 approved nutrient management plan establishing the rate at which
 3189 all biosolids, soil amendments, and sources of nutrients at the
 3190 land application site can be applied to the land for crop

Page 110 of 134

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

592-01083A-16

2016552c1

3191 production while minimizing the amount of pollutants and
 3192 nutrients discharged to groundwater or waters of the state.

3193 (5) New agriculture operations that do not implement best
 3194 management practices, measures necessary to achieve pollution
 3195 reduction levels established by the department, or groundwater
 3196 monitoring plans approved by a water management district or the
 3197 department.

3198 Section 29. Section 373.813, Florida Statutes, is created
 3199 to read:

3200 373.813 Rules.-

3201 (1) The department shall adopt rules to improve water
 3202 quantity and water quality to administer this part, as
 3203 applicable.

3204 (2) (a) The Department of Agriculture and Consumer Services
 3205 is the lead agency coordinating the reduction of agricultural
 3206 nonpoint sources of pollution for the protection of Outstanding
 3207 Florida Springs. The Department of Agriculture and Consumer
 3208 Services and the department, pursuant to s. 403.067(7)(c)4.,
 3209 shall study new or revised agricultural best management
 3210 practices for improving and protecting Outstanding Florida
 3211 Springs and, if necessary, in cooperation with applicable local
 3212 governments and stakeholders, initiate rulemaking to require the
 3213 implementation of such practices within a reasonable period.

3214 (b) The department, the Department of Agriculture and
 3215 Consumer Services, and the University of Florida Institute of
 3216 Food and Agricultural Sciences shall cooperate in conducting the
 3217 necessary research and demonstration projects to develop
 3218 improved or additional nutrient management tools, including the
 3219 use of controlled release fertilizer that can be used by

Page 111 of 134

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

592-01083A-16

2016552c1

3220 agricultural producers as part of an agricultural best
 3221 management practices program. The development of such tools must
 3222 reflect a balance between water quality improvement and
 3223 agricultural productivity and, if applicable, must be
 3224 incorporated into the revised agricultural best management
 3225 practices adopted by rule by the Department of Agriculture and
 3226 Consumer Services.

3227 Section 30. Subsection (29) of section 403.061, Florida
 3228 Statutes, is amended to read:

3229 403.061 Department; powers and duties.—The department shall
 3230 have the power and the duty to control and prohibit pollution of
 3231 air and water in accordance with the law and rules adopted and
 3232 promulgated by it and, for this purpose, to:

3233 (29) (a) Adopt by rule special criteria to protect Class II
 3234 and Class III shellfish harvesting waters. Such rules may
 3235 include special criteria for approving docking facilities that
 3236 have 10 or fewer slips if the construction and operation of such
 3237 facilities will not result in the closure of shellfish waters.

3238 (b) Adopt by rule a specific surface water classification
 3239 to protect surface waters used for treated potable water supply.
 3240 These designated surface waters shall have the same water
 3241 quality criteria protections as waters designated for fish
 3242 consumption, recreation, and the propagation and maintenance of
 3243 a healthy, well-balanced population of fish and wildlife, and
 3244 shall be free from discharged substances at a concentration
 3245 that, alone or in combination with other discharged substances,
 3246 would require significant alteration of permitted treatment
 3247 processes at the permitted treatment facility or that would
 3248 otherwise prevent compliance with applicable state drinking

Page 112 of 134

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

592-01083A-16

2016552c1

3249 water standards in the treated water. Notwithstanding this
 3250 classification or the inclusion of treated water supply as a
 3251 designated use of a surface water, a surface water used for
 3252 treated potable water supply may be reclassified to the potable
 3253 water supply classification.

3254
 3255 The department shall implement such programs in conjunction with
 3256 its other powers and duties and shall place special emphasis on
 3257 reducing and eliminating contamination that presents a threat to
 3258 humans, animals or plants, or to the environment.

3259 Section 31. Section 403.0617, Florida Statutes, is created
 3260 to read:

3261 403.0617 Innovative nutrient and sediment reduction and
 3262 conservation pilot project program.—

3263 (1) Contingent upon a specific appropriation in the General
 3264 Appropriation Act, the department may fund innovative nutrient
 3265 and sediment reduction and conservation pilot projects selected
 3266 pursuant to this section. These pilot projects are intended to
 3267 test the effectiveness of innovative or existing nutrient
 3268 reduction or water conservation technologies, programs, or
 3269 practices designed to minimize nutrient pollution or restore
 3270 flows in the water bodies of the state.

3271 (2) By October 1, 2016, the department shall initiate
 3272 rulemaking to establish criteria by which the department will
 3273 evaluate and rank pilot projects for funding. The criteria must
 3274 include a determination by the department that the pilot project
 3275 will not be harmful to the ecological resources in the study
 3276 area. The criteria must give preference to projects that will
 3277 result in the greatest improvement to water quality and water

Page 113 of 134

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

592-01083A-16

2016552c1

3278 quantity for the dollars to be expended for the project. At a
 3279 minimum, the department shall consider all of the following:

3280 (a) The level of nutrient impairment of the waterbody,
 3281 watershed, or water segment in which the project is located.

3282 (b) The quantity of nutrients the project is estimated to
 3283 remove from a water body, watershed, or water segment with a
 3284 nutrient total maximum daily load.

3285 (c) The potential for the project to provide a cost-
 3286 effective solution to pollution, including pollution caused by
 3287 onsite sewage treatment and disposal systems.

3288 (d) The anticipated impact the project will have on
 3289 restoring or increasing flow or water level.

3290 (e) The amount of matching funds for the project which will
 3291 be provided by the entities responsible for implementing the
 3292 project.

3293 (f) Whether the project is located in a rural area of
 3294 opportunity, as defined in s. 288.0656, with preference given to
 3295 the local government responsible for implementing the project.

3296 (g) For multiple-year projects, whether the project has
 3297 funding sources that are identified and assured through the
 3298 expected completion date of the project.

3299 (h) The cost of the project and the length of time it will
 3300 take to complete relative to its expected benefits.

3301 (i) Whether the entities responsible for implementing the
 3302 project have used their own funds for projects to improve water
 3303 quality or conserve water use with preference given to those
 3304 entities that have expended such funds.

3305 Section 32. Section 403.0623, Florida Statutes, is amended
 3306 to read:

Page 114 of 134

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

592-01083A-16

2016552c1

3307 403.0623 Environmental data; quality assurance.-
 3308 (1) The department must establish, by rule, appropriate
 3309 quality assurance requirements for environmental data submitted
 3310 to the department and the criteria by which environmental data
 3311 may be rejected by the department. The department may adopt and
 3312 enforce rules to establish data quality objectives and specify
 3313 requirements for training of laboratory and field staff, sample
 3314 collection methodology, proficiency testing, and audits of
 3315 laboratory and field sampling activities. Such rules may be in
 3316 addition to any laboratory certification provisions under ss.
 3317 403.0625 and 403.863.

3318 (2) (a) The department, in coordination with the water
 3319 management districts, regional water supply authorities, and the
 3320 Department of Agriculture and Consumer Services shall establish
 3321 standards for the collection and analysis of water quantity,
 3322 water quality, and related data to ensure quality, reliability,
 3323 and validity of the data and testing results.

3324 (b) To the extent practicable, the department shall
 3325 coordinate with federal agencies to ensure that its collection
 3326 and analysis of water quality, water quantity, and related data,
 3327 which may be used by any state agency, water management
 3328 district, or local government, is consistent with this
 3329 subsection.

3330 (c) To receive state funds for the acquisition of land or
 3331 the financing of a water resource project, state agencies and
 3332 water management districts must show that they followed the
 3333 department's collection and analysis standards, if available, as
 3334 a prerequisite for any such request for funding.

3335 (d) The department and the water management districts may

Page 115 of 134

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

592-01083A-16

2016552c1

3336 adopt rules to implement this subsection.
 3337 Section 33. Subsection (7) of section 403.067, Florida
 3338 Statutes, is amended to read:
 3339 403.067 Establishment and implementation of total maximum
 3340 daily loads.-
 3341 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
 3342 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.-
 3343 (a) *Basin management action plans.-*
 3344 1. In developing and implementing the total maximum daily
 3345 load for a water body, the department, or the department in
 3346 conjunction with a water management district, may develop a
 3347 basin management action plan that addresses some or all of the
 3348 watersheds and basins tributary to the water body. Such plan
 3349 must integrate the appropriate management strategies available
 3350 to the state through existing water quality protection programs
 3351 to achieve the total maximum daily loads and may provide for
 3352 phased implementation of these management strategies to promote
 3353 timely, cost-effective actions as provided for in s. 403.151.
 3354 The plan must establish a schedule implementing the management
 3355 strategies, establish a basis for evaluating the plan's
 3356 effectiveness, and identify feasible funding strategies for
 3357 implementing the plan's management strategies. The management
 3358 strategies may include regional treatment systems or other
 3359 public works, where appropriate, and voluntary trading of water
 3360 quality credits to achieve the needed pollutant load reductions.

3361 2. A basin management action plan must equitably allocate,
 3362 pursuant to paragraph (6) (b), pollutant reductions to individual
 3363 basins, as a whole to all basins, or to each identified point
 3364 source or category of nonpoint sources, as appropriate. For

Page 116 of 134

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

592-01083A-16

2016552c1

3365 nonpoint sources for which best management practices have been
 3366 adopted, the initial requirement specified by the plan must be
 3367 those practices developed pursuant to paragraph (c). Where
 3368 appropriate, the plan may take into account the benefits of
 3369 pollutant load reduction achieved by point or nonpoint sources
 3370 that have implemented management strategies to reduce pollutant
 3371 loads, including best management practices, before the
 3372 development of the basin management action plan. The plan must
 3373 also identify the mechanisms that will address potential future
 3374 increases in pollutant loading.

3375 3. The basin management action planning process is intended
 3376 to involve the broadest possible range of interested parties,
 3377 with the objective of encouraging the greatest amount of
 3378 cooperation and consensus possible. In developing a basin
 3379 management action plan, the department shall assure that key
 3380 stakeholders, including, but not limited to, applicable local
 3381 governments, water management districts, the Department of
 3382 Agriculture and Consumer Services, other appropriate state
 3383 agencies, local soil and water conservation districts,
 3384 environmental groups, regulated interests, and affected
 3385 pollution sources, are invited to participate in the process.
 3386 The department shall hold at least one public meeting in the
 3387 vicinity of the watershed or basin to discuss and receive
 3388 comments during the planning process and shall otherwise
 3389 encourage public participation to the greatest practicable
 3390 extent. Notice of the public meeting must be published in a
 3391 newspaper of general circulation in each county in which the
 3392 watershed or basin lies not less than 5 days nor more than 15
 3393 days before the public meeting. A basin management action plan

Page 117 of 134

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

592-01083A-16

2016552c1

3394 does not supplant or otherwise alter any assessment made under
 3395 subsection (3) or subsection (4) or any calculation or initial
 3396 allocation.

3397 4. Each new or revised basin management action plan shall
 3398 include:

3399 a. The appropriate management strategies available through
 3400 existing water quality protection programs to achieve total
 3401 maximum daily loads, which may provide for phased implementation
 3402 to promote timely, cost-effective actions as provided for in s.
 3403 403.151;

3404 b. A description of best management practices adopted by
 3405 rule;

3406 c. A list of projects in priority ranking with a planning-
 3407 level cost estimate and estimated date of completion for each
 3408 listed project;

3409 d. The source and amount of financial assistance to be made
 3410 available by the department, a water management district, or
 3411 other entity for each listed project, if applicable; and

3412 e. A planning-level estimate of each listed project's
 3413 expected load reduction, if applicable.

3414 ~~5.4-~~ The department shall adopt all or any part of a basin
 3415 management action plan and any amendment to such plan by
 3416 secretarial order pursuant to chapter 120 to implement the
 3417 provisions of this section.

3418 ~~6.5-~~ The basin management action plan must include
 3419 milestones for implementation and water quality improvement, and
 3420 an associated water quality monitoring component sufficient to
 3421 evaluate whether reasonable progress in pollutant load
 3422 reductions is being achieved over time. An assessment of

Page 118 of 134

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

592-01083A-16

2016552c1

3423 progress toward these milestones shall be conducted every 5
 3424 years, and revisions to the plan shall be made as appropriate.
 3425 Revisions to the basin management action plan shall be made by
 3426 the department in cooperation with basin stakeholders. Revisions
 3427 to the management strategies required for nonpoint sources must
 3428 follow the procedures set forth in subparagraph (c)4. Revised
 3429 basin management action plans must be adopted pursuant to
 3430 subparagraph 5.4.

3431 ~~7.6-~~ In accordance with procedures adopted by rule under
 3432 paragraph (9) (c), basin management action plans, and other
 3433 pollution control programs under local, state, or federal
 3434 authority as provided in subsection (4), may allow point or
 3435 nonpoint sources that will achieve greater pollutant reductions
 3436 than required by an adopted total maximum daily load or
 3437 wasteload allocation to generate, register, and trade water
 3438 quality credits for the excess reductions to enable other
 3439 sources to achieve their allocation; however, the generation of
 3440 water quality credits does not remove the obligation of a source
 3441 or activity to meet applicable technology requirements or
 3442 adopted best management practices. Such plans must allow trading
 3443 between NPDES permittees, and trading that may or may not
 3444 involve NPDES permittees, where the generation or use of the
 3445 credits involve an entity or activity not subject to department
 3446 water discharge permits whose owner voluntarily elects to obtain
 3447 department authorization for the generation and sale of credits.

3448 ~~8.7-~~ The provisions of the department's rule relating to
 3449 the equitable abatement of pollutants into surface waters do not
 3450 apply to water bodies or water body segments for which a basin
 3451 management plan that takes into account future new or expanded

Page 119 of 134

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

592-01083A-16

2016552c1

3452 activities or discharges has been adopted under this section.

3453 (b) *Total maximum daily load implementation.*—

3454 1. The department shall be the lead agency in coordinating
 3455 the implementation of the total maximum daily loads through
 3456 existing water quality protection programs. Application of a
 3457 total maximum daily load by a water management district must be
 3458 consistent with this section and does not require the issuance
 3459 of an order or a separate action pursuant to s. 120.536(1) or s.
 3460 120.54 for the adoption of the calculation and allocation
 3461 previously established by the department. Such programs may
 3462 include, but are not limited to:

3463 a. Permitting and other existing regulatory programs,
 3464 including water-quality-based effluent limitations;

3465 b. Nonregulatory and incentive-based programs, including
 3466 best management practices, cost sharing, waste minimization,
 3467 pollution prevention, agreements established pursuant to s.
 3468 403.061(21), and public education;

3469 c. Other water quality management and restoration
 3470 activities, for example surface water improvement and management
 3471 plans approved by water management districts or basin management
 3472 action plans developed pursuant to this subsection;

3473 d. Trading of water quality credits or other equitable
 3474 economically based agreements;

3475 e. Public works including capital facilities; or

3476 f. Land acquisition.

3477 2. For a basin management action plan adopted pursuant to
 3478 paragraph (a), any management strategies and pollutant reduction
 3479 requirements associated with a pollutant of concern for which a
 3480 total maximum daily load has been developed, including effluent

Page 120 of 134

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

592-01083A-16

2016552c1

3481 limits set forth for a discharger subject to NPDES permitting,
 3482 if any, must be included in a timely manner in subsequent NPDES
 3483 permits or permit modifications for that discharger. The
 3484 department may not impose limits or conditions implementing an
 3485 adopted total maximum daily load in an NPDES permit until the
 3486 permit expires, the discharge is modified, or the permit is
 3487 reopened pursuant to an adopted basin management action plan.

3488 a. Absent a detailed allocation, total maximum daily loads
 3489 must be implemented through NPDES permit conditions that provide
 3490 for a compliance schedule. In such instances, a facility's NPDES
 3491 permit must allow time for the issuance of an order adopting the
 3492 basin management action plan. The time allowed for the issuance
 3493 of an order adopting the plan may not exceed 5 years. Upon
 3494 issuance of an order adopting the plan, the permit must be
 3495 reopened or renewed, as necessary, and permit conditions
 3496 consistent with the plan must be established. Notwithstanding
 3497 the other provisions of this subparagraph, upon request by an
 3498 NPDES permittee, the department as part of a permit issuance,
 3499 renewal, or modification may establish individual allocations
 3500 before the adoption of a basin management action plan.

3501 b. For holders of NPDES municipal separate storm sewer
 3502 system permits and other stormwater sources, implementation of a
 3503 total maximum daily load or basin management action plan must be
 3504 achieved, to the maximum extent practicable, through the use of
 3505 best management practices or other management measures.

3506 c. The basin management action plan does not relieve the
 3507 discharger from any requirement to obtain, renew, or modify an
 3508 NPDES permit or to abide by other requirements of the permit.

3509 d. Management strategies set forth in a basin management

Page 121 of 134

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

592-01083A-16

2016552c1

3510 action plan to be implemented by a discharger subject to
 3511 permitting by the department must be completed pursuant to the
 3512 schedule set forth in the basin management action plan. This
 3513 implementation schedule may extend beyond the 5-year term of an
 3514 NPDES permit.

3515 e. Management strategies and pollution reduction
 3516 requirements set forth in a basin management action plan for a
 3517 specific pollutant of concern are not subject to challenge under
 3518 chapter 120 at the time they are incorporated, in an identical
 3519 form, into a subsequent NPDES permit or permit modification.

3520 f. For nonagricultural pollutant sources not subject to
 3521 NPDES permitting but permitted pursuant to other state,
 3522 regional, or local water quality programs, the pollutant
 3523 reduction actions adopted in a basin management action plan must
 3524 be implemented to the maximum extent practicable as part of
 3525 those permitting programs.

3526 g. A nonpoint source discharger included in a basin
 3527 management action plan must demonstrate compliance with the
 3528 pollutant reductions established under subsection (6) by
 3529 implementing the appropriate best management practices
 3530 established pursuant to paragraph (c) or conducting water
 3531 quality monitoring prescribed by the department or a water
 3532 management district. A nonpoint source discharger may, in
 3533 accordance with department rules, supplement the implementation
 3534 of best management practices with water quality credit trades in
 3535 order to demonstrate compliance with the pollutant reductions
 3536 established under subsection (6).

3537 h. A nonpoint source discharger included in a basin
 3538 management action plan may be subject to enforcement action by

Page 122 of 134

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

592-01083A-16

2016552c1

3539 the department or a water management district based upon a
 3540 failure to implement the responsibilities set forth in sub-
 3541 subparagraph g.

3542 i. A landowner, discharger, or other responsible person who
 3543 is implementing applicable management strategies specified in an
 3544 adopted basin management action plan may not be required by
 3545 permit, enforcement action, or otherwise to implement additional
 3546 management strategies, including water quality credit trading,
 3547 to reduce pollutant loads to attain the pollutant reductions
 3548 established pursuant to subsection (6) and shall be deemed to be
 3549 in compliance with this section. This subparagraph does not
 3550 limit the authority of the department to amend a basin
 3551 management action plan as specified in subparagraph (a)6. ~~(a)5-~~

3552 (c) *Best management practices.*-

3553 1. The department, in cooperation with the water management
 3554 districts and other interested parties, as appropriate, may
 3555 develop suitable interim measures, best management practices, or
 3556 other measures necessary to achieve the level of pollution
 3557 reduction established by the department for nonagricultural
 3558 nonpoint pollutant sources in allocations developed pursuant to
 3559 subsection (6) and this subsection. These practices and measures
 3560 may be adopted by rule by the department and the water
 3561 management districts and, where adopted by rule, shall be
 3562 implemented by those parties responsible for nonagricultural
 3563 nonpoint source pollution.

3564 2. The Department of Agriculture and Consumer Services may
 3565 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
 3566 suitable interim measures, best management practices, or other
 3567 measures necessary to achieve the level of pollution reduction

Page 123 of 134

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

592-01083A-16

2016552c1

3568 established by the department for agricultural pollutant sources
 3569 in allocations developed pursuant to subsection (6) and this
 3570 subsection or for programs implemented pursuant to paragraph
 3571 (12)(b). These practices and measures may be implemented by
 3572 those parties responsible for agricultural pollutant sources and
 3573 the department, the water management districts, and the
 3574 Department of Agriculture and Consumer Services shall assist
 3575 with implementation. In the process of developing and adopting
 3576 rules for interim measures, best management practices, or other
 3577 measures, the Department of Agriculture and Consumer Services
 3578 shall consult with the department, the Department of Health, the
 3579 water management districts, representatives from affected
 3580 farming groups, and environmental group representatives. Such
 3581 rules must also incorporate provisions for a notice of intent to
 3582 implement the practices and a system to assure the
 3583 implementation of the practices, including site inspection and
 3584 recordkeeping requirements.

3585 3. Where interim measures, best management practices, or
 3586 other measures are adopted by rule, the effectiveness of such
 3587 practices in achieving the levels of pollution reduction
 3588 established in allocations developed by the department pursuant
 3589 to subsection (6) and this subsection or in programs implemented
 3590 pursuant to paragraph (12)(b) must be verified at representative
 3591 sites by the department. The department shall use best
 3592 professional judgment in making the initial verification that
 3593 the best management practices are reasonably expected to be
 3594 effective and, where applicable, must notify the appropriate
 3595 water management district or the Department of Agriculture and
 3596 Consumer Services of its initial verification before the

Page 124 of 134

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

592-01083A-16

2016552c1

3597 adoption of a rule proposed pursuant to this paragraph.
 3598 Implementation, in accordance with rules adopted under this
 3599 paragraph, of practices that have been initially verified to be
 3600 effective, or verified to be effective by monitoring at
 3601 representative sites, by the department, shall provide a
 3602 presumption of compliance with state water quality standards and
 3603 release from the provisions of s. 376.307(5) for those
 3604 pollutants addressed by the practices, and the department is not
 3605 authorized to institute proceedings against the owner of the
 3606 source of pollution to recover costs or damages associated with
 3607 the contamination of surface water or groundwater caused by
 3608 those pollutants. Research projects funded by the department, a
 3609 water management district, or the Department of Agriculture and
 3610 Consumer Services to develop or demonstrate interim measures or
 3611 best management practices shall be granted a presumption of
 3612 compliance with state water quality standards and a release from
 3613 the provisions of s. 376.307(5). The presumption of compliance
 3614 and release is limited to the research site and only for those
 3615 pollutants addressed by the interim measures or best management
 3616 practices. Eligibility for the presumption of compliance and
 3617 release is limited to research projects on sites where the owner
 3618 or operator of the research site and the department, a water
 3619 management district, or the Department of Agriculture and
 3620 Consumer Services have entered into a contract or other
 3621 agreement that, at a minimum, specifies the research objectives,
 3622 the cost-share responsibilities of the parties, and a schedule
 3623 that details the beginning and ending dates of the project.
 3624 4. Where water quality problems are demonstrated, despite
 3625 the appropriate implementation, operation, and maintenance of

Page 125 of 134

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

592-01083A-16

2016552c1

3626 best management practices and other measures required by rules
 3627 adopted under this paragraph, the department, a water management
 3628 district, or the Department of Agriculture and Consumer
 3629 Services, in consultation with the department, shall institute a
 3630 reevaluation of the best management practice or other measure.
 3631 Should the reevaluation determine that the best management
 3632 practice or other measure requires modification, the department,
 3633 a water management district, or the Department of Agriculture
 3634 and Consumer Services, as appropriate, shall revise the rule to
 3635 require implementation of the modified practice within a
 3636 reasonable time period as specified in the rule.
 3637 5. Agricultural records relating to processes or methods of
 3638 production, costs of production, profits, or other financial
 3639 information held by the Department of Agriculture and Consumer
 3640 Services pursuant to subparagraphs 3. and 4. or pursuant to any
 3641 rule adopted pursuant to subparagraph 2. are confidential and
 3642 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 3643 Constitution. Upon request, records made confidential and exempt
 3644 pursuant to this subparagraph shall be released to the
 3645 department or any water management district provided that the
 3646 confidentiality specified by this subparagraph for such records
 3647 is maintained.
 3648 6. The provisions of subparagraphs 1. and 2. do not
 3649 preclude the department or water management district from
 3650 requiring compliance with water quality standards or with
 3651 current best management practice requirements set forth in any
 3652 applicable regulatory program authorized by law for the purpose
 3653 of protecting water quality. Additionally, subparagraphs 1. and
 3654 2. are applicable only to the extent that they do not conflict

Page 126 of 134

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

592-01083A-16

2016552c1

3655 with any rules adopted by the department that are necessary to
3656 maintain a federally delegated or approved program.

3657 (d) Enforcement and verification of basin management action
3658 plans and management strategies.-

3659 1. Basin management action plans are enforceable pursuant
3660 to this section and ss. 403.121, 403.141, and 403.161.

3661 Management strategies, including best management practices and
3662 water quality monitoring, are enforceable under this chapter.

3663 2. No later than January 1, 2017:

3664 a. The department, in consultation with the water
3665 management districts and the Department of Agriculture and
3666 Consumer Services, shall initiate rulemaking to adopt procedures
3667 to verify implementation of water quality monitoring required in
3668 lieu of implementation of best management practices or other
3669 measures pursuant to s. 403.067(7)(b)2.g.;

3670 b. The department, in consultation with the water
3671 management districts and the Department of Agriculture and
3672 Consumer Services, shall initiate rulemaking to adopt procedures
3673 to verify implementation of nonagricultural interim measures,
3674 best management practices, or other measures adopted by rule
3675 pursuant to s. 403.067(7)(c)1.; and

3676 c. The Department of Agriculture and Consumer Services, in
3677 consultation with the water management districts and the
3678 department, shall initiate rulemaking to adopt procedures to
3679 verify implementation of agricultural interim measures, best
3680 management practices, or other measures adopted by rule pursuant
3681 to s. 403.067(7)(c)2.

3682
3683 The rules required under this subparagraph shall include

Page 127 of 134

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

592-01083A-16

2016552c1

3684 enforcement procedures applicable to the landowner, discharger,
3685 or other responsible person required to implement applicable
3686 management strategies, including best management practices or
3687 water quality monitoring as a result of noncompliance.

3688 Section 34. Section 403.0675, Florida Statutes, is created
3689 to read:

3690 403.0675 Progress reports.-On or before July 1 of each
3691 year, beginning in 2018:

3692 (1) The department, in conjunction with the water
3693 management districts, shall post on its website and submit
3694 electronically an annual progress report to the Governor, the
3695 President of the Senate, and the Speaker of the House of
3696 Representatives on the status of each total maximum daily load,
3697 basin management action plan, minimum flow or minimum water
3698 level, and recovery or prevention strategy adopted pursuant to
3699 s. 403.067 or parts I and VIII of chapter 373. The report must
3700 include the status of each project identified to achieve a total
3701 maximum daily load or an adopted minimum flow or minimum water
3702 level, as applicable. If a report indicates that any of the 5-
3703 year, 10-year, or 15-year milestones, or the 20-year target
3704 date, if applicable, for achieving a total maximum daily load or
3705 a minimum flow or minimum water level will not be met, the
3706 report must include an explanation of the possible causes and
3707 potential solutions. If applicable, the report must include
3708 project descriptions, estimated costs, proposed priority ranking
3709 for project implementation, and funding needed to achieve the
3710 total maximum daily load or the minimum flow or minimum water
3711 level by the target date. Each water management district shall
3712 post the department's report on its website.

Page 128 of 134

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

592-01083A-16

2016552c1

3713 (2) The Department of Agriculture and Consumer Services
 3714 shall post on its website and submit electronically an annual
 3715 progress report to the Governor, the President of the Senate,
 3716 and the Speaker of the House of Representatives on the status of
 3717 the implementation of the agricultural nonpoint source best
 3718 management practices, including an implementation assurance
 3719 report summarizing survey responses and response rates, site
 3720 inspections, and other methods used to verify implementation of
 3721 and compliance with best management practices pursuant to basin
 3722 management action plans.

3723 Section 35. Subsection (21) is added to section 403.861,
 3724 Florida Statutes, to read:

3725 403.861 Department; powers and duties.—The department shall
 3726 have the power and the duty to carry out the provisions and
 3727 purposes of this act and, for this purpose, to:

3728 (21) (a) Upon issuance of a construction permit to construct
 3729 a new public water system drinking water treatment facility to
 3730 provide potable water supply using a surface water that, at the
 3731 time of the permit application, is not being used as a potable
 3732 water supply, and the classification of which does not include
 3733 potable water supply as a designated use, the department shall
 3734 add treated potable water supply as a designated use of the
 3735 surface water segment in accordance with s. 403.061(29) (b).

3736 (b) For existing public water system drinking water
 3737 treatment facilities that use a surface water as a treated
 3738 potable water supply, which surface water classification does
 3739 not include potable water supply as a designated use, the
 3740 department shall add treated potable water supply as a
 3741 designated use of the surface water segment in accordance with

Page 129 of 134

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

592-01083A-16

2016552c1

3742 s. 403.061(29) (b).

3743 Section 36. Section 403.928, Florida Statutes, is created
 3744 to read:

3745 403.928 Assessment of water resources and conservation
 3746 lands.—The Office of Economic and Demographic Research shall
 3747 conduct an annual assessment of Florida's water resources and
 3748 conservation lands.

3749 (1) WATER RESOURCES.—The assessment must include all of the
 3750 following:

3751 (a) Historical and current expenditures and projections of
 3752 future expenditures by federal, state, regional, and local
 3753 governments and public and private utilities based upon
 3754 historical trends and ongoing projects or initiatives associated
 3755 with:

3756 1. Water supply and demand; and

3757 2. Water quality protection and restoration.

3758 (b) An analysis and estimates of future expenditures by
 3759 federal, state, regional, and local governments and public and
 3760 private utilities necessary to comply with federal and state
 3761 laws and regulations governing subparagraphs (a)1. and (a)2. The
 3762 analysis and estimates must address future expenditures by
 3763 federal, state, regional, and local governments and all public
 3764 and private utilities necessary to achieve the legislature's
 3765 intent that sufficient water be available for all existing and
 3766 future reasonable-beneficial uses and the natural systems, and
 3767 that adverse effects of competition for water supplies be
 3768 avoided. The assessment must include a compilation of projected
 3769 water supply and demand data developed by each water management
 3770 district pursuant to ss. 373.036 and 373.709, with notations

Page 130 of 134

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

592-01083A-16

2016552c1

3771 regarding any significant differences between the methods used
 3772 by the districts to calculate the data.

3773 (c) Forecasts of federal, state, regional, and local
 3774 government revenues dedicated in current law for the purposes
 3775 specified in subparagraphs (a)1. and (a)2. or that have been
 3776 historically allocated for these purposes, as well as public and
 3777 private utility revenues.

3778 (d) An identification of gaps between projected revenues
 3779 and projected and estimated expenditures.

3780 (2) CONSERVATION LANDS.—The assessment must include all of
 3781 the following:

3782 (a) Historical and current expenditures and projections of
 3783 future expenditures by federal, state, regional, and local
 3784 governments based upon historical trends and ongoing projects or
 3785 initiatives associated with real property interests eligible for
 3786 funding under s. 259.105.

3787 (b) An analysis and estimates of future expenditures by
 3788 federal, state, regional, and local governments necessary to
 3789 purchase lands identified in plans set forth by state agencies
 3790 or water management districts.

3791 (c) An analysis of the ad valorem tax impacts, by county,
 3792 resulting from public ownership of conservation lands.

3793 (d) Forecasts of federal, state, regional, and local
 3794 government revenues dedicated in current law to maintain
 3795 conservation lands and the gap between projected expenditures
 3796 and revenues.

3797 (e) The total percentage of Florida real property that is
 3798 publicly owned for conservation purposes.

3799 (f) A comparison of the cost of acquiring and maintaining

Page 131 of 134

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

592-01083A-16

2016552c1

3800 conservation lands under fee simple or less than fee simple
 3801 ownership.

3802 (3) The assessment shall include analyses on a statewide,
 3803 regional, or geographic basis, as appropriate, and shall
 3804 identify analytical challenges in assessing information across
 3805 the different regions of the state.

3806 (4) The assessment must identify any overlap in the
 3807 expenditures for water resources and conservation lands.

3808 (5) The water management districts, the Department of
 3809 Environmental Protection, the Department of Agriculture and
 3810 Consumer Services, the Fish and Wildlife Conservation
 3811 Commission, counties, municipalities, and special districts
 3812 shall provide assistance to the Office of Economic and
 3813 Demographic Research related to their respective areas of
 3814 expertise.

3815 (6) The Office of Economic and Demographic Research must be
 3816 given access to any data held by an agency as defined in s.
 3817 112.312 if the Office of Economic and Demographic Research
 3818 considers the data necessary to complete the assessment,
 3819 including any confidential data.

3820 (7) The assessment shall be submitted to the President of
 3821 the Senate and the Speaker of the House of Representatives by
 3822 January 1, 2017, and by January 1 of each year thereafter.

3823 Section 37. (1) The Department of Environmental Protection
 3824 shall evaluate the feasibility and cost of creating and
 3825 maintaining a web-based, interactive map that includes, at a
 3826 minimum:

3827 (a) All watersheds and each water body within those
 3828 watersheds;

Page 132 of 134

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

592-01083A-16 2016552c1

- 3829 (b) The county or counties in which the watershed or water
 3830 body is located;
- 3831 (c) The water management district or districts in which the
 3832 watershed or water body is located;
- 3833 (d) Whether, if applicable, a minimum flow or minimum water
 3834 level has been adopted for the water body and if such minimum
 3835 flow or minimum water level has not been adopted, the
 3836 anticipated adoption date;
- 3837 (e) Whether, if applicable, a recovery or prevention
 3838 strategy has been adopted for the watershed or water body and,
 3839 if such a plan has not been adopted, the anticipated adoption
 3840 date;
- 3841 (f) The impairment status of each water body;
- 3842 (g) Whether, if applicable, a total maximum daily load has
 3843 been adopted if the water body is listed as impaired and, if
 3844 such total maximum daily load has not been adopted, the
 3845 anticipated adoption date;
- 3846 (h) Whether, if applicable, a basin management action plan
 3847 has been adopted for the watershed and, if such a plan has not
 3848 been adopted, the anticipated adoption date;
- 3849 (i) Each project listed on the 5-year water resource
 3850 development work program developed pursuant to s.
 3851 373.536(6)(a)4.;
- 3852 (j) The agency or agencies and local sponsor, if any,
 3853 responsible for overseeing the project;
- 3854 (k) The total or estimated cost and completion date of each
 3855 project and the financial contribution of each entity;
- 3856 (l) The estimated quantitative benefit to the watershed or
 3857 water body; and

Page 133 of 134

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

592-01083A-16 2016552c1

- 3858 (m) The water projects completed within the last 5 years
 3859 within the watershed or water body.
- 3860 (2) On or before January 1, 2017, the department must
 3861 submit a report containing the findings on the feasibility study
 3862 to the President of the Senate and the Speaker of the House of
 3863 Representatives.
- 3864 Section 38. The Legislature finds that a proper and
 3865 legitimate state purpose is served when protecting the
 3866 environmental resources of this state. Therefore, the
 3867 Legislature determines and declares that this act fulfills an
 3868 important state interest.
- 3869 Section 39. This act shall take effect July 1, 2016.

Page 134 of 134

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/19/15
Meeting Date

552
Bill Number (if applicable)

Topic ENV. RESOURCES

746282
Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 1674 UNIV. PKWY #296

Phone 941.323.2404

Street

SARASOTA

FL

34243

Email CULLENDS@

City

State

Zip

201.COM

Speaking: For Against Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/19/2015
Meeting Date

SB552
Bill Number (if applicable)

Topic Environmental Resources

Amendment Barcode (if applicable)

Name Ryan Smart

Job Title President

Address 308 N. Monroe St

Phone 850-262-1872

Street

Tallahassee FL 32301

City

State

Zip

Email rsmart@1000fof.org

Speaking: For Against Information

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

Representing 1000 Friends of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/19/15
Meeting Date

552
Bill Number (if applicable)

Topic ENV. RESOURCES

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title

Address 1674 UNIVERSITY AVE #296
Street

Phone 941.323.2404

SARASOTA FL 34243
City State Zip

Email cullenosea@aol.com

Speaking: For Against Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/19
Meeting Date

SB 552
Bill Number (if applicable)

Topic Environmental Resources

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 514 W Adams St

Phone 224-7173

Street

Tally
City

FL
State

32301
Zip

Email bbevis@aifc

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/19/15
Meeting Date

552
Bill Number (if applicable)

Topic Water Bill - 552

Amendment Barcode (if applicable)

Name Beth Lewis

Job Title Director of Water Resources

Address Blowing Rock Preserve Phone (561) 348-4844
Street

Hope Sand FL 33258 Email Beth.Lewis@meulco.com
City State Zip

Speaking: For Against Information

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

Representing The Nature Conservancy

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)

11/19/15
Meeting Date

552
Bill Number (if applicable)

Topic ENVIRONMENTAL RESOURCES

Amendment Barcode (if applicable)

Name LANCE PIERCE

Job Title ASST. DIRECTOR OF STATE LEG AFFAIRS

Address 315 S. CALHOUN ST

Phone

Street

TALLAHASSEE

FL

32301

Email

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA FARM BUREAU

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)

11/19/2015

Meeting Date

SB 552

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name VANI UNGAPEN

Job Title DIRECTOR OF ~~FLORIDA~~ LEGISLATIVE RESEARCH

Address 200 S. MONROE ST

Phone 224-1400

Street

TALLAHASSEE

FL

32301

Email vani@floridarealtors.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing FLORIDA REALTORS

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)

11-19-2015

Meeting Date

552

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S.

Phone 727/897-9291

Street

St Petersburg

City

FL

State

33705

Zip

Email _____

Speaking: For Against Information

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

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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)

11-19-15

Meeting Date

CS/SB 552

Bill Number (if applicable)

Topic Water

Amendment Barcode (if applicable)

Name Stephanie Kunkel

Job Title _____

Address 1143 Albritton Dr

Phone 850-320-4208

Street

Tallahassee

City

FL

State

32301

Zip

Email Stef.Kunkel@gmail.com

Speaking: For Against Information

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

Representing Conservancy of Southwest 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)

Nov 19 2015
Meeting Date

552
Bill Number (if applicable)

Topic Water

Amendment Barcode (if applicable)

Name David Childs

Job Title Counsel

Address 119 S. Monroe Street Suite 300

Phone 850 222-7500

Tallahassee FL 32303
City State Zip

Email DAVIDC@H6SLAW.COM

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

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)

11/19/15
Meeting Date

SB 552
Bill Number (if applicable)

Topic Environmental Resources

Amendment Barcode (if applicable)

Name Jonathan Rees

Job Title Deputy Director of Legislative Affairs

Address 400 S. Monroe St.

Phone (850) 617-2700

Tallahassee FL 32399
City State Zip

Email Jonathan.Rees@freshfromflorida.com

Speaking: For Against Information

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

Representing Florida Department of Agriculture and Consumer Services

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)

11-19-15

Meeting Date

552

Bill Number (if applicable)

Topic Water Policy

Amendment Barcode (if applicable)

Name Ernie Barnett

Job Title _____

Address 4524 Gun Club Rd.

Phone 850 284 6178

Street

West Palm Beach, FL 33415

Email barnett@florida-water-and-land.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Land 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.

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)

11/19/15
Meeting Date

552
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name CRAIG VARN

Job Title DEP GENERAL COUNSEL

Address 3900 COMMONWEALTH BLVD

Phone (850) 245-2295

TALL FL 32399
City State Zip

Email _____

Speaking: For Against Information

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

Representing DEP

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:
Appropriations, *Chair*
Appropriations Subcommittee on
General Government
Banking and Insurance
Reapportionment
Rules
Joint Legislative Budget Commission,
Alternating Chair

SENATOR TOM LEE
Deputy Majority Leader
24th District

November 18, 2015

The Honorable Andy Gardiner, President
The Florida Senate
404 South Monroe Street
Suite 409, The Capitol
Tallahassee, FL 32399

Dear President Gardiner:

I respectfully request to be excused from tomorrow's meeting of the Senate Appropriations Committee.

Sincerely,

A handwritten signature in blue ink that reads "Tom Lee".

Tom Lee
Florida State Senator
24th District

A handwritten note in blue ink that reads "OK" followed by "R. Richter" and "18 Nov 2015".

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Communications, Energy, and Public Utilities, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Health
and Human Services
Health Policy
Transportation

JOINT COMMITTEES:
Joint Administrative Procedures Committee
Joint Legislative Budget Commission

SENATOR DENISE GRIMSLEY

Deputy Majority Leader
21st District

November 9, 2015

LAB

The Honorable Tom Lee, Chair
Senate Committee on Appropriations
Room 201, The Capitol
404 S. Monroe Street
Tallahassee, Florida 32399-1100

Dear Chair Lee:

I respectfully request permission to be excused from our committee meeting on November 19, 2015. I have a previous commitment in my district to attend.

Sincerely,

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

Denise Grimsley
Senator, District 21

cc: Cindy Kynoch, Staff Director
Senate Committee on Appropriations

DG/mm

REPLY TO:

- 205 South Commerce Avenue, Suite A, Sebring, Florida 33870 (863) 386-6016
- 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

November 17, 2015

LAB

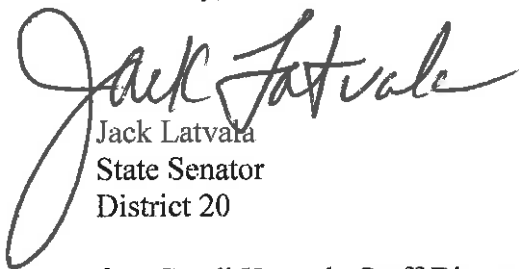
The Honorable Tom Lee, Chair
Senate Appropriations Committee
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Lee:

I respectfully request that I be excused from attending the Appropriations Committee meeting on November 19, 2015. I unfortunately have a prior obligation that requires me to leave Tallahassee before the 1:00 committee meeting.

Thank you for your understanding and consideration.

Sincerely,


Jack Latvala
State Senator
District 20

Cc: Cyndi Kynoch, Staff Director; Alicia Weiss, Administrative Assistant

REPLY TO:

26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Banking and Insurance, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Regulated Industries
Rules

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District



November 18, 2015

The Honorable Tom Lee, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Lee:

I respectfully asked to be excused from the Appropriations Committee meeting scheduled for Thursday, November 19, 2015. I am the chair of the Florida Defense Support Task Force which is meeting here in Tallahassee tomorrow and will be attending that meeting.

Sincerely,



Garrett Richter

cc: Cindy Kynoch, Staff Director

REPLY TO:

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Appropriations Committee

Judge:

Started: 11/19/2015 1:02:30 PM

Ends: 11/19/2015 2:46:57 PM

Length: 01:44:28

1:02:30 PM Sen. Benacquisto (Chair)
1:03:37 PM S 552
1:03:38 PM Sen. Dean
1:08:56 PM Sen. Benacquisto
1:09:06 PM Sen. Gaetz
1:09:53 PM Sen. Dean
1:11:00 PM Sen. Gaetz
1:11:37 PM Sen. Dean
1:12:15 PM Ellen Rogers, Staff Director, Environmental Preservation and Conservation Committee
1:13:07 PM Sen. Negron
1:13:29 PM Sen. Dean
1:13:51 PM Sen. Negron
1:13:59 PM Sen. Dean
1:14:07 PM E. Rogers
1:14:12 PM Sen. Negron
1:14:36 PM Sen. Dean
1:14:40 PM Sen. Negron
1:14:51 PM Sen. Dean
1:14:54 PM Sen. Benacquisto
1:15:02 PM Sen. Hays
1:15:18 PM Sen. Dean
1:16:14 PM Sen. Hays
1:16:58 PM E. Rogers
1:17:53 PM Sen. Dean
1:18:30 PM Sen. Hays
1:18:51 PM Sen. Dean
1:19:06 PM Sen. Montford
1:20:10 PM Sen. Dean
1:20:25 PM Sen. Montford
1:21:00 PM Sen. Dean
1:21:15 PM Sen. Montford
1:21:40 PM Sen. Dean
1:22:29 PM Sen. Benacquisto
1:22:46 PM Am. 813070
1:22:55 PM Sen. Simmons
1:23:00 PM Sen. Benacquisto
1:23:09 PM Am. 746282
1:23:12 PM Sen. Simmons
1:23:16 PM Sen. Dean
1:23:27 PM Sen. Benacquisto
1:23:50 PM Am. 958272
1:23:54 PM Sen. Simmons
1:23:57 PM Sen. Dean
1:24:15 PM Sen. Benacquisto
1:24:28 PM S 552 (cont.)
1:24:36 PM Ernie Barnett, Florida Land Council (waives in support)
1:24:44 PM Jonathan Rees, Deputy Director of Legislative Affairs, Florida Department of Agriculture and Consumer Services (waives in support)
1:24:50 PM David Childs, Counsel, Florida Chamber of Commerce (waives in support)
1:25:02 PM Stephanie Kunkel, Conservancy of Southwest FL
1:26:16 PM Brian Pitts, Trustee, Justice-2-Jesus
1:28:25 PM Vani Ungapen, Director of Legislative Research, Florida Realtors (waives in support)

1:28:28 PM Lance Pierce, Assistant Director of State Legislative Affairs, Florida Farm Bureau (waives in support)
1:28:31 PM Beth Lewis, Director of Water Resources, The Nature Conservancy (waives in support)
1:28:38 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
1:28:51 PM David Cullen, Sierra Club Florida
1:30:42 PM Ryan Smart, President, 1000 Friends of Florida
1:32:24 PM Sen. Galvano
1:32:59 PM Sen. Negron
1:33:40 PM Craig Varn, Department of Environmental Protection, General Counsel
1:33:45 PM Sen. Negron
1:34:04 PM C. Varn
1:34:27 PM Sen. Negron
1:34:34 PM C. Varn
1:34:39 PM Sen. Negron
1:34:58 PM C. Varn
1:35:04 PM Sen. Benacquisto
1:35:10 PM Sen. Gaetz
1:37:12 PM Sen. Dean
1:37:43 PM Sen. Negron
1:39:01 PM Sen. Simmons
1:40:24 PM Sen. Hays
1:40:59 PM Sen. Dean
1:42:05 PM Sen. Benacquisto
1:43:03 PM S 230
1:43:28 PM Sen. Dean
1:43:44 PM Sen. Benacquisto
1:43:50 PM Am. 429010
1:44:09 PM Sen. Benacquisto
1:44:15 PM Am. 827048
1:44:25 PM Sen. Dean
1:44:37 PM Sen. Benacquisto
1:44:45 PM S 230 (cont.)
1:44:58 PM Michael Daniels, Executive Director, Florida Alliance for Assistive Services and Technology (waives in support)
1:45:06 PM Brian Pitts, Trustee, Justice-2-Jesus
1:46:12 PM Sen. Dean
1:46:31 PM Sen. Benacquisto
1:47:20 PM S 184
1:47:24 PM Sen. Bean
1:48:13 PM Sen. Benacquisto
1:48:21 PM Am. 368388
1:48:31 PM Sen. Bean
1:48:36 PM Sen. Benacquisto
1:48:50 PM S 184 (cont.)
1:48:59 PM Col. Mike Prendergrast, Executive Director, Department of Veterans' Affairs (waives in support)
1:49:12 PM Brian Pitts, Trustee, Justice-2-Jesus
1:50:31 PM Sen. Benacquisto
1:50:50 PM Sen. Bean
1:51:06 PM Sen. Benacquisto
1:52:05 PM S 158
1:52:11 PM Sen. Hutson
1:52:27 PM Sen. Benacquisto
1:53:18 PM S 190
1:53:20 PM Sen. Hutson
1:53:35 PM Sen. Joyner
1:53:45 PM Sen. Hutson
1:53:53 PM Sen. Joyner
1:54:05 PM Sen. Hutson
1:54:28 PM Sen. Benacquisto
1:54:35 PM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
1:54:48 PM Sen. Benacquisto
1:55:30 PM S 218
1:55:34 PM Sen. Hutson

1:56:08 PM	Sen. Joyner
1:56:25 PM	Sen. Hutson
1:56:45 PM	Sen. Joyner
1:56:59 PM	Sen. Hutson
1:57:42 PM	Sen. Benacquisto
1:57:57 PM	Sen. Hutson
1:58:44 PM	S 92
1:58:55 PM	Sen. Evers
2:00:07 PM	Sen. Joyner
2:00:14 PM	Sen. Evers
2:00:18 PM	Am. 971540
2:00:27 PM	Sen. Evers
2:01:01 PM	Sen. Benacquisto
2:01:15 PM	S 92 (cont.)
2:01:23 PM	Sen. Evers
2:01:26 PM	Sen. Benacquisto
2:02:14 PM	S 86
2:02:23 PM	Sen. Negron
2:03:51 PM	Sen. Benacquisto
2:03:59 PM	Am. 784986
2:04:03 PM	Sen. Negron
2:04:38 PM	Sen. Benacquisto
2:04:45 PM	Sen. Margolis
2:05:11 PM	Sen. Garcia
2:06:02 PM	Sen. Negron
2:06:33 PM	Sen. Benacquisto
2:06:40 PM	S 86 (cont.)
2:06:55 PM	Joseph Sabag, Attorney
2:09:02 PM	Daniel Williams, Bishop
2:10:45 PM	Michael Hohman, Pastor, National Day of Prayer Task Force and Transform Jacksonville & Northeast FL
2:12:12 PM	Elyssa Ronik, FSU Student
2:13:16 PM	Angelo D'Amico, President and CEO/Owner D'Amico International NM, Inc.
2:14:30 PM	Dr. Russell McClanahan, Archbishop, Communion of Evangelical Episcopal Church
2:15:40 PM	Jenna Lazarus, FSU Student (waives in support)
2:15:46 PM	Daniel Aronstam, Fellow, Stand With US (waives in support)
2:16:09 PM	Brian Pitts, Trustee, Justice-2-Jesus
2:18:16 PM	Aaron Ellis, FSU PhD student, School of Theatre
2:21:05 PM	Greg Pound, citizen
2:21:54 PM	Sen. Ring
2:23:35 PM	Sen. Benacquisto
2:23:43 PM	Sen. Garcia
2:24:21 PM	Sen. Benacquisto
2:25:07 PM	Sen. Simmons
2:25:44 PM	Tab 1 - Presentation on Cyber Security by the Agency for State Technology
2:25:46 PM	Jason Allison, Executive Director/CIO, Agency for State Technology
2:39:11 PM	Sen. Hays
2:39:37 PM	J. Allison
2:39:53 PM	Sen. Montford
2:40:13 PM	J. Allison
2:40:21 PM	Sen. Montford
2:40:30 PM	J. Allison
2:40:36 PM	Sen. Montford
2:40:43 PM	J. Allison
2:40:48 PM	Sen. Montford
2:40:56 PM	J. Allison
2:41:14 PM	Sen. Altman
2:41:29 PM	J. Allison
2:41:38 PM	Danielle Alvarez, Chief Security Officer
2:42:11 PM	Sen. Ring
2:43:14 PM	J. Allison
2:44:23 PM	Sen. Ring
2:46:27 PM	Sen. Benacquisto

2:46:28 PM

2:46:29 PM

2:46:30 PM

2:46:31 PM

2:46:32 PM