

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Flores, Chair
Senator Farmer, Vice Chair

MEETING DATE: Monday, December 9, 2019

TIME: 4:00—6:00 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Flores, Chair; Senator Farmer, Vice Chair; Senators Broxson, Pizzo, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 326 Environment and Natural Resources / Perry (Similar H 73)	Environmental Regulation; Specifying requirements for contracts between residential recycling collectors or recovered materials processing facilities and counties or municipalities for the collection or processing of residential recycling material; providing that a residential recycling collector or recovered materials processing facility is not required to collect, transport, or process contaminated recyclable material except pursuant to specified contractual requirements after a contract is executed; prohibiting local governments from requiring further verification from the Department of Environmental Protection for certain projects, etc. EN 11/04/2019 Fav/CS CA 12/09/2019 Favorable RC	Favorable Yeas 5 Nays 0
2	SB 504 Perry (Similar H 279)	Local Government Public Construction Works; Requiring the governing board of a local government to consider estimated costs of certain projects using generally accepted cost-accounting principles that account for specified costs when the board is making a specified determination; prohibiting a local government from performing a project using its own services, employees, and equipment if the project requires an increase in the number of government employees or an increase in certain capital expenditures, etc. CA 12/09/2019 Favorable GO RC	Favorable Yeas 5 Nays 0
3	SB 384 Baxley (Identical H 6025)	Harris Chain of Lakes; Repealing provisions relating to the Harris Chain of Lakes Restoration Council, etc. EN 11/13/2019 Favorable CA 12/09/2019 Favorable RC	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Monday, December 9, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 670 Gruters (Identical H 457, Compare S 630)	Smoking on Public Beaches and in Public Parks; Authorizing counties to further restrict smoking within the boundaries of certain public beaches and public parks; prohibiting smoking within the boundaries of a state park, etc. CA 12/09/2019 Fav/CS IT RC	Fav/CS Yeas 5 Nays 0
5	SB 712 Mayfield (Compare H 153, H 405, S 640, S 686)	Water Quality Improvements; Citing this act as the "Clean Waterways Act"; requiring the Department of Environmental Protection, in coordination with the Department of Health, to develop a report to be submitted to the Legislature by a specified date on the impacts of a type two transfer of the onsite sewage program of the Department of Health to the Department of Environmental Protection; revising the requirements for a basin management action plan for an Outstanding Florida Spring; requiring the department, subject to legislative appropriation, to establish a real-time water quality monitoring program; establishing a wastewater grant program within the Department of Environmental Protection, etc. CA 12/09/2019 Fav/CS AEG AP	Fav/CS Yeas 5 Nays 0
6	SB 620 Hooper (Identical H 215)	Firefighters' Bill of Rights; Requiring that witnesses be interviewed and certain information be provided to a firefighter subjected to interrogation before the interrogation is conducted; prohibiting a firefighter from being threatened with certain disciplinary action during the course of an interrogation; requiring that a firefighter be notified and provided certain information before certain disciplinary actions are taken; requiring that certain information be kept confidential and exempt in accordance with existing law, etc. CA 12/09/2019 Favorable GO RC	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Monday, December 9, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 364 Rader (Similar CS/H 39, S 340)	Independent Living Task Force; Establishing the Independent Living Task Force within the Florida Housing Finance Corporation for certain purposes; requiring the corporation to use existing and available resources to administer and support the activities of the task force; requiring the task force to submit a report to the Governor and the Legislature by a specified date, etc. CF 11/05/2019 Favorable CA 12/09/2019 Fav/CS RC	Fav/CS Yeas 5 Nays 0
8	SB 484 Simmons (Similar H 281)	First Responder Property Tax Exemption; Revising the definition of the term "first responder" for purposes of eligibility for the tax exemption to include a law enforcement officer or firefighter who, before becoming a resident of this state, sustained a total and permanent disability in the line of duty while serving as a full-time paid law enforcement officer or firefighter in another state; defining the term "law enforcement officer," etc. CA 12/09/2019 Favorable FT AP	Favorable Yeas 5 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 326

INTRODUCER: Environment and Natural Resources Committee and Senator Perry

SUBJECT: Environmental Regulation

DATE: November 14, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.	Paglialonga	Yeatman	CA	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 326 requires local governments to address the contamination of recyclable material in contracts for the collection, transportation, and processing of residential material. The bill applies to contracts between a local government and a residential recycling collector or recovered materials processing facility that are executed or renewed after October 1, 2020. Such contracts are required to define the term “contaminated recyclable material.” The bill specifies topics that must be addressed in local government contracts with both residential recycling collectors and recovered materials processing facilities.

The bill prohibits local governments from requiring a person claiming an exemption from environmental resource permitting requirements to provide further verification from the Department of Environmental Protection. The bill also changes the specific criteria for the replacement or repair of a dock or pier that is exempt from environmental resource permitting requirements.

II. Present Situation:

Local Government Solid Waste Responsibilities

Each Florida county has the responsibility and authority to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the

county.¹ Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county.² Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities.³ Under Florida law, “recycling” is defined as “any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or intermediate or final products.”⁴

Each Florida county must have a recyclable materials recycling program that has a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020.⁵ These programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream before final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers.
- Aluminum cans.
- Steel cans.
- Glass.
- Plastic bottles.
- Cardboard.
- Office paper.
- Yard trash.⁶

Each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.⁷ Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs.⁸ Certain activities are eligible for special credit towards achieving a county’s recycling goals, including the use of solid waste as a fuel in a renewable energy facility, the innovative use of yard trash or other clean wood waste or paper waste, and providing opportunities to recycle in counties with smaller populations.⁹ In order to assess progress, counties are required to provide information on their solid waste management programs and recycling activities to the Department of Environmental Protection (DEP) by April 1 of each year.¹⁰

¹ Section 403.706(1), F.S. Municipalities may also be authorized to construct and operate solid waste disposal facilities, if certain statutory requirements are met; Fla. Admin. Code Ch. 62-701.

² *Id.*

³ *Id.*

⁴ Section 403.703(31), F.S.

⁵ Section 403.706(2)(a), F.S. These are interim goals to help Florida reach the goal of recycling at least 75% of municipal solid waste by 2020; Ch. 2010-143, s. 7, Laws of Fla.; *see* s. 403.7032(2), F.S.

⁶ Section 403.706(2)(f), F.S.

⁷ Section 403.706(3), F.S.

⁸ Section 403.706(2)(a), F.S.

⁹ Section 403.706(4), F.S.

¹⁰ Section 403.706(7), F.S.; Fla. Admin. Code R. 62-716.450.

“Municipal solid waste” includes any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service.¹¹ The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations. DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to DEP that:

- The achievement of the goal would harm the financial obligations of the county that are directly related to the county’s waste-to-energy facility; and
- The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.¹²

The goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county’s waste-to-energy facility.¹³

In the development and implementation of a curbside recyclable materials collection program, a county or municipality must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality.¹⁴ Local governments are authorized to enact ordinances that require and direct all residential properties, multifamily dwellings, and apartment complexes and industrial, commercial, and institutional establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government.¹⁵ A market must exist for the recyclable materials, and the local government must specifically intend for them to be recycled.¹⁶ Local governments are authorized to provide for the collection of recyclable materials. Such ordinances may include but are not limited to, prohibiting any person from knowingly disposing of recyclable materials that are designated by the local government and that ensure the collection of recovered materials as necessary to protect public health and safety.¹⁷

A local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or a facility designated by the local government;
- Restrict such a generator’s right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has registered with DEP; or
- Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.¹⁸

¹¹ Section 403.706(5), F.S.

¹² Section 403.706(6), F.S.

¹³ *Id.*

¹⁴ Section 403.706(9), F.S.

¹⁵ Section 403.706(21), F.S.

¹⁶ *Id.*

¹⁷ Section 403.706(21), F.S.

¹⁸ Section 403.7046(3), F.S.

Local governments may require a commercial establishment to source separate the recovered materials generated on the premises.¹⁹

Florida's Recycling Goal

In 2008, in recognition of the volume of waste generated by Floridians and visitors every year and the value of some of these discarded commodities, the Legislature set a statewide goal to recycle at least 75 percent of the municipal solid waste that would otherwise be disposed of in waste management facilities, landfills, or incineration facilities by 2020.²⁰ DEP has established numerous programs and initiatives to reach that goal.²¹ In 2010, the Legislature established the interim goals that counties must pursue leading up to 2020.²²

In those years, if the recycling rate does not meet the statutory thresholds for these interim goals, DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives.²³ This report must identify those additional programs or statutory changes needed to achieve the state's recycling goals.²⁴ Florida achieved the interim recycling goals established for 2012 and 2014, but Florida's recycling rate for 2016 was 56 percent, falling short of the interim recycling goal of 60 percent by 2017.²⁵ DEP submitted the most recent report in 2017.²⁶ The current practices in Florida are not expected to increase the recycling rate beyond the 56 percent rate significantly.²⁷ The most recent interim goal was 70 percent by January 1, 2019, and DEP is expected to submit a report before the 2020 session. Without significant changes to Florida's current approach, the state's recycling rate will likely fall short of the 2020 goal of 75 percent.²⁸

DEP, in partnership with material recycling facilities (MRFs) across the state, has developed a statewide public education campaign, entitled "Rethink. Reset. Recycle."²⁹ The campaign addresses the need to educate Florida residents on how to reduce single-stream curbside recycling contamination. Plastic bags, cords, clothing, and packaging are causing contamination problems that can shut down MRF operations and cause good loads of recyclables to become trash. The campaign also serves to remind Florida residents of the basics of curbside recycling: clean and dry aluminum and steel cans, plastic bottles and jugs, and paper and cardboard. DEP is also working on the following recycling options:

- Evaluating the implications of shifting from a weight-based recycling goal to sustainable materials management processes.

¹⁹ Section 403.7046(3)(a), F.S.

²⁰ Section 403.7032, F.S.; Ch. 2008-227, s. 95, Laws of Fla.; see DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 5 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 29, 2019).

²¹ DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited Oct. 29, 2019).

²² Section 403.706(2)(a), F.S.

²³ Section 403.706(2)(e), F.S.

²⁴ *Id.*

²⁵ DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 5 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 30, 2019).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 11.

- Researching the concept of moving from a weight-based recycling goal of 75 percent by 2020 to market-specific goals such as a food diversion goal or an organics recycling goal.
- Engaging Florida's state universities and the Florida Department of Education to review potential K-12 curriculum programs emphasizing waste reduction and recycling practices.
- Continuing to work with state agencies to identify recycling/cost-saving measures specific to their operations.
- Providing counties not achieving the interim recycling goals with assistance in analyzing, planning, and executing opportunities to increase recycling.³⁰

Many counties and municipalities have instituted single-stream recycling programs.³¹ Single-stream recycling programs allow all accepted recyclables to be placed in a single, curbside recycling cart, comingling materials from paper and plastic bottles to metal cans and glass containers. Single-stream recycling programs have been marginally successful in providing curbside collection efficiency by increasing the number of recyclables collected and residential participation. While there are many advantages to single-stream recycling, it has not consistently yielded positive results for the recycling industry. The unexpected consequence of single-stream recycling has been the collection of unwanted materials and poorly sorted recyclables, resulting in increased contamination originating in the curbside recycling cart.³²

Contamination hinders processing at MRFs when unwanted items are placed into recycling carts.³³ For example, plastic bags are often harmful to the automated equipment typically used to process and separate recyclable materials from single-stream collections. While MRFs are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process resulting in additional sorting, processing, energy consumption, and other increased costs due to equipment downtime, repair, or replacement needs. In addition to increased recycling processing costs, contamination also results in poorer quality recyclables, and increased rejection and landfilling of unusable materials. Although some local governments have implemented successful single-stream recycling programs with low contamination rates, contamination rates for other programs have continued to rise, in some cases reaching contamination rates of more than 30-40 percent by weight.³⁴

Recycling Markets

Until 2017, China consumed over 50 percent of the recycled paper and plastic in the world, including 70 percent of the plastics collected for recycling in the U.S.³⁵ In 2017, China banned the import of 24 recyclable materials, such as post-consumer plastics and mixed paper, and also

³⁰ *Id.*

³¹ *Id.* at 13.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1 (Apr. 2018), available at https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf (last visited Oct. 29, 2019); Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, Yale Environment 360 (March 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Oct. 29, 2019).

announced a 0.5 percent contamination standard for most recyclables not named in the ban.³⁶ In 2018, the ban was expanded to include post-industrial plastics and a variety of scrap metals, and China implemented pre-shipment inspection requirements for inbound loads of scrap material.³⁷ The ban has caused shipments of recyclables to other Southeast Asian countries to increase dramatically, resulting in nations including Malaysia, Indonesia, Thailand, and Vietnam enacting policies restricting the import of recyclable materials.³⁸

China's recycling ban has created substantial challenges around the world for the solid waste and recycling industry.³⁹ The loss of the Chinese export markets has caused recyclable materials to be sent to landfills or burned.⁴⁰ China's ban and higher standards for contamination are leading to higher costs and lower revenues for the U.S. recycling industry.⁴¹ In Florida, local governments are struggling with issues such as rising costs of processing and high contamination rates.⁴² DEP reports that these changes in the markets create challenges for Florida as it tries to increase its recycling rates because future growth is dependent on healthy markets.⁴³ The increased supply of recyclable materials and decreased demand from end markets has resulted in a depression of commodities priced in the recycling industry.⁴⁴ In response, DEP has utilized state programs and engaged various stakeholders to develop and grow Florida's recycling markets.⁴⁵

³⁶ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*, <https://resource-recycling.com/recycling/2018/02/13/green-fence-red-alert-china-timeline/> (last visited Oct. 29, 2019); National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1 (Apr. 2018), available at https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf (last visited Oct. 29, 2019).

³⁷ *Id.*; see Resource Recycling, *China Reiterates Total Ban and Tries to Define "Solid Waste"* (Apr. 9, 2019), available at <https://resource-recycling.com/recycling/2019/04/09/china-reiterates-total-ban-and-tries-to-define-solid-waste/> (last visited Oct. 31, 2019). China is planning a total ban on virtually all recovered material imports.

³⁸ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*, <https://resource-recycling.com/recycling/2018/02/13/green-fence-red-alert-china-timeline/> (last visited Oct. 29, 2019); Christopher Joyce, *Where Will Your Plastic Trash Go Now That China Doesn't Want It?*, NPR (Mar. 13, 2019), <https://www.npr.org/sections/goatsandsoda/2019/03/13/702501726/where-will-your-plastic-trash-go-now-that-china-doesnt-want-it> (last visited Oct. 29, 2019).

³⁹ See Brooks et. al., *The Chinese Import Ban and Its Impact on Global Plastic Waste Trade*, SCIENCES ADVANCES (Jun. 20, 2019), available at <https://advances.sciencemag.org/content/advances/4/6/eaat0131.full.pdf> (last visited Oct. 29, 2019).

⁴⁰ Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, Yale Environment 360 (March 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Oct. 29, 2019).

⁴¹ National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1-2 (Apr. 2018), available at https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf (last visited Oct. 29, 2019).

⁴² Waste Dive, *How Recycling is Changing in All 50 States* (June 5, 2019), <https://www.wastedive.com/news/what-chinese-import-policies-mean-for-all-50-states/510751/> (last visited Oct. 31, 2019).

⁴³ DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 15 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 29, 2019).

⁴⁴ *Id.*

⁴⁵ *Id.* at 15-17.

Exceptions to Requirements for Environmental Resource Permitting

DEP's Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows.⁴⁶ The ERP program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters).⁴⁷

For some low impact activities and projects that are narrow in scope, an ERP permit is not required under state law.⁴⁸ Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to DEP.⁴⁹ A broad array of activities are expressly exempt from the ERP program, these include but are not limited to: the installation of overhead transmission lines; installation and maintenance of boat ramps; work on seawalls and mooring pilings, swales, and footbridges; the removal of aquatic plants; construction and operation of floating vessel platforms; and work on county roads and bridges.⁵⁰ Included among activities exempt from the requirement to obtain an ERP permit is the replacement or repair of existing docks and piers if fill material is not used and the replaced or repaired dock or pier is in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired.⁵¹ Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity.⁵²

III. Effect of Proposed Changes:

Section 1 amends s. 403.706, F.S., which establishes the responsibilities and authority of local governments to provide facilities and programs for solid waste management and recycling.

The bill defines a “residential recycling collector” as “a for-profit business entity that collects and transports residential recyclable material on behalf of a county or municipality.”

The bill states that after a contract is executed, a residential recycling collector is not required to collect or transport contaminated recycling material, except according to a contract consistent with the requirements below. The bill requires that each contract between a residential recycling collector and a county or municipality for the collection or transport of waste, and each request for proposal or other solicitation for the collection of residential recycling material, include all of the following:

- A definition of “contaminated recyclable material” that is appropriate for the local community.

⁴⁶ Chapter 373, p. IV, F.S.; Fla. Admin. Code Ch. 62-330; DEP, *DEP 101: Environmental Resource Permitting*, available at: <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Oct. 29, 2019).

⁴⁷ Fla. Admin. Code R. 62-330.010. The responsibilities for implementing the statewide ERP program are partially delegated by DEP to the water management districts and certain local governments.

⁴⁸ Section 403.813, F.S.

⁴⁹ Fla. Admin. Code Rules 62-330.050(1) and 62-330.051(2).

⁵⁰ Section 403.813(1), F.S.; Fla. Admin. Code R. 62-330.051.

⁵¹ Section 403.813(1)(d), F.S.

⁵² Section 403.813(1), F.S.

- The respective strategies and obligations of the local government and residential recycling collector to reduce the amount of contaminated recyclable material being collected.
- The procedures for identifying, documenting, managing, and rejecting residential recycling containers, truckloads, carts, or bins containing contaminated recyclable material.
- The remedies authorized to be used if a container, cart, or bin contains contaminated recyclable material.
- The education and enforcement measures that will be used to reduce the amount of contaminated recyclable material.

The bill states that after a contract is executed, a recovered materials processing facility is not required to process contaminated recyclable material, except according to a contract consistent with the requirements below. The bill requires that each contract between a recovered materials processing facility and a county or municipality for processing residential recyclable material, and each request for proposal or other solicitation for processing residential recyclable material, include all of the following:

- A definition of “contaminated recyclable material” that is appropriate for the local community.
- The respective strategies and obligations of the local government and the facility to reduce the amount of contaminated recyclable material being collected and processed.
- The procedures for identifying, documenting, managing, and rejecting residential recycling containers, truckloads, carts, or bins containing contaminated recyclable materials.
- The remedies authorized to be used if a container or truckload contains contaminated recyclable material.

These contractual requirements apply only to the collection and processing of material obtained from residential recycling activities. As used in the bill, the term “contaminated recyclable material” refers only to recyclable material that is commingled or mixed with solid waste or other nonhazardous material. Contaminated recyclable material, as used in the bill, does not include “contamination” as used in programs such as brownfield site cleanup, water quality remediation, drycleaning-solvent-contaminated site cleanup, petroleum-contaminated site cleanup, cattle dipping vat site cleanup, or other hazardous waste remediation.

The contractual requirements apply to each contract between a municipality or county and a residential recycling collector or recovered materials processing facility executed or renewed after October 1, 2020.

Section 2 amends s. 403.813, F.S., which identifies certain activities for which an environmental resource permit is not required.

The bill prohibits a local government from requiring a person claiming an exemption under s. 403.813(1), F.S., to provide further verification from the Department of Environmental Protection.

The bill revises the exemption in current law from environmental resource permitting for the replacement or repair of existing docks or piers. Rather than requiring that the replaced or repaired dock or pier be in the same location and of the same configuration and dimensions as

the dock or pier being replaced or repaired, the bill states that it must be within 5 feet of the same location and no larger than the existing dock or pier. No additional aquatic resources may be adversely and permanently impacted by such replacement or repair.

Section 3 states that this act shall take effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides recycling collectors the right to refuse collection of recyclable materials that are deemed contaminated under the contract. This right may produce an indeterminate positive fiscal impact for private sector recycling collectors and facilities through a reduction of costs associated with removing contaminated material from recyclables.

The bill may also have a positive fiscal impact on the private sector by expanding the permit exception for the replacement or repair of existing docks and piers if it results in more docks being built or repaired.

C. Government Sector Impact:

The bill may have a negative fiscal impact on local governments that must negotiate new required contract terms, including defining “contaminated recyclable materials,” with residential recycling collectors and recovered materials processing facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.706, 403.813

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 Environment and Natural Resources Committee on November 4, 2019:

- Deletes the requirement that the definition of “contaminated recyclable material” in certain local government contracts must take into consideration the available markets for recyclable material, available waste composition studies, and other relevant factors.
- Clarifies that after the execution of a contract is when a residential recycling collector or recycled material processing facility is not required to collect, transport, or process contaminated recyclable material except pursuant to specified contractual requirements.

B. Amendments:

None.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 12/9/19

Bill Number (if applicable) SB0326

Topic ENVIRONMENTAL REGULATION

Amendment Barcode (if applicable)

Name CHARLIE LATHAM

Job Title Gov. Affairs

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing HOUSE MANAGEMENT INC. 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)

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking:

☒

For

☐

Against

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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

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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 Community Affairs

BILL: SB 504

INTRODUCER: Senator Perry

SUBJECT: Local Government Public Construction Works

DATE: November 21, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Yeatman	CA	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 504 specifies the manner in which the estimated cost of a public building construction project must be determined when a local government governing board is deciding whether it is in the local government's best interest to perform the project using its own services, employees, and equipment. Specifically, the bill requires the estimated cost of the project to be determined using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment costs and maintenance, insurance costs, and the cost of materials.

For county construction and reconstruction projects of roads and bridges utilizing proceeds from the constitutional gas tax, the bill specifies that total construction project costs must include all costs associated with performing and completing the work, including employee compensation and benefits, equipment cost and maintenance, insurance costs, and the cost of materials.

II. Present Situation:

Procurement of Construction Services

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. The Department of Management Services is responsible for establishing the following by rule:

- Procedures for determining the qualifications and responsibilities of potential bidders prior to advertisement for and receipt of bids for building construction contracts;
- Procedures for awarding each state agency construction project to the lowest qualified bidder;
- Procedures to govern negotiations for construction contracts and contract modifications when such negotiations are determined to be in the best interest of the state; and

- Procedures for entering into performance-based contracts for the development of public facilities when those contracts are determined to be in the best interest of the state.¹

Counties, municipalities, special districts, and other political subdivisions seeking to construct or improve a public building, structure, or other public construction works must competitively award the project if the projected cost is in excess of \$300,000.² For electrical work, local governments must competitively award projects estimated to cost more than \$75,000. Section 255.20(1), F.S., provides that the term “competitively award” means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation.

Exemption from Competitive Solicitation for Local Governments Performing Work

If the governing board of a local government seeking to construct or improve a public building or structure conducts a public meeting and finds by majority vote that it is in the public’s best interest to perform the project using its own services, employees, and equipment, then the local government is exempt from the requirement to competitively award the contract for the project.³ The meeting of the governing board must have been publicly noticed at least 21 days before the date of the public meeting at which the governing board takes final action. The notice must identify the project, the components and scope of the project, and the estimated cost of the project using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the project, including employee compensation and benefits, equipment cost and maintenance, insurance costs, and materials. The notice must state that the purpose of the meeting is to consider whether it is in the best interest of the public to perform the project using the local government’s own services, employees, and equipment.⁴

At the public meeting, the governing board must allow any qualified contractor or vendor who could have been awarded the project had the project been competitively bid to present evidence regarding the project and the accuracy of the local government’s estimated cost of the project. In making a determination, the governing board must consider the estimated cost of the project and the accuracy of the estimated cost in light of any other information that may be presented at the public meeting. In addition, the board must consider whether the project requires an increase in the number of government employees or an increase in capital expenditures for public facilities, equipment, or other capital assets. The governing body may further consider the impact on local economic development, the impact on small and minority business owners, the impact on state and local tax revenues, whether the private sector contractors provide health insurance and other benefits equivalent to those provided by the local government, and any other factor relevant to what is in the public’s best interest.⁵

¹ Section 255.29, F.S.

² Section 255.20(1), F.S.

³ Section 255.20(1)(c)9., F.S.

⁴ *Id.*

⁵ *Id.*

Construction and Maintenance of Roads and Bridges

Current law authorizes counties to employ labor and provide road equipment to construct and open new roads or bridges and to repair and maintain any existing roads and bridges under certain circumstances.⁶ However, counties must competitively bid and award to the lowest bidder all projects for construction and reconstruction of roads and bridges, including resurfacing, that utilize the proceeds of the 80 percent portion of the surplus of the constitutional gas tax.⁷ An exception to this requirement allows a county to use its own forces for these construction and reconstruction projects under the following circumstances:

- Construction and maintenance in emergency situations;
- When a construction or reconstruction project has a total cumulative annual value not to exceed five percent of its 80-percent portion of the constitutional gas tax or \$400,000, whichever is greater; or
- When constructing sidewalks, curbing, accessibility ramps, or appurtenances incidental to roads and bridges if each project is estimated in accordance with generally accepted cost-accounting principles to have total construction project costs of less than \$400,000.⁸

In addition, if, after proper advertising, the county receives no bids for a specific project, the county may use its own forces to construct the project. A county is not prohibited from performing routine maintenance as authorized by law.⁹

III. Effect of Proposed Changes:

Section 1 amends s. 255.20, F.S., relating to local bids and contracts for public construction works. The bill specifies the manner in which the estimated cost of a public building construction project must be determined when a local government governing board is deciding whether it is in the local government's best interest to perform the project using its own services, employees, and equipment. The bill requires the estimated cost of the project to be determined using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment costs and maintenance, insurance costs, and the cost of materials.

The bill prohibits the local government from performing the project using its own services, employees, and equipment if the project requires an increase in the number of government employees or an increase in such capital expenditures.

The bill requires a local government that performs a public building construction project using its own services, employees, and equipment to disclose the actual costs of the project after completion to the Auditor General, who must review such disclosures as part of his or her routine audits of local governments.

⁶ See s. 336.41, F.S.

⁷ Section 336.41(4), F.S. An excise or license tax of 2 cents per net gallon, which is the tax as levied by s. 16, Art. IX of the State Constitution of 1885, as amended, and continued by s. 9(c), Art. XII of the 1968 State Constitution, as amended, which is therein referred to as the "second gas tax," and which is hereby designated the "constitutional fuel tax." See s. 206.41(1)(a), F.S.

⁸ *Id.*

⁹ *Id.*

Section 2 amends s. 336.41, F.S., relating to the construction and reconstruction of roads and bridges by counties utilizing proceeds from the constitutional gas tax. The bill specifies that estimated total construction project costs must include all costs associated with performing and completing the work, including employee compensation and benefits, equipment cost and maintenance, insurance costs, and the cost of materials.

Section 3 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any increase in projects awarded to private contractors would result in a positive fiscal impact on the private sector.

C. Government Sector Impact:

The bill may have an indeterminate positive fiscal impact on local governments if the estimated cost for a local government to complete a construction project causes governing boards to select private contractors that can perform the projects at a lower cost.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 255.20 and 336.41 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.)

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
12/09/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Perry) recommended the following:

Senate Amendment (with title amendment)

Before line 26
insert:

Section 1. Subsections (2) and (3) of section 218.80,
Florida Statutes, are amended to read:

218.80 Public Bid Disclosure Act.—

(2) It is the intent of the Legislature that a local
governmental entity shall disclose all of the ~~local governmental~~
~~entity's~~ permits or fees, including, but not limited to, all



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11 license fees, permit fees, impact fees, or inspection fees,
12 payable by the contractor to the unit of government that issued
13 the bidding documents or other request for proposal, unless such
14 permits or fees are disclosed in the bidding documents or other
15 request for proposal for the project at the time the project was
16 let for bid. It is further the intent of the Legislature to
17 prohibit local governments from halting construction to collect
18 any undisclosed permits or fees which were not disclosed or
19 included in the bidding documents or other request for proposal
20 for the project at the time the project was let for bid.

21 (3) Bidding documents or other request for proposal issued
22 for bids by a local governmental entity, or any public contract
23 entered into between a local governmental entity and a
24 contractor shall disclose each permit or fee which the
25 contractor will have to pay before or during construction and
26 shall include the dollar amount or the percentage method or the
27 unit method of all permits or fees which may be required ~~by the~~
28 ~~local government~~ as a part of the contract. If the request for
29 proposal does not require the response to include a final fixed
30 price, the local governmental entity is not required to disclose
31 any fees or assessments in the request for proposal. However, at
32 least 10 days prior to requiring the contractor to submit a
33 final fixed price for the project, the local governmental entity
34 shall make the disclosures required in this section. Any ~~of the~~
35 ~~local governmental entity's~~ permits or fees that ~~which~~ are not
36 disclosed in the bidding documents, other request for proposal,
37 or a contract between a local government and a contractor shall
38 not be assessed or collected after the contract is let. No local
39 government shall halt construction under any public contract or



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delay completion of the contract in order to collect any permits
or fees that ~~which~~ were not provided for or specified in the
bidding documents, other request for proposal, or the contract.

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

And the title is amended as follows:

Delete line 3

and insert:

construction works; amending s. 218.80, F.S.; revising
legislative intent; revising disclosure requirements
for bidding documents and other requests for proposals
issued for bids by a local government entity and
public contracts entered into between local
governmental entities and contractors; amending s.
255.20, F.S.;

APPEARANCE RECORD

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

12/09/2019

Meeting Date

504

Bill Number (if applicable)

Topic Local Gov't Public Construction Works

Name Warren Husband

Job Title

Address PO Box 10909

Phone (850) 205-9000

Street

Tallahassee

FL

32302

Email

City

State

Zip

Speaking: ☐ For ☐ Against☐ InformationWaive Speaking: ☒In Support ☐ Against ☐
(The Chair will read this information into the record.)

Representing Florida Associated General Contractors Council

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

12/9/19

Meeting Date

504

Bill Number (if applicable)

Topic Local Government Public Construction worksName Scott JenkinsJob Title Government Relations ConsultantAddress 215 S. Monroe St. Ste 500 Phone 850.661.0829

Street

City TPHState FL Zip 32301Email Sjenkins@carltonhills.comSpeaking: ☒ For ☐ Against ☐ Information ☐ Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing National Utility Contractors AssociationAppearing 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 Community Affairs

BILL: SB 384

INTRODUCER: Senator Baxley

SUBJECT: Harris Chain of Lakes

DATE: November 25, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Dyson	Rogers	EN	Favorable
2. Toman	Yeatman	CA	Favorable
3. _____	_____	RC	_____

I. Summary:

SB 384 eliminates the Harris Chain of Lakes Restoration Council and removes the Council's responsibilities in the Harris Chain of Lakes Restoration Program.

II. Present Situation:

The Harris Chain of Lakes

The Harris Chain of Lakes is located north and west of the Orlando metropolitan area in Lake and Orange Counties.¹ The chain contains tens of thousands of acres of lakes and wetlands and is at the headwaters of the Ocklawaha River.² The Harris Chain of Lakes consists of Lake Harris, Little Lake Harris, Lake Apopka, Lake Yale, Lake Eustis, Lake Griffin, Lake Dora, Lake Beauclair, and Lake Carlton.³ These lakes all drain into the 9,400-acre Lake Griffin, then water flows into the Ocklawaha River and into the St. Johns River.⁴ The lakes account for about 75,000 total acres of water and are a major fishing attraction for central Florida.⁵

¹ Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and what does the Restoration Council do?*, available at <https://harrischainoflakescouncil.com/> (last visited Nov. 22, 2019).

² *Id.*

³ Florida Fish and Wildlife Conservation Commission, *Harris Chain of Lakes*, available at <https://myfwc.com/fishing/freshwater/sites-forecasts/ne/lake-harris/> (last visited Nov. 22, 2019).

⁴ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (Nov. 2001), available at https://harrischainoflakescouncil.com/annualreports/2001/2001_Annual_Report.pdf (last visited Nov 22, 2019).

⁵ Florida Fish and Wildlife Conservation Commission, *Harris Chain of Lakes*, available at <https://myfwc.com/fishing/freshwater/sites-forecasts/ne/lake-harris/> (last visited Nov. 22, 2019).

Concern about pollution in the lakes began as early as the 1950s.⁶ For decades, the lakes were negatively impacted by discharges of phosphorus from farms and wastewater runoff.⁷ Lake Apopka, at the headwaters of the Harris Chain of Lakes, became Florida's most polluted large lake.⁸ By the year 2000, loss of fish and bird species, declining water quality, and toxic algae were costing the area millions of dollars within the, tourism, recreational boating, and real estate industries.⁹

The lakes were considered to be “impaired water bodies,”¹⁰ which triggered the Department of Environmental Protection to develop total maximum daily loads (TMDLs) for the lakes. TMDLs are the maximum amount of a pollutant allowed to enter a water body so that the waterbody will meet and continue to meet water quality standards.¹¹ In order for an impaired water body to meet TMDL limits, basin area management plans (BMAPs) are one of the practices commonly implemented.¹² Currently, only Lake Harris and Lake Eustis are meeting their TMDLs, but Lakes Apopka, Beauclair, Dora, and Griffin have made significant progress on their average phosphorus concentration since 1990.¹³ The BMAPs for the Harris Chain of Lakes were adopted in 2007,¹⁴ and along with other rejuvenation projects, have contributed to the lakes' progression.¹⁵ As a result of significant efforts by state and local entities, the lakes' fisheries have rebounded. The Harris Chain of Lakes was named one of the 50 best new fishing spots in America by Field and Stream for 2019¹⁶ and was chosen to host the 2018 Bassmaster Team Championship.¹⁷

⁶ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (Nov. 2001), available at https://harrischainoflakescouncil.com/annualreports/2001/2001_Annual_Report.pdf (last visited Nov. 22, 2019).

⁷ St. Johns River Water Management district, *Waterways*, available at <https://www.sjrwmd.com/waterways/lake-griffin/> (last visited Nov 22, 2019).

⁸ *Id.*

⁹ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (Nov. 2001), available at https://harrischainoflakescouncil.com/annualreports/2001/2001_Annual_Report.pdf (last visited Nov. 22, 2019).

¹⁰ Rule 62-303.200(7), F.A.C., defines “impaired water” to mean a waterbody or waterbody segment that does not meet its applicable water quality standards, due in whole or in part to discharges of pollutants from point or nonpoint sources. Generally, a point source means pollution coming from a single place (e.g., a pipe); a nonpoint source indicates pollution coming from more than a single place (e.g., land runoff).

¹¹ EPA, *Overview of Total Maximum Daily Loads* (2018), available at <https://www.epa.gov/tmdl/overview-total-maximum-daily-loads-tmdls> (last visited Oct. 30, 2019).

¹² UF IFAS Extension, *BMAPs, BMPs, and the New Florida Water Bill* (Mar. 7, 2017), available at <https://nwdistrict.ifas.ufl.edu/phag/2017/03/17/bmaps-bmps-and-the-new-florida-water-bill/> (last visited Nov. 22, 2019).

¹³ Email from Adam Lovejoy, Governmental Affairs Director, St. Johns river Water Management District, RE: Harris Chain Status (Nov. 8, 2019) (on file with the Senate Community Affairs Committee)

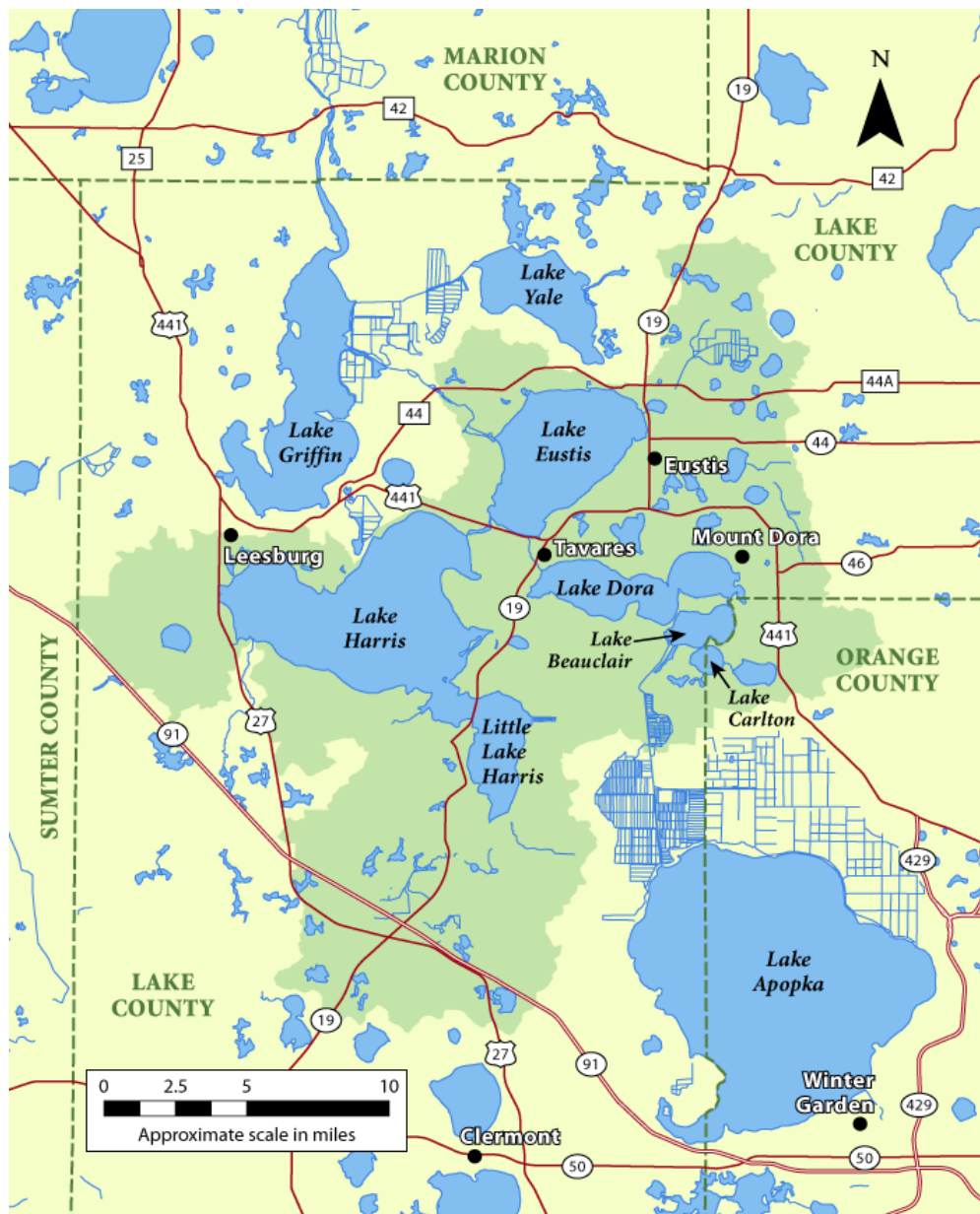
¹⁴ Division of Water Resource Management, *Basin Management Action Plan* (Aug. 14, 2007), available at <https://floridadep.gov/sites/default/files/AdoptedUpOcklawahaBMAP.pdf> (last visited Nov. 22, 2019).

¹⁵ See, e.g., St. Johns River Water Management District, *Waterways*, available at <https://www.sjrwmd.com/waterways/lake-apopka/> (last visited Nov. 22, 2019) (“In response to recent and ongoing restoration efforts, phosphorus concentrations in [Lake Apopka] have declined significantly.”).

¹⁶ Field and Stream, *The 50 Best New Fishing Spots in America* (Sept. 2019), available at <https://www.fieldandstream.com/50-best-new-fishing-spots-in-america/> (last visited Nov. 22, 2019).

¹⁷ Bassmaster, *Team Championship set for Florida's Harris Chain for first time* (May 2018), available at <https://www.bassmaster.com/news/team-championship-set-florida-s-harris-chain-first-time> (last visited Nov. 22, 2019).

A map of the lakes can be seen below:¹⁸



Harris Chain of Lakes Restoration Council

The Harris Chain of Lakes Restoration Council (“the Council”) was officially created by the Florida Legislature during the 2001 Legislative Session to reduce toxic algae, halt excessive growth of aquatic plants, restore the Harris Chain of Lakes’ water quality, and increase the Lakes’ recreational value, especially within the sport fishing industry.¹⁹ The Council is under the

¹⁸ Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and what does the Restoration Council do?*, available at <https://harrischainoflakescouncil.com/> (last visited Nov. 22, 2019).

¹⁹ Laws of Florida Chapter 2001-246

umbrella of St. Johns River Water Management District, with assistance from the Fish and Wildlife Conservation Commission, and the Lake County Water Authority.²⁰

The Council's members are appointed by the Lake County Legislative Delegation and consist of nine voting members who are:

- A person with a background in environmental science or regulation;
- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- A person with training in biology or another scientific discipline;
- An attorney;
- An engineer;
- A physician; and
- Two residents of the county who are not required to meet any of the other requirements.²¹

Members of the Council are not paid for their services but are entitled to be reimbursed for per diem and travel expenses incurred during execution of their official duties.²²

The Council's powers and duties include:

- Reviewing audits and all data specifically related to lake restoration techniques and sport fish population recovery strategies, including data and strategies for shoreline restoration, sediment control and removal, exotic species management or removal, navigation, water quality, and fish and wildlife habitat improvement, particularly as they may apply to the Harris Chain of Lakes;²³
- Evaluating whether additional studies are needed;²⁴
- Exploring all possible sources of funding to conduct the restoration activities;²⁵
- Reporting to the President of the Senate and Speaker of the House of Representatives before November 25 of each year on the progress of the Harris Chain of Lakes restoration program and any recommendations for the next fiscal year;²⁶ and
- Acting as advisors to the Governing Board of the St. Johns River Water Management District.²⁷

In their 2018 report, the Council recommended:

- Investigating or studying the feasibility of creating a secondary form of conveyance for water from Lake Apopka, to include Double Run Swamp;
- Requesting SJRWMD expedite the development of minimum flows and levels for the Harris Chain of Lakes prior to 2021;
- Requesting dedicated legislative funding of \$10 million for Hydrilla management on the Harris Chain of Lakes; and

²⁰ Section 373.467, F.S.

²¹ Section 373.467(1)(a), F.S.

²² Section 373.467(6), F.S.

²³ Section 373.467(4)(a), F.S.

²⁴ Section 373.467(4)(b), F.S.

²⁵ Section 373.467(4)(c), F.S.

²⁶ Section 373.467(4)(d), F.S.

²⁷ Section 373.467(1)(a), F.S.

- Increasing monitoring to determine a trigger point for maintenance of Hydrilla in the Harris Chain of Lakes.²⁸

In addition to their duties laid out in s. 373.467, F.S., the Council is also tasked with reviewing existing restoration proposals to determine which are the most environmentally sound and economically feasible methods of improving the fish and wildlife habitat and natural systems of the lakes.²⁹

In 2007, the Office of Program Policy Analysis & Government Accountability issued a Sunset Memorandum on Water Management District Advisory Committees, and concluded that the Council should not be abolished.³⁰ The report stated that “discontinuing the council may decrease the input received by the district on issues related to the Harris Chain of Lakes and implementation of restoration activities.”³¹ However in 2008, the Joint Legislative Sunset Committee recommended that the Council be abolished, stating that “current statutes were adequate to allow for soliciting input, and it was unclear why lake-by-lake enactments were necessary.”³²

Harris Chain of Lakes Restoration Program

Section 373.468, F.S., requires the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the St. John’s River Water Management, and the Harris Chain of Lakes Restoration Council to:

- Evaluate different methodologies for removing the extensive tussocks³³ and buildup of organic matter along the shoreline and of the aquatic vegetation in the lakes; and
- Conduct any additional studies as recommended by the Harris Chain of Lakes Restoration Council.

The collaborative efforts of these entities in conducting these tasks and in reviewing restoration proposals are the chief responsibilities of the Harris Chain of Lakes restoration program.³⁴

Technical Advisory Group

The Council is advised by a group that consists of one representative from the St. Johns River Water Management District, the Department of Environmental Protection, the Department of Transportation, the Florida Fish and Wildlife Conservation Commission, the Lake County Water

²⁸ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (2018), available at https://harrischainoflakescouncil.com/annualreports/2018/2018_HC_Annual_Report.pdf (last visited Nov. 22, 2019).

²⁹ Section 373.468(1), F.S.

³⁰ Office of Program Policy Analysis and Government Accountability, *Sunset Memorandum; Water Management District Advisory Committee* (Sept. 11, 2007), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/07-S12.pdf> (last visited Nov 22, 2019).

³¹ *Id.*

³² Joint Sunset Committee, *Report of the Joint Legislative Sunset Committee* (Mar. 2008), available at <http://www.leg.state.fl.us/sunset/Pages/Archives.html> (see tab for 2008 Publications, Final Report) (last visited Oct. 17, 2019).

³³ Tussocks are rafts of herbaceous plants that form in water bodies or along coastlines which can block public access, hinder flood control, or impair navigation.

³⁴ Section 373.468, F.S.

Authority, the United States Army Corps of Engineers, and the University of Florida.³⁵ The purpose of the Technical Advisory Group is to provide the Council with scientific information along with both technical data and guidance in their review of various technologies and issues that come before it.³⁶ The representative seats for the Florida Department of Transportation and the U.S. Army Corps of Engineers are currently vacant.³⁷

St. Johns River Water Management District (SJRWMD)

The SJRWMD is an environmental regulatory agency of the state of Florida whose work is focused on ensuring a long-term supply of drinking water, and to protect and restore the health of water bodies in the district's 18 counties in northeast and east-central Florida.³⁸ They provide a representative to the Council's Technical Advisory Group,³⁹ and the chair of the governing board of the SJRWMD can request that the Council convene for a meeting.⁴⁰ The SJRWMD also provides the Council with staff support to carry out their duties⁴¹ and is responsible for per diem and travel expenses for members of the Council that are not appointed from a state or federal agency.⁴²

Florida Fish and Wildlife Conservation Commission (FWC)

The FWC is tasked with managing fish and wildlife resources for their long-term well-being and the benefit of people.⁴³ The FWC is statutorily required to have a representative on the Technical Advisory Group.⁴⁴ FWC is tasked with initiating the Harris Chain of Lakes restoration program recommended by the Council with assistance from the SJRWMD, and in consultation with DEP and pertinent local governments.⁴⁵ The FWC is also authorized to conduct a demonstration restoration project on the Harris Chain of Lakes for the purpose of creating better habitat for fish and wildlife.⁴⁶

Lake County Water Authority

The Lake County Water Authority is a special taxing district created for the following:

- Controlling and conserving the freshwater resources of Lake County;
- Fostering improvements to streams, lakes, and canals in the county;
- Improving the fish and aquatic wildlife of the country by improving the streams, lakes and canals in the county; and

³⁵ Section 373.467(1)(b), F.S.

³⁶ Harris Chain of Lakes Restoration Council, *The council*, available at <https://harrischainoflakescouncil.com/council.html> (last visited Nov. 22, 2019).

³⁷ *Id.*

³⁸ St Johns River Water Management District, *Who we are*, available at <https://www.sjrwmd.com/about/> (last visited Nov. 22, 2019).

³⁹ Section 373.467(1)(b), F.S.

⁴⁰ Section 373.467(3), F.S.

⁴¹ Section 373.467(5), F.S.

⁴² Section 373.467(6), F.S.

⁴³ Florida Fish and Wildlife Commission, *Our Mission*, available at <https://myfwc.com/about/overview/> (last visited Oct. 22, 2019).

⁴⁴ Section 373.467(1)(b), F.S.

⁴⁵ Section 373.468(2), F.S.

⁴⁶ Section 373.468(4), F.S.

- Protecting the freshwater resources of Lake County through assisting local governments in treating stormwater runoff.⁴⁷

In conjunction with the SJRWMD, the Lake County Water Authority regularly updates the Council on the water levels in the lakes.⁴⁸ The Lake County Water Authority is responsible for developing its own 5-year work plan and submitting annual reports to the Legislature, the SJRWMD, and the Lake County Board of Commissioners.⁴⁹ Along with placing a representative on the Technical Advisory Group, the Lake County Water Authority provides financial support to the Council.⁵⁰

Florida Department of Transportation (FDOT)

FDOT is the state's transportation agency and plays an important role regarding the environmental impact of transportation infrastructure. FDOT is a statutorily designated member of the Technical Advisory Group, but no FDOT delegate has been assigned since 2015.⁵¹

Florida Department of Environmental Protection (DEP)

DEP is Florida's lead agency for environmental management and stewardship.⁵² DEP is responsible for developing the TMDLs for the Harris Chain of Lakes⁵³ (among other projects) and adopting the BMAPs. DEP regularly makes presentations at Council meetings and provides a member to the Technical Advisory Group.⁵⁴

U.S. Army Corps of Engineers

The Army Corps of Engineers is the federal agency charged with restoring degraded ecosystems, constructing sustainable facilities, regulating waterways, managing natural resources, and cleaning up contaminated sites from past military activities.⁵⁵ The Corps' seat on the Technical Advisory Group has been vacant since 2010.⁵⁶

⁴⁷ Chs. 2005-314 and 2017-218, Laws of Fla. Electors of the county at large elect the seven members of the authority's governing board.

⁴⁸ See, e.g., Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (2018), available at https://harrischainoflakescouncil.com/annualreports/2018/2018_HC_Annual_Report.pdf (last visited Nov. 22, 2019).

⁴⁹ Ch. 2005-314, Laws of Fla.

⁵⁰ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (2018), available at https://harrischainoflakescouncil.com/annualreports/2018/2018_HC_Annual_Report.pdf (last visited Nov. 22, 2019).

⁵¹ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (2015), available at https://harrischainoflakescouncil.com/annualreports/2015/2015_Annual_Report.pdf (last visited Nov. 22, 2019).

⁵² Florida Department of Environmental Protection, *About DEP*, available at <https://floridadep.gov/about-dep> (last visited Nov. 22, 2019).

⁵³ Florida Department of Environmental Protection, *Total Maximum Daily Load for Total Phosphorus For Lake Harris and Little Lake Harris* (Sept. 19, 2003), available at https://floridadep.gov/sites/default/files/harris_little-harris-tp-tmdl_0.pdf (last visited Nov. 22, 2019).

⁵⁴ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (2017), available at https://harrischainoflakescouncil.com/annualreports/2017/2017_HC_Annual_Report.pdf (last visited Nov. 22, 2019).

⁵⁵ Army Corps of Engineers, *Environmental Program*, available at <https://www.usace.army.mil/Missions/Environmental.aspx> (last visited Nov. 22, 2019).

⁵⁶ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (2010), available at https://harrischainoflakescouncil.com/annualreports/2010/2010_Annual_Report.pdf (last visited Nov. 22, 2019).

University of Florida

The University of Florida is home to the Institute of Food and Agricultural Sciences (IFAS), whose primary mission is to “develop knowledge in agricultural, human and natural resources and to make that knowledge accessible to sustain and enhance the quality of human life”.⁵⁷ Along with providing a member to the Technical advisory Group, representatives from the University and IFAS have made multiple presentations to the Council in recent years on topics such as water depth, water quality, and aquatic plants in the lakes.⁵⁸

III. Effect of Proposed Changes:

The bill repeals s. 373.467, F.S., eliminating the Harris Chain of Lakes Restoration Council.

The bill amends s. 373.468, F.S., eliminating the Harris Chain of Lakes Restoration Council’s responsibilities in initiating the Harris Chain of Lakes restoration program and in reviewing other restoration proposals.

The bill provides an effective date of July 1, 2020.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

⁵⁷ The University of Florida, *Institute of Food and Agricultural Sciences*, available at <https://ifas.ufl.edu/about-us/> (last visited Nov. 22, 2019).

⁵⁸ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (2018), available at https://harrischainoflakescouncil.com/annualreports/2018/2018_HC_Annual_Report.pdf (last visited Nov. 22, 2019).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill would save costs associated with the Harris Chain of Lakes Restoration Council. The Council's 2018 report showed that the Lake County Water Authority's 2017-2018 budget included \$9,850 for the Council's operations.⁵⁹ According to DEP, not having to provide staff to support the Council may result in annual fiscal savings of approximately \$50,000 to the SJRWMD.⁶⁰ Additionally, there would be cost savings related to the support services provided by the Technical Advisory Group.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 373.467 of the Florida Statutes.
This bill substantially amends section 373.468 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.)

None.

B. Amendments:

None.

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

⁵⁹ Harris Chain of Lakes Restoration Council, *Report to the Florida Legislature* (2018), available at https://harrischainoflakescouncil.com/annualreports/2018/2018_HC_Annual_Report.pdf (last visited Nov. 22, 2019).

⁶⁰ Department of Environmental Protection, *Agency Analysis of HB 6025/SB 384* (Oct. 8, 2019) (on file with the Senate Committee on Community Affairs).

From: Adam Lovejoy <ALovejoy@sjrwmd.com>

Sent: Friday, November 8, 2019 10:45 AM

To: Rogers, Ellen <ROGERS.ELLEN@flsenate.gov>; Dyson, Ryan <Dyson.Ryan@flsenate.gov>

Subject: Harris Chain Status

Hi Ellen and Ryan,

Thanks again for your time earlier this week.

Attached is a status summary for the Harris Chain, as discussed. I think you may have already received this table from the department, but wanted to make sure you got it from me also.

Thanks!

Adam Lovejoy

Governmental Affairs Director

St. Johns River Water Management District

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www.sjrwmd.com

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We value your opinion. Please take a few minutes to share your comments on the service you received from the District by clicking this [link](#)

Notices

- Emails to and from the St. Johns River Water Management District are archived and, unless exempt or confidential by law, are subject to being made available to the public upon request. Users should not have an expectation of confidentiality or privacy.
- Individuals lobbying the District must be registered as lobbyists (§112.3261, Florida Statutes). Details, applicability and the registration form are available at <http://www.sjrwmd.com/lobbyist/>

Water Quality Summary for Major Lakes in the Upper Ocklawaha Basin – November 2019

The water quality impairment of the major lakes in the Upper Ocklawaha Basin is focused on total phosphorus as the pollutant responsible for impairment and loss of critical habitat. DEP has an adopted Basin Management Action Plan for the basin and has been working with local governmental partners to implement projects to reduce phosphorus loading to the lakes. In addition, the SJRWMD has implemented major wetland restoration efforts on former muck farms to reduce phosphorus loading. The SJRWMD and Lake County Water Authority have also implemented significant efforts to remove existing phosphorus from the lakes.

Lake	Total Phosphorus Concentration Data (µg/L)			Percent Change	Impairment Status	Comments
	Initial Average ¹	Current Average ²	TMDL Target			
Apopka	206	87	55	-58	Impaired	Major District restoration efforts
Beauclair	256	52	32	-80	Impaired	Major restoration efforts – Apopka & LCWA's NuRF
Dora	195	38	31	-80	Impaired	Influenced by restoration efforts for upstream lakes Apopka and Beauclair
Harris	38	25	26	-35	Impaired	Moderate District restoration efforts
Eustis	43	25	25	-42	Impaired	Moderate District restoration efforts and influenced by restoration efforts for upstream lakes Apopka and Beauclair
Yale	18	33	20	+83	Impaired	No District restoration efforts
Griffin	107	34	32	-68	Impaired	Major restoration efforts

¹Initial averages use data from before the year 1990 for Apopka, Beauclair, Dora, and Yale; and from before the year 2000 for lakes, Harris, Eustis and Griffin.

²The current average is calculated from data from 2015 to the present.



2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Environmental Protection

<u>BILL INFORMATION</u>	
BILL NUMBER:	HB 6025
BILL TITLE:	Harris Chain of Lakes
BILL SPONSOR:	Rep. Sabatini
EFFECTIVE DATE:	July 1, 2020

<u>COMMITTEES OF REFERENCE</u>
1) Agriculture & Natural Resources Subcommittee
2) Agriculture & Natural Resources Appropriations Subcommittee
3) State Affairs Committee
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

<u>CURRENT COMMITTEE</u>
Agriculture & Natural Resources Subcommittee

<u>SIMILAR BILLS</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	SB 384
SPONSOR:	Sen. Baxley

Is this bill part of an agency package?
No

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	Oct. 8, 2019
LEAD AGENCY ANALYST:	Kristine Morris
ADDITIONAL ANALYST(S):	Eric A. Hinton
LEGAL ANALYST:	West Gregory
FISCAL ANALYST:	Jack Furney

POLICY ANALYSIS

1. **EXECUTIVE SUMMARY**

This bill repeals the statute outlining the creation, structure and duties of the Harris Chain of Lakes Restoration Council and amends the Harris Chain of Lakes Restoration Program to remove references to, and thus all duties of the Harris Chain of Lakes Restoration Council.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

Harris Chain of Lakes Restoration Council

The Harris Chain of Lakes is located largely in Lake County and the northwestern portion of Orange County. It includes tens of thousands of acres of lakes and wetlands and is the headwaters of the Ocklawaha River.

In 2001, the Legislature created the Harris Chain of Lakes Restoration Council 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 restoration activities; and
- Report to the Legislature, before November 25 of each year, on the progress of the Harris Chain of Lakes restoration program and provide any recommendations for the next fiscal year.

The Harris Chain of Lakes Restoration Council consists of the following nine voting members:

- A representative of waterfront property owners,
- A representative of the sport fishing industry,
- A person with experience in environmental science or regulation,
- A person with training in biology or another scientific discipline,
- An attorney,
- A physician,
- An engineer, and
- Two residents of Lake County appointed by the Lake County legislative delegation who are not required to meet any other qualifications for membership on the council.

Section 373.467, F.S., establishes an advisory group to the council which consists one representative each from:

- The St. Johns River Water Management District,
- The Department of Environmental Protection,
- The Department of Transportation,
- The Fish and Wildlife Conservation Commission,
- The Lake County Water Authority,
- The United States Army Corps of Engineers, and
- The University of Florida.

The Harris Chain of Lakes Restoration Program, established by s. 373.468, F.S., requires the Florida Fish and Wildlife Conservation Commission (FWC), the St. Johns River Water Management District (SJRWMD), in conjunction with the Department of Environmental Protection (DEP), pertinent local governments, and the Harris Chain of Lakes Restoration Council, to review existing restoration proposals to determine the ones that are the most environmentally sound and economically feasible methods of improving the fish and wildlife habitat and natural systems.

DEP's Division of Environmental Assessment and Restoration (DEAR) has made staff available for the advisory group and has attended meetings as part of the Technical Advisory Group. DEAR has provided information when requested by the council and made presentation on subjects that have varied from nutrient reduction technologies, restoration activities related to basin management action plans, and agency updates. DEAR has also provided information and feedback on the required annual report.

2. **EFFECT OF THE BILL:**

The bill repeals the statute creating the Harris Chain of Lakes Restoration Council and removes references to the Harris Chain of Lakes Restoration Council from the Harris Chain of Lakes restoration program.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

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

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

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

Board:	Harris Chain of Lakes Restoration Council and the Advisory Group to the Council.
Board Purpose:	The Council makes recommendations of the restoration program and identifies additional studies for the Harris Chain of Lakes. The Advisory Group advises the council.
Who Appoints:	The Council is appointed by the Lake County legislative delegation. The advisory group is appointed by members of the respective agencies serving on the advisory group.
Changes:	The Council and the Advisory Group would be eliminated through a repeal of s. 373.467, F.S.
Bill Section Number(s):	Section 1

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☒ N ☐

Revenues:	none
Expenditures:	The St. Johns River Water Management District provides staff support to the Harris Chain of Lakes Restoration Council to assist in carrying out the Council's duties. Not having to provide staff to support the council may result in fiscal savings of approximately \$50,000 to the District.
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	No

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	None
Expenditures:	State agencies will no longer be required to expend funds to support the council through the advisory group created in section 373.467, F.S. The fiscal impact, however, will be minimal.
Does the legislation contain a State Government appropriation?	N/A
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

1. **DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A
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FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☒ N ☐

If yes, describe the anticipated impact including any fiscal impact.	The Advisory Group includes one member from the U.S. Army Corps of Engineers. The advisory group statute is repealed and therefore would not be required to serve.
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ADDITIONAL COMMENTS

In 2008 by the Senate Committee on Environmental Preservation and Conservation recommended repealing the council. (see Report Number 2008-212 titled Agency Sunset Review of the Water Management Districts).

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	None.
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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 Community Affairs

BILL: CS/SB 670

INTRODUCER: Community Affairs Committee and Senators Gruters and Mayfield

SUBJECT: Smoking on Public Beaches and in Public Parks

DATE: December 11, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Yeatman	CA	Fav/CS
2.			IT	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 670 amends the “Florida Clean Indoor Air Act” in part II of ch. 386, F.S., which regulates tobacco smoking in Florida, to allow counties and municipalities to restrict smoking within the boundaries of any public beach or park they own. Currently, the state preempts the regulation of smoking under s. 386.209, F.S., and does not provide counties or municipalities the authority to regulate smoking. The bill also prohibits smoking within the boundaries of any state park. “Smoking” is defined in ch. 386, F.S., as “inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product.”

The bill changes the title of the “Florida Clean Indoor Air Act” to the “Florida Clean Air Act” to account for the broader application of the act proposed in the bill.

II. Present Situation:

The Florida Clean Indoor Air Act (act) in part II of ch. 386, F.S., regulates tobacco smoking in Florida. The legislative purpose of the act is to protect the public from the health hazards of secondhand tobacco smoke and to implement the Florida health initiative in s. 20, Art. X of the State Constitution.¹

¹ Section 386.202, F.S.

Florida Constitution

On November 5, 2002, the voters of Florida approved Amendment 6 to the State Constitution, which prohibits tobacco smoking in enclosed indoor workplaces. Codified as s. 20, Art. X, Florida Constitution, the amendment defines an “enclosed indoor workplace,” in part, as “any place where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers ... without regard to whether work is occurring at any given time.” The amendment defines “work” as “any persons providing any employment or employment-type service for or at the request of another individual or individuals or any public or private entity, whether for compensation or not, whether full or part-time, whether legally or not.” The amendment provides limited exceptions for private residences “whenever they are not being used commercially to provide child care, adult care, or health care, or any combination thereof,” retail tobacco shops, designated smoking guest rooms at hotels and other public lodging establishments, and stand-alone bars.

The constitutional amendment directed the Legislature to implement the “amendment in a manner consistent with its broad purpose and stated terms.” The amendment required that implementing legislation have an effective date of no later than July 1, 2003, and required that implementing legislation provide civil penalties for violations; provided for administrative enforcement, and required and authorized agency rules for implementation and enforcement. The amendment further provided that the Legislature may enact legislation more restrictive of tobacco smoking than that provided in the Florida Constitution.

Florida’s Clean Indoor Air Act

The Legislature implemented the smoking ban by enacting ch. 2003-398, L.O.F., which amended pt. II of ch. 386, F.S., and created s. 561.695, F.S., of the Beverage Law. The act, as amended, implements the constitutional amendment’s prohibition. Specifically, s. 386.204, F.S., prohibits smoking in an enclosed indoor workplace unless the act provides an exception. The act adopts and implements the amendment’s definitions and adopts the amendment’s exceptions for private residences whenever not being used for certain commercial purposes;² stand-alone bars;³ designated smoking rooms in hotels and other public lodging establishments;⁴ and retail tobacco shops, including businesses that manufacture, import, or distribute tobacco products and tobacco loose leaf dealers.⁵

Section 386.207, F.S., provides for enforcement of the act by the Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR) within each department’s specific areas of regulatory authority. Sections 386.207(1) and 386.2125, F.S., grant rulemaking authority to the DOH and the DBPR and require that the departments consult with the State Fire Marshal during the rulemaking process.

² Section 386.2045(1), F.S. *See also* definition of the term “private residence” in s. 386.203(1), F.S.

³ Section 386.2045(4), F.S. *See also* definition of the term “stand-alone bar” in s. 386.203(11), F.S.

⁴ Section 386.2045(3), F.S. *See also* definition of the term “designated guest smoking room” in s. 386.203(4), F.S.

⁵ Section 386.2045(2), F.S. *See also* definition of the term “retail tobacco shop” in s. 386.203(8), F.S.

Section 386.207(3), F.S., provides penalties for violations of the act by proprietors or persons in charge of an enclosed indoor workplace.⁶ The penalty for a first violation is a fine of not less than \$250 and not more than \$750. The act provides fines for subsequent violations in the amount of not less than \$500 and not more than \$2,000. Penalties for individuals who violate the act are provided in s. 386.208, F.S., which provides for a fine of not more than \$100 for a first violation and not more than \$500 for a subsequent violation. The penalty range for an individual violation is identical to the penalties for violations of the act before the implementation of the constitutional smoking prohibition.

Smoking Prohibited Near School Property

Section 386.212(1), F.S., prohibits smoking by any person under 18 years of age in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. The prohibition does not apply to any person occupying a moving vehicle or within a private residence.

Enforcement

Section 386.212(2), F.S., authorizes law enforcement officers to issue citations in the form as prescribed by a county or municipality to any person violating the provisions of s. 386, F.S., and prescribes the information that must be included in the citation.

The issuance of a citation under s. 386.212(2), F.S., constitutes a civil infraction punishable by a maximum civil penalty not to exceed \$25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco “alternative to suspension” program.⁷

If a person fails to comply with the directions on the citation, the person will waive his or her right to contest the citation, and the court may issue an order to show cause.⁸

Regulation of Smoking Preempted to State

Section 386.209, F.S., provides that the act expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject.

As an exception to the state’s preemption of smoking regulation, s. 386.209, F.S., permits school districts to further restrict smoking by persons on school district property.

Regarding the issue of preemption, a Florida Attorney General Opinion concluded that the St. Johns Water Management District could not adopt a regulation prohibiting smoking by all persons on district property.⁹ The Attorney General reasoned that s. 386.209, F.S., represents a clear expression of the legislative intent that the act preempts the field of smoking regulation for indoor and outdoor smoking. The Attorney General noted that the 2011 amendment of

⁶ The applicable penalties for violations by designated stand-alone bars are set forth in s. 561.695(8), F.S.

⁷ Section 386.212(3), F.S.

⁸ Section 386.212(4), F.S.

⁹ Op. Att’y Gen. Fla. 2011-15 (July 21, 2011). *See also*, Op. Att’y Gen. Fla. 2005-63 (November 21, 2005), which opined that a municipality is preempted from regulating smoking in a public park other than as prescribed by the Legislature.

s. 386.209, F.S.,¹⁰ authorizes school districts to prohibit smoking on school district property and concluded that further legislative authorization would be required for the water management district to regulate smoking on its property.

Public Beaches in Florida

Florida has 825 miles of sandy coastline, attracting over 18 million tourists each year.⁹ A significant portion of Florida's beaches is publically-owned, including federally-owned areas managed by the National Park Service, parts of Florida's 175 state parks, and the many beaches owned and managed by local governments on the coast.¹⁰ There is no specific definition of "public beach" in the Florida Statutes, and whether a beach is considered public or private depends on factors such as ownership and access.¹¹

Florida law ensures the public's reasonable access to beaches.¹² The Florida Constitution states that the "title to lands under navigable waters, within the boundaries of the state ... including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people."¹³ This section is commonly known as the "public trust doctrine."¹⁴ The mean high-water line is the boundary between the publically-owned foreshore (alternately covered and uncovered by the tide) and the dry sand above the line, which may be privately owned.¹⁵ Unless the dry sand is already owned for public use, the private beachfront property extends to the mean high-water line.

¹⁰ Chapter 2011-108, L.O.F.

⁹ Department of Environmental Protection, *Beaches*, <https://floridadep.gov/water/beaches> (last visited at Nov 13, 2019).

¹⁰ National Park Service, Canaveral National Seashore, *Nature and Science*, <https://www.nps.gov/cana/learn/nature/index.htm> (last visited Nov. 13, 2019). Canaveral National Seashore's 24 miles of undeveloped beach is the longest such stretch on the east coast of Florida; National Park Service, Gulf Islands National Seashore, *Things To Do*, <https://www.nps.gov/guis/planyourvisit/things2do.htm> (last visited Nov. 13, 2019). Gulf Islands National Seashore stretches for 160 miles along the coasts of both Florida and Mississippi; DEP, *Beaches and Coasts at Florida State Parks*, <https://www.floridastateparks.org/learn/beaches-and-coasts-florida-state-parks> (last visited Nov. 13, 2019). Florida's state parks include 100 miles of beaches; DEP, *Map of Florida's Coastal Counties*, <https://floridadep.gov/fco/fcmp/documents/map-floridas-coastal-counties> (last visited Nov. 13, 2019); Office of Economic & Demographic Research, *Annual Assessment of Florida's Water Resources and Conservation Lands, 2018 Edition*, 9, 17 (2018), available at http://edr.state.fl.us/content/natural-resources/LandandWaterAnnualAssessment_2018Edition.pdf (last visited Nov. 13, 2019). Beaches in coastal counties are important for tourism and Florida's "brand"; DEP, Florida Coastal Management Program, *Final Assessment and Strategies, FY 2016 – FY 2020*, 30 (2015) available at https://floridadep.gov/sites/default/files/FCMP_FY2016-20_Assessment.pdf (last visited Nov. 13, 2019). Based on shoreline access sites, there are approximately 439 miles of public saltwater beach in Florida.

¹¹ Section 161.021(1), F.S. "Public access" is defined as "the public's right to laterally traverse the sandy beaches of this state where such access exists on or after July 1, 1987, or where the public has established an accessway through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, development or construction shall not interfere with such right of public access unless a comparable alternative accessway is provided."

¹² Section 187.201(8)(a), F.S.

¹³ FLA CONST. art. X, s. 11.

¹⁴ University of Florida, Sea Grant Florida, *Beaches*, <https://www.flseagrant.org/wateraccess/beaches/> (last visited Nov. 13, 2019).

¹⁵ Section 177.28, F.S.; Section 177.27(9), (14), F.S. The full definition of "foreshore" is "the strip of land between the mean high-water and mean low-water lines that is alternately covered and uncovered by the flow of the tide." "Mean high water" is defined as the average height of the high waters over a 19-year period.

The courts have recognized the public's ability to acquire rights to the dry sand areas of privately owned sections of a beach. In 1974, the Florida Supreme Court established the "customary use doctrine" in Florida when it held: "[i]f the recreational use of the sandy area adjacent to the mean high tide has been ancient, reasonable, without interruption and free from dispute, such use, as a matter of custom, should not be interfered with by the owner."¹⁶ A state law passed in 2018 prohibits local or state government entities from adopting ordinances or rules allowing the public to access privately-owned beaches under the customary use doctrine unless such ordinance or rule is based on a judicial declaration affirming recreational customary use on such beach.¹⁷ Subsequently, Governor Scott issued an Executive Order directing all agencies headed by an official serving at the pleasure of the Governor not to adopt any rule restricting public access to any Florida beach that has an established recreational customary use, unless necessary for public safety.¹⁸

Public Parks Owned by Counties and Municipalities

In Florida, there are 67 separate county park systems and more than 400 separate municipal park systems.¹⁹ For example, Orange County Florida maintains and operates 118 county-owned parks, which consist of a wide array of available activities and facilities.²⁰ Some activities these parks provide the public include nature trails, bird watching, youth and adult athletics, bike paths, horse trails, boat ramps, fishing piers, metal detecting locations, outdoor gyms, and outdoor pavilions.²¹ Additionally, municipalities within Orange County also own and operate parks and outdoor recreational facilities. For example, the city of Winter Park, within Orange County, owns and operates 11 city parks, which offer similar recreational activities.²²

The Division of Recreation and Parks within the Florida Department of Environmental Protection maintains a comprehensive inventory of the existing park facilities and outdoor resources in Florida. The inventory provides details about the parks and recreation areas in the state and consists of over 13,000 separate records, the majority of which are county and municipal parks.²³

Florida's State Parks

Florida's award-winning state park system contains 175 state parks, including nearly 800,000 acres of state lands and 100 miles of sandy beaches.²⁴ Florida's state parks include all real

¹⁶ *City of Daytona Beach v. Tona-Rama, Inc.*, 294 So. 2d 73, 78 (1974).

¹⁷ Section 163.035(2), F.S.

¹⁸ Office of the Governor, *Executive Order Number 18-202*, 2 (2018), available at: https://www.flgov.com/wp-content/uploads/orders/2018/EO_18-202.pdf (last visited Nov. 13, 2019).

¹⁹ Florida Division of Recreation and Parks, *Frequently Asked Questions*, available at: <http://prodenv.dep.state.fl.us/DrpOrpcr/StaticFiles/FAQ.pdf> (last visited Nov. 7, 2019).

²⁰ Orange County Government Florida, *Parks*, available at: <http://www.orangecountyfl.net/CultureParks/Parks.aspx?m=lstaz#.Xcwjw8GP6Uk> (last visited Nov. 13, 2019).

²¹ *Id.*

²² City of Winter Park, *Parks*, available at: <https://cityofwinterpark.org/departments/parks-recreation/parks-playgrounds/parks/> (last visited Nov. 13, 2019).

²³ Florida Division of Recreation and Parks, *Florida Outdoor Recreation Inventory*, available at: <https://floridadep.gov/parks/florida-outdoor-recreation-inventory> (last visited Nov. 13, 2019).

²⁴ DEP, *Division of Recreation and Parks*, available at: <https://floridadep.gov/parks> (last visited Nov. 13, 2019).

property in the state of Florida under the jurisdiction of the Department of Environmental Protection's (DEP) Division of Recreation and Parks (division) or real property, which may come under the division's jurisdiction regardless of its designation.²⁵ There are numerous designations in Florida's state park system, and examples include state park, state preserve, historic site, archaeological site, botanical site, museum, and culture center.²⁶ The statutory law governing Florida's state parks is primarily contained in ch. 258, F.S., State Parks and Preserves.

Requirements and prohibitions under ch. 258, F.S., are enforced by DEP and the Fish and Wildlife Conservation Commission's Division of Law Enforcement.²⁷ The division's regulations contain a rule about fires which prohibits disposing of smoking materials within any park except in designated receptacles.²⁸

Laws in Other States

In 2009, Maine passed a law prohibiting "[smoking] tobacco or any other substance in, on or within 20 feet of a beach, playground, snack bar, group picnic shelter, business facility, enclosed area, public place or restroom in a state park or state historic site."²⁹ In 2015, Hawaii passed a law prohibiting smoking within its state park system.³⁰ In 2018, New Jersey banned smoking at public parks and beaches.³¹ New Jersey's legislature found that "[t]he prohibition of smoking at public parks and beaches would better preserve and maintain the natural assets of this State by reducing litter and increasing fire safety in those areas, while lessening exposure to secondhand tobacco smoke and providing for a more pleasant park or beach experience for the public[.]"³²

Alaska law prohibits individuals from smoking outdoors "within 10 feet of playground equipment located at a public or private school or a state or municipal park while children are present."³³ Puerto Rico prohibits smoking in "public or private recreational installations."³⁴ The

²⁵ Fla. Admin. Code R. 62D-2.013(1).

²⁶ *Id.*

²⁷ Section 258.601, F.S.

²⁸ Fla. Admin. Code R. 62D-2.013(3); National Fire Protection Association, Public Education, *Smoking*, available at: <https://www.nfpa.org/Public-Education/By-topic/Top-causes-of-fire/Smoking> (last visited Nov. 13, 2019). The term "smoking materials" is commonly used to refer to cigarettes, pipes, and cigars.

²⁹ Me. Rev. Stat. tit. 22, §§ 1580-E(2) and 1541(6). Under Maine law, "'Smoking' includes carrying or having in one's possession a lighted or heated cigarette, cigar or pipe or a lighted or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. 'Smoking' includes the use of an electronic smoking device."

³⁰ Haw. Rev. Stat. Ann. § 184-4.5. "Smoking" is defined in the statute as "inhaling or exhaling upon, burning, or carrying any lit cigarette, cigar, or pipe or the use of an electronic smoking device."

³¹ 2018 NJ Sess. Law Serv. Ch. 64, S. 2534 (2018), available at: https://www.njleg.state.nj.us/2018/Bills/PL18/64_.PDF (last visited Nov. 13, 2019). The law defines "smoking" as "the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device."

³² N.J. Stat. Ann. § 26:3D-56(e).

³³ Alaska Stat. Ann. §§ 18.35.301(c)(1) and 18.35.399(12). Alaska law defines "smoking" as "using an e-cigarette or other oral smoking device or inhaling, exhaling, burning, or carrying a lighted or heated cigar, cigarette, pipe, or tobacco or plant product intended for inhalation."

³⁴ 24 L.P.R.A. §§ 891 and 892. "Smoking" is defined as "the activity of inhaling and exhaling smoke from [tobacco] and other substances that are lit in cigars, cigarettes, and pipes, and to possess or transport cigars, cigarettes, pipes, and smoking articles while lit and it shall also include the use of the so-called electronic cigarette."

definition of public or private recreational installations under Puerto Rico law includes parks.³⁵ Oklahoma law designates all buildings and other properties owned or operated by the state as nonsmoking, effectively prohibiting smoking at state parks in Oklahoma, except for at any designated outdoor smoking areas.³⁶

Oregon's Parks and Recreation Department prohibits smoking tobacco products at park properties but provides exceptions, including smoking in vehicles and at designated campsites.³⁷ Outside of Florida, many local governments in the United States have restricted or prohibited smoking in public parks.³⁸

Health and Environmental Concerns

In 2018, an estimated 16 percent of the adults in Florida were tobacco smokers.³⁹ Secondhand smoke is generally defined as smoke from burning tobacco products or smoke that is exhaled by a tobacco smoker.⁴⁰ Tobacco smoke contains over 7,000 chemicals, including hundreds that are toxic and up to 69 that are known to cause cancer.⁴¹ Exposure to secondhand smoke can cause numerous health problems and has been causally linked to cancer and other fatal diseases.⁴² Studies suggest that secondhand smoke in crowded outdoor areas can cause concentrations of air contaminants comparable to those caused by indoor smoking.⁴³

Another significant issue with tobacco smoking in natural areas is litter consisting of used cigarette filters, commonly known as cigarette butts. Cigarette butts are typically comprised mainly of cellulose acetate, a plastic-like material that can take years to decompose.⁴⁴ It is

³⁵ 24 L.P.R.A. § 891.

³⁶ Okla. Stat. Ann. tit. 21, § 1247(B).

³⁷ Or. Admin. R. 736-010-0040(8)(j).

³⁸ American Nonsmokers' Rights Foundation, *Municipalities with Smokefree Park Laws* (2017), available at: <https://no-smoke.org/wp-content/uploads/pdf/SmokefreeParks.pdf> (last visited Nov. 13, 2019). This document lists local governments in the U.S. that have created laws that restrict or prohibit smoking in public parks within their jurisdiction.

³⁹ United Health Foundation, *America's Health Rankings, Annual Report*, available at: <https://www.america'shealthrankings.org/explore/annual/measure/Smoking/state/FL> (last visited Nov. 13, 2019).

⁴⁰ Center for Disease Control and Prevention, *Secondhand Smoke (SHS) Facts*, available at: https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm (last visited Nov. 13, 2019).

⁴¹ *Id.*; U.S. Department of Health and Human Services, *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*, 148 (2014), available at: <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf> (last visited Nov. 13, 2019).

⁴² U.S. Department of Health and Human Services, *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*, 7 (2014); Center for Disease Control and Prevention, *Secondhand Smoke (SHS) Facts*, available at: https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm (last visited Nov. 13, 2019).

⁴³ Nipapun Kungskulniti et al., *Secondhand Smoke Point-Source Exposures Assessed By Particulate Matter At Two Popular Public Beaches in Thailand*, 40 J. PUBLIC HEALTH 3, 527–532 (2017), available at: <https://academic.oup.com/jpubhealth/article/40/3/527/4110319?guestAccessKey=5947c328-fd75-4b6c-acfe-28f989c4c639> (last visited Nov. 13, 2019); James Repace, *Benefits of Smoke-free Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios and in Motor Vehicles*, 34 WM MITCHELL L. REV. 1621, 1622–1624 (2008), available at: <https://www.publichealthlawcenter.org/sites/default/files/resources/tclsc-symposium-repace.pdf> (last visited Nov. 13, 2019).

⁴⁴ NOAA, National Ocean Service, *What Is the Most Common Form of Ocean Litter?* available at: <https://oceanservice.noaa.gov/facts/most-common-ocean-litter.html> (last visited Nov. 13, 2019); Bonanomi, Giuliano et al., *Cigarette Butt Decomposition and Associated Chemical Changes Assessed by 13C CPMAS NMR*, 10 PLOS ONE 1 e0117393,

estimated that of the roughly 6 trillion cigarettes smoked annually worldwide, up to two-thirds of the cigarette butts are discarded as litter.⁴⁵ Furthermore, cigarette butts contain hazardous substances, and studies have shown these are potentially toxic to animals.⁴⁶

Under Florida law, it is illegal to discard any tobacco product as litter.⁴⁷ Discarding a cigarette butt would constitute a noncriminal infraction, punishable by a penalty of \$100 in addition to any court-ordered litter pickup or other commensurate labor.⁴⁸ However, barriers such as resource constraints or lack of cooperation can lead to the inadequate enforcement of litter-related laws.⁴⁹

Fires are another significant issue regarding smoking tobacco in public parks. The Legislature has found that cigarettes are the leading cause of fire deaths in Florida and the nation.⁵⁰ Florida law requires that cigarettes sold in the state meet standards for reduced ignition propensity.⁵¹ In addition to the risk of fires in buildings, Florida generally has a year-round risk of wildfire.⁵² Cigarettes or other smoking materials can cause wildfires when discarded as litter. Data from the United States Forest Service shows that a significant number of wildfires were started by “smoking” between 1992 and 2015.⁵³ The Florida Forest Service is reporting an increased risk of wildfires for areas of northwestern Florida in the aftermath of Hurricane Michael, due to factors such as increased fuel loadings and reduced access for fire mitigation equipment.⁵⁴

III. Effect of Proposed Changes:

Section 1 changes the title of part II of ch. 386, F.S., from “INDOOR AIR: SMOKING AND VAPING” to “SMOKING AND VAPING.”

2 (2015), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4307979/pdf/pone.0117393.pdf> (last visited Nov. 13, 2019).

⁴⁵ World Health Organization, *Tobacco and Its Environmental Impact: An Overview*, 24 (2017) available at: <https://apps.who.int/iris/bitstream/handle/10665/255574/9789241512497-eng.pdf;jsessionid=8E8DFDA81D9C76448B2C9EAD445BC784?sequence=1> (last visited Nov. 13, 2019); Thomas E. Novotny and Elli Slaughter, *Tobacco Product Waste: An Environmental Approach to Reduce Tobacco Waste*, 1 CURR. ENVIRON. HEALTH REP. 3: 208–216, 208 (2014), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4129234/> (last visited Nov. 13, 2019).

⁴⁶ Wenjau Lee and Chih Chun Lee, *Developmental Toxicity of Cigarette Butts - An Underdeveloped Issue*, 113 ECOTOXICOLOGY AND ENVIRON. SAFETY 362–368, 362–363, 367 (2015), available at: http://tweb.cjcu.edu.tw/journal/2015_03_04_11_23_24.114.pdf (last visited Nov. 13, 2019); Stephanie L. Wright, *Bioaccumulation and Biological Effects of Cigarette Litter in Marine Worms*, 2015 SCI. REP. 5: 14119, 1 (2015), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4569891/> (last visited Nov. 13, 2019).

⁴⁷ Section 403.413(2)(d) and (f), (4), F.S.

⁴⁸ Section 403.413(6)(a), F.S. Littering is a noncriminal infraction if the litter does not exceed 15 pounds in weight or 27 cubic feet in volume.

⁴⁹ Keep America Beautiful, *Enforcement and Prosecution Guide 2018*, 13–19 (2018), available at: https://www.kab.org/sites/default/files/Enforcement_and_Prosecution_Guide_Final.pdf (last visited Nov. 13, 2019).

⁵⁰ Section 633.142(2)(a), F.S.

⁵¹ Section 633.142, F.S.

⁵² Florida Department of Agriculture and Consumer Services, *Wildland Fire, Prevention*, available at: <https://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Wildland-Fire> (last visited Nov. 13, 2019).

⁵³ Karen C. Short, *Spatial Wildfire Occurrence Data For the United States, 1992-2015* (2017), available at: <https://www.fs.usda.gov/rds/archive/Product/RDS-2013-0009.4/> (last visited Nov. 13, 2019). The data can be viewed by clicking on the file labeled “RDS-2013-0009.4_ACCDB.zip,” and viewing the column labeled “STAT_CAUSE_DESCR.”

⁵⁴ Jim Karels, Director, Florida Forest Service, Presentation to the Florida Senate Environment and Natural Resources Committee, January 8, 2019, *Hurricane Michael Impacts, Actions and Needs*, slides 14-16, 18 (2019).

Section 2 amends s. 386.201, F.S., to provide that the short title of part II of ch. 386, F.S. is renamed the “Florida Clean Air Act,” and removes the reference to “indoor” air in the current title.

Section 3 amends s. 386.209, F.S., to provide counties and municipalities the authority to further restrict smoking within the boundaries of any public beach or park they own. Under the bill, municipalities may also be able to restrict smoking on county beaches and in parks located within their jurisdiction, as long as a restriction doesn’t conflict with a county ordinance. Given the existing definition of “smoking” in ch. 386, F.S., the bill allows counties and municipalities to further restrict the ability for any person to inhale, exhale, burn, carry, or possess any lighted tobacco product, including cigarettes, cigars, pipe tobacco, or any other lighted tobacco product, at a public beach or park.

Section 4 creates s. 386.2095, F.S., which prohibits smoking within the boundaries of a state park. This provision will be enforced by the DEP and the Fish and Wildlife Commission’s (FWC) Division of Law Enforcement. The DEP will establish rules and penalties in regards to the smoking prohibition.

Section 5 amends s. 381.84, F.S., to account for the name change described in section 1 of the bill. The “Florida Clean Indoor Air Act” referenced in the tobacco education and use prevention program statute is renamed the “Florida Clean Air Act.”

Section 6 amends s. 386.211, F.S., to account for the name change described in section 1 of the bill. The “Florida Clean Indoor Air Act” referenced in the public announcements in mass transportation terminals statute is renamed the “Florida Clean Air Act.”

Section 7 states that the act will take effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Visitors to county and municipal-owned beaches and parks and state parks who violate smoking restrictions may be subject to the applicable fines or civil penalty for such violations.

C. Government Sector Impact:

County and municipal governments that opt to restrict smoking within the boundaries of public beaches and parks may incur indeterminate expenses related to enacting and enforcing such restrictions.

To the extent smoking restrictions deter or encourage visitation of a county, municipal, or state park, the government sector may experience fluctuation in revenues generated by a public beach or park admittance fee.

State parks may see an increase in the number of fines that are assessed for violations of the smoking prohibition. Such fines are paid to the FWC and deposited in the State Game Trust Fund, pursuant to s. 258.008(1), F.S. Thus, the bill may increase revenue for the FWC's State Game Trust Fund.

The DEP may incur costs to adopt rules to implement the prohibition of smoking in state parks. The DEP and the FWC's Division of Law Enforcement may incur additional costs to enforce the prohibition of smoking in state parks.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There is no definition for "public beach" or "public park" in ch. 386, F.S., so it may not be clear exactly which areas may be subject to the bill's optional prohibition on smoking.

Although this bill specifically deals with "smoking," counties are currently allowed to impose more restrictive regulation on the use of vapor-generating devices under s. 386.209, F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 386.201, 386.209, 381.84, and 386.211.

This bill creates sections 386.2095 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 December 9, 2019:

The committee substitute:

- Allows municipalities to also restrict smoking within public beaches and parks they own; and
- Provides municipalities the ability to restrict smoking in county beaches and parks within their jurisdiction, as long as the restrictions do not conflict with a county ordinance.

- B. **Amendments:**

None.



639762

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/11/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 27 - 29
and insert:
however, counties and municipalities may further restrict
smoking within the boundaries of any public beaches and public
parks that they own. Municipalities may further restrict smoking
within the boundaries of public beaches and public parks that
are within their jurisdiction but are owned by the county if
doing so would not conflict with a county ordinance. School



639762

districts may further restrict smoking by persons on

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

And the title is amended as follows:

Delete lines 5 - 7

and insert:

title; amending s. 386.209, F.S.; authorizing counties
and municipalities to further restrict smoking within
the boundaries of public beaches and public parks
under certain circumstances; creating s.

APPEARANCE RECORD

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

12-9-19

Meeting Date

Topic SB 670- Smoking on Public Beaches
and in Public Parks

Name Tonnette Graham

Job Title Assoc. Director for Public Policy

Address 100 S. Monroe St. Phone _____
 Street

Tampa FL 32317 Email _____
 City State Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Association of Counties

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

SB 670
 Bill Number (if applicable)
6397762
 Amendment Barcode (if applicable)

APPEARANCE RECORD

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

12/9/2019
Meeting Date

SB-670

Bill Number (if applicable)

639762

Amendment Barcode (if applicable)

Topic SMOKING ON PUBLIC BEACHES + PARKS

Name DOMINICK MONTANARO

Job Title CITY COUNCILMAN SATELLITE BEACH

Address 565 CASSIA BLVD

Street

Phone 321-501-4316

City SATELLITE BEACH

State FL

Zip 32937

City

Email MONTANARO@SATELLITEBEACH.ORG

Speaking:



For



Against



Information

Zip

Waive Speaking:



In Support



Against

(The Chair will read this information into the record.)

Representing CITY OF SATELLITE BEACH

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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APPEARANCE RECORD

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

12/9/19
Meeting Date

670

Bill Number (if applicable)

639762

Amendment Barcode (if applicable)

Topic Smoking in Parks

Name CASEY COOK

Job Title Legislative Advocate

Address PO Box 1757 Phone 850 701 3701

Street

Tallahassee FL 32302

City

State

Zip

Email

Speaking: ☐ For ☐ Against

☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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APPEARANCE RECORD

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

12/9/14
Meeting Date670

Bill Number (if applicable)

639762

Amendment Barcode (if applicable)

Topic Smoking in Public ParksName Kenny JohnsonJob Title Deputy MayorAddress 120 Malabar Road

Street

City

Palm Bay

State

FL

Zip

32908Phone 321-474-0183Email Kenny.Johnson@palmabay.fl.govSpeaking: ☐ For ☐ Against☐ InformationWaive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

Representing City of Palm BayAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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APPEARANCE RECORD

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

12/5/19

Meeting Date

SB 670

Bill Number (if applicable)

Topic SmokingName Greg Rounel

Job Title _____

Address 9166 Sunrise

Phone _____

Street

City Largo

City

State Fla

State

Zip 33773

Zip

Email _____

Speaking: ☐ For ☐ Against☐ For ☐ Against☒ InformationWaive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Saving familiesAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic

Name

Job Title

Address

Street

City

State

Zip

Phone

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.

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APPEARANCE RECORD

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

12-9

Meeting Date

670

Bill Number (if applicable)

Topic SmokingName Matt JordanJob Title GRDAddress 1922 Dellwood DrPhone 850-519-2801

Street

Tallahassee

City

FL

State

32303

Zip

Email Matt.Jordan@flsenate.orgSpeaking: ☐ For ☐ Against ☒ In Support ☐ Against

Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing American Cancer SocietyAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

12/9/13
Meeting Date

670

Bill Number (if applicable)

Topic Smoking

Name Casey Cook

Job Title Legislative Advocate

Address PO Box 1752
Street

Phone 850 701 3701

Tallahassee FL 32302
City State Zip

Email cook@flcties.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

12/19/19
Meeting Date

SB 670

Bill Number (if applicable)

Topic Smoking On Public Beaches 3 in Public Parks

Name Daphnee Sainvil

Job Title Legislative Policy Advisor

Address 100 S. Andrews Ave.

Street

Phone

954-253-7320

City Ft. Lauderdale

State

FL

Zip

Email

Dsainvil@broward.org

Speaking: ☐ For ☐ Against

☐ Information

Waive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

Representing

Broward County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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APPEARANCE RECORD

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

12/9/14

Meeting Date

SB 670

Bill Number (if applicable)

Topic Smoking

Name Mark D. Landolt

Job Title Gov't Relations Dir

Address 2851 Remington Green Cir Ste A

Phone 850 544 3376

Street

TLC

City

FLA

State

32308

Zip

Email mark.landolt@heartsin.org

Speaking: ☒ For☐ Against☐ Information☒ In Support☐ AgainstWaive Speaking:
(The Chair will read this information into the record.)

Representing

American Heart Association

Appearing at request of Chair: ☐ Yes☒ No

Lobbyist registered with Legislature:

☒ Yes☐ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

12-9-13
Meeting Date

628
Bill Number (if applicable)

Topic Senators

Name David Conrad

Job Title _____

Address 2430 E. 1st St Phone _____

Orlando City FL State 21648 Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Sierra Club 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.

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APPEARANCE RECORD

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

12/9/19

Meeting Date

SB 670

Bill Number (if applicable)

Topic Smoking on Public Beaches

Name David Shepp

Job Title Lobbyist

Address P.O. Box 3739

Street

Phone 863 581-4250

City Lakeland

State FL

Zip 33802

Email

sheppe@thesouthfloridap.com

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Sarasota County

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
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 Community Affairs

BILL: CS/SB 712

INTRODUCER: Community Affairs Committee and Senator Mayfield

SUBJECT: Water Quality Improvements

DATE: December 11, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga/Rogers	Yeatman	CA	Fav/CS
2.	_____	_____	AEG	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 712 includes recommendations from the Blue-Green Algae Task Force. The major topics in this bill include onsite sewage treatment and disposal systems (OSTDSs, commonly referred to as septic systems), wastewater, stormwater, agriculture, and biosolids. The bill directs the Department of Environmental Protection (DEP) to make rules relating to most of these topics. Note that rules that cost at least \$1 million over the first 5 years of implementation require legislative ratification.¹ Therefore, several of these provisions may not be fully effectuated without additional legislation.

Regarding OSTDSs, the bill:

- Transfers the regulation of OSTDSs from the Department of Health (DOH) to DEP.
- Directs DEP to adopt rules to locate OSTDSs by July 1, 2022:
 - These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, OSTDS remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;
 - Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.

¹ Section 120.541(3), F.S.

- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within basin management action plans if DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the basin management action plans no later than July 1, 2025.

Regarding wastewater, the bill:

- Creates a wastewater grant program, subject to appropriation, within DEP that requires a 50 percent local match of funds. Eligible projects include:
 - Projects to upgrade OSTDSs.
 - Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
 - Projects to connect OSTDSs to central sewer facilities.
- Requires DEP to submit an annual report to the Governor and Legislature on the projects funded by the wastewater grant program.
- Requires DEP to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.
- Authorizes DEP to require public utilities seeking a wastewater discharge permit to file reports and other data regarding utility costs:
 - Such reports may include data related to expenditures on pollution mitigation and prevention, including the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration.
 - DEP is required to adopt rules related to these requirements.
- Requires local governments to develop wastewater treatment plans within basin management action plans if DEP determines that domestic wastewater facilities contribute at least 20 percent of the nutrient pollution or if DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the basin management action plans no later than July 1, 2025.
- Adds to DEP's penalty schedule a penalty of \$2,000 for failure to survey an adequate portion of a wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration. Substantial compliance with certain bill requirements is evidence in mitigation for penalty assessment.
- Prohibits facilities for sanitary sewage disposal from disposing of waste into Indian River Lagoon and its tributaries without providing advanced waste treatment.
- Requires facilities for sanitary sewage disposal to provide for a power outage contingency plan for collection systems and pump stations.
- Requires facilities for sanitary sewage to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate treatment.
 - The bill requires studies, plans, and reports related to this requirement (the action plan).
 - DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys.
- Authorizes certain facilities for sanitary sewage to receive 10-year permits if they are meeting the goals in their action plan for inflow, infiltration, and leakage prevention.
- Makes the following changes relating to water pollution operation permits:

- The permit must require the investigation or surveying of the wastewater collection system to determine pipe integrity.
- The permit must require an annual report to DEP, which details facility revenues and expenditures in a manner prescribed by DEP rule, including any deviation from annual expenditures related to their action plan.
- Requires DEP to submit an annual report to the Governor and Legislature that identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. DEP must include with this report certain utility-specific information for each utility that experienced an overflow.

Regarding stormwater, the bill:

- Requires DEP and the Water Management Districts (WMDs), by January 1, 2021, to initiate rulemaking to update their stormwater rules.
- Requires DEP, by January 1, 2021, to evaluate inspection data relating to entities that self-certify their stormwater permits and provide the Legislature with recommendations for improvements to the self-certification program.
- Directs DEP and the Department of Economic Opportunity to include in their model stormwater management program ordinances that target nutrient reduction practices and use green infrastructure.

Regarding agriculture, the bill:

- Requires the Department of Agriculture and Consumer Services (DACS) to collect and provide to DEP fertilization and nutrient records from each agriculture producer enrolled in best management practices.
- Requires DACS to perform onsite inspections of each agricultural producer that enrolls in a best management practice every two years.
- Authorizes DACS and institutions of higher education with agricultural research programs to develop research plans and legislative budget requests relating to the evaluation and improvement of agricultural best management practices and agricultural nutrient reduction projects.

Regarding biosolids, the bill:

- Requires DEP to adopt rules for biosolids management.
- Exempts the biosolids rules from legislative ratification if they are adopted prior to the 2021 legislative session.

The bill also creates a real-time water quality monitoring program, subject to appropriation, within DEP.

II. Present Situation:

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.

Phosphorus and nitrogen are derived from natural and human-made sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.²

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 impairment of the aesthetics and taste of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.³

Blue-Green Algae Task Force

In January of 2019, Governor DeSantis issued the comprehensive Executive Order Number 19-12.⁴ The order directed the Department of Environmental Protection (DEP) to establish a Blue-Green Algae Task Force charged with expediting progress towards reducing nutrient pollution and the impacts of blue-green algae (cyanobacteria) blooms in the state.⁵ The task force's responsibilities include identifying priority projects for funding and making recommendations for regulatory changes. The five-person task force issued a consensus document on October 11, 2019.⁶ To the extent that the task force has issued recommendations on topics addressed in this Present Situation, those recommendations are included in the relevant section.

Total Maximum Daily Loads

A total maximum daily load (TMDL), which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.⁷ Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water Act, DEP is required to establish a TMDL for impaired waterbodies.⁸ 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.⁹ Point sources are discernible,

² U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Dec. 2, 2019).

³ EPA, *The Problem*, <https://www.epa.gov/nutrientpollution/problem> (last visited Dec. 2, 2019).

⁴ State of Florida, Office of the Governor, *Executive Order Number 19-12* (2019), available at https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf.

⁵ *Id.* at 2; DEP, *Blue-Green Algae Task Force*, <https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force> (last visited Dec. 2, 2019).

⁶ DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

⁷ DEP, *Total Maximum Daily Loads Program*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Dec. 2, 2019).

⁸ Section 403.067(1), F.S.

⁹ Section 403.031(21), F.S.

confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.¹⁰

Basin Management Action Plans and Best Management Practices

DEP is the lead agency in coordinating the development and implementation of TMDLs.¹¹ Basin management action plans (BMAPs) are one of the primary mechanisms DEP uses to achieve TMDLs. BMAPs are plans that 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;
- Best management practices (BMPs) and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.¹²

DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.¹³ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the public to determine and share water quality cleanup responsibilities collectively.¹⁴ BMAPs are adopted by secretarial order.¹⁵

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 BMAP must be made as appropriate.¹⁶

¹⁰ Fla. Admin. Code R. 62-620.200(37). “Point source” is defined as “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 sources of pollution that are not point sources. Nonpoint sources can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

¹¹ Section 403.061, F.S. DEP has 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 DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

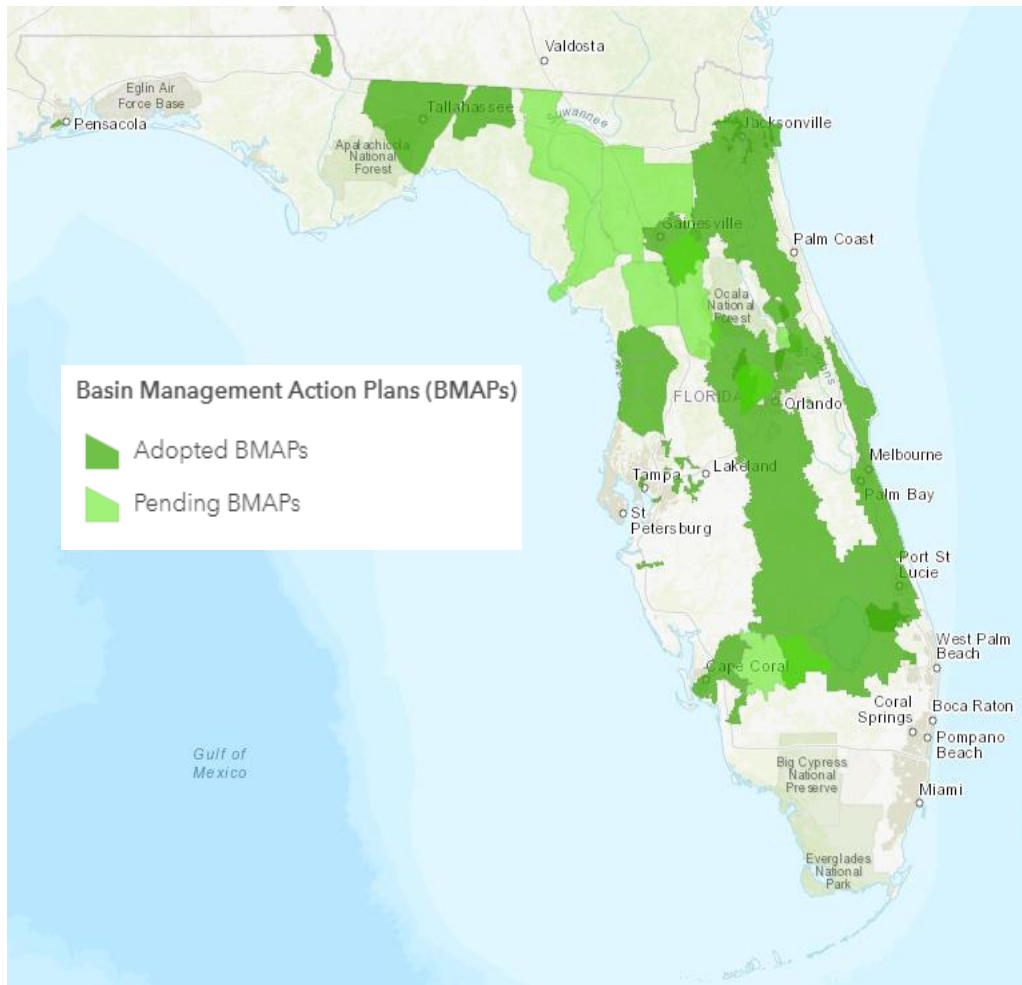
¹² Section 403.067(7), F.S.

¹³ *Id.*

¹⁴ DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Dec. 4, 2019).

¹⁵ Section 403.067(7)(a)5., F.S.

¹⁶ Section 403.067(7)(a)6., F.S.



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.¹⁷ A nonpoint source discharger may be subject to enforcement action by DEP or a water management district (WMD) based on a failure to implement these requirements.¹⁸ BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and to help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, forestry operations, and stormwater management.¹⁹

Currently, BMAPs are adopted or pending for a significant portion of the state and will continue to be developed as necessary to address water quality impairments. The graphic above shows the state's adopted and pending BMAPs.²⁰

¹⁷ Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

¹⁸ Section 403.067(7)(b)2.h., F.S.

¹⁹ DEP, *NPDES Stormwater Program*, <https://floridadep.gov/Water/Stormwater> (last visited Dec. 2, 2019).

²⁰ DEP, *Impaired Waters, TMDLs, and Basin Management Action Plans Interactive Map*, <https://floridadep.gov/dear/water-quality-restoration/content/impaired-waters-tmdls-and-basin-management-action-plans> (last visited Dec. 5, 2019).

The Blue-Green Algae Task Force made the following recommendations for BMAPs:

- Include regional storage and treatment infrastructure in South Florida watersheds.
- Consider land use changes, legacy nutrients, and the impact of the BMAP on downstream waterbodies.
- Develop a more targeted approach to project selection.
- Evaluate project effectiveness through monitoring.²¹

Agricultural BMPs

Agricultural best management practices (BMPs) are practical measures that agricultural producers undertake to reduce the impacts of fertilizer and water use and otherwise manage the landscape to further protect water resources. BMPs are developed using the best available science with economic and technical consideration and, in certain circumstances, can maintain or enhance agricultural productivity.²² BMPs are implemented by the Department of Agriculture and Consumer Services (DACS). Since the BMP program was implemented in 1999,²³ DACS has adopted nine BMP manuals and is currently developing two more that cover nearly all major agricultural commodities in Florida. According to the annual report on BMPs prepared by DACS, approximately 54 percent of agricultural acreage is enrolled in the DACS BMP program statewide.²⁴ Producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs²⁵ and those who enroll in the BMP program become eligible for technical assistance and cost-share funding for BMP implementation. To enroll in the BMP program, producers must meet with the Office of Agricultural Water Policy (OAWP) to determine the BMPs that are applicable to their operation and submit a Notice of Intent to Implement the BMPs, along with the BMP checklist from the applicable BMP manual.²⁶

The University of Florida's Institute of Food and Agricultural Sciences (IFAS) is heavily involved in the adoption and implementation of BMPs. IFAS provides expertise to both DACS and agriculture producers, and has extension offices throughout Florida. IFAS puts on summits

²¹ DEP, *Blue-Green Algae Task Force Consensus Document #1*, 2-4 (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

²² Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), available at <https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf> (last visited Dec. 5, 2019).

²³ The program was voluntary from 199-2005. In 2005 the Florida Legislature modified the law requiring agricultural producers to adopt BMPs or conduct water quality monitoring.

²⁴ Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 2, (Jul. 1, 2019), available at <https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf> (last visited Dec. 5, 2019).

²⁵ Section 403.067(7), F.S.

²⁶ Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), available at <https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf> (last visited Dec. 5, 2019).

and workshops on BMPs,²⁷ conducts research to issue recommendations for improving BMPs,²⁸ and issues training certificates for BMPs that require licenses such as Green Industry BMPs.²⁹

For agriculture and BMPs, the Blue-Green Algae Task Force recommended:

- Increasing BMP enrollment.
- Improving records and additional data collection.
- Accelerating updates to BMP manuals.³⁰

BMAPs for Outstanding Florida Springs

In 2016, the Legislature passed the Florida Springs and Aquifer Protection Act, which identified 30 "Outstanding Florida Springs" (OFS) that have additional statutory protections and requirements.³¹ Key aspects of the Springs and Aquifer Protection Act relating to water quality include:

- The designation of a priority focus area for each OFS. A priority focus area of an OFS means the area or areas of a basin where the Florida 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 DEP in consultation with the appropriate WMDs, and delineated in a BMAP;³²
- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan³³ if it has been determined that OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or that remediation is necessary to achieve the TMDL;
- A 20-year timeline for implementation of the TMDL, including 5-, 10-, and 15-year targets,³⁴ and
- The prohibition against new OSTDSs on parcels of less than 1 acre, unless the system complies with the OSTDS remediation plan.³⁵

DEP is the lead agency in coordinating the preparation and adoption of the OSTDS remediation plan. The OSTDS remediation plan must include options for repair, upgrade, replacement, drainfield modification, the addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for a sewage system or group of systems.³⁶ The options

²⁷ UF/IFAS, *BMP Resource*, available at <https://bmp.ifas.ufl.edu/> (last visited Dec. 5, 2019).

²⁸ UF/IFAS Everglades Research & Education Center, *Best Management Practices & Water Resources*, available at <https://erec.ifas.ufl.edu/featured-3-menus/research/-best-management-practices--water-resources/> (last visited Dec. 5, 2019).

²⁹ UF/IFAS Florida-Friendly Landscaping, *GI-BMP Training Program Overview*, available at https://ffl.ifas.ufl.edu/professionals/BMP_overview.htm (last visited Dec. 5, 2019).

³⁰ *Id.*

³¹ Chapter 2016-1, Laws of Fla.; see s. 373.802, F.S., Outstanding Florida Springs include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs, and their associated spring runs.

³² Section 373.802(5), F.S.

³³ Commonly called a "septic remediation plan."

³⁴ Section 373.807, F.S.

³⁵ Section 373.811, F.S.

³⁶ Section 373.807(3), F.S.

must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.³⁷

In June 2018, DEP adopted 13 BMAPs, addressing all 24 nitrogen-impaired OFS.³⁸ Eight of these plans are currently effective, while five others are pending the outcome of legal challenges on various alleged deficiencies in the BMAPs.³⁹ These alleged deficiencies include lack of specificity in the required list of projects and programs identified to implement a TMDL, lack of detail in cost estimates, incomplete or unclear strategies for nutrient reduction, and failure to account for population growth and agricultural activity.

Wastewater Treatment Facilities

The proper treatment and disposal or reuse of domestic wastewater is an important part of protecting Florida's water resources. The majority of Florida's domestic wastewater is controlled and treated by centralized treatment facilities regulated by DEP. Florida has approximately 2,000 permitted domestic wastewater treatment facilities.⁴⁰

Chapter 403, F.S., requires that any facility or activity which discharges waste into waters of the state or which will reasonably be expected to be a source of water pollution must obtain a permit from DEP.⁴¹ Generally, persons who intend to collect, transmit, treat, dispose, or reuse wastewater are required to obtain a wastewater permit. A wastewater permit issued by DEP is required for both operation and certain construction activities associated with domestic or industrial wastewater facilities or activities. A DEP permit must also be obtained prior to construction of a domestic wastewater collection and transmission system.⁴²

Under section 402 of the Clean Water Act, any discharge of a pollutant from a point source to surface waters (i.e., the navigable waters of the United States or beyond) must obtain a National Pollution Discharge Elimination System (NPDES) permit.⁴³ NPDES permit requirements for most wastewater facilities or activities (domestic or industrial) that discharge to surface waters are incorporated into a state-issued permit, thus giving the permittee one set of permitting requirements rather than one state and one federal permit.⁴⁴ DEP issues operation permits for a period of 5 years for facilities regulated under the NPDES program and up to 10 years for other domestic wastewater treatment facilities meeting certain statutory requirements.⁴⁵

³⁷ *Id.*

³⁸ DEP, *Springs*, <https://floridadep.gov/springs> (last visited Nov. 26, 2019).

³⁹ *Our Santa Fe River, Inc., et. al. v. DEP*, No. 18-1601, DEP No. 18-2013; *Sierra Club v. DEP*, No. 17-1175, DEP No. 18-0204; *Friends of Wekiva River, Inc. v. DEP*, No. 18-1065, DEP No. 18-0217; *Thomas Greenhalgh v. DEP*, No. 17-1165, DEP No. 18-0204; *Paul Still v. DEP*, No. 18-1061; *Save the Manatee Club, Inc. v. DEP*, No. 17-1167, DEP No. 18-0206; *Silver Springs Alliance, Inc. and Rainbow River Conservation, Inc. v. DEP*, No. 18-1060, DEP No. 18-0211.

⁴⁰ DEP, *General Facts and Statistics About Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Dec. 2, 2019).

⁴¹ Section 403.087, F.S.

⁴² DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Dec. 2, 2019).

⁴³ 33 U.S.C. s. 1342.

⁴⁴ Sections 403.061 and 403.087, F.S.

⁴⁵ Section 403.087(3), F.S.

In its 2016 Report Card for Florida's Infrastructure, the American Society of Civil Engineers reported that the state's wastewater system is increasing in age and the condition of installed treatment and conveyance systems is declining.⁴⁶ As existing infrastructure ages, Florida utilities are placing greater emphasis on asset management systems to maintain service to customers. Population growth, aging infrastructure, and sensitive ecological environments are increasing the need to invest in Florida's wastewater infrastructure.⁴⁷

Advanced Waste Treatment

Under Florida law, facilities for sanitary sewage disposal are required to provide for advanced waste treatment, as deemed necessary by DEP.⁴⁸ The standard for advanced waste treatment is defined in statute using the maximum concentrations of nutrients or contaminants that a reclaimed water product may contain.⁴⁹ The standard also requires high-level disinfection.⁵⁰

Nutrient or Contaminant	Maximum Concentration Annually
Biochemical Oxygen Demand	5 mg/L
Suspended Solids	5 mg/L
Total Nitrogen	3 mg/L
Total Phosphorus	1 mg/L

Facilities for sanitary sewage disposal are prohibited from disposing of waste into certain waters in the state without providing advanced waste treatment approved by DEP.⁵¹ Specifically, Tampa Bay is viewed as a success story for this type of prohibition.

[Tampa Bay is] one of the few estuaries in the U.S. that has shown evidence of improving environmental conditions. These water-quality improvements have been due, in large part, to upgrades in wastewater-treatment practices at municipal wastewater-treatment plants in the region. Since 1980, all wastewater-treatment plants that discharge to the bay or its tributaries have been required by state legislation to meet advanced wastewater-treatment standards, a step that has reduced the annual nutrient loads from these sources by about 90 percent.⁵²

⁴⁶ American Society of Civil Engineers, *Report Card for Florida's Infrastructure* (2016), available at https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf.

⁴⁷ *Id.*

⁴⁸ Section 403.086(2), F.S.

⁴⁹ Section 403.086(4), F.S.

⁵⁰ Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).

⁵¹ Section 403.086(1)(c), F.S. Facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment approved by DEP. This prohibition does not apply to facilities permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

⁵² U.S. Department of the Interior and U.S. Geological Survey, *Integrating Science and Resource Management in Tampa Bay, Florida*, 110 (2011), available at https://pubs.usgs.gov/circ/1348/pdf/Chapter%205_105-156.pdf (internal citations omitted).

Sanitary Sewer Overflows, Leakages, and Inflow and Infiltration

Although domestic wastewater treatment facilities are permitted and designed to safely and properly collect and manage a specified wastewater capacity, obstructions or extreme conditions can cause a sanitary sewer overflow (SSO). Any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a sanitary sewer system is a SSO.⁵³ A SSO may subject the owner or operator of a facility to civil penalties of not more than \$10,000 for each offense, a criminal conviction or fines, and additional administrative penalties.⁵⁴ Each day during the period in which a violation occurs constitutes a separate offense.⁵⁵ However, administrative penalties are capped at \$10,000.⁵⁶

A key concern with SSOs entering rivers, lakes, or streams is their negative effect on water quality. In addition, because SSOs contain partially treated or potentially untreated domestic wastewater, ingestion or similar contact may cause illness. People can be exposed through direct contact in areas of high public access, food that has been contaminated, inhalation, and skin absorption. The Department of Health (DOH) issues health advisories when bacteria levels present a risk to human health and may post warning signs when bacteria affect public beaches or other areas where there is a risk of human exposure.⁵⁷

Reduction of SSOs can be achieved through:

- Cleaning and maintaining the sewer system;
- Reducing inflow and infiltration through rehabilitation and repairing broken or leaking lines;
- Enlarging or upgrading sewer, pump station, or sewage treatment plant capacity and/or reliability; and
- Constructing wet weather storage and treatment facilities to treat excess flows.⁵⁸

Inflow and Infiltration (I&I) occurs when groundwater and/or rainwater enters the sanitary sewer system and ends up at the wastewater treatment facility, necessitating its treatment as if it were wastewater.⁵⁹ I&I can be caused by groundwater infiltrating the sewer system through faulty pipes or infrastructure, or any inflows of rainwater or non-wastewater into the sewer system.

I&I is a major cause of SSOs in Florida.⁶⁰ When domestic wastewater facilities are evaluated for permit renewal, collection systems are not evaluated for issues such as excessive infiltration/inflow unless problems result at the treatment plant.⁶¹ Another major cause of SSOs

⁵³ DEP, *Sanitary Sewer Overflows (SSOs)*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Dec. 4, 2019).

⁵⁴ Sections 403.121 and 403.141, F.S.

⁵⁵ *Id.*

⁵⁶ Section 403.121(2)(b),(8), and (9), F.S.

⁵⁷ DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf>.

⁵⁸ *Id.*

⁵⁹ City of St. Augustine, *Inflow & Infiltration Elimination Program*, <https://www.citystaug.com/549/Inflow-Infiltration-Elimination-Program> (last visited Dec. 6, 2019).

⁶⁰ See generally RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), available at https://floridadep.gov/sites/default/files/Final%20Report_Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.

⁶¹ Fla. Admin. Code R. 62-600.735; see Fla. Admin. Code R. 62-600.200. “Collection/transmission systems” are defined as “sewers, pipelines, conduits, pumping stations, force mains, and all other facilities used for collection and transmission of

is the loss of electricity to the infrastructure for the collection and transmission of wastewater, such as pump stations, especially during storms.⁶² Pump stations receiving flow from another station through a force main, or those discharging through pipes 12 inches or larger, must have emergency generators.⁶³ All other pump stations must have emergency pumping capability through one of three specified arrangements.⁶⁴ These requirements for emergency pumping capacity only apply to domestic wastewater collection/transmission facilities existing after November 6, 2003, unless facilities existing prior to that date are modified.⁶⁵

The Blue-Green Algae Task Force made the following recommendations relating to SSOs:

- Emergency back-up capabilities should be required for all lift stations constructed prior to 2003.
- DEP and wastewater facilities should take a more proactive approach to infiltration and inflow issues.⁶⁶

Wastewater Asset Management

Asset management is the practice of managing infrastructure capital assets to minimize the total cost of owning and operating these assets while delivering the desired service levels.⁶⁷ Many utilities use asset management to pursue and achieve sustainable infrastructure. A high-performing asset management program includes detailed asset inventories, operation and maintenance tasks, and long-range financial planning.⁶⁸

Each utility is responsible for making sure that its system stays in good working order, regardless of the age of its components or the availability of additional funds.⁶⁹ Asset management programs with good data can be the most efficient method of meeting this challenge. Some key steps for asset management are making an inventory of critical assets, evaluating the condition and performance of such assets, and developing plans to maintain, repair, and replace assets and to fund these activities.⁷⁰ The EPA provides guidance and reference manuals for utilities to aid in developing asset management plans.⁷¹

wastewater from individual service connections to facilities intended for the purpose of providing treatment prior to release to the environment.”

⁶² See generally RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), available at https://floridadep.gov/sites/default/files/Final%20Report%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.

⁶³ Fla. Admin. Code R. 62-604.400.

⁶⁴ *Id.*

⁶⁵ Fla. Admin. Code R. 62-604.100.

⁶⁶ DEP, *Blue-Green Algae Task Force Consensus Document #1*, 7 (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

⁶⁷ EPA, *Sustainable Water Infrastructure - Asset Management for Water and Wastewater Utilities*, <https://www.epa.gov/sustainable-water-infrastructure/asset-management-water-and-wastewater-utilities> (last visited Dec 9, 2019).

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

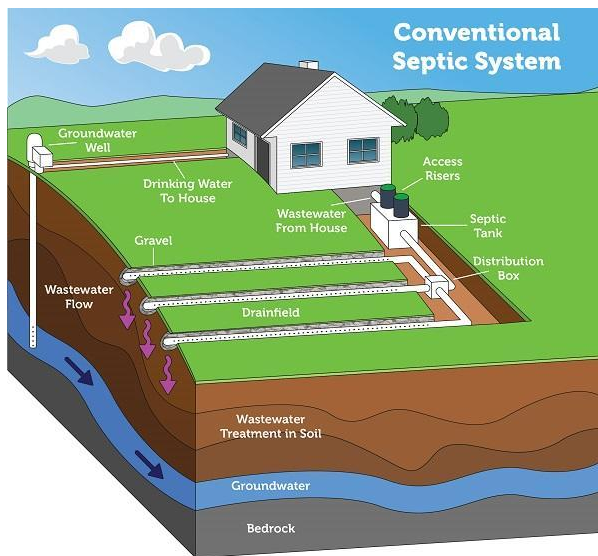
⁷¹ EPA, *Asset Management: A Best Practices Guide* (2008), available at <https://nepis.epa.gov/Exe/ZyPDF.cgi/P1000LP0.PDF?Dockey=P1000LP0.PDF>; EPA, *Reference Guide for Asset Management Tools/Asset Management Plan Components and Implementation Tools for Small and Medium Sized Drinking*

Many states, including Florida, provide financial incentives for the development and implementation of an asset management plan when requesting funding under a State Revolving Fund or other state funding mechanism.⁷² Florida's incentives include priority scoring,⁷³ reduction of interest rates,⁷⁴ principal forgiveness for financially disadvantaged small communities,⁷⁵ and eligibility for small community wastewater facilities grants.⁷⁶

In 2016, the Legislature authorized the Public Service Commission (PSC) to allow a utility to create a utility reserve fund for repair and replacement of existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. The utility reserve fund would be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit.

The PSC adopted rules governing the implementation, management, and use of the fund, including expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for the PSC authorization before fund disbursements.⁷⁷ The PSC requires an applicant to provide a capital improvement plan or an asset management plan in seeking authorization to create a utility reserve fund.⁷⁸

Onsite Sewage Treatment and Disposal Systems



Please note: Septic systems vary. Diagram is not to scale.

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as “septic systems,” generally consist of two basic parts:

Water and Wastewater Systems (May 2014), available at https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf.

⁷² EPA, *State Asset Management Initiatives* (Aug. 2012), available at https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf.

⁷³ Fla. Admin. Code R. 62-503.300(e).

⁷⁴ Fla. Admin. Code R. 62-503.300(5)(b)1. and 62-503.700(7).

⁷⁵ Fla. Admin. Code R. 62-503.500(4).

⁷⁶ Fla. Admin. Code R. 62-505.300(d) and 62-505.350(5)(c).

⁷⁷ Fla. Admin. Code R. 25-30.444.

⁷⁸ Fla. Admin. Code R. 25-30.444(2)(e) and (m).

the septic tank and the drainfield.⁷⁹ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.⁸⁰

DOH administers OSTDS 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.⁸¹ DOH regulations focus on construction standards and setback distances. The regulations are primarily designed to protect the public from waterborne illnesses.⁸² DOH also conducts research to evaluate performance, environmental health, and public health effects of OSTDSs. Innovative OSTDS products and technologies must be approved by DOH.⁸³

DOH and DEP have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.⁸⁴ DEP has jurisdiction over OSTDSs when: domestic sewage flow exceeds 10,000 gallons per day; commercial sewage flow exceeds 5,000 gallons per day; there is a likelihood of hazardous or industrial wastes; a sewer system is available; or if any system or flow from the establishment is currently regulated by DEP (unless DOH grants a variance).⁸⁵ In all other circumstances, DOH regulates OSTDSs.

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.⁸⁶ In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.⁸⁷ For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.⁸⁸ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.⁸⁹

⁷⁹ DOH, *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Dec. 2, 2019); EPA, *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited Dec. 2, 2019) (showing the graphic provided in the analysis).

⁸⁰ *Id.*

⁸¹ Section 381.0065(3), F.S.

⁸² DOH, *Overview of Onsite Sewage Treatment and Disposal Systems*, 5 (Aug. 1, 2019), <http://floridadep.gov/file/19018/download?token=6r94Bi2B>.

⁸³ Section 381.0065(3), F.S.

⁸⁴ *Interagency Agreement Between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems* (Sept. 30, 2015), available at https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf.

⁸⁵ *Id.* at 6-13; s. 381.0065(3)(b), F.S.; DEP, *Septic Systems*, <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited Dec. 2, 2019).

⁸⁶ DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Dec. 2, 2019).

⁸⁷ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rrac/2008-11-06.pdf>. The report begins on page 56 of the PDF.

⁸⁸ *Id.*

⁸⁹ *Id.*

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.⁹⁰ This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.⁹¹

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as “advanced” or “nutrient-reducing” septic systems).⁹² DOH publishes on its website approved products and resources on advanced systems.⁹³ Determining which advanced system is the best option can depend on site-specific conditions.

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.⁹⁴ Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from DOH.⁹⁵

The Blue-Green Algae Task Force made the following recommendations relating to OSTDSs:

- DEP should develop a more comprehensive regulatory program to ensure that OSTDSs are sized, designed, constructed, installed, operated, and maintained to prevent nutrient pollution, reduce environmental impact, and preserve human health.
- More post-permitting septic tank inspections should take place.
- Protections for vulnerable areas in the state should be expanded.
- Additional funding to accelerate septic to sewer conversions.⁹⁶

The DOH Technical Review and Advisory Panel

DOH has a technical review and advisory panel to review agency rules and provide assistance to DOH with rule adoption.⁹⁷ It is comprised of, at a minimum:

- A soil scientist;
- A professional engineer registered in this state who is recommended by the Florida Engineering Society and who has work experience in OSTDSs;
- Two representatives from the home-building industry recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems;

⁹⁰ DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study, Final Report 2008-2015*, 21 (Dec. 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf>; see Fla. Admin. Code R. 64E-6.006(2).

⁹¹ University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), available at <http://edis.ifas.ufl.edu/pdf/files/SS/SS55000.pdf>.

⁹² DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (2019), available at http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/bmap-n-reducing-tech-18-10-29.pdf.

⁹³ DOH, *Onsite Sewage Programs, Product Listings and Approval Requirements*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/products/index.html> (last visited Dec. 2, 2019).

⁹⁴ Section 381.00655, F.S.

⁹⁵ *Id.*

⁹⁶ DEP, *Blue-Green Algae Task Force Consensus Document #1*, 6-7 (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

⁹⁷ Section 381.0068, F.S.

- A representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state;
- A representative from the real estate industry who is recommended by the Florida Association of Realtors;
- A consumer representative with a science background;
- Two representatives of the septic tank industry recommended by the Florida Onsite Wastewater Association, including one who is a manufacturer of onsite sewage treatment and disposal systems;
- A representative from local government who is knowledgeable about domestic wastewater treatment and who is recommended by the Florida Association of Counties and the Florida League of Cities; and
- A representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county health department.⁹⁸

Members are to be appointed for a term of 2 years. The panel may also, as needed, be expanded to include ad hoc, nonvoting representatives who have topic-specific expertise.⁹⁹

Stormwater Management

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.¹⁰⁰ When stormwater falls on pavement, buildings, and other impermeable surfaces, the runoff flows quickly and can pick up sediment, nutrients (such as nitrogen and phosphorous), chemicals, and other pollutants.¹⁰¹ Stormwater pollution is a major source of water pollution in Florida.¹⁰²

There are two main regulatory programs to address water quality from stormwater: the federal program that regulates discharges of pollutants into waters of the United States¹⁰³ and the state Environmental Resource Permitting (ERP) Program that regulates activities involving the alteration of surface water flows.¹⁰⁴ The federal NPDES Stormwater Program regulates the following types of stormwater pollution:¹⁰⁵

- Certain municipal storm sewer systems;

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ DEP and Water Management Districts, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), available at

https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf.

¹⁰¹ DEP, *Stormwater Management*, 1 (2016), available at https://floridadep.gov/sites/default/files/stormwater-management_0.pdf. When rain falls on fields, forests, and other areas with naturally permeable surfaces the water not absorbed by plants filters through the soil and replenishes Florida's groundwater supply.

¹⁰² DEP, *Stormwater Support*, <https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support> (last visited Dec. 2, 2019); DEP, *Nonpoint Source Program Update*, 10 (2015), available at <https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf>.

¹⁰³ National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122.

¹⁰⁴ Chapter 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.

¹⁰⁵ A point source is discernible, confined and discrete conveyance, such as a pipe, ditch, channel, tunnel, conduit, discrete fissure, or container. *See* The Clean Water Act, 33 U.S.C. s. 1362(14) and 40 C.F.R. 122.2; Stormwater can be either a pointsource or a nonpoint source of pollution. EPA, *Monitoring and Evaluating Nonpoint Source Watershed Projects*, 1-1, available at https://www.epa.gov/sites/production/files/2016-02/documents/chapter_1_draft_aug_2014.pdf; DEP, *Nonpoint Source Program Update*, 9 (2015), available at <https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf>.

- Runoff from certain construction activities; and
- Runoff from industrial activities.¹⁰⁶

Florida's ERP Program includes regulation of activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.¹⁰⁷ ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.¹⁰⁸ The statewide ERP Program is implemented by DEP, the WMDs, and certain local governments. The ERP Applicant Handbook, incorporated by reference into DEP rules, provides guidance on DEP's ERP Program, including stormwater topics such as the design of stormwater management systems.¹⁰⁹

DEP and the WMDs are authorized to require permits and impose reasonable conditions:

- To ensure that construction or alteration of stormwater management systems and related structures are consistent with applicable law and not harmful to water resources;¹¹⁰ and
- For the maintenance or operation of such structures.¹¹¹

DEP's stormwater rules are technology-based effluent limitations rather than water quality-based effluent limitations.¹¹² This means that stormwater rules rely on design criteria for BMPs to achieve a performance standard for pollution reduction, rather than specifying the amount of a specific pollutant that may be discharged to a waterbody and still ensure that the waterbody attains water quality standards.¹¹³ The rules contain minimum stormwater treatment performance standards, which require design and performance criteria for new stormwater management systems to achieve at least 80 percent reduction of the average annual load of pollutants that

¹⁰⁶ See generally EPA, NPDES Stormwater Program, <https://www.epa.gov/npdes/npdes-stormwater-program> (last visited Dec. 2, 2019).

¹⁰⁷ DEP, DEP 101: Environmental Resource Permitting, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Dec 2, 2019).

¹⁰⁸ South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Dec. 2, 2019).

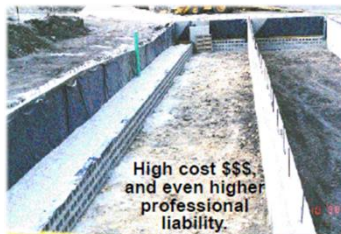
¹⁰⁹ Fla. Admin. Code R. 62-330.010(4); DEP and WMDs, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), available at https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf; *Environmental Resource Permit Applicant's Handbook Volume II*, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Dec. 2, 2019).

¹¹⁰ Section 373.413, F.S.; see s. 403.814(12), F.S.

¹¹¹ Section 373.416, F.S.

¹¹² DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Nov. 8, 2019).

¹¹³ See generally, EPA, National Pollutant Discharge Elimination System (NPDES), www.epa.gov/npdes/npdes-permit-limits (last visited Dec. 2, 2019).

**"Filtered" Ponds****Underground Vaults****"Dry" Retention Ponds****"Wet" Detention Ponds****Underground Exfiltration Trenches****Pervious Pavement**

would cause or contribute to violations of state water quality standards.¹¹⁴ The standard is 95 percent reduction when applied to Outstanding Florida Waters. In 2007, an evaluation performed for DEP generally concluded that Florida's stormwater design criteria failed to consistently meet either the 80 percent or 95 percent target goals in DEP's rules.¹¹⁵ The images shown here depict six major types of surface water management systems.¹¹⁶

DEP and the WMDs must require applicants to provide reasonable assurance that state water quality standards will not be violated.¹¹⁷ If a stormwater management system is designed in accordance with the stormwater treatment requirements and criteria adopted by DEP or the WMDs, then the system design is presumed not to cause or contribute to violations of applicable state water

quality standards.¹¹⁸ If a stormwater management system is constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption, then the stormwater discharged from the system is presumed not to cause or contribute to violations of applicable state water quality standards.¹¹⁹ If an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, DEP or a WMD must consider mitigation measures that cause a net improvement of the water quality in the water body that does not meet the standards.¹²⁰

¹¹⁴ Fla. Admin. Code R. 62-40.432(2).

¹¹⁵ Environmental Research & Design, Inc., *Evaluation of Current Stormwater Design Criteria Within the State of Florida*, 6-1 (2007), available at <https://www.sfwmd.gov/sites/default/files/documents/sw%20treatment%20report-final71907.pdf>. The report makes an exception for the St. John's River Water Management District's standards for on-line dry retention.

¹¹⁶ Presentation to the Blue-Green Algae Task Force by Benjamin Melnik, Deputy Director of the Division of Water Resource Management, *Stormwater*, 12 (September 24, 2019) (on file with Committee on Environment and Natural Resources).

¹¹⁷ Section 373.414(1), F.S.; see s. 373.403(11), F.S.; see Fla. Admin. Code Ch. 62-4, 62-302, 62-520, and 62-550.

¹¹⁸ Section 373.4131(3)(b), F.S. Fla. Admin. Code R. 62-40.432(2); see also DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Dec. 2, 2019) (stating that a key component of the stormwater rule is a "rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria will not cause harm to water resources").

¹¹⁹ Section 373.4131(3)(c), F.S.

¹²⁰ Section 373.414(1)(b)3., F.S.

2010 Stormwater Rulemaking

From 2008 to 2010, DEP and the WMDs worked together on developing a statewide unified stormwater rule to protect Florida's surface waters from the effects of excessive nutrients in stormwater runoff.¹²¹ A technical advisory committee was established. In 2010, DEP announced a series of workshops to present for public comment the statewide stormwater quality draft rule Chapter 62-347 of the Florida Administrative Code and an Applicant's Handbook.¹²² The notice stated the goal of the rule was to "increase the level of nutrient treatment in stormwater discharges and provide statewide consistency by establishing revised stormwater quality treatment performance standards and best management practices design criteria."¹²³

These rulemaking efforts produced a draft document called the "Environmental Resource Permit Stormwater Quality Applicant's Handbook: Design Requirements for Stormwater Treatment in Florida."¹²⁴ The 2010 draft handbook's stormwater quality permitting requirements:

- Provided for different stormwater treatment performance standards based on various classifications of water quality.¹²⁵
- Included instructions for calculating a project's required nutrient load reduction based on comparing the predevelopment and post-development loadings.¹²⁶
- Provided the required criteria for stormwater BMPs.
- Listed fifteen different types of stormwater treatment systems, including low impact design, pervious pavements, and stormwater harvesting.¹²⁷

The new rule and revised handbook were expected to be adopted in 2011.¹²⁸ However, no such rules or revised handbook were ever adopted. While the draft Stormwater Quality Applicant's Handbook never went into effect, it can provide context for understanding what new rules on these topics may look like.

The Blue-Green Algae Task Force recommended that DEP revise and update stormwater design criteria and implement an effective inspection and monitoring program.¹²⁹

¹²¹ South Florida Water Management District, *Quick Facts on the Statewide Unified Stormwater Rule*, available at https://www.sfwmd.gov/sites/default/files/documents/spl_stormwater_rule.pdf.

¹²² Florida Administrative Register, Notices of Meetings, Workshops, and Public Hearings, *Notice of Rescheduling*, pg. 1885 (Apr. 23, 2010), available at <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2010/3616/3616doc.pdf>.

¹²³ *Id.*

¹²⁴ DEP and Water Management Districts, *March 2010 Draft, Environmental Resource Permit Stormwater Quality Applicant's Handbook, Design Requirements for Stormwater Treatment Systems in Florida* (2010), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content2/roadway/drainage/files/stormwaterqualityapphb-draft.pdf?sfvrsn=579bf184_0.

¹²⁵ *Id.* at 6-7.

¹²⁶ *Id.* at 8-11.

¹²⁷ *Id.* at 3.

¹²⁸ Nicole C. Kibert, *Status of Low Impact Development in Florida and Legal Considerations for Operation and Maintenance of LID Systems*, FLORIDA BAR JOURNAL Vol. 85, No. 1 (2011), <https://www.floridabar.org/the-florida-bar-journal/status-of-low-impact-development-in-florida-and-legal-considerations-for-operation-and-maintenance-of-lid-systems/> (last visited Nov. 14, 2019).

¹²⁹ DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

Water Quality Monitoring

One of DEP's goals is to determine the quality of the state's surface and ground water resources. This goal is primarily accomplished through several water quality monitoring strategies that are administered through the Water Quality Assessment Program. Responsibilities of the program include: monitoring and assessing how water quality is changing over time; the overall water quality and impairment status of the state's water resources; and the effectiveness of water resource management, protection, and restoration programs.¹³⁰

Within the Water Quality Assessment Program, DEP administers the Watershed Monitoring Program. This program is responsible for collecting reliable data through water samples from rivers, streams, lakes, canals, and wells around the state.¹³¹ This information is used by DEP to determine which waters are impaired and what restoration efforts are needed.

The Blue-Green Algae Task Force recommended that science-based decision making and monitoring programs be enhanced, including the development of an expanded and more comprehensive statewide water quality monitoring strategy. Monitoring programs should focus on informing restoration project selection, implementation, and evaluation.¹³²

Indian River Lagoon

The Indian River Lagoon (IRL) system is an estuary¹³³ that runs along 156 miles of Florida's east coast and borders Volusia, Brevard, Indian River, St. Lucie, and Martin counties.¹³⁴ The IRL system is composed of three main waterbodies: Mosquito Lagoon, Banana River, and the Indian River Lagoon.¹³⁵ Four BMAPs have been adopted for the IRL region.¹³⁶

The IRL is one of the most biologically diverse estuaries in North America and is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.¹³⁷ The estimated economic value received from the IRL in 2014 was

¹³⁰ DEP, *Water Quality Assessment Program*, <https://floridadep.gov/dear/water-quality-assessment> (last visited Dec. 2, 2019).

¹³¹ DEP, *Watershed Monitoring*, <https://floridadep.gov/dear/watershed-monitoring-section> (last visited Dec. 2, 2019).

¹³² DEP, *Blue-Green Algae Task Force Consensus Document #1* (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

¹³³ An estuary is a partially enclosed, coastal waterbody where freshwater from rivers and streams mixes with saltwater from the ocean. Estuaries are among the most productive ecosystems on earth, home to unique plant and animal communities that have adapted to brackish water: freshwater mixed with saltwater. U.S. EPA, *What Is An Estuary?*, <https://www.epa.gov/nep/basic-information-about-estuaries> (last visited Dec. 2, 2019); NOAA, *What Is An Estuary?*, <https://oceanservice.noaa.gov/facts/estuary.html> (last visited Dec. 2, 2019).

¹³⁴ IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

¹³⁵ *Id.*

¹³⁶ East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, x (Aug. 26, 2016), available at http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf; DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Dec. 2, 2019).

¹³⁷ IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

approximately \$7.6 billion.¹³⁸ Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.¹³⁹

The IRL ecosystem has been harmed by human activities in the region. Stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, canal discharges, septic systems, animal waste, and fertilizer applications have led to harmful levels of nutrients and sediments entering the lagoon.¹⁴⁰ These pollutants create cloudy conditions, feed algal blooms, and lead to muck accumulation, all of which negatively impact the seagrass that provides habitat for much of the IRL's marine life.¹⁴¹

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as the merging of an existing department, program, or activity into another department. Any program or activity transferred by a type two transfer retains all the statutory powers, duties, and functions it held previous to the transfer. The program or activity also retains its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, unless otherwise provided by law. The transfer of segregated funds must be made in such a manner that the relation between the program and the revenue source is retained.¹⁴²

Rural Areas of Opportunity

A rural area of opportunity (RAO) is a rural community or region of rural communities that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.¹⁴³ By executive order, the Governor may designate up to three RAOs, establishing each region as a priority assignment for Rural Economic Development Initiative (REDI) agencies. The Governor can waive the criteria, requirements, or any similar provisions of any state economic development incentive for projects in a RAO.¹⁴⁴

¹³⁸ East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, vi (Aug. 26, 2016), available at http://terpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf.

¹³⁹ *Id.* at ix. The main IRL-related industry groups are categorized as: Living Resources; Marine Industries; Recreation and Visitor-related; Resource Management; and Defense & Aerospace.

¹⁴⁰ Tetra Tech, Inc. & Closewaters, LLC, *Draft Save Our Indian River Lagoon Project Plan 2019 Update for Brevard County, Florida*, xii (Mar. 2019), available at <https://www.dropbox.com/s/j9pxd59mt1baf7q/Revised%202019%20Save%20Our%20Indian%20River%20Lagoon%20Project%20Plan%20Update%20032519.pdf?dl=0>.

¹⁴¹ *Id.*

¹⁴² Section 20.06(2), F.S.

¹⁴³ Section 288.0656(2)(d), F.S.

¹⁴⁴ Section 288.0656(7), F.S.

The currently designated RAOs are:¹⁴⁵

- Northwestern RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and part of Walton County.
- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Statement of Estimated Regulatory Cost

If a proposed agency rule will have an adverse impact on small business or is likely to increase directly or indirectly regulatory costs in excess of \$200,000 aggregated within one year after implementation, an agency must prepare a statement of estimated regulatory costs (SERC).¹⁴⁶ The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy or an increase in regulatory costs. If the SERC shows that the adverse impact or regulatory costs of the proposed rule exceeds \$1 million in the aggregate within five years after implementation, then the proposed rule must be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.¹⁴⁷

Biosolids

Approximately two-thirds of Florida's population is served by around 2,000 domestic wastewater facilities permitted by DEP.¹⁴⁸ When domestic wastewater is treated, solid, semisolid, or liquid residue known as biosolids¹⁴⁹ accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.¹⁵⁰ Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by DEP.¹⁵¹ The collected residue is high in organic content and contains moderate amounts of nutrients.¹⁵²

¹⁴⁵ Department of Economic Opportunity, *Rural Areas of Opportunity*, <http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited Dec. 2, 2019).

¹⁴⁶ Section 120.541, F.S.

¹⁴⁷ *Id.*

¹⁴⁸ DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Dec. 9, 2019).

¹⁴⁹ Section 373.4595, F.S. Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.

¹⁵⁰ DEP, *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Dec. 9, 2019).

¹⁵¹ Fla. Admin. Code R. 62-640.200(6).

¹⁵² *Id.*

DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.¹⁵³ Biosolids can be disposed of in several ways: transfer to another facility, placement in a landfill, distribution and marketing as fertilizer, incineration, bioenergy, and land application to pasture or agricultural lands.¹⁵⁴ About one-third of the total amount of biosolids produced is used for land application¹⁵⁵ and is subject to regulatory requirements established by DEP to protect public health and the environment.¹⁵⁶

Land application is the use of biosolids at a permitted site to provide nutrients or organic matter to the soil, such as agricultural land, golf courses, forests, parks, or reclamation sites. Biosolids are applied in accordance with restrictions based on crop nutrient needs, phosphorus limits in the area, and soil fertility.¹⁵⁷ Biosolids contain macronutrients (such as nitrogen and phosphorus) and micronutrients (such as copper, iron, and manganese) that are utilized by crops. The application of these nutrient-rich biosolids increases the organic content of the soil, fostering more productive plant growth.¹⁵⁸ To prevent odor or the contamination of soil, crops, livestock, and humans, land application sites must meet site management requirements such as site slopes, setbacks, and proximity to groundwater restrictions.¹⁵⁹ There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.¹⁶⁰

¹⁵³ DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 5 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Dec. 9, 2019).

¹⁵⁴ *Id.* at 4.

¹⁵⁵ *Id.* at 5.

¹⁵⁶ Fla. Admin. Code R. 62-640.

¹⁵⁷ DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida*, 8 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Dec. 9, 2019); *see also*, United States EPA, A Plain English Guide to the EPA Part 503 Biosolids Rule, 26 (Sept. 1994), available at <https://www.epa.gov/sites/production/files/2018-12/documents/plain-english-guide-part503-biosolids-rule.pdf> (last visited Dec. 9, 2019).

¹⁵⁸ *Id.* at 20.

¹⁵⁹ *Id.* at 9.

¹⁶⁰ DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 20 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Dec. 9, 2019). Wastewater treatment facilities commonly contract with waste haulers instead of applying the biosolids themselves.



Regulation of Biosolids by DEP

The DEP regulates three classes of biosolids for beneficial use.

- Class B - minimum level of treatment;
- Class A - intermediate level of treatment; and
- Class AA - highest level of treatment.¹⁶¹

The DEP categorizes the classes based on treatment and quality. Treatment of biosolids must:

- Reduce or completely eliminate pathogens;
- Reduce the attractiveness of the biosolids for pests (such as insects and rodents); and
- Reduce the amount of toxic metals in the biosolids.¹⁶²

Class AA biosolids can be distributed and marketed as fertilizer. Because they are the highest quality, they are not subject to the same regulations as Class A and Class B biosolids and are exempt from nutrient restrictions.¹⁶³ Typically, Class B biosolids are used in land application.¹⁶⁴

¹⁶¹ *Id.* at 6.

¹⁶² *Id.* at 7.

¹⁶³ *Id.* at 8.

¹⁶⁴ *Id.* at 6.

Biosolids are regulated under Rule 62-640 of the Florida Administrative Code. The rules provide minimum requirements, including monitoring and reporting requirements, for the treatment, management, use, and disposal of biosolids. The rules are applicable to wastewater treatment facilities, applicators, and distributors¹⁶⁵ and include permit requirements for both treatment facilities and biosolids application sites.¹⁶⁶

Each permit application for a biosolids application site must include a site-specific nutrient management plan (NMP) that establishes the specific rates of application and procedures to apply biosolids to land.¹⁶⁷ Biosolids may only be applied to land application sites that are permitted by DEP and have a valid NMP.¹⁶⁸ Biosolids must be applied at rates established in accordance with the nutrient management plan and may be applied to a land application site only if all concentrations of minerals do not exceed ceiling and cumulative concentrations determined by rule.¹⁶⁹ According to the St. Johns Water Management District, application rates of biosolids are determined by crop nitrogen demand, which can often result in the overapplication of phosphorus to the soil and can increase the risk of nutrient runoff into nearby surface waters.¹⁷⁰

Once a facility or site is permitted, it is subject to monitoring, record-keeping, reporting, and notification requirements.¹⁷¹ The requirements are site-specific and can be increased or reduced by DEP based on the quality or quantity of wastewater or biosolids treated; historical variations in biosolids characteristics; industrial wastewater or sludge contributions to the facility; the use, land application, or disposal of the biosolids; the water quality of surface and ground water and the hydrogeology of the area; wastewater or biosolids treatment processes; and the compliance history of the facility or application site.¹⁷²

State Bans on the Land Application of Biosolids

Section 373.4595, F.S., sets out the statutory guidelines for the Northern Everglades and Estuaries Protection Program. This statute is designed to protect and promote the hydrology of Lake Okeechobee, and the Caloosahatchee and St. Lucie Rivers and their estuaries. As part of those protections, the Legislature banned the disposal of domestic wastewater biosolids within the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient loadings in the watershed.¹⁷³ The prohibition against land application in these watersheds does not apply to Class AA biosolids that are distributed as fertilizer products in accordance with Rule 62-640.850 of the Florida Administrative Code.¹⁷⁴

¹⁶⁵ Fla. Admin. Code R. 62-640.100.

¹⁶⁶ Fla. Admin. Code R. 62-640.300.

¹⁶⁷ Fla. Admin. Code R. 62-640.500.

¹⁶⁸ *Id.*

¹⁶⁹ Fla. Admin. Code R. 62-640.700.

¹⁷⁰ Victoria R. Hoge, Environmental Scientist IV, St. Johns River Water Management District, *Developing a Biosolids Database for Watershed Modeling Efforts*, abstract available at http://archives.waterinstitute.ufl.edu/symposium2018/abstract_detail.asp?AssignmentID=1719 (last visited Mar. 8, 2019).

¹⁷¹ Fla. Admin. Code R. 62-640.650.

¹⁷² *Id.*

¹⁷³ Chapter 2016-1, Laws of Florida; *see* s. 373.4595, F.S.

¹⁷⁴ *Id.*

The land application of Class A and Class B biosolids is also prohibited within priority focus areas in effect for Outstanding Florida Springs if the land application is not in accordance with a NMP that has been approved by DEP.¹⁷⁵ The NMP must establish the rate at which all biosolids, soil amendments, and nutrient sources at the land application site can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged into groundwater and waters of the states.¹⁷⁶

Local Regulation of Biosolids

The Indian River County Code addresses land application of biosolids by providing criteria for designated setbacks, reporting requirements, and required approval. In July 2018, the Indian River County Commission voted for a six-month moratorium on the land application of Class B biosolids on all properties within the unincorporated areas of the county.¹⁷⁷ The ordinance also directs the County Administrator to coordinate with DEP on a study to report the findings and recommendations concerning Class B biosolids land application activities and potential adverse effects.¹⁷⁸ The County Commission voted in January 2019 to extend the moratorium for an additional six months.¹⁷⁹

The City Council of Fellsmere adopted a similar moratorium, Ordinance 2018-06, in August 2018, authorizing a temporary moratorium for 180 days or until a comprehensive review of the impact on the city's ecosystem is completed.¹⁸⁰ In January 2019, the ordinance was extended for an additional 180 days.¹⁸¹

The Treasure Coast Regional Planning Council held a Regional Biosolids Symposium in June 2018, where regional representatives and stakeholders discussed biosolids and alternative techniques for disposal.¹⁸² At its meeting in July, the Treasure Coast Regional Planning Council adopted a resolution encouraging state and local governments to prioritize the reduction and eventual elimination of the land application of human wastewater biosolids.¹⁸³ It also encouraged the state to establish a Pilot Projects Program to incentivize local utilities to implement new wastewater treatment technologies that would allow more efficient use of biosolids.¹⁸⁴

¹⁷⁵ Section 373.811(4), F.S.

¹⁷⁶ *Id.*

¹⁷⁷ Indian River County Commission Ordinance 18-2020 (Jul. 17, 2018), available at http://ircgov.granicus.com/player/clip/183?view_id=1&meta_id=64650 (last visited Dec. 9, 2019).

¹⁷⁸ *Id.*

¹⁷⁹ Indian River County Commission Ordinance 18-2642 (Jan. 14, 2019), available at http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302 (last visited Dec. 9, 2019).

¹⁸⁰ Fellsmere City Council Meeting, Agenda (Aug. 16, 2018), available at https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/8301/co20180816agenda.pdf.

¹⁸¹ Fellsmere City Council Meeting, Agenda (Feb. 7, 2019), available at https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf.

¹⁸² Treasure Coast Regional Planning Council Regional Biosolids Symposium, *Charting the Future of Biosolids Management Executive Summary* (Jun. 18, 2018), available at <http://www.tcrpc.org/announcements/Biosolids/summit%20summary.pdf>.

¹⁸³ Treasure Coast Regional Planning Council Resolution 18-03 (Jul. 20, 2018), available at <http://www.flregionalcouncils.org/wp-content/uploads/2019/01/Treasure-Coast-Resolution-No.-18-03.pdf>.

¹⁸⁴ *Id.*

Rule Development

In 2018, the DEP created a Biosolids Technical Advisory Committee (TAC) to establish an understanding of potential nutrient impacts of the land application of biosolids, evaluate current management practices, and explore opportunities to better protect Florida's water resources. The TAC members represent various stakeholders, including environmental and agricultural industry experts, large and small utilities, waste haulers, consultants, and academics.¹⁸⁵

The TAC convened on four occasions from September 2018 to January 2019 and discussed the current options for biosolids management in the state, ways to manage biosolids to improve the protection of water resources, and research needs to build upon and improve biosolids management.¹⁸⁶

Based on recommendations of the TAC and public input, DEP published a draft rule on October 29, 2019.¹⁸⁷ Key proposals in the draft rule include:

- A prohibition on the land application of biosolids where the seasonal high water table is within 15 cm of the soil surface or 15 cm of the intended depth of biosolids placement. The existing rule requires a soil depth of two feet between the depth of biosolids placement and the water table level at the time the Class A or Class B biosolids are applied to the soil.
- A requirement that land application must be done in accordance with applicable BMAPs.
- Definitions for “capacity index,” “percent water extractable phosphorus,” and “seasonal high water table.”
- More stringent requirements must be provided in the Nutrient Management Plan.
- All biosolids sites must enroll in a DACS BMP Program.
- All biosolids applications are considered projects of heightened public concern/interest,¹⁸⁸ meaning that a permit applicant must publish notice of their application one time only within fourteen days after a complete application is filed.¹⁸⁹
- Increased monitoring for surface and groundwater.
- The requirement measures to be taken to prevent leaching of nutrients for the storage of biosolids.
- Existing facilities must be in compliance with the new rule within three years of the adoption date.

This biosolids rule required a SERC that exceeds the threshold to trigger the requirement for legislative ratification.¹⁹⁰ The SERC makes the following statements:

¹⁸⁵ The seven members of TAC included two academic representatives from the University of Florida, two representatives of small and large utilities, and one representative each for environmental interests, agricultural interests, and waste haulers.

¹⁸⁶ DEP, *DEP Biosolids Technical Advisory Committee*, <https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee> (last visited Mar. 6, 2019).

¹⁸⁷ Florida Department of State, Notice of Proposed Rule: Rule No.: 62-640.100, 62-640.200, 62-640.210, 62-640.300, 62-640.500, 62-640.600, 62-640.650, 62-640.700, 62-640.800, 62-640.850, 62-640.880 (Oct. 29, 2019), https://www.flrules.org/gateway/View_Notice.asp?id=22546212 (last visited Dec. 5, 2019).

¹⁸⁸ Note: the draft rule uses the phrase “public interest” but the rule crossreferenced in the draft rule uses the phrase “public concern.”

¹⁸⁹ Fla. Admin. Code R. 62-110.106(6).

¹⁹⁰ DEP, *Statement of Estimated Regulatory Costs (SERC)*, available at https://content.govdelivery.com/attachments/FLDEP/2019/10/29/file_attachments/1313532/62-640%20SERC.pdf.

The revised rule may significantly reduce biosolids land application rates (the amount applied per acre on an annual basis) by an estimated 75%. In 2018, just under 90,000 dry tons of Class B biosolids were applied to biosolids land application sites with about 84,000 acres of the currently permitted 100,000 acres in Florida. Reduced land application rates would necessitate the permitting about 4 to 10 times more land to accommodate the current quantity of land applied Class B biosolids.

As haulers have already permitted land application sites closer to the domestic wastewater facilities that generate biosolids, any additional sites are expected to be at greater distances from these facilities. This could result in longer hauling distances. Additionally, some existing sites may cease land application completely, either because the site may not be suitable for land application or because the landowner may not want to subject their property to ground water or surface water quality monitoring. The additional site monitoring requirements for ground water and surface water will also increase operational costs, so some biosolids site permittees, especially for smaller sites, may choose to cease operations. Under the proposed rule, some portion of currently land-applied Class B biosolids are expected to then be disposed of in landfills or be converted to Class AA biosolids. The reduction in land application rates, loss of land application sites, and shift away from land application could result in:

- Loss of biosolids hauling contracts.
- Loss of jobs with biosolids hauling companies.
- Loss of grass production and income for landowners.
- Increased operational expenses for biosolids haulers, and;
- Loss of cost savings and production for cattle ranchers and hay farmers.

Under the revised rule, biosolids land application rates will drop by an average of 75%. Some farmers indicate an economic value of about \$60 per acre in fertilizer savings through biosolids land application. In 2018, approximately 84,000 acres were utilized for the land application of biosolids, which would represent a current fertilizer cost savings of approximately \$5,040,000. This would be a loss of \$3,780,000 in cost savings annually if 75% less biosolids can be applied per acre.¹⁹¹

The SERC includes the following statewide estimates:

- Capital costs for new permitting and land application sites of \$10 million;
- Recurring costs for additional sites and transportation of wet biosolids of at least \$31 million; and
- Additional monitoring costs of \$1 million.¹⁹²

DEP expects more biosolids to be converted to class AA biosolids/fertilizer. They estimate the capital cost for additional class AA biosolids projects will be between \$300-\$400 million.¹⁹³

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

DEP is currently reviewing lower cost regulatory alternatives that have been submitted.¹⁹⁴ The next step will be a hearing before the Environmental Regulation Commission and adoption of the rule. Following rule adoption, legislative ratification is required.¹⁹⁵

III. Effect of Proposed Changes:

The bill provides a series of whereas clauses related to water quality issues the state is seeking to resolve.

Section 1 titles the bill the “Clean Waterways Act.”

Section 2 takes the following steps toward shifting regulation of onsite sewage treatment and disposal systems (OSTDSs) from the Department of Health (DOH) to the Department of Environmental Protection (DEP):

- By July 1, 2020, DOH must provide a report to the Governor and Legislature detailing the following information regarding OSTDSs:
 - The average number of permits issued each year;
 - The number of department employees conducting work on or related to the program each year; and
 - The program’s costs and expenditures, including, but not limited to, salaries and benefits, equipment costs, and contracting costs.
- By December 31, 2020, DOH and DEP must submit recommendations to the Governor and Legislature regarding the transfer of the Onsite Sewage Program from DOH to DEP. The recommendations must address all aspects of the transfer, including the continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of DEP.
- By June 30, 2021, DOH and DEP must enter into an interagency agreement that must address all agency cooperation for a period not less than 5 years after the transfer, including:
 - The continued role of the county health departments in the permitting, inspection, data management, and tracking of OSTDSs under the direction of DEP.
 - The appropriate proportionate number of administrative positions, and their related funding levels and sources and assigned property, to be transferred from DOH to DEP.
 - The development of a recommended plan to address the transfer or shared use of facilities used or owned by DOH.
 - Any operating budget adjustments that are necessary to implement the requirements of the bill. The bill details how operating budget adjustments will be made. The appropriate substantive committees of the Senate and the House of Representatives will be notified of the proposed revisions to ensure their consistency with legislative policy and intent.
- Effective July 1, 2021, the regulation of OSTDSs relating to the Onsite Sewage Program in DOH is transferred by a type two transfer to DEP. Transferred employees will retain their leave.

¹⁹⁴ Email from Justin Wolfe, General Counsel, DEP, RE: Biosolids Rule (Dec. 2. 2019)(on file with the Environment and Natural Resources Committee).

¹⁹⁵ Section 120.541(3), F.S.

Section 3 amends s. 373.4131, F.S., relating to statewide environmental resource permitting (ERPs). The bill requires DEP to train its staff on coordinating field inspections of stormwater structural controls, such as stormwater retention or detention ponds.

By January 1, 2021:

- DEP and the water management districts (WMDs) must initiate rulemaking to update the stormwater design and operation regulations using the most recent scientific information available; and
- DEP must evaluate inspection data relating to compliance by those entities that self-certify stormwater ERPs and must provide the Legislature with recommendations for improvements to the self-certification program.

*Note: More stringent stormwater rules would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.*¹⁹⁶

Section 4 amends s. 381.0065, F.S., relating to OSDTS regulation, effective July 1, 2021, to coincide with DEP's role as the regulating entity for OSTDSs.

The bill requires DEP to adopt rules to locate OSTDSs, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process must be completed by July 1, 2022. The rules must consider conventional and advanced OSTDS designs, impaired or degraded water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the OSTDS remediation plans developed as part of the basin management action plans (BMAPs), nutrient pollution, and the recommendations of the OSTDS technical advisory committee created by the bill.

Upon adoption of these rules, the rules will supersede existing statutory revisions relating to setbacks. DEP must report the date of adoption of the rules to the Division of Law Revision for incorporation into the statutes.

The bill deletes language that is inconsistent with these provisions.

*Note: New OSTDS rules would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.*¹⁹⁷

Section 5 creates s. 381.00652, F.S., to create an OSTDS technical advisory committee (TAC) within DEP.

The responsibilities of the TAC are to:

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

- Provide recommendations to increase the availability in the marketplace of nutrient-removing OSTDSs, including systems that are cost-effective, low-maintenance, and reliable.
- Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient-removing OSTDSs that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the National Sanitation Foundation International (this may not be the correct title, see Related Issues).
- Provide recommendations for appropriate setback distances for OSTDSs from surface water, groundwater, and wells.

DEP must use existing and available resources to administer and support the activities of the TAC.

By August 1, 2021, DEP, in consultation with DOH, will appoint nine members to the TAC:

- A professional engineer.
- A septic tank contractor.
- A representative from the home building industry.
- A representative from the real estate industry.
- A representative from the OSTDS industry.
- A representative from local government.
- Two representatives from the environmental community.
- A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

Members will serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

By January 1, 2022, the TAC will submit its recommendations to the Governor and Legislature.

The TAC is repealed on August 15, 2022.

Section 6 repeals DOH's technical review and advisory panel, effective July 1, 2021.

Section 7 amends s. 403.061, F.S., which sets out DEP's powers and duties to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.

The bill authorizes DEP to require public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file reports and other data regarding transactions or allocations of common costs among the utility or entity and such affiliated companies. DEP may require such reports or other data necessary to ensure a permitted entity is reporting expenditures on pollution mitigation and prevention, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. DEP is required to adopt rules to implement this subsection.

*Note: Such rules would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.*¹⁹⁸

Section 8 creates s. 403.0616, F.S., to establish a real-time water quality monitoring program within DEP, subject to appropriation. The program's purpose is to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources. DEP is encouraged to form public-private partnerships with established scientific entities with existing, proven real-time water quality monitoring equipment and experience in deploying such equipment.

Section 9 amends s. 403.067(7), F.S., relating to basin management action plans (BMAPs), to set out parameters for an OSTDS remediation plan and a wastewater treatment plan. It prohibits DEP from requiring a higher cost option for a wastewater project within a BMAP if it achieves the same nutrient load reduction as a lower-cost option. It also makes revisions relating to agricultural best management practices (BMPs).

If DEP identifies domestic wastewater facilities or OSTDSs as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if DEP determines that remediation is necessary to achieve the total maximum daily load (TMDL), the BMAP for a nutrient TMDL must create a wastewater treatment plan and/or an OSTDS remediation plan.

A wastewater treatment plan must address domestic wastewater and be developed by each local government in cooperation with DEP, the WMD, and the public and private domestic wastewater facilities within the jurisdiction of the local government. The wastewater treatment plan must:

- Provide for construction, expansion, or upgrades necessary to achieve the TMDL requirements applicable to the domestic wastewater facility.
- Include: the permitted capacity in gallons per day for the domestic wastewater facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the BMAP no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a TMDL.

An OSTDS remediation plan must be developed by each local government in cooperation with DEP, the Department of Health, WMDs, and public and private domestic wastewater facilities. The OSTDS remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for OSTDSs. To identify cost-effective and financially feasible projects for remediation of OSTDSs, the local government shall:

- Include an inventory of OSTDSs based on the best information available;

¹⁹⁸ *Id.*

- Identify OSTDSs that would be eliminated through connection to existing or future central wastewater infrastructure, that would be replaced with or upgraded to advanced nutrient-removal systems, or that would remain on conventional OSTDSs;
- Estimate the costs of potential OSTDS connections, upgrades, or replacements; and
- Identify deadlines and interim milestones for the planning, design, and construction of projects.

DEP must adopt the OSTDS remediation plan as part of the BMAP no later than July 1, 2025, or as required by existing law for Outstanding Florida Springs.

The bill requires the Department of Agriculture and Consumer Services (DACS) to collect fertilization and nutrient records from each agricultural producer enrolled in BMPs that address nutrients. These records must include rates of application in pounds per acre; application method; fertilizer type or source; acres covered; formulation of the applied fertilizer, including nitrogen and phosphorus content; location; grade; and dates applied. By each March 1, DACS must provide the previous year's records to DEP.

At least every 2 years, the DACS must perform on-site inspections of each agricultural producer that enrolls in a BMP to ensure that such practice is being properly implemented.

The bill authorizes DACS, the University of Florida Institute of Food and Agricultural Sciences, and other state universities and Florida College System institutions with agricultural research programs to annually develop research plans and legislative budget requests to:

- Evaluate and suggest enhancements to the existing adopted BMPs to reduce nutrients;
- Develop new BMPs that, if proven effective, DACS may adopt by rule; and
- Develop agricultural nutrient reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to BMPs. DEP may consider these projects for inclusion in a BMAP. These nutrient reduction projects must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management strategies currently included in the BMAP.

To be considered for funding, the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to DEP and DACS by August 1 of each year.

Section 10 creates s. 403.0673, F.S., a wastewater grant program within DEP. Subject to appropriation, DEP may provide grants for projects that will reduce excess nutrient pollution for:

- Projects to retrofit OSTDSs to upgrade them to nutrient-reducing OSTDSs.
- Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
- Projects to connect OSTDSs to central sewer facilities.

In allocating such funds, priority must be given to projects that subsidize the connection of OSTDSs to a wastewater treatment plant. In determining priorities, DEP must consider:

- The estimated reduction in nutrient load per project;
- Project readiness;

- Cost-effectiveness of the project;
- The overall environmental benefit of a project;
- The location of a project within the plan area;
- The availability of local matching funds; and
- Projected water savings or quantity improvements associated with a project.

Each grant must require a minimum of a 50 percent local match of funds. However, DEP may waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity. DEP and the WMDs will coordinate to identify grant recipients in each district.

Beginning January 1, 2021, and each January 1 thereafter, DEP must submit a report regarding the projects funded by the grant program to the Governor and Legislature.

Section 11 creates s. 403.0855, F.S., on biosolids management. The bill provides legislative findings, requires DEP to adopt rules for biosolids management, and exempts such rules from legislative ratification if they are adopted prior to the 2021 legislative session.

Section 12 amends s. 403.086, F.S., relating to sewage disposal facilities.

The bill prohibits facilities for sanitary sewage disposal from disposing of waste into Indian River Lagoon or its tributaries without providing for advanced waste treatment, beginning July 1, 2025.

The bill requires facilities for sanitary sewage disposal to have a power outage contingency plan that mitigates the impacts of power outages on the utility's collection system and pump stations.

All facilities for sanitary sewage that control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility must take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected waste water reaches the facility for appropriate treatment. Facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans that comply with DEP rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. These facility action plans must be reported to DEP. The facility report must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and replacement action plans required herein, as well as expenditures dedicated to pipe assessment, repair, and replacement.

DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys.

Substantial compliance with the action plan described above is evidence in mitigation for the purposes of assessing certain penalties.

*Note: Such rules would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.*¹⁹⁹

Section 13 amends s. 403.087, F.S., to require DEP to issue operating permits for up to 10 years (rather than up to 5) for facilities regulated under the National Pollutant Discharge Elimination System Program if the facility is meeting the stated goals in the action plan relating to the prevention of sanitary sewer overflows or underground pipe leaks.

Section 14 amends s. 403.088, F.S., relating to water pollution operation permits. The bill requires the permit to include a deliberate, proactive approach to investigating or surveying a significant percentage of the wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner.

The permittee must submit an annual report to DEP, which details facility revenues and expenditures in a manner prescribed by DEP rule. The report must detail any deviation from annual expenditures related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement.

Substantial compliance with the requirements above is evidence in mitigation for the purposes of assessing penalties.

No later than March 1 of each year, DEP must submit a report to the Governor and Legislature which identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The report must identify the utility name, operator, number of overflows, and total quantity of discharge released. DEP will include with this report the annual report required of the utility relating to sanitary sewer overflows and underground pipe leaks for each utility that experienced an overflow.

*Note: Rules required to implement this section would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.*²⁰⁰

Section 15 amends s. 403.0891, F.S., to require DEP and the Department of Economic Opportunity to develop model ordinances that target nutrient reduction practices and use green infrastructure.

Section 16 amends s. 403.121, F.S., to add “failure to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration” to DEP’s penalty schedule. Such a violation will result in a \$2,000 penalty.

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

Section 17 amends s. 403.885, F.S., relating to the Water Projects Grant Program, to require DEP to prioritize grant proposals submitted by a domestic wastewater utility in accordance with the Clean Water Revolving Loan Fund, which implements the requirements of the bill relating to the prevention of sanitary sewer overflows and underground pipe leaks.

Section 18 provides a statement that this act fulfills an important state interest.

Sections 19-43 make conforming changes.

Section 44 directs the Division of Law Revision to replace certain language in the bill with the date DEP adopts certain rules on OSTDSs as required by the bill.

Section 45 states that except as otherwise expressly provided in the bill, the act will take effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply to this bill because it requires local governments to develop OSTDS remediation plans and wastewater treatment plans. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The following discussion identifies aspects of the bill that may cause a negative fiscal impact because they implement more stringent environmental requirements. However, it is worth noting that there are costs associated with failing to address pollution issues. Cleanup costs, human health impacts, ecosystem deterioration, loss of tourism, and decreased real estate values are some key examples of possible costs associated with pollution.

Updating stormwater rules and adopting new OSTDS and wastewater rules would likely cause a negative fiscal impact to the private sector. However, if that impact exceeds \$1 million over 5 years, the rules will require legislative ratification, which means they will not go into effect without additional legislation.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to the private sector entities within BMAPs that must address OSTDS or wastewater pollution to meet the TMDL.

Private wastewater utilities that discharge into Indian River Lagoon may have costs associated to conversion to advanced waste treatment.

Utilities that fail to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration will be subject to a \$2,000 fine for each violation.

C. Government Sector Impact:

DEP will incur additional costs in developing multiple new regulatory programs, updating BMAPs, and developing, submitting, and reviewing new reports.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to local governments that must address OSTDS or wastewater pollution to meet their TMDL. However, there is flexibility in how these plans are developed, which makes these costs speculative and subject to the development of each specific OSTDS remediation plan or wastewater treatment plan.

The implementation of a real-time water quality monitoring program will have a negative fiscal impact on DEP, but this provision is subject to appropriation.

The wastewater grant program would have a positive fiscal impact on local governments, but this provision is subject to appropriation. DEP will likely incur some costs associated with the development of this grant program and the report to the Governor and Legislature.

Public wastewater utilities that discharge into Indian River Lagoon may have costs associated with conversion to advanced waste treatment. However, the local governments

in the region are spending substantial amounts on pollution cleanup. Lessening the pollutants in this waterbody may have a positive fiscal impact in the long term.

The impact of exempting the biosolids rule from ratification is speculative at this time because the rule has not been adopted. There is likely a negative fiscal impact to both the public and private sectors to meet the requirements of the new rule. There may be a long-term positive fiscal impact as a result of reduced cleanup costs and reduced damage to the natural systems associated with more rigorous land application requirements.

VI. Technical Deficiencies:

The term “National Sanitation Foundation International” may not be the correct title of the organization. The organization appears to have changed its name from the National Sanitation Foundation to NSF International. The staff recommendation would be to replace “National Sanitation Foundation” with “NSF.”

VII. Related Issues:

There is no definition for advanced OSTDS or nutrient-reducing OSTDS. While DEP will have ample rule authority to create definitions, if these terms are intended to mean the same category of OSTDSs, a single term should probably be used in statute to avoid the implication that they are two different things.

Springs BMAPs will have DEP in charge of the OSTDS remediation plan, but the general BMAP statute will give local governments the primary responsibility for the OSTDS remediation plan. To avoid confusion, one recommendation would be to amend the springs provision to be consistent with the general BMAP requirements.

In section 17 of the bill, it is unclear whether the utilities at issue get priority funding for the Water Projects Grant Program or grants under the State Revolving Loan fund program under s. 403.1835, F.S., or both.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.250, 373.414, 373.4131, 373.705, 373.707, 373.709, 376.307, 380.0552, 381.006, 381.0061, 381.0064, 381.0065, 381.00651, 381.00652, 403.061, 403.067, 403.086, 403.08601, 403.087, 403.0871, 403.0872, 403.088, 403.0891, 403.121, 403.1835, 403.707, 403.861, 403.885, 489.551, and 590.02.

This bill creates the following sections of the Florida Statutes: 381.00652, 403.0616, 403.0673, and 403.0855.

This bill repeals section 381.0068 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 December 9, 2019:**

The committee substitute:

- Effectuates a type two transfer of septic system oversight from DOH to DEP rather than just requiring a report;
- Requires DEP to develop rules relating to the location of septic systems;
- Revises language related to DEP updating its stormwater rules;
- Requires DEP to make recommendations to the Legislature on self-certification of stormwater permits rather than prohibiting the use of self-certification in BMAP areas;
- Leaves the BMAP process for Outstanding Florida Springs while revising the requirement for OSTDS remediation plans and adding a requirement for wastewater treatment plans in the general BMAP statute;
- Requires that these new plans be incorporated into the BMAP by 2025;
- Removes provisions relating to Florida-Friendly Fertilizer Ordinances;
- Adds rural areas of opportunities to the possible grant recipients for the wastewater grant created by the bill;
- Removes provisions that would make agricultural BMPs enforceable earlier and in more impaired waterbodies;
- Adds a requirement that DACS conduct onsite inspections of BMPs at least every two years;
- Adds a requirement that DACS collect and remit certain records relating to agricultural BMPs to DEP;
- Adds language authorizing DACS and certain institutions of higher education to submit budget requests for certain activities relating to the improvement of agricultural BMPs;
- Removes the provision requiring additional notification and penalties related to sanitary sewer overflows and replaces it with numerous requirements relating to the prevention of sanitary sewer overflows, inflow and infiltration, and leakage;
- Removes provisions increasing penalties but adds “failure to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration” to the penalty schedule;
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and Legislature regarding the regulation of OSTDSs;
- Requires DEP to adopt rules relating to biosolids management and exempts such rules from legislative ratification if they are adopted before the 2021 legislative session.
- Directs the Division of Law Revision to incorporate the date of rule adoption into the statutes.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/11/2019	.	
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	.	

The Committee on Community Affairs (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Clean Waterways Act."

Section 2. (1) By July 1, 2020, the Department of Health must provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the following information regarding the Onsite Sewage



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Program:

(a) The average number of permits issued each year;

(b) The number of department employees conducting work on or related to the program each year; and

(c) The program's costs and expenditures, including, but not limited to, salaries and benefits, equipment costs, and contracting costs.

(2) By December 31, 2020, the Department of Health and the Department of Environmental Protection shall submit recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the transfer of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection. The recommendations must address all aspects of the transfer, including the continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the Department of Environmental Protection.

(3) By June 30, 2021, the Department of Health and the Department of Environmental Protection shall enter into an interagency agreement based on the Department of Health report required under subsection (2) and on recommendations from a plan that must address all agency cooperation for a period not less than 5 years after the transfer, including:

(a) The continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the Department of Environmental Protection.

(b) The appropriate proportionate number of administrative,



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auditing, inspector general, attorney, and operational support positions, and their related funding levels and sources and assigned property, to be transferred from the Office of General Counsel, the Office of Inspector General, and the Division of Administrative Services or other relevant offices or divisions within the Department of Health to the Department of Environmental Protection.

(c) The development of a recommended plan to address the transfer or shared use of buildings, regional offices, and other facilities used or owned by the Department of Health.

(d) Any operating budget adjustments that are necessary to implement the requirements of this act. Adjustments made to the operating budgets of the agencies in the implementation of this act must be made in consultation with the appropriate substantive and fiscal committees of the Senate and the House of Representatives. The revisions to the approved operating budgets for the 2021-2022 fiscal year which are necessary to reflect the organizational changes made by this act must be implemented pursuant to s. 216.292(4)(d), Florida Statutes, and are subject to s. 216.177, Florida Statutes. Subsequent adjustments between the Department of Health and the Department of Environmental Protection which are determined necessary by the respective agencies and approved by the Executive Office of the Governor are authorized and subject to s. 216.177, Florida Statutes. The appropriate substantive committees of the Senate and the House of Representatives must also be notified of the proposed revisions to ensure their consistency with legislative policy and intent.

(4) Effective July 1, 2021, all powers, duties, functions,



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records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the regulation of onsite sewage treatment and disposal systems relating to the Onsite Sewage Program in the Department of Health are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Environmental Protection.

(5) Notwithstanding chapter 60L-34, Florida Administrative Code, or any law to the contrary, employees who are transferred from the Department of Health to the Department of Environmental Protection to fill positions transferred by this act retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.

Section 3. Subsection (5) of section 373.4131, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

373.4131 Statewide environmental resource permitting rules.—

(5) To ensure consistent implementation and interpretation of the rules adopted pursuant to this section, the department shall conduct or oversee regular assessment and training of its staff and the staffs of the water management districts and local governments delegated local pollution control program authority under s. 373.441. The training must include coordinating field inspections of publicly and privately owned stormwater structural controls, such as stormwater retention or detention ponds.



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(6) By January 1, 2021:

(a) The department and the water management districts shall initiate rulemaking to update the stormwater design and operation regulations using the most recent scientific information available; and

(b) The department shall evaluate inspection data relating to compliance by those entities that self-certify under s. 403.814(12) and provide the Legislature with recommendations for improvements to the self-certification program.

Section 4. Effective July 1, 2021, present paragraphs (d) through (q) of subsection (2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (e) through (r), respectively, a new paragraph (d) is added to that subsection, and subsections (3) and (4) of that section are amended, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the term:

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

(3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The department shall:

(a) Adopt rules to administer ss. 381.0065-381.0067, including definitions that are consistent with the definitions in this section, ~~decreases to setback requirements where no health hazard exists,~~ increases for the lot-flow allowance for performance-based systems, requirements for separation from water table elevation during the wettest season, requirements



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for the design and construction of any component part of an onsite sewage treatment and disposal system, application and permit requirements for persons who maintain an onsite sewage treatment and disposal system, requirements for maintenance and service agreements for aerobic treatment units and performance-based treatment systems, and recommended standards, including disclosure requirements, for voluntary system inspections to be performed by individuals who are authorized by law to perform such inspections and who shall inform a person having ownership, control, or use of an onsite sewage treatment and disposal system of the inspection standards and of that person's authority to request an inspection based on all or part of the standards.

(b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an onsite sewage treatment and disposal system for a residence or establishment with an estimated domestic sewage flow of 10,000 gallons or less per day, or an estimated commercial sewage flow of 5,000 gallons or less per day, which is not currently regulated under chapter 403.

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, sited, repaired, modified, abandoned, used, operated, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination, including impacts from nutrient pollution, and surface water contamination and to



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156 preserve the public health. The department is the final
157 administrative interpretive authority regarding rule
158 interpretation. In the event of a conflict regarding rule
159 interpretation, the secretary of the department ~~State Surgeon~~
160 ~~General~~, or his or her designee, shall timely assign a staff
161 person to resolve the dispute.

162 (d) Grant variances in hardship cases under the conditions
163 prescribed in this section and rules adopted under this section.

164 (e) Permit the use of a limited number of innovative
165 systems for a specific period of time, when there is compelling
166 evidence that the system will function properly and reliably to
167 meet the requirements of this section and rules adopted under
168 this section.

169 (f) Issue annual operating permits under this section.

170 (g) Establish and collect fees as established under s.
171 381.0066 for services provided with respect to onsite sewage
172 treatment and disposal systems.

173 (h) Conduct enforcement activities, including imposing
174 fines, issuing citations, suspensions, revocations, injunctions,
175 and emergency orders for violations of this section, part I of
176 chapter 386, or part III of chapter 489 or for a violation of
177 any rule adopted under this section, part I of chapter 386, or
178 part III of chapter 489.

179 (i) Provide or conduct education and training of department
180 personnel, service providers, and the public regarding onsite
181 sewage treatment and disposal systems.

182 (j) Supervise research on, demonstration of, and training
183 on the performance, environmental impact, and public health
184 impact of onsite sewage treatment and disposal systems within



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this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical review and advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects may ~~shall~~ not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review and advisory panel or the research review and advisory committee.

(k) Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system.

(l) Regulate and permit the sanitation, handling, treatment, storage, reuse, and disposal of byproducts from any system regulated under this chapter and not regulated by the Department of Environmental Protection.

(m) Permit and inspect portable or temporary toilet services and holding tanks. The department shall review



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applications, perform site evaluations, and issue permits for the temporary use of holding tanks, privies, portable toilet services, or any other toilet facility that is intended for use on a permanent or nonpermanent basis, including facilities placed on construction sites when workers are present. The department may specify standards for the construction, maintenance, use, and operation of any such facility for temporary use.

(n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer's specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include: training, access to approved spare parts and components, access to manufacturer's maintenance and operation manuals, and service response time. The maintenance entity shall employ a contractor licensed under s. 489.105(3)(m), or part III of chapter 489, or a state-licensed wastewater plant operator, who is responsible for maintenance and repair of all systems under contract.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, ~~but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that~~ The issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of



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any required coastal construction control line permit from the department ~~of Environmental Protection~~. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained before ~~prior to~~ the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a



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system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and



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other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of



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additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) The department shall adopt rules to locate onsite sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process for such rules must be completed by July 1, 2022. The rules must consider conventional and advanced onsite sewage treatment and disposal system designs, impaired or degraded water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to s. 381.00652.

(f) ~~(e)~~ Onsite sewage treatment and disposal systems that are permitted before adoption of the rules identified in paragraph (e) may ~~must~~ not be placed closer than:

1. Seventy-five feet from a private potable well.
2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.
3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.
4. Fifty feet from any nonpotable well.
5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less



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than 5 feet.

6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

~~(f) Except as provided under paragraphs (c) and (t), no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has visible surface water.~~

(g) All provisions of this section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and



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recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than ~~the provisions~~ specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit



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application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria



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in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:

a. The Secretary of Environmental Protection ~~State Surgeon General~~ or his or her designee.

b. A representative from the county health departments.

c. A representative from the home building industry recommended by the Florida Home Builders Association.

d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

e. A representative from the Department of Health ~~Environmental Protection~~.

f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

g. A representative from the engineering profession recommended by the Florida Engineering Society.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(i) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system



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is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department may ~~shall~~ not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the



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department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic



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wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under ~~the provisions of~~ chapter 120.

3. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced. The reports may be submitted



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electronically.

4. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own performance-based treatment system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

5. The property owner shall obtain a biennial system operating permit from the department for each system. The department shall inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation.

6. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with ~~the provisions of~~ this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.



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(1) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

- a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
- b. Suspended Solids of 10 mg/l.
- c. Total Nitrogen, expressed as N, of 10 mg/l or a reduction in nitrogen of at least 70 percent. A system that has been tested and certified to reduce nitrogen concentrations by



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at least 70 percent shall be deemed to be in compliance with this standard.

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

3. In areas not scheduled to be served by a central sewer, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2.

4. In areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that meets the following minimum standards:

a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

5. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in



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subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other ~~provision of~~ law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewer system until December 31, 2020.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(k) ~~(2)(j)~~. The department



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shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Secretary of Environmental Protection ~~State Surgeon General~~, or his or her designee.

2. A representative from the septic tank industry.

3. A representative from the home building industry.

4. A representative from an environmental interest group.

5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.

6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.

7. A representative from local government who is knowledgeable about domestic wastewater treatment.

8. A representative from the real estate profession.

9. A representative from the restaurant industry.

10. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than



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four members expire in any one year. Members shall serve without remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(p) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(q) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(r) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(s) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering may ~~shall~~ not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(t) Notwithstanding ~~the provisions of~~ subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the



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following requirements:

1. The absorption surface of the drainfield may ~~shall~~ not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

- a. The lot is at least one-half acre in size;
- b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and
- c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent; or a system approved by the county health department pursuant to department rule other than a system using alternative drainfield materials. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield



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system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water may ~~shall~~ not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(u)1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems inspected and serviced. The reports may be submitted electronically.

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

3. A septic tank contractor licensed under part III of



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chapter 489, if approved by the manufacturer, may not be denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities. After the original warranty period, component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer's specifications but are manufactured by others. The maintenance entity shall maintain documentation of the substitute part's equivalency for 2 years and shall provide such documentation to the department upon request.

4. The owner of an aerobic treatment unit system shall obtain a system operating permit from the department and allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for performance criteria established by rule of the department.

(v) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

(w) Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage treatment and disposal system shall transfer with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired. An inspection of a system may not be mandated by a



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governmental entity at the point of sale in a real estate transaction. This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution (1885).

(x) A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(y)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;



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b. The system is not a sanitary nuisance; and
c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that serves a property that is foreclosed upon is not considered abandoned.

(z) If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs within 5 years after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site conditions have not changed between the time of construction approval and final approval.

(aa) An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the unobstructed area. To determine if a setback or the unobstructed area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the



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onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

Section 5. Section 381.00652, Florida Statutes, is created to read:

381.00652 Onsite sewage treatment and disposal systems technical advisory committee.—

(1) An onsite sewage treatment and disposal systems technical advisory committee, a committee as defined in s. 20.03(8), is created within the department. The committee shall:

(a) Provide recommendations to increase the availability in the marketplace of nutrient-removing onsite sewage treatment and disposal systems, including systems that are cost-effective, low-maintenance, and reliable.

(b) Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient-removing onsite sewage treatment and disposal systems that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the National Sanitation Foundation International.

(c) Provide recommendations for appropriate setback



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distances for onsite sewage treatment and disposal systems from surface water, groundwater, and wells.

(2) The department shall use existing and available resources to administer and support the activities of the committee.

(3) (a) By August 1, 2021, the department, in consultation with the Department of Health, shall appoint no more than nine members to the committee, including, but not limited to, the following:

1. A professional engineer.

2. A septic tank contractor.

3. A representative from the home building industry.

4. A representative from the real estate industry.

5. A representative from the onsite sewage treatment and disposal system industry.

6. A representative from local government.

7. Two representatives from the environmental community.

8. A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

(b) Members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

(4) By January 1, 2022, the committee shall submit its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) This section expires August 15, 2022.

Section 6. Effective July 1, 2021, section 381.0068, Florida Statutes, is repealed.



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Section 7. Present subsections (14) through (44) of section 403.061, Florida Statutes, are redesignated as subsections (15) through (45), respectively, a new subsection (14) is added to that section, and subsection (7) of that section is amended, to read:

403.061 Department; powers and duties.—The department shall have 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 and, for this purpose, to:

(7) Adopt rules ~~pursuant to ss. 120.536(1) and 120.54~~ to implement ~~the provisions of~~ this act. Any rule adopted pursuant to this act must ~~shall~~ be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. A ~~No~~ county, municipality, or political subdivision may not ~~shall~~ adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone nonattainment area. Rules adopted pursuant to this act may ~~shall~~ not require dischargers of waste into waters of the state to improve natural background conditions. The department shall adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, may ~~shall~~ not be required to be treated to a greater extent than



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may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(14) In order to promote resilient utilities, require public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file reports and other data regarding transactions or allocations of common costs among the utility or entity and such affiliated companies. The department may require such reports or other data necessary to ensure a permitted entity is reporting expenditures on pollution mitigation and prevention, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The department shall adopt rules to implement this subsection.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 8. Section 403.0616, Florida Statutes, is created to read:



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403.0616 Real-time water quality monitoring program.-

(1) Subject to appropriation, the department shall establish a real-time water quality monitoring program to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources.

(2) In order to expedite the creation and implementation of the program, the department is encouraged to form public-private partnerships with established scientific entities that have proven existing real-time water quality monitoring equipment and experience in deploying the equipment.

Section 9. Subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.-

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.-

(a) *Basin management action plans.-*

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's



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effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, where appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6) (b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When ~~Where~~ appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected



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pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least not less than 5 days, but not ~~not~~ more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan shall include:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;

b. A description of best management practices adopted by rule;

c. A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;

d. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable; and

e. A planning-level estimate of each listed project's expected load reduction, if applicable.



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5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement ~~the provisions of~~ this section.

6. The basin management action plan 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 reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading



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between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. ~~The provisions of~~ The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient utilities, if the department identifies domestic wastewater facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A wastewater treatment plan that addresses domestic wastewater developed by each local government in cooperation with the department, the water management district, and the public and private domestic wastewater facilities within the jurisdiction of the local government. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater facility.

(II) Include the permitted capacity in gallons per day for the domestic wastewater facility; the average nutrient



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concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;



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(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central wastewater infrastructure, that would be replaced with or upgraded to advanced nutrient-removal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal systems connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option.

(b) Total maximum daily load implementation.—

1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a total maximum daily load by a water management district must be consistent with this section and does not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for the adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:

a. Permitting and other existing regulatory programs,



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including water-quality-based effluent limitations;

b. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(22) ~~s. 403.061(21)~~, and public education;

c. Other water quality management and restoration activities, for example surface water improvement and management plans approved by water management districts or basin management action plans developed pursuant to this subsection;

d. Trading of water quality credits or other equitable economically based agreements;

e. Public works including capital facilities; or

f. Land acquisition.

2. For a basin management action plan adopted pursuant to paragraph (a), any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent limits set forth for a discharger subject to NPDES permitting, if any, must be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger. The department may not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted basin management action plan.

a. Absent a detailed allocation, total maximum daily loads must be implemented through NPDES permit conditions that provide for a compliance schedule. In such instances, a facility's NPDES permit must allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance



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of an order adopting the plan may not exceed 5 years. Upon issuance of an order adopting the plan, the permit must be reopened or renewed, as necessary, and permit conditions consistent with the plan must be established. Notwithstanding the other provisions of this subparagraph, upon request by an NPDES permittee, the department as part of a permit issuance, renewal, or modification may establish individual allocations before the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer system permits and other stormwater sources, implementation of a total maximum daily load or basin management action plan must be achieved, to the maximum extent practicable, through the use of best management practices or other management measures.

c. The basin management action plan does not relieve the discharger from any requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit.

d. Management strategies set forth in a basin management action plan to be implemented by a discharger subject to permitting by the department must be completed pursuant to the schedule set forth in the basin management action plan. This implementation schedule may extend beyond the 5-year term of an NPDES permit.

e. Management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern are not subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a subsequent NPDES permit or permit modification.

f. For nonagricultural pollutant sources not subject to NPDES permitting but permitted pursuant to other state,



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regional, or local water quality programs, the pollutant reduction actions adopted in a basin management action plan must be implemented to the maximum extent practicable as part of those permitting programs.

g. A nonpoint source discharger included in a basin management action plan must demonstrate compliance with the pollutant reductions established under subsection (6) by implementing the appropriate best management practices established pursuant to paragraph (c) or conducting water quality monitoring prescribed by the department or a water management district. A nonpoint source discharger may, in accordance with department rules, supplement the implementation of best management practices with water quality credit trades in order to demonstrate compliance with the pollutant reductions established under subsection (6).

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in sub-subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an adopted basin management action plan may not be required by permit, enforcement action, or otherwise to implement additional management strategies, including water quality credit trading, to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the department to amend a basin



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management action plan as specified in subparagraph (a)6.

(c) *Best management practices.*—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected



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farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including site inspection and recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented pursuant to paragraph (12)(b) must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from ~~the provisions of~~ s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a



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water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from ~~the provisions of~~ s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. The Department of Agriculture and Consumer Services



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shall collect fertilization and nutrient records from each
agriculture producer enrolled in best management practices that
address nutrients. These records must include rates of
application in pounds per acre; application method; fertilizer
type or source; acres covered; formulation of the applied
fertilizer, including nitrogen and phosphorus content; location;
grade; and dates applied. By each March 1, the Department of
Agriculture and Consumer Services shall provide the previous
year's records to the department.

6. Agricultural records relating to processes or methods of
production, costs of production, profits, or other financial
information held by the Department of Agriculture and Consumer
Services pursuant to subparagraphs 3. and 4. or pursuant to any
rule adopted pursuant to subparagraph 2. are confidential and
exempt from s. 119.07(1) and s. 24(a), Art. I of the State
Constitution. Upon request, records made confidential and exempt
pursuant to this subparagraph shall be released to the
department or any water management district provided that the
confidentiality specified by this subparagraph for such records
is maintained.

7.6. ~~The provisions of~~ Subparagraphs 1. and 2. do not
preclude the department or water management district from
requiring compliance with water quality standards or with
current best management practice requirements set forth in any
applicable regulatory program authorized by law for the purpose
of protecting water quality. Additionally, subparagraphs 1. and
2. are applicable only to the extent that they do not conflict
with any rules adopted by the department that are necessary to
maintain a federally delegated or approved program.



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(d) *Enforcement and verification of basin management action plans and management strategies.*—

1. Basin management action plans are enforceable pursuant to this section and ss. 403.121, 403.141, and 403.161.

Management strategies, including best management practices and water quality monitoring, are enforceable under this chapter.

2. No later than January 1, 2017:

a. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of best management practices or other measures pursuant to sub-subparagraph (b)2.g.;

b. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph (c)1.; and

c. The Department of Agriculture and Consumer Services, in consultation with the water management districts and the department, shall initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph (c)2.

The rules required under this subparagraph shall include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable



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management strategies, including best management practices or water quality monitoring as a result of noncompliance.

3. At least every 2 years, the Department of Agriculture and Consumer Services shall perform onsite inspections of each agricultural producer that enrolls in a best management practice to ensure that such practice is being properly implemented.

(e) Data collection and research.—

1. The Department of Agriculture and Consumer Services, the University of Florida Institute of Food and Agricultural Sciences, and other state universities and Florida College System institutions with agricultural research programs may annually develop research plans and legislative budget requests to:

a. Evaluate and suggest enhancements to the existing adopted agricultural best management practices to reduce nutrients;

b. Develop new best management practices that, if proven effective, the Department of Agriculture and Consumer Services may adopt by rule pursuant to paragraph 403.067(7)(c); and

c. Develop agricultural nutrient reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to best management practices. The department may consider these projects for inclusion in a basin management action plan. These best management practices must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management strategies currently included in the basin management action plan.

2. To be considered for funding, the University of Florida



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Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to the department and the Department of Agriculture and Consumer Services by August 1 of each year.

Section 10. Section 403.0673, Florida Statutes, is created to read:

403.0673 Wastewater grant program.—A wastewater grant program is established within the Department of Environmental Protection.

(1) Subject to the appropriation of funds by the Legislature, the department may provide grants for the following projects that will individually or collectively reduce excess nutrient pollution:

(a) Projects to retrofit onsite sewage treatment and disposal systems to upgrade them to nutrient-reducing onsite sewage treatment and disposal systems.

(b) Projects to construct, upgrade, or expand facilities to provide advanced waste treatment, as defined in s. 403.086(4).

(c) Projects to connect onsite sewage treatment and disposal systems to central sewer facilities.

(2) In allocating such funds, priority must be given to projects that subsidize the connection of onsite sewage treatment and disposal systems to a wastewater treatment plant. In determining priorities, the department shall consider the estimated reduction in nutrient load per project; project readiness; cost-effectiveness of the project; overall environmental benefit of a project; the location of a project; the availability of local matching funds; and projected water



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savings or quantity improvements associated with a project.

(3) Each grant for a project described in subsection (1) must require a minimum of a 50 percent local match of funds. However, the department may, at its discretion, waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

(4) The department shall coordinate with each water management district, as necessary, to identify grant recipients in each district.

(5) Beginning January 1, 2021, and each January 1 thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 11. Section 403.0855, Florida Statutes, is created to read:

403.0855 Biosolids management.—The Legislature finds that it is in the best interest of this state to regulate biosolids management in order to minimize the migration of nutrients that impair waterbodies. The Legislature further finds that the expedited implementation of the recommendations of the Biosolids Technical Advisory Committee, including permitting according to site-specific application conditions, an increased inspection rate, groundwater and surface water monitoring protocols, and nutrient management research, will improve biosolids management and assist in protecting this state's water resources and water quality. The department shall adopt rules for biosolids management. Rules adopted by the department pursuant to this



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section before the 2021 regular legislative session are not
subject to s. 120.541(3).

Section 12. Present subsections (7) through (10) of section 403.086, Florida Statutes, are redesignated as subsections (8) through (11), respectively, a new subsection (7) is added to that section, and paragraph (c) of subsection (1) and subsection (2) of that section are amended, to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

(c) Notwithstanding any other provisions of this chapter or chapter 373, facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, Indian River Lagoon, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in subsection (4), approved by the department. This paragraph shall not apply to facilities which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment, a power outage contingency plan that mitigates the impacts of power outages on the utility's collection system and pump stations, and, ~~in~~



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~~addition thereto,~~ advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform is ~~shall be~~ punishable by a civil penalty of \$500 for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

(7) All facilities for sanitary sewage under subsection (2) which control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility shall take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected waste water reaches the facility for appropriate treatment. Such facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans which must be reported to the department. Facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans that comply with department rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. The pipe assessment, repair, and replacement action plans must be reported to the department. The facility report must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and replacement action plans required herein, as well as expenditures dedicated to pipe assessment, repair, and replacement. The facility report must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and the required replacement action plans, as well as expenditures that are dedicated to pipe assessment, repair, and replacement. The



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department shall adopt rules regarding the implementation of
inflow and infiltration studies and leakage surveys. Substantial
compliance with this subsection is evidence in mitigation for
the purposes of assessing penalties pursuant to ss. 403.121 and
403.141.

Section 13. Present subsections (4) through (10) of section 403.087, Florida Statutes, are redesignated as subsections (5) through (11), respectively, and a new subsection (4) is added to that section, to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(4) The department shall issue an operation permit for a
domestic wastewater treatment facility other than a facility
regulated under the National Pollutant Discharge Elimination
System Program under s. 403.0885 for a term of up to 10 years if
the facility is meeting the stated goals in its action plan
adopted pursuant to s. 403.086(7).

Section 14. Present subsections (3) and (4) of section 403.088, Florida Statutes, are redesignated as subsections (4) and (5), respectively, a new subsection (3) is added to that section, and paragraph (c) of subsection (2) of that section is amended, to read:

403.088 Water pollution operation permits; conditions.—

(2)

(c) A permit shall:

1. Specify the manner, nature, volume, and frequency of the discharge permitted;

2. Require proper operation and maintenance of any pollution abatement facility by qualified personnel in



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accordance with standards established by the department;

3. Require a deliberate, proactive approach to investigating or surveying a significant percentage of the wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner. The permittee shall submit an annual report to the department which details facility revenues and expenditures in a manner prescribed by department rule. The report must detail any deviation from annual expenditures related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement required under s. 403.086(7). Substantial compliance with this subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141;

4. Contain such additional conditions, requirements, and restrictions as the department deems necessary to preserve and protect the quality of the receiving waters;

5.4. Be valid for the period of time specified therein; and

6.5. Constitute the state National Pollutant Discharge Elimination System permit when issued pursuant to the authority in s. 403.0885.

(3) No later than March 1 of each year, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The report must identify the utility name, operator, number of overflows, and total quantity of discharge released. The department shall



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include with this report the annual report specified under s.
403.088(2)(c)3. for each utility that experienced an overflow.

Section 15. Subsection (6) of section 403.0891, Florida
Statutes, is amended to read:

403.0891 State, regional, and local stormwater management
plans and programs.—The department, the water management
districts, and local governments shall have the responsibility
for the development of mutually compatible stormwater management
programs.

(6) The department and the Department of Economic
Opportunity, in cooperation with local governments in the
coastal zone, shall develop a model stormwater management
program that could be adopted by local governments. The model
program must contain model ordinances that target nutrient
reduction practices and use green infrastructure. The model
program shall contain dedicated funding options, including a
stormwater utility fee system based upon an equitable unit cost
approach. Funding options shall be designed to generate capital
to retrofit existing stormwater management systems, build new
treatment systems, operate facilities, and maintain and service
debt.

Section 16. Paragraph (b) of subsection (3) of section
403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department
shall have the following judicial and administrative remedies
available to it for violations of this chapter, as specified in
s. 403.161(1).

(3) Except for violations involving hazardous wastes,
asbestos, or underground injection, administrative penalties



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must be calculated according to the following schedule:

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of \$1,000. For a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of \$2,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance or failure to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of \$5,000.

Section 17. Subsection (3) is added to section 403.885, Florida Statutes, to read:

403.885 Water Projects Grant Program.—

(3) The department shall give funding priority to grant proposals submitted by a domestic wastewater utility in accordance with s. 403.1835 which implement the requirements of ss. 403.086(7) or 403.088(2)(c).

Section 18. The Legislature determines and declares that this act fulfills an important state interest.

Section 19. Effective July 1, 2021, subsection (5) of section 153.54, Florida Statutes, is amended to read:

153.54 Preliminary report by county commissioners with respect to creation of proposed district.—Upon receipt of a petition duly signed by not less than 25 qualified electors who are also freeholders residing within an area proposed to be



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incorporated into a water and sewer district pursuant to this law and describing in general terms the proposed boundaries of such proposed district, the board of county commissioners if it shall deem it necessary and advisable to create and establish such proposed district for the purpose of constructing, establishing or acquiring a water system or a sewer system or both in and for such district (herein called "improvements"), shall first cause a preliminary report to be made which such report together with any other relevant or pertinent matters, shall include at least the following:

(5) For the construction of a new proposed sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.



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Such report shall be filed in the office of the clerk of the circuit court and shall be open for the inspection of any taxpayer, property owner, qualified elector or any other interested or affected person.

Section 20. Effective July 1, 2021, paragraph (c) of subsection (2) of section 153.73, Florida Statutes, is amended to read:

153.73 Assessable improvements; levy and payment of special assessments.—Any district may provide for the construction or reconstruction of assessable improvements as defined in s. 153.52, and for the levying of special assessments upon benefited property for the payment thereof, under ~~the provisions of~~ this section.

(2)

(c) For the construction of a new proposed central sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably



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anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Section 21. Effective July 1, 2021, subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Environmental Protection ~~Health~~ to serve new development.

Section 22. Effective July 1, 2021, subsection (3) of section 180.03, Florida Statutes, is amended to read:

180.03 Resolution or ordinance proposing construction or extension of utility; objections to same.—

(3) For the construction of a new proposed central sewerage system or the extension of an existing central sewerage system



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that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed central sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority. The results of such a study shall be included in the resolution or ordinance required under subsection (1).

Section 23. Subsections (2), (3), and (6) of section 311.105, Florida Statutes, are amended to read:

311.105 Florida Seaport Environmental Management Committee; permitting; mitigation.—

(2) Each application for a permit authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ must include:

(a) A description of maintenance dredging activities to be conducted and proposed methods of dredged-material management.

(b) A characterization of the materials to be dredged and the materials within dredged-material management sites.



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(c) A description of dredged-material management sites and plans.

(d) A description of measures to be undertaken, including environmental compliance monitoring, to minimize adverse environmental effects of maintenance dredging and dredged-material management.

(e) Such scheduling information as is required to facilitate state supplementary funding of federal maintenance dredging and dredged-material management programs consistent with beach restoration criteria of the Department of Environmental Protection.

(3) Each application for a permit authorized pursuant to s. 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~ paragraphs (2)(b)-(e) and the following:

(a) A description of dredging and dredged-material management and other related activities associated with port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(b) A discussion of environmental mitigation as is proposed for dredging and dredged-material management for port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(6) Dredged-material management activities authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~ shall be incorporated into port master plans developed pursuant to s. 163.3178(2)(k).

Section 24. Paragraph (d) of subsection (1) of section



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327.46, Florida Statutes, is amended to read:

327.46 Boating-restricted areas.—

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

(d) Owners of private submerged lands that are adjacent to Outstanding Florida Waters, as defined in s. 403.061(28) ~~s. 403.061(27)~~, or an aquatic preserve established under ss. 258.39-258.399 may request that the commission establish boating-restricted areas solely to protect any seagrass and contiguous seagrass habitat within their private property boundaries from seagrass scarring due to propeller dredging. Owners making a request pursuant to this paragraph must demonstrate to the commission clear ownership of the submerged lands. The commission shall adopt rules to implement this paragraph, including, but not limited to, establishing an application process and criteria for meeting the requirements of this paragraph. Each approved boating-restricted area shall be established by commission rule. For marking boating-restricted zones established pursuant to this paragraph, owners of privately submerged lands shall apply to the commission for a uniform waterway marker permit in accordance with ss. 327.40 and 327.41, and shall be responsible for marking the boating-restricted zone in accordance with the terms of the permit.



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Section 25. Paragraph (d) of subsection (3) of section 373.250, Florida Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(3)

(d) The South Florida Water Management District shall require the use of reclaimed water made available by the elimination of wastewater ocean outfall discharges as provided for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or groundwater when the use of reclaimed water is available; is environmentally, economically, and technically feasible; and is of such quality and reliability as is necessary to the user. Such reclaimed water may also be required in lieu of other alternative sources. In determining whether to require such reclaimed water in lieu of other alternative sources, the water management district shall consider existing infrastructure investments in place or obligated to be constructed by an executed contract or similar binding agreement as of July 1, 2011, for the development of other alternative sources.

Section 26. Subsection (9) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(9) The department and the governing boards, on or before July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~ this section, relying primarily on the existing rules of the department and the water management districts, into the rules governing the management and storage of surface waters. Such rules shall seek to achieve a statewide, coordinated and consistent permitting approach to activities regulated under



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this part. Variations in permitting criteria in the rules of individual water management districts or the department shall only be provided to address differing physical or natural characteristics. Such rules adopted pursuant to this subsection shall include the special criteria adopted pursuant to s. 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules shall include a provision requiring that a notice of intent to deny or a permit denial based upon this section shall contain an explanation of the reasons for such denial and an explanation, in general terms, of what changes, if any, are necessary to address such reasons for denial. Such rules may establish exemptions and general permits, if such exemptions and general permits do not allow significant adverse impacts to occur individually or cumulatively. Such rules may require submission of proof of financial responsibility which may include the posting of a bond or other form of surety prior to the commencement of construction to provide reasonable assurance that any activity permitted pursuant to this section, including any mitigation for such permitted activity, will be completed in accordance with the terms and conditions of the permit once the construction is commenced. Until rules adopted pursuant to this subsection become effective, existing rules adopted under this part and rules adopted pursuant to the authority of ss. 403.91-403.929 shall be deemed authorized under this part and shall remain in full force and effect. Neither the department nor the governing boards are limited or prohibited from amending any such rules.

Section 27. Paragraph (b) of subsection (4) of section



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373.705, Florida Statutes, is amended to read:

373.705 Water resource development; water supply development.—

(4)

(b) Water supply development projects that meet the criteria in paragraph (a) and that meet one or more of the following additional criteria shall be given first consideration for state or water management district funding assistance:

1. The project brings about replacement of existing sources in order to help implement a minimum flow or minimum water level;

2. The project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~; or

3. The project reduces or eliminates the adverse effects of competition between legal users and the natural system.

Section 28. Paragraph (f) of subsection (8) of section 373.707, Florida Statutes, is amended to read:

373.707 Alternative water supply development.—

(8)

(f) The governing boards shall determine those projects that will be selected for financial assistance. The governing boards may establish factors to determine project funding; however, significant weight shall be given to the following factors:

1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.

2. Whether the project reduces competition for water



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supplies.

3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.

4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.

5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water is a major component.

7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.

8. Whether the project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~.

9. Whether the county or municipality, or the multiple counties or municipalities, in which the project is located has implemented a high-water recharge protection tax assessment program as provided in s. 193.625.

Section 29. Subsection (4) of section 373.709, Florida Statutes, is amended to read:

373.709 Regional water supply planning.—

(4) The South Florida Water Management District shall include in its regional water supply plan water resource and water supply development projects that promote the elimination of wastewater ocean outfalls as provided in s. 403.086(10) ~~s.~~



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1983 ~~403.086(9).~~

1984 Section 30. Paragraph (k) of subsection (1) of section
1985 376.307, Florida Statutes, is amended to read:

1986 376.307 Water Quality Assurance Trust Fund.—

1987 (1) The Water Quality Assurance Trust Fund is intended to
1988 serve as a broad-based fund for use in responding to incidents
1989 of contamination that pose a serious danger to the quality of
1990 groundwater and surface water resources or otherwise pose a
1991 serious danger to the public health, safety, or welfare. Moneys
1992 in this fund may be used:

1993 (k) For funding activities described in s. 403.086(10) ~~s.~~
1994 ~~403.086(9)~~ which are authorized for implementation under the
1995 Leah Schad Memorial Ocean Outfall Program.

1996 Section 31. Paragraph (i) of subsection (2), paragraph (b)
1997 of subsection (4), paragraph (j) of subsection (7), and
1998 paragraph (a) of subsection (9) of section 380.0552, Florida
1999 Statutes, are amended to read:

2000 380.0552 Florida Keys Area; protection and designation as
2001 area of critical state concern.—

2002 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature
2003 to:

2004 (i) Protect and improve the nearshore water quality of the
2005 Florida Keys through federal, state, and local funding of water
2006 quality improvement projects, including the construction and
2007 operation of wastewater management facilities that meet the
2008 requirements of ss. 381.0065(4)(1) and 403.086(11) ~~403.086(10)~~,
2009 as applicable.

2010 (4) REMOVAL OF DESIGNATION.—

2011 (b) Beginning November 30, 2010, the state land planning



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agency shall annually submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:

1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(1);

2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and

3. A local government has adopted a resolution at a public hearing recommending the removal of the designation.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding



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development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss.

381.0065(4)(1) and s. 403.086(11) ~~403.086(10)~~, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or



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collection systems that meet or exceed the criteria in s.
403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal
facilities or s. 381.0065(4)(1) for onsite sewage treatment and
disposal systems.

2. Goals, objectives, and policies to protect public safety
and welfare in the event of a natural disaster by maintaining a
hurricane evacuation clearance time for permanent residents of
no more than 24 hours. The hurricane evacuation clearance time
shall be determined by a hurricane evacuation study conducted in
accordance with a professionally accepted methodology and
approved by the state land planning agency.

Section 32. Effective July 1, 2021, subsections (7) and
(18) of section 381.006, Florida Statutes, are amended to read:

381.006 Environmental health.—The department shall conduct
an environmental health program as part of fulfilling the
state's public health mission. The purpose of this program is to
detect and prevent disease caused by natural and manmade factors
in the environment. The environmental health program shall
include, but not be limited to:

~~(7) An onsite sewage treatment and disposal function.~~

(17) ~~(18)~~ A food service inspection function for domestic
violence centers that are certified by the Department of
Children and Families and monitored by the Florida Coalition
Against Domestic Violence under part XII of chapter 39 and group
care homes as described in subsection (15) ~~(16)~~, which shall be
conducted annually and be limited to the requirements in
department rule applicable to community-based residential
facilities with five or fewer residents.



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The department may adopt rules to carry out the provisions of this section.

Section 33. Effective July 1, 2021, subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may ~~shall~~ not exceed \$500 for each violation, for a violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of ~~any of the provisions of~~ chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 34. Effective July 1, 2021, subsection (1) of section 381.0064, Florida Statutes, is amended to read:

381.0064 Continuing education courses for persons installing or servicing septic tanks.—

(1) The Department of Environmental Protection ~~Health~~ shall establish a program for continuing education which meets the purposes of ss. 381.0101 and 489.554 regarding the public health and environmental effects of onsite sewage treatment and disposal systems and any other matters the department determines desirable for the safe installation and use of onsite sewage treatment and disposal systems. The department may charge a fee to cover the cost of such program.

Section 35. Effective July 1, 2021, paragraph (d) of subsection (7), subsection (8), and paragraphs (b), (c), and (d)



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of subsection (9) of section 381.00651, Florida Statutes, are amended to read:

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

(7) The following procedures shall be used for conducting evaluations:

(d) *Assessment procedure.*—All evaluation procedures used by a qualified contractor shall be documented in the environmental health database of the Department of Environmental Protection Health. The qualified contractor shall provide a copy of a written, signed evaluation report to the property owner upon completion of the evaluation and to the county health department within 30 days after the evaluation. The report must ~~shall~~ contain the name and license number of the company providing the report. A copy of the evaluation report shall be retained by the local county health department for a minimum of 5 years and until a subsequent inspection report is filed. The front cover of the report must identify any system failure and include a clear and conspicuous notice to the owner that the owner has a right to have any remediation of the failure performed by a qualified contractor other than the contractor performing the evaluation. The report must further identify any crack, leak, improper fit, or other defect in the tank, manhole, or lid, and any other damaged or missing component; any sewage or effluent visible on the ground or discharging to a ditch or other surface water body; any downspout, stormwater, or other source of water directed onto or toward the system; and any other maintenance need or condition of the system at the time of the evaluation which, in the opinion of the qualified contractor, would



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possibly interfere with or restrict any future repair or modification to the existing system. The report shall conclude with an overall assessment of the fundamental operational condition of the system.

(8) The county health department, in coordination with the department, shall administer any evaluation program on behalf of a county, or a municipality within the county, that has adopted an evaluation program pursuant to this section. In order to administer the evaluation program, the county or municipality, in consultation with the county health department, may develop a reasonable fee schedule to be used solely to pay for the costs of administering the evaluation program. Such a fee schedule shall be identified in the ordinance that adopts the evaluation program. When arriving at a reasonable fee schedule, the estimated annual revenues to be derived from fees may not exceed reasonable estimated annual costs of the program. Fees shall be assessed to the system owner during an inspection and separately identified on the invoice of the qualified contractor. Fees shall be remitted by the qualified contractor to the county health department. The county health department's administrative responsibilities include the following:

(a) Providing a notice to the system owner at least 60 days before the system is due for an evaluation. The notice may include information on the proper maintenance of onsite sewage treatment and disposal systems.

(b) In consultation with the department ~~of Health,~~ providing uniform disciplinary procedures and penalties for qualified contractors who do not comply with the requirements of the adopted ordinance, including, but not limited to, failure to



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provide the evaluation report as required in this subsection to the system owner and the county health department. Only the county health department may assess penalties against system owners for failure to comply with the adopted ordinance, consistent with existing requirements of law.

(9)

(b) Upon receipt of the notice under paragraph (a), the department ~~of Environmental Protection~~ shall, within existing resources, notify the county or municipality of the potential use of, and access to, program funds under the Clean Water State Revolving Fund or s. 319 of the Clean Water Act, provide guidance in the application process to receive such moneys, and provide advice and technical assistance to the county or municipality on how to establish a low-interest revolving loan program or how to model a revolving loan program after the low-interest loan program of the Clean Water State Revolving Fund. This paragraph does not obligate the department ~~of Environmental Protection~~ to provide any county or municipality with money to fund such programs.

(c) The department ~~of Health~~ may not adopt any rule that alters ~~the provisions of~~ this section.

(d) The department ~~of Health~~ must allow county health departments and qualified contractors access to the environmental health database to track relevant information and assimilate data from assessment and evaluation reports of the overall condition of onsite sewage treatment and disposal systems. The environmental health database must be used by contractors to report each service and evaluation event and by a county health department to notify owners of onsite sewage



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treatment and disposal systems when evaluations are due. Data and information must be recorded and updated as service and evaluations are conducted and reported.

Section 36. Section 403.08601, Florida Statutes, is amended to read:

403.08601 Leah Schad Memorial Ocean Outfall Program.—The Legislature declares that as funds become available the state may assist the local governments and agencies responsible for implementing the Leah Schad Memorial Ocean Outfall Program pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from other sources provided for in law, the General Appropriations Act, from gifts designated for implementation of the plan from individuals, corporations, or other entities, or federal funds appropriated by Congress for implementation of the plan, may be deposited into an account of the Water Quality Assurance Trust Fund.

Section 37. Section 403.0871, Florida Statutes, is amended to read:

403.0871 Florida Permit Fee Trust Fund.—There is established within the department a nonlapsing trust fund to be known as the "Florida Permit Fee Trust Fund." All funds received from applicants for permits pursuant to ss. 161.041, 161.053, 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7)(a) shall be deposited in the Florida Permit Fee Trust Fund and shall be used by the department with the advice and consent of the Legislature to supplement appropriations and other funds received by the department for the administration of its responsibilities under this chapter and chapter 161. In no case shall funds from the Florida Permit Fee Trust Fund be used for salary increases



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without the approval of the Legislature.

Section 38. Paragraph (a) of subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with ~~the provisions of~~ this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay between January 15 and April 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and



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administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant actually emitted, as calculated in accordance with the department's emissions computation and reporting rules. The annual fee shall only apply to those regulated pollutants, except carbon monoxide and greenhouse gases, for which an allowable numeric emission limiting standard is specified in the source's most recent construction or operation permit; provided, however, that:

1. The license fee factor is \$25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond \$25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed \$35.

2. The amount of each regulated air pollutant in excess of 4,000 tons per year emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of



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4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3. If the department has not received the fee by March 1 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April 1. If the fee is not postmarked by April 1 of the calendar year, the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and may ~~shall~~ not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to \$50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

4. Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section may ~~shall~~ not be less than \$250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 may ~~shall~~ not exceed \$50 per year.

5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes



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~~the provisions of s. 403.087(6)(a)5.a., authorizing air~~
pollution construction permit fees, the department may not
require such fees for changes or additions to a major source of
air pollution permitted pursuant to this section, unless the
activity triggers permitting requirements under Title I, Part C
or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-
7514a. Costs to issue and administer such permits shall be
considered direct and indirect costs of the major stationary
source air-operation permit program under s. 403.0873. The
department shall, however, require fees pursuant to s.
403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the
construction of a new major source of air pollution that will be
subject to the permitting requirements of this section once
constructed and for activities triggering permitting
requirements under Title I, Part C or Part D, of the federal
Clean Air Act, 42 U.S.C. ss. 7470-7514a.

Section 39. Subsection (7) of section 403.1835, Florida
Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(7) Eligible projects must be given priority according to
the extent each project is intended to remove, mitigate, or
prevent adverse effects on surface or ground water quality and
public health. The relative costs of achieving environmental and
public health benefits must be taken into consideration during
the department's assignment of project priorities. The
department shall adopt a priority system by rule. In developing
the priority system, the department shall give priority to
projects that:

(a) Eliminate public health hazards;



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(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic wastewater ocean outfalls;

(c) Assist in the implementation of total maximum daily loads adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

(f) Promote reclaimed water reuse;

(g) Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or

(h) Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

Section 40. Paragraph (d) of subsection (3) of section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(3)

(d) The department may adopt rules to administer this subsection. However, the department is not required to submit such rules to the Environmental Regulation Commission for approval. Notwithstanding the limitations of s. 403.087(7)(a) ~~s. 403.087(6)(a)~~, permit fee caps for solid waste management facilities shall be prorated to reflect the extended permit term authorized by this subsection.



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Section 41. Subsections (8) and (21) of section 403.861, Florida Statutes, are amended to read:

403.861 Department; powers and duties.—The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(8) Initiate rulemaking to increase each drinking water permit application fee authorized under s. 403.087(7) ~~s. 403.087(6)~~ and this part and adopted by rule to ensure that such fees are increased to reflect, at a minimum, any upward adjustment in the Consumer Price Index compiled by the United States Department of Labor, or similar inflation indicator, since the original fee was established or most recently revised.

(a) The department shall establish by rule the inflation index to be used for this purpose. The department shall review the drinking water permit application fees authorized under s. 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5 years and shall adjust the fees upward, as necessary, within the established fee caps to reflect changes in the Consumer Price Index or similar inflation indicator. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations. The department shall also review the drinking water operation license fees established pursuant to paragraph (7)(b) at least once every 5 years to adopt, as necessary, the same inflationary adjustments provided for in this subsection.

(b) The minimum fee amount shall be the minimum fee prescribed in this section, and such fee amount shall remain in



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effect until the effective date of fees adopted by rule by the department.

(21) (a) Upon issuance of a construction permit to construct a new public water system drinking water treatment facility to provide potable water supply using a surface water 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 department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(30)(b) ~~s. 403.061(29)(b)~~.

(b) For existing public water system drinking water treatment facilities that use a surface water as a treated potable water supply, which surface water classification does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(30)(b) ~~s. 403.061(29)(b)~~.

Section 42. Effective July 1, 2021, subsection (1) of section 489.551, Florida Statutes, is amended to read:

489.551 Definitions.—As used in this part:

(1) "Department" means the Department of Environmental Protection ~~Health~~.

Section 43. Paragraph (b) of subsection (10) of section 590.02, Florida Statutes, is amended to read:

590.02 Florida Forest Service; powers, authority, and duties; liability; building structures; Withlacoochee Training Center.—

(10)



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(b) The Florida Forest Service may delegate to a county, municipality, or special district its authority:

1. As delegated by the Department of Environmental Protection pursuant to ss. 403.061(29) ~~ss. 403.061(28)~~ and 403.081, to manage and enforce regulations pertaining to the burning of yard trash in accordance with s. 590.125(6).

2. To manage the open burning of land clearing debris in accordance with s. 590.125.

Section 44. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2020.

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

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to water quality improvements;
providing a short title; requiring the Department
Health to provide a specified report to the Governor
and the Legislature by a specified date; requiring the
Department of Health and the Department of
Environmental Protection to submit to the Governor and
the Legislature, by a specified date, certain
recommendations relating to the transfer of the Onsite
Sewage Program; requiring the departments to enter
into an interagency agreement that meets certain
requirements by a specified date; transferring the
Onsite Sewage Program within the Department of Health



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2476 to the Department of Environmental Protection by a
2477 type two transfer by a specified date; providing that
2478 certain employees retain and transfer certain types of
2479 leave upon the transfer; amending s. 373.4131, F.S.;
2480 requiring the Department of Environmental Protection
2481 to include stormwater structural controls inspections
2482 as part of its regular staff training; requiring the
2483 department and the water management districts to adopt
2484 rules regarding stormwater design and operation by a
2485 specified date; amending s. 381.0065, F.S.; conforming
2486 provisions to changes made by the act; requiring the
2487 department to adopt rules for the location of onsite
2488 sewage treatment and disposal systems and complete
2489 such rulemaking by a specified date; requiring the
2490 department to evaluate certain data relating to the
2491 self-certification program and provide the Legislature
2492 with recommendations by a specified date; providing
2493 that certain provisions relating to existing setback
2494 requirements are applicable to permits only until the
2495 adoption of certain rules by the department; creating
2496 s. 381.00652, F.S.; creating an onsite sewage
2497 treatment and disposal systems technical advisory
2498 committee within the department; providing the duties
2499 and membership of the committee; requiring the
2500 committee to submit a report to the Governor and the
2501 Legislature by a specified date; providing for the
2502 expiration of the committee; repealing s. 381.0068,
2503 F.S., relating to a technical review and advisory
2504 panel; amending s. 403.061, F.S.; requiring the



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2505 department to adopt rules relating to the underground
2506 pipes of wastewater collection systems; requiring
2507 public utilities or their affiliated companies that
2508 hold or are seeking a wastewater discharge permit to
2509 file certain reports and data with the department;
2510 creating s. 403.0616, F.S.; requiring the department,
2511 subject to legislative appropriation, to establish a
2512 real-time water quality monitoring program;
2513 encouraging the formation of public-private
2514 partnerships; amending s. 403.067, F.S.; requiring
2515 basin management action plans for nutrient total
2516 maximum daily loads to include wastewater treatment
2517 and onsite sewage treatment and disposal system
2518 remediation plans that meet certain requirements;
2519 requiring the Department of Agriculture and Consumer
2520 Services to collect fertilization and nutrient records
2521 from certain agricultural producers and provide the
2522 information to the department annually by a specified
2523 date; requiring the Department of Agriculture and
2524 Consumer Services to perform onsite inspections of the
2525 agricultural producers at specified intervals;
2526 authorizing certain entities to develop research plans
2527 and legislative budget requests relating to best
2528 management practices by a specified date; creating s.
2529 403.0673, F.S.; establishing a wastewater grant
2530 program within the Department of Environmental
2531 Protection; authorizing the department to distribute
2532 appropriated funds for certain projects; providing
2533 requirements for the distribution; requiring the



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2534 department to coordinate with each water management
2535 district to identify grant recipients; requiring an
2536 annual report to the Governor and the Legislature by a
2537 specified date; creating s. 403.0855, F.S.; providing
2538 legislative findings regarding the regulation of
2539 biosolids management in this state; requiring the
2540 department to adopt rules for biosolids management;
2541 exempting the rules from a specified statutory
2542 requirement; amending s. 403.086, F.S.; prohibiting
2543 facilities for sanitary sewage disposal from disposing
2544 of any waste in the Indian River Lagoon without first
2545 providing advanced waste treatment; requiring
2546 facilities for sanitary sewage disposal to have a
2547 power outage contingency plan; requiring the
2548 facilities to take steps to prevent overflows and
2549 leaks and ensure that the water reaches the
2550 appropriate facility for treatment; requiring the
2551 facilities to provide the Department of Environmental
2552 Protection with certain information; requiring the
2553 department to adopt rules; amending s. 403.087, F.S.;
2554 requiring the department to issue operation permits
2555 for domestic wastewater treatment facilities to
2556 certain facilities under certain circumstances;
2557 amending s. 403.088, F.S.; revising the permit
2558 conditions for a water pollution operation permit;
2559 requiring the department to submit a report to the
2560 Governor and the Legislature by a specified date
2561 identifying all wastewater utilities that experienced
2562 sanitary sewer overflows within a specified timeframe;



832916

amending s. 403.0891, F.S.; requiring model stormwater management programs to contain model ordinances for nutrient reduction practices and green infrastructure; amending s. 403.121, F.S.; providing civil penalties; amending s. 403.885, F.S.; requiring the department to give certain domestic wastewater utilities funding priority within the Water Projects Grant Program; providing a declaration of important state interest; amending ss. 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.250, 373.414, 373.705, 373.707, 373.709, 376.307, 380.0552, 381.006, 381.0061, 381.0064, 381.00651, 403.08601, 403.0871, 403.0872, 403.1835, 403.707, 403.861, 489.551, and 590.02, F.S.; conforming cross-references and provisions to changes made by the act; providing effective dates.

WHEREAS, nutrients negatively impact groundwater and surface waters in this state and cause the proliferation of algal blooms, and

WHEREAS, onsite sewage treatment and disposal systems were designed to manage human waste and are permitted by the Department of Health for that purpose, and

WHEREAS, conventional onsite sewage treatment and disposal systems contribute nutrients to groundwater and surface waters across this state which can cause harmful blue-green algal blooms, and

WHEREAS, many stormwater systems are designed primarily to divert and control stormwater rather than to remove pollutants, and



832916

WHEREAS, most existing stormwater system design criteria fail to consistently meet either the 80 percent or 95 percent target pollutant reduction goals established by the Department of Environmental Protection, and

WHEREAS, other significant pollutants often can be removed from stormwater more easily than nutrients and, as a result, design criteria that provide the desired removal efficiencies for nutrients will likely achieve equal or better removal efficiencies for other constituents, and

WHEREAS, the Department of Environmental Protection has found that the major causes of sanitary sewer overflows during storm events are infiltration, inflow, and acute power failures, and

WHEREAS, the Department of Environmental Protection lacks statutory authority to regulate infiltration and inflow or to require that all lift stations constructed prior to 2003 have emergency backup power, and

WHEREAS, sanitary sewer overflows and leaking infrastructure create both a human health concern and a nutrient pollution problem, and

WHEREAS, the agricultural sector is a significant contributor to the excess delivery of nutrients to surface waters throughout this state and has been identified as the dominant source of both phosphorus and nitrogen within the Lake Okeechobee watershed and a number of other basin management action plan areas, and

WHEREAS, only 75 percent of eligible agricultural parties within the Lake Okeechobee Basin Management Action Plan area are enrolled in an appropriate best management practice and



832916

2621 enrollment numbers are considerably less in other basin
2622 management action plan areas, and
2623 WHEREAS, although agricultural best management practices,
2624 by design, should be technically feasible and economically
2625 viable, that does not imply that their adoption and full
2626 implementation, alone, will alleviate downstream water quality
2627 impairments, NOW, THEREFORE,



733210

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/11/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Mayfield) recommended the following:

Senate Amendment to Amendment (832916)

Delete line 337
and insert:
1, 2022, and the department shall notify the Division of Law
Revision of the date such rules are adopted. The rules must
consider conventional and advanced



584284

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/11/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Mayfield) recommended the following:

Senate Amendment to Amendment (832916)

Between lines 936 and 937
insert:

(6) For purposes of this section, the term "department"
means the Department of Environmental Protection.



707762

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
12/11/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Pizzo) recommended the following:

Senate Amendment to Amendment (832916)

Delete lines 1178 - 1179
and insert:
and disposal systems connections, upgrades, or replacements;
(D) Identify up-front funding sources for the state to
provide assistance to homeowners who, as a result of any
remediation plan developed pursuant to this sub-sub-
subparagraph, are required to replace or make substantial
repairs to their onsite sewage treatment and disposal systems;



707762

11 and

12 (E) Identify deadlines and interim milestones for the



674648

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/11/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Mayfield) recommended the following:

Senate Amendment to Amendment (832916)

Delete line 1455
and insert:
management action plan. These nutrient reduction projects must



811418

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/11/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Mayfield) recommended the following:

Senate Amendment to Amendment (832916)

Delete line 1473
and insert:
projects within a basin management action plan, an alternative
restoration plan adopted by final order, or a rural area of
opportunity under s. 288.0656 which will individually or
collectively reduce excess



338610

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/11/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Mayfield) recommended the following:

Senate Amendment to Amendment (832916) (with title amendment)

Delete line 1534

and insert:

or Charlotte Harbor Bay, Indian River Lagoon beginning July 1, 2025, or into any river,

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

And the title is amended as follows:



338610

11 Delete line 2544
12 and insert:
13 of any waste in the Indian River Lagoon beginning on a
14 specified date without first



500250

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/11/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Mayfield) recommended the following:

Senate Amendment to Amendment (832916) (with title amendment)

Delete lines 2455 - 2457
and insert:

Section 44. The Division of Law Revision is directed to replace the phrase "adoption of the rules identified in paragraph (e)" as it is used in the amendment made by this act to s. 381.0065, Florida Statutes, with the date such rules are adopted, as provided by the Department of Environmental



500250

Protection pursuant to s. 381.0065(4)(e), Florida Statutes, as amended by this act.

Section 45. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020.

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

And the title is amended as follows:

Delete line 2577

and insert:

made by the act; directing the Division of Law

Revision to replace certain statutory language upon

adoption of certain rules by the Department of

Environmental Protection; providing effective dates.



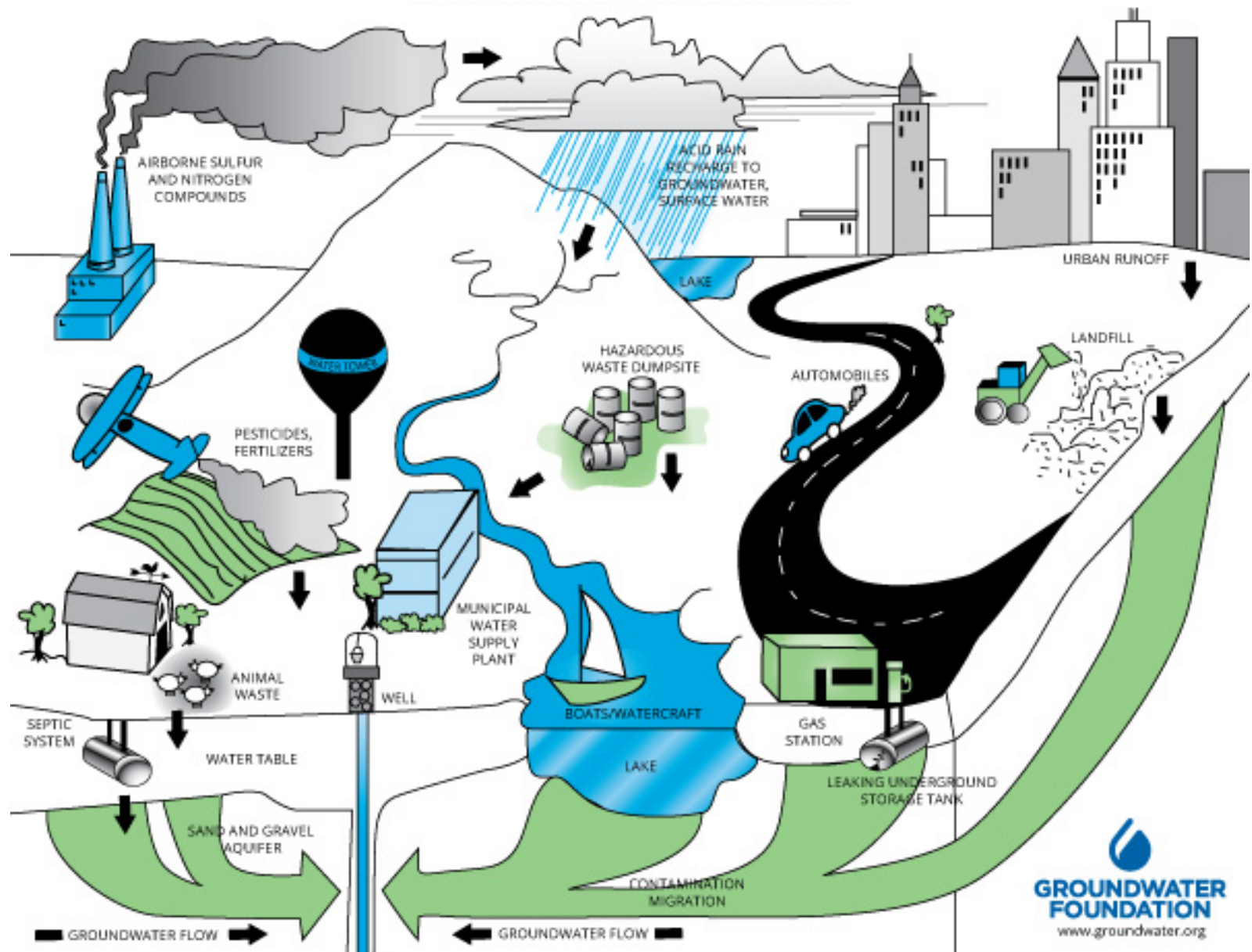
Stormwater

Benjamin Melnick
Deputy Director

Division of Water Resource Management



Sources of Groundwater Contamination





Potential Impacts of Unmanaged Stormwater

Changes In:

- **Infiltration to ground water**
- **Stream hydrology**
- **Watershed hydrology**
- **Stream morphology**
- **Riparian zone habitat**
- **Water quality**
- **Aquatic habitat and ecology**
- **Aquatic ecosystem**



Stormwater

FEDERAL

National Pollutant Discharge Elimination System (NPDES)

- **Municipal Separate Storm Sewer Systems (MS4)**
- **Construction Generic Permit (CGP)**
- **Multi-Sector Generic Permit (MSGP)**

STATE

Environmental Resource Permitting (ERP)

- **Regulates activities in, on, or over surface waters or wetlands...as well as any activity involving the alteration of surface water flows.**



Stormwater Aspects

PERMITTING

- **Narrative nutrient limits in the form of stormwater BMPs**
- **TMDL implementation for areas with BMPs**
- **Reporting requirements**
- **Stormwater Pollution Prevention Plan**

COMPLIANCE

- **Inspections – operation and implementation of BMPs and outfall locations**
- **Report review**
- **Rebuttable presumption – systems designed in accordance with criteria and requirements will not cause harm to water resources**



Florida ERP

Environmental Resource Permitting (ERP)

Covers collection through treatment (including use or reuse) with design focus on water quality and quantity (considering flooding, over-drainage, environmental degradation, water pollution)

Florida Department of Environmental Protection

- **Single-family homes, stand-alone dredging projects, port projects, beach projects, mangrove trimming**

Water Management Districts

- **Multi-residential development, roadways, commercial development, and shoreline work related to one of these categories**



Performance Standard for New Stormwater Discharges

- **Erosion and sediment control**
 - Retain sediment on-site
 - Can't violate turbidity standard
- **Stormwater quantity**
 - Discharge rate WMD or local standards
 - Volume control
- **Stormwater quality examples**
 - 80% average annual load reduction
 - 95% average annual load reduction
 - Basin specific requirements



MS4s

Federally delegated to Florida

- **Phase I MS4s**
 - Incorporated municipalities or counties of population 100,000+
 - May include smaller municipalities with interconnected SW areas
- **Phase II MS4s**
 - Urbanized areas of population 1,000+
 - Can also be designated by DEP based on interconnections, discharges to TMDL waterbodies, or population density and thresholds



MS4 Permit Conditions

Permittees are required to implement a Stormwater Management Program (SWMP) to reduce discharge of pollutants from the MS4 to Waters of the State to the maximum extent practicable through best management practices (BMPs), such as:

- **Operate and maintain the Stormwater Collection System**
- **Practice good housekeeping at permittee facilities and projects**
- **Inspect facilities/areas that may contribute pollutants, including industrial and construction sites; have legal authority to prohibit discharges, inspect sites, and perform enforcement**
- **Public and community outreach and education**
- **Address Total Maximum Daily Loads**
- **Evaluate SWMP effectiveness**



CGPs & MSGPs & NEXs

CGP

- **1+ Acre disturbance**
- **Discharge/outfall**
- **Stormwater Pollution Prevention Plans**
- **Implement BMPs: erosion, waste, sedimentation, control**
- **Monitoring**

MSGP

- **Industrial activities**
- **Discharge**
- **Stormwater Pollution Prevention Plans**
- **Implement BMPs: erosion, waste, sedimentation, control**
- **Monitoring**

NEX

- **No Exposure Exclusion Certification**
- **Exempt from SWPPPs, monitoring**



Regulated Industrial Activities (MSGP Areas)

- Sector A: Timber Products
- Sector B: Paper Products
Manufacturing
- Sector C: Chemical Manufacturing
- Sector D: Asphalt Paving
- Sector E: Glass, Clay, Cement, Man.
- Sector F: Primary Metals
- Sector G: Metal Mining
- Sector H: Coal Mines
- Sector I: Oil and Gas Extraction
- Sector J: Mineral Mining & Dressing
- Sector K: Hazardous Waste Facilities
- Sector L: Landfills
- Sector M: Auto Salvage Yards
- Sector N: Recycling Facilities
- Sector O: Power Plants (Steam)
- Sector P: Land Transportation
- Sector Q: Water Transportation
- Sector R: Ship & Boat Building
- Sector S: Air Transportation
- Sector T: Treatment Works
- Sector U: Food & Kindred Products
- Sector V: Textile Mills
- Sector W: Furniture & Fixtures
- Sector X: Printing & Publishing
- Sector Y: Plastics Manufacturing
- Sector Z: Leather Tanning & Finishing
- Sector AA: Fabricated Metal Products
- Sector AB: Transportation Equip.
- Sector AC: Electronic Goods
- Sector AD: Additional Activities



Six Major Types of Surface Water Management Systems



"Dry" Retention Ponds



"Wet" Detention Ponds



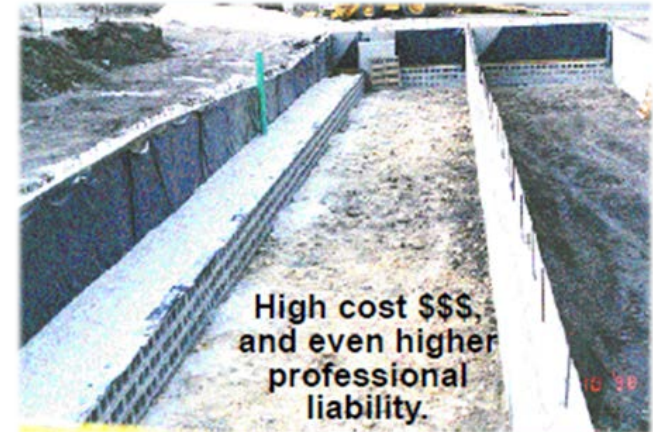
"Filtered" Ponds



Underground Exfiltration Trenches



Pervious Pavement



Underground Vaults



Contact Information

Benjamin Melnick

Deputy Director

Division of Water Resource Management

Benjamin.Melnick@floridadep.gov

850-245-8336



Rogers, Ellen

From: Wolfe, Justin G. <Justin.G.Wolfe@dep.state.fl.us>
Sent: Monday, December 2, 2019 10:29 AM
To: Rogers, Ellen
Cc: Bickley, Alex M.; Alvarez, Bryan
Subject: RE: Biosolids rule

Ellen- No, the biosolids rule (Ch. 62-640, F.A.C.) has not been challenged. It is my understanding that we received three lower cost regulatory alternatives (I believe they were all similar) and a request for rule hearing.

Let me know if you need anything else.

Justin G. Wolfe
General Counsel

Department of Environmental Protection
Office of General Counsel
3900 Commonwealth Boulevard MS#35
(850) 245-2214

From: Rogers, Ellen <ROGERS.ELLEN@flsenate.gov>
Sent: Monday, December 2, 2019 9:49 AM
To: Wolfe, Justin G. <Justin.G.Wolfe@dep.state.fl.us>
Cc: Bickley, Alex M. <Alex.Bickley@floridadep.gov>; Alvarez, Bryan <Bryan.Alvarez@FloridaDEP.gov>
Subject: Biosolids rule

Justin,

Has anyone challenged the draft biosolids rule?

Ellen Wolfgang Rogers

Staff Director
Committee on Environment and Natural Resources
Florida Senate
850-487-5372



APPEARANCE RECORD

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

12/9/19
Meeting Date

712

Bill Number (if applicable)

832916

Amendment Barcode (if applicable)

Topic Water QualityName Kenny JohnsonJob Title Deputy MayorAddress 120 McLabar Road

Street

Palm Bay

City

FL

State

32908

Zip

Phone 321-474-0183Email Kenny Johnson @ palm.bay.fl.usSpeaking: ☐ For ☐ Against☐ InformationWaive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

Representing City of Palm BayAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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

APPEARANCE RECORD

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

12/9/19
Meeting Date712

Bill Number (if applicable)

832916

Amendment Barcode (if applicable)

Topic WATER QUALITYName DOMINICK MONTANAROJob Title CITY COUNCILMAN SATELLITE BEACHAddress 565 CASSIA BLVD
StreetPhone 321-501-9310City SATELLITE BCH State FL Zip 32937Email DOMINICK.MONTANARO@SATELLITEBEACH.ORGSpeaking: ☐ For ☐ Against ☐ Information ☒ Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing CITY OF SATELLITE BEACHAppearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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APPEARANCE RECORD

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

12/9/19
Meeting Date

Bill Number (if applicable)

832-916

Amendment Barcode (if applicable)

Topic Water QualityName Rebecca O'HaraJob Title Deputy General CounselAddress PO Box 1757
StreetPhone 222-9684City Tallahassee State FL Zip 32302Email rohara@flcities.comSpeaking: ☒ For☐ Against☐ Information☐ In Support☐ Against

(The Chair will read this information into the record.)

Representing Fla League of CitiesAppearing at request of Chair: ☐ Yes☒ No

Lobbyist registered with Legislature:

☒ Yes☐ No

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

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APPEARANCE RECORD

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

12/9/19

Meeting Date

SB 712

Bill Number (if applicable)

Topic Water Quality

Delete All amendments

Amendment Barcode (if applicable)

Name

Sam Ard

Job Title

Address

PO Box 10406

Phone

850592731

Street

Tall

City

FL

State

32302

Zip

Email

sard@asclegal.com

Speaking:

☐

For

☐

Against

☒

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Fla. Cattlemen's Assn - Defer to Ernie Barnett remarks

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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APPEARANCE RECORD

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

12/9
Meeting DateSB 712
Bill Number (if applicable)
8329110
Amendment Barcode (if applicable)Topic Senate Bill 712Name Noan ValensteinJob Title SecretaryAddress _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: ☒ For ☐ Against ☐ Information Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing FL Dept of Environmental ProtectionAppearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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APPEARANCE RECORD

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

12-9-19

Meeting Date

712

Bill Number (if applicable)

832916

Amendment Barcode (if applicable)

Topic

water resources

Name

KURT SPITZER

Job Title

CONSULTANT

Address

693 FOREST LANE

Phone

850-228-6212

Street

32312

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

Representing

FLA. STORMWATER ASSOCIATION

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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APPEARANCE RECORD

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

Meeting Date
12/9/19Bill Number (if applicable)
7D632916

Amendment Barcode (if applicable)

Topic
Water Quality ImprovementsName
Adam BasfordJob Title
Director Legislative AffairsAddress
310 W Calhoun StPhone
222-2557City
TallahasseeState
FLEmail
adam.basford@flh.comSpeaking: ☐ For ☐ Against☒ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing FL Farm BureauAppearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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APPEARANCE RECORD

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

12/09/2019

Meeting Date

SB 712

Bill Number (if applicable)

832916

Amendment Barcode (if applicable)Topic Water Quality Improvements - 2020Name Elizabeth AlviJob Title Director of PolicyAddress 308 North Monroe StreetStreetTallahasseeCityFloridaState32301ZipPhone (850) 222-2473Email Beth.Alvi@Auduon.orgSpeaking: ☐ For ☐ Against☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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APPEARANCE RECORD

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

12/9/19

Meeting Date

712

Bill Number (if applicable)

832916

Amendment Barcode (if applicable)

Topic Waive in Support

Name Karl Rasmussen

Job Title Lobbyist

Address 300 S Duval

Street

Tallahassee

City

FL

State

32302

Zip

Phone (850) 425-4000

Email karl@rasmussenfirm.com

Speaking: ☐ For ☐ Against☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Everglades Foundation

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

12/9/19

Meeting Date

SB 712

Bill Number (if applicable)

832916

Amendment Barcode (if applicable)

Topic Waive in SupportName Andrew KitchelJob Title LobbyistAddress 124 E Jefferson St.

Street

Tallahassee

City

State

Zip

Phone 222-9075Email andrew@cccfra.comSpeaking: ☐ For ☐ Against☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Bonefish and Tarpon TrustAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

APPEARANCE RECORD

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

12/9/19

Meeting Date

712

Bill Number (if applicable)

832916DE

Amendment Barcode (if applicable)

Topic Clean Waterways Act AmendmentName Ernie BarnettJob Title Exec DirectorAddress 4524 Glen Club Rd #201 Phone 850 284 6178City West Palm Beach State FL Zip 33415Email Barnett@floridawaterways.comSpeaking: ☐ For ☐ Against ☒ InformationWaive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Southwest Council for Florida Ag CoalitionAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

12.9-17
Meeting DateSB 712
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Water Quality Imp B.11Name Garrett WallaceJob Title Government Relations MgrAddress 870 Park AvePhone 361-504-6877City Tallahassee State FL Zip 32301Email garrett.wallace@flvc.orgSpeaking: ☒ For ☐ Against ☐ Information ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing The Nature ConservancyAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

APPEARANCE RECORD

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

12-9-19

Meeting Date

212

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Dawn Green

Job Title

Address

3821 E. Las St

Street

Phone

City

State

Email

Zip

Speaking:

☐ For☐ Against☒ Information

Waive Speaking:

☐ In Support☐ Against

(The Chair will read this information into the record.)

Representing

Suzanne C. Feathers

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 Community Affairs

BILL: SB 620

INTRODUCER: Senator Hooper

SUBJECT: Firefighters' Bill of Rights

DATE: November 7, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Yeatman	CA	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 620 amends the Firefighters' Bill of Rights, which provides specific rights to a firefighter under investigation and when subject to interrogation for alleged misconduct that could lead to disciplinary action. The bill revises the definition of the term "interrogation" to include questioning during an informal inquiry. The bill revises the definition of the term "informal inquiry" to exclude certain routine work-related discussions. The bill requires all identifiable witnesses to be interviewed before the beginning of an interrogation of a firefighter, when possible, and specified information must be provided to the firefighter before an interrogation is conducted. The bill authorizes a firefighter to provide a voluntary statement anytime after being informed of the right to review witness statements and prohibits a firefighter from being threatened with disciplinary action during an interrogation.

The bill requires that the firefighter be provided with a copy of the interrogation within a specified time frame, upon request. A firefighter must be notified and provided certain information before disciplinary actions are taken and must be allowed to address the findings.

State and local agencies employing firefighters may incur minimal costs in complying with the provisions of the bill.

The bill takes effect on July 1, 2020.

II. Present Situation:

Chapter 633, F.S., provides state law on fire prevention and control. Section 633.104(1), F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal (Division).¹ Under this authority, the State Fire Marshal:

- Regulates, educates or trains, and certifies fire service personnel;²
- Investigates the causes of fires;³
- Enforces arson laws;⁴
- Regulates the installation and maintenance of fire equipment;⁵
- Conducts fire safety inspections of state buildings;⁶
- Develops fire safety standards;⁷
- Provides facilities for the analysis of fire debris;⁸ and
- Operates the Florida State Fire College.⁹

Additionally, the Division adopts by rule the Florida Fire Prevention Code, which contains or references all fire safety laws and rules regarding public and private buildings.¹⁰

The Division consists of two bureaus: the Bureau of Fire Standards and Training (BFST) and the Bureau of Fire Prevention.¹¹ Last year the BFST processed and issued 6,514 firefighter certifications.¹² The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the Division's annual report.¹³

Firefighters Employment, Standards, and Training Council

The Firefighters Employment, Standards, and Training Council (Council) is housed within the DFS and consists of 14 members.¹⁴ The Council is authorized to make recommendations for adoption by the Division on:

- Uniform minimum standards for the employment and training of firefighters and training of volunteer firefighters.

¹ The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of the State Fire Marshal is located within the DFS. *See* s. 20.121, F.S.

² Section 633.128(1), F.S. *See also* ch. 633, part IV: Fire Standards and Training, F.S.

³ Section 633.104(2)(e), F.S.

⁴ *Id.*

⁵ Section 633.104(2)(b), F.S. *See also* s. 633.104(2)(c), F.S., and ch. 633, part III: Fire Protection and Suppression, F.S.

⁶ Section 633.218, F.S.

⁷ Chapter 633, part II: Fire Safety and Prevention, F.S.

⁸ Section 633.432, F.S.

⁹ Section 633.128(1)(h)–(q), F.S. *See also* ss. 633.428–633.434, F.S.

¹⁰ Section 633.202(1), F.S.

¹¹ *See* Division of State Fire Marshal, available at: <https://www.myfloridacfo.com/Division/sfm/> (last visited on Nov. 7, 2019).

¹² *See* Division of State Fire Marshal, *Certification and Testing-About Us*, available at: <https://www.myfloridacfo.com/Division/SFM/BFST/Standards/default.htm> (last visited on Nov. 7, 2019).

¹³ *Id.*

¹⁴ Section 633.402(1), F.S.

- Minimum curriculum requirements for schools operated by or for any fire service provider¹⁵ for the specific purpose of training firefighter trainees, firefighters, and volunteer firefighters.
- Matters relating to the funding, general operation, and administration of the Bureau of Fire Standards and Training (Florida State Fire College), including, but not limited to, all standards, training, curriculum, and the issuance of any certificate of competency required by ch. 633, F.S.¹⁶

The Council may also make or support studies on any aspect of firefighting employment, education, and training or recruitment.¹⁷

Curriculum Requirements for Firefighters

A person applying for certification as a firefighter must:

- Be a high school graduate or the equivalent and at least 18 years of age;
- Not have been convicted of a misdemeanor relating to the certification or perjury or false statements, a felony, a crime punishable by imprisonment of one year or more, or be dishonorably discharged from the Armed Forces of the United States;
- Submit a set of fingerprints to the division with a current processing fee;
- Have a good moral character;
- Be in good physical condition as determined by a medical examination; and
- Be a nonuser of tobacco or tobacco products for at least one year immediately preceding application.¹⁸

The Division is responsible for establishing a Minimum Standards Course as the training and educational curriculum required for a firefighter to obtain a Firefighter Certificate of Compliance (FCOC).¹⁹ The Division issues an FCOC to an individual who does all of the following:

- Satisfactorily completes the Minimum Standards Course or has satisfactorily completed training for firefighters in another state which has been determined by the Division to be at least the equivalent of the training required for the Minimum Standards Course;
- Passes the Minimum Standards Course examination within 12 months after completing the required courses; and
- Meets the character and fitness requirements in s. 633.412, F.S.²⁰

For a firefighter to retain or renew his or her FCOC, every four years, he or she must:

- Be active as a firefighter;
- Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the four years, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the Division;

¹⁵ Section 633.102(13), F.S., defines “fire service provider” as a municipality or county, the state, the division, or any political subdivision of the state, including authorities and special districts, that employs firefighters or uses volunteer firefighters to provide fire extinguishment or fire prevention services for the protection of life and property. The term includes any organization under contract or other agreement with such entity to provide such services.

¹⁶ Section 633.402(9), F.S.

¹⁷ *Id.*

¹⁸ Section 633.412, F.S.

¹⁹ Section 633.408(1)(a), F.S.

²⁰ Section 633.408(4), F.S.

- Within six months before the four-year period expires, complete a Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training to be prescribed by rule; and
- Within six months before the four-year period expires, successfully retake and pass the Minimum Standards Course examination.²¹

Firefighters' Bill of Rights

The Firefighters' Bill of Rights provides specific rights when a firefighter is under investigation and subject to interrogation for a reason which could lead to disciplinary action, including reprimand, suspension, or dismissal.²² There is a similar law for law enforcement and correctional officers known as the Law Enforcement Officers' Bill of Rights.²³

The Firefighters' Bill of Rights contains the following definitions:²⁴

- "Firefighter" means a person who is certified in compliance with s. 633.408, F.S., and who is employed solely within the fire department or public safety department of an employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires.
- "Employing agency" means any municipality or the state or any political subdivision thereof, including authorities and special districts, which employs firefighters.
- "Informal inquiry" means a meeting by supervisory or management personnel with a firefighter about whom an allegation of misconduct has come to the attention of such supervisory or management personnel, the purpose of which meeting is to mediate a complaint or discuss the facts to determine whether a formal investigation should be commenced.
- "Formal investigation" means the process of an investigation ordered by supervisory personnel, after the supervisory personnel has previously determined that the firefighter shall be reprimanded, suspended, or removed, during which the questioning of a firefighter is conducted to gather evidence of misconduct.
- "Administrative proceeding" means any nonjudicial hearing which may result in the recommendation, approval, or order of disciplinary action against, or suspension or discharge of, a firefighter.
- "Interrogation" means the questioning of a firefighter by an employing agency in connection with a formal investigation or an administrative proceeding but shall not include arbitration or civil service proceedings. Questioning during an informal inquiry shall not be deemed to be an interrogation.

²¹ Section 633.414(1), F.S.

²² Part VIII, ch. 112, F.S.

²³ Part VI, ch. 112, F.S.

²⁴ Section 112.81, F.S.

An interrogation of a firefighter must be conducted according to the following terms:²⁵

- The interrogation shall take place at the facility where the investigating officer is assigned or at the facility that has jurisdiction over the place where the incident under investigation allegedly occurred, as designated by the investigating officer.
- No firefighter shall be subjected to interrogation without first receiving written notice in sufficient detail of the investigation to reasonably apprise the firefighter of the nature of the investigation. The firefighter shall be informed beforehand of the names of all complainants.
- All interrogations shall be conducted at a reasonable time of day, preferably when the firefighter is on duty unless the importance of the interrogation or investigation is of such a nature that immediate action is required.
- The firefighter under investigation shall be informed of the name, rank, and unit or command of the officer in charge of the investigation, the interrogators, and all persons present during any interrogation.
- Interrogation sessions shall be of reasonable duration, and the firefighter shall be permitted reasonable periods for rest and personal necessities.
- The firefighter being interrogated shall not be subjected to offensive language or offered any incentive as an inducement to answer any questions.
- A complete record of any interrogation shall be made, and if a transcript of such interrogation is made, the firefighter under investigation shall be entitled to a copy without charge. Such records may be electronically recorded.
- An employee or officer of an employing agency may represent the agency, and an employee organization may represent any member of a bargaining unit desiring such representation in any proceeding to which this part applies. If a collective bargaining agreement provides for the presence of a representative of the collective bargaining unit during investigations or interrogations, such representative shall be allowed to be present.
- No firefighter shall be discharged, disciplined, demoted, denied promotion or seniority, transferred, reassigned, or otherwise disciplined or discriminated against in regard to his or her employment, or be threatened with any such treatment as retaliation for or by reason solely of his or her exercise of any of the rights granted or protected by this part.

Public Records Exemption for Agency Investigations of Employee Misconduct

Current law provides a public records exemption for agency²⁶ investigations into complaints of employee misconduct.²⁷ A complaint of misconduct filed with an agency against an agency employee and all information obtained during an investigation by the agency of the complaint of misconduct is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or until the agency provides written notice to the employee who is the subject of the complaint, either personally or by mail, that the agency has either:

²⁵ Section 112.82, F.S.

²⁶ Section 119.011(2), F.S., defines “agency” as any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

²⁷ Section 119.071(2)(k), F.S.

- Concluded the investigation with a finding not to proceed with disciplinary action or file charges; or
- Concluded the investigation with a finding to proceed with disciplinary action or file charges.²⁸

III. Effect of Proposed Changes:

Section 1 amends the Firefighters' Bill of Rights, including the definition of "informal inquiry" contained in s. 112.81(3), F.S., and the definition of "interrogation" contained in s. 112.81(6), F.S.

The change to s. 112.81(3), F.S., adds a sentence to the definition of "informal inquiry," which specifies certain situations that are not considered an informal inquiry.

This addition better clarifies the circumstances and manner in which an informal inquiry may take place. Thus, firefighters will be more aware of when his or her comments in discussion with a supervisor may lead to a formal investigation of alleged misconduct. Similarly, this change prevents supervisors from soliciting commentary about alleged misconduct from a firefighter during safety sessions, operational debriefings, and routine work-related discussions.

The change to s. 112.81(6), F.S., stipulates that an informal inquiry is considered an interrogation.

This revision eliminates an employing agency's ability to meet with a firefighter in an informal inquiry to mediate a complaint or discuss facts to determine whether a formal investigation should be initiated. This revision also provides firefighters the rights described in s. 112.82, F.S., during informal inquiries.

Section 2 amends s. 112.82(2), F.S., concerning the rights of firefighters to require all identifiable witnesses be interviewed before the beginning of an interrogation of a firefighter, when possible. The complaint, all witness statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each firefighter who is the subject of a complaint before he or she is interrogated. A firefighter may waive the rights provided under this section and provide a voluntary statement at anytime after being informed of his or her right to review witness statements.

Section 112.82(6), F.S., is amended to prohibit a firefighter from being threatened with a transfer, dismissal, or disciplinary action during an interrogation.

Section 112.82(7), F.S., is amended to require a copy of the interrogation transcript, if made, be provided to a firefighter under investigation, upon request, without charge. If the firefighter requests a copy of the transcript, it must be provided within 72 hours, excluding weekends and holidays, after the interrogation.

²⁸ *Id.*

Section 3 creates s. 112.825, F.S., an entitled notice of disciplinary action, providing additional protection for firefighters. A dismissal, demotion, transfer, reassignment, or other disciplinary action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against a firefighter unless the firefighter is notified of the action and the reason for the action before the effective date of the action.

A firefighter who is subject to disciplinary action that consists of suspension with loss of pay, demotion, or dismissal, or his or her representative, must, upon request, be given a complete copy of the investigative file, including the final investigative report and all evidence, by the employing agency. The firefighter must be allowed to address the findings in the final investigative report with the employing agency before such disciplinary action is taken. The contents of the complaint and all information obtained during a subsequent investigation must remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution as provided under s. 119.071(2)(k), F.S.

Section 4 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

An employing agency may have to amend internal policies and procedures, which will likely be a minimal impact on its resources.

An employing agency may incur some additional costs in providing the interrogation transcript and complete investigative file to the firefighter. These costs appear to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.81 and 112.82 of the Florida Statutes. This bill also creates section 112.825 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.)

None.

B. Amendments:

None.

APPEARANCE RECORD

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

12-9-19

Meeting Date

Bill Number (if applicable)

1020

Amendment Barcode (if applicable)

Topic Firefighter Bill of Rights

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Speaking: ☒ For☐ Against☐ InformationWaive Speaking: ☐ In Support☐ Against

(The Chair will read this information into the record.)

Representing Florida Professional Firefighters

Appearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

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 Community Affairs

BILL: CS/SB 364

INTRODUCER: Community Affairs Committee and Senators Rader, Torres, and others

SUBJECT: Independent Living Task Force

DATE: December 11, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Paglialonga</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 364 creates a 25 member Independent Living Task Force (the task force) within the Florida Housing Finance Corporation (FHFC). The objective of the task force is to develop and evaluate policy proposals that incentivize building contractors and developers to create low-cost, supportive, and affordable housing for individuals who need such housing and who have a developmental disability or a mental illness.

The task force must submit a written report containing findings, conclusions, and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2021.

The bill requires the FHFC to use existing resources to administer and support the task force.

The bill provides for the dissolution of the task force by January 1, 2022.

The bill takes effect upon becoming a law.

II. Present Situation:

Task Force Requirements under section 20.03, Florida Statutes

Section 20.03(8), F.S., defines “task force” to mean an “advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem.” This provision specifies that the existence of a task force terminates upon the completion of its assignment.

Independent Living

The Florida Statutes do not define the term “independent living.” “Independent living” can refer to when an elderly person still has the physical and mental capacity to live independently but wants companionship or otherwise needs supportive services.¹ It can also encompass a living arrangement for people with disabilities who need supportive services.

In 1988, the Legislature created the Florida Independent Living Council.² The council is responsible for, among other things, jointly developing and submitting the State Plan for Independent Living.³ The council works to ensure that individuals with disabilities have an opportunity for input into the development of the State Plan for Independent Living and work for systematic change in the areas that are the biggest barriers to people with disabilities participating fully in their communities.⁴ The council describes the independent living philosophy as “promot[ing] consumer control of services, self-determination, and equal access and participation in every aspect of community life, to the level that individual wishes.”⁵

Independent living communities allow healthy individuals to live on their own, but they do not offer assisted living or nursing services. Independent living communities can offer amenities such as transportation, security, yard maintenance, laundry service, group meals, and social and cultural activities.⁶ Currently, there are over 200 independent living communities in Florida.⁷

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC), a public corporation administratively housed within the Department of Economic Opportunity (DEO),⁸ is the state’s affordable housing finance agency. As such, the FHFC is responsible for increasing the amount of affordable

¹ According to the senior living search website, aPlaceforMom, *Independent Living in Florida*, available at: <http://www.aplaceformom.com/independent-living/florida> (last visited Nov. 1, 2019).

² Chapter 88-214, Laws of Fla.

³ Section 413.395, F.S.

⁴ Floridasilc.org, *About Independent Living*, available at: <https://www.floridasilc.org/independent-living/> (last visited November 1, 2019).

⁵ *Id.*

⁶ Seniorliving.org, *Selecting an Independent Living Community* (Feb. 14, 2011), available at: <http://www.seniorliving.org/lifestyles/independent-living-communities/> (last visited Nov. 1, 2019).

⁷ According to the senior living search website, aPlaceforMom, *Independent Living in Florida*, available at: <http://www.aplaceformom.com/independent-living/florida> (last visited Nov. 1, 2019).

⁸ Section 420.504(1), F.S.

housing available to individuals and families by stimulating investment of private capital and encouraging public and private sector housing partnerships. To accomplish this, the FHFC uses federal and state resources to finance the development of safe, affordable homes and rental housing and to assist first-time homebuyers.⁹

Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) is a federal law that prohibits discrimination against people with disabilities. Under the ADA, an individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment.¹⁰

The ADA specifies that major life activities include but not limited to, “caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.”¹¹ In addition to the above activities, the ADA also covers individuals with impaired bodily functions. Under the ADA, “a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.”¹²

In 2008, Congress amended the ADA to lower the burden for plaintiffs to prove that they meet the ADA’s definition of disability.¹³ The ADA specifies that the definition of disability “shall be construed in favor of broad coverage.”¹⁴

Notwithstanding the broad interpretation of a “disability” by the ADA, some individuals are excluded from coverage. A person who is a current user of illegal drugs is not covered, but a person who has a substantial history of drug or alcohol abuse and addiction may be covered.¹⁵ Persons with sexual behavior disorders are not covered.¹⁶ Persons who have conditions of compulsive gambling, kleptomania, and pyromania are also not regarded as disabled by the ADA.¹⁷

⁹ See ss. 420.502 and 420.507, F.S.

¹⁰ 42 U.S.C. s. 12102(1)

¹¹ 42 U.S.C. s. 12102(2)(A)

¹² 42 U.S.C. s. 12102(2)(B)

¹³ *Green v. Celco Partnership*, 218 F.Supp.3d 157 (U.S. District Court D. Conn. 2016)

¹⁴ *Id.* at 162.

¹⁵ The Council for Disability Rights, *The Americans with Disabilities Act: Frequently Asked Questions*, available at: <http://disabilityrights.org/adafaq.htm> (last visited Dec. 10, 2019).

¹⁶ *Id.*

¹⁷ *Id.*

U.S. Disability Statistics

Approximately 43 million Americans have physical or mental disabilities that are covered by the ADA.¹⁸ The Council for Disability Rights estimates that the average U.S. Citizen has a 20 percent chance of becoming disabled during their lifetime and a 50 percent chance of having a family member with a disability.¹⁹

The unemployment rate²⁰ for persons with a disability was 8.0 percent in 2018, more than twice the rate of those with no disability (3.7 percent).²¹ Although this is a great disparity, this comparison does not include a large proportion of persons who were not in this labor force²² calculation. In 2018, about 8 out of every 10 people with a disability were not considered part of the labor force (employed or actively seeking employment) compared with about 3 in 10 of those with no disability.

Among persons ages 16 to 64, the employment-population ratio²³ for persons with a disability was 30.4 percent in 2018.²⁴ Alternatively, the employment-population ratio for persons ages 16 to 64 without a disability was 74.0 percent in 2018.²⁵ The ratio for persons age 65 and older with a disability was 7.4 percent and the ratio for persons age 65 and older without a disability was 23.6 percent in 2018.²⁶ Although persons with a disability are less likely to be employed at an older age, persons of all ages with a disability were much less likely to be employed than those with no disability.²⁷

III. Effect of Proposed Changes:

Section 1 creates s. 420.5075, F.S., to establish the Independent Living Task Force within the FHFC for administrative purposes only. The FHFC is to use existing and available resources to support the activities of the task force.

The bill directs the task force to evaluate policy proposals that incentivize building contractors and developers to create units within mixed-use developments for individuals who have a disability, as defined by the ADA.

The task force is to be chaired by the executive director of the FHFC, or his or her designee, and composed of 25 members, to include:

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Unemployed persons are those who did not have a job, were available for work, and were actively looking for a job in the 4 weeks preceding the survey.

²¹ Bureau of Labor Statistics, *Persons with a Disability: Labor Force Characteristics Summary*, available at: <https://www.bls.gov/news.release/disabl.nr0.htm> (last visited Dec. 10, 2019).

²² Persons who are not employed, looking for employment, or considered unemployed are not in the labor force.

²³ The proportion of an economy's working-age population that is employed.

²⁴ Bureau of Labor Statistics, *Persons with a Disability: Labor Force Characteristics Summary*, available at: <https://www.bls.gov/news.release/disabl.nr0.htm> (last visited Dec. 10, 2019).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

- The director of the Florida Housing Finance Corporation or his or her designee, who shall serve as chair of the task force;
- The director of the Agency for Persons with Disabilities or his or her designee;
- The Secretary of the Department of Children and Families, or his or her designee;
- The executive director of the Department of Economic Opportunity, or his or her designee;
- The Secretary of the Department of Business and Professional Regulation, or his or her designee;
- The executive director of the Commission for the Transportation Disadvantaged, or his or her designee;
- The Secretary of the Department of Elderly Affairs, or his or her designee;
- An individual appointed by the Governor;
- A representative from the Florida Supportive Housing Coalition;
- A representative from the Florida Housing Coalition;
- A representative from the Florida Independent Living Council;
- A representative from the ARC of Florida;
- A representative from the National Alliance on Mental Illness of Florida;
- A representative from the Florida League of Cities;
- A representative from the Florida Association of Counties;
- A representative from the Association of Florida Community Developers;
- A representative from the Associated Builders and Contractors of Florida;
- A representative from the Florida Association of Rehabilitation Facilities;
- A representative from the Florida Developmental Disabilities Council;
- A representative from the banking industry who finances mixed-use developments;
- A representative from the Coalition of Affordable Housing Providers;
- A representative from the Commercial Real Estate Development Association;
- A representative from the Florida Behavioral Health Association;
- A representative from the Florida Assisted Living Association; and
- An attorney who is a member in good standing of the Elder Law Section of The Florida Bar.

Members of the task force shall serve without compensation or reimbursement for per diem or travel expenses. The task force is directed to convene its first meeting by August 1, 2020. The task force must meet as often as necessary to fulfill its responsibilities under the bill, and meetings may be conducted in person, by teleconference, or by other electronic means.

The bill directs the task force to work in consultation with local and state government to identify potential barriers and opportunities in current law, recommend modifications to existing laws, rules, or policies, recommend financial and regulatory incentives, evaluate policy proposals, and propose funding mechanisms to incentivize building contractors and developers to create low-cost, supportive, and affordable housing units within mixed-use developments for individuals with disabilities.

The task force must submit a final report containing its findings, conclusions, and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2021. The task force must dissolve on or before January 1, 2022.

Section 2 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides that the task force members are to serve without compensation and are not entitled to reimbursement for per diem or travel expense. Thus, to the extent travel is required, the members will incur associated costs.

C. Government Sector Impact:

The DEO anticipates that it will incur a minor amount of travel and other administrative expenses as the FHFC is housed within DEO, and it is the agency directed to use existing resources to administer and support the activities of the task force.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 420.5075 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 December 9, 2019:

The committee substitute:

- Replaces “developmental disability,” as defined in s. 393.063, F.S., and “mental illness,” as defined in s. 394.455, F.S., with “disability,” as defined by the Americans with Disabilities Act in 42 U.S.C. s. 12102(1).
- Adds the Secretary of Elderly Affairs or his or her designee to the task force.
- Adds a representative from the Florida Behavioral Health Association to the task force.
- Changes first meeting deadline from June 1, 2020 to August 1, 2020.
- Changes report submission deadline from December 1, 2020 to December 1, 2021.
- Changes task force expiration date from January 1, 2021 to January 1, 2022.

B. Amendments:

None.



953726

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/11/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rader) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 420.5075, Florida Statutes, is created
to read:

420.5075 Independent Living Task Force.—

(1) The Independent Living Task Force, a task force as
defined in s. 20.03(8), is established within the Florida
Housing Finance Corporation for administrative purposes only.



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The corporation shall use existing and available resources to administer and support the activities of the task force under this section.

(2) For purposes of this section, the term "disability" has the same meaning as provided in 42 U.S.C. s. 12102(1) of the Americans with Disabilities Act, as that definition exists on the effective date of this act.

(3) The task force shall develop and evaluate policy proposals that incentivize building contractors and developers to create units within mixed-use developments which may be used as low-cost, supportive, and affordable housing for individuals who are in need of such housing and who have a disability.

(4) The task force shall consist of the following members:

(a) The director of the Florida Housing Finance Corporation or his or her designee, who shall serve as chair of the task force.

(b) The director of the Agency for Persons with Disabilities or his or her designee.

(c) The Secretary of Children and Families or his or her designee.

(d) The executive director of the Department of Economic Opportunity or his or her designee.

(e) The Secretary of Business and Professional Regulation or his or her designee.

(f) The executive director of the Commission for the Transportation Disadvantaged or his or her designee.

(g) The Secretary of Elderly Affairs or his or her designee.

(h) An individual appointed by the Governor.



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(i) The following members appointed by the director of the
Florida Housing Finance Corporation:

1. A representative from the Florida Supportive Housing
Coalition.

2. A representative from the Florida Housing Coalition.

3. A representative from the Florida Independent Living
Council.

4. A representative from The Arc of Florida.

5. A representative from the National Alliance on Mental
Illness-Florida.

6. A representative from the Florida League of Cities.

7. A representative from the Florida Association of
Counties.

8. A representative from the Association of Florida
Community Developers.

9. A representative from the Associated Builders and
Contractors of Florida.

10. A representative from the Florida Association of
Rehabilitation Facilities.

11. A representative from the Florida Developmental
Disabilities Council.

12. A representative from the banking industry who finances
mixed-use developments.

13. A representative from the Coalition of Affordable
Housing Providers.

14. A representative from the Commercial Real Estate
Development Association.

15. A representative from the Florida Behavioral Health
Association.



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69 16. A representative from the Florida Assisted Living
70 Association.

71 17. An attorney who is a member in good standing with the
72 Elder Law Section of The Florida Bar.

73 (5) Members of the task force shall serve without
74 compensation and are not entitled to reimbursement for per diem
75 or travel expenses. The task force shall convene its first
76 meeting by August 1, 2020, and shall meet as often as necessary
77 to fulfill its responsibilities under this section. Meetings may
78 be conducted in person, by teleconference, or by other
79 electronic means.

80 (6) In consultation with the applicable local and state
81 governmental entities, the task force shall:

82 (a) Identify potential barriers and opportunities in
83 existing policies, rules, or laws to incentivize building
84 contractors and developers to create low-cost, supportive, and
85 affordable housing units for individuals with disabilities
86 within mixed-use developments.

87 (b) Recommend modifications to existing policies, rules, or
88 laws or propose new policies, rules, or laws, such as allowing
89 greater density, which would allow for the creation of low-cost,
90 supportive, and affordable housing units for individuals with
91 disabilities within mixed-use developments.

92 (c) Recommend financial and regulatory incentives to
93 encourage building contractors and developers to create low-
94 cost, supportive, and affordable housing units for individuals
95 with disabilities within mixed-use developments.

96 (d) Propose funding mechanisms for the development and
97 maintenance of spaces for low-cost, supportive, and affordable



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housing units for individuals with disabilities within mixed-use
developments.

(7) The task force shall submit a report by December 1,
2021, to the Governor, the President of the Senate, and the
Speaker of the House of Representatives which includes its
findings, conclusions, and recommendations.

(8) This section expires January 1, 2022.

Section 2. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Independent Living Task Force;
creating s. 420.5075, F.S.; establishing the
Independent Living Task Force within the Florida
Housing Finance Corporation; defining the term
"disability"; providing for duties, membership, and
meetings of the task force; requiring the task force
to submit a report to the Governor and the Legislature
by a specified date; providing for expiration of the
task force; providing an effective date.

APPEARANCE RECORD

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

12/9/2019
Meeting Date369
Bill Number (if applicable)
Amendment Barcode (if applicable)Topic Independent Living Task ForceName Tim ParsonsJob Title Address 113 E. College Ave.
StreetPhone 880-910-2678City Tallahassee State FL Zip 32302Email Tim@libertypartnersfl.comSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Assisted Living AssociationAppearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

APPEARANCE RECORD

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

12/9/19

Meeting Date

SB364

Bill Number (if applicable)

Topic Independent Living Task ForceName Daphnee SainvilJob Title Legislative Policy AdvisorAddress 100 S. Andrews Ave.

Street

Ft. Lauderdale

City

FL

State

33301

Zip

Phone

954-253-7320

Email

DSainvil@broward.org

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Broward County

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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 Community Affairs

BILL: SB 484

INTRODUCER: Senators Simmons and Book

SUBJECT: First Responder Property Tax Exemption

DATE: November 19, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 484 allows certain out-of-state disabled first responders to qualify for the full homestead property tax exemption currently afforded to first responders who sustain a disability in the line of duty in Florida. Specifically, the bill allows a law enforcement officer or a firefighter who, prior to residing in Florida, was employed in another state as a law enforcement officer or firefighter and sustained a total and permanent disability while serving in the line of duty, to qualify for the first responder homestead exemption in s. 196.102, F.S.

The homestead exemption authorized in the bill applies beginning with the 2021 tax roll.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, 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 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

¹ Both real property and tangible personal property are 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. 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.

each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

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 generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida 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

Homestead Exemption for Totally and Permanently Disabled First Responders

In November of 2016, Florida voters authorized the Legislature to provide a homestead property tax exemption to a first responder (law enforcement officer, correctional officer, firefighter, emergency medical technician, or paramedic) who is totally and permanently disabled as a result of an injury or injuries sustained in the line of duty.¹¹ This constitutional provision is implemented in s. 196.102, F.S., and provides a full homestead exemption to such a first responder if the person is a permanent resident of Florida on January 1 of the year for which the exemption is claimed.¹² Exemption applicants must have a total and permanent disability¹³ as a result of an injury or injuries sustained in the line of duty while serving as a first responder in Florida, or during an operation in another state or country authorized by the state of Florida or a political subdivision of the state.¹⁴

For the purposes of implementing the exemption, "first responder" means a law enforcement officer or correctional officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., who is a full-time paid employee, part-time paid employee, or unpaid volunteer.¹⁵

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 FLA. CONST. art. VII, s. 6(f)(3).

¹² Section 196.102(2), F.S.

¹³ "Total and permanent disability" means an impairment of the mind or body that renders a first responder unable to engage in any substantial gainful occupation and that is reasonably certain to continue throughout her or his life.

¹⁴ Section 196.102(2), F.S.

¹⁵ Section 196.102(1)(b), F.S., references the definition of "first responder" in s. 196.081, F.S., which provides a homestead exemption for the surviving spouse of a first responder who died in the line of duty.

The Florida Constitution defines “in the line of duty” as arising out of and in the actual performance of duty required by employment as a first responder.¹⁶ This phrase is further defined in Florida Statutes to include:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities listed above if the training has been authorized by the employing entity.¹⁷

In determining eligibility for the property tax exemption, the causal connection between a disability and service in the line of duty shall not be presumed, and that disability does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.¹⁸ Proof of disability is required in the form of a letter from the Social Security Administration (SSA) and one Florida certified physician statement.¹⁹ If an individual is not eligible for a medical status determination from the SSA, they may complete two Florida certified physician’s statements.²⁰ In addition, applicants for this exemption must submit a certificate of injury from the organization that employed them at the time their injury or injuries occurred.²¹ The property tax exemption carries over to the benefit of the surviving spouse as long as the surviving spouse holds the legal or beneficial title to the homestead, permanently resides on the homestead, and does not remarry.²²

III. Effect of Proposed Changes:

Section 1 amends s. 196.102, F.S., to provide a full homestead exemption to an individual who before becoming a resident of Florida was employed as a law enforcement officer or firefighter in another state and sustained a total and permanent disability in the line of duty. For this purpose, the bill defines “law enforcement officer” as a person who was employed full time by a municipality of another state, by another state, or by any political subdivision thereof; who was vested with the authority to bear arms and make arrests; and whose primary responsibility was the prevention or detection of crime or the enforcement of penal, criminal, traffic or highway laws of the previous state.²³

¹⁶ FLA. CONST. art. VII, s. 6(f).

¹⁷ Section 196.081(6)(c)2.a.-h., F.S.

¹⁸ FLA. CONST. art. VII, s. 6(f)(3).

¹⁹ Section 196.102(5), F.S.

²⁰ *Id.*

²¹ *Id.* Additional requirements exist for applicants who have a total and permanent disability resulting from a cardiac event that occurred while in the line of duty. *See* s. 196.102(6), F.S.

²² Section 196.102(8), F.S.

²³ This definition of “law enforcement officer” parallels that found in s. 943.10, F.S.

The bill also restates verbatim the definition of “first responder” provided in s. 196.081, F.S., to determine eligibility for the existing homestead exemption for in-state, totally and permanently disabled first responders. This change has no impact.

All provisions in s. 196.102, F.S., governing the existing homestead exemption for in-state totally and permanently disabled first responders apply to the exemption authorized in the bill.

Section 2 states that the bill’s provisions apply beginning with the 2021 tax roll.

Section 3 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of section 18, Article VII of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant fiscal impact, which for Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.^{24,25,26}

The mandates provision of section 18, Article VII, of the Florida Constitution, may apply because the bill would increase the number of persons eligible for the disabled first responder property tax exemption. To the extent this occurs, this bill would reduce local government authority to raise revenue by reducing ad valorem tax bases compared to the tax bases that would exist under current law. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁴ FLA. CONST. art. VII, s. 18(d).

²⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Nov. 19, 2019).

²⁶ Based on the Florida Demographic Estimating Conference’s July 8, 2019 population forecast for 2020 of 21,546,885. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Nov. 19, 2019).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Committee (REC) estimates that SB 484 would result in a recurring reduction of local property taxes of \$5.6 million in the 2020-2021 fiscal year. A recurring reduction would continue in each of the four subsequent fiscal years and range between \$5.1 million and \$5.6 million annually.

B. Private Sector Impact:

Specified homestead owners who were totally and permanently disabled in the line of duty as a law enforcement officer or firefighter in another state prior to residing in Florida will pay less property taxes.

C. Government Sector Impact:

Depending on the extent that residents qualify and avail themselves of the bill's homestead exemption, local governments will realize less revenue from property taxes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.102 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.)

None.

B. Amendments:

None.

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

CourtSmart Tag Report

Room: SB 301
Caption: Senate Committee on Community Affairs

Case No.:

Type:
Judge:

Started: 12/9/2019 4:05:35 PM

Ends: 12/9/2019 5:10:59 PM

Length: 01:05:25

4:05:34 PM Committee called to order by Chair Flores
4:05:49 PM
4:05:53 PM Roll called
4:06:57 PM Senator Perry introduces CS/SB 326
4:08:00 PM
4:08:33 PM Senator Pizzo has question about CS/SB 326
4:09:01 PM Sen. Perry responds
4:09:10 PM Speaker Charlie Latham waives in support
4:09:42 PM Speaker Jack Ceiz waives in support
4:09:54 PM Roll call
4:09:59 PM CS/SB 326 passes favorably
4:10:13 PM Chair Flores introduces bill sponsor
4:10:27 PM Senator Perry explains SB 504
4:10:48 PM Speaker Warren Husband and Scott Jenkins waive in support
4:13:18 PM Sen. Pizzo asks question
4:14:19 PM Sen. Perry elaborates on answer
4:15:08 PM Sen. Pizzo has follow up question
4:15:52 PM Sen. Perry answers question
4:16:04 PM SB 504 passes favorably
4:16:33 PM SB 670 is introduced
4:16:55 PM Sen. Gruters introduces SB 670
4:18:18 PM Amendment 639762 is introduced by Sen. Gruters
4:19:25 PM Tonnnette Graham, Dominick Montanaro, Kenny Johnson, Daphnee Thomas, waive in support
4:20:23 PM Amendment 639762 passed
4:20:41 PM Greg Pound, speaker
4:21:21 PM Matt Jordan...(all speakers) waive in support
4:21:44 PM SB 670 passed
4:22:40 PM SB 384 Introduced by Sen. Baxley
4:23:49 PM SB 384 passes favorably
4:24:49 PM SB 364 introduced by Sen. Rader
4:25:12 PM Amendment 953725
4:26:13 PM Daphnee Sainvil and Tim Parsons waive in support
4:26:47 PM SB 364 passes as CS
4:26:56 PM Sen. Hooper introduces SB 620
4:27:34 PM Wayne Bernoska waives in support
4:28:01 PM SB 620 passes favorably
4:28:21 PM Sen. Mayfield introduces SB 712
4:28:40 PM Amendment 832916 introduced
4:30:17 PM Amendment to the Amendment 733210
4:31:16 PM Amendment to the Amemndment 733210 adopted
4:31:38 PM AA 584284
4:31:59 PM AA 584284 adopted
4:32:02 PM AA 707762 withdrawn
4:32:18 PM AA 674648
4:32:35 PM AA 674648 adopted
4:32:40 PM AA 811418
4:32:50 PM AA 811418 adopted
4:32:57 PM AA 338610
4:33:10 PM AA 338610 adopted
4:33:28 PM AA 500250
4:33:38 PM AA 500250 adopted
4:33:51 PM Sen. Farmer has question

4:34:07 PM	Sen. Mayfield answers
4:35:14 PM	Kenny Johnson, Rebecca O' Hara waive in support
4:36:14 PM	Noah Valenstein, Secretary of FL DEP waives in support
4:36:32 PM	Sen. Pizzo has question
4:37:22 PM	Noah Valenstein answers
4:38:13 PM	Sen. Pizzo has follow up question
4:38:35 PM	Noah Valenstein answers
4:40:13 PM	Sen. Simmons has question
4:43:30 PM	Noah Valenstein answers
4:45:38 PM	Sen. Simmons responds
4:48:51 PM	Noah Valenstein responds
4:51:19 PM	Sen. Simmons has follow up question
4:52:17 PM	Noah Valenstein answers
4:52:53 PM	Sen. Simmons has follow up question
4:53:21 PM	Noah Valenstein
4:53:35 PM	Noah Valenstein answers
4:53:37 PM	Sen. Simmon has follow up question
4:53:49 PM	Noah Valenstein responds
4:55:11 PM	Sen. Simmons thanks Sec. Noah Valenstein
4:55:33 PM	Adam Basford speaks about SB 712
4:56:33 PM	Elizabeth ALvi, Karl Rasmussen waive in support
4:57:51 PM	Sen. Farmer makes statement
5:00:02 PM	David Cullen speaks
5:01:27 PM	Sen. Simmons congratulates Sen. Mayfield on bill
5:02:27 PM	Sen. Mayfield closes
5:04:15 PM	SB 712 passes, CS
5:05:16 PM	SB 484 is introduced by Sen. Simmons
5:07:16 PM	Sen. Pizzo asks question
5:08:17 PM	Sen. Simmons responds
5:08:38 PM	SB 484 passes favorably
5:09:38 PM	Sen. Simmons makes motion for staff to be able to make technical changes to SB 712
5:10:33 PM	Chair Flores adjourns