

Tab 1 **SB 436** by **Hooper**; (Identical to H 00529) Use of Vessel Registration Fees

Tab 2 **SB 816** by **Perry**; (Identical to CS/H 00771) Environmental Regulation
321266 A S RCS EN, Perry Delete L.84: 03/26 05:28 PM

Tab 3 **SB 1172** by **Brandes**; (Compare to H 00497) Sanitary Sewer Laterals

Tab 4 **SB 1500** by **Simmons**; (Similar to CS/H 00767) Mineral Rights
553100 D S RCS EN, Simmons Delete everything after 03/26 05:28 PM

Tab 5 **SB 1502** by **Bradley**; (Similar to H 05401) Department of Environmental Protection

Tab 6 **SB 1666** by **Flores**; Anchoring and Mooring of Vessels Outside of Public Mooring Fields
847822 D S RCS EN, Flores Delete everything after 03/26 05:28 PM

Tab 7 **SB 628** by **Albritton**; (Identical to H 01199) Water Resources
416612 D S RCS EN, Albritton Delete everything after 03/26 05:28 PM

Tab 8 **SB 1022** by **Albritton**; (Similar to CS/H 00973) Onsite Treatment and Disposal Systems
700888 D S RCS EN, Albritton Delete everything after 03/26 05:28 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ENVIRONMENT AND NATURAL RESOURCES

Senator Montford, Chair
Senator Albritton, Vice Chair

MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Montford, Chair; Senator Albritton, Vice Chair; Senators Berman, Mayfield, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 436 Hooper (Identical H 529)	Use of Vessel Registration Fees; Authorizing a portion of county or municipal vessel registration fees to be used for specified additional purposes, etc. CA 03/05/2019 Favorable EN 03/26/2019 Favorable RC	Favorable Yeas 5 Nays 0
2	SB 816 Perry (Identical CS/H 771)	Environmental Regulation; Requiring counties and municipalities to address the contamination of recyclable material in specified contracts; prohibiting counties and municipalities from requiring the collection or transport of contaminated recyclable material by residential recycling collectors, etc. EN 03/26/2019 Fav/CS CA AP	Fav/CS Yeas 5 Nays 0
3	SB 1172 Brandes (Compare H 497)	Sanitary Sewer Laterals; Encouraging counties and municipalities to establish a sanitary sewer lateral inspection program by a specified date; requiring a seller of real property to disclose any actually known defects of the property's sanitary sewer lateral, etc. EN 03/26/2019 Favorable JU RC	Favorable Yeas 5 Nays 0
4	SB 1500 Simmons (Similar CS/H 767)	Mineral Rights; Releasing mineral rights reserved by a local government, water management district, or other agency of the state for specified parcels of property, etc. EN 03/26/2019 Fav/CS CA AP	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environment and Natural Resources

Tuesday, March 26, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 1502 Bradley (Similar H 5401)	Department of Environmental Protection; Transferring and reassigning functions and responsibilities of the Division of Law Enforcement relating to investigators of environmental crimes within the Fish and Wildlife Conservation Commission to the Division of Law Enforcement of the Department of Environmental Protection; providing requirements for a memorandum of agreement between the department and the commission regarding the responsibilities of the department and the commission; establishing the Division of Law Enforcement within the department, etc. EN 03/26/2019 Favorable AEG AP	Favorable Yeas 5 Nays 0
6	SB 1666 Flores	Anchoring and Mooring of Vessels Outside of Public Mooring Fields; Defining the terms "store" and "stored"; prohibiting the owner, operator, or person in charge of a vessel from anchoring or mooring outside of public mooring fields for longer than a specified period of time; requiring the relocation or removal from the water of vessels anchored or moored in violation of the prohibition; providing that such a violation is noncriminal and is punishable by a fine, etc. EN 03/26/2019 Fav/CS CA RC	Fav/CS Yeas 5 Nays 0
7	SB 628 Albritton (Identical H 1199)	Water Resources; Revising requirements for the Office of Economic and Demographic Research's annual assessment of this state's water resources and conservation lands; requiring the office to consult with the Department of Environmental Protection; requiring the assessment to be submitted to the Legislature by a specified date, etc. EN 03/26/2019 Fav/CS IS AP	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environment and Natural Resources

Tuesday, March 26, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1022 Albritton (Similar CS/H 973, Compare H 1395)	Onsite Treatment and Disposal Systems; Transferring the onsite sewage program of the Department of Health to the Department of Environmental Protection by a type two transfer; defining the term "department" as it relates to onsite sewage treatment and disposal systems provisions; requiring the department to convene a technical advisory committee by a specified date; requiring county health departments to coordinate with the department to administer certain programs, etc.	Fav/CS Yeas 5 Nays 0
		EN 03/26/2019 Fav/CS AEG AP	

Other Related Meeting Documents

Anderson, Crystal

From: Peacock, Ashley
Sent: Wednesday, March 20, 2019 2:06 PM
To: Anderson, Crystal
Subject: FW: SB 436 info
Attachments: SB 436 No Impact Statement.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Crystal,

Here is the email that you requested.

Let me know if you have any questions or need additional information.

Ashley Peacock
Senior Attorney
Florida Senate Community Affairs Committee
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399
850-487-5167 (phone)
peacock.ashley@flsenate.gov

From: Jacobs, Kevin <KevinJacobs@flhsmv.gov>
Sent: Friday, February 15, 2019 1:14 PM
To: Peacock, Ashley <PEACOCK.ASHLEY@flsenate.gov>
Cc: Langston, Jennifer <JenniferLangston@flhsmv.gov>
Subject: SB 436 info

Ashley,

Attached is a copy of the no impact statement regarding SB 436. Below are the amounts collected for the optional county vessel registration fee (as of 2/15/2019). Hardee county being new in FY 18/19

County	FY 18-19
BROWARD	\$348,657.83
CHARLOTTE	\$162,291.76
COLLIER	\$161,248.00
HARDEE	\$4,314.81
HILLSBOROUGH	\$261,766.16
LEE	\$350,021.31
MANATEE	\$137,603.99

MARTIN	\$145,050.98
MIAMI-DADE	\$575,512.73
MONROE	\$224,956.67
PALM BEACH	\$270,853.06
PINELLAS	\$335,436.88
POLK	\$184,755.27
SARASOTA	\$153,898.38
VOLUSIA	\$166,786.14
Grand Total	\$3,483,153.97

Let me know if you have any questions.

Best,

Kevin Jacobs
 Department of Highway Safety & Motor Vehicles
 Deputy Legislative Affairs Director
 (850) 617-3112



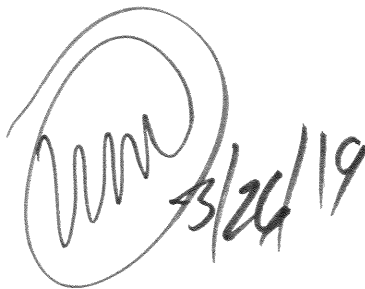
Bonn, Kim

From: Peck, Taylor
Sent: Tuesday, March 26, 2019 4:27 PM
To: Rogers, Ellen
Cc: Bonn, Kim
Subject: SB 436

Chair Montford will allow Senator Albritton to present for Senator Hooper.

Taylor Peck

Legislative Aide
Senator Bill Montford



Dear Chair Montford,

Senator Hooper would like to respectfully request that SB 436, Use of Vessel Registration Fees, be presented by Vice Chair Albritton in the Committee on Environment and Natural Resources on March 26, 2019.

Senator Hooper appreciates your consideration in this matter.

Sincerely,

Charles P. Smith
Legislative Assistant
Office of State Senator Ed Hooper
District 16
(850) 487-5016

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 Environment and Natural Resources

BILL: SB 436

INTRODUCER: Senator Hooper

SUBJECT: Use of Vessel Registration Fees

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	Favorable
2.	Anderson	Rogers	EN	Favorable
3.			RC	

I. Summary:

SB 436 expands the authorized uses of the county vessel registration fees to include channel and other navigational dredging; the construction, expansion, or maintenance of public boat ramps and other public water access facilities; and associated engineering and permitting costs.

II. Present Situation:

Vessel Registration

The term “vessel” is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution¹ and includes every description of watercraft, barge, or airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.² Vessels operated, used, or stored on the waters of this state must be registered with the Department of Highway Safety and Motor Vehicles (DHSMV) as a commercial or recreational³ vessel, unless:

- The vessel is operated, used, and stored exclusively on private lakes and ponds;
- The vessel is owned by the U.S. Government;
- The vessel is used exclusively as a ship’s lifeboat; or
- The vessel is non-motor-powered and less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.⁴

¹ FLA. CONST. art. VII, s.1(b) provides that motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

² Section 327.02(46), F.S.

³ Section 327.02(40), F.S., defines a “recreational vessel” as a vessel manufactured and used primarily for noncommercial purposes, or a vessel leased, rented, or chartered to a person for his or her noncommercial use.

⁴ Section 328.48(2), F.S.

Section 328.72(12), F.S., provides that vessel registration periods are for 12 or 24 months. An individual who owns a vessel is eligible to register the vessel for a 12 or 24 month period that begins the first day of the birth month of the owner and ends the last day of the month preceding the owner's birth month. The registration period for vessels owned by companies, corporations, governmental entities, and registrations issued to dealers and manufacturers is July 1 to June 30.⁵

The base registration fee for vessels is determined by the length of the vessel. The vessel registration fee for a 12-month period is as follows:

- *Class A-1*: Less than 12 feet in length and all canoes to which propulsion motors have been attached, regardless of length: \$5.50;
- *Class A-2*: 12 feet or more and less than 16 feet in length: \$16.25;
- *Class 1*: 16 feet or more and less than 26 feet in length: \$28.75;
- *Class 2*: 26 feet or more and less than 40 feet in length: \$78.25;
- *Class 3*: 40 feet or more and less than 65 feet in length: \$127.75;
- *Class 4*: 65 feet or more and less than 110 feet in length: \$152.75;
- *Class 5*: 110 feet or more in length: \$189.75; and
- *Dealer Registration Certificate*: \$25.50.⁶

A portion of the state vessel registration fees for recreational vessels is distributed to county governments.⁷ Of the portion designated for counties, \$1 is remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission and \$1 is remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund a grant program for public launching facilities, with priority consideration given to counties with more than 35,000 registered vessels.⁸

The remainder of the funds going to counties must be used for specific boating-related purposes:

- Providing, maintaining, or operating recreational channel marking and other uniform waterway markers, public boat ramps, lifts, hoists, marine railways, boat piers, docks, mooring buoys, and other public launching facilities; and
- Removing derelict vessels, debris that specifically impede boat access, not including the dredging of channels, and vessels and floating structures deemed a hazard to public safety and health.⁹

Local Vessel Registration Fees

In addition to the state vessel registration fees above, any county may impose an annual registration fee on vessels registered, operated, used, or stored on waters within its jurisdiction. This fee is 50 percent of the applicable state registration fee as provided in s. 328.72(1), F.S., and not the reduced vessel registration fee specified in s. 328.72(18), F.S.¹⁰ The first \$1 of every

⁵ Section 328.72(12)(c)2., F.S.

⁶ Section 328.72(1)(a), F.S.

⁷ Section 328.72(1), F.S.

⁸ Section 328.72(15), F.S.

⁹ *Id.*

¹⁰ State vessel registration fees are reduced for recreational vessels equipped with an emergency position-indicating radio beacon registered with the U.S. National Oceanic and Atmospheric Administration (NOAA) or whose owner owns a personal locator beacon registered with the NOAA.

county registration fee must be remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission.¹¹ The remainder of the optional county fee is retained by the county where the vessel is registered and is to be used for patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities within the county.¹² A county which imposes a vessel registration fee may share such proceeds with one or more municipalities within the county pursuant to an interlocal agreement to fund authorized boating-related projects.¹³

Currently, 15 counties have elected to impose the local vessel registration fee. The following chart summarizes the associated revenue by county for Fiscal Year (FY) 2018-2019.¹⁴

County	FY 18-19
Broward	\$348,657.83
Charlotte	\$162,291.76
Collier	\$161,248.00
Hardee	\$ 4,314.81
Hillsborough	\$261,766.16
Lee	\$350,021.31
Manatee	\$137,603.99
Martin	\$145,050.98
Miami-Dade	\$575,512.73
Monroe	\$224,956.67
Palm Beach	\$270,853.06
Pinellas	\$335,436.88
Polk	\$184,755.27
Sarasota	\$153,898.38
Volusia	\$166,786.14
Grand Total	\$3,483,153.97

Regulation of Dredging

Dredging means excavation in wetlands or other surface waters or excavation in uplands that creates wetlands or other surface waters.¹⁵ Any activity on or over wetlands and other surface waters (dredging and filling) is regulated by the Department of Environmental Protection (DEP) and the five water management districts (Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, and South Florida) through the Environmental Resources Permitting (ERP) program. Dredging and filling is also regulated by the federal government under a separate program administered by the U.S. Army Corps of Engineers (Corps). The process is initiated by submitting a joint (interagency) application to DEP or to one of the above water management districts. The appropriate agency is determined by a division of responsibilities specified in Operating Agreements between the agencies. Upon receipt of the application by DEP or water

¹¹ Section 328.66(1), F.S.

¹² *Id.*

¹³ Section 328.66(2), F.S.

¹⁴ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: SB 436, (February 15, 2019) (Copy on file with the Senate Committee on Community Affairs).

¹⁵ Department of Environmental Protection, *ERP Dredging and Filling*, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-dredging-and-filling> (last visited on Mar. 17, 2019).

management district, a copy is also forwarded to the Corps to initiate the federal permitting process.¹⁶

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 328.66, F.S., to authorize a county to use a portion of vessel registration fees for additional purposes that may include channel and other navigational dredging; the construction, expansion, or maintenance of public boat ramps and other public water access facilities; and associated engineering and permitting costs.

Section 2 provides that the bill takes effect July 1, 2019.

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:

If additional counties elect to impose the local vessel registration fees, there may be a negative fiscal impact on vessel owners within a county's jurisdiction.

¹⁶ *Id.*

C. Government Sector Impact:

There may be a positive fiscal impact on counties that elect to impose the optional local vessel registration fee. Additional counties may consider imposing this fee due to the expansion of authorized uses under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 328.66 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.

By Senator Hooper

16-00829A-19

2019436__

1 A bill to be entitled
2 An act relating to use of vessel registration fees;
3 amending s. 328.66, F.S.; authorizing a portion of
4 county or municipal vessel registration fees to be
5 used for specified additional purposes; providing an
6 effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Subsection (1) of section 328.66, Florida
11 Statutes, is amended to read:

12 328.66 County and municipality optional registration fee.—
13 (1) A ~~Any~~ county may impose an annual registration fee on
14 vessels registered, operated, used, or stored on the waters of
15 this state within its jurisdiction. This fee shall be 50 percent
16 of the applicable state registration fee as provided in s.
17 328.72(1) and not the reduced vessel registration fee specified
18 in s. 328.72(18). However, the first \$1 of every registration
19 fee imposed under this subsection shall be remitted to the state
20 for deposit in the Save the Manatee Trust Fund created within
21 the Fish and Wildlife Conservation Commission, ~~and~~ shall be used
22 only for the purposes specified in s. 379.2431(4). All other
23 moneys received from such fee shall be expended for the patrol,
24 regulation, and maintenance of the lakes, rivers, and waters and
25 for other boating-related activities of such municipality or
26 county, which may include channel and other navigational
27 dredging, the construction, expansion, or maintenance of public
28 boat ramps and other public water access facilities, and
29 associated engineering and permitting costs. A municipality that

16-00829A-19

2019436__

30 was imposing a registration fee before April 1, 1984, may
31 continue to levy such fee, notwithstanding the provisions of
32 this section.

33 Section 2. This act shall take effect July 1, 2019.

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 Environment and Natural Resources

BILL: CS/SB 816

INTRODUCER: Environment and Natural Resources Committee and Senator Perry

SUBJECT: Environmental Regulation

DATE: March 27, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.	_____	_____	CA	_____
3.	_____	_____	AP	_____

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

I. Summary:

CS/SB 816 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, 2019. Such contracts are required to define the term “contaminated recyclable material” based on certain factors. 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 requirements for the replacement or repair of a dock or pier that is exempt from permitting requirements.

II. Present Situation:

Local Government Solid Waste Responsibilities

The governing body of a county has the responsibility and power 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 Each 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, 2020.⁴

Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs.⁵ Each county must implement a program for recycling construction and demolition debris.⁶ If the state's recycling rate is below 75 percent by January 1, 2021, the Department of Environmental Protection (DEP) must provide a report to the President of the Senate and the Speaker of the House of Representatives.⁷ The report must identify those additional programs or statutory changes needed to achieve the state's recycling goals.⁸ The programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream prior to 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; and
- Yard trash.⁹

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.¹⁰

“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. The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations.¹¹ 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:

¹ Section 403.706(1), F.S.

² *Id.*

³ *Id.*

⁴ Section 403.706(2)(a), F.S.

⁵ *Id.*

⁶ Section 403.706(2)(b), F.S.

⁷ Section 403.706(2)(e), F.S.

⁸ *Id.*

⁹ Section 403.706(2)(f), F.S.

¹⁰ Section 403.706(3), F.S.

¹¹ Section 403.706(5), F.S.

- The achievement of the goal would have an adverse effect on 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.

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.¹²

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.¹³ 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.¹⁴ A market must exist for the recyclable materials and the local government must specifically intend for them to be recycled.¹⁵ Local governments are authorized to provide for the collection of the recyclable materials. Such ordinances may include, but are not limited to, provisions that prohibit any person from knowingly disposing of recyclable materials designated by the local government and that ensure the collection of recovered materials as necessary to protect public health and safety.¹⁶

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 to 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; and
- 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.¹⁷

Local governments may require a commercial establishment to source separate the recovered materials generated on the premises.¹⁸

Florida's Recycling Goal

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 goal to recycle at least 75 percent of the municipal solid waste that would otherwise be disposed of in waste management

¹² Section 403.706(6), F.S.

¹³ Section 403.706(9), F.S.

¹⁴ Section 403.706(21), F.S.

¹⁵ *Id.*

¹⁶ Section 403.706(21), F.S.

¹⁷ Section 403.7046(3), F.S.

¹⁸ Section 403.7046(3)(a), F.S.

facilities, landfills, or incineration facilities by 2020.¹⁹ DEP established several programs and initiatives to reach that goal. In 2015, Florida's recycling rate was 54 percent, meeting the 50 percent target rate specified in statute.²⁰

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 2016 interim recycling goal of 60 percent.²¹ The current practices in Florida are not expected to significantly increase the recycling rate beyond the 56 percent rate.²² Without significant changes to Florida's current approach, the state's recycling rate will likely fall short of the 2020 goal of 75 percent.²³

DEP, in partnership with material recycling facilities (MRFs) across the state, has developed a statewide public education campaign, entitled "Rethink. Reset. Recycle."²⁴ 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;
- 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; and
- Providing counties not achieving the 2016 interim recycling goal with assistance in analyzing, planning and executing opportunities to increase recycling.²⁵

A number of counties and municipalities have instituted single stream recycling programs.²⁶ 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 amount 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

¹⁹ Section 403.7032, F.S.; 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 Mar. 23, 2019).

²⁰ DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited Mar. 23, 2019).

²¹ 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 Mar. 23, 2019).

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 11.

²⁵ *Id.*

²⁶ *Id.* at 13.

recycling has been the collection of unwanted materials and poorly sorted recyclables, resulting in increased contamination originating in the curbside recycling cart.²⁷

Contamination hinders processing at MRFs when unwanted items are placed into recycling carts.²⁸ Those items 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 costs, and delays. 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 case reaching contamination rates of more than 30-40 percent by weight.²⁹

Exceptions to Requirements for Environmental Resource Permitting

DEP's Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows.³⁰ An ERP is required if a project exceeds certain thresholds for surface water management systems, such as for 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).³¹

However, for a number of low impact activities and projects that are narrow in scope, an environmental permit is not required under state law.³² Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to an agency.³³ A broad array of activities are expressly exempted from the ERP program, and these include, but are not limited to: the installation of overhead transmission lines; installation and maintenance of boat ramps; work on sea walls and mooring pilings, swales, and foot bridges; the removal of aquatic plants; construction and operation of floating vessel platforms; and work on county roads and bridges.³⁴ Included among activities exempt from the requirement to obtain an ERP is the replacement or repair of existing docks and piers, if fill material is not used and the replacement 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.³⁵ Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Chapter 373, p. IV, F.S.; Fla. Admin. Code Ch. 62-330; DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Mar. 23, 2019).

³¹ 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.

³² Section 403.813, F.S.

³³ Fla. Admin. Code Rules 62-330.050(1) and 62-330.051(2).

³⁴ Section 403.813(1), F.S.; Fla. Admin. Code R. 62-330.051.

³⁵ Section 403.813(1)(d), F.S.

owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity.³⁶

III. Effect of Proposed Changes:

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

The bill requires local governments to address the contamination of recyclable material in contracts for the collection, transportation, and processing of residential material. This must be achieved based on the requirements described in section 1 of the bill. The requirements apply only to the collection and processing of material obtained from residential recycling activities. The bill applies to each contract between a local government and a residential recycling collector or recovered materials processing facility that is executed or renewed after October 1, 2019.

As used in the bill, the term “contaminated recyclable material” refers only to recyclable material that is comingled or mixed with solid waste or other nonhazardous material. The term does not include contamination as that term or a derivation of that term is used in chapter 376, F.S., and other sections of chapter 403, F.S., including, but not limited to, 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 bill states that a residential recycling collector is not required to collect or transport contaminated recyclable material, except pursuant to a contract consistent with the bill’s requirements. As used in the bill, the term “residential recycling collector” means: a for-profit business entity that collects and transports residential recyclable material on behalf of a county or municipality. The bill requires that each contract between a residential recycling collector and a local government for the collection or transport of residential recyclable material, and each request for proposal or other solicitation for the collection of residential recyclable material, must define the term “contaminated recyclable material.” The term should be defined in a manner that is appropriate for the local community, taking into consideration available markets for recyclable material, available waste composition studies, and other relevant factors. Each contract and request for proposal or other solicitation must include:

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

The bill states that a recovered materials processing facility is not required to process contaminated recyclable material, except pursuant to a contract consistent with the bill’s

³⁶ Section 403.813(1), F.S.

requirements. The bill requires that each contract between a recovered materials processing facility and a local government for processing residential recyclable material, and each request for proposal or other solicitation for processing residential recyclable material, must define the term “contaminated recyclable material.” The term should be defined in a manner that is appropriate for the local community, taking into consideration available markets for recyclable material, available waste composition studies, and other relevant factors. Each contract and request for proposal must include:

- 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, truck loads, carts, or bins that contain contaminated recyclable material; and
- The remedies authorized to be used if a container or truck load contains contaminated recyclable material.

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 exempts from environmental resource permitting requirements the replacement or repair of existing docks and piers, except that:

- Fill may not be used;
- The replacement or repaired dock or pier must be within 5 feet of the same location and no larger in size than the existing dock or pier; and
- No additional aquatic resources may be adversely and permanently impacted by such replacement or repair.

The bill deletes the existing requirement that the replacement or repaired dock or pier must be in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired.

Section 3 states that this act shall take effect on October 1, 2019.

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:

Indeterminate.

C. Government Sector Impact:

The bill requires local governments to include provisions in their contracts requiring procedures for minimizing contamination and authorizing remedies if contamination exists. Requirements for local governments to perform additional procedures in the collection or transport of residential recyclable material, to establish and enforce new standards for contamination, or to be subject to remedies may cause local governments to incur additional costs. Therefore, this bill may result in an indeterminate, negative fiscal impact on local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.706 and 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 March 26, 2019:

- Changes the date, from July 1, 2019 to October 1, 2019, after which section 1 of the bill applies to each contract executed or renewed between a local government and a residential recycling collector or a recovered materials processing facility; and
- Changes the effective date of the bill from July 1, 2019 to October 1, 2019.

- B. **Amendments:**

None.



321266

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Perry)
recommended the following:

Senate Amendment

Delete line 84
and insert:
after October 1, 2019.

Delete line 562
and insert:

Section 3. This act shall take effect October 1, 2019.

By Senator Perry

8-01032A-19

2019816__

1 A bill to be entitled
2 An act relating to environmental regulation; amending
3 s. 403.706, F.S.; requiring counties and
4 municipalities to address the contamination of
5 recyclable material in specified contracts;
6 prohibiting counties and municipalities from requiring
7 the collection or transport of contaminated recyclable
8 material by residential recycling collectors; defining
9 the term "residential recycling collector"; specifying
10 required contract provisions in residential recycling
11 collector and materials recovery facility contracts
12 with counties and municipalities; amending s. 403.813,
13 F.S.; prohibiting a local government from requiring
14 from the Department of Environmental Protection
15 further verification for certain projects; revising
16 the types of dock and pier replacements and repairs
17 that are exempt from such verification and certain
18 permitting requirements; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Present subsection (22) of section 403.706,
23 Florida Statutes, is redesignated as subsection (23), and a new
24 subsection (22) is added to that section, to read:

25 403.706 Local government solid waste responsibilities.—

26 (22) Counties and municipalities must address the
27 contamination of recyclable material in contracts for the
28 collection, transportation, and processing of residential
29 recyclable material based upon all of the following:

8-01032A-19

2019816__

30 (a) A residential recycling collector is not required to
31 collect or transport contaminated recyclable material, except
32 pursuant to a contract consistent with paragraph (c). As used in
33 this subsection, the term "residential recycling collector"
34 means a for-profit business entity that collects and transports
35 residential recyclable material on behalf of a county or
36 municipality.

37 (b) A recovered materials processing facility is not
38 required to process contaminated recyclable material, except
39 pursuant to a contract consistent with paragraph (d).

40 (c) Each contract between a residential recycling collector
41 and a county or municipality for the collection or transport of
42 residential recyclable material, and each request for proposal
43 or other solicitation for the collection of residential
44 recyclable material, must define the term "contaminated
45 recyclable material." The term should be defined in a manner
46 that is appropriate for the local community, taking into
47 consideration available markets for recyclable material,
48 available waste composition studies, and other relevant factors.
49 The contract and request for proposal or other solicitation must
50 include:

51 1. The respective strategies and obligations of the county
52 or municipality and the residential recycling collector to
53 reduce the amount of contaminated recyclable material being
54 collected;

55 2. The procedures for identifying, documenting, managing,
56 and rejecting residential recycling containers, truck loads,
57 carts, or bins that contain contaminated recyclable material;

58 3. The remedies authorized to be used if a container, cart,

8-01032A-19

2019816__

59 or bin contains contaminated recyclable material; and

60 4. The education and enforcement measures that will be used
61 to reduce the amount of contaminated recyclable material.

62 (d) Each contract between a recovered materials processing
63 facility and a county or municipality for processing residential
64 recyclable material, and each request for proposal or other
65 solicitation for processing residential recyclable material,
66 must define the term "contaminated recyclable material." The
67 term should be defined in a manner that is appropriate for the
68 local community, taking into consideration available markets for
69 recyclable material, available waste composition studies, and
70 other relevant factors. The contract and request for proposal
71 must include:

72 1. The respective strategies and obligations of the county
73 or municipality and the facility to reduce the amount of
74 contaminated recyclable material being collected and processed;

75 2. The procedures for identifying, documenting, managing,
76 and rejecting residential recycling containers, truck loads,
77 carts, or bins that contain contaminated recyclable material;
78 and

79 3. The remedies authorized to be used if a container or
80 truck load contains contaminated recyclable material.

81 (e) This subsection applies to each contract between a
82 municipality or county and a residential recycling collector or
83 recovered materials processing facility executed or renewed
84 after July 1, 2019.

85 (f) This subsection applies only to the collection and
86 processing of material obtained from residential recycling
87 activities. As used in this subsection, the term "contaminated

8-01032A-19

2019816__

88 recyclable material" refers only to recyclable material that is
89 comingled or mixed with solid waste or other nonhazardous
90 material. The term does not include contamination as that term
91 or a derivation of that term is used in chapter 376 and other
92 sections of chapter 403, including, but not limited to,
93 brownfield site cleanup, water quality remediation, drycleaning-
94 solvent-contaminated site cleanup, petroleum-contaminated site
95 cleanup, cattle dipping vat site cleanup, or other hazardous
96 waste remediation.

97 Section 2. Subsection (1) of section 403.813, Florida
98 Statutes, is amended to read:

99 403.813 Permits issued at district centers; exceptions.—

100 (1) A permit is not required under this chapter, chapter
101 373, chapter 61-691, Laws of Florida, or chapter 25214 or
102 chapter 25270, 1949, Laws of Florida, and a local government may
103 not require a person claiming this exception to provide further
104 department verification, for activities associated with the
105 following types of projects; however, except as otherwise
106 provided in this subsection, this subsection does not relieve an
107 applicant from any requirement to obtain permission to use or
108 occupy lands owned by the Board of Trustees of the Internal
109 Improvement Trust Fund or a water management district in its
110 governmental or proprietary capacity or from complying with
111 applicable local pollution control programs authorized under
112 this chapter or other requirements of county and municipal
113 governments:

114 (a) The installation of overhead transmission lines, having
115 with support structures ~~that~~ ~~which~~ are not constructed in waters
116 of the state and which do not create a navigational hazard.

8-01032A-19

2019816__

117 (b) The installation and repair of mooring pilings and
118 dolphins associated with private docking facilities or piers and
119 the installation of private docks, piers, and recreational
120 docking facilities, or piers and recreational docking facilities
121 of local governmental entities when the local governmental
122 entity's activities will not take place in any manatee habitat,
123 any of which docks:

124 1. Has 500 square feet or less of over-water surface area
125 for a dock ~~which is~~ located in an area designated as Outstanding
126 Florida Waters or 1,000 square feet or less of over-water
127 surface area for a dock ~~which is~~ located in an area that ~~which~~
128 is not designated as Outstanding Florida Waters;

129 2. Is constructed on or held in place by pilings or is a
130 floating dock ~~which is~~ constructed so as not to involve filling
131 or dredging other than that necessary to install the pilings;

132 3. May ~~shall~~ not substantially impede the flow of water or
133 create a navigational hazard;

134 4. Is used for recreational, noncommercial activities
135 associated with the mooring or storage of boats and boat
136 paraphernalia; and

137 5. Is the sole dock constructed pursuant to this exemption
138 as measured along the shoreline for a distance of 65 feet,
139 unless the parcel of land or individual lot as platted is less
140 than 65 feet in length along the shoreline, in which case there
141 may be one exempt dock allowed per parcel or lot.

142
143 ~~Nothing in~~ This paragraph does not ~~shall~~ prohibit the department
144 from taking appropriate enforcement action pursuant to this
145 chapter to abate or prohibit any activity otherwise exempt from

8-01032A-19

2019816__

146 permitting pursuant to this paragraph if the department can
147 demonstrate that the exempted activity has caused water
148 pollution in violation of this chapter.

149 (c) The installation and maintenance to design
150 specifications of boat ramps on artificial bodies of water where
151 navigational access to the proposed ramp exists or the
152 installation of boat ramps open to the public in any waters of
153 the state where navigational access to the proposed ramp exists
154 and where the construction of the proposed ramp will be less
155 than 30 feet wide and will involve the removal of less than 25
156 cubic yards of material from the waters of the state, and the
157 maintenance to design specifications of such ramps; however, the
158 material to be removed shall be placed upon a self-contained
159 upland site so as to prevent the escape of the spoil material
160 into the waters of the state.

161 (d) The replacement or repair of existing docks and piers,
162 except that fill material may not be used and the replacement or
163 repaired dock or pier must be within 5 feet of the same location
164 and no larger in size than the existing dock or pier, and no
165 additional aquatic resources may be adversely and permanently
166 impacted by such replacement or repair in the same location and
167 of the same configuration and dimensions as the dock or pier
168 being replaced or repaired. This does not preclude the use of
169 different construction materials or minor deviations to allow
170 upgrades to current structural and design standards.

171 (e) The restoration of seawalls at their previous locations
172 or upland of, or within 18 inches waterward of, their previous
173 locations. However, this may ~~shall~~ not affect the permitting
174 requirements of chapter 161, and department rules shall clearly

8-01032A-19

2019816__

175 indicate that this exception does not constitute an exception
176 from the permitting requirements of chapter 161.

177 (f) The performance of maintenance dredging of existing
178 manmade canals, channels, intake and discharge structures, and
179 previously dredged portions of natural water bodies within
180 drainage rights-of-way or drainage easements which have been
181 recorded in the public records of the county, where the spoil
182 material is to be removed and deposited on a self-contained,
183 upland spoil site which will prevent the escape of the spoil
184 material into the waters of the state, provided that no more
185 dredging is to be performed than is necessary to restore the
186 canals, channels, and intake and discharge structures, and
187 previously dredged portions of natural water bodies, to original
188 design specifications or configurations, provided that the work
189 is conducted in compliance with s. 379.2431(2)(d), provided that
190 no significant impacts occur to previously undisturbed natural
191 areas, and provided that control devices for return flow and
192 best management practices for erosion and sediment control are
193 utilized to prevent bank erosion and scouring and to prevent
194 turbidity, dredged material, and toxic or deleterious substances
195 from discharging into adjacent waters during maintenance
196 dredging. Further, for maintenance dredging of previously
197 dredged portions of natural water bodies within recorded
198 drainage rights-of-way or drainage easements, an entity that
199 seeks an exemption must notify the department or water
200 management district, as applicable, at least 30 days before
201 ~~prior to~~ dredging and provide documentation of original design
202 specifications or configurations where such exist. This
203 exemption applies to all canals and previously dredged portions

8-01032A-19

2019816__

204 of natural water bodies within recorded drainage rights-of-way
205 or drainage easements constructed before ~~prior to~~ April 3, 1970,
206 and to those canals and previously dredged portions of natural
207 water bodies constructed on or after April 3, 1970, pursuant to
208 all necessary state permits. This exemption does not apply to
209 the removal of a natural or manmade barrier separating a canal
210 or canal system from adjacent waters. When no previous permit
211 has been issued by the Board of Trustees of the Internal
212 Improvement Trust Fund or the United States Army Corps of
213 Engineers for construction or maintenance dredging of the
214 existing manmade canal or intake or discharge structure, such
215 maintenance dredging shall be limited to a depth of no more than
216 5 feet below mean low water. The Board of Trustees of the
217 Internal Improvement Trust Fund may fix and recover from the
218 permittee an amount equal to the difference between the fair
219 market value and the actual cost of the maintenance dredging for
220 material removed during such maintenance dredging. However, no
221 charge shall be exacted by the state for material removed during
222 such maintenance dredging by a public port authority. The
223 removing party may subsequently sell such material; however,
224 proceeds from such sale that exceed the costs of maintenance
225 dredging shall be remitted to the state and deposited in the
226 Internal Improvement Trust Fund.

227 (g) The maintenance of existing insect control structures,
228 dikes, and irrigation and drainage ditches, provided that spoil
229 material is deposited on a self-contained, upland spoil site
230 which will prevent the escape of the spoil material into waters
231 of the state. In the case of insect control structures, if the
232 cost of using a self-contained upland spoil site is so

8-01032A-19

2019816__

233 excessive, as determined by the Department of Health, pursuant
234 to s. 403.088(1), that it will inhibit proposed insect control,
235 then-existing spoil sites or dikes may be used, upon
236 notification to the department. In the case of insect control
237 where upland spoil sites are not used pursuant to this
238 exemption, turbidity control devices shall be used to confine
239 the spoil material discharge to that area previously disturbed
240 when the receiving body of water is used as a potable water
241 supply, is designated as shellfish harvesting waters, or
242 functions as a habitat for commercially or recreationally
243 important shellfish or finfish. In all cases, no more dredging
244 is to be performed than is necessary to restore the dike or
245 irrigation or drainage ditch to its original design
246 specifications.

247 (h) The repair or replacement of existing functional pipes
248 or culverts the purpose of which is the discharge or conveyance
249 of stormwater. In all cases, the invert elevation, the diameter,
250 and the length of the culvert may ~~shall~~ not be changed. However,
251 the material used for the culvert may be different from the
252 original.

253 (i) The construction of private docks of 1,000 square feet
254 or less of over-water surface area and seawalls in artificially
255 created waterways where such construction will not violate
256 existing water quality standards, impede navigation, or affect
257 flood control. This exemption does not apply to the construction
258 of vertical seawalls in estuaries or lagoons unless the proposed
259 construction is within an existing manmade canal where the
260 shoreline is currently occupied in whole or part by vertical
261 seawalls.

8-01032A-19

2019816__

262 (j) The construction and maintenance of swales.

263 (k) The installation of aids to navigation and buoys
264 associated with such aids, provided the devices are marked
265 pursuant to s. 327.40.

266 (l) The replacement or repair of existing open-trestle foot
267 bridges and vehicular bridges that are 100 feet or less in
268 length and two lanes or less in width, provided that no more
269 dredging or filling of submerged lands is performed other than
270 that which is necessary to replace or repair pilings and that
271 the structure to be replaced or repaired is the same length, the
272 same configuration, and in the same location as the original
273 bridge. No debris from the original bridge shall be allowed to
274 remain in the waters of the state.

275 (m) The installation of subaqueous transmission and
276 distribution lines laid on, or embedded in, the bottoms of
277 waters in the state, except in Class I and Class II waters and
278 aquatic preserves, provided no dredging or filling is necessary.

279 (n) The replacement or repair of subaqueous transmission
280 and distribution lines laid on, or embedded in, the bottoms of
281 waters of the state.

282 (o) The construction of private seawalls in wetlands or
283 other surface waters where such construction is between and
284 adjoins at both ends existing seawalls; follows a continuous and
285 uniform seawall construction line with the existing seawalls; is
286 no more than 150 feet in length; and does not violate existing
287 water quality standards, impede navigation, or affect flood
288 control. However, in estuaries and lagoons the construction of
289 vertical seawalls is limited to the circumstances and purposes
290 stated in s. 373.414(5)(b)1.-4. This paragraph does not affect

8-01032A-19

2019816__

291 the permitting requirements of chapter 161, and department rules
292 must clearly indicate that this exception does not constitute an
293 exception from the permitting requirements of chapter 161.

294 (p) The restoration of existing insect control impoundment
295 dikes which are less than 100 feet in length. Such impoundments
296 shall be connected to tidally influenced waters for 6 months
297 each year beginning September 1 and ending February 28 if
298 feasible or operated in accordance with an impoundment
299 management plan approved by the department. A dike restoration
300 may involve no more dredging than is necessary to restore the
301 dike to its original design specifications. For the purposes of
302 this paragraph, restoration does not include maintenance of
303 impoundment dikes of operating insect control impoundments.

304 (q) The construction, operation, or maintenance of
305 stormwater management facilities which are designed to serve
306 single-family residential projects, including duplexes,
307 triplexes, and quadruplexes, if they are less than 10 acres
308 total land and have less than 2 acres of impervious surface and
309 if the facilities:

310 1. Comply with all regulations or ordinances applicable to
311 stormwater management and adopted by a city or county;

312 2. Are not part of a larger common plan of development or
313 sale; and

314 3. Discharge into a stormwater discharge facility exempted
315 or permitted by the department under this chapter which has
316 sufficient capacity and treatment capability as specified in
317 this chapter and is owned, maintained, or operated by a city,
318 county, special district with drainage responsibility, or water
319 management district; however, this exemption does not authorize

8-01032A-19

2019816__

320 discharge to a facility without the facility owner's prior
321 written consent.

322 (r) The removal of aquatic plants, the removal of tussocks,
323 the associated replanting of indigenous aquatic plants, and the
324 associated removal from lakes of organic detrital material when
325 such planting or removal is performed and authorized by permit
326 or exemption granted under s. 369.20 or s. 369.25, provided
327 that:

328 1. Organic detrital material that exists on the surface of
329 natural mineral substrate shall be allowed to be removed to a
330 depth of 3 feet or to the natural mineral substrate, whichever
331 is less;

332 2. All material removed pursuant to this paragraph shall be
333 deposited in an upland site in a manner that will prevent the
334 reintroduction of the material into waters in the state except
335 when spoil material is permitted to be used to create wildlife
336 islands in freshwater bodies of the state when a governmental
337 entity is permitted pursuant to s. 369.20 to create such islands
338 as a part of a restoration or enhancement project;

339 3. All activities are performed in a manner consistent with
340 state water quality standards; and

341 4. No activities under this exemption are conducted in
342 wetland areas, as defined in s. 373.019(27), which are supported
343 by a natural soil as shown in applicable United States
344 Department of Agriculture county soil surveys, except when a
345 governmental entity is permitted pursuant to s. 369.20 to
346 conduct such activities as a part of a restoration or
347 enhancement project.

348

8-01032A-19

2019816__

349 The department may not adopt implementing rules for this
350 paragraph, notwithstanding any other provision of law.

351 (s) The construction, installation, operation, or
352 maintenance of floating vessel platforms or floating boat lifts,
353 provided that such structures:

354 1. Float at all times in the water for the sole purpose of
355 supporting a vessel so that the vessel is out of the water when
356 not in use;

357 2. Are wholly contained within a boat slip previously
358 permitted under ss. 403.91-403.929, 1984 Supplement to the
359 Florida Statutes 1983, as amended, or part IV of chapter 373, or
360 do not exceed a combined total of 500 square feet, or 200 square
361 feet in an Outstanding Florida Water, when associated with a
362 dock that is exempt under this subsection or associated with a
363 permitted dock with no defined boat slip or attached to a
364 bulkhead on a parcel of land where there is no other docking
365 structure;

366 3. Are not used for any commercial purpose or for mooring
367 vessels that remain in the water when not in use, and do not
368 substantially impede the flow of water, create a navigational
369 hazard, or unreasonably infringe upon the riparian rights of
370 adjacent property owners, as defined in s. 253.141;

371 4. Are constructed and used so as to minimize adverse
372 impacts to submerged lands, wetlands, shellfish areas, aquatic
373 plant and animal species, and other biological communities,
374 including locating such structures in areas where seagrasses are
375 least dense adjacent to the dock or bulkhead; and

376 5. Are not constructed in areas specifically prohibited for
377 boat mooring under conditions of a permit issued in accordance

8-01032A-19

2019816__

378 with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes
379 1983, as amended, or part IV of chapter 373, or other form of
380 authorization issued by a local government.

381
382 Structures that qualify for this exemption are relieved from any
383 requirement to obtain permission to use or occupy lands owned by
384 the Board of Trustees of the Internal Improvement Trust Fund
385 and, with the exception of those structures attached to a
386 bulkhead on a parcel of land where there is no docking
387 structure, may ~~shall~~ not be subject to any more stringent
388 permitting requirements, registration requirements, or other
389 regulation by any local government. Local governments may
390 require either permitting or one-time registration of floating
391 vessel platforms to be attached to a bulkhead on a parcel of
392 land where there is no other docking structure as necessary to
393 ensure compliance with local ordinances, codes, or regulations.
394 Local governments may require either permitting or one-time
395 registration of all other floating vessel platforms as necessary
396 to ensure compliance with the exemption criteria in this
397 section; to ensure compliance with local ordinances, codes, or
398 regulations relating to building or zoning, which are no more
399 stringent than the exemption criteria in this section or address
400 subjects other than subjects addressed by the exemption criteria
401 in this section; and to ensure proper installation, maintenance,
402 and precautionary or evacuation action following a tropical
403 storm or hurricane watch of a floating vessel platform or
404 floating boat lift that is proposed to be attached to a bulkhead
405 or parcel of land where there is no other docking structure. The
406 exemption provided in this paragraph shall be in addition to the

8-01032A-19

2019816__

407 exemption provided in paragraph (b). The department shall adopt
408 a general permit by rule for the construction, installation,
409 operation, or maintenance of those floating vessel platforms or
410 floating boat lifts that do not qualify for the exemption
411 provided in this paragraph but do not cause significant adverse
412 impacts to occur individually or cumulatively. The issuance of
413 such general permit shall also constitute permission to use or
414 occupy lands owned by the Board of Trustees of the Internal
415 Improvement Trust Fund. No local government shall impose a more
416 stringent regulation, permitting requirement, registration
417 requirement, or other regulation covered by such general permit.
418 Local governments may require either permitting or one-time
419 registration of floating vessel platforms as necessary to ensure
420 compliance with the general permit in this section; to ensure
421 compliance with local ordinances, codes, or regulations relating
422 to building or zoning that are no more stringent than the
423 general permit in this section; and to ensure proper
424 installation and maintenance of a floating vessel platform or
425 floating boat lift that is proposed to be attached to a bulkhead
426 or parcel of land where there is no other docking structure.

427 (t) The repair, stabilization, or paving of existing county
428 maintained roads and the repair or replacement of bridges that
429 are part of the roadway, within the Northwest Florida Water
430 Management District and the Suwannee River Water Management
431 District, provided:

- 432 1. The road and associated bridge were in existence and in
433 use as a public road or bridge, and were maintained by the
434 county as a public road or bridge on or before January 1, 2002;
- 435 2. The construction activity does not realign the road or

8-01032A-19

2019816__

436 expand the number of existing traffic lanes of the existing
437 road; however, the work may include the provision of safety
438 shoulders, clearance of vegetation, and other work reasonably
439 necessary to repair, stabilize, pave, or repave the road,
440 provided that the work is constructed by generally accepted
441 engineering standards;

442 3. The construction activity does not expand the existing
443 width of an existing vehicular bridge in excess of that
444 reasonably necessary to properly connect the bridge with the
445 road being repaired, stabilized, paved, or repaved to safely
446 accommodate the traffic expected on the road, which may include
447 expanding the width of the bridge to match the existing
448 connected road. However, no debris from the original bridge
449 shall be allowed to remain in waters of the state, including
450 wetlands;

451 4. Best management practices for erosion control shall be
452 employed as necessary to prevent water quality violations;

453 5. Roadside swales or other effective means of stormwater
454 treatment must be incorporated as part of the project;

455 6. No more dredging or filling of wetlands or water of the
456 state is performed than that which is reasonably necessary to
457 repair, stabilize, pave, or repave the road or to repair or
458 replace the bridge, in accordance with generally accepted
459 engineering standards; and

460 7. Notice of intent to use the exemption is provided to the
461 department, if the work is to be performed within the Northwest
462 Florida Water Management District, or to the Suwannee River
463 Water Management District, if the work is to be performed within
464 the Suwannee River Water Management District, 30 days before

8-01032A-19

2019816__

465 ~~prior to~~ performing any work under the exemption.

466

467 Within 30 days after this act becomes a law, the department
468 shall initiate rulemaking to adopt a no fee general permit for
469 the repair, stabilization, or paving of existing roads that are
470 maintained by the county and the repair or replacement of
471 bridges that are part of the roadway where such activities do
472 not cause significant adverse impacts to occur individually or
473 cumulatively. The general permit shall apply statewide and, with
474 no additional rulemaking required, apply to qualified projects
475 reviewed by the Suwannee River Water Management District, the
476 St. Johns River Water Management District, the Southwest Florida
477 Water Management District, and the South Florida Water
478 Management District under the division of responsibilities
479 contained in the operating agreements applicable to part IV of
480 chapter 373. Upon adoption, this general permit shall, pursuant
481 to ~~the provisions of~~ subsection (2), supersede and replace the
482 exemption in this paragraph.

483 (u) Notwithstanding any provision to the contrary in this
484 subsection, a permit or other authorization under chapter 253,
485 chapter 369, chapter 373, or this chapter is not required for an
486 individual residential property owner for the removal of organic
487 detrital material from freshwater rivers or lakes that have a
488 natural sand or rocky substrate and that are not Aquatic
489 Preserves or for the associated removal and replanting of
490 aquatic vegetation for the purpose of environmental enhancement,
491 providing that:

492 1. No activities under this exemption are conducted in
493 wetland areas, as defined in s. 373.019(27), which are supported

8-01032A-19

2019816__

494 by a natural soil as shown in applicable United States
495 Department of Agriculture county soil surveys.

496 2. No filling or peat mining is allowed.

497 3. No removal of native wetland trees, including, but not
498 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

499 4. When removing organic detrital material, no portion of
500 the underlying natural mineral substrate or rocky substrate is
501 removed.

502 5. Organic detrital material and plant material removed is
503 deposited in an upland site in a manner that will not cause
504 water quality violations.

505 6. All activities are conducted in such a manner, and with
506 appropriate turbidity controls, so as to prevent any water
507 quality violations outside the immediate work area.

508 7. Replanting with a variety of aquatic plants native to
509 the state shall occur in a minimum of 25 percent of the
510 preexisting vegetated areas where organic detrital material is
511 removed, except for areas where the material is removed to bare
512 rocky substrate; however, an area may be maintained clear of
513 vegetation as an access corridor. The access corridor width may
514 not exceed 50 percent of the property owner's frontage or 50
515 feet, whichever is less, and may be a sufficient length
516 waterward to create a corridor to allow access for a boat or
517 swimmer to reach open water. Replanting must be at a minimum
518 density of 2 feet on center and be completed within 90 days
519 after removal of existing aquatic vegetation, except that under
520 dewatered conditions replanting must be completed within 90 days
521 after reflooding. The area to be replanted must extend waterward
522 from the ordinary high water line to a point where normal water

8-01032A-19

2019816__

523 depth would be 3 feet or the preexisting vegetation line,
524 whichever is less. Individuals are required to make a reasonable
525 effort to maintain planting density for a period of 6 months
526 after replanting is complete, and the plants, including
527 naturally recruited native aquatic plants, must be allowed to
528 expand and fill in the revegetation area. Native aquatic plants
529 to be used for revegetation must be salvaged from the
530 enhancement project site or obtained from an aquatic plant
531 nursery regulated by the Department of Agriculture and Consumer
532 Services. Plants that are not native to the state may not be
533 used for replanting.

534 8. No activity occurs any farther than 100 feet waterward
535 of the ordinary high water line, and all activities must be
536 designed and conducted in a manner that will not unreasonably
537 restrict or infringe upon the riparian rights of adjacent upland
538 riparian owners.

539 9. The person seeking this exemption notifies the
540 applicable department district office in writing at least 30
541 days before commencing work and allows the department to conduct
542 a preconstruction site inspection. Notice must include an
543 organic-detrital-material removal and disposal plan and, if
544 applicable, a vegetation-removal and revegetation plan.

545 10. The department is provided written certification of
546 compliance with the terms and conditions of this paragraph
547 within 30 days after completion of any activity occurring under
548 this exemption.

549 (v) Notwithstanding any other provision in this chapter,
550 chapter 373, or chapter 161, a permit or other authorization is
551 not required for the following exploratory activities associated

8-01032A-19

2019816__

552 with beach restoration and nourishment projects and inlet
553 management activities:

554 1. The collection of geotechnical, geophysical, and
555 cultural resource data, including surveys, mapping, acoustic
556 soundings, benthic and other biologic sampling, and coring.

557 2. Oceanographic instrument deployment, including temporary
558 installation on the seabed of coastal and oceanographic data
559 collection equipment.

560 3. Incidental excavation associated with any of the
561 activities listed under subparagraph 1. or subparagraph 2.

562 Section 3. This act shall take effect July 1, 2019.

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 Environment and Natural Resources

BILL: SB 1172

INTRODUCER: Senator Brandes

SUBJECT: Sanitary Sewer Laterals

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 1172 defines the term “sanitary sewer lateral” to mean a privately owned pipeline connecting a property to the main sewer line and which is maintained and repaired by the property owner.

The bill encourages counties and municipalities to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the county or municipality’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. The program would include inspection, options for repair, and a publicly accessible database of properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified.

The bill requires a seller of real property to disclose to a prospective purchaser, before executing a contract for sale, any defects in the property’s sanitary sewer lateral which are known to the seller.

II. Present Situation:

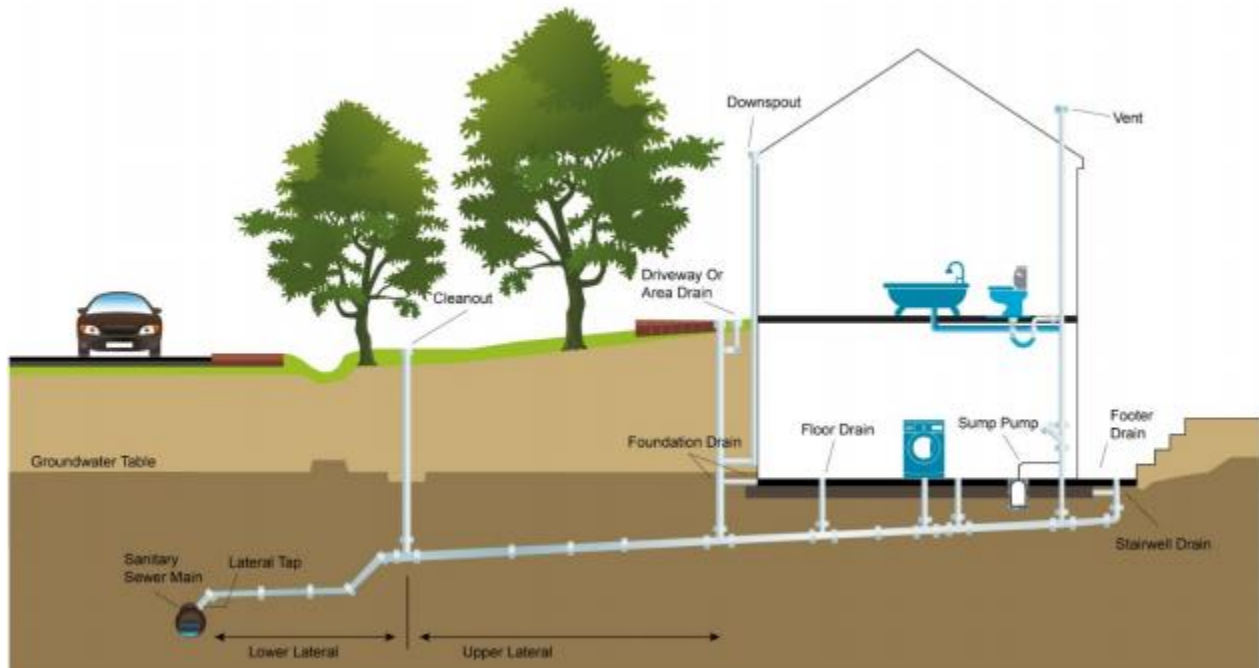
Sanitary Sewer Laterals

A sanitary sewer lateral is the portion of the sewer network which connects a private property to the public sewer system,¹ conveying wastewater from homes and businesses to wastewater treatment plants.² Typically, in Florida, the property owner is responsible for all maintenance,

¹ U.S. Environmental Protection Agency, *Private Sewer Laterals* (Jun. 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf> (last visited Mar. 17, 2019).

² Water Environment Federation, *Sanitary Sewers* (May 2011), available at <https://www.wef.org/globalassets/assets-wef/3---resources/topics/a-n/collection-systems/technical-resources/ss-fact-sheet-with-wider-margins-1.pdf> (last visited Mar. 19, 2019).

operation, cleaning, repair, and reconstruction of a sanitary sewer lateral on the person's private property. The diagram below shows an example of a sanitary sewer lateral configuration.³



Sanitary sewer laterals are often in poor condition and defects can occur due to aging systems, structural failure, lack of maintenance, or poor construction and design practices.⁴ Problems in sanitary sewer laterals can have a significant impact on the performance of the sewer system and treatment plant and can account for half of the infiltration and inflow to sanitary sewers.⁵ Cracked or broken laterals can allow groundwater and infiltrating rainwater to enter into the sewer system which, at high levels, can cause problems at the treatment facility or overload the sewers and cause sanitary sewer overflows.⁶

The Florida Building Code requires that every building in which plumbing fixtures are installed and premises having drainage piping be connected to a publicly owned or investor-owned sewage system, where available, or an approved onsite sewage treatment and disposal system in accordance with the standards for Onsite Sewage Treatment and Disposal Systems found in Chapter 64E-6, Florida Administrative Code.⁷ A building that has plumbing fixtures installed and is intended for human habitation, occupancy, or use on premises abutting on a street, alley or easement in which there is a public sewer is required to have a separate connection with the sewer.⁸

³ Water Environment Federation, *Sanitary Sewer Rehabilitation Fact Sheet*, available at <https://www.wef.org/globalassets/assets-wef/direct-download-library/public/03---resources/wsec-2017-fs-009---csc---sewer-rehabilitation---final---9.27.17.pdf> (last visited Mar. 19, 2019).

⁴ *Id.*

⁵ *Id.*

⁶ U.S. Environmental Protection Agency, *Private Sewer Laterals* (Jun. 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf> (last visited Mar. 17, 2019).

⁷ Ch. 7, s. 701.2, Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁸ Ch. 7, s. 701.3, Florida Building Code – Plumbing, 6th edition (Jul. 2017).

There are no statewide requirements for inspections of sanitary sewer laterals. However, some local ordinances address the subject. The cities of Orlando and Tarpon Springs require property owners be responsible for the maintenance, operation, and repair of sanitary sewer laterals.⁹ Orlando retains the right to inspect sanitary sewer laterals and discontinue sewer service to a property where the plumbing is not properly maintained.¹⁰ Tarpon Springs is authorized to take enforcement action if necessary to stop a sanitary sewer overflow.¹¹

The City of Gulfport established a Private Sewer Lateral Replacement Rebate Program to encourage replacement of sanitary sewer laterals.¹² The program provides grants of up to 50% of the cost, up to \$3,500, to property owners in Gulfport for replacement of sanitary sewer laterals.

Required Disclosures for a Contract for Sale

Florida law requires sellers to disclose certain information as part of a sale to a buyer before the closing, including:

- A sinkhole claim;¹³
- The potential for coastal erosion;¹⁴
- Mandatory membership in a homeowner's association;¹⁵
- Radon gas having been found in buildings in Florida;¹⁶
- That the buyer should not rely on the seller's current property taxes;¹⁷ and
- Whether subsurface rights have been or will be severed or retained.¹⁸

However, a seller is not required to disclose certain information to a buyer under Florida law. For example, a seller does not have to disclose the fact that a property was or was suspected to have been the site of a homicide, suicide, or death, or that an occupant of the home was infected or diagnosed with HIV.¹⁹

Florida tort law requires a seller to disclose material defects to a buyer upon sale of a residence if:

- The seller has knowledge of facts about material defects;
- The facts are not readily observable by and are unknown to the buyer;
- The facts materially affect the value of the property; and
- The buyer has been damaged by the breach of the duty to disclose.²⁰

⁹ Ch. 30.02, s. 4.2(k), City of Orlando Code of Ordinances; Chapter 20, Article IX, s. 20-110(d), City of Tarpon Springs Code of Ordinances.

¹⁰ Ch. 30.02, s. 4.2(k), City of Orlando Code of Ordinances.

¹¹ Chapter 20, Article IX, s. 20-110(d), City of Tarpon Springs Code of Ordinances.

¹² Resolution No. 2018-30, City of Gulfport (adopted Apr. 3, 2018), available at <https://mygulfport.us/wp-content/uploads/2018/04/2018-30-Signed-Resolution.pdf> (last visited Mar. 20, 2019).

¹³ Section 627.7073(2)(c), F.S.

¹⁴ Section 161.57(2), F.S.

¹⁵ Section 720.401(1), F.S.

¹⁶ Section 404.056(5), F.S.

¹⁷ Section 689.261, F.S.

¹⁸ Section 689.29, F.S.

¹⁹ Section 689.25, F.S.

²⁰ *Johnson v. Davis*, 480 So. 2d 625 (Fla. 1985).

In Florida, sellers can use the “Seller’s Property Disclosure Form”²¹ created by the Florida Association of Realtors, but there is no statutory obligation requiring that the form be completed. Additionally, a seller is not required to retain a home inspector to discover problems that the seller may not be aware of.

III. Effect of Proposed Changes:

The bill includes a series of whereas clauses that provide background information on sanitary sewer laterals.

The bill defines the term “sanitary sewer lateral” to mean a privately owned pipeline connecting a property to the main sewer line and which is maintained and repaired by the property owner.

The bill encourages counties and municipalities to establish, by July 1, 2021, an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the county or municipality’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. The program would have to, at minimum:

- Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of a county or a municipality;
- Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral; and
- Establish and maintain a publicly accessible database to store information on properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. The database must include, but is not limited to, the address of the property, the names of any persons notified by the county or municipality of the faulty sanitary sewer lateral, and the date and method of such notification.

The bill requires a seller of real property to disclose to a prospective purchaser, before executing a contract for sale, any defects in the property’s sanitary sewer lateral which are known to the seller.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²¹ Florida Realtors, *Seller’s Property Disclosure – Residential* (2016), available at <http://www.unlimitedmls.com/forms/Property-Disclosure-Form.pdf> (last visited Mar. 17, 2019).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 689.301 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.

By Senator Brandes

24-01499C-19

20191172__

1 A bill to be entitled
2 An act relating to sanitary sewer laterals; defining
3 the term "sanitary sewer lateral"; encouraging
4 counties and municipalities to establish a sanitary
5 sewer lateral inspection program by a specified date;
6 providing parameters for such a program; creating s.
7 689.301, F.S.; requiring a seller of real property to
8 disclose any actually known defects of the property's
9 sanitary sewer lateral; defining the term "sanitary
10 sewer lateral"; providing an effective date.

11
12 WHEREAS, a sanitary sewer lateral is the portion of the
13 sewer network which connects private properties to the public
14 sewer system, conveying wastewater from homes and businesses to
15 centralized wastewater treatment plants, and

16 WHEREAS, a property owner is typically responsible for all
17 maintenance, operation, cleaning, repair, and reconstruction of
18 a sanitary sewer lateral on private property, and

19 WHEREAS, defects in private sanitary sewer laterals may
20 occur due to system aging, structural failure, lack of proper
21 maintenance, or poor construction and design practices, and

22 WHEREAS, defective sanitary sewer laterals can cause
23 blockages, backups, or overflows into the environment, can
24 contribute to water pollution, and can have a significant impact
25 on the performance of a sewer system and treatment plant, and

26 WHEREAS, defective sanitary sewer laterals on private
27 property can be difficult to detect, and

28 WHEREAS, inspections of sanitary sewer laterals are not
29 required by state law, and

24-01499C-19

20191172__

30 WHEREAS, facts that materially affect the value of real
31 estate must be disclosed in real estate transactions, NOW,
32 THEREFORE,
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Sanitary sewer lateral inspection program.-

37 (1) As used in this section, the term "sanitary sewer
38 lateral" means a privately owned pipeline connecting a property
39 to the main sewer line and which is maintained and repaired by
40 the property owner.

41 (2) By July 1, 2021, counties and municipalities are
42 encouraged to establish an evaluation and rehabilitation program
43 for sanitary sewer laterals on residential and commercial
44 properties within the county's or municipality's jurisdiction to
45 identify and reduce extraneous flow from leaking sanitary sewer
46 laterals. At a minimum, the program may do all of the following:

47 (a) Establish a system to identify defective, damaged, or
48 deteriorated sanitary sewer laterals on residential and
49 commercial properties within the jurisdiction of a county or a
50 municipality.

51 (b) Consider economical methods for a property owner to
52 repair or replace a defective, damaged, or deteriorated sanitary
53 sewer lateral.

54 (c) Establish and maintain a publicly accessible database
55 to store information on properties where a defective, damaged,
56 or deteriorated sanitary sewer lateral has been identified. The
57 database must include, but is not limited to, the address of the
58 property, the names of any persons notified by the county or

24-01499C-19

20191172__

59 municipality of the faulty sanitary sewer lateral, and the date
60 and method of such notification.

61 Section 2. Section 689.301, Florida Statutes, is created to
62 read:

63 689.301 Disclosure of known defects of sanitary sewer
64 laterals to prospective purchaser.—Before executing a contract
65 for sale, a seller of real property shall disclose to a
66 prospective purchaser any defects of the property's sanitary
67 sewer lateral which are actually known to the seller. As used in
68 this section, the term "sanitary sewer lateral" means the
69 privately owned pipeline connecting a property to the main sewer
70 line.

71 Section 3. This act shall take effect July 1, 2019.

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 Environment and Natural Resources

BILL: CS/SB 1500

INTRODUCER: Environment and Natural Resources and Senator Simmons

SUBJECT: Right of Entry

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1500 releases the right of entry to any interest in phosphate, minerals, and metals, or any interest in petroleum, reserved for a local government, water management district, or other agency of the state, for any parcel that is or has ever been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

II. Present Situation:

Right of Entry Under Section 270.11, F.S.

Right of Entry

In Florida, surface property rights can be severed from subsurface rights to the minerals and oil underneath the land.¹ Once these rights are severed they may be sold or conveyed separately by their respective owners.² Despite the separate ownership, the owner of the oil and mineral rights generally has an implied easement to enter onto the surface property to explore for and extract

¹ Noblin v. Harbor Hills Dev., L.P., 896 So. 2d 781, 783 (Fla. Dist. Ct. App. 2005)(stating that a reservation or grant of oil and mineral rights reflects an intent on the part of the parties to sever the surface estate from the underlying mineral estate and create two estates); The Barnes Walker Educational Series, *Oil, Gas, and Mineral Rights in Florida: A Guide for Realtors*, 1-2 (Feb. 2015), available at <https://barneswalker.com/wp-content/uploads/2015/04/Oil-Gas-and-Mineral.pdf> (last visited Mar. 18, 2019).

² 58 C.J.S. Mines and Minerals § 207.

the oil and minerals found underneath, so long as there is not unreasonable injury to the surface property.³ This right to enter onto the surface property and develop the resources below is known as a “right of entry.”⁴

Board of Trustees of the Internal Improvement Trust Fund

In 1855, the Board of Trustees of the Internal Improvement Trust Fund was created as a state agency.⁵ The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) holds state lands in trust for the use and benefit of the people of the state.⁶ The Governor, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture constitute the trustees of the internal improvement trust fund.⁷ The Department of Environmental Protection (DEP) performs all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees.⁸ Serving as staff for the Board of Trustees, DEP’s Division of State Lands carries out environmental management and stewardship activities for more than 12 million acres of public lands.⁹

Sale of Public Lands in Florida

Since 1911, in all contracts and deeds for the sale of land by the Board of Trustees, Florida law has reserved for the Board of Trustees ownership of three-fourths of all phosphate, minerals, and metals, and half of all petroleum, that is or may be under the land that was sold, with the privilege to mine and develop those resources.¹⁰ In 1986, the Legislature expanded this reservation of rights, so that “any local government, water management district, or other agency of the state” that sells land would also own such subsurface rights to the minerals and petroleum.¹¹ Also in 1986, the Legislature added a provision releasing any right of entry that the Board of Trustees and the State Board of Education have relating to the mineral and petroleum

³ *Noblin*, 896 So. 2d at 783-785 (stating that a grant or reservation of oil and mineral rights implies an easement for ingress and egress to explore for and remove the oil and minerals found on or underneath the surface estate); *see P & N Inv. Corp. v. Fla. Ranchettes, Inc.*, 220 So. 2d 451, 453 (Fla. Dist. Ct. App. 1968)(stating that, “[w]hen the surface estate is severed from the mineral estate, the mineral estate is the dominant estate and, therefore, the owner of the mineral estate has the right of ingress and egress to explore for, locate, and remove the minerals, but he cannot so abuse the surface estate so as unreasonably to injure or destroy its value and is answerable to damages to the owners of the surface estate for any unreasonable injuries done”).

⁴ Section 704.05(1), F.S.

⁵ DEP, *History of State Lands*, <https://floridadep.gov/lands/lands-director/content/history-state-lands> (last visited Mar. 18, 2019).

⁶ Sections 253.01-253.03, F.S.

⁷ FLA. CONST. art. IV, s. 4(f).

⁸ Section 253.002, F.S.

⁹ DEP, *Division of State Lands*, <https://floridadep.gov/lands/> (last visited Mar. 18, 2019).

¹⁰ Section 270.11, F.S.; *Trustees of Tufts Coll. v. Triple R. Ranch, Inc.*, 275 So. 2d 521, 532 (Fla. 1973)(taking notice that the reservation of rights existed in Chapter 6159, Acts of 1911); *see ss. 253.03(3) and 253.62(1)*, F.S. Exceptions to the reservation requirement exist in the conveyance of certain lands or when lands inure to the Board of Trustees from other state agencies.

¹¹ Chapter 86-257, Laws of Fla. This law also granted local governments, water management districts, and agencies of the state the right to sell or release these reserved interests in any parcel of land; *see s. 270.11(3)*, F.S.

interests on parcels less than 20 acres and under the same ownership.¹² However, no such release of the right of entry was made for the mineral and petroleum rights reserved for the local governments, water management districts, and state agencies.

The Board of Trustees, the State Board of Education, a local government, a water management district, or any other state agency may, at its discretion, sell or release any of these reserved mineral or petroleum rights.¹³ Such sale or release requires the proper application of the owner, or petition of the purchaser, along with a statement of reasons justifying such sale or release.¹⁴ The law also requires that any state agency, except a water management district, which receives royalties for parcels shall remit any such moneys into the General Revenue Fund, unless otherwise provided by law.¹⁵ In the context of minerals and petroleum, the term royalties pertains to the minerals or petroleum that are produced or the profits derived by their sale.¹⁶

Issues for Property Owners

Rights of entry for mineral or petroleum rights can cause issues for the owners of the surface property, as it can constitute a defect in the title, the legal rights of ownership to the property.¹⁷ For a property to have marketable title, it must be free and clear of all estates, interests, claims, or charges.¹⁸ In real estate transactions, the purchaser of a property will commonly obtain title insurance. Title insurance is essentially an agreement protecting against defects in title to real property, usually issued to the buyer of a property by the title insurance company that conducted the title search.¹⁹

In general, when a party is pursuing title insurance for a property subject to a right of entry pursuant to a reservation under s. 270.11 F.S., there must either be a release of the right of entry or an exception for the reservation in the title policy.²⁰ The reservations can create special problems for title insurers, who will often request releases of the land being sold.²¹ Even if a property subject to a right of entry is not zoned for drilling or mining activities, title insurance companies will not rely upon this, because zoning can be changed by the governmental zoning authorities.²² Also, if mortgage lenders see a right of entry as an exception in a title policy, this can be considered a title defect that may hinder a homebuyer's ability to obtain a loan.²³

¹² Section 270.11(2)(b), F.S.; see Ch. 86-205, Laws of Fla.

¹³ Section 270.11(2)(a), (3), F.S.

¹⁴ *Id.*

¹⁵ Section 270.11(4), F.S.

¹⁶ John N. Redding, Florida Real Property Complex Transactions, *Chapter 7: Oil, Gas and Minerals*, 12 (2018).

¹⁷ The Barnes Walker Educational Series, *Oil, Gas, and Mineral Rights in Florida: A Guide for Realtors*, 2-3 (Feb. 2015), available at <https://barneswalker.com/wp-content/uploads/2015/04/Oil-Gas-and-Mineral.pdf> (last visited Mar. 18, 2019).

¹⁸ Section 712.04, F.S.

¹⁹ Black's Law Dictionary, Ninth Edition, *Title Insurance*, 875 (2009).

²⁰ Jana Armstrong, Florida Real Property Title Examination and Insurance, *Chapter 3: Searching For and Examining Title*, 27 (2016).

²¹ 19 Fla. Prac., Florida Real Estate § 5:12 (citing *Van Arsdale v. Dimil Land Co.*, 325 So. 2d 471 (Fla. 4th DCA 1975)).

²² The Barnes Walker Educational Series, *Oil, Gas, and Mineral Rights in Florida: A Guide for Realtors*, 2 (Feb. 2015), available at <https://barneswalker.com/wp-content/uploads/2015/04/Oil-Gas-and-Mineral.pdf> (last visited Mar. 18, 2019).

²³ *Id.* at 2.

To extinguish a right of entry for the statutory oil and mineral rights reserved by Florida's local governments, water management districts, and other state agencies, the purchaser of a property must request written release of the right of entry by the government entity for which it is reserved, or enter an order to quiet title in the circuit court with jurisdiction over the property.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 270.11, F.S., to release the right of entry to any interest in phosphate, minerals, and metals, or any interest in petroleum, reserved for a local government, water management district, or other agency of the state, for any parcel that is or has ever been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

The bill reorganizes subsections (2) and (3) of s. 270.11, F.S., so that subsection (2) authorizes government entities to sell or release any reserved interest and subsection (3) releases the right of entry.

Section 2 states that the act shall take effect on July 1, 2019.

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.

²⁴ House of Representatives Staff Analysis, *CS/HB 767 Mineral Rights, 2* (2019), available at <http://www.flsenate.gov/Session/Bill/2019/767/Analyses/h0767a.ANRS.PDF> (last visited Mar. 20, 2019); DEP, *FAQ: Use of State-Owned Land*, <https://floridadep.gov/lands/lands/content/faq-use-state-owned-land> (last visited Mar. 20, 2019). An application need not be sent to the Division of State Lands for releasing a right of entry and exploration for oil and mineral reservations on parcels less than 20 acres, because the rights of entry for the lands held by the Board of Trustees have been released in statute.

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

None.

B. Private Sector Impact:

Releasing the rights of entry as specified in the bill would presumably remove implied easements for mineral and petroleum rights for many properties in the state. In some circumstances, this could eliminate title defects and improve the ownership or value of the property on the surface, including improved success with processes such as real estate transactions, obtaining title insurance, and securing mortgage loans. Also, to the extent property owners incur costs by requesting releases from government entities or filing actions in court to obtain marketable title, releasing the rights of entry may avoid costs for private property owners. Therefore, this bill may have an indeterminate, positive impact on the private sector.

C. Government Sector Impact:

The bill would release the right of entry retained by local governments, water management districts, and state agencies for oil and mineral rights in the state. Without such right of entry, these government entities may be unable to develop valuable resources the rights to which were reserved for them pursuant to s. 270.11, F.S. This release of property rights could potentially result in a loss of value for local and state government entities, depending on the mineral and oil rights reserved for such entities on contiguous parcels of less than 20 acres under the same ownership. Therefore, the bill may have an indeterminate, negative fiscal impact on the government sector.

To the extent state or local government entities incur costs in responding to requests from property owners to release rights of entry on properties less than 20 acres, releasing the rights of entry may avoid such costs by eliminating the need for processing such requests. Therefore, the bill may have an indeterminate, positive fiscal impact on the government sector.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 270.11 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 Environment and Natural Resources Committee on March 26, 2019:

- Amends the title to say that the act relates to “right of entry” instead of “mineral rights,” and that the act is releasing a right of entry instead of releasing mineral rights; and
- Renumbers the subsections in s. 270.11, F.S.

- B. **Amendments:**

None.

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



553100

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (2) and subsection
(3) of section 270.11, Florida Statutes, are amended to read:

270.11 Contracts for sale of public lands to reserve
certain mineral rights; prohibition on exercise of right of
entry in certain cases.—

(2)



553100

40 An act relating to right of entry; amending s. 270.11,
41 F.S.; releasing right of entry reserved by a local government,
42 water management district, or other agency of the state for
43 specified parcels of property; providing an effective date.

By Senator Simmons

9-01330A-19

20191500__

1 A bill to be entitled
2 An act relating to mineral rights; amending s. 270.11,
3 F.S.; releasing mineral rights reserved by a local
4 government, water management district, or other agency
5 of the state for specified parcels of property;
6 providing an effective date.

7

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

9

10 Section 1. Paragraph (b) of subsection (2) of section
11 270.11, Florida Statutes, is amended to read:

12 270.11 Contracts for sale of public lands to reserve
13 certain mineral rights; prohibition on exercise of right of
14 entry in certain cases.-

15 (2)

16 (b) The right of entry ~~in respect~~ to any interest in
17 phosphate, minerals, and metals or any interest in petroleum
18 ~~heretofore or hereafter~~ reserved in favor of the Board of
19 Trustees of the Internal Improvement Trust Fund, ~~or~~ the State
20 Board of Education, or a local government, water management
21 district, or other agency of the state is ~~hereby~~ released for ~~as~~
22 ~~to~~ any parcel of property that is, or ever has been, a
23 contiguous tract of less than 20 acres in the aggregate under
24 the same ownership.

25 Section 2. This act shall take effect July 1, 2019.



2019 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Fish and Wildlife Conservation Commission

BILL INFORMATION

BILL NUMBER:	<u>Senate Bill (SB) 1502</u>
BILL TITLE:	<u>Department of Environmental Protection</u>
BILL SPONSOR:	<u>Senator Rob Bradley</u>
EFFECTIVE DATE:	<u>July 1, 2019</u>

COMMITTEES OF REFERENCE

1) Environment and Natural Resources
2) Appropriations Subcommittee on Agriculture, Environment and General Government
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Environment and Natural Resources

SIMILAR BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

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.

IDENTICAL BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No.

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	11 March 2019
LEAD AGENCY ANALYST:	Rob Beaton
ADDITIONAL ANALYST(S):	Edward Bishop
LEGAL ANALYST:	Sharmin Hibbert
FISCAL ANALYST:	Charlotte Jerrett

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

(SB) 1502 would transfer and reassign the functions and responsibilities of environmental crimes investigators of the Division of Law Enforcement within the Fish and Wildlife Conservation Commission (commission) to the Division of Law Enforcement of the Department of Environmental Protection (department). The bill would require the establishment of a memorandum of agreement between the department and the commission regarding the responsibilities of the department and the commission. The bill would transfer personnel and equipment within the department's Office of Emergency Response to the department's Division of Law Enforcement and would provide for a transition advisory working group. The bill would provide for the retention and transfer of specified benefits for employees who are transferred from the commission to fill positions transferred to the department. The bill would amend Section (s.) 20.255, Florida Statutes (F.S.), to establish the Division of Law Enforcement within the department and would provide to law enforcement officers of the department who meet certain requirements with specified authority, subject to applicable law. The bill would amend various statutes to conform provisions to changes made by this legislation. The bill would reenact s. 790.166(8)(a), F.S., relating to the manufacture, possession, sale, delivery, display, use or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction prohibited, to incorporate the amendment made to s. 784.07, F.S., in a reference. The bill would provide severability and an effective date of July 1, 2019.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Environmental Investigators within FWC provide public safety for citizens and visitors while simultaneously protecting Florida's natural resources through environmental crime investigations. The investigators provide law enforcement support for the Department of Environmental Protection and work closely with other local, state and federal entities to gain compliance from violators and enforce laws and regulations when necessary. Investigators stay abreast of current environmental issues and proactively seek out potential violators. Environmental investigators have been engaged in both complaint-driven and self-initiated investigations such as illegal landfill operations, waste tire disposal and enforcement of waste oil regulations. Additionally, there are occasions when investigators are involved in long term investigations, with the most recent being a year-long investigation into allegations that a municipality was dumping untreated waste water into the waters of the State.

2. EFFECT OF THE BILL:

(SB) 1502:

Section 1. Would transfer and reassign the primary powers, duties, and enforcement of related laws regarding the investigation of environmental crimes of the Fish and Wildlife Conservation Commission to the Division of Law Enforcement of the Department of Environmental Protection. The commission retains law enforcement authority over the patrol of state-owned lands managed by the department and shall coordinate such responsibility with the department.

The bill would require the development of a memorandum of agreement between the commission and the department detailing the respective responsibilities of the department and the commission regarding:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by the department.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, Florida Statutes.
- Enforcement services for civil violations of department administrative rules related to all the following program areas:
 - ✓ The Division of Recreation and Parks.
 - ✓ The Office of Coastal and Aquatic Managed Areas.
 - ✓ The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the commission to the department which are funded through any trust fund.

Section 2. Would reassign all personnel and equipment of the Department of Environmental Protection's Office of Emergency Response to the Division of Law Enforcement of the department.

- Section 3. Would provide for the Secretary of Environmental Protection and the Executive Director of the Fish and Wildlife Conservation Commission to each appoint two staff members to a transition advisory working group. The group will review the administrative rules promulgated by the department and the commission to identify any rules that must be amended to reflect the changes made by this act.
- Section 4. Would provide for employees who are transferred from the Fish and Wildlife Conservation Commission to fill positions transferred to the Department of Environmental Protection to retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances. The employees shall retain their current position status, including permanent status, upon transfer to the Department of Environmental Protection.
- Section 5. Would amend subsection (3) of s. 20.255, F.S., to provide for the establishment of the Division of Law Enforcement within the department. The bill would add subsection (10) to make law enforcement officers of the department, who meet the requirements of section 943.13, Florida Statutes, constituted law enforcement officers with full power to investigate and arrest for any violation of the laws of this state and the rules of the department and the Board of Trustees of the Internal Improvement Trust Fund. The bill would provide that general laws applicable to investigations, searches, and arrests by peace officers of this state apply to such law enforcement officers.
- Section 6. Would add subsection (8) to s. 258.004, F.S., to provide that the chapter shall be enforced by the Division of Law Enforcement within the Department of Environmental Protection and its officers and by the Division of Law Enforcement within the Fish and Wildlife Conservation Commission and its officers.
- Section 7. Would amend subsection (1) of s. 258.008, F.S., to provide conforming language.
- Section 8. Would amend subsection (16) of s. 258.501, F.S., to provide conforming language.
- Section 9. Would amend paragraph (a) of subsection (2) of s. 282.709, F.S., to provide conforming language.
- Section 10. Would amend paragraph (a) of subsection (1) of s. 316.640, F.S., to provide conforming language.
- Section 11. Would amend paragraph (p) of subsection (4) of s. 376.3071, F.S., to provide conforming language.
- Section 12. Would amend paragraph (e) of subsection (2) of s. 403.413, F.S., to provide conforming language.
- Section 13. The bill would amend paragraph (d) of subsection (1) of s. 784.07, F.S., to provide conforming language.
- Section 14. Would amend s. 843.08, F.S., to provide conforming language.
- Section 15. Would amend s. 843.085, F.S., to provide conforming language.
- Section 16. Would amend s. 870.04, F.S., to provide conforming language.
- Section 17. Would re-designate present paragraphs (b) through (l) of subsection (6) of s. 932.7055, F.S., as paragraphs (c) through (m), respectively, and a new paragraph (b) would be added to that subsection to provide for the disposition of liens and forfeited property. The bill would provide that if the seizing agency is the Department of Environmental Protection, the proceeds accrued pursuant to the Florida Contraband Forfeiture Act shall be deposited into the Internal Improvement Trust Fund, the Water Quality Assurance Trust Fund, the Inland Protection Trust Fund, the Coastal Protection Trust Fund, or the Solid Waste Management Trust Fund, as specified by the statute under which the violation occurs.
- Section 18. Would reenact paragraph (a) of subsection (8) of s. 790.166, F.S., to incorporate the amendment made by this act to s. 784.07, F.S.
- Section 19. Would provide severability language so if any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.
- Section 30. Would provide an effective date of July 1, 2019

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:	The bill would require the development of a memorandum of agreement between the commission and the department detailing the respective responsibilities of the department and the commission regarding:
------------------	---

	<ul style="list-style-type: none"> • Support and response for oil spills, hazardous spills, and natural disasters. • Law enforcement patrol and investigative services for all state-owned lands managed by the department. • Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, Florida Statutes. • Enforcement services for civil violations of department administrative rules related to all the following program areas: <ul style="list-style-type: none"> • The Division of Recreation and Parks. • The Office of Coastal and Aquatic Managed Areas. • The Office of Greenways and Trails.
Is the change consistent with the agency's core mission?	Y <input checked="" 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:	The Governor is a proponent. This transfer is outlined in Executive Order Number 19-12 that was issued on January 10, 2019.
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:	N/A.
Board Purpose:	N/A.
Who Appoints:	N/A.
Changes:	N/A.
Bill Section Number(s):	N/A.

FISCAL ANALYSIS**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y N

Revenues:	N/A.
Expenditures:	N/A.
Does the legislation increase local taxes or fees? If yes, explain.	N/A.
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?	N/A.

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

Revenues:	None. Revenues are collected in the Inland Protection Trust Fund that currently provide for these functions.
Expenditures:	None. Expenditures currently made by the commission would be made by the department; 19.0 FTE and \$1,991,722 budget authority would be transferred from the commission to the department. The commission would continue to provide support to the department for other law enforcement services to be outlined via Memorandum of Agreement between the two agencies. Those costs are currently provided for within the commission's base budget.
Does the legislation contain a State Government appropriation?	No.
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	N/A.
--	------

agency including any fiscal impact.	
-------------------------------------	--

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	N/A.
--	------

ADDITIONAL COMMENTS

Click or tap here to enter text.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Click or tap here to enter text.
---------------------------	----------------------------------

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 Environment and Natural Resources

BILL: SB 1502
 INTRODUCER: Senator Bradley
 SUBJECT: Department of Environmental Protection
 DATE: March 25, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Favorable
2.	_____	_____	AEG	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1502 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers. The bill requires DEP and the Fish and Wildlife Conservation Commission (FWC) to develop a new memorandum of agreement detailing the respective responsibilities of the two agencies with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of DEP’s administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the commission to DEP which are funded through any trust fund.

As determined by the new memorandum of agreement, the bill transfers the primary powers and duties of FWC with regard to investigating certain environmental crimes and enforcing related laws to DEP. The bill states that FWC will retain law enforcement authority over the patrol of state-owned land managed by DEP.

II. Present Situation:

Environmental Law Enforcement Organizational Structure

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship.¹ DEP's activities are primarily divided into three areas: land and recreation, regulatory programs, and ecosystem restoration.² There are currently eight divisions established within DEP.³ Currently, DEP does not have any law enforcement officers. DEP previously had a Division of Law Enforcement.⁴ This division was responsible for statewide environmental law enforcement, providing law enforcement services to Florida's state parks and trails, and providing assistance for disasters such as hurricanes or chemicals spills.⁵ This division oversaw four bureaus: Emergency Response, Criminal Investigations, Park Police, and the Office of Training and Professional Standards.⁶

The Fish and Wildlife Conservation Commission (FWC) is authorized to exercise regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life, and in these areas FWC's staff is authorized to conduct management, research, and enforcement.⁷ FWC currently has a Division of Law Enforcement with 1,051 members, including 853 sworn personnel, operating in six regions throughout the state.⁸ FWC's Division of Law Enforcement has broad areas of responsibility including enforcing laws that protect Florida's wildlife and habitats, conducting environmental crime investigations, and protecting the public and environment from illegal environmental violations.⁹

In 2011, the Legislature created a Law Enforcement Consolidation Task Force.¹⁰ The task force was directed to evaluate any duplication of law enforcement functions throughout state government and identify any functions that are appropriate for possible consideration.¹¹ If the task force concluded that any consolidation of state law enforcement was appropriate then recommendations and a plan would be submitted.¹² In December of 2011, the task force recommended integrating the entire DEP Division of Law Enforcement into the Division of Law Enforcement within FWC.¹³ The reasons for the recommendation included overlapping duties, cost efficiencies and reductions, and enhanced recovery and response times.¹⁴

¹ Section 20.255, F.S.; DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited Mar. 22, 2019).

² *Id.*

³ Section 20.255, F.S.; see DEP, *Divisions*, <https://floridadep.gov/divisions> (last visited Mar. 22, 2019).

⁴ DEP, *DEP Law Enforcement Personnel Awarded for Outstanding Performance and Commitment to the Environment*, <https://content.govdelivery.com/accounts/FLDEP/bulletins/22db55> (last visited Mar. 22, 2019).

⁵ *Id.*

⁶ *Id.*

⁷ FLA. CONST. art. IV, s. 9.

⁸ Section 20.331, (4)(a)4., F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

⁹ Section 20.331, (7)(e), F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

¹⁰ Ch. 2011-66, s. 31, Laws of Fla.

¹¹ *Id.*

¹² *Id.*

¹³ Law Enforcement Consolidation Task Force, *Task Force Report Pursuant to SB 2160 Enacted by the 2011 Legislature*, 5 (Dec. 21, 2011), available at <https://www.flhsmv.gov/lectaskforce/LECTFReport.pdf> (last visited Mar. 22, 2019).

¹⁴ *Id.*

In 2012, the Legislature transferred all powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to DEP's Division of Law Enforcement, excluding the Bureau of Emergency Response, to FWC's Division of Law Enforcement through a type two transfer.¹⁵ DEP was also required to transfer to FWC a number of administrative, auditing, inspector general, attorney, and operational support positions proportional to DEP's Division of Law Enforcement being transferred.¹⁶ The legislation required DEP and FWC to develop a memorandum of agreement detailing the responsibilities of FWC to DEP regarding law enforcement, emergency response, and funding.¹⁷

DEP and FWC have a memorandum of agreement identifying the responsibilities of FWC with regard to DEP. FWC provides law enforcement services for DEP. DEP transfers funds to FWC to compensate for these services. In 2018, the following appropriations were made to FWC's Marine Resources Conservation Trust Fund or State Game Trust Fund for law enforcement:

- \$11,310,256 from the Coastal Protection Trust Fund
- \$1,991,722 from the Inland Protection Trust Fund
- \$2,822,599 from the Solid Waste Management Trust Fund.¹⁸

In January of 2019, Governor DeSantis issued Executive Order 2019-12.¹⁹ The order directed DEP to take all necessary actions to move the Environmental Crimes Enforcement Unit from FWC to DEP, to align resources focused on environmental protection and ensure strong enforcement of Florida's environmental laws.²⁰

Severability

When a court decides that a portion of a statute is unconstitutional, this does not necessarily condemn the entire statute.²¹ Under Florida law, when part of a statute is declared unconstitutional the remainder of the act will be permitted to stand provided: (1) the unconstitutional provisions can be separated from the remaining valid provisions; (2) the legislative purpose expressed in the valid provisions can be accomplished independently of those which are void; (3) the good and the bad features are not so inseparable in substance that it can be said that the Legislature would have passed the one without the other; and (4) an act complete in itself remains after the invalid provisions are stricken.²²

¹⁵ Ch. 2012-88, Laws of Fla.; see s. 20.06(2), F.S.; see DEP, *Office of Emergency Response*, <https://floridadep.gov/oer> (last visited Mar. 22, 2019).

¹⁶ Ch. 2012-88, Laws of Fla.

¹⁷ *Id.*

¹⁸ Ch. 2018-9, Special Appropriation 1536, Laws of Fla.

¹⁹ 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 (last visited Mar. 22, 2019).

²⁰ *Id.* at 5.

²¹ *Cramp v. Bd. of Pub. Instruction of Orange Cnty.*, 137 So.2d 828, 830 (Fla. 1962).

²² *Id.*; see *Booker v. State*, 244 So. 3d 1151, 1167 (Fla. Dist. Ct. App. 2018).

A severability clause in a statute, stating that any of its provisions found to be invalid should be severed from the remaining sections, may be considered by a court applying the test for severance.²³ When a severability clause is included in a statute the courts hold that the expressed legislative intent should be carried out unless doing so would produce an unreasonable, unconstitutional, or absurd result.²⁴ If the valid and the void parts of a statute are mutually connected and dependent upon each other then severance would effect a result not contemplated by the Legislature, in which case applying the severability clause to save the valid parts of the statute is not compatible with the legislative intent.²⁵

III. Effect of Proposed Changes:

Section 1 transfers the primary powers and duties of the Fish and Wildlife Conservation Commission (FWC) with regard to the investigation of certain environmental crimes and the enforcement of related laws to the Department of Environmental Protection (DEP), as specified in the memorandum of agreement developed under the bill. The bill states that FWC will retain law enforcement authority over the patrol of state-owned land managed by DEP, and FWC will coordinate with DEP in that regard.

The bill requires FWC and DEP to develop a new memorandum of agreement detailing the respective responsibilities of FWC and DEP with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of DEP's administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the commission to DEP which are funded through any trust fund.

Section 2 requires that all of the personnel and equipment assigned to DEP's Office of Emergency Response be reassigned to DEP's Division of Law Enforcement.

Section 3 requires the Secretary of DEP and the Executive Director of FWC to each appoint two staff members to a transition advisory working group to review the administrative rules promulgated by DEP and FWC to identify any rules that must be amended to reflect the changes made by the bill.

Section 4 requires that, notwithstanding Fla. Admin. Code ch. 60L-34 or any law to the contrary, employees transferred from FWC to fill positions transferred to DEP shall retain and transfer any

²³ *Smith v. Dep't of Ins.*, 507 So. 2d 1080, 1090 (Fla. 1987).

²⁴ *Small v. Sun Oil Co.*, 222 So. 2d 196, 199 (Fla. 1969).

²⁵ *Id.* at 199-200.

accrued annual leave, sick leave, and regular and special compensatory leave balance. The bill requires that the employees retain their current position status, including permanent status, upon transfer to DEP.

Section 5 amends s. 20.255, F.S., which establishes the organizational structure of DEP. The bill adds the Division of Law Enforcement to the list of DEP's divisions. The bill states that law enforcement officers of DEP, who meet the minimum qualification requirements for a law enforcement officer in s. 943.13, F.S., are constituted law enforcement officers of the state with full power to investigate and arrest for any violation of the laws of the state and the rules of DEP and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of the state apply to such law enforcement officers.

Section 6 amends s. 258.004, F.S., which establishes the duties of DEP's Division of Recreation and Parks. The bill requires that ch. 258, F.S., State Parks and Preserves, be enforced by DEP's Division of Law Enforcement and its officers, and by FWC's Division of Law Enforcement and its officers.

Section 7 amends s. 258.008, F.S., which establishes the fines and penalties for violating rules adopted under ch. 258, F.S. The bill requires that fines paid for violations of rules adopted under ch. 258, F.S., will go into either FWC's State Game Trust Fund or DEP's State Park Trust Fund.

Section 8 amends s. 258.501, F.S., by authorizing "officers" of DEP to enforce certain DEP rules.

Section 9 amends s. 282.709, F.S., which authorizes a statewide radio communications system to serve state and local law enforcement units. The bill requires that the Secretary of DEP appoint a representative of DEP's Division of Law Enforcement to serve as a member of the Joint Task Force on State Agency Law Enforcement Communications, which advises on agency needs relating to the planning, designing, and establishment of the statewide communication system.

Section 10 amends s. 316.640, F.S., which vests authority for the enforcement of Florida's traffic laws. The bill authorizes DEP's Division of Law Enforcement to enforce all of the traffic laws of the state on all of the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.

Section 11 amends s. 376.3071, F.S., which establishes the Inland Protection Trust Fund and programs for its use. The bill provides that when DEP determines that incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the public health, safety, welfare, water resources, or the environment, DEP is required to spend available money from the Inland Protection Trust Fund to provide for enforcement of related laws by FWC and DEP. The bill authorizes, but does not require, DEP to disburse money to FWC for this purpose.

Section 12 amends s. 403.413, F.S., which is Florida's litter law. The bill changes the section's definition of "law enforcement officer" to include any officer of DEP.

Section 13 amends s. 784.07, F.S., which establishes the penalties for assault or battery of law enforcement officers. The bill expands the section's definition of law enforcement officer to include law enforcement personnel of DEP.

Section 14 amends s. 843.08, F.S., which establishes penalties for falsely impersonating or pretending to be a law enforcement officer. The bill expands the scope of the section to include officers of DEP.

Section 15 amends s. 843.085, F.S., which prohibits the unlawful use of badges or indicia of authority. The bill prohibits wearing or displaying any item containing the words "Department of Environmental Protection officer" with the intent to mislead or cause another person to believe that he or she is a member of the agency or is authorized to wear or display the item. The bill prohibits a person from owning or operating a vehicles marked or identified by the words "Department of Environmental Protection officer." The bill prohibits a person from selling, transferring, or giving away an authorized badge bearing the words "Department of Environmental Protection officer." Violation of any of these prohibitions is a misdemeanor of the first degree. The bill provides exceptions for fraternal, benevolent, or labor organizations using the words.

Section 16 amends s. 870.04, F.S., and authorizes an officer or agent of DEP to go among people that are rioting or tumultuously assembled and command those people in the name of the state to immediately and peaceably disperse.

Section 17 amends s. 932.7055, F.S., which determines the disposition of liens and property when a seizing agent has obtained a judgement granting forfeiture. The bill provides that if the seizing agency is DEP then proceeds accrued pursuant to the Florida Contraband Forfeiture Act must be deposited into one of five trust funds, as specified in the statute under which the violation occurs:

- The Internal Improvement Trust Fund;
- The Water Quality Assurance Trust Fund;
- The Inland Protection Trust Fund;
- The Coastal Protection Trust Fund; or
- The Solid Waste Management Trust Fund.

Section 18 reenacts s. 790.166(8)(a), F.S., relating to an exclusion from the definition of weapons of mass destruction for devices or instruments lawfully used by state law enforcement.

Section 19 states that if any provision of the bill or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications. To this end, the provisions of the act are severable.

Section 20 states that the bill shall take effect on July 1, 2019.

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:

The separation of powers doctrine prevents the Legislature from delegating its constitutional duties.²⁶ Legislative power involves the exercise of policy-related discretion over the content of law.²⁷ The Florida Supreme Court, in *Askew v. Cross Key Waterways*, provided a framework for measuring the constitutionality of legislative power delegations.²⁸ The court adopted a formal interpretation of the delegation of powers doctrine. Where the Legislature makes the fundamental policy decision and delegates to some other body the task of implementing that policy under adequate safeguards, there is no violation of the doctrine. However, when legislation is so lacking in guidelines that neither the agency nor the courts can determine whether the agency is carrying out the intent of the legislature in its conduct, then, in fact, the agency becomes the lawgiver rather than the administrator of the law.²⁹

Until such time as FWC and DEP create a new memorandum of agreement there are many outstanding questions regarding the size and role of DEP's new Division of Law Enforcement.

However, although the bill itself does not answer these questions, the proposed budget for both the House and Senate for FY 2019-2020 anticipate a transfer of 19 full-time equivalent positions with an approved salary rate of \$1,076,218 and other associated financial transfers. Furthermore, the bill is drafted in many ways as a reversal of Ch. 2012-88, L.O.F. Those provisions were similar to the provisions set out in SB 1502, and

²⁶ *Florida State Bd. Of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).

²⁷ *State ex rel. Taylor v. City of Tallahassee*, 177 So. 719, 720-721 (Fla. 1937).

²⁸ 372 So.2d 913 (Fla. 1978).

²⁹ *Id.* at 918-19; *see also Conner v. Joe Hatton, Inc.*, 216 So.2d 209, 211 (Fla. 1968) (“[w]hen the statute is couched in vague and uncertain terms or is so broad in scope that no one can say with certainty, from the terms of the law itself, what would be deemed an infringement of the law, it must be held unconstitutional as attempting to grant to the administrative body the power to say what the law shall be.”).

that transfer was in part effectuated by a memorandum of agreement analogous to the one that DEP and FWC are directed to carryout in SB 1502. Therefore, there may be enough context to provide adequate guidance for this to be a constitutional delegation.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a new division of law enforcement within DEP and adds a significant amount of new duties and responsibilities to DEP's activities. These changes may cause DEP to incur additional costs. Therefore, this bill may have an indeterminate, negative fiscal impact on DEP.

FWC's bill analysis of SB 1502 states that revenues collected in the Inland Protection Trust Fund currently provide for the functions described in the bill.³⁰ FWC's analysis states that the costs for the functions described in the bill are covered by FWC's base budget and that those expenditures would be made by DEP.³¹ FWC's analysis states that the bill would transfer 19 full time employees and \$1,991,722 budget authority from FWC to DEP.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.255, 258.004, 258.008, 258.501, 282.709, 316.640, 376.3071, 403.413, 784.07, 843.08, 843.085, 870.04, and 932.7055.

This bill reenacts section 790.166 of the Florida Statutes.

³⁰ FWC, 2019 Agency Legislative Bill Analysis, *Senate Bill (SB) 1502*, 5 (2019) (on file with the Senate Committee on Environment and Natural Resources).

³¹ *Id.*

³² *Id.*

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.

By Senator Bradley

5-01683B-19

20191502__

1 A bill to be entitled
2 An act relating to the Department of Environmental
3 Protection; transferring and reassigning functions and
4 responsibilities of the Division of Law Enforcement
5 relating to investigators of environmental crimes
6 within the Fish and Wildlife Conservation Commission
7 to the Division of Law Enforcement of the Department
8 of Environmental Protection; providing requirements
9 for a memorandum of agreement between the department
10 and the commission regarding the responsibilities of
11 the department and the commission; transferring
12 personnel and equipment within the department's Office
13 of Emergency Response to the department's Division of
14 Law Enforcement; providing for a transition advisory
15 working group; providing for the retention and
16 transfer of specified benefits for employees who are
17 transferred from the commission to fill positions
18 transferred to the department; amending s. 20.255,
19 F.S.; establishing the Division of Law Enforcement
20 within the department; providing law enforcement
21 officers of the department who meet certain
22 requirements with specified authority, subject to
23 applicable law; amending ss. 258.004, 258.008,
24 258.501, 282.709, 316.640, 376.3071, 403.413, 784.07,
25 843.08, 843.085, 870.04, and 932.7055, F.S.;
26 conforming provisions to changes made by the act;
27 reenacting s. 790.166(8)(a), F.S., relating to the
28 manufacture, possession, sale, delivery, display, use
29 or attempted or threatened use of a weapon of mass

5-01683B-19

20191502__

30 destruction or hoax weapon of mass destruction
31 prohibited, to incorporate the amendment made to s.
32 784.07, F.S., in a reference thereto; providing
33 severability; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. (1) The primary powers and duties of the Fish
38 and Wildlife Conservation Commission with regard to the
39 investigation of certain environmental crimes and the
40 enforcement of related laws, as specified in the new memorandum
41 of agreement developed as required under subsection (2), are
42 transferred from the commission to the Department of
43 Environmental Protection. The commission retains law enforcement
44 authority over the patrol of state-owned lands managed by the
45 department and shall coordinate with the department in that
46 regard.

47 (2) A new memorandum of agreement must be developed between
48 the commission and the department detailing the respective
49 responsibilities of the department and the commission with
50 regard to at least all of the following:

51 (a) Support and response for oil spills, hazardous spills,
52 and natural disasters.

53 (b) Law enforcement patrol and investigative services for
54 all state-owned lands managed by the department.

55 (c) Law enforcement services, including investigative
56 services, for all criminal law violations of chapters 161, 258,
57 373, 376, 377, 378, and 403, Florida Statutes.

58 (d) Enforcement services for civil violations of department

5-01683B-19

20191502__

59 administrative rules related to all of the following program
60 areas:

61 1. The Division of Recreation and Parks.

62 2. The Office of Coastal and Aquatic Managed Areas.

63 3. The Office of Greenways and Trails.

64 (e) Current and future funding, training, or other support
65 for positions and equipment being transferred from the
66 commission to the department which are funded through any trust
67 fund.

68 Section 2. All personnel and equipment assigned to the
69 Department of Environmental Protection's Office of Emergency
70 Response are reassigned to the Division of Law Enforcement of
71 the department.

72 Section 3. The Secretary of Environmental Protection and
73 the Executive Director of the Fish and Wildlife Conservation
74 Commission shall each appoint two staff members to a transition
75 advisory working group to review the administrative rules
76 promulgated by the department and the commission to identify any
77 rules that must be amended to reflect the changes made by this
78 act.

79 Section 4. Notwithstanding chapter 60L-34, Florida
80 Administrative Code, or any law to the contrary, employees who
81 are transferred from the Fish and Wildlife Conservation
82 Commission to fill positions transferred to the Department of
83 Environmental Protection shall retain and transfer any accrued
84 annual leave, sick leave, and regular and special compensatory
85 leave balances. The employees shall retain their current
86 position status, including permanent status, upon transfer to
87 the Department of Environmental Protection.

5-01683B-19

20191502__

88 Section 5. Subsection (3) of section 20.255, Florida
89 Statutes, is amended, and subsection (10) is added to that
90 section, to read:

91 20.255 Department of Environmental Protection.—There is
92 created a Department of Environmental Protection.

93 (3) The following divisions of the Department of
94 Environmental Protection are established:

95 (a) Division of Administrative Services.

96 (b) Division of Air Resource Management.

97 (c) Division of Water Resource Management.

98 (d) Division of Environmental Assessment and Restoration.

99 (e) Division of Waste Management.

100 (f) Division of Recreation and Parks.

101 (g) Division of State Lands, the director of which is
102 appointed by the secretary of the department, subject to
103 confirmation by the Governor and Cabinet sitting as the Board of
104 Trustees of the Internal Improvement Trust Fund.

105 (h) Division of Water Restoration Assistance.

106 (i) Division of Law Enforcement.

107

108 In order to ensure statewide and intradepartmental consistency,
109 the department's divisions shall direct the district offices and
110 bureaus on matters of interpretation and applicability of the
111 department's rules and programs.

112 (10) Law enforcement officers of the Department of
113 Environmental Protection who meet the requirements of s. 943.13
114 are constituted law enforcement officers of this state with full
115 power to investigate and arrest for any violation of the laws of
116 this state and the rules of the department and the Board of

5-01683B-19

20191502__

117 Trustees of the Internal Improvement Trust Fund. The general
118 laws applicable to investigations, searches, and arrests by
119 peace officers of this state apply to such law enforcement
120 officers.

121 Section 6. Subsection (8) is added to section 258.004,
122 Florida Statutes, to read:

123 258.004 Duties of division.—

124 (8) This chapter shall be enforced by the Division of Law
125 Enforcement within the Department of Environmental Protection
126 and its officers and by the Division of Law Enforcement within
127 the Fish and Wildlife Conservation Commission and its officers.

128 Section 7. Subsection (1) of section 258.008, Florida
129 Statutes, is amended to read:

130 258.008 Prohibited activities; penalties.—

131 (1) Except as provided in subsection (3), any person who
132 violates or otherwise fails to comply with the rules adopted
133 under this chapter commits a noncriminal infraction for which
134 ejection from all property managed by the Division of Recreation
135 and Parks and a fine of up to \$500 may be imposed by the
136 division. Fines paid under this subsection shall be paid to the
137 Fish and Wildlife Conservation Commission and deposited in the
138 State Game Trust Fund as provided in ss. 379.338, 379.339, and
139 379.3395 or to the Department of Environmental Protection and
140 deposited into the State Park Trust Fund, as applicable.

141 Section 8. Subsection (16) of section 258.501, Florida
142 Statutes, is amended to read:

143 258.501 Myakka River; wild and scenic segment.—

144 (16) ENFORCEMENT.—Officers of the department and the Fish
145 and Wildlife Conservation Commission shall have full authority

5-01683B-19

20191502__

146 to enforce any rule adopted by the department.

147 Section 9. Paragraph (a) of subsection (2) of section
148 282.709, Florida Statutes, is amended to read:

149 282.709 State agency law enforcement radio system and
150 interoperability network.—

151 (2) The Joint Task Force on State Agency Law Enforcement
152 Communications is created adjunct to the department to advise
153 the department of member-agency needs relating to the planning,
154 designing, and establishment of the statewide communication
155 system.

156 (a) The Joint Task Force on State Agency Law Enforcement
157 Communications shall consist of the following members:

158 1. A representative of the Division of Alcoholic Beverages
159 and Tobacco of the Department of Business and Professional
160 Regulation who shall be appointed by the secretary of the
161 department.

162 2. A representative of the Division of Florida Highway
163 Patrol of the Department of Highway Safety and Motor Vehicles
164 who shall be appointed by the executive director of the
165 department.

166 3. A representative of the Department of Law Enforcement
167 who shall be appointed by the executive director of the
168 department.

169 4. A representative of the Fish and Wildlife Conservation
170 Commission who shall be appointed by the executive director of
171 the commission.

172 5. A representative of the Division of Law Enforcement of
173 the Department of Environmental Protection who shall be
174 appointed by the secretary of the department.

5-01683B-19

20191502__

175 ~~6.5.~~ A representative of the Department of Corrections who
176 shall be appointed by the secretary of the department.

177 ~~7.6.~~ A representative of the Department of Financial
178 Services who shall be appointed by the Chief Financial Officer.

179 ~~8.7.~~ A representative of the Department of Agriculture and
180 Consumer Services who shall be appointed by the Commissioner of
181 Agriculture.

182 ~~9.8.~~ A representative of the Florida Sheriffs Association
183 who shall be appointed by the president of the Florida Sheriffs
184 Association.

185 Section 10. Paragraph (a) of subsection (1) of section
186 316.640, Florida Statutes, is amended to read:

187 316.640 Enforcement.—The enforcement of the traffic laws of
188 this state is vested as follows:

189 (1) STATE.—

190 (a)1.a. The Division of Florida Highway Patrol of the
191 Department of Highway Safety and Motor Vehicles; the Division of
192 Law Enforcement of the Fish and Wildlife Conservation
193 Commission; the Division of Law Enforcement of the Department of
194 Environmental Protection; and the agents, inspectors, and
195 officers of the Department of Law Enforcement each have
196 authority to enforce all of the traffic laws of this state on
197 all the streets and highways thereof and elsewhere throughout
198 the state wherever the public has a right to travel by motor
199 vehicle.

200 b. University police officers may enforce all of the
201 traffic laws of this state when violations occur on or within
202 1,000 feet of any property or facilities that are under the
203 guidance, supervision, regulation, or control of a state

5-01683B-19

20191502__

204 university, a direct-support organization of such state
205 university, or any other organization controlled by the state
206 university or a direct-support organization of the state
207 university, or when such violations occur within a specified
208 jurisdictional area as agreed upon in a mutual aid agreement
209 entered into with a law enforcement agency pursuant to s.
210 23.1225(1). Traffic laws may also be enforced off-campus when
211 hot pursuit originates on or within 1,000 feet of any such
212 property or facilities, or as agreed upon in accordance with the
213 mutual aid agreement.

214 c. Florida College System institution police officers may
215 enforce all the traffic laws of this state only when such
216 violations occur on or within 1,000 feet of any property or
217 facilities that are under the guidance, supervision, regulation,
218 or control of the Florida College System institution, or when
219 such violations occur within a specified jurisdictional area as
220 agreed upon in a mutual aid agreement entered into with a law
221 enforcement agency pursuant to s. 23.1225. Traffic laws may also
222 be enforced off-campus when hot pursuit originates on or within
223 1,000 feet of any such property or facilities, or as agreed upon
224 in accordance with the mutual aid agreement.

225 d. Police officers employed by an airport authority may
226 enforce all of the traffic laws of this state only when such
227 violations occur on any property or facilities that are owned or
228 operated by an airport authority.

229 (I) An airport authority may employ as a parking
230 enforcement specialist any individual who successfully completes
231 a training program established and approved by the Criminal
232 Justice Standards and Training Commission for parking

5-01683B-19

20191502__

233 enforcement specialists but who does not otherwise meet the
234 uniform minimum standards established by the commission for law
235 enforcement officers or auxiliary or part-time officers under s.
236 943.12. This sub-sub-subparagraph may not be construed to permit
237 the carrying of firearms or other weapons, nor shall such
238 parking enforcement specialist have arrest authority.

239 (II) A parking enforcement specialist employed by an
240 airport authority may enforce all state, county, and municipal
241 laws and ordinances governing parking only when such violations
242 are on property or facilities owned or operated by the airport
243 authority employing the specialist, by appropriate state,
244 county, or municipal traffic citation.

245 e. The Office of Agricultural Law Enforcement of the
246 Department of Agriculture and Consumer Services may enforce
247 traffic laws of this state.

248 f. School safety officers may enforce all of the traffic
249 laws of this state when such violations occur on or about any
250 property or facilities that are under the guidance, supervision,
251 regulation, or control of the district school board.

252 2. Any disciplinary action taken or performance evaluation
253 conducted by an agency of the state as described in subparagraph
254 1. of a law enforcement officer's traffic enforcement activity
255 must be in accordance with written work-performance standards.
256 Such standards must be approved by the agency and any collective
257 bargaining unit representing such law enforcement officer. A
258 violation of this subparagraph is not subject to the penalties
259 provided in chapter 318.

260 3. The Division of the Florida Highway Patrol may employ as
261 a traffic accident investigation officer any individual who

5-01683B-19

20191502__

262 successfully completes instruction in traffic accident
263 investigation and court presentation through the Selective
264 Traffic Enforcement Program as approved by the Criminal Justice
265 Standards and Training Commission and funded through the
266 National Highway Traffic Safety Administration or a similar
267 program approved by the commission, but who does not necessarily
268 meet the uniform minimum standards established by the commission
269 for law enforcement officers or auxiliary law enforcement
270 officers under chapter 943. Any such traffic accident
271 investigation officer who makes an investigation at the scene of
272 a traffic accident may issue traffic citations, based upon
273 personal investigation, when he or she has reasonable and
274 probable grounds to believe that a person who was involved in
275 the accident committed an offense under this chapter, chapter
276 319, chapter 320, or chapter 322 in connection with the
277 accident. This subparagraph does not permit the officer to carry
278 firearms or other weapons, and such an officer does not have
279 authority to make arrests.

280 Section 11. Paragraph (p) of subsection (4) of section
281 376.3071, Florida Statutes, is amended to read:

282 376.3071 Inland Protection Trust Fund; creation; purposes;
283 funding.—

284 (4) USES.—Whenever, in its determination, incidents of
285 inland contamination related to the storage of petroleum or
286 petroleum products may pose a threat to the public health,
287 safety, or welfare, water resources, or the environment, the
288 department shall obligate moneys available in the fund to
289 provide for:

290 (p) Enforcement of this section and ss. 376.30-376.317 by

5-01683B-19

20191502__

291 the Fish and Wildlife Conservation Commission and the Department
292 of Environmental Protection. The department may ~~shall~~ disburse
293 moneys to the commission for such purpose.

294

295 The issuance of a site rehabilitation completion order pursuant
296 to subsection (5) or paragraph (12)(b) for contamination
297 eligible for programs funded by this section does not alter the
298 project's eligibility for state-funded remediation if the
299 department determines that site conditions are not protective of
300 human health under actual or proposed circumstances of exposure
301 under subsection (5). The Inland Protection Trust Fund may be
302 used only to fund the activities in ss. 376.30-376.317 except
303 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
304 each fiscal year must first be applied or allocated for the
305 payment of amounts payable by the department pursuant to
306 paragraph (n) under a service contract entered into by the
307 department pursuant to s. 376.3075 and appropriated in each year
308 by the Legislature before making or providing for other
309 disbursements from the fund. This subsection does not authorize
310 the use of the fund for cleanup of contamination caused
311 primarily by a discharge of solvents as defined in s.
312 206.9925(6), or polychlorinated biphenyls when their presence
313 causes them to be hazardous wastes, except solvent contamination
314 which is the result of chemical or physical breakdown of
315 petroleum products and is otherwise eligible. Facilities used
316 primarily for the storage of motor or diesel fuels as defined in
317 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
318 to this section.

319 Section 12. Paragraph (e) of subsection (2) of section

5-01683B-19

20191502__

320 403.413, Florida Statutes, is amended to read:

321 403.413 Florida Litter Law.—

322 (2) DEFINITIONS.—As used in this section:

323 (e) "Law enforcement officer" means any officer of the
324 Florida Highway Patrol, a county sheriff's department, a
325 municipal law enforcement department, a law enforcement
326 department of any other political subdivision, the Department of
327 Environmental Protection, or the Fish and Wildlife Conservation
328 Commission. In addition, and solely for the purposes of this
329 section, "law enforcement officer" means any employee of a
330 county or municipal park or recreation department designated by
331 the department head as a litter enforcement officer.

332 Section 13. Paragraph (d) of subsection (1) of section
333 784.07, Florida Statutes, is amended to read:

334 784.07 Assault or battery of law enforcement officers,
335 firefighters, emergency medical care providers, public transit
336 employees or agents, or other specified officers;
337 reclassification of offenses; minimum sentences.—

338 (1) As used in this section, the term:

339 (d) "Law enforcement officer" includes a law enforcement
340 officer, a correctional officer, a correctional probation
341 officer, a part-time law enforcement officer, a part-time
342 correctional officer, an auxiliary law enforcement officer, and
343 an auxiliary correctional officer, as those terms are
344 respectively defined in s. 943.10, and any county probation
345 officer; an employee or agent of the Department of Corrections
346 who supervises or provides services to inmates; an officer of
347 the Florida Commission on Offender Review; a federal law
348 enforcement officer as defined in s. 901.1505; and law

5-01683B-19

20191502__

349 enforcement personnel of the Fish and Wildlife Conservation
350 Commission, the Department of Environmental Protection, or the
351 Department of Law Enforcement.

352 Section 14. Section 843.08, Florida Statutes, is amended to
353 read:

354 843.08 False personation.—A person who falsely assumes or
355 pretends to be a firefighter, sheriff, officer of the Florida
356 Highway Patrol, officer of the Fish and Wildlife Conservation
357 Commission, officer of the Department of Environmental
358 Protection, fire or arson investigator of the Department of
359 Financial Services, officer of the Department of Financial
360 Services, officer of the Department of Corrections, correctional
361 probation officer, deputy sheriff, state attorney or assistant
362 state attorney, statewide prosecutor or assistant statewide
363 prosecutor, state attorney investigator, coroner, police
364 officer, lottery special agent or lottery investigator, beverage
365 enforcement agent, or watchman, or any member of the Florida
366 Commission on Offender Review and any administrative aide or
367 supervisor employed by the commission, or any personnel or
368 representative of the Department of Law Enforcement, or a
369 federal law enforcement officer as defined in s. 901.1505, and
370 takes upon himself or herself to act as such, or to require any
371 other person to aid or assist him or her in a matter pertaining
372 to the duty of any such officer, commits a felony of the third
373 degree, punishable as provided in s. 775.082, s. 775.083, or s.
374 775.084. However, a person who falsely personates any such
375 officer during the course of the commission of a felony commits
376 a felony of the second degree, punishable as provided in s.
377 775.082, s. 775.083, or s. 775.084. If the commission of the

5-01683B-19

20191502__

378 felony results in the death or personal injury of another human
379 being, the person commits a felony of the first degree,
380 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
381 The term "watchman" means a security officer licensed under
382 chapter 493.

383 Section 15. Section 843.085, Florida Statutes, is amended
384 to read:

385 843.085 Unlawful use of badges or other indicia of
386 authority.—

387 (1) It is unlawful for any person, unless appointed by the
388 Governor pursuant to chapter 354, authorized by the appropriate
389 agency, or displayed in a closed or mounted case as a collection
390 or exhibit, to wear or display any authorized indicia of
391 authority, including any badge, insignia, emblem, identification
392 card, or uniform, or any colorable imitation thereof, of any
393 federal, state, county, or municipal law enforcement agency, or
394 other criminal justice agency as defined in s. 943.045, with the
395 intent to mislead or cause another person to believe that he or
396 she is a member of that agency or is authorized to display or
397 wear such item, or to wear or display any item that displays in
398 any manner or combination the word or words "police,"
399 "patrolman," "agent," "sheriff," "deputy," "trooper," "highway
400 patrol," "commission officer," "Wildlife Officer," "Marine
401 Patrol Officer," "state attorney," "public defender," "marshal,"
402 "constable," "bailiff," ~~or~~ "fire department," or "Department of
403 Environmental Protection officer," with the intent to mislead or
404 cause another person to believe that he or she is a member of
405 that agency or is authorized to wear or display such item.

406 (2) It is unlawful for a person to own or operate a motor

5-01683B-19

20191502__

407 vehicle marked or identified in any manner or combination by the
408 word or words "police," "patrolman," "sheriff," "deputy,"
409 "trooper," "highway patrol," "commission officer," "Wildlife
410 Officer," "Marine Patrol Officer," "marshal," "constable,"
411 "bailiff," ~~or~~ "fire department," or "Department of Environmental
412 Protection officer," or by any lettering, marking, or insignia,
413 or colorable imitation thereof, including, but not limited to,
414 stars, badges, or shields, officially used to identify the
415 vehicle as a federal, state, county, or municipal law
416 enforcement vehicle or a vehicle used by a criminal justice
417 agency as defined in s. 943.045, or a vehicle used by a fire
418 department with the intent to mislead or cause another person to
419 believe that such vehicle is an official vehicle of that agency
420 and is authorized to be used by that agency, unless such vehicle
421 is owned or operated by the appropriate agency and its use is
422 authorized by such agency, or the local law enforcement agency
423 or fire department authorizes the use of such vehicle, or the
424 person is appointed by the Governor pursuant to chapter 354.

425 (3) It is unlawful for a person to sell, transfer, or give
426 away the authorized badge, or colorable imitation thereof,
427 including miniatures, of any criminal justice agency as defined
428 in s. 943.045, or bearing in any manner or combination the word
429 or words "police," "patrolman," "sheriff," "deputy," "trooper,"
430 "highway patrol," "commission officer," "Wildlife Officer,"
431 "Marine Patrol Officer," "marshal," "constable," "agent," "state
432 attorney," "public defender," "bailiff," ~~or~~ "fire department,"
433 or "Department of Environmental Protection officer," with the
434 intent to mislead or cause another person to believe that he or
435 she is a member of that agency or is authorized to wear or

5-01683B-19

20191502__

436 display such item, except for agency purchases or upon the
437 presentation and recordation of both a driver license and other
438 identification showing any transferee to actually be a member of
439 such criminal justice agency or unless the person is appointed
440 by the Governor pursuant to chapter 354. A transferor of an item
441 covered by this subsection is required to maintain for 2 years a
442 written record of such transaction, including records showing
443 compliance with this subsection, and if such transferor is a
444 business, it shall make such records available during normal
445 business hours for inspection by any law enforcement agency
446 having jurisdiction in the area where the business is located.

447 (4) This section does not prohibit a fraternal, benevolent,
448 or labor organization or association, or their chapters or
449 subsidiaries, from using the following words, in any manner or
450 in any combination, if those words appear in the official name
451 of the organization or association: "police," "patrolman,"
452 "sheriff," "deputy," "trooper," "highway patrol," "commission
453 officer," "Wildlife Officer," "Marine Patrol Officer,"
454 "marshal," "constable," "bailiff," "fire department," or
455 "Department of Environmental Protection officer." ~~or "fire~~
456 ~~department."~~

457 (5) Violation of any provision of this section is a
458 misdemeanor of the first degree, punishable as provided in s.
459 775.082 or s. 775.083. This section is cumulative to any law now
460 in force in the state.

461 Section 16. Section 870.04, Florida Statutes, is amended to
462 read:

463 870.04 Specified officers to disperse riotous assembly.—If
464 any number of persons, whether armed or not, are unlawfully,

5-01683B-19

20191502__

465 riotously, or tumultuously assembled in any county, city, or
466 municipality, the sheriff or the sheriff's deputies, or the
467 mayor, or any commissioner, council member, alderman, or police
468 officer of the city or municipality, or any officer or member of
469 the Florida Highway Patrol, or any officer or agent of the Fish
470 and Wildlife Conservation Commission or the Department of
471 Environmental Protection, any beverage enforcement agent, any
472 personnel or representatives of the Department of Law
473 Enforcement or its successor, or any other peace officer, shall
474 go among the persons so assembled, or as near to them as may be
475 done with safety, and shall in the name of the state command all
476 the persons so assembled immediately and peaceably to disperse.
477 If such persons do not thereupon immediately and peaceably
478 disperse, such officers shall command the assistance of all such
479 persons in seizing, arresting, and securing such persons in
480 custody. If any person present being so commanded to aid and
481 assist in seizing and securing such rioter or persons so
482 unlawfully assembled, or in suppressing such riot or unlawful
483 assembly, refuses or neglects to obey such command, or, when
484 required by such officers to depart from the place, refuses and
485 neglects to do so, the person shall be deemed one of the rioters
486 or persons unlawfully assembled, and may be prosecuted and
487 punished accordingly.

488 Section 17. Present paragraphs (b) through (l) of
489 subsection (6) of section 932.7055, Florida Statutes, are
490 redesignated as paragraphs (c) through (m), respectively, and a
491 new paragraph (b) is added to that subsection, to read:

492 932.7055 Disposition of liens and forfeited property.—

493 (6) If the seizing agency is a state agency, all remaining

5-01683B-19

20191502__

494 proceeds shall be deposited into the General Revenue Fund.

495 However, if the seizing agency is:

496 (b) The Department of Environmental Protection, the
497 proceeds accrued pursuant to the Florida Contraband Forfeiture
498 Act shall be deposited into the Internal Improvement Trust Fund,
499 the Water Quality Assurance Trust Fund, the Inland Protection
500 Trust Fund, the Coastal Protection Trust Fund, or the Solid
501 Waste Management Trust Fund, as specified by the statute under
502 which the violation occurs.

503 Section 18. For the purpose of incorporating the amendment
504 made by this act to section 784.07, Florida Statutes, in a
505 reference thereto, paragraph (a) of subsection (8) of section
506 790.166, Florida Statutes, is reenacted to read:

507 790.166 Manufacture, possession, sale, delivery, display,
508 use, or attempted or threatened use of a weapon of mass
509 destruction or hoax weapon of mass destruction prohibited;
510 definitions; penalties.—

511 (8) For purposes of this section, the term “weapon of mass
512 destruction” does not include:

513 (a) A device or instrument that emits or discharges smoke
514 or an offensive, noxious, or irritant liquid, powder, gas, or
515 chemical for the purpose of immobilizing, incapacitating, or
516 thwarting an attack by a person or animal and that is lawfully
517 possessed or used by a person for the purpose of self-protection
518 or, as provided in subsection (7), is lawfully possessed or used
519 by any member or employee of the Armed Forces of the United
520 States, a federal or state governmental agency, or a private
521 entity. A member or employee of a federal or state governmental
522 agency includes, but is not limited to, a law enforcement

5-01683B-19

20191502__

523 officer, as defined in s. 784.07; a federal law enforcement
524 officer, as defined in s. 901.1505; and an emergency service
525 employee, as defined in s. 496.404.

526 Section 19. If any provision of this act or the application
527 thereof to any person or circumstance is held invalid, the
528 invalidity does not affect other provisions or applications of
529 the act which can be given effect without the invalid provisions
530 or applications, and to this end the provisions of this act are
531 severable.

532 Section 20. This act shall take effect July 1, 2019.

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 Environment and Natural Resources

BILL: CS/SB 1666

INTRODUCER: Environment and Natural Resources Committee and Senator Flores

SUBJECT: Anchoring and Mooring of Vessels Outside of Public Mooring Fields

DATE: March 27, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	Fav/CS
2.	_____	_____	CA	_____
3.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1666:

- Deletes the exemption for persons born on or after January 1, 1988, to have a boater safety identification card before operating a vessel with a 10 horsepower or higher engine.
- Defines the term “long-term stored vessel” to mean a vessel which has remained anchored or moored without supervision or control for at least 30 days out of a 60-day period.
- Requires FWC to conduct a study, contingent upon appropriation, on the impacts of long-term stored vessels on local communities and the state, and to present the report to the Governor and Legislature.
- Authorizes counties designated as rural areas of opportunity to create in freshwater waterbodies within their jurisdiction a “no-discharge zone” where treated and untreated sewage discharges are prohibited.
- Requires vessel operators within a no-discharge zone to keep sewage discharges onboard for discharge at sea or onshore at a pump-out facility.
- Imposes a civil penalty and declares the vessel or floating structure a nuisance and hazard to public safety and health if an unlawful discharge is made in a no-discharge zone.
- Requires a certain portion of vessel registration fees designated for use by the counties to be deposited into the Marine Resources Conservation Trust Fund to fund grants for derelict vessel removal.
- Prohibits a person who leaves or abandons a derelict vessel from residing or dwelling on the vessel until it is permanently removed from state waters or returned to waters in a non-derelict condition.

II. Present Situation:

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

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

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly;
- Vessels that become derelict;
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.³

State Regulation of the Anchoring or Mooring of Vessels

The Board of Trustees of the Internal Improvement Trust Fund (BOT) is authorized to adopt rules governing all uses of sovereignty submerged lands including rules for anchoring, mooring, or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages.⁴ Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.⁵ The BOT has not adopted rules relating to the anchoring of vessels on the waters of the state.

State law prohibits a person from anchoring a vessel in several specific scenarios, including:

- In a manner that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel;⁶
- Between one-half hour after sunset and one-half hour before sunrise in certain designated anchoring limitation areas;⁷ and

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

² Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf> (last visited Mar. 21, 2019).

³ Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 6 (Dec. 31, 2016), available at <http://www.boatus.com/gov/assets/pdf/fwc-2016-anchoring-and-mooring-report.pdf> (last visited Mar. 21, 2019).

⁴ Section 253.03(7), F.S.

⁵ *Id.*; see Fla. Admin. Code ch. 18-21.

⁶ Section 327.44(2), F.S.

⁷ Section 327.4108, F.S.

- If the nearest approach of the vessel or floating structure is within a certain distance of a marina, boat ramp, boatyard, or other vessel launching or loading facility; a superyacht repair facility; or the marked boundary of a public mooring field.⁸

Local Regulation of the Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.⁹ Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.¹⁰

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.¹¹ However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.¹²

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property.¹³

It is unlawful to store, leave, or abandon a derelict vessel in Florida.¹⁴ A person found in violation of this law commits a first degree misdemeanor.¹⁵ State law further provides that a violation of derelict vessel laws may also be subject to a civil penalty of up to \$50,000 per day.¹⁶ Each day during any portion of which the violation occurs constitutes a separate offense.¹⁷

⁸ Section 327.4109, F.S.

⁹ Section 373.118, F.S.; Fla. Admin. Code R. 62-330.420(1).

¹⁰ Fla. Admin. Code R. 62-330.420.

¹¹ Section 327.60(3), F.S., *see also* s. 327.02(14) and (22) for definitions of the terms “floating structure” and “live-aboard vessel.”

¹² Section 327.60(2)(f), F.S.

¹³ Section 823.11(1)(b), F.S.

¹⁴ Section 823.11(2), F.S.

¹⁵ A first degree misdemeanor is punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.

¹⁶ Section 376.16(1), F.S.

¹⁷ *Id.*

Removal of Derelict Vessels

The Division of Law Enforcement of the Florida Fish and Wildlife Conservation Commission (FWC) and its officers, and the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officers, have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.¹⁸

Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.¹⁹ The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner.²⁰ A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.²¹

FWC may provide grants, funded from the Florida Coastal Protection Trust Fund, to local governments for the removal of derelict vessels from waters of the state, if funds are appropriated for the grant program.²² Grants are awarded based on a set of criteria outlined in FWC rules.²³ Removal or relocation of a vessel on private property is not eligible for grant funding.²⁴

At-Risk Vessels

In 2016, the Legislature prohibited neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.²⁵ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor; or

¹⁸ Section 327.70; *see* section 943.10(1), F.S., which defines “law enforcement officer” as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁹ Section 327.44(3), F.S.

²⁰ Section 327.44(5), F.S.

²¹ Section 705.103(4), F.S.

²² Section 376.15, F.S.

²³ Rule 68-1.003, F.A.C.

²⁴ National Oceanic and Atmospheric Association: Marine Debris Program, *Abandoned and Derelict Vessels in Florida*, available at <https://marinedebris.noaa.gov/abandoned-and-derelict-vessels/florida> (last visited Mar. 15, 2019).

²⁵ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk.²⁶

A violation for anchoring, mooring, or occupying a vessel at risk of becoming derelict on the waters of the state is a noncriminal infraction, for which the civil penalty is \$50 for a first offense, \$100 for a second offense occurring 30 days or more after a first offense, and \$250 for a third or subsequent offense occurring 30 days or more after a previous offense.²⁷

Boating Safety Identification Cards

A person born on or after January 1, 1988 who will be operating a boat in Florida waters with an engine of 10 horsepower or more, must obtain a Florida boating safety identification card.²⁸ To obtain a card, a person must complete an approved boating safety course.²⁹ There are several courses available at various price points ranging from free up to \$30.³⁰ The course must meet the 8-hour instruction requirement established by the National Association of State Boating Law Administrators and must include a component regarding diving vessels.³¹ The card is valid for life, unless it was obtained by passing a temporary certificate examination, in which case it is valid for 12 months.³²

Certain persons are exempt from the requirement to obtain a boating safety identification card. A person is exempt if he or she:

- Is licensed by the United States Coast Guard to serve as master of a vessel.
- Operates a vessel only on a private lake or pond.
- Is accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs during the operation of the vessel.
- Is a nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalency examination in another state which meets or exceeds the requirements in Florida.
- Is operating a vessel within 90 days after the purchase of that vessel and has available for inspection aboard that vessel a bill of sale.
- Is operating a vessel within 90 days after completing the boater education course and has a photographic identification card and a boater education certificate available for inspection as proof of having completed a boater education course. The boater education certificate must provide, at a minimum, the student's first and last name, the student's date of birth, and the date that he or she passed the course examination.
- Is exempted by FWC rule.³³

²⁶ Section 327.4107, F.S.

²⁷ Section 327.73(aa), F.S.

²⁸ Section 327.395(1), F.S.

²⁹ FWC, *Boater Education Identification Card*, <https://myfwc.com/boating/safety-education/id/> (last visited Mar. 27, 2019).

³⁰ FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited Mar. 27, 2019).

³¹ Section 327.395(1), F.S.

³² Section 327.395(5), F.S.

³³ Section 327.395(6), F.S.

Penalties for Boating Infractions

Section 327.73, F.S., provides for non-criminal violations relating to vessel laws. An owner or operator of a vessel or floating structure who violates the law by anchoring in an anchoring limitation area or anchoring or mooring in a prohibited area is subject to a uniform boating citation and penalties.³⁴ The penalties are:

- For a first offense, up to a maximum of \$50;
- For a second offense, up to a maximum of \$100; and
- For a third offense, up to a maximum of \$250.

A person who operates a vessel without the required boating safety identification card can be charged with a noncriminal infraction and is subject to a uniform boating citation and a \$50 civil penalty.³⁵

In addition to civil penalties, the section provides that a person who fails to appear or otherwise properly respond to a uniform boating citation will be charged with a second-degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days imprisonment.³⁶

No-Discharge Zones

A no-discharge zone is a designated body of water that prohibits the discharge of treated and untreated boat sewage.³⁷ Within the boundaries of a no-discharge zone, vessel operators are required to retain their sewage discharges onboard for discharge at sea (beyond three miles from shore) or onshore at a pump-out facility.

A state may initiate the process to establish a no-discharge zone if:

- The state determines that the water body requires greater environmental protection than the current federal standards allow and EPA finds that adequate pump-out facilities are available;
- The EPA, upon application by the state, determines that the protection and enhancement of the water body requires establishment of a no-discharge zone; or
- The area is within a drinking water intake zone.³⁸

Currently, Florida has three designated no-discharge zones. These are Destin Harbor, the city of Key West waters, and the state waters within the Florida Keys National Marine Sanctuary.³⁹

³⁴ Section 327.73(z) and (bb), F.S.

³⁵ Section 327.73(s), F.S.

³⁶ Sections 775.082 and 775.083, F.S.

³⁷ U.S. Environmental Protection Agency, *Vessel Sewage Discharges: No-Discharge Zones*, <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-discharges-no-discharge-zones-ndzs> (last visited Mar. 27, 2019).

³⁸ *Id.*

³⁹ U.S. EPA, *No-Discharge Zones by State*, <https://www.epa.gov/vessels-marinas-and-ports/no-discharge-zones-ndzs-state#fl> (last visited Mar. 27, 2019).

Vessel Registration Fees

A portion of the state vessel registration fees for recreational vessels are distributed to county governments.⁴⁰ Of the portion designated for counties, \$1 is remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission and \$1 is remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund a grant program for public launching facilities, with priority consideration given to counties with more than 35,000 registered vessels.⁴¹ The following chart shows the base registration fee and portion of the fee that is remitted to the county.

Vessel Class	Base Registration Fee	Portion of Fee
A-1	\$5.50	N/A
A-2	\$16.25	2.85
1	\$28.75	8.85
2	\$78.25	32.85
3	\$127.75	56.85
4	\$152.75	68.86
5	\$189.75	86.85

III. Effect of Proposed Changes:

The bill defines “long-term stored vessel” to mean a vessel on the waters of the state which is not under the supervision and control of a person capable of operating, maintaining, or moving it from one location to another and which has remained anchored or moored outside of a public mooring field for at least 30 days out of a 60-day period. The definition is applicable only to the study required under the bill.

The bill requires the Fish and Wildlife Conservation Commission (FWC), contingent upon appropriation, to conduct, for no longer than two years, a study of the impacts of long-term stored vessels on local communities and the state. FWC must submit a report of its findings to the Governor and the Legislature within six months after the date the study is completed. The bill clarifies that the subsection governing the study expires January 1, 2024. The study must:

- Investigate whether, and to what extent, long-term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state;
- Investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, and vessels anchored within public mooring fields on the local and state economies, public safety, and the environment during and after a significant tropical storm or hurricane event; and
- Provide recommendations for appropriate management options for long-term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days to mitigate any identified negative impacts.

⁴⁰ Section 328.72(1), F.S.

⁴¹ Section 328.72(15), F.S.

The bill authorizes a county designated as a rural area of opportunity to create a no-discharge zone for freshwater waterbodies within the county's jurisdiction. The bill prohibits treated and untreated sewage discharges from live-aboard vessels, houseboats, floating structures, and commercial vessels within the no-discharge zone. Vessel operators would have to retain their sewage on board for discharge at sea or onshore at a pump out facility. The bill provides that a violation in a no-discharge zone would be a noncriminal infraction, subject to a \$250 civil penalty and declaration that the vessel or floating structure a nuisance and hazard to public safety and health.

The bill authorizes funding from the Marine Resources Conservation Trust Fund for the removal of derelict vessels. The bill requires certain amounts to be remitted to the state from the vessel registration fees designated for use by the counties, as follows:

- Class A-2: \$0.25 for each 12-month period registered.
- Class 1: \$2.06 for each 12-month period registered.
- Class 2: \$9.26 for each 12-month period registered.
- Class 3: \$16.45 for each 12-month period registered.
- Class 4: \$20.06 for each 12-month period registered.
- Class 5: \$25.46 for each 12-month period registered.

The bill prohibits a person from residing or dwelling on a vessel that has been charged by an officer of FWC or any law enforcement agency as derelict until the vessel is removed from the waters of the state permanently or returned to the waters of the state in a condition that is no longer derelict.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on state government. The Fish and Wildlife Conservation Commission (FWC) may experience a positive fiscal impact resulting from the issuance of boating citations. However, FWC may also experience increased costs due to increased enforcement efforts, issuing boater safety identification cards to persons who no longer fall under the grandfather provision in current law, and conducting a study on long-term stored vessels.

The bill may have a positive fiscal impact on local governments that are eligible for the derelict vessel removal grant program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 327.295, 327.4109, 327.60, 327.72, 327.73, 376.15, and 823.11 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 Environment and Natural Resources Committee on March 26, 2019:

- Deletes the exemption for persons born on or after January 1, 1988, to have a boater safety identification card before operating a vessel with a 10 horsepower or higher engine.
- Defines the term “long-term stored vessel” to mean a vessel which has remained anchored or moored without supervision or control for at least 30 days out of a 60-day period.

- Requires FWC to conduct a study, contingent upon appropriation, on the impacts of long-term stored vessels on local communities and the state, and to present the report to the Governor and Legislature.
- Authorizes counties designated as rural areas of opportunity to create in freshwater waterbodies within their jurisdiction a “no-discharge zone” where treated and untreated sewage discharges are prohibited.
- Requires vessel operators within a no-discharge zone to keep sewage discharges onboard for discharge at sea or onshore at a pump-out facility.
- Imposes a civil penalty and declares the vessel or floating structure a nuisance and hazard to public safety and health if an unlawful discharge is made in a no-discharge zone.
- Requires a certain portion of vessel registration fees designated for use by the counties to be deposited into the Marine Resources Conservation Trust Fund to fund grants for derelict vessel removal.
- Prohibits a person who leaves or abandons a derelict vessel from residing or dwelling on the vessel until it is permanently removed from state waters or returned to waters in a non-derelict condition.

B. Amendments:

None.



847822

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety identification cards.—

(1) A person ~~born on or after January 1, 1988,~~ may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the



847822

11 vessel photographic identification and a boater safety
12 identification card issued by the commission, or a state-issued
13 identification card or driver license indicating possession of
14 the boater safety identification card, which shows that he or
15 she has:

16 (a) Completed a commission-approved boater education course
17 that meets the minimum 8-hour instruction requirement
18 established by the National Association of State Boating Law
19 Administrators;

20 (b) Passed a course equivalency examination approved by the
21 commission; or

22 (c) Passed a temporary certificate examination developed or
23 approved by the commission.

24 Section 2. Subsection (6) is added to section 327.4109,
25 Florida Statutes, to read:

26 327.4109 Anchoring or mooring prohibited; exceptions;
27 penalties.—

28 (6) (a) As used in this subsection, and applied only for the
29 purposes of the study required by this subsection and not for
30 any other purposes, the term "long-term stored vessel" means a
31 vessel on the waters of the state which is not under the
32 supervision and control of a person capable of operating,
33 maintaining, or moving it from one location to another and which
34 has remained anchored or moored outside of a public mooring
35 field for at least 30 days out of a 60-day period.

36 (b) The commission shall conduct, or contract with a
37 private vendor to conduct, for not longer than 2 years, a study
38 of the impacts of long-term stored vessels on local communities
39 and this state.



847822

40 (c) The study shall:

41 1. Investigate whether, and to what extent, long-term
42 stored vessels and vessels anchored or moored outside of public
43 mooring fields for more than 30 days contribute to the number of
44 derelict and abandoned vessels on the waters of the state.

45 2. Investigate the impacts of long-term stored vessels,
46 vessels anchored or moored outside of public mooring fields for
47 more than 30 days, and vessels moored within public mooring
48 fields on the local and state economies, public safety, and the
49 environment during and after significant tropical storm and
50 hurricane events.

51 3. Provide recommendations for appropriate management
52 options for long-term stored vessels and vessels anchored or
53 moored outside public mooring fields for more than 30 days to
54 mitigate any identified negative impacts to local communities
55 and this state.

56 (d) The commission shall submit a report of its findings
57 and recommendations to the Governor, the President of the
58 Senate, and the Speaker of the House of Representatives within 6
59 months after the study is completed.

60 (e) This subsection is contingent upon appropriation by the
61 Legislature.

62 (f) This subsection expires January 1, 2024.

63 Section 3. Present paragraphs (c) and (d) of subsection (4)
64 of section 327.60, Florida Statutes, are redesignated as
65 paragraphs (d) and (e), respectively, and a new paragraph (c) is
66 added to that subsection, to read:

67 327.60 Local regulations; limitations.-

68 (4)



847822

69 (c) A county designated as a rural area of opportunity may
70 create a no-discharge zone for freshwater waterbodies within the
71 county's jurisdiction in which treated and untreated sewage
72 discharges from live-aboard vessels, houseboats, floating
73 structures, and commercial vessels are prohibited. Within no-
74 discharge zone boundaries, vessel operators shall retain their
75 sewage on board for discharge at sea or on shore at a pumpout
76 facility. For the purposes of this section, the term "at sea"
77 means more than 3 miles off the coast in the Atlantic Ocean or
78 more than 10 miles off the coast in the Gulf of Mexico.
79 Violations of this paragraph are punishable as provided in s.
80 327.53(6) and (7).

81 Section 4. Paragraph (r) of subsection (1) of section
82 327.73, Florida Statutes, is amended, and paragraph (s) of that
83 subsection and subsection (4) of that section are reenacted, to
84 read:

85 327.73 Noncriminal infractions.—

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

88 (r) Section 327.53(4), (5), and (7), relating to marine
89 sanitation, and section 327.60, relating to no-discharge zones,
90 for which the civil penalty is \$250.

91 (s) Section 327.395, relating to boater safety education.

92
93 Any person cited for a violation of any provision of this
94 subsection shall be deemed to be charged with a noncriminal
95 infraction, shall be cited for such an infraction, and shall be
96 cited to appear before the county court. The civil penalty for
97 any such infraction is \$50, except as otherwise provided in this



847822

98 section. Any person who fails to appear or otherwise properly
99 respond to a uniform boating citation shall, in addition to the
100 charge relating to the violation of the boating laws of this
101 state, be charged with the offense of failing to respond to such
102 citation and, upon conviction, be guilty of a misdemeanor of the
103 second degree, punishable as provided in s. 775.082 or s.
104 775.083. A written warning to this effect shall be provided at
105 the time such uniform boating citation is issued.

106 (4) Any person charged with a noncriminal infraction under
107 this section may:

108 (a) Pay the civil penalty, either by mail or in person,
109 within 30 days of the date of receiving the citation; or,

110 (b) If he or she has posted bond, forfeit bond by not
111 appearing at the designated time and location.

112

113 If the person cited follows either of the above procedures, he
114 or she shall be deemed to have admitted the noncriminal
115 infraction and to have waived the right to a hearing on the
116 issue of commission of the infraction. Such admission shall not
117 be used as evidence in any other proceedings. If a person who is
118 cited for a violation of s. 327.395 can show a boating safety
119 identification card issued to that person and valid at the time
120 of the citation, the clerk of the court may dismiss the case and
121 may assess a dismissal fee of up to \$10. If a person who is
122 cited for a violation of s. 328.72(13) can show proof of having
123 a registration for that vessel which was valid at the time of
124 the citation, the clerk may dismiss the case and may assess the
125 dismissal fee.

126 Section 5. Subsection (15) of section 328.72, Florida



847822

127 Statutes, is amended to read:

128 328.72 Classification; registration; fees and charges;
129 surcharge; disposition of fees; fines; marine turtle stickers.-

130 (15) DISTRIBUTION OF FEES.-Except as provided in this
131 subsection for the first \$2, \$1 of which shall be remitted to
132 the state for deposit into the Save the Manatee Trust Fund
133 created within the Fish and Wildlife Conservation Commission and
134 \$1 of which shall be remitted to the state for deposit into the
135 Marine Resources Conservation Trust Fund to fund a grant program
136 for public launching facilities pursuant to s. 206.606, giving
137 priority consideration to counties with more than 35,000
138 registered vessels, moneys designated for the use of the
139 counties, as specified in subsection (1), shall be distributed
140 by the tax collector to the board of county commissioners for
141 use only as provided in this section. Such moneys to be returned
142 to the counties are for the sole purposes of providing,
143 maintaining, or operating recreational channel marking and other
144 uniform waterway markers, public boat ramps, lifts, and hoists,
145 marine railways, boat piers, docks, mooring buoys, and other
146 public launching facilities; and removing derelict vessels,
147 debris that specifically impede boat access, not including the
148 dredging of channels, and vessels and floating structures deemed
149 a hazard to public safety and health for failure to comply with
150 s. 327.53. Counties shall demonstrate through an annual detailed
151 accounting report of vessel registration revenues that the
152 registration fees were spent as provided in this subsection.
153 This report shall be provided to the Fish and Wildlife
154 Conservation Commission no later than November 1 of each year.
155 If, before January 1 of each calendar year, the accounting



847822

156 report meeting the prescribed criteria has still not been
157 provided to the commission, the tax collector of that county may
158 not distribute the moneys designated for the use of counties, as
159 specified in subsection (1), to the board of county
160 commissioners but shall, for the next calendar year, remit such
161 moneys to the state for deposit into the Marine Resources
162 Conservation Trust Fund. The commission shall return those
163 moneys to the county if the county fully complies with this
164 section within that calendar year. If the county does not fully
165 comply with this section within that calendar year, the moneys
166 shall remain within the Marine Resources Trust Fund and may be
167 appropriated for the purposes specified in this subsection.

168 (a) From the vessel registration fees designated for use by
169 the counties in subsection (1), \$1 shall be remitted to the
170 state for deposit into the Save the Manatee Trust Fund.

171 (b) From the vessel registration fees designated for use by
172 the counties in subsection (1), \$1 shall be remitted to the
173 state for deposit into the Marine Resources Conservation Trust
174 Fund to fund a grant program for public launching facilities
175 pursuant to s. 206.606, giving priority consideration to
176 counties with more than 35,000 registered vessels.

177 (c) From the vessel registration fees designated for use by
178 the counties in subsection (1), the following amounts shall be
179 remitted to the state for deposit into the Marine Resources
180 Conservation Trust Fund to fund derelict vessel removal grants
181 pursuant to s. 376.15:

- 182 1. Class A-2: \$0.25 for each 12-month period registered.
183 2. Class 1: \$2.06 for each 12-month period registered.
184 3. Class 2: \$9.26 for each 12-month period registered.



847822

185 4. Class 3: \$16.45 for each 12-month period registered.

186 5. Class 4: \$20.06 for each 12-month period registered.

187 6. Class 5: \$25.46 for each 12-month period registered.

188 Section 6. Paragraph (d) of subsection (3) of section
189 376.15, Florida Statutes, is amended to read:

190 376.15 Derelict vessels; relocation or removal from public
191 waters.-

192 (3)

193 (d) The commission may establish a program to provide
194 grants to local governments for the removal of derelict vessels
195 from the public waters of the state. The program shall be funded
196 from the Marine Resources Conservation Trust Fund or the Florida
197 Coastal Protection Trust Fund. Notwithstanding the provisions in
198 s. 216.181(11), funds available for grants may only be
199 authorized by appropriations acts of the Legislature.

200 Section 7. Subsection (6) is added to section 823.11,
201 Florida Statutes, to read:

202 823.11 Derelict vessels; relocation or removal; penalty.-

203 (6) If an owner or a responsible party of a vessel
204 determined to be derelict as defined in s. 823.11(1) has been
205 charged by an officer of the commission or any law enforcement
206 agency or officer as specified in s. 327.70 and adjudicated
207 under subsection (5) for a violation of subsection (2) or a
208 violation of s. 376.15(2), a person may not reside or dwell on
209 such vessel until the vessel is removed from the waters of the
210 state permanently or returned to the waters of the state in a
211 condition that is no longer derelict.

212 Section 8. This act shall take effect July 1, 2019.

213



847822

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

215 And the title is amended as follows:

216 Delete everything before the enacting clause

217 and insert:

218 A bill to be entitled

219 An act relating to vessels; amending s. 327.395, F.S.;
220 requiring all persons, rather than only persons born
221 after a specified date, to have a specified boating
222 safety identification card in their possession before
223 operating certain vessels; amending s. 327.4109, F.S.;
224 defining a term; directing the Fish and Wildlife
225 Conservation Commission to conduct, contingent upon
226 appropriation, a specified study of the impacts of
227 long-term stored vessels and certain anchored and
228 moored vessels on local communities and the state and
229 to submit a report to the Governor and Legislature
230 within a specified time; providing for expiration of
231 the study; amending s. 327.60, F.S.; authorizing
232 certain counties to create no-discharge zones;
233 defining the term "at sea"; reenacting and amending s.
234 327.73, F.S., relating to noncriminal infractions;
235 specifying the fines for such violations; amending s.
236 328.72, F.S.; revising the distribution of vessel
237 registration fees to provide grants for derelict
238 vessel removal; amending s. 376.15, F.S.; conforming
239 provisions to changes made by the act; amending s.
240 823.11, F.S.; prohibiting persons from residing or
241 dwelling on certain derelict vessels until certain
242 conditions are met; providing an effective date.

By Senator Flores

39-01373-19

20191666__

1 A bill to be entitled
2 An act relating to the anchoring and mooring of
3 vessels outside of public mooring fields; creating s.
4 327.4106, F.S.; defining the terms "store" and
5 "stored"; prohibiting the owner, operator, or person
6 in charge of a vessel from anchoring or mooring
7 outside of public mooring fields for longer than a
8 specified period of time; requiring the relocation or
9 removal from the water of vessels anchored or moored
10 in violation of the prohibition; providing that such a
11 violation is noncriminal and is punishable by a fine;
12 amending s. 327.70, F.S.; providing for issuance of
13 uniform boating citations for such violations;
14 amending s. 327.73, F.S.; specifying the fines for
15 such violations; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 327.4106, Florida Statutes, is created
20 to read:

21 327.4106 Anchoring and mooring of vessels outside of public
22 mooring fields prohibited; penalties.-

23 (1) As used in this section, the term "store" or "stored"
24 means that a vessel is not under the supervision and control of
25 a person capable of operating and maintaining it or promptly
26 moving it from one location to another.

27 (2) The owner, operator, or person in charge of a vessel
28 may not store the vessel at anchor in one location on the public
29 waters of the state, outside of public mooring fields, for more

39-01373-19

20191666__

30 than 60 consecutive days. The owner, operator, or person in
31 charge of the vessel that is stored beyond this 60-day limit
32 must relocate the vessel to another location that is at least 10
33 miles from its current location; relocate the vessel to a
34 permitted mooring, a marina slip, or a private dock; or remove
35 the vessel from the water.

36 (3) A violation of this section is a noncriminal
37 infraction, punishable as provided in s. 327.73(1)(cc).

38 Section 2. Subsection (3) of section 327.70, Florida
39 Statutes, is amended to read:

40 327.70 Enforcement of this chapter and chapter 328.—

41 (3) (a) Noncriminal violations of the following statutes may
42 be enforced by a uniform boating citation mailed to the
43 registered owner of an unattended vessel anchored, aground, or
44 moored on the waters of this state:

45 1. Section 327.33(3)(b), relating to navigation rules.

46 2. Section 327.44, relating to interference with
47 navigation.

48 3. Section 327.50(2), relating to required lights and
49 shapes.

50 4. Section 327.53, relating to marine sanitation.

51 5. Section 328.48(5), relating to display of decal.

52 6. Section 328.52(2), relating to display of number.

53 7. Section 327.4106, relating to prohibited anchoring or
54 mooring outside public mooring fields.

55 ~~8.7.~~ Section 327.4107, relating to vessels at risk of
56 becoming derelict.

57 ~~9.8.~~ Section 327.4109, relating to prohibited anchoring or
58 mooring.

39-01373-19

20191666__

59 (b) Citations issued to livery vessels under this
60 subsection are the responsibility of the lessee of the vessel if
61 the livery has included a warning of this responsibility as a
62 part of the rental agreement and has provided to the agency
63 issuing the citation the name, address, and date of birth of the
64 lessee when requested by that agency. The livery is not
65 responsible for the payment of citations if the livery provides
66 the required warning and lessee information.

67 (c) A noncriminal violation of s. 327.4108 may be enforced
68 by a uniform boating citation issued to the operator of a vessel
69 unlawfully anchored in an anchoring limitation area.

70 (d) A noncriminal violation of s. 327.4109 may be enforced
71 by a uniform boating citation issued to the owner or operator of
72 a vessel or floating structure unlawfully anchored or moored in
73 a prohibited area.

74 (e) A noncriminal violation of s. 327.4106 may be enforced
75 by issuance of a uniform boating citation to the owner,
76 operator, or person in charge of a vessel unlawfully anchored or
77 moored outside of a public mooring field for more than 60
78 consecutive days.

79 Section 3. Paragraph (cc) is added to subsection (1) of
80 section 327.73, Florida Statutes, to read:

81 327.73 Noncriminal infractions.—

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

84 (cc) Section 327.4106, relating to anchoring or mooring
85 outside public mooring areas. Each day beyond the limit
86 constitutes a separate offense. The penalty for such a violation
87 is:

39-01373-19

20191666__

- 88 1. For a first offense, \$50.
89 2. For a second offense, \$100.
90 3. For a third or subsequent offense, \$250.
91

92 Any person cited for a violation of any provision of this
93 subsection shall be deemed to be charged with a noncriminal
94 infraction, shall be cited for such an infraction, and shall be
95 cited to appear before the county court. The civil penalty for
96 any such infraction is \$50, except as otherwise provided in this
97 section. Any person who fails to appear or otherwise properly
98 respond to a uniform boating citation shall, in addition to the
99 charge relating to the violation of the boating laws of this
100 state, be charged with the offense of failing to respond to such
101 citation and, upon conviction, be guilty of a misdemeanor of the
102 second degree, punishable as provided in s. 775.082 or s.
103 775.083. A written warning to this effect shall be provided at
104 the time such uniform boating citation is issued.

105 Section 4. This act shall take effect July 1, 2019.

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 Environment and Natural Resources

BILL: CS/SB 628

INTRODUCER: Environment and Natural Resources Committee and Senator Albritton

SUBJECT: Water Resources

DATE: March 28, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	Fav/CS
2.			IS	
3.			AP	

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

I. Summary:

CS/SB 628 requires the Department of Environmental Protection (DEP) to complete a comprehensive and quantitative needs-based review of the state’s water resources and submit the report to the Governor and the Legislature by January 1, 2021, and every 5 years thereafter. The bill requires DEP to coordinate with private and public sector entities, using any sources of information it deems reasonably reliable. The bill requires the report to:

- Determine the level of need by considering infrastructure funding needs, including, but not limited to, residential, commercial, environmental, agricultural, and industrial needs.
- Be based on a short-term, 5-year planning period and a long-term, 20-year planning period.
- Include water supply infrastructure, water quality protection and restoration, wastewater infrastructure, stormwater infrastructure, flood control infrastructure, and environmental infrastructure.
- Identify potential funding options, including public and private funding options, to meet the anticipated demand on water resources in the state, to comply with the legislative intent that sufficient water be available for all existing and future reasonable-beneficial uses and natural systems, and to avoid the adverse effects of competition for water supplies.

II. Present Situation:

Water Infrastructure

The Florida Section of the American Society of Civil Engineers' 2016 Report Card for Florida's Infrastructure gave Florida low marks for water infrastructure.¹ The assessment pointed to a U.S. Environmental Protection Agency report that estimated that Florida will need to spend about \$16.5 billion in drinking water infrastructure improvements over the next 20 years to ensure that drinking water systems in Florida continue to provide safe and reliable drinking water to the public.² Concerns related to both drinking water and wastewater infrastructure focused on the significant needs posed by high population growth, aging infrastructure, and sensitive ecological environments. For wastewater, the report highlighted the number of impaired waterbodies and emphasized the importance of improving wastewater standards in addressing those impairments. The report did not directly address flood control, but for stormwater, the report stated the following:

Florida's capital improvement needs for stormwater management are estimated to be \$1.1 billion through 2019, yet utility fees to upkeep the systems have declined since 2011 while needs will double over the decade. More than half of Florida's stormwater entities revealed an inability to address all capital improvement needs, and only 1 in 4 stormwater utilities stated that today's operation and maintenance capabilities were adequate only to meet the most urgent needs.³

Florida has a wide array of mechanisms for planning for and funding water infrastructure. The following discussion highlights some of the chief plans and programs that assess infrastructure needs and address the cost of meeting those needs.

Water Supply Planning

Water Management District Regional Water Supply Plan

Each of Florida's five Water Management Districts (WMDs) have as their core mission to focus on flood control and water supply issues as well water quality. Where a WMD determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for a 20-year planning period, the WMD develops a Regional Water Supply Plan setting forth projects, costs, and projections that are needed to meet these goals.⁴ Every five years, the WMD

¹ American Society of Civil Engineers, *2016 Report Card for Florida's Infrastructure*, available at https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf (last visited Mar. 28, 2019).

² *Id.* (citing U.S. EPA, *Drinking Water Infrastructure Needs Survey and Assessment* (2015), available at https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf (last visited Mar. 28, 2019)).

³ American Society of Civil Engineers, *2016 Reportcard for Florida's Infrastructure*, available at https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf (last visited Mar. 28, 2019).

⁴ Section 373.709(1), F.S.

reevaluates the determination and initiates a plan.⁵ Each plan includes a water supply and water resource development component; a funding strategy for water resource development projects; consideration of how the water supply development project options serve the public interest or save costs; technical data to support the plan; a list of water bodies for which minimum flows and levels have been established or will be established; recovery or prevention strategies for the water bodies not meeting their minimum flows and/or levels; and a list of water reservations.⁶

Department of Environmental Protection Annual Status Report of Regional Water Supply Planning

Department of Environmental Protection (DEP) then uses the Regional Water Supply Plans to create its Regional Water Supply Plan Annual Status Report to provide an update on the WMDs' progress in planning for the state's future water supply.⁷ The Annual Status Report also includes statewide projections for population and water demand, water demand projections by use category, and per capita water use (the amount of public supply water used per person).

Consolidated Water Management District Annual Report

The Consolidated Water Management District Annual Report addresses both water supply and water quality. Each WMD must annually prepare and submit the report to DEP, the Governor, and the Legislature.⁸

The report contains several reports required under the Florida Water Resources Act, including:

- A district water management plan annual report or the annual work plan report.
- The DEP-approved minimum flows and minimum water levels annual priority list and schedule.⁹
- The annual 5-year capital improvements plan.¹⁰
- The alternative water supplies annual report.¹¹
- The final annual 5-year water resource development work program.¹²
- The Florida Forever Water Management District Work Plan annual report.¹³
- The mitigation donation annual report.¹⁴

The report must also contain information on all projects related to water quality or water quantity as part of a 5-year work program, including:

- A list of all specific projects identified to implement a basin management action plan or a recovery or prevention strategy;

⁵ *Id.*

⁶ DEP, *Water Supply*, <https://floridadep.gov/water-policy/water-policy/content/water-supply> (last visited Mar. 28, 2019).

⁷ Section 373.709(6), F.S.

⁸ Section 373.036(7)(a), F.S.

⁹ Section 373.042(3), F.S.

¹⁰ Section 373.536(6)(a)3., F.S.

¹¹ Section 373.707(8)(n), F.S.

¹² Section 373.536(6)(a)4., F.S.

¹³ Section 373.199, F.S.

¹⁴ Section 373.414(1)(b)2., F.S.

- A priority ranking for each listed project for which state funding through the water resources development work program is requested, which must be made available to the public for comment at least 30 days before submission of the consolidated annual report;
- The estimated cost for each listed project;
- The estimated completion date for each listed project;
- The source and amount of financial assistance to be made available by DEP, a WMD, or other entity for each listed project; and
- A quantitative estimate of each listed project's benefit to the watershed, water body, or water segment in which it is located.¹⁵

Basin Management Action Plans

A basin management action plan (BMAP) is one of the primary tools DEP uses to reduce pollution in Florida's waterbodies. BMAPs are plans that use existing planning tools to address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs must include the following information related to infrastructure needs and costs relating to water quality:

- A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project; and
- The source and amount of financial assistance to be made available by DEP, a WMD, or other entity for each listed project;

Office of Economic and Demographic Research (EDR) Annual Assessment of Florida's Water Resources and Conservation Lands

In 2016, the Legislature created section 403.928, F.S., to require EDR to conduct an annual assessment of Florida's water resources and conservation lands.¹⁶ Regarding water resources, the assessment must include:

- Historical and current expenditures and projections of future expenditures by governments and utilities based upon historical trends and ongoing projects or initiatives associated with water supply and demand and water quality protection and restoration;
- An analysis and estimates of future expenditures necessary to comply with federal and state laws and regulations and to achieve the legislature's intent that sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that adverse effects of competition for water supplies be avoided.
- A compilation of projected water supply and demand data developed by each WMD, along with any significant differences between the methods used to calculate data;
- Forecasts of government revenues dedicated in current law for the purposes of water supply demand and water quality protection and restoration, or that have been historically allocated for these purposes, as well as public and private utility revenues; and
- An identification of gaps between projected revenues and projected and estimated expenditures.¹⁷

¹⁵ Section 373.036(7)(b)8.a.-f., F.S.

¹⁶ Ch. 2016-1, Laws of Fla.

¹⁷ Section 403.928(1), F.S.

Various agencies and local governmental entities are directed to aid EDR with their respective areas of expertise and provide EDR access to any information, confidential or otherwise, the EDR considers necessary.¹⁸ The assessment must be submitted to the Legislature by January 1, 2017, and by January 1 each year thereafter.¹⁹

South Florida Environmental Report

South Florida Water Management District is tasked with the most significant water resource restoration projects ever conducted. Between Oct. 1, 2000, and June 30, 2018, Florida has spent \$2.34 billion on the Comprehensive Everglades Restoration Plan (CERP) and the federal government has spent \$1.37 billion.²⁰ Significant ongoing investment must continue to be made to move forward with CERP for many years to come. South Florida Water Management consolidates many of its numerous reports into the South Florida Environmental Report, which includes the following relating to infrastructure:

- Financial reporting for the Everglades Forever Act, CERP, and the Northern Everglades and Estuaries Protection Plan;
- Fiscal and Performance Accountability Report;
- Priority Waterbodies List and Schedule;
- Five-Year Capital Improvements Plan;
- Five-Year Water Resource Development Work Program, which now includes the Alternative Water Supply Annual Report;
- Florida Forever Work Plan Annual Update; and
- Mitigation Donation Annual Report.²¹

Flood Control Planning

In addition to the various projects developed and supported by WMDs which are charged with addressing flood control as one of their primary responsibilities,²² DEP and the Department of Economic Opportunity have engaged with local governments and have developed the Florida Adaptation Planning Guidebook to assist with resiliency planning.²³ Resiliency is the ability to recover quickly from disasters and to adapt to future conditions such as sea level rise. Resiliency is generally addressed at a local government level, and each local government may have unique goals, needs, and available resources. DEP encourages local governments to implement adaptation plans and to continue to modify their plans to keep pace with changing natural and built environments.²⁴ DEP also has a grant program to assist local governments aimed at

¹⁸ Section 403.928(5), (6), F.S.

¹⁹ Section 403.928(7), F.S.

²⁰ SFWMD, *CERP Implementation*, <https://www.sfwmd.gov/our-work/cerp-project-planning/cerp-implementation> (last visited Mar. 28, 2019).

²¹ SFWMD, *South Florida Environmental Report – Volume I*, 1-1, available at

https://apps.sfwmd.gov/sfwmd/SFER/2019_sfer_final/v1/chapters/v1_ch1.pdf (last visited Mar. 28, 2019).

²² DEP, Water Management Districts, <https://floridadep.gov/water-policy/water-policy/content/water-management-districts> (last visited Mar. 28, 2019).

²³ DEP, *Florida Resilient Coastlines Program*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program> (last visited Mar. 28, 2019).

²⁴ *Id.*

preparing coastal Florida communities for current and future effects of rising sea levels, including coastal flooding, erosion, and ecosystem changes.²⁵

U.S. EPA Drinking Water Infrastructure Needs Survey and Assessment

The federal government has also assessed aspects of Florida's water infrastructure needs. The 1996 Safe Drinking Water Act Amendments mandated that EPA conduct an assessment of the nation's public water systems' infrastructure needs every four years and use the findings to allocate Drinking Water State Revolving Fund (DWSRF) capitalization grants to states to help public water systems obtain financing for improvements necessary to protect public health and comply with drinking water regulations.²⁶ For its report, EPA collects data from the states to calculate water systems' 20-year needs.²⁷ The assessment includes an asset inventory-based approach to identify long-term infrastructure replacement and rehabilitation needs in an effort to better capture 20-year investment needs.²⁸

III. Effect of Proposed Changes:

The bill includes a series of whereas clauses that provide legislative findings that water is an essential and beneficial resource and that a needs-based water assessment is vital to successfully plan for Florida's current and future population growth and infrastructure and environmental needs.

The bill provides a statement of legislative intent that:

- Department of Environmental Protection (DEP) interpret the act, to the maximum extent practicable, in a manner that provides the Legislature with a comprehensive overview of Florida's water infrastructure funding needs, including, but not limited to, residential, commercial, environmental, agricultural, and industrial needs; and
- DEP coordinate, to the maximum extent practicable, with private and public sector entities to produce the report required under the act, using any source of information it deems reasonably reliable as long as the source is identified in the report.

The bill requires DEP to conduct a comprehensive and quantitative, needs-based review of the state's water resources. To determine the level of need, the review must include, but is not limited to, the following:

- The funds necessary for the infrastructure's capacity to meet current and future demands.
- The funds necessary to provide for the infrastructure's existing and near-future physical condition and to provide expected levels of service and protection to the public safety.
- The funds necessary for the infrastructure to be operated and maintained in compliance with federal, state, and local government regulations.

²⁵ DEP, *Funding Opportunities*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program/content/funding-opportunities> (last visited Mar. 28, 2019).

²⁶ U.S. EPA, *Drinking Water Infrastructure Needs Survey and Assessment* (2015), available at https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf (last visited Mar. 28, 2019).

²⁷ *Id.* at 35-42.

²⁸ *Id.* at 10.

- The funds necessary for the infrastructure to be able to prevent or protect against significant multi-hazard threats and incidents, and its ability to quickly return to a pre-hazard or pre-threat level of service.
- The replacement costs for infrastructure that is nearing, at, or exceeding its estimated service life.
- The costs of compliance with legislative intent that sufficient water be available for all existing and future reasonable-beneficial uses and for natural systems, and that adverse effects of competition for water supplies be avoided.
- The infrastructure needs and funds necessary to protect, restore, and enhance this state's water.
- The infrastructure, including stormwater systems, needs, and funds necessary to provide for adequate flood protection.

The review must be based on a short-term, 5-year planning period and a long-term, 20-year planning period and must consider, but need not be limited to, the following:

- Water supply infrastructure, including, at a minimum, water supply development projects, water resource development projects, and water conservation;
- Water quality protection and restoration, including, at a minimum, septic system conversion, basin management action plans, and surface water improvement and management plans;
- Wastewater infrastructure;
- Stormwater infrastructure;
- Flood control infrastructure; and
- Environmental restoration.

The review must identify potential funding options, including public and private funding options, to meet the anticipated demand on water resources in the state necessary to comply with legislative intent that sufficient water be available for all existing and future reasonable-beneficial uses and natural systems, and to avoid the adverse effects of competition for water supplies.

The bill requires the assessment to be submitted to the Governor and the Legislature by January 1, 2021, and every 5 years thereafter.

The bill takes effect on July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be a negative fiscal impact on DEP because of the time and resources necessary to complete the water resources report. If there is overlap with reports that DEP already conducts or for which it provides information to other entities, some costs may be absorbed by these existing efforts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 403.9339 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 Environment and Natural Resources Committee on March 26, 2019:

- Requires DEP to complete a comprehensive and quantitative needs-based report on the state's water resources and submit the report to the Governor and the Legislature by January 1, 2021, and every 5 years thereafter.

- Requires DEP to coordinate with private and public sector entities, using any sources of information it deems reasonably reliable.
- Requires the report to:
 - Determine the level of need by considering infrastructure funding needs, including, but not limited to, residential, commercial, environmental, agricultural, and industrial needs.
 - Be based on a short-term, 5-year planning period and a long-term, 20-year planning period.
 - Include water supply infrastructure, water quality protection and restoration, wastewater infrastructure, stormwater infrastructure, flood control infrastructure, and environmental infrastructure.
 - Identify potential funding options to meet the anticipated demand on water resources in the state, including public and private funding options.

B. Amendments:

None.



416612

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. It is the intent of the Legislature that the Department of Environmental Protection interpret this act, to the maximum extent practicable, in a manner that provides the Legislature with a comprehensive overview of this state's water infrastructure funding needs, including, but not limited to, its residential, commercial, environmental, agricultural, and



416612

11 industrial needs. The department shall coordinate, to the
12 maximum extent practicable, with private and public sector
13 entities to produce the report required under s. 403.9339,
14 Florida Statutes. The department may use any source of
15 information it deems reasonably reliable as long as the source
16 is identified in the report.

17 Section 2. Section 403.9339, Florida Statutes, is created
18 to read:

19 403.9339 Comprehensive overview of statewide water
20 resources report.-

21 (1) The department shall conduct a comprehensive and
22 quantitative needs-based overview of this state's water
23 resources.

24 (2) To determine the level of need, the overview must
25 include, but is not limited to, all of the following:

26 (a) The funds necessary for the infrastructure's capacity
27 to meet current and future demands.

28 (b) The funds necessary to provide for the infrastructure's
29 existing and near-future physical condition and to provide
30 expected levels of service and protection to the public safety.

31 (c) The funds necessary for the infrastructure to be
32 operated and maintained in compliance with federal, state, and
33 local government regulations.

34 (d) The funds necessary for the infrastructure to be able
35 to prevent or protect against significant multi-hazard threats
36 and incidents, and its ability to quickly return to a pre-hazard
37 or pre-threat level of service.

38 (e) The replacement costs for infrastructure that is
39 nearing, at, or exceeding its estimated service life.



416612

40 (f) The costs of compliance with legislative intent that
41 sufficient water be available for all existing and future
42 reasonable-beneficial uses and for natural systems, and that
43 adverse effects of competition for water supplies be avoided.

44 (g) The infrastructure needs and funds necessary to
45 protect, restore, and enhance this state's water.

46 (h) The infrastructure, including stormwater systems, needs
47 and funds necessary to provide for adequate flood protection.

48 (3) The overview must be based on a short-term, 5-year
49 planning period and a long-term, 20-year planning period and
50 must include, but need not be limited to, all of the following:

51 (a) Water supply infrastructure, including, at a minimum,
52 water supply development projects, water resource development
53 projects, and water conservation.

54 (b) Water quality protection and restoration, including, at
55 a minimum, septic system conversion, basin management action
56 plans under s. 403.067(7)(a), and surface water improvement and
57 management plans under s. 373.453.

58 (c) Wastewater infrastructure.

59 (d) Stormwater infrastructure.

60 (e) Flood control infrastructure.

61 (f) Environmental restoration.

62 (4) The overview must also identify potential funding
63 options to meet the anticipated demand on water resources in
64 this state which are necessary to comply with laws and
65 regulations governing subsection (1), to comply with the
66 Legislature's intent that sufficient water be available for all
67 existing and future reasonable-beneficial uses and the natural
68 systems, and to avoid adverse effects of competition for water



416612

69 supplies. The overview of funding options may include a review
70 of public and private funding options used in this state, other
71 states, or other countries.

72 (5) Beginning January 1, 2021, and every 5 years
73 thereafter, the department shall submit a report of the findings
74 of the overview to the Governor, the President of the Senate,
75 and the Speaker of the House of Representatives.

76 Section 3. This act shall take effect July 1, 2019.

77
78 ===== T I T L E A M E N D M E N T =====

79 And the title is amended as follows:

80 Delete everything before the enacting clause
81 and insert:

82 A bill to be entitled
83 An act relating to water resources; providing
84 legislative intent; creating s. 403.9339, F.S.;
85 requiring the Department of Environmental Protection
86 to conduct a comprehensive and quantitative needs-
87 based overview of this state's water resources;
88 specifying requirements for the overview; requiring
89 the department to submit a report every 5 years to the
90 Governor and the Legislature by a specified date;
91 providing an effective date.

92
93 WHEREAS, the Legislature finds that water constitutes a
94 public resource benefitting the entire state, and

95 WHEREAS, water is an essential element to this state's
96 current and future growth, sustainability, and environmental
97 health, and



416612

98 WHEREAS, a needs-based water assessment is vital to
99 successfully plan for this state's current and future population
100 growth, and infrastructural and environmental needs, NOW,
101 THEREFORE,

By Senator Albritton

26-00920A-19

2019628__

1 A bill to be entitled
2 An act relating to water resources; amending s.
3 403.928, F.S.; declaring legislative intent; revising
4 requirements for the Office of Economic and
5 Demographic Research's annual assessment of this
6 state's water resources and conservation lands;
7 requiring the office to consult with the Department of
8 Environmental Protection; defining the term "agency";
9 requiring the assessment to be submitted to the
10 Legislature by a specified date; making technical
11 changes; providing an effective date.

12
13 WHEREAS, the Legislature finds that water constitutes a
14 public resource that benefits the entire state, and

15 WHEREAS, water is an essential element to Florida's current
16 and future growth, sustainability, and environmental health, and

17 WHEREAS, a water and lands assessment that is based on
18 needs, and not simply expenditures, is vital to successfully
19 plan for Florida's current and future population growth and
20 infrastructure needs, NOW, THEREFORE,

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 403.928, Florida Statutes, is amended to
25 read:

26 403.928 Assessment of water resources and conservation
27 lands.—The Office of Economic and Demographic Research, in
28 consultation with the department, shall conduct an annual
29 assessment of Florida's water resources and conservation lands.

26-00920A-19

2019628__

30 (1) LEGISLATIVE INTENT.—The Legislature intends that the
31 Office of Economic and Demographic Research interpret this
32 section, to the maximum extent practicable, in a manner that
33 provides the Legislature with the most comprehensive annual
34 assessment of this state's water infrastructure funding needs,
35 including, but not limited to, residential, commercial,
36 environmental, agricultural, and industrial. It is further the
37 intent of the Legislature that the office coordinate, to the
38 greatest extent possible, with the Department of Environmental
39 Protection to produce the annual assessment.

40 (2) ~~(1)~~ WATER RESOURCES.—The assessment must include:

41 (a) A quantitative, needs-based evaluation of all of the
42 following:

43 1. Water supply infrastructure, including, but not limited
44 to, water supply development projects, water resource
45 development projects, and water conservation.

46 2. Water quality protection and restoration, including, but
47 not limited to, septic system conversion, basin management
48 action plans under s. 403.067(7)(a), and surface water
49 improvement and management plans under s. 373.453.

50 3. Wastewater infrastructure, including septic systems.

51 4. Stormwater infrastructure.

52 5. Flood control infrastructure.

53 6. Environmental restoration.

54 (b) ~~(a)~~ An evaluation of ~~Historical and~~ current expenditures
55 and ~~projections of future expenditures~~ by federal, state,
56 regional, and local governments and public and private utilities
57 which are based upon ~~historical trends and ongoing projects or~~
58 ~~initiatives~~ associated with the categories listed in paragraph

26-00920A-19

2019628__

59 (a).÷

60 ~~1. Water supply and demand; and~~

61 ~~2. Water quality protection and restoration.~~

62 (c)~~(b)~~ An analysis and estimates of future expenditures by
63 federal, state, regional, and local governments and public and
64 private utilities necessary to comply with federal and state
65 laws and regulations governing paragraphs (a) and (b)
66 ~~subparagraphs (a)1. and 2.~~ The analysis and estimates must
67 address future needs ~~expenditures~~ by federal, state, regional,
68 and local governments and all public and private utilities
69 necessary to achieve the requirements in s. 7, Art. II of the
70 State Constitution, and the Legislature's intent that sufficient
71 water be available for all existing and future reasonable-
72 beneficial uses and the natural systems, and that adverse
73 effects of competition for water supplies be avoided. The
74 assessment must include a compilation of projected water supply
75 and demand data developed by each water management district
76 pursuant to ss. 373.036 and 373.709, with notations regarding
77 any significant differences between the methods used by the
78 districts to calculate the data.

79 (d)~~(e)~~ Forecasts of federal, state, regional, and local
80 government revenues dedicated in current law for the purposes
81 specified in paragraphs (a) and (b) ~~subparagraphs (a)1. and 2.~~
82 or that have been historically allocated for these purposes, as
83 well as public and private utility revenues.

84 (e)~~(d)~~ An identification of gaps between projected revenues
85 and projected and estimated needs ~~expenditures~~.

86 (f) A comprehensive list of funding options to fulfill any
87 funding gaps identified in paragraph (e). In creating the list,

26-00920A-19

2019628__

88 the Office of Economic and Demographic Research shall evaluate,
89 at a minimum, existing revenue sources, potential additional
90 revenue sources, and funding mechanisms used by other states for
91 water infrastructure and environmental restoration.

92 (3)~~(2)~~ CONSERVATION LANDS.—The assessment must include all
93 of the following:

94 (a) Historical and current expenditures and projections of
95 future expenditures by federal, state, regional, and local
96 governments based upon historical trends and ongoing projects or
97 initiatives associated with real property interests eligible for
98 funding under s. 259.105.

99 (b) An analysis and estimates of future expenditures by
100 federal, state, regional, and local governments necessary to
101 purchase lands identified in plans set forth by state agencies
102 or water management districts.

103 (c) An analysis of the ad valorem tax impacts, by county,
104 resulting from public ownership of conservation lands.

105 (d) Forecasts of federal, state, regional, and local
106 government revenues dedicated in current law to maintain
107 conservation lands and the gap between projected expenditures
108 and revenues.

109 (e) The total percentage of Florida real property that is
110 publicly owned for conservation purposes.

111 (f) A comparison of the cost of acquiring and maintaining
112 conservation lands under fee simple or less than fee simple
113 ownership.

114 (4)~~(3)~~ SCOPE.—The assessment must ~~shall~~ include:

115 (a) Analyses on a statewide, regional, or geographic basis,
116 as appropriate, and must ~~shall~~ identify analytical challenges in

26-00920A-19

2019628__

117 assessing information across the different regions of this ~~the~~
118 state.

119 (b)(4) An identification of ~~The assessment must identify~~
120 any overlap in the expenditures or needs for water resources and
121 conservation lands.

122 (5) AGENCY ASSISTANCE.—

123 (a) Agencies ~~The water management districts, the Department~~
124 ~~of Environmental Protection, the Department of Agriculture and~~
125 ~~Consumer Services, the Fish and Wildlife Conservation~~
126 ~~Commission, counties, municipalities, and special districts~~
127 shall provide assistance to the Office of Economic and
128 Demographic Research related to their respective areas of
129 expertise.

130 (b)(6) An agency must provide the Office of Economic and
131 Demographic Research with ~~must be given access to~~ any data held
132 by the an agency which ~~as defined in s. 112.312~~ if the office of
133 ~~Economic and Demographic Research~~ considers the data necessary
134 to complete the assessment, including any confidential data.

135 (c) As used in this subsection, the term "agency" has the
136 same meaning as in s. 112.312.

137 (6)(7) SUBMISSION.—~~The assessment~~ must ~~shall~~ be submitted
138 to the President of the Senate and the Speaker of the House of
139 Representatives by January 1, 2020 ~~2017~~, and by January 1 of
140 each year thereafter.

141 Section 2. This act shall take effect July 1, 2019.

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 Environment and Natural Resources

BILL: CS/SB 1022

INTRODUCER: Environment and Natural Resources and Senator Albritton

SUBJECT: Onsite Treatment and Disposal Systems

DATE: March 28, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.			AEG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1022 transfers the Department of Health’s (DOH) program for onsite sewage treatment and disposal systems (OSTDS) to the Department of Environmental Protection (DEP) through a type two transfer. The bill requires DOH and DEP to enter into a memorandum of agreement addressing the type two transfer and the respective roles of the county health departments and DEP. The bill requires DEP to appoint an OSTDS technical advisory committee. DEP is required to adopt rules, considering the recommendations of the technical advisory committee, which are intended to increase the availability of cost-effective, low-maintenance, and nutrient-removing onsite systems in the marketplace.

The bill requires DEP and the water management districts to submit information on septic to sewer conversion and septic tank remediation projects and related project costs to the Office of Economic and Demographic Research. The bill creates additional requirements for DEP to follow when applying the prohibition on new OSTDSs on lots of less than 1 acre within a priority focus area for an Outstanding Florida Spring in conflict with an OSTDS remediation plan. The bill requires DEP to allow the use of systems certified under NSF/ANSI 245 before July 1, 2019.

The bill eliminates DOH’s research review and advisory committee and technical review and advisory panel that advise and assist DOH on onsite sewage treatment and disposal systems.

Except as otherwise provided in the bill, the bill will take effect on July 1, 2020.

II. Present Situation:

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDS) (commonly referred to as “septic systems”) can contain any one or more of the following components: a septic tank; a subsurface drainfield; an aerobic treatment unit; a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless incinerating or organic waste-composting toilet; and a sanitary pit privy.¹ OSTDSs generally consist of two basic parts: the septic tank and the drainfield.² The septic tank is a watertight box with an inlet pipe and an outlet pipe.³ Wastewater flows from the building to the septic tank through the sewer pipe. The septic tank treats the wastewater naturally by holding it in the tank long enough for solids and liquids to separate. Solids heavier than water settle at the bottom of the tank forming a layer of sludge, leaving a layer of partially clarified wastewater. The layers of sludge remain in the septic tank where bacteria found naturally in the wastewater work to break down the solids. The sludge that cannot be broken down remains in the tank until the tank is pumped. The layer of clarified liquid flows from the septic tank to the drainfield, which helps to uniformly distribute the wastewater in the drainfield. The drainfield is generally a series of trenches lined with gravel or coarse sand, buried one to three feet below ground. Perforated pipes run through the trenches to distribute the wastewater. The drainfield treats the wastewater by allowing it to slowly trickle from the pipes out into the gravel and down through the soil, which acts as a biological filter to remove pathogens and excess nutrients.⁴

The Department of Health (DOH) administers OSTDS programs, develops statewide rules, and provides training and standardization.⁵ DOH must inspect and issue a permit for an OSTDS prior to construction, modification, or operation.⁶ Sewage waste and effluent from OSTDSs may not be discharged onto the ground or into groundwaters, surface waters, or aquifers.⁷ The permitting and inspection of OSTDSs is regulated by the environmental health section of county health departments and DOH’s Bureau of Onsite Sewage Programs.⁸ County health departments are described as state-local partnerships, and they are units of DOH that are located in each of

¹ DEP, *Septic Systems*, <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited Mar. 21, 2019); See s. 381.0065(2)(k), F.S. “Onsite sewage treatment and disposal system” is defined as “a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.”

² 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 Mar. 21, 2019).

³ West Virginia University Energy Institute, National Environmental Services Center, *What is a Septic System? How Do I Maintain One?*, http://www.nesc.wvu.edu/subpages/septic_defined.cfm (last visited Mar. 21, 2019).

⁴ *Id.*

⁵ Section 381.006(7), F.S.; Section 381.0065(3), F.S.

⁶ Section 381.0065(4), F.S.; Fla. Admin. Code Chapter 64E-6.

⁷ Fla. Admin. Code R. 64E-6.005.

⁸ Fla. Admin. Code Chapter 64E-6; DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Mar. 21, 2019); DEP, *Septic Systems*, <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited Mar. 21, 2019).

Florida's 67 counties.⁹ DOH has an interagency agreement with the Department of Environmental Protection (DEP) that clarifies responsibilities relating to OSTDSs between the two departments.¹⁰

DOH established the Technical Review and Advisory Panel to assist in the adoption of rules for OSTDSs and to review and comment on any legislation or existing policy related to OSTDSs.¹¹ All rules proposed by DOH that relate to OSTDSs must be presented to the panel for review and comment prior to adoption.¹² DOH's research and review advisory committee advises DOH on directions for new research, reviews and ranks proposals for research contracts, and reviews and provides comments on draft research reports regarding the OSTDS industry.¹³

There are an estimated 2.6 million OSTDS systems in Florida, providing wastewater disposal for 30 percent of the state's population.¹⁴ In some areas, development is dependent on OSTDSs due to the cost and time it takes to install central sewer systems. For example, in rural areas and low-density developments, central sewer systems are not cost effective. Less than one percent of septic systems in Florida are actively managed.¹⁵ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.¹⁶ In Florida, approximately 30-40 percent of the nitrogen levels are reduced in a system that is installed 24 inches or more from groundwater.¹⁷ This leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.¹⁸

Total Maximum Daily Loads and Basin Management Action Plans

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.¹⁹ Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water

⁹ Chapter 154, part I, F.S.; DOH, *County Health Departments*, <http://www.floridahealth.gov/programs-and-services/county-health-departments/index.html> (last visited Mar. 21, 2019).

¹⁰ *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 (last visited Mar. 24, 2019).

¹¹ Section 381.0068, F.S.

¹² Section 381.0068(2), F.S.

¹³ Section 381.0065(4)(o), F.S.

¹⁴ DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Mar. 21, 2019).

¹⁵ 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> (last visited Mar. 21, 2019). The report begins on page 58 of the PDF.

¹⁶ *Id.*

¹⁷ 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> (last visited Mar. 6, 2019).

¹⁸ 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/SS/SS55000.pdf> (last visited Mar. 21, 2019).

¹⁹ DEP, *Total Maximum Daily Loads Program*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Mar. 21, 2019).

Act, DEP is required to establish a TMDL for impaired waterbodies.²⁰ 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.²¹ Waste load allocations are pollutant loads attributable to existing and future point sources. Load allocations are pollutant loads attributable to existing and future nonpoint sources. Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.²²

DEP is the lead agency in coordinating the development and implementation of TMDLs.²³ Basin management action plans (BMAPs) are one of the primary mechanisms DEP uses to achieve TMDLs.²⁴ BMAPs are plans that use existing planning tools to address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices 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.²⁵

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.²⁶ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. Each new or revised BMAP must include a list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project.²⁷

In 2016, the Florida Legislature passed the Florida Springs and Aquifer Protection Act, which identified 30 "Outstanding Florida Springs" (OFS) that have additional statutory protections and requirements.²⁸ Key aspects of the Springs and Aquifer Protection Act relating to water quality include:

- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan if it has been determined that OSTDSs within a priority focus area contribute at least 20

²⁰ Section 403.067, F.S.

²¹ Section 403.031(21), F.S.

²² 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."

²³ Section 403.067(7)(b), F.S.

²⁴ DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Mar. 21, 2019).

²⁵ Section 403.067(7), F.S.

²⁶ *Id.*

²⁷ Section 403.067(7)(a)4.c., F.S.

²⁸ Chapter 2016-1, Laws of Fla.; ch. 373, p. VIII, F.S.; see s. 373.802(4), 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.

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; and
- The prohibition against new OSTDSs on parcels of less than 1 acre, unless the system complies with the OSTDS remediation plan.²⁹

The OSTDS remediation plan must include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for a sewage system or group of systems.³⁰ The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.³¹

A priority focus area of an OFS means the area or areas of a basin where the Floridan Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by DEP in consultation with the appropriate water management districts, and delineated in a BMAP.³²

Office of Economic and Demographic Research

The Office of Economic and Demographic Research (EDR) is a research arm of the Florida Legislature, principally focused on forecasting economic and social trends that affect policy making, revenues, and appropriations.³³ EDR also researches projects for legislative committees, and works with agencies, statewide commissions, and task forces that have legislators among their membership to assess the impact of proposals they are considering submitting to the Legislature.³⁴ EDR provides information related to a broad array of subjects.³⁵

In 2016, the Legislature passed a law requiring EDR to conduct an annual assessment of Florida's water resources and conservation lands.³⁶ The assessment must include historical and current expenditures, and projections of future expenditures, by government entities and public and private utilities for water quality protection and restoration.³⁷ Various agencies and local governmental entities are directed to aid EDR with their respective areas of expertise and provide EDR access to any information, confidential or otherwise, that EDR considers necessary to complete the assessment.³⁸ The assessment must be submitted to the Legislature by January 1 each year.³⁹ EDR has begun the process of evaluating the data and methodology used to forecast

²⁹ Sections 373.807 and 373.811, F.S.

³⁰ Section 373.807(3), F.S.

³¹ *Id.*

³² Section 373.802(5), F.S.

³³ EDR, *Welcome*, <http://edr.state.fl.us/Content/> (last visited Mar. 24, 2019).

³⁴ EDR, *Functions of EDR*, <http://edr.state.fl.us/Content/about/functions.cfm> (last visited Mar. 24, 2019).

³⁵ Section 216.136, F.S.

³⁶ Ch. 2016-1, Laws of Fla.; see s. 403.928, F.S.; see EDR, *Annual Assessment of Florida's Water Resources and Conservation Lands, 2019 Edition* (2019), available at http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment_2019Edition.pdf (last visited Mar. 24, 2019).

³⁷ Section 403.928(1)(a)2., F.S.

³⁸ Section 403.928(5), (6), F.S.

³⁹ Section 403.928(7), F.S.

expenditures that are necessary to comply with federal and state laws and regulations governing water quality.⁴⁰ EDR indicates that subsequent editions of its Annual Assessment of Florida's Water Resources and Conservation Lands will further analyze the future expenditures necessary to comply with laws governing water supply and water quality.⁴¹

Type Two Transfers

Florida law defines a type two transfer as the merging of an existing department, program, or activity into another department.⁴² 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. Unless otherwise provided by law, the administrative rules of any department involved in the transfer remain in effect until specifically changed.⁴³

Consolidated Annual Reports

By March 1 of each year, Florida's water management districts are required to submit a consolidated annual report to the Governor, the President of the Senate, the Speaker of the House, and DEP.⁴⁴ The water management districts must also provide copies of the report to the chairs of the legislative committees having substantive or fiscal jurisdiction over water management districts and the governing boards of all county entities having jurisdiction or deriving any funds for operations of the district.⁴⁵ The report must also be made available to the public in either a printed or electronic format.⁴⁶ The consolidated annual reports inform the state about the status of each district's programs and water resources, and the reports must contain numerous elements including statutorily required plans and reports.⁴⁷

NSF/ANSI 245

NSF International (NSF) is a private non-profit organization that develops standards and certifies products and systems.⁴⁸ DOH's regulations provide the following definition for NSF: "National Sanitation Foundation International, hereinafter referred to as NSF - a not for profit research,

⁴⁰ EDR, *Annual Assessment of Florida's Water Resources and Conservation Lands, 2019 Edition*, 2 (2019), available at http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment_2019Edition.pdf (last visited Mar. 24, 2019).

⁴¹ *Id.* at 3.

⁴² Section 20.06(2), F.S.

⁴³ *Id.*

⁴⁴ Section 373.036(7)(a), F.S.

⁴⁵ *Id.*

⁴⁶ *Id.*; see Northwest Florida Water Management District, *Consolidated Annual Reports*, <https://www.nwfwater.com/Data-Publications/Reports-Plans/Consolidated-Annual-Reports> (last visited Mar. 21, 2019).

⁴⁷ Section 373.036(7)(b)-(e), F.S.

⁴⁸ NSF, *About NSF*, <http://www.nsf.org/about-nsf> (last visited Mar. 27, 2019). NSF was founded in 1944 as the National Sanitation Foundation and in 1990 changed its name to NSF International. According to its website the letters "NSF" do not represent any specific words today; ANSI, *SDO: NSF International*, https://www.standardsportal.org/usa_en/sdo/nsf.aspx (last visited Mar. 27, 2019).

education and service organization . . . that develops standards and criteria for equipment, products and services that bear upon health.”⁴⁹ NSF follows the standards development process of the American National Standards Institute, which involves developing standards by joint committees of stakeholders and experts and then ratifying standards through an independent council.⁵⁰ NSF currently has more than 140 active public health standards and independent testing protocols, and provides testing and certification services to many industries, including water and wastewater.⁵¹

The American National Standards Institute (ANSI) is a private non-profit organization that develops national standards in the United States by accrediting the procedures of standards developing organizations.⁵² ANSI has accredited more than 200 standards developers, which have created over 11,000 American national standards.⁵³ ANSI has accredited NSF as a standards developing organization.⁵⁴

NSF/ANSI 245 is a standard that establishes minimum requirements for materials, design and construction, and performance of residential wastewater treatment systems providing for nitrogen reduction.⁵⁵ The standard covers systems with rated capacities between 400 and 1,500 gallons per day.⁵⁶ Regardless of a system’s treatment technology, NSF installs the unit at their test facility to evaluate the product.⁵⁷ Wastewater is introduced to the system to simulate various scenarios, and the system must meet minimum requirements for things such as structural integrity, leakage, and failure sensor and signaling equipment.⁵⁸ To achieve the certification a treatment system must produce an acceptable quality of effluent during a 26-week test, during which any service or maintenance to the system is prohibited.⁵⁹ The effluent criteria is based on the United States Environmental Protection Agency’s secondary effluent treatment requirements for municipal treatment facilities.⁶⁰ NSF/ANSI 245 requires a minimum 50% reduction in total nitrogen.⁶¹

⁴⁹ Fla. Admin. Code R. 64E-6.002(38).

⁵⁰ NSF, *NSF Standards*, <http://www.nsf.org/regulatory/regulator-nsf-standards> (last visited Mar. 27, 2019).

⁵¹ NSF, *Who Is NSF International?*, <http://www.nsf.org/consumer-resources/who-is-nsf-international> (last visited Mar. 27, 2019); NSF, *Services by Industry: Water and Wastewater*, <http://www.nsf.org/services/by-industry/water-wastewater> (last visited Mar. 28, 2019).

⁵² ANSI, *Introduction to ANSI*, https://www.ansi.org/about_ansi/introduction/introduction?menuid=1 (last visited Mar. 27, 2019); Fla. Admin. Code R. 64E-6.002(4); *see* Fla. Admin. Code 64E-6.012(1)(a). In this regulation, DOH requires that a third party certifying program be accredited by ANSI; *see* ss. 316.2065, 320.8231, and 553.963, F.S. ANSI is referenced in the Florida Statutes for standards in industries including bicycle helmets, recreational vehicles, and showers.

⁵³ ANSI, *Introduction to ANSI*, https://www.ansi.org/about_ansi/introduction/introduction?menuid=1 (last visited Mar. 27, 2019).

⁵⁴ NSF, *Accreditations and Quality*, <http://www.nsf.org/about-nsf/accreditations> (last visited Mar. 27, 2019).

⁵⁵ ANSI, *Webstore: NSF/ANSI 245-2018, Residential Wastewater Treatment Systems - Nitrogen Reduction*, <https://webstore.ansi.org/Standards/NSF/NSFANSI2452018> (last visited Mar. 27, 2019).

⁵⁶ NSF, *NSF/ANSI 245: Nitrogen Reduction*, <http://www.nsf.org/services/by-industry/water-wastewater/onsite-wastewater/nitrogen-reduction> (last visited Mar. 27, 2019).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* This information is under the “Testing Process” tab; *see* NSF, *NSF/ANSI 40: Residential Onsite Systems*, <http://www.nsf.org/services/by-industry/water-wastewater/onsite-wastewater/residential-wastewater-treatment-systems> (last visited Mar. 28, 2019). Certification to NSF/ANSI 245 also meets all the requirements of NSF/ANSI 40.

⁶¹ NSF, *NSF/ANSI 40 and 245*, http://www.nsf.org/newsroom_pdf/ww_nsf_40_and_245.pdf (last visited Mar. 27, 2019); NSF International, *Onsite Wastewater Treatment Unit Program Standards, Testing and Certification*, 16 (2017), available at

DOH's regulations require that aerobic treatment units used for treating domestic and commercial sewage waste, which are designed to treat up to 1500 gallons of sewage per day, comply with one of three NSF/ANSI standards, including NSF/ANSI 245.⁶² These standards are incorporated by reference into the Florida Administrative Code. NSF provides listings of products that have been certified under NSF/ANSI 245.⁶³ According to NSF, at least ten states have accepted or adopted NSF/ANSI 245.⁶⁴

III. Effect of Proposed Changes:

Section 1 transfers all of the Department of Health's (DOH) powers, duties, functions, 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 (OSTDS) relating to DOH's onsite sewage program to the Department of Environmental Protection (DEP). The bill transfers the program through a type two transfer.

Section 2 requires DOH and DEP to enter into a memorandum of agreement regarding the type 2 transfer of the Onsite Sewage Program before January 1, 2020. The agreement must address all aspects of the transfer identified in section 1 of the bill and the respective administrative and regulatory roles of the county health departments and DEP after the July 1, 2020 type two transfer.

Section 7 amends s. 373.036, F.S., which requires DEP and the water management districts to develop certain plans and reports for water resources.

The bill requires each water management district to submit its consolidated annual report to the Office of Economic and Demographic Research (EDR), in addition to the recipients under existing law. The bill requires that the consolidated water management district annual reports include any septic to sewer conversion and septic tank remediation projects when listing the specific projects identified to implement Basin Management Action Plans.

Section 12 amends s. 381.0065, F.S., which pertains to the regulation of OSTDSs. The bill eliminates DOH's research review and advisory committee for OSTDSs. The bill requires DEP to do the following when applying the prohibition on new OSTDSs within priority focus areas that are on lots of less than 1 acre and conflict with an OSTDS remediation plan:

- Include portions of the lot subject to an easement or right of entry when determining the size of the lot.

<https://www.env.nm.gov/wp-content/uploads/2017/08/NSFWastewaterProgramUpdateMarch192010.pdf> (last visited Mar. 28, 2019).

⁶² Fla. Admin. Code R. 64E-6.012(1).

⁶³ DOH, *NSF Standard 245 (Nitrogen-Reducing) Certified Aerobic Treatment Units (ATUs) in Florida (Rule 64E-6.012, Florida Administrative Code)* (2019), http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/245cert-atu-18.pdf (last visited Mar. 28, 2019); NSF, NSF Product and Service Listings, *NSF/ANSI 245 Wastewater Treatment Systems - Nitrogen Reduction*, <http://info.nsf.org/Certified/Wastewater/Listings.asp?TradeName=&Standard=245> (last visited Mar. 28, 2019).

⁶⁴ NSF, *NSF/ANSI 40 and 245*, http://www.nsf.org/newsroom_pdf/ww_nsf_40_and_245.pdf (last visited Mar. 27, 2019).

- Determine that a hardship exists in accordance with s. 403.201(1)(c), F.S., when an applicant for a variance demonstrates that the lot subject to the request is no smaller than 0.85 acres and that lots in the immediate proximity average one acre in size or larger.

The bill requires DEP to allow the use of National Sanitation Foundation International/American National Standards Institute 245 (NSF/ANSI 245) systems approved by the Public Health and Safety Organization before July 1, 2019. This requirement is in addition to DEP allowing the use of other DEP-approved nutrient removing OSTDSs to meet the requirements of a total maximum daily load or basin management action plan, a reasonable assurance plan, or other water quality protection and restoration requirements.

Section 14 creates s. 381.00652, F.S. The section takes effect on July 1, 2019. The bill requires DEP, in consultation with DOH, to appoint a technical advisory committee for OSTDSs by August 1, 2019. The bill requires the technical advisory committee to:

- Consist of at least five, but no more than nine, members representing the home building industry, the real estate industry, the OSTDS industry, septic tank contractors, engineers, and local governments. Members may not receive compensation or reimbursement for per diem or travel expenses.
- Assist in developing rules that increase the availability of nutrient-moving OSTDSs in the marketplace, including such systems that are cost-effective, low maintenance, and reliable.
- By July 1, 2020, 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 NSF/ANSI 245 systems approved by the Public Health and Safety Organization.
- The subsection creating the technical advisory committee expires on July 1, 2020.

The bill requires DEP to initiate rulemaking no later than August 1, 2020, considering the recommendations of the technical advisory committee, and adopt rules to increase the availability of cost-effective, low-maintenance, and reliable nutrient-removing OSTDSs in the marketplace.

Section 15 repeals s. 381.0068, F.S., which requires DOH to establish a technical review and advisory panel to assist DOH with rule adoption and contains requirements for the members and operations of the panel. The bill eliminates the technical review and advisory panel under DOH.

Section 17 amends s. 403.067, F.S., pertaining to the establishment and implementation of total maximum daily loads. The bill requires DEP to submit to EDR the project cost estimates required for new or revised Basin Management Action Plans, including any septic to sewer conversion and septic tank remediation projects costs.

Sections 3, 4, 5, 6, 8, 9, 10, 11, 13, 16, and 18 contain conforming changes to the Florida Statutes that implement the bill's type two transfer of DOH's onsite sewage program to DEP, such as changing DOH to DEP.

Section 19 states that except as otherwise expressly provided in the bill and except for section 2, s. 381.0065(7) F.S., as amended by the bill, and section 19 which takes effect on July 1, 2019, the bill 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:

Indeterminate.

C. Government Sector Impact:

The bill requires DEP to merge into its department a large program transferred from DOH. If the revenue sources for the program do not cover all of the costs associated with the program then this transfer may cause DEP to incur additional costs. The bill also requires DEP to initiate rulemaking, which may cause DEP to incur additional costs. Therefore, the bill may have a negative, indeterminate fiscal impact on DEP.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill states that the Public Health and Safety Organization approves systems under the NSF/ANSI 245 standard. NSF is the organization that approves and certifies systems under the NSF/ANSI 245 standard. While NSF refers to itself as the Public Health and Safety Organization on its website, it may be unclear that “The Public Health and Safety Organization” is referring to NSF. Changing the language to state that NSF is approving the systems may improve clarity.

The bill references “National Sanitation Foundation International/American National Standards Institute systems,” as a type of system. NSF/ANSI 245 is a standard for third-party certification that applies to the systems. Therefore, it may improve clarity to refer to systems certified under the NSF/ANSI 245 standard and approved by NSF.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 153.54, 153.73, 163.3180, 180.03, 373.036, 373.807, 381.006, 381.0061, 381.0064, 381.0065, 381.00651, 381.0101, 403.067, and 489.551.

The bill creates section 381.00652 of the Florida Statutes.

The 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 Environment and Natural Resources Committee on March 26, 2019:

- Adds a requirement that DOH and DEP enter into a memorandum of agreement regarding the type 2 transfer of the Onsite Sewage Program before January 1, 2020. The agreement must address all aspects of the transfer identified in section 1 of the bill and the respective administrative and regulatory roles of the county health departments and DEP after the July 1, 2020 type two transfer;
- Makes conforming changes relating to the type 2 transfer;
- Creates s. 381.00652, F.S., which contains the requirements for DEP to appoint a technical advisory committee, and to initiate rulemaking to increase the availability of onsite systems in the marketplace and revises the timeline for these requirements.
- Adds a lot size calculation to s. 381.0065, F.S., to be used when applying the prohibition on new OSTDSs on lots of less than 1 acre within a priority focus area for an Outstanding Florida Spring, when in conflict with an OSTDS remediation plan in a BMAP. The bill requires DEP to do the following when applying the prohibition:
 - Include portions of the lot subject to an easement or right of entry when determining the size of the lot.
 - Determine that a hardship exists in accordance with s. 403.201(1)(c), F.S., when an applicant for a variance demonstrates that the lot subject to the request is no smaller than 0.85 acres and that lots in the immediate proximity average one acre in size or larger;

- Adds a requirement that DEP allow the use of National Sanitation Foundation International/American National Standards Institute 245 systems approved by the Public Health and Safety Organization before July 1, 2019, in addition to allowing the use of other DEP-approved nutrient removing OSTDSs to meet the requirements of a total maximum daily load or basin management action plan, a reasonable assurance plan, or other water quality protection and restoration requirements; and
- Provides that except as otherwise expressly provided in the bill and except for section 2 of the bill, s. 381.0065(7) as amended by the bill, and the section providing the effective date which takes effect on July 1, 2019, the bill takes effect on July 1, 2020.

B. Amendments:

None.

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



700888

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. All powers, duties, functions, 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



700888

11 Onsite Sewage Program in the Department of Health are
12 transferred by a type two transfer, as defined in s. 20.06(2),
13 Florida Statutes, to the Department of Environmental Protection.

14 Section 2. The Department of Health and the Department of
15 Environmental Protection shall enter into a memorandum of
16 agreement regarding the type 2 transfer of the Onsite Sewage
17 Program before January 1, 2020. The agreement must address all
18 aspects of the transfer identified in section 1 of this act and
19 the respective administrative and regulatory roles of the county
20 health departments and the Department of Environmental
21 Protection after the July 1, 2020 type two transfer of
22 authority.

23 Section 3. Subsection (5) of section 153.54, Florida
24 Statutes, is amended to read:

25 153.54 Preliminary report by county commissioners with
26 respect to creation of proposed district.—Upon receipt of a
27 petition duly signed by not less than 25 qualified electors who
28 are also freeholders residing within an area proposed to be
29 incorporated into a water and sewer district pursuant to this
30 law and describing in general terms the proposed boundaries of
31 such proposed district, the board of county commissioners if it
32 shall deem it necessary and advisable to create and establish
33 such proposed district for the purpose of constructing,
34 establishing or acquiring a water system or a sewer system or
35 both in and for such district (herein called "improvements"),
36 shall first cause a preliminary report to be made which such
37 report together with any other relevant or pertinent matters,
38 shall include at least the following:

39 (5) For the construction of a new proposed sewerage system



700888

40 or the extension of an existing sewerage system that was not
41 previously approved, the report shall include a study that
42 includes the available information from the Department of
43 Environmental Protection ~~Health~~ on the history of onsite sewage
44 treatment and disposal systems currently in use in the area and
45 a comparison of the projected costs to the owner of a typical
46 lot or parcel of connecting to and using the proposed sewerage
47 system versus installing, operating, and properly maintaining an
48 onsite sewage treatment system that is approved by the
49 Department of Environmental Protection ~~Health~~ and that provides
50 for the comparable level of environmental and health protection
51 as the proposed central sewerage system; consideration of the
52 local authority's obligations or reasonably anticipated
53 obligations for water body cleanup and protection under state or
54 federal programs, including requirements for water bodies listed
55 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
56 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
57 the local authority.

58
59 Such report shall be filed in the office of the clerk of the
60 circuit court and shall be open for the inspection of any
61 taxpayer, property owner, qualified elector or any other
62 interested or affected person.

63 Section 4. Paragraph (c) of subsection (2) of section
64 153.73, Florida Statutes, is amended to read:

65 153.73 Assessable improvements; levy and payment of special
66 assessments.—Any district may provide for the construction or
67 reconstruction of assessable improvements as defined in s.
68 153.52, and for the levying of special assessments upon



700888

69 benefited property for the payment thereof, under the provisions
70 of this section.

71 (2)(c) For the construction of a new proposed sewerage
72 system or the extension of an existing sewerage system that was
73 not previously approved, the report shall include a study that
74 includes the available information from the Department of
75 Environmental Protection ~~Health~~ on the history of onsite sewage
76 treatment and disposal systems currently in use in the area and
77 a comparison of the projected costs to the owner of a typical
78 lot or parcel of connecting to and using the proposed sewerage
79 system versus installing, operating, and properly maintaining an
80 onsite sewage treatment system that is approved by the
81 Department of Environmental Protection ~~Health~~ and that provides
82 for the comparable level of environmental and health protection
83 as the proposed central sewerage system; consideration of the
84 local authority's obligations or reasonably anticipated
85 obligations for water body cleanup and protection under state or
86 federal programs, including requirements for water bodies listed
87 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
88 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
89 the local authority.

90 Section 5. Subsection (2) of section 163.3180, Florida
91 Statutes, is amended to read:

92 163.3180 Concurrency.—

93 (2) Consistent with public health and safety, sanitary
94 sewer, solid waste, drainage, adequate water supplies, and
95 potable water facilities shall be in place and available to
96 serve new development no later than the issuance by the local
97 government of a certificate of occupancy or its functional



700888

98 equivalent. Prior to approval of a building permit or its
99 functional equivalent, the local government shall consult with
100 the applicable water supplier to determine whether adequate
101 water supplies to serve the new development will be available no
102 later than the anticipated date of issuance by the local
103 government of a certificate of occupancy or its functional
104 equivalent. A local government may meet the concurrency
105 requirement for sanitary sewer through the use of onsite sewage
106 treatment and disposal systems approved by the Department of
107 Environmental Protection ~~Health~~ to serve new development.

108 Section 6. Subsection (3) of section 180.03, Florida
109 Statutes, is amended to read:

110 180.03 Resolution or ordinance proposing construction or
111 extension of utility; objections to same.-

112 (3) For the construction of a new proposed sewerage system
113 or the extension of an existing sewerage system that was not
114 previously approved, the report shall include a study that
115 includes the available information from the Department of
116 Environmental Protection ~~Health~~ on the history of onsite sewage
117 treatment and disposal systems currently in use in the area and
118 a comparison of the projected costs to the owner of a typical
119 lot or parcel of connecting to and using the proposed sewerage
120 system versus installing, operating, and properly maintaining an
121 onsite sewage treatment system that is approved by the
122 Department of Environmental Protection ~~Health~~ and that provides
123 for the comparable level of environmental and health protection
124 as the proposed central sewerage system; consideration of the
125 local authority's obligations or reasonably anticipated
126 obligations for water body cleanup and protection under state or



700888

127 federal programs, including requirements for water bodies listed
128 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
129 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
130 the local authority. The results of such a study shall be
131 included in the resolution or ordinance required under
132 subsection (1).

133 Section 7. Paragraphs (a) and (b) of subsection (7) of
134 section 373.036, Florida Statutes, are amended to read:

135 373.036 Florida water plan; district water management
136 plans.—

137 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

138 (a) By March 1, annually, each water management district
139 shall prepare and submit to the Office of Economic and
140 Demographic Research, the department, the Governor, the
141 President of the Senate, and the Speaker of the House of
142 Representatives a consolidated water management district annual
143 report on the management of water resources. In addition, copies
144 must be provided by the water management districts to the chairs
145 of all legislative committees having substantive or fiscal
146 jurisdiction over the districts and the governing board of each
147 county in the district having jurisdiction or deriving any funds
148 for operations of the district. Copies of the consolidated
149 annual report must be made available to the public, either in
150 printed or electronic format.

151 (b) The consolidated annual report must ~~shall~~ contain the
152 following elements, as appropriate to that water management
153 district:

154 1. A district water management plan annual report or the
155 annual work plan report allowed in subparagraph (2)(e)4.



- 156 2. The department-approved minimum flows and minimum water
157 levels annual priority list and schedule required by s.
158 373.042(3).
- 159 3. The annual 5-year capital improvements plan required by
160 s. 373.536(6)(a)3.
- 161 4. The alternative water supplies annual report required by
162 s. 373.707(8)(n).
- 163 5. The final annual 5-year water resource development work
164 program required by s. 373.536(6)(a)4.
- 165 6. The Florida Forever Water Management District Work Plan
166 annual report required by s. 373.199(7).
- 167 7. The mitigation donation annual report required by s.
168 373.414(1)(b)2.
- 169 8. Information on all projects related to water quality or
170 water quantity as part of a 5-year work program, including:
- 171 a. A list of all specific projects identified to implement
172 a basin management action plan, including any septic-to-sewer
173 conversion and septic tank remediation projects, or a recovery
174 or prevention strategy;
- 175 b. A priority ranking for each listed project for which
176 state funding through the water resources development work
177 program is requested, which must be made available to the public
178 for comment at least 30 days before submission of the
179 consolidated annual report;
- 180 c. The estimated cost for each listed project;
- 181 d. The estimated completion date for each listed project;
- 182 e. The source and amount of financial assistance to be made
183 available by the department, a water management district, or
184 other entity for each listed project; and



700888

185 f. A quantitative estimate of each listed project's benefit
186 to the watershed, water body, or water segment in which it is
187 located.

188 9. A grade for each watershed, water body, or water segment
189 in which a project listed under subparagraph 8. is located
190 representing the level of impairment and violations of adopted
191 minimum flow or minimum water levels. The grading system must
192 reflect the severity of the impairment of the watershed, water
193 body, or water segment.

194 Section 8. Subsection (3) of section 373.807, Florida
195 Statutes, is amended to read:

196 373.807 Protection of water quality in Outstanding Florida
197 Springs.—By July 1, 2016, the department shall initiate
198 assessment, pursuant to s. 403.067(3), of Outstanding Florida
199 Springs or spring systems for which an impairment determination
200 has not been made under the numeric nutrient standards in effect
201 for spring vents. Assessments must be completed by July 1, 2018.

202 (3) As part of a basin management action plan that includes
203 an Outstanding Florida Spring, the department, ~~the Department of~~
204 ~~Health,~~ relevant local governments, and relevant local public
205 and private wastewater utilities shall develop an onsite sewage
206 treatment and disposal system remediation plan for a spring if
207 the department determines onsite sewage treatment and disposal
208 systems within a priority focus area contribute at least 20
209 percent of nonpoint source nitrogen pollution or if the
210 department determines remediation is necessary to achieve the
211 total maximum daily load. The plan shall identify cost-effective
212 and financially feasible projects necessary to reduce the
213 nutrient impacts from onsite sewage treatment and disposal



700888

214 systems and shall be completed and adopted as part of the basin
215 management action plan no later than the first 5-year milestone
216 required by subparagraph (1)(b)8. The department is the lead
217 agency in coordinating the preparation of and the adoption of
218 the plan. The department shall:

219 (a) Collect and evaluate credible scientific information on
220 the effect of nutrients, particularly forms of nitrogen, on
221 springs and springs systems; and

222 (b) Develop a public education plan to provide area
223 residents with reliable, understandable information about onsite
224 sewage treatment and disposal systems and springs.

225
226 In addition to the requirements in s. 403.067, the plan must
227 ~~shall~~ include options for repair, upgrade, replacement,
228 drainfield modification, addition of effective nitrogen reducing
229 features, connection to a central sewerage system, or other
230 action for an onsite sewage treatment and disposal system or
231 group of systems within a priority focus area that contribute at
232 least 20 percent of nonpoint source nitrogen pollution or if the
233 department determines remediation is necessary to achieve a
234 total maximum daily load. For these systems, the department
235 shall include in the plan a priority ranking for each system or
236 group of systems that requires remediation and shall award funds
237 to implement the remediation projects contingent on an
238 appropriation in the General Appropriations Act, which may
239 include all or part of the costs necessary for repair, upgrade,
240 replacement, drainfield modification, addition of effective
241 nitrogen reducing features, initial connection to a central
242 sewerage system, or other action. In awarding funds, the



700888

243 department may consider expected nutrient reduction benefit per
244 unit cost, size and scope of project, relative local financial
245 contribution to the project, and the financial impact on
246 property owners and the community. The department may waive
247 matching funding requirements for proposed projects within an
248 area designated as a rural area of opportunity under s.
249 288.0656.

250 Section 9. Section 381.006, Florida Statutes, is amended to
251 read:

252 381.006 Environmental health.—The Department of Health
253 shall conduct an environmental health program as part of
254 fulfilling the state's public health mission. The purpose of
255 this program is to detect and prevent disease caused by natural
256 and manmade factors in the environment. The environmental health
257 program shall include, but not be limited to:

258 (1) A drinking water function.

259 (2) An environmental health surveillance function which
260 shall collect, compile, and correlate information on public
261 health and exposure to hazardous substances through sampling and
262 testing of water, air, or foods. Environmental health
263 surveillance shall include a comprehensive assessment of
264 drinking water under the department's supervision and an indoor
265 air quality testing and monitoring program to assess health
266 risks from exposure to chemical, physical, and biological agents
267 in the indoor environment.

268 (3) A toxicology and hazard assessment function which shall
269 conduct toxicological and human health risk assessments of
270 exposure to toxic agents, for the purposes of:

271 (a) Supporting determinations by the State Health Officer



272 of safe levels of contaminants in water, air, or food if
273 applicable standards or criteria have not been adopted. These
274 determinations shall include issuance of health advisories to
275 protect the health and safety of the public at risk from
276 exposure to toxic agents.

277 (b) Provision of human toxicological health risk
278 assessments to the public and other governmental agencies to
279 characterize the risks to the public from exposure to
280 contaminants in air, water, or food.

281 (c) Consultation and technical assistance to the Department
282 of Environmental Protection and other governmental agencies on
283 actions necessary to ameliorate exposure to toxic agents,
284 including the emergency provision by the Department of
285 Environmental Protection of drinking water in cases of drinking
286 water contamination that present an imminent and substantial
287 threat to the public's health, as required by s.
288 376.30(3)(c)1.a.

289 (d) Monitoring and reporting the body burden of toxic
290 agents to estimate past exposure to these toxic agents, predict
291 future health effects, and decrease the incidence of poisoning
292 by identifying and eliminating exposure.

293 (4) A sanitary nuisance function, as that term is defined
294 in chapter 386.

295 (5) A migrant labor function.

296 (6) A public facilities function, including sanitary
297 practices relating to state, county, municipal, and private
298 institutions serving the public; jointly with the Department of
299 Education, publicly and privately owned schools; all places used
300 for the incarceration of prisoners and inmates of state



700888

301 institutions for the mentally ill; toilets and washrooms in all
302 public places and places of employment; any other condition,
303 place, or establishment necessary for the control of disease or
304 the protection and safety of public health.

305 ~~(7) An onsite sewage treatment and disposal function.~~

306 ~~(8) A biohazardous waste control function.~~

307 (8)~~(9)~~ A function to control diseases transmitted from
308 animals to humans, including the segregation, quarantine, and
309 destruction of domestic pets and wild animals having or
310 suspected of having such diseases.

311 (9)~~(10)~~ An environmental epidemiology function which shall
312 investigate food-borne disease, waterborne disease, and other
313 diseases of environmental causation, whether of chemical,
314 radiological, or microbiological origin. A \$10 surcharge for
315 this function shall be assessed upon all persons permitted under
316 chapter 500. This function shall include an educational program
317 for physicians and health professionals designed to promote
318 surveillance and reporting of environmental diseases, and to
319 further the dissemination of knowledge about the relationship
320 between toxic substances and human health which will be useful
321 in the formulation of public policy and will be a source of
322 information for the public.

323 (10)~~(11)~~ Mosquito and pest control functions as provided in
324 chapters 388 and 482.

325 (11)~~(12)~~ A radiation control function as provided in
326 chapter 404 and part IV of chapter 468.

327 (12)~~(13)~~ A public swimming and bathing facilities function
328 as provided in chapter 514.

329 (13)~~(14)~~ A mobile home park, lodging park, recreational



700888

330 vehicle park, and recreational camp function as provided in
331 chapter 513.

332 (14)~~(15)~~ A sanitary facilities function, which shall
333 include minimum standards for the maintenance and sanitation of
334 sanitary facilities; public access to sanitary facilities; and
335 fixture ratios for special or temporary events and for homeless
336 shelters.

337 (15)~~(16)~~ A group-care-facilities function. As used in this
338 subsection, the term "group care facility" means any public or
339 private school, assisted living facility, adult family-care
340 home, adult day care center, short-term residential treatment
341 center, residential treatment facility, home for special
342 services, transitional living facility, crisis stabilization
343 unit, hospice, prescribed pediatric extended care center,
344 intermediate care facility for persons with developmental
345 disabilities, or boarding school. The department may adopt rules
346 necessary to protect the health and safety of residents, staff,
347 and patrons of group care facilities. Rules related to public
348 and private schools shall be developed by the Department of
349 Education in consultation with the department. Rules adopted
350 under this subsection may include definitions of terms;
351 provisions relating to operation and maintenance of facilities,
352 buildings, grounds, equipment, furnishings, and occupant-space
353 requirements; lighting; heating, cooling, and ventilation; food
354 service; water supply and plumbing; sewage; sanitary facilities;
355 insect and rodent control; garbage; safety; personnel health,
356 hygiene, and work practices; and other matters the department
357 finds are appropriate or necessary to protect the safety and
358 health of the residents, staff, students, faculty, or patrons.



359 The department may not adopt rules that conflict with rules
360 adopted by the licensing or certifying agency. The department
361 may enter and inspect at reasonable hours to determine
362 compliance with applicable statutes or rules. In addition to any
363 sanctions that the department may impose for violations of rules
364 adopted under this section, the department shall also report
365 such violations to any agency responsible for licensing or
366 certifying the group care facility. The licensing or certifying
367 agency may also impose any sanction based solely on the findings
368 of the department.

369 (16)~~(17)~~ A function for investigating elevated levels of
370 lead in blood. Each participating county health department may
371 expend funds for federally mandated certification or
372 recertification fees related to conducting investigations of
373 elevated levels of lead in blood.

374 (17)~~(18)~~ A food service inspection function for domestic
375 violence centers that are certified by the Department of
376 Children and Families and monitored by the Florida Coalition
377 Against Domestic Violence under part XII of chapter 39 and group
378 care homes as described in subsection (15) ~~(16)~~, which shall be
379 conducted annually and be limited to the requirements in
380 department rule applicable to community-based residential
381 facilities with five or fewer residents.

382
383 The department may adopt rules to carry out ~~the provisions of~~
384 this section.

385 Section 10. Subsection (1) of section 381.0061, Florida
386 Statutes, is amended to read:

387 381.0061 Administrative fines.—



700888

388 (1) In addition to any administrative action authorized by
389 chapter 120 or by other law, the department may impose a fine,
390 which shall not exceed \$500 for each violation, for a violation
391 of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s.
392 381.0072, or part III of chapter 489, for a violation of any
393 rule adopted under this chapter, or for a violation of any of
394 the provisions of chapter 386. Notice of intent to impose such
395 fine shall be given by the department to the alleged violator.
396 Each day that a violation continues may constitute a separate
397 violation.

398 Section 11. Subsection (1) of section 381.0064, Florida
399 Statutes, is amended to read:

400 381.0064 Continuing education courses for persons
401 installing or servicing septic tanks.-

402 (1) The Department of Environmental Protection ~~Health~~ shall
403 establish a program for continuing education which meets the
404 purposes of ss. 381.0101 and 489.554 regarding the public health
405 and environmental effects of onsite sewage treatment and
406 disposal systems and any other matters the department determines
407 desirable for the safe installation and use of onsite sewage
408 treatment and disposal systems. The department may charge a fee
409 to cover the cost of such program.

410 Section 12. Present paragraphs (d) through (q) of
411 subsection (2) of section 381.0065, Florida Statutes, are
412 redesignated as paragraphs (e) through (r), respectively, and a
413 new paragraph (d) is added to that subsection, subsections (3)
414 and (4) are amended, and subsections (7) and (8) are added to
415 that section, to read:

416 381.0065 Onsite sewage treatment and disposal systems;



700888

417 regulation.-

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

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

422 (3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL
423 PROTECTION HEALTH.-The department shall:

424 (a) Adopt rules to administer ss. 381.0065-381.0067,
425 including definitions that are consistent with the definitions
426 in this section, decreases to setback requirements where no
427 health hazard exists, increases for the lot-flow allowance for
428 performance-based systems, requirements for separation from
429 water table elevation during the wettest season, requirements
430 for the design and construction of any component part of an
431 onsite sewage treatment and disposal system, application and
432 permit requirements for persons who maintain an onsite sewage
433 treatment and disposal system, requirements for maintenance and
434 service agreements for aerobic treatment units and performance-
435 based treatment systems, and recommended standards, including
436 disclosure requirements, for voluntary system inspections to be
437 performed by individuals who are authorized by law to perform
438 such inspections and who shall inform a person having ownership,
439 control, or use of an onsite sewage treatment and disposal
440 system of the inspection standards and of that person's
441 authority to request an inspection based on all or part of the
442 standards.

443 (b) Perform application reviews and site evaluations, issue
444 permits, and conduct inspections and complaint investigations
445 associated with the construction, installation, maintenance,



700888

446 modification, abandonment, operation, use, or repair of an
447 onsite sewage treatment and disposal system for a residence or
448 establishment with an estimated domestic sewage flow of 10,000
449 gallons or less per day, or an estimated commercial sewage flow
450 of 5,000 gallons or less per day, which is not currently
451 regulated under chapter 403.

452 (c) Develop a comprehensive program to ensure that onsite
453 sewage treatment and disposal systems regulated by the
454 department are sized, designed, constructed, installed,
455 repaired, modified, abandoned, used, operated, and maintained in
456 compliance with this section and rules adopted under this
457 section to prevent groundwater contamination and surface water
458 contamination and to preserve the public health. The department
459 is the final administrative interpretive authority regarding
460 rule interpretation. In the event of a conflict regarding rule
461 interpretation, the State Surgeon General, or his or her
462 designee, shall timely assign a staff person to resolve the
463 dispute.

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

466 (e) Permit the use of a limited number of innovative
467 systems for a specific period of time, when there is compelling
468 evidence that the system will function properly and reliably to
469 meet the requirements of this section and rules adopted under
470 this section.

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

472 (g) Establish and collect fees as established under s.
473 381.0066 for services provided with respect to onsite sewage
474 treatment and disposal systems.



700888

475 (h) Conduct enforcement activities, including imposing
476 fines, issuing citations, suspensions, revocations, injunctions,
477 and emergency orders for violations of this section, part I of
478 chapter 386, or part III of chapter 489 or for a violation of
479 any rule adopted under this section, part I of chapter 386, or
480 part III of chapter 489.

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

484 (j) Supervise research on, demonstration of, and training
485 on the performance, environmental impact, and public health
486 impact of onsite sewage treatment and disposal systems within
487 this state. Research fees collected under s. 381.0066(2)(k) must
488 be used to develop and fund hands-on training centers designed
489 to provide practical information about onsite sewage treatment
490 and disposal systems to septic tank contractors, master septic
491 tank contractors, contractors, inspectors, engineers, and the
492 public and must also be used to fund research projects which
493 focus on improvements of onsite sewage treatment and disposal
494 systems, including use of performance-based standards and
495 reduction of environmental impact. Research projects shall be
496 ~~initially approved by the technical review and advisory panel~~
497 ~~and shall be~~ applicable to and reflect the soil conditions
498 specific to Florida. Such projects shall be awarded through
499 competitive negotiation, using the procedures provided in s.
500 287.055, to public or private entities that have experience in
501 onsite sewage treatment and disposal systems in Florida and that
502 are principally located in Florida. ~~Research projects shall not~~
503 ~~be awarded to firms or entities that employ or are associated~~



504 ~~with persons who serve on either the technical review and~~
505 ~~advisory panel or the research review and advisory committee.~~

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

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

513 (m) Permit and inspect portable or temporary toilet
514 services and holding tanks. The department shall review
515 applications, perform site evaluations, and issue permits for
516 the temporary use of holding tanks, privies, portable toilet
517 services, or any other toilet facility that is intended for use
518 on a permanent or nonpermanent basis, including facilities
519 placed on construction sites when workers are present. The
520 department may specify standards for the construction,
521 maintenance, use, and operation of any such facility for
522 temporary use.

523 (n) Regulate and permit maintenance entities for
524 performance-based treatment systems and aerobic treatment unit
525 systems. To ensure systems are maintained and operated according
526 to manufacturer's specifications and designs, the department
527 shall establish by rule minimum qualifying criteria for
528 maintenance entities. The criteria shall include: training,
529 access to approved spare parts and components, access to
530 manufacturer's maintenance and operation manuals, and service
531 response time. The maintenance entity shall employ a contractor
532 licensed under s. 489.105(3)(m), or part III of chapter 489, or



533 a state-licensed wastewater plant operator, who is responsible
534 for maintenance and repair of all systems under contract.

535 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
536 construct, repair, modify, abandon, or operate an onsite sewage
537 treatment and disposal system without first obtaining a permit
538 approved by the department. The department may issue permits to
539 carry out this section, but shall not make the issuance of such
540 permits contingent upon prior approval by the department ~~of~~
541 ~~Environmental Protection~~, except that the issuance of a permit
542 for work seaward of the coastal construction control line
543 established under s. 161.053 is ~~shall be~~ contingent upon receipt
544 of any required coastal construction control line permit from
545 the department ~~of Environmental Protection~~. A construction
546 permit is valid for 18 months from the issuance date and may be
547 extended by the department for one 90-day period under rules
548 adopted by the department. A repair permit is valid for 90 days
549 from the date of issuance. An operating permit must be obtained
550 before ~~prior to~~ the use of any aerobic treatment unit or if the
551 establishment generates commercial waste. Buildings or
552 establishments that use an aerobic treatment unit or generate
553 commercial waste shall be inspected by the department at least
554 annually to assure compliance with the terms of the operating
555 permit. The operating permit for a commercial wastewater system
556 is valid for 1 year from the date of issuance and must be
557 renewed annually. The operating permit for an aerobic treatment
558 unit is valid for 2 years from the date of issuance and must be
559 renewed every 2 years. If all information pertaining to the
560 siting, location, and installation conditions or repair of an
561 onsite sewage treatment and disposal system remains the same, a



562 construction or repair permit for the onsite sewage treatment
563 and disposal system may be transferred to another person, if the
564 transferee files, within 60 days after the transfer of
565 ownership, an amended application providing all corrected
566 information and proof of ownership of the property. A ~~There is~~
567 ~~no~~ fee is not associated with the processing of this
568 supplemental information. A person may not contract to
569 construct, modify, alter, repair, service, abandon, or maintain
570 any portion of an onsite sewage treatment and disposal system
571 without being registered under part III of chapter 489. A
572 property owner who personally performs construction,
573 maintenance, or repairs to a system serving his or her own
574 owner-occupied single-family residence is exempt from
575 registration requirements for performing such construction,
576 maintenance, or repairs on that residence, but is subject to all
577 permitting requirements. A municipality or political subdivision
578 of the state may not issue a building or plumbing permit for any
579 building that requires the use of an onsite sewage treatment and
580 disposal system unless the owner or builder has received a
581 construction permit for such system from the department. A
582 building or structure may not be occupied and a municipality,
583 political subdivision, or any state or federal agency may not
584 authorize occupancy until the department approves the final
585 installation of the onsite sewage treatment and disposal system.
586 A municipality or political subdivision of the state may not
587 approve any change in occupancy or tenancy of a building that
588 uses an onsite sewage treatment and disposal system until the
589 department has reviewed the use of the system with the proposed
590 change, approved the change, and amended the operating permit.



591 (a) Subdivisions and lots in which each lot has a minimum
592 area of at least one-half acre and either a minimum dimension of
593 100 feet or a mean of at least 100 feet of the side bordering
594 the street and the distance formed by a line parallel to the
595 side bordering the street drawn between the two most distant
596 points of the remainder of the lot may be developed with a water
597 system regulated under s. 381.0062 and onsite sewage treatment
598 and disposal systems, provided the projected daily sewage flow
599 does not exceed an average of 1,500 gallons per acre per day,
600 and provided satisfactory drinking water can be obtained and all
601 distance and setback, soil condition, water table elevation, and
602 other related requirements of this section and rules adopted
603 under this section can be met.

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

612 (c) Notwithstanding paragraphs (a) and (b), for
613 subdivisions platted of record on or before October 1, 1991,
614 when a developer or other appropriate entity has previously made
615 or makes provisions, including financial assurances or other
616 commitments, acceptable to the Department of Health, that a
617 central water system will be installed by a regulated public
618 utility based on a density formula, private potable wells may be
619 used with onsite sewage treatment and disposal systems until the



700888

620 agreed-upon densities are reached. In a subdivision regulated by
621 this paragraph, the average daily sewage flow may not exceed
622 2,500 gallons per acre per day. This section does not affect the
623 validity of existing prior agreements. After October 1, 1991,
624 the exception provided under this paragraph is not available to
625 a developer or other appropriate entity.

626 (d) Paragraphs (a) and (b) do not apply to any proposed
627 residential subdivision with more than 50 lots or to any
628 proposed commercial subdivision with more than 5 lots where a
629 publicly owned or investor-owned sewage treatment sewerage
630 system is available. ~~It is the intent of~~ This paragraph does not
631 ~~to~~ allow development of additional proposed subdivisions in
632 order to evade the requirements of this paragraph.

633 (e) Onsite sewage treatment and disposal systems must not
634 be placed closer than:

- 635 1. Seventy-five feet from a private potable well.
- 636 2. Two hundred feet from a public potable well serving a
637 residential or nonresidential establishment having a total
638 sewage flow of greater than 2,000 gallons per day.
- 639 3. One hundred feet from a public potable well serving a
640 residential or nonresidential establishment having a total
641 sewage flow of less than or equal to 2,000 gallons per day.
- 642 4. Fifty feet from any nonpotable well.
- 643 5. Ten feet from any storm sewer pipe, to the maximum
644 extent possible, but in no instance shall the setback be less
645 than 5 feet.
- 646 6. Seventy-five feet from the mean high-water line of a
647 tidally influenced surface water body.
- 648 7. Seventy-five feet from the mean annual flood line of a



700888

649 permanent nontidal surface water body.

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

656 (f) Except as provided under paragraphs (e) and (s) ~~(t)~~, ~~no~~
657 limitations may not ~~shall~~ be imposed by rule, relating to the
658 distance between an onsite disposal system and any area that
659 ~~either~~ permanently or temporarily has visible surface water.

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

664 1. Any residential lot that was platted and recorded on or
665 after January 1, 1972, or that is part of a residential
666 subdivision that was approved by the appropriate permitting
667 agency on or after January 1, 1972, and that was eligible for an
668 onsite sewage treatment and disposal system construction permit
669 on the date of such platting and recording or approval shall be
670 eligible for an onsite sewage treatment and disposal system
671 construction permit, regardless of when the application for a
672 permit is made. If rules in effect at the time the permit
673 application is filed cannot be met, residential lots platted and
674 recorded or approved on or after January 1, 1972, shall, to the
675 maximum extent possible, comply with the rules in effect at the
676 time the permit application is filed. At a minimum, however,
677 those residential lots platted and recorded or approved on or



700888

678 after January 1, 1972, but before January 1, 1983, shall comply
679 with those rules in effect on January 1, 1983, and those
680 residential lots platted and recorded or approved on or after
681 January 1, 1983, shall comply with those rules in effect at the
682 time of such platting and recording or approval. In determining
683 the maximum extent of compliance with current rules that is
684 possible, the department shall allow structures and
685 appurtenances thereto which were authorized at the time such
686 lots were platted and recorded or approved.

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

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

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

696 (h)1. The department may grant variances in hardship cases
697 which may be less restrictive than ~~the provisions~~ specified in
698 this section. If a variance is granted and the onsite sewage
699 treatment and disposal system construction permit has been
700 issued, the variance may be transferred with the system
701 construction permit, if the transferee files, within 60 days
702 after the transfer of ownership, an amended construction permit
703 application providing all corrected information and proof of
704 ownership of the property and if the same variance would have
705 been required for the new owner of the property as was
706 originally granted to the original applicant for the variance. A



700888

707 ~~There is no fee~~ is not associated with the processing of this
708 supplemental information. A variance may not be granted under
709 this section until the department is satisfied that:

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

712 b. A ~~No~~ reasonable alternative, taking into consideration
713 factors such as cost, does not exist ~~exists~~ for the treatment of
714 the sewage; and

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

719
720 Where soil conditions, water table elevation, and setback
721 provisions are determined by the department to be satisfactory,
722 special consideration must be given to those lots platted before
723 1972.

724 2. The department shall appoint and staff a variance review
725 and advisory committee, which shall meet monthly to recommend
726 agency action on variance requests. The committee shall make its
727 recommendations on variance requests at the meeting in which the
728 application is scheduled for consideration, except for an
729 extraordinary change in circumstances, the receipt of new
730 information that raises new issues, or when the applicant
731 requests an extension. The committee shall consider the criteria
732 in subparagraph 1. in its recommended agency action on variance
733 requests and shall also strive to allow property owners the full
734 use of their land where possible. The committee consists of the
735 following:



700888

736 a. The Secretary of the department ~~State Surgeon General~~ or
737 his or her designee.

738 b. A representative from the county health departments.

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

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

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

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

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

751
752 Members shall be appointed for a term of 3 years, with such
753 appointments being staggered so that the terms of no more than
754 two members expire in any one year. Members shall serve without
755 remuneration, but if requested, shall be reimbursed for per diem
756 and travel expenses as provided in s. 112.061.

757 (i) A construction permit may not be issued for an onsite
758 sewage treatment and disposal system in any area zoned or used
759 for industrial or manufacturing purposes, or its equivalent,
760 where a publicly owned or investor-owned sewage treatment system
761 is available, or where a likelihood exists that the system will
762 receive toxic, hazardous, or industrial waste. An existing
763 onsite sewage treatment and disposal system may be repaired if a
764 publicly owned or investor-owned sewage treatment ~~sewerage~~



700888

765 system is not available within 500 feet of the building sewer
766 stub-out and if system construction and operation standards can
767 be met. This paragraph does not require publicly owned or
768 investor-owned sewage ~~sewerage~~ treatment systems to accept
769 anything other than domestic wastewater.

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

778 2. Each person who owns or operates a business or facility
779 in an area zoned or used for industrial or manufacturing
780 purposes, or its equivalent, or who owns or operates a business
781 that has the potential to generate toxic, hazardous, or
782 industrial wastewater or toxic or hazardous chemicals, and uses
783 an onsite sewage treatment and disposal system that is installed
784 on or after July 5, 1989, must obtain an annual system operating
785 permit from the department. A person who owns or operates a
786 business that uses an onsite sewage treatment and disposal
787 system that was installed and approved before July 5, 1989, does
788 not need to ~~not~~ obtain a system operating permit. However, upon
789 change of ownership or tenancy, the new owner or operator must
790 notify the department of the change, and the new owner or
791 operator must obtain an annual system operating permit,
792 regardless of the date that the system was installed or
793 approved.



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

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

810 1. The performance criteria applicable to engineer-designed
811 systems must be limited to those necessary to ensure that such
812 systems do not adversely affect the public health or
813 significantly degrade the groundwater or surface water. Such
814 performance criteria shall include consideration of the quality
815 of system effluent, the proposed total sewage flow per acre,
816 wastewater treatment capabilities of the natural or replaced
817 soil, water quality classification of the potential surface-
818 water-receiving body, and the structural and maintenance
819 viability of the system for the treatment of domestic
820 wastewater. However, performance criteria shall address only the
821 performance of a system and not a system's design.

822 2. A person electing to use ~~utilize~~ an engineer-designed



823 system shall, upon completion of the system design, submit such
824 design, certified by a registered professional engineer, to the
825 county health department. The county health department may use
826 ~~utilize~~ an outside consultant to review the engineer-designed
827 system, with the actual cost of such review to be borne by the
828 applicant. Within 5 working days after receiving an engineer-
829 designed system permit application, the county health department
830 shall request additional information if the application is not
831 complete. Within 15 working days after receiving a complete
832 application for an engineer-designed system, the county health
833 department either shall issue the permit or, if it determines
834 that the system does not comply with the performance criteria,
835 shall notify the applicant of that determination and refer the
836 application to the department for a determination as to whether
837 the system should be approved, disapproved, or approved with
838 modification. The department engineer's determination shall
839 prevail over the action of the county health department. The
840 applicant shall be notified in writing of the department's
841 determination and of the applicant's rights to pursue a variance
842 or seek review under ~~the provisions of~~ chapter 120.

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

850 4. The property owner of an owner-occupied, single-family
851 residence may be approved and permitted by the department as a



700888

852 maintenance entity for his or her own performance-based
853 treatment system upon written certification from the system
854 manufacturer's approved representative that the property owner
855 has received training on the proper installation and service of
856 the system. The maintenance service agreement must conspicuously
857 disclose that the property owner has the right to maintain his
858 or her own system and is exempt from contractor registration
859 requirements for performing construction, maintenance, or
860 repairs on the system but is subject to all permitting
861 requirements.

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

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

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

878 (l) For the Florida Keys, the department shall adopt a
879 special rule for the construction, installation, modification,
880 operation, repair, maintenance, and performance of onsite sewage



700888

881 treatment and disposal systems which considers the unique soil
882 conditions and water table elevations, densities, and setback
883 requirements. On lots where a setback distance of 75 feet from
884 surface waters, saltmarsh, and buttonwood association habitat
885 areas cannot be met, an injection well, approved and permitted
886 by the department, may be used for disposal of effluent from
887 onsite sewage treatment and disposal systems. The following
888 additional requirements apply to onsite sewage treatment and
889 disposal systems in Monroe County:

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

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

- 902 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
- 903 b. Suspended Solids of 10 mg/l.
- 904 c. Total Nitrogen, expressed as N, of 10 mg/l or a
905 reduction in nitrogen of at least 70 percent. A system that has
906 been tested and certified to reduce nitrogen concentrations by
907 at least 70 percent shall be deemed to be in compliance with
908 this standard.
- 909 d. Total Phosphorus, expressed as P, of 1 mg/l.



700888

910
911 In addition, onsite sewage treatment and disposal systems
912 discharging to an injection well must provide basic disinfection
913 as defined by department rule.

914 3. In areas not scheduled to be served by a central sewer,
915 onsite sewage treatment and disposal systems must, by December
916 31, 2015, comply with department rules and provide the level of
917 treatment described in subparagraph 2.

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

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

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

930 5. Onsite sewage treatment and disposal systems must be
931 monitored for total nitrogen and total phosphorus concentrations
932 as required by department rule.

933 6. The department shall enforce proper installation,
934 operation, and maintenance of onsite sewage treatment and
935 disposal systems pursuant to this chapter, including ensuring
936 that the appropriate level of treatment described in
937 subparagraph 2. is met.

938 7. The authority of a local government, including a special



700888

939 district, to mandate connection of an onsite sewage treatment
940 and disposal system is governed by s. 4, chapter 99-395, Laws of
941 Florida.

942 8. Notwithstanding any other ~~provision of~~ law, an onsite
943 sewage treatment and disposal system installed after July 1,
944 2010, in unincorporated Monroe County, excluding special
945 wastewater districts, that complies with the standards in
946 subparagraph 2. is not required to connect to a central sewer
947 system until December 31, 2020.

948 (m) Any ~~Ne~~ product sold in the state for use in onsite
949 sewage treatment and disposal systems may not contain any
950 substance in concentrations or amounts that would interfere with
951 or prevent the successful operation of such system, or that
952 would cause discharges from such systems to violate applicable
953 water quality standards. The department shall publish criteria
954 for products known or expected to meet the conditions of this
955 paragraph. ~~If In the event~~ a product does not meet such
956 criteria, such product may be sold if the manufacturer
957 satisfactorily demonstrates to the department that the
958 conditions of this paragraph are met.

959 (n) Evaluations for determining the seasonal high-water
960 table elevations or the suitability of soils for the use of a
961 new onsite sewage treatment and disposal system shall be
962 performed by department personnel, professional engineers
963 registered in the state, or such other persons with expertise,
964 as defined by rule, in making such evaluations. Evaluations for
965 determining mean annual flood lines shall be performed by those
966 persons identified in paragraph (2)(k) ~~(2)(j)~~. The department
967 shall accept evaluations submitted by professional engineers and



700888

968 such other persons as meet the expertise established by this
969 section or by rule unless the department has a reasonable
970 scientific basis for questioning the accuracy or completeness of
971 the evaluation.

972 ~~(e) The department shall appoint a research review and~~
973 ~~advisory committee, which shall meet at least semiannually. The~~
974 ~~committee shall advise the department on directions for new~~
975 ~~research, review and rank proposals for research contracts, and~~
976 ~~review draft research reports and make comments. The committee~~
977 ~~is comprised of:~~

978 ~~1. A representative of the State Surgeon General, or his or~~
979 ~~her designee.~~

980 ~~2. A representative from the septic tank industry.~~

981 ~~3. A representative from the home building industry.~~

982 ~~4. A representative from an environmental interest group.~~

983 ~~5. A representative from the State University System, from~~
984 ~~a department knowledgeable about onsite sewage treatment and~~
985 ~~disposal systems.~~

986 ~~6. A professional engineer registered in this state who has~~
987 ~~work experience in onsite sewage treatment and disposal systems.~~

988 ~~7. A representative from local government who is~~
989 ~~knowledgeable about domestic wastewater treatment.~~

990 ~~8. A representative from the real estate profession.~~

991 ~~9. A representative from the restaurant industry.~~

992 ~~10. A consumer.~~

993

994 ~~Members shall be appointed for a term of 3 years, with the~~
995 ~~appointments being staggered so that the terms of no more than~~
996 ~~four members expire in any one year. Members shall serve without~~



700888

997 ~~remuneration, but are entitled to reimbursement for per diem and~~
998 ~~travel expenses as provided in s. 112.061.~~

999 (o) ~~(p)~~ An application for an onsite sewage treatment and
1000 disposal system permit shall be completed in full, signed by the
1001 owner or the owner's authorized representative, or by a
1002 contractor licensed under chapter 489, and shall be accompanied
1003 by all required exhibits and fees. ~~No~~ Specific documentation of
1004 property ownership is not ~~shall be~~ required as a prerequisite to
1005 the review of an application or the issuance of a permit. The
1006 issuance of a permit does not constitute determination by the
1007 department of property ownership.

1008 (p) ~~(q)~~ The department may not require any form of
1009 subdivision analysis of property by an owner, developer, or
1010 subdivider before ~~prior to~~ submission of an application for an
1011 onsite sewage treatment and disposal system.

1012 (q) ~~(r)~~ ~~Nothing in~~ This section does not limit ~~limits~~ the
1013 power of a municipality or county to enforce other laws for the
1014 protection of the public health and safety.

1015 (r) ~~(s)~~ In the siting of onsite sewage treatment and
1016 disposal systems, including drainfields, shoulders, and slopes,
1017 guttering may ~~shall~~ not be required on single-family residential
1018 dwelling units for systems located greater than 5 feet from the
1019 roof drip line of the house. If guttering is used on residential
1020 dwelling units, the downspouts shall be directed away from the
1021 drainfield.

1022 (s) ~~(t)~~ Notwithstanding ~~the provisions of~~ subparagraph
1023 (g)1., onsite sewage treatment and disposal systems located in
1024 floodways of the Suwannee and Aucilla Rivers must adhere to the
1025 following requirements:



700888

1026 1. The absorption surface of the drainfield may ~~shall~~ not
1027 be subject to flooding based on 10-year flood elevations.
1028 Provided, however, for lots or parcels created by the
1029 subdivision of land in accordance with applicable local
1030 government regulations before ~~prior to~~ January 17, 1990, if an
1031 applicant cannot construct a drainfield system with the
1032 absorption surface of the drainfield at an elevation equal to or
1033 above 10-year flood elevation, the department shall issue a
1034 permit for an onsite sewage treatment and disposal system within
1035 the 10-year floodplain of rivers, streams, and other bodies of
1036 flowing water if all of the following criteria are met:
1037 a. The lot is at least one-half acre in size;
1038 b. The bottom of the drainfield is at least 36 inches above
1039 the 2-year flood elevation; and
1040 c. The applicant installs either: a waterless,
1041 incinerating, or organic waste composting toilet and a graywater
1042 system and drainfield in accordance with department rules; an
1043 aerobic treatment unit and drainfield in accordance with
1044 department rules; a system ~~approved by the State Health Office~~
1045 that is capable of reducing effluent nitrate by at least 50
1046 percent in accordance with department rules; or a system other
1047 than a system using alternative drainfield materials in
1048 accordance with department rules ~~approved by the county health~~
1049 ~~department pursuant to department rule other than a system using~~
1050 ~~alternative drainfield materials~~. The United States Department
1051 of Agriculture Soil Conservation Service soil maps, State of
1052 Florida Water Management District data, and Federal Emergency
1053 Management Agency Flood Insurance maps are resources that shall
1054 be used to identify flood-prone areas.



1055 2. The use of fill or mounding to elevate a drainfield
1056 system out of the 10-year floodplain of rivers, streams, or
1057 other bodies of flowing water may ~~shall~~ not be permitted if such
1058 a system lies within a regulatory floodway of the Suwannee and
1059 Aucilla Rivers. In cases where the 10-year flood elevation does
1060 not coincide with the boundaries of the regulatory floodway, the
1061 regulatory floodway will be considered for the purposes of this
1062 subsection to extend at a minimum to the 10-year flood
1063 elevation.

1064 (t) ~~1. (u) 1.~~ The owner of an aerobic treatment unit system
1065 shall maintain a current maintenance service agreement with an
1066 aerobic treatment unit maintenance entity permitted by the
1067 department. The maintenance entity shall inspect each aerobic
1068 treatment unit system at least twice each year and shall report
1069 quarterly to the department on the number of aerobic treatment
1070 unit systems inspected and serviced. The reports may be
1071 submitted electronically.

1072 2. The property owner of an owner-occupied, single-family
1073 residence may be approved and permitted by the department as a
1074 maintenance entity for his or her own aerobic treatment unit
1075 system upon written certification from the system manufacturer's
1076 approved representative that the property owner has received
1077 training on the proper installation and service of the system.
1078 The maintenance entity service agreement must conspicuously
1079 disclose that the property owner has the right to maintain his
1080 or her own system and is exempt from contractor registration
1081 requirements for performing construction, maintenance, or
1082 repairs on the system but is subject to all permitting
1083 requirements.



700888

1084 3. A septic tank contractor licensed under part III of
1085 chapter 489, if approved by the manufacturer, may not be denied
1086 access by the manufacturer to aerobic treatment unit system
1087 training or spare parts for maintenance entities. After the
1088 original warranty period, component parts for an aerobic
1089 treatment unit system may be replaced with parts that meet
1090 manufacturer's specifications but are manufactured by others.
1091 The maintenance entity shall maintain documentation of the
1092 substitute part's equivalency for 2 years and shall provide such
1093 documentation to the department upon request.

1094 4. The owner of an aerobic treatment unit system shall
1095 obtain a system operating permit from the department and allow
1096 the department to inspect during reasonable hours each aerobic
1097 treatment unit system at least annually, and such inspection may
1098 include collection and analysis of system-effluent samples for
1099 performance criteria established by rule of the department.

1100 (u)~~(v)~~ The department may require the submission of
1101 detailed system construction plans that are prepared by a
1102 professional engineer registered in this state. The department
1103 shall establish by rule criteria for determining when such a
1104 submission is required.

1105 (v)~~(w)~~ Any permit issued and approved by the department for
1106 the installation, modification, or repair of an onsite sewage
1107 treatment and disposal system shall transfer with the title to
1108 the property in a real estate transaction. A title may not be
1109 encumbered at the time of transfer by new permit requirements by
1110 a governmental entity for an onsite sewage treatment and
1111 disposal system which differ from the permitting requirements in
1112 effect at the time the system was permitted, modified, or



700888

1113 repaired. An inspection of a system may not be mandated by a
1114 governmental entity at the point of sale in a real estate
1115 transaction. This paragraph does not affect a septic tank phase-
1116 out deferral program implemented by a consolidated government as
1117 defined in s. 9, Art. VIII of the State Constitution (1885).

1118 (w)~~(*)~~ A governmental entity, including a municipality,
1119 county, or statutorily created commission, may not require an
1120 engineer-designed performance-based treatment system, excluding
1121 a passive engineer-designed performance-based treatment system,
1122 before the completion of the Florida Onsite Sewage Nitrogen
1123 Reduction Strategies Project. This paragraph does not apply to a
1124 governmental entity, including a municipality, county, or
1125 statutorily created commission, which adopted a local law,
1126 ordinance, or regulation on or before January 31, 2012.
1127 Notwithstanding this paragraph, an engineer-designed
1128 performance-based treatment system may be used to meet the
1129 requirements of the variance review and advisory committee
1130 recommendations.

1131 (x)1.~~(y)~~1. An onsite sewage treatment and disposal system
1132 is not considered abandoned if the system is disconnected from a
1133 structure that was made unusable or destroyed following a
1134 disaster and if the system was properly functioning at the time
1135 of disconnection and was not adversely affected by the disaster.
1136 The onsite sewage treatment and disposal system may be
1137 reconnected to a rebuilt structure if:

1138 a. The reconnection of the system is to the same type of
1139 structure which contains the same number of bedrooms or fewer,
1140 if the square footage of the structure is less than or equal to
1141 110 percent of the original square footage of the structure that



700888

1142 existed before the disaster;

1143 b. The system is not a sanitary nuisance; and

1144 c. The system has not been altered without prior
1145 authorization.

1146 2. An onsite sewage treatment and disposal system that
1147 serves a property that is foreclosed upon is not considered
1148 abandoned.

1149 (y)~~(z)~~ If an onsite sewage treatment and disposal system
1150 permittee receives, relies upon, and undertakes construction of
1151 a system based upon a validly issued construction permit under
1152 rules applicable at the time of construction but a change to a
1153 rule occurs within 5 years after the approval of the system for
1154 construction but before the final approval of the system, the
1155 rules applicable and in effect at the time of construction
1156 approval apply at the time of final approval if fundamental site
1157 conditions have not changed between the time of construction
1158 approval and final approval.

1159 (z)~~(aa)~~ An existing-system inspection or evaluation and
1160 assessment, or a modification, replacement, or upgrade of an
1161 onsite sewage treatment and disposal system is not required for
1162 a remodeling addition or modification to a single-family home if
1163 a bedroom is not added. However, a remodeling addition or
1164 modification to a single-family home may not cover any part of
1165 the existing system or encroach upon a required setback or the
1166 unobstructed area. To determine if a setback or the unobstructed
1167 area is impacted, the local health department shall review and
1168 verify a floor plan and site plan of the proposed remodeling
1169 addition or modification to the home submitted by a remodeler
1170 which shows the location of the system, including the distance



1171 of the remodeling addition or modification to the home from the
1172 onsite sewage treatment and disposal system. The local health
1173 department may visit the site or otherwise determine the best
1174 means of verifying the information submitted. A verification of
1175 the location of a system is not an inspection or evaluation and
1176 assessment of the system. The review and verification must be
1177 completed within 7 business days after receipt by the local
1178 health department of a floor plan and site plan. If the review
1179 and verification is not completed within such time, the
1180 remodeling addition or modification to the single-family home,
1181 for the purposes of this paragraph, is approved.

1182 (7) LOT SIZE CALCULATION.—When applying the prohibition
1183 imposed by s. 373.811(2), the department shall:

1184 (a) Include portions of the lot subject to an easement or
1185 right of entry when determining the size of a lot.

1186 (b) Determine that a hardship exists in accordance with s.
1187 403.201(1)(c) when an applicant for a variance demonstrates that
1188 the lot subject to the request is no smaller than 0.85 acres and
1189 that lots in the immediate proximity average one acre in size or
1190 larger.

1191 (8) In addition to allowing the use of other department
1192 approved nutrient removing onsite sewage treatment and disposal
1193 systems to meet the requirements of a total maximum daily load
1194 or basin management action plan adopted pursuant to 403.067, a
1195 reasonable assurance plan, or other water quality protection and
1196 restoration requirements, the department shall also allow the
1197 use of National Sanitation Foundation International/American
1198 National Standards Institute 245 systems approved by the Public
1199 Health and Safety Organization before July 1, 2019.



700888

1200 Section 13. Paragraph (d) of subsection (7) and subsections
1201 (8) and (9) of section 381.00651, Florida Statutes, are amended
1202 to read:

1203 381.00651 Periodic evaluation and assessment of onsite
1204 sewage treatment and disposal systems.-

1205 (7) The following procedures shall be used for conducting
1206 evaluations:

1207 (d) *Assessment procedure.*-All evaluation procedures used by
1208 a qualified contractor shall be documented in the environmental
1209 health database of the department ~~of Health~~. The qualified
1210 contractor shall provide a copy of a written, signed evaluation
1211 report to the property owner upon completion of the evaluation
1212 and to the county health department within 30 days after the
1213 evaluation. The report shall contain the name and license number
1214 of the company providing the report. A copy of the evaluation
1215 report shall be retained by the local county health department
1216 for a minimum of 5 years and until a subsequent inspection
1217 report is filed. The front cover of the report must identify any
1218 system failure and include a clear and conspicuous notice to the
1219 owner that the owner has a right to have any remediation of the
1220 failure performed by a qualified contractor other than the
1221 contractor performing the evaluation. The report must further
1222 identify any crack, leak, improper fit, or other defect in the
1223 tank, manhole, or lid, and any other damaged or missing
1224 component; any sewage or effluent visible on the ground or
1225 discharging to a ditch or other surface water body; any
1226 downspout, stormwater, or other source of water directed onto or
1227 toward the system; and any other maintenance need or condition
1228 of the system at the time of the evaluation which, in the



1229 opinion of the qualified contractor, would possibly interfere
1230 with or restrict any future repair or modification to the
1231 existing system. The report shall conclude with an overall
1232 assessment of the fundamental operational condition of the
1233 system.

1234 (8) The county health department, in coordination with the
1235 department, shall administer any evaluation program on behalf of
1236 a county, or a municipality within the county, that has adopted
1237 an evaluation program pursuant to this section. In order to
1238 administer the evaluation program, the county or municipality,
1239 in consultation with the county health department, may develop a
1240 reasonable fee schedule to be used solely to pay for the costs
1241 of administering the evaluation program. Such a fee schedule
1242 shall be identified in the ordinance that adopts the evaluation
1243 program. When arriving at a reasonable fee schedule, the
1244 estimated annual revenues to be derived from fees may not exceed
1245 reasonable estimated annual costs of the program. Fees shall be
1246 assessed to the system owner during an inspection and separately
1247 identified on the invoice of the qualified contractor. Fees
1248 shall be remitted by the qualified contractor to the county
1249 health department. The county health department's administrative
1250 responsibilities include the following:

1251 (a) Providing a notice to the system owner at least 60 days
1252 before the system is due for an evaluation. The notice may
1253 include information on the proper maintenance of onsite sewage
1254 treatment and disposal systems.

1255 (b) In consultation with the department ~~of Health,~~
1256 providing uniform disciplinary procedures and penalties for
1257 qualified contractors who do not comply with the requirements of



700888

1258 the adopted ordinance, including, but not limited to, failure to
1259 provide the evaluation report as required in this subsection to
1260 the system owner and the county health department. Only the
1261 county health department may assess penalties against system
1262 owners for failure to comply with the adopted ordinance,
1263 consistent with existing requirements of law.

1264 (9) (a) A county or municipality that adopts an onsite
1265 sewage treatment and disposal system evaluation and assessment
1266 program pursuant to this section shall notify the Secretary of
1267 Environmental Protection, the Department of Health, and the
1268 applicable county health department upon the adoption of its
1269 ordinance establishing the program.

1270 (b) Upon receipt of the notice under paragraph (a), the
1271 department ~~of Environmental Protection~~ shall, within existing
1272 resources, notify the county or municipality of the potential
1273 use of, and access to, program funds under the Clean Water State
1274 Revolving Fund or s. 319 of the Clean Water Act, provide
1275 guidance in the application process to receive such moneys, and
1276 provide advice and technical assistance to the county or
1277 municipality on how to establish a low-interest revolving loan
1278 program or how to model a revolving loan program after the low-
1279 interest loan program of the Clean Water State Revolving Fund.
1280 This paragraph does not obligate the department ~~of Environmental~~
1281 ~~Protection~~ to provide any county or municipality with money to
1282 fund such programs.

1283 (c) The department ~~of Health~~ may not adopt any rule that
1284 alters the provisions of this section.

1285 (d) The department ~~of Health~~ must allow county health
1286 departments and qualified contractors access to the



1287 environmental health database to track relevant information and
1288 assimilate data from assessment and evaluation reports of the
1289 overall condition of onsite sewage treatment and disposal
1290 systems. The environmental health database must be used by
1291 contractors to report each service and evaluation event and by a
1292 county health department to notify owners of onsite sewage
1293 treatment and disposal systems when evaluations are due. Data
1294 and information must be recorded and updated as service and
1295 evaluations are conducted and reported.

1296 Section 14. Effective July 1, 2019, section 381.00652,
1297 Florida Statutes, is created to read:

1298 381.00652 Onsite treatment and disposal systems;
1299 permitting.-

1300 (1) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS TECHNICAL
1301 ADVISORY COMMITTEE.-

1302 (a) By August 1, 2019, the department, in consultation with
1303 the Department of Health, shall appoint a technical advisory
1304 committee to assist in developing rules that will increase the
1305 availability of nutrient-removing onsite sewage treatment and
1306 disposal systems in the marketplace, including such systems that
1307 are cost-effective, low maintenance, and reliable. By July 1,
1308 2020, the committee shall consider and recommend regulatory
1309 options, such as fast-track approval, prequalification, or
1310 expedited permitting, to facilitate the introduction and use of
1311 nutrient-removing onsite sewage treatment and disposal systems
1312 that have been reviewed and approved by a national agency or
1313 organization, such as the National Sanitation Foundation
1314 International/American National Standards Institute 245 systems
1315 approved by the Public Health and Safety Organization. The



700888

1316 department shall use existing and available resources to
1317 administer and support the activities of the technical advisory
1318 committee.

1319 (b) The advisory committee shall consist of at least five
1320 but not more than nine members representing the home-building
1321 industry, the real estate industry, the onsite sewage treatment
1322 and disposal system industry, septic tank contractors,
1323 engineers, and local governments. Members shall serve without
1324 compensation and are not entitled to reimbursement for per diem
1325 or travel expenses.

1326 (c) This subsection shall expire on July 1, 2020.

1327 (2) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS
1328 RULEMAKING.—The department shall initiate rulemaking no later
1329 than August 1, 2020, considering the recommendations of the
1330 technical advisory committee, and adopt rules to increase the
1331 availability of cost-effective, low maintenance, and reliable
1332 nutrient-removing onsite sewage treatment and disposal systems
1333 in the marketplace.

1334 Section 15. Section 381.0068, Florida Statutes, is
1335 repealed.

1336 Section 16. Paragraph (g) of subsection (1) of section
1337 381.0101, Florida Statutes, is amended to read:

1338 381.0101 Environmental health professionals.—

1339 (1) DEFINITIONS.—As used in this section:

1340 (g) "Primary environmental health program" means those
1341 programs determined by the department to be essential for
1342 providing basic environmental and sanitary protection to the
1343 public. At a minimum, these programs shall include food
1344 protection ~~programs program work and onsite sewage treatment and~~



700888

1345 ~~disposal system evaluations.~~

1346 Section 17. Paragraph (a) of subsection (7) of section
1347 403.067, Florida Statutes, is amended to read:

1348 403.067 Establishment and implementation of total maximum
1349 daily loads.—

1350 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
1351 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

1352 (a) *Basin management action plans.*—

1353 1. In developing and implementing the total maximum daily
1354 load for a water body, the department, or the department in
1355 conjunction with a water management district, may develop a
1356 basin management action plan that addresses some or all of the
1357 watersheds and basins tributary to the water body. Such plan
1358 must integrate the appropriate management strategies available
1359 to the state through existing water quality protection programs
1360 to achieve the total maximum daily loads and may provide for
1361 phased implementation of these management strategies to promote
1362 timely, cost-effective actions as provided for in s. 403.151.
1363 The plan must establish a schedule implementing the management
1364 strategies, establish a basis for evaluating the plan's
1365 effectiveness, and identify feasible funding strategies for
1366 implementing the plan's management strategies. The management
1367 strategies may include regional treatment systems or other
1368 public works, where appropriate, and voluntary trading of water
1369 quality credits to achieve the needed pollutant load reductions.

1370 2. A basin management action plan must equitably allocate,
1371 pursuant to paragraph (6) (b), pollutant reductions to individual
1372 basins, as a whole to all basins, or to each identified point
1373 source or category of nonpoint sources, as appropriate. For



700888

1374 nonpoint sources for which best management practices have been
1375 adopted, the initial requirement specified by the plan must be
1376 those practices developed pursuant to paragraph (c). Where
1377 appropriate, the plan may take into account the benefits of
1378 pollutant load reduction achieved by point or nonpoint sources
1379 that have implemented management strategies to reduce pollutant
1380 loads, including best management practices, before the
1381 development of the basin management action plan. The plan must
1382 also identify the mechanisms that will address potential future
1383 increases in pollutant loading.

1384 3. The basin management action planning process is intended
1385 to involve the broadest possible range of interested parties,
1386 with the objective of encouraging the greatest amount of
1387 cooperation and consensus possible. In developing a basin
1388 management action plan, the department shall assure that key
1389 stakeholders, including, but not limited to, applicable local
1390 governments, water management districts, the Department of
1391 Agriculture and Consumer Services, other appropriate state
1392 agencies, local soil and water conservation districts,
1393 environmental groups, regulated interests, and affected
1394 pollution sources, are invited to participate in the process.
1395 The department shall hold at least one public meeting in the
1396 vicinity of the watershed or basin to discuss and receive
1397 comments during the planning process and shall otherwise
1398 encourage public participation to the greatest practicable
1399 extent. Notice of the public meeting must be published in a
1400 newspaper of general circulation in each county in which the
1401 watershed or basin lies at least ~~not less than~~ 5 days but not
1402 ~~nor~~ more than 15 days before the public meeting. A basin



700888

1403 management action plan does not supplant or otherwise alter any
1404 assessment made under subsection (3) or subsection (4) or any
1405 calculation or initial allocation.

1406 4. Each new or revised basin management action plan shall
1407 include:

1408 a. The appropriate management strategies available through
1409 existing water quality protection programs to achieve total
1410 maximum daily loads, which may provide for phased implementation
1411 to promote timely, cost-effective actions as provided ~~for~~ in s.
1412 403.151;

1413 b. A description of best management practices adopted by
1414 rule;

1415 c. A list of projects in priority ranking with a planning-
1416 level cost estimate and estimated date of completion for each
1417 listed project;

1418 d. The source and amount of financial assistance to be made
1419 available by the department, a water management district, or
1420 other entity for each listed project, if applicable; and

1421 e. A planning-level estimate of each listed project's
1422 expected load reduction, if applicable.

1423 5. The department shall adopt all or any part of a basin
1424 management action plan and any amendment to such plan by
1425 secretarial order pursuant to chapter 120 to implement ~~the~~
1426 ~~provisions of~~ this section.

1427 6. The basin management action plan must include milestones
1428 for implementation and water quality improvement, and an
1429 associated water quality monitoring component sufficient to
1430 evaluate whether reasonable progress in pollutant load
1431 reductions is being achieved over time. An assessment of



1432 progress toward these milestones shall be conducted every 5
1433 years, and revisions to the plan shall be made as appropriate.
1434 Revisions to the basin management action plan shall be made by
1435 the department in cooperation with basin stakeholders. Revisions
1436 to the management strategies required for nonpoint sources must
1437 follow the procedures set forth in subparagraph (c)4. Revised
1438 basin management action plans must be adopted pursuant to
1439 subparagraph 5.

1440 7. In accordance with procedures adopted by rule under
1441 paragraph (9)(c), basin management action plans, and other
1442 pollution control programs under local, state, or federal
1443 authority as provided in subsection (4), may allow point or
1444 nonpoint sources that will achieve greater pollutant reductions
1445 than required by an adopted total maximum daily load or
1446 wasteload allocation to generate, register, and trade water
1447 quality credits for the excess reductions to enable other
1448 sources to achieve their allocation; however, the generation of
1449 water quality credits does not remove the obligation of a source
1450 or activity to meet applicable technology requirements or
1451 adopted best management practices. Such plans must allow trading
1452 between NPDES permittees, and trading that may or may not
1453 involve NPDES permittees, where the generation or use of the
1454 credits involve an entity or activity not subject to department
1455 water discharge permits whose owner voluntarily elects to obtain
1456 department authorization for the generation and sale of credits.

1457 8. The provisions of the department's rule relating to the
1458 equitable abatement of pollutants into surface waters do not
1459 apply to water bodies or water body segments for which a basin
1460 management plan that takes into account future new or expanded



700888

1461 activities or discharges has been adopted under this section.

1462 9. The department shall submit to the Office of Economic
1463 and Demographic Research the project cost estimates required in
1464 sub-subparagraph 4.c., including any septic-to-sewer conversion
1465 and septic tank remediation project costs.

1466 Section 18. Subsection (1) of section 489.551, Florida
1467 Statutes, is amended to read:

1468 489.551 Definitions.—As used in this part:

1469 (1) "Department" means the Department of Environmental
1470 Protection Health.

1471 Section 19. Except as otherwise expressly provided in this
1472 act, and except for section 2, s. 381.0065(7) as amended by this
1473 act, and s. 381.0652 as created by this act, and this section,
1474 which shall take effect upon July 1, 2019, this act shall take
1475 effect on July 1, 2020.

1476
1477 ===== T I T L E A M E N D M E N T =====

1478 And the title is amended as follows:

1479 Delete everything before the enacting clause
1480 and insert:

1481 A bill to be entitled
1482 An act relating to onsite sewage treatment and
1483 disposal systems; transferring the Onsite Sewage
1484 Program within the Department of Health to the
1485 Department of Environmental Protection; requiring a
1486 memorandum of agreement between the Department of
1487 Health and the Department of Environmental Protection
1488 by a specified date; amending ss. 153.54, 153.73,
1489 163.3180, and 180.03, F.S.; conforming provisions to



1490 changes made by the act; amending s. 373.036, F.S.;

1491 requiring water management districts to submit

1492 consolidated annual reports to the Office of Economic

1493 and Demographic Research by a specified date;

1494 requiring such reports to include septic-to-sewer

1495 conversion and septic tank remediation projects;

1496 amending ss. 373.807, 381.006, 381.0061, and 381.0064,

1497 F.S.; conforming provisions and a cross-reference to

1498 changes made by the act; amending s. 381.0065, F.S.;

1499 conforming provisions to changes made by the act;

1500 removing provisions requiring certain onsite sewage

1501 treatment and disposal system research projects to be

1502 approved by a Department of Health technical review

1503 and advisory panel; removing provisions prohibiting

1504 the award of research projects to certain entities;

1505 removing provisions establishing a Department of

1506 Health onsite sewage treatment and disposal system

1507 research review and advisory committee; providing

1508 requirements for the department's lot size

1509 calculation; authorizing the department to allow the

1510 use of National Sanitation Foundation

1511 International/American National Standards Institute

1512 245 systems; amending s. 381.00651, F.S.; requiring

1513 the county health departments to coordinate with the

1514 department to administer onsite sewage treatment and

1515 disposal system evaluation programs; conforming

1516 provisions to changes made by the act; creating s.

1517 381.00652, F.S.; requiring the Department of

1518 Environmental Protection to appoint an onsite sewage



700888

1519 treatment and disposal systems technical advisory
1520 committee; providing for committee purpose,
1521 membership, and expiration; directing the department
1522 to initiate rulemaking by a specified date and to
1523 adopt specified rules; repealing s. 381.0068, F.S.,
1524 relating to the Department of Health onsite sewage
1525 treatment and disposal systems technical review and
1526 advisory panel; amending s. 381.0101, F.S.; conforming
1527 provisions to changes made by the act; amending s.
1528 403.067, F.S.; directing the department to submit
1529 certain water quality project cost estimates to the
1530 Office of Economic and Demographic Research; amending
1531 s. 489.551, F.S.; conforming provisions to changes
1532 made by the act; providing effective dates.

By Senator Albritton

26-01753B-19

20191022__

1 A bill to be entitled
2 An act relating to onsite treatment and disposal
3 systems; transferring the onsite sewage program of the
4 Department of Health to the Department of
5 Environmental Protection by a type two transfer;
6 amending s. 373.036, F.S.; requiring each water
7 management district to submit a copy of its
8 consolidated water management district annual report
9 to the Office of Economic and Demographic Research;
10 revising the contents of such report; amending ss.
11 373.807, 381.006, and 381.0064, F.S.; conforming
12 provisions to changes made by the act and making
13 technical changes; amending s. 381.0065, F.S.;
14 defining the term "department" as it relates to onsite
15 sewage treatment and disposal systems provisions;
16 revising duties related to the Department of
17 Environmental Protection research projects; deleting
18 provisions relating to the department's research and
19 review advisory committee; requiring the department to
20 convene a technical advisory committee by a specified
21 date; providing for the purpose and membership of the
22 advisory committee; requiring the department to adopt
23 rules; providing for the expiration of the committee;
24 amending s. 381.00651, F.S.; requiring county health
25 departments to coordinate with the department to
26 administer certain programs; conforming provisions to
27 changes made by the act; repealing s. 381.0068, F.S.,
28 relating to the technical review and advisory panel;
29 amending s. 403.067, F.S.; requiring the department to

26-01753B-19

20191022__

30 submit certain project cost estimates to the office;
31 amending s. 381.0061, F.S.; conforming a cross-
32 reference; reenacting ss. 373.026(8)(b), 373.0363(5),
33 373.042(3), 373.199(7), 373.414(1)(b), 373.4592(4)(d),
34 (13), and (14), 373.45926(3), 373.4595(6), 373.463(3),
35 373.470(7), 373.536(6)(a) and (b), and 373.707(8),
36 F.S., relating to the general powers and duties of the
37 department, the Southern Water Use Caution Area
38 Recovery Strategy, minimum flows and minimum water
39 levels, the Florida Forever Water Management District
40 Work Plan, additional criteria for activities in
41 surface waters and wetlands, Everglades improvement
42 and management, the Everglades Trust Fund, the
43 Northern Everglades and Estuaries Protection Program,
44 the heartland headwaters annual report, Everglades
45 restoration, district budget and hearing thereon, and
46 alternative water supply development, respectively, to
47 incorporate the amendment made to s. 373.036, F.S., in
48 references thereto; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. All powers, duties, functions, records, offices,
53 personnel, associated administrative support positions,
54 property, pending issues, existing contracts, administrative
55 authority, administrative rules, and unexpended balances of
56 appropriations, allocations, and other funds for the regulation
57 of onsite sewage treatment and disposal systems and relating to
58 the onsite sewage program of the Department of Health are

26-01753B-19

20191022__

59 transferred by a type two transfer, as defined in s. 20.06(2),
60 Florida Statutes, to the Department of Environmental Protection.

61 Section 2. Subsection (7) of section 373.036, Florida
62 Statutes, is amended to read:

63 373.036 Florida water plan; district water management
64 plans.—

65 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

66 (a) By March 1, annually, each water management district
67 shall prepare and submit to the Office of Economic and
68 Demographic Research, the department, the Governor, the
69 President of the Senate, and the Speaker of the House of
70 Representatives a consolidated water management district annual
71 report on the management of water resources. In addition, copies
72 must be provided by the water management districts to the chairs
73 of all legislative committees having substantive or fiscal
74 jurisdiction over the districts and the governing board of each
75 county in the district having jurisdiction or deriving any funds
76 for operations of the district. Copies of the consolidated
77 annual report must be made available to the public, either in
78 printed or electronic format.

79 (b) The consolidated annual report must ~~shall~~ contain the
80 following elements, as appropriate to that water management
81 district:

82 1. A district water management plan annual report or the
83 annual work plan report allowed in subparagraph (2)(e)4.

84 2. The department-approved minimum flows and minimum water
85 levels annual priority list and schedule required by s.
86 373.042(3).

87 3. The annual 5-year capital improvements plan required by

26-01753B-19

20191022__

88 s. 373.536(6) (a)3.

89 4. The alternative water supplies annual report required by
90 s. 373.707(8) (n).

91 5. The final annual 5-year water resource development work
92 program required by s. 373.536(6) (a)4.

93 6. The Florida Forever Water Management District Work Plan
94 annual report required by s. 373.199(7).

95 7. The mitigation donation annual report required by s.
96 373.414(1) (b)2.

97 8. Information on all projects related to water quality or
98 water quantity as part of a 5-year work program, including:

99 a. A list of all specific projects identified to implement
100 a basin management action plan, including any septic to sewer
101 conversion and septic tank remediation projects, or a recovery
102 or prevention strategy;

103 b. A priority ranking for each listed project for which
104 state funding through the water resources development work
105 program is requested, which must be made available to the public
106 for comment at least 30 days before submission of the
107 consolidated annual report;

108 c. The estimated cost for each listed project;

109 d. The estimated completion date for each listed project;

110 e. The source and amount of financial assistance to be made
111 available by the department, a water management district, or
112 other entity for each listed project; and

113 f. A quantitative estimate of each listed project's benefit
114 to the watershed, water body, or water segment in which it is
115 located.

116 9. A grade for each watershed, water body, or water segment

26-01753B-19

20191022__

117 in which a project listed under subparagraph 8. is located
118 representing the level of impairment and violations of adopted
119 minimum flow or minimum water levels. The grading system must
120 reflect the severity of the impairment of the watershed, water
121 body, or water segment.

122 (c) Each of the elements listed in paragraph (b) shall ~~is~~
123 ~~to~~ be addressed in a separate chapter or section within the
124 consolidated annual report, although information common to more
125 than one of these elements may be consolidated as deemed
126 appropriate by the individual water management district.

127 (d) Each water management district may include in the
128 consolidated annual report such additional information on the
129 status or management of water resources within the district as
130 it deems appropriate.

131 (e) In addition to the elements specified in paragraph (b),
132 the South Florida Water Management District shall include in the
133 consolidated annual report the following elements:

134 1. The Lake Okeechobee Protection Program annual progress
135 report required by s. 373.4595(6).

136 2. The Everglades annual progress reports specified in s.
137 373.4592(4)(d)5., (13), and (14).

138 3. The Everglades restoration annual report required by s.
139 373.470(7).

140 4. The Everglades Trust Fund annual expenditure report
141 required by s. 373.45926(3).

142 Section 3. Subsection (3) of section 373.807, Florida
143 Statutes, is amended to read:

144 373.807 Protection of water quality in Outstanding Florida
145 Springs.—By July 1, 2016, the department shall initiate

26-01753B-19

20191022__

146 assessment, pursuant to s. 403.067(3), of Outstanding Florida
147 Springs or spring systems for which an impairment determination
148 has not been made under the numeric nutrient standards in effect
149 for spring vents. Assessments must be completed by July 1, 2018.

150 (3) As part of a basin management action plan that includes
151 an Outstanding Florida Spring, the department, ~~the Department of~~
152 ~~Health~~, relevant local governments, and relevant local public
153 and private wastewater utilities shall develop an onsite sewage
154 treatment and disposal system remediation plan for a spring if
155 the department determines onsite sewage treatment and disposal
156 systems within a priority focus area contribute at least 20
157 percent of nonpoint source nitrogen pollution or if the
158 department determines remediation is necessary to achieve the
159 total maximum daily load. The plan shall identify cost-effective
160 and financially feasible projects necessary to reduce the
161 nutrient impacts from onsite sewage treatment and disposal
162 systems and shall be completed and adopted as part of the basin
163 management action plan no later than the first 5-year milestone
164 required by subparagraph (1)(b)8. The department is the lead
165 agency in coordinating the preparation of and the adoption of
166 the plan. The department shall:

167 (a) Collect and evaluate credible scientific information on
168 the effect of nutrients, particularly forms of nitrogen, on
169 springs and springs systems; and

170 (b) Develop a public education plan to provide area
171 residents with reliable, understandable information about onsite
172 sewage treatment and disposal systems and springs.

173
174 In addition to the requirements in s. 403.067, the plan must

26-01753B-19

20191022__

175 ~~shall~~ include options for repair, upgrade, replacement,
176 drainfield modification, addition of effective nitrogen reducing
177 features, connection to a central sewerage system, or other
178 action for an onsite sewage treatment and disposal system or
179 group of systems within a priority focus area that contribute at
180 least 20 percent of nonpoint source nitrogen pollution or if the
181 department determines remediation is necessary to achieve a
182 total maximum daily load. For these systems, the department
183 shall include in the plan a priority ranking for each system or
184 group of systems that requires remediation and shall award funds
185 to implement the remediation projects contingent on an
186 appropriation in the General Appropriations Act, which may
187 include all or part of the costs necessary for repair, upgrade,
188 replacement, drainfield modification, addition of effective
189 nitrogen reducing features, initial connection to a central
190 sewerage system, or other action. In awarding funds, the
191 department may consider expected nutrient reduction benefit per
192 unit cost, size and scope of project, relative local financial
193 contribution to the project, and the financial impact on
194 property owners and the community. The department may waive
195 matching funding requirements for proposed projects within an
196 area designated as a rural area of opportunity under s.
197 288.0656.

198 Section 4. Section 381.006, Florida Statutes, is amended to
199 read:

200 381.006 Environmental health.—The Department of Health
201 shall conduct an environmental health program as part of
202 fulfilling the state's public health mission. The purpose of
203 this program is to detect and prevent disease caused by natural

26-01753B-19

20191022__

204 and manmade factors in the environment. The environmental health
205 program shall include, but not be limited to:

206 (1) A drinking water function.

207 (2) An environmental health surveillance function which
208 shall collect, compile, and correlate information on public
209 health and exposure to hazardous substances through sampling and
210 testing of water, air, or foods. Environmental health
211 surveillance shall include a comprehensive assessment of
212 drinking water under the department's supervision and an indoor
213 air quality testing and monitoring program to assess health
214 risks from exposure to chemical, physical, and biological agents
215 in the indoor environment.

216 (3) A toxicology and hazard assessment function which shall
217 conduct toxicological and human health risk assessments of
218 exposure to toxic agents, for the purposes of:

219 (a) Supporting determinations by the State Health Officer
220 of safe levels of contaminants in water, air, or food if
221 applicable standards or criteria have not been adopted. These
222 determinations shall include issuance of health advisories to
223 protect the health and safety of the public at risk from
224 exposure to toxic agents.

225 (b) Provision of human toxicological health risk
226 assessments to the public and other governmental agencies to
227 characterize the risks to the public from exposure to
228 contaminants in air, water, or food.

229 (c) Consultation and technical assistance to the Department
230 of Environmental Protection and other governmental agencies on
231 actions necessary to ameliorate exposure to toxic agents,
232 including the emergency provision by the Department of

26-01753B-19

20191022__

233 Environmental Protection of drinking water in cases of drinking
234 water contamination that present an imminent and substantial
235 threat to the public's health, as required by s.
236 376.30(3)(c)1.a.

237 (d) Monitoring and reporting the body burden of toxic
238 agents to estimate past exposure to these toxic agents, predict
239 future health effects, and decrease the incidence of poisoning
240 by identifying and eliminating exposure.

241 (4) A sanitary nuisance function, as that term is defined
242 in chapter 386.

243 (5) A migrant labor function.

244 (6) A public facilities function, including sanitary
245 practices relating to state, county, municipal, and private
246 institutions serving the public; jointly with the Department of
247 Education, publicly and privately owned schools; all places used
248 for the incarceration of prisoners and inmates of state
249 institutions for the mentally ill; toilets and washrooms in all
250 public places and places of employment; any other condition,
251 place, or establishment necessary for the control of disease or
252 the protection and safety of public health.

253 ~~(7) An onsite sewage treatment and disposal function.~~

254 ~~(8)~~ A biohazardous waste control function.

255 (8)~~(9)~~ A function to control diseases transmitted from
256 animals to humans, including the segregation, quarantine, and
257 destruction of domestic pets and wild animals having or
258 suspected of having such diseases.

259 (9)~~(10)~~ An environmental epidemiology function which shall
260 investigate food-borne disease, waterborne disease, and other
261 diseases of environmental causation, whether of chemical,

26-01753B-19

20191022__

262 radiological, or microbiological origin. A \$10 surcharge for
263 this function must ~~shall~~ be assessed upon all persons permitted
264 under chapter 500. This function shall include an educational
265 program for physicians and health professionals designed to
266 promote surveillance and reporting of environmental diseases,
267 and to further the dissemination of knowledge about the
268 relationship between toxic substances and human health which
269 will be useful in the formulation of public policy and will be a
270 source of information for the public.

271 (10) ~~(11)~~ Mosquito and pest control functions as provided in
272 chapters 388 and 482.

273 (11) ~~(12)~~ A radiation control function as provided in
274 chapter 404 and part IV of chapter 468.

275 (12) ~~(13)~~ A public swimming and bathing facilities function
276 as provided in chapter 514.

277 (13) ~~(14)~~ A mobile home park, lodging park, recreational
278 vehicle park, and recreational camp function as provided in
279 chapter 513.

280 (14) ~~(15)~~ A sanitary facilities function, which shall
281 include minimum standards for the maintenance and sanitation of
282 sanitary facilities; public access to sanitary facilities; and
283 fixture ratios for special or temporary events and for homeless
284 shelters.

285 (15) ~~(16)~~ A group-care-facilities function. As used in this
286 subsection, the term "group care facility" means any public or
287 private school, assisted living facility, adult family-care
288 home, adult day care center, short-term residential treatment
289 center, residential treatment facility, home for special
290 services, transitional living facility, crisis stabilization

26-01753B-19

20191022__

291 unit, hospice, prescribed pediatric extended care center,
292 intermediate care facility for persons with developmental
293 disabilities, or boarding school. The department may adopt rules
294 necessary to protect the health and safety of residents, staff,
295 and patrons of group care facilities. Rules related to public
296 and private schools shall be developed by the Department of
297 Education in consultation with the department. Rules adopted
298 under this subsection may include definitions of terms;
299 provisions relating to operation and maintenance of facilities,
300 buildings, grounds, equipment, furnishings, and occupant-space
301 requirements; lighting; heating, cooling, and ventilation; food
302 service; water supply and plumbing; sewage; sanitary facilities;
303 insect and rodent control; garbage; safety; personnel health,
304 hygiene, and work practices; and other matters the department
305 finds are appropriate or necessary to protect the safety and
306 health of the residents, staff, students, faculty, or patrons.
307 The department may not adopt rules that conflict with rules
308 adopted by the licensing or certifying agency. The department
309 may enter and inspect at reasonable hours to determine
310 compliance with applicable statutes or rules. In addition to any
311 sanctions that the department may impose for violations of rules
312 adopted under this section, the department shall also report
313 such violations to any agency responsible for licensing or
314 certifying the group care facility. The licensing or certifying
315 agency may also impose any sanction based solely on the findings
316 of the department.

317 (16)~~(17)~~ A function for investigating elevated levels of
318 lead in blood. Each participating county health department may
319 expend funds for federally mandated certification or

26-01753B-19

20191022__

320 recertification fees related to conducting investigations of
321 elevated levels of lead in blood.

322 (17)~~(18)~~ A food service inspection function for domestic
323 violence centers that are certified by the Department of
324 Children and Families and monitored by the Florida Coalition
325 Against Domestic Violence under part XII of chapter 39 and group
326 care homes as described in subsection (15) ~~(16)~~, which shall be
327 conducted annually and be limited to the requirements in
328 department rule applicable to community-based residential
329 facilities with five or fewer residents.

330
331 The department may adopt rules to carry out the provisions of
332 this section.

333 Section 5. Subsection (1) of section 381.0064, Florida
334 Statutes, is amended to read:

335 381.0064 Continuing education courses for persons
336 installing or servicing septic tanks.-

337 (1) The Department of Environmental Protection ~~Health~~ shall
338 establish a program for continuing education which meets the
339 purposes of ss. 381.0101 and 489.554 regarding the public health
340 and environmental effects of onsite sewage treatment and
341 disposal systems and any other matters the department determines
342 desirable for the safe installation and use of onsite sewage
343 treatment and disposal systems. The department may charge a fee
344 to cover the cost of such program.

345 Section 6. Subsections (2), (3), and (4) of section
346 381.0065, Florida Statutes, are amended, and subsection (7) is
347 added to that section, to read:

348 381.0065 Onsite sewage treatment and disposal systems;

26-01753B-19

20191022__

349 regulation.—

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

352 (a) "Available," as applied to a publicly owned or
353 investor-owned sewerage system, means that the publicly owned or
354 investor-owned sewerage system is capable of being connected to
355 the plumbing of an establishment or residence, is not under a
356 Department of Environmental Protection moratorium, and has
357 adequate permitted capacity to accept the sewage to be generated
358 by the establishment or residence; and:

359 1. For a residential subdivision lot, a single-family
360 residence, or an establishment, any of which has an estimated
361 sewage flow of 1,000 gallons per day or less, a gravity sewer
362 line to maintain gravity flow from the property's drain to the
363 sewer line, or a low pressure or vacuum sewage collection line
364 in those areas approved for low pressure or vacuum sewage
365 collection, exists in a public easement or right-of-way that
366 abuts the property line of the lot, residence, or establishment.

367 2. For an establishment with an estimated sewage flow
368 exceeding 1,000 gallons per day, a sewer line, force main, or
369 lift station exists in a public easement or right-of-way that
370 abuts the property of the establishment or is within 50 feet of
371 the property line of the establishment as accessed via existing
372 rights-of-way or easements.

373 3. For proposed residential subdivisions with more than 50
374 lots, for proposed commercial subdivisions with more than 5
375 lots, and for areas zoned or used for an industrial or
376 manufacturing purpose or its equivalent, a sewerage system
377 exists within one-fourth mile of the development as measured and

26-01753B-19

20191022__

378 accessed via existing easements or rights-of-way.

379 4. For repairs or modifications within areas zoned or used
380 for an industrial or manufacturing purpose or its equivalent, a
381 sewerage system exists within 500 feet of an establishment's or
382 residence's sewer stub-out as measured and accessed via existing
383 rights-of-way or easements.

384 (b)1. "Bedroom" means a room that can be used for sleeping
385 and that:

386 a. For site-built dwellings, has a minimum of 70 square
387 feet of conditioned space;

388 b. For manufactured homes, is constructed according to the
389 standards of the United States Department of Housing and Urban
390 Development and has a minimum of 50 square feet of floor area;

391 c. Is located along an exterior wall;

392 d. Has a closet and a door or an entrance where a door
393 could be reasonably installed; and

394 e. Has an emergency means of escape and rescue opening to
395 the outside in accordance with the Florida Building Code.

396 2. A room may not be considered a bedroom if it is used to
397 access another room except a bathroom or closet.

398 3. "Bedroom" does not include a hallway, bathroom, kitchen,
399 living room, family room, dining room, den, breakfast nook,
400 pantry, laundry room, sunroom, recreation room, media/video
401 room, or exercise room.

402 (c) "Blackwater" means that part of domestic sewage carried
403 off by toilets, urinals, and kitchen drains.

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

406 (e) ~~(d)~~ "Domestic sewage" means human body waste and

26-01753B-19

20191022__

407 wastewater, including bath and toilet waste, residential laundry
408 waste, residential kitchen waste, and other similar waste from
409 appurtenances at a residence or establishment.

410 (f)~~(e)~~ "Graywater" means that part of domestic sewage that
411 is not blackwater, including waste from the bath, lavatory,
412 laundry, and sink, except kitchen sink waste.

413 (g)~~(f)~~ "Florida Keys" means those islands of the state
414 located within the boundaries of Monroe County.

415 (h)~~(g)~~ "Injection well" means an open vertical hole at
416 least 90 feet in depth, cased and grouted to at least 60 feet in
417 depth which is used to dispose of effluent from an onsite sewage
418 treatment and disposal system.

419 (i)~~(h)~~ "Innovative system" means an onsite sewage treatment
420 and disposal system that, in whole or in part, employs
421 materials, devices, or techniques that are novel or unique and
422 that have not been successfully field-tested under sound
423 scientific and engineering principles under climatic and soil
424 conditions found in this state.

425 (j)~~(i)~~ "Lot" means a parcel or tract of land described by
426 reference to recorded plats or by metes and bounds, or the least
427 fractional part of subdivided lands having limited fixed
428 boundaries or an assigned number, letter, or any other legal
429 description by which it can be identified.

430 (k)~~(j)~~ "Mean annual flood line" means the elevation
431 determined by calculating the arithmetic mean of the elevations
432 of the highest yearly flood stage or discharge for the period of
433 record, to include at least the most recent 10-year period. If
434 at least 10 years of data is not available, the mean annual
435 flood line shall be as determined based upon the data available

26-01753B-19

20191022__

436 and field verification conducted by a certified professional
437 surveyor and mapper with experience in the determination of
438 flood water elevation lines or, at the option of the applicant,
439 by department personnel. Field verification of the mean annual
440 flood line shall be performed using a combination of those
441 indicators listed in subparagraphs 1.-7. that are present on the
442 site, and that reflect flooding that recurs on an annual basis.
443 In those situations where any one or more of these indicators
444 reflect a rare or aberrant event, such indicator or indicators
445 shall not be utilized in determining the mean annual flood line.
446 The indicators that may be considered are:

- 447 1. Water stains on the ground surface, trees, and other
448 fixed objects;
- 449 2. Hydric adventitious roots;
- 450 3. Drift lines;
- 451 4. Rafted debris;
- 452 5. Aquatic mosses and liverworts;
- 453 6. Moss collars; and
- 454 7. Lichen lines.

455 (1)~~(*)~~ "Onsite sewage treatment and disposal system" means
456 a system that contains a standard subsurface, filled, or mound
457 drainfield system; an aerobic treatment unit; a graywater system
458 tank; a laundry wastewater system tank; a septic tank; a grease
459 interceptor; a pump tank; a solids or effluent pump; a
460 waterless, incinerating, or organic waste-composting toilet; or
461 a sanitary pit privy that is installed or proposed to be
462 installed beyond the building sewer on land of the owner or on
463 other land to which the owner has the legal right to install a
464 system. The term includes any item placed within, or intended to

26-01753B-19

20191022__

465 be used as a part of or in conjunction with, the system. This
466 term does not include package sewage treatment facilities and
467 other treatment works regulated under chapter 403.

468 (m)~~(l)~~ "Permanent nontidal surface water body" means a
469 perennial stream, a perennial river, an intermittent stream, a
470 perennial lake, a submerged marsh or swamp, a submerged wooded
471 marsh or swamp, a spring, or a seep, as identified on the most
472 recent quadrangle map, 7.5 minute series (topographic), produced
473 by the United States Geological Survey, or products derived from
474 that series. "Permanent nontidal surface water body" shall also
475 mean an artificial surface water body that does not have an
476 impermeable bottom and side and that is designed to hold, or
477 does hold, visible standing water for at least 180 days of the
478 year. However, a nontidal surface water body that is drained,
479 either naturally or artificially, where the intent or the result
480 is that such drainage be temporary, shall be considered a
481 permanent nontidal surface water body. A nontidal surface water
482 body that is drained of all visible surface water, where the
483 lawful intent or the result of such drainage is that such
484 drainage will be permanent, shall not be considered a permanent
485 nontidal surface water body. The boundary of a permanent
486 nontidal surface water body shall be the mean annual flood line.

487 (n)~~(m)~~ "Potable water line" means any water line that is
488 connected to a potable water supply source, but the term does
489 not include an irrigation line with any of the following types
490 of backflow devices:

491 1. For irrigation systems into which chemicals are not
492 injected, any atmospheric or pressure vacuum breaker or double
493 check valve or any detector check assembly.

26-01753B-19

20191022__

494 2. For irrigation systems into which chemicals such as
495 fertilizers, pesticides, or herbicides are injected, any reduced
496 pressure backflow preventer.

497 (o)~~(n)~~ "Septage" means a mixture of sludge, fatty
498 materials, human feces, and wastewater removed during the
499 pumping of an onsite sewage treatment and disposal system.

500 (p)~~(e)~~ "Subdivision" means, for residential use, any tract
501 or plot of land divided into two or more lots or parcels of
502 which at least one is 1 acre or less in size for sale, lease, or
503 rent. A subdivision for commercial or industrial use is any
504 tract or plot of land divided into two or more lots or parcels
505 of which at least one is 5 acres or less in size and which is
506 for sale, lease, or rent. A subdivision shall be deemed to be
507 proposed until such time as an application is submitted to the
508 local government for subdivision approval or, in those areas
509 where no local government subdivision approval is required,
510 until such time as a plat of the subdivision is recorded.

511 (q)~~(p)~~ "Tidally influenced surface water body" means a body
512 of water that is subject to the ebb and flow of the tides and
513 has as its boundary a mean high-water line as defined by s.
514 177.27(15).

515 (r)~~(q)~~ "Toxic or hazardous chemical" means a substance that
516 poses a serious danger to human health or the environment.

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

519 (a) Adopt rules to administer ss. 381.0065-381.0067,
520 including definitions that are consistent with the definitions
521 in this section, decreases to setback requirements where no
522 health hazard exists, increases for the lot-flow allowance for

26-01753B-19

20191022__

523 performance-based systems, requirements for separation from
524 water table elevation during the wettest season, requirements
525 for the design and construction of any component part of an
526 onsite sewage treatment and disposal system, application and
527 permit requirements for persons who maintain an onsite sewage
528 treatment and disposal system, requirements for maintenance and
529 service agreements for aerobic treatment units and performance-
530 based treatment systems, and recommended standards, including
531 disclosure requirements, for voluntary system inspections to be
532 performed by individuals who are authorized by law to perform
533 such inspections and who shall inform a person having ownership,
534 control, or use of an onsite sewage treatment and disposal
535 system of the inspection standards and of that person's
536 authority to request an inspection based on all or part of the
537 standards.

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

547 (c) Develop a comprehensive program to ensure that onsite
548 sewage treatment and disposal systems regulated by the
549 department are sized, designed, constructed, installed,
550 repaired, modified, abandoned, used, operated, and maintained in
551 compliance with this section and rules adopted under this

26-01753B-19

20191022__

552 section to prevent groundwater contamination and surface water
553 contamination and to preserve the public health. The department
554 is the final administrative interpretive authority regarding
555 rule interpretation. In the event of a conflict regarding rule
556 interpretation, the State Surgeon General, or his or her
557 designee, shall timely assign a staff person to resolve the
558 dispute.

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

561 (e) Permit the use of a limited number of innovative
562 systems for a specific period of time, when there is compelling
563 evidence that the system will function properly and reliably to
564 meet the requirements of this section and rules adopted under
565 this section.

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

567 (g) Establish and collect fees as established under s.
568 381.0066 for services provided with respect to onsite sewage
569 treatment and disposal systems.

570 (h) Conduct enforcement activities, including imposing
571 fines, issuing citations, suspensions, revocations, injunctions,
572 and emergency orders for violations of this section, part I of
573 chapter 386, or part III of chapter 489 or for a violation of
574 any rule adopted under this section, part I of chapter 386, or
575 part III of chapter 489.

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

579 (j) Supervise research on, demonstration of, and training
580 on the performance, environmental impact, and public health

26-01753B-19

20191022__

581 impact of onsite sewage treatment and disposal systems within
582 this state. Research fees collected under s. 381.0066(2)(k) must
583 be used to develop and fund hands-on training centers designed
584 to provide practical information about onsite sewage treatment
585 and disposal systems to septic tank contractors, master septic
586 tank contractors, contractors, inspectors, engineers, and the
587 public and must also be used to fund research projects which
588 focus on improvements of onsite sewage treatment and disposal
589 systems, including use of performance-based standards and
590 reduction of environmental impact. Research projects must ~~shall~~
591 ~~be initially approved by the technical review and advisory panel~~
592 ~~and shall be~~ applicable to and reflect the soil conditions
593 specific to Florida. Such projects shall be awarded through
594 competitive negotiation, using the procedures provided in s.
595 287.055, to public or private entities that have experience in
596 onsite sewage treatment and disposal systems in Florida and that
597 are principally located in Florida. ~~Research projects shall not~~
598 ~~be awarded to firms or entities that employ or are associated~~
599 ~~with persons who serve on either the technical review and~~
600 ~~advisory panel or the research review and advisory committee.~~

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

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

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

26-01753B-19

20191022__

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

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

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

26-01753B-19

20191022__

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

26-01753B-19

20191022__

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

686 (a) Subdivisions and lots in which each lot has a minimum
687 area of at least one-half acre and either a minimum dimension of
688 100 feet or a mean of at least 100 feet of the side bordering
689 the street and the distance formed by a line parallel to the
690 side bordering the street drawn between the two most distant
691 points of the remainder of the lot may be developed with a water
692 system regulated under s. 381.0062 and onsite sewage treatment
693 and disposal systems, provided the projected daily sewage flow
694 does not exceed an average of 1,500 gallons per acre per day,
695 and provided satisfactory drinking water can be obtained and all
696 distance and setback, soil condition, water table elevation, and

26-01753B-19

20191022__

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

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

707 (c) Notwithstanding paragraphs (a) and (b), for
708 subdivisions platted of record on or before October 1, 1991,
709 when a developer or other appropriate entity has previously made
710 or makes provisions, including financial assurances or other
711 commitments, acceptable to the department ~~of Health~~, that a
712 central water system will be installed by a regulated public
713 utility based on a density formula, private potable wells may be
714 used with onsite sewage treatment and disposal systems until the
715 agreed-upon densities are reached. In a subdivision regulated by
716 this paragraph, the average daily sewage flow may not exceed
717 2,500 gallons per acre per day. This section does not affect the
718 validity of existing prior agreements. After October 1, 1991,
719 the exception provided under this paragraph is not available to
720 a developer or other appropriate entity.

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

26-01753B-19

20191022__

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

728 (e) Onsite sewage treatment and disposal systems must not
729 be placed closer than:

730 1. Seventy-five feet from a private potable well.

731 2. Two hundred feet from a public potable well serving a
732 residential or nonresidential establishment having a total
733 sewage flow of greater than 2,000 gallons per day.

734 3. One hundred feet from a public potable well serving a
735 residential or nonresidential establishment having a total
736 sewage flow of less than or equal to 2,000 gallons per day.

737 4. Fifty feet from any nonpotable well.

738 5. Ten feet from any storm sewer pipe, to the maximum
739 extent possible, but in no instance shall the setback be less
740 than 5 feet.

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

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

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

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

26-01753B-19

20191022__

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

759 1. Any residential lot that was platted and recorded on or
760 after January 1, 1972, or that is part of a residential
761 subdivision that was approved by the appropriate permitting
762 agency on or after January 1, 1972, and that was eligible for an
763 onsite sewage treatment and disposal system construction permit
764 on the date of such platting and recording or approval shall be
765 eligible for an onsite sewage treatment and disposal system
766 construction permit, regardless of when the application for a
767 permit is made. If rules in effect at the time the permit
768 application is filed cannot be met, residential lots platted and
769 recorded or approved on or after January 1, 1972, shall, to the
770 maximum extent possible, comply with the rules in effect at the
771 time the permit application is filed. At a minimum, however,
772 those residential lots platted and recorded or approved on or
773 after January 1, 1972, but before January 1, 1983, shall comply
774 with those rules in effect on January 1, 1983, and those
775 residential lots platted and recorded or approved on or after
776 January 1, 1983, shall comply with those rules in effect at the
777 time of such platting and recording or approval. In determining
778 the maximum extent of compliance with current rules that is
779 possible, the department shall allow structures and
780 appurtenances thereto which were authorized at the time such
781 lots were platted and recorded or approved.

782 2. Lots platted before 1972 are subject to a 50-foot
783 minimum surface water setback and are not subject to lot size

26-01753B-19

20191022__

784 requirements. The projected daily flow for onsite sewage
785 treatment and disposal systems for lots platted before 1972 may
786 not exceed:

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

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

791 (h)1. The department may grant variances in hardship cases
792 which may be less restrictive than the provisions specified in
793 this section. If a variance is granted and the onsite sewage
794 treatment and disposal system construction permit has been
795 issued, the variance may be transferred with the system
796 construction permit, if the transferee files, within 60 days
797 after the transfer of ownership, an amended construction permit
798 application providing all corrected information and proof of
799 ownership of the property and if the same variance would have
800 been required for the new owner of the property as was
801 originally granted to the original applicant for the variance.
802 There is no fee associated with the processing of this
803 supplemental information. A variance may not be granted under
804 this section until the department is satisfied that:

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

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

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

26-01753B-19

20191022__

813 or surface waters.

814

815 Where soil conditions, water table elevation, and setback
816 provisions are determined by the department to be satisfactory,
817 special consideration must be given to those lots platted before
818 1972.

819 2. The department shall appoint and staff a variance review
820 and advisory committee, which shall meet monthly to recommend
821 agency action on variance requests. The committee shall make its
822 recommendations on variance requests at the meeting in which the
823 application is scheduled for consideration, except for an
824 extraordinary change in circumstances, the receipt of new
825 information that raises new issues, or when the applicant
826 requests an extension. The committee shall consider the criteria
827 in subparagraph 1. in its recommended agency action on variance
828 requests and shall also strive to allow property owners the full
829 use of their land where possible. The committee consists of the
830 following:

831 a. The State Surgeon General or his or her designee.

832 b. A representative from the county health departments.

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

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

837 e. A representative from the Department of Environmental
838 Protection.

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

26-01753B-19

20191022__

842 Florida Association of Realtors.

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

845
846 Members shall be appointed for a term of 3 years, with such
847 appointments being staggered so that the terms of no more than
848 two members expire in any one year. Members shall serve without
849 remuneration, but if requested, shall be reimbursed for per diem
850 and travel expenses as provided in s. 112.061.

851 (i) A construction permit may not be issued for an onsite
852 sewage treatment and disposal system in any area zoned or used
853 for industrial or manufacturing purposes, or its equivalent,
854 where a publicly owned or investor-owned sewage treatment system
855 is available, or where a likelihood exists that the system will
856 receive toxic, hazardous, or industrial waste. An existing
857 onsite sewage treatment and disposal system may be repaired if a
858 publicly owned or investor-owned sewerage system is not
859 available within 500 feet of the building sewer stub-out and if
860 system construction and operation standards can be met. This
861 paragraph does not require publicly owned or investor-owned
862 sewerage treatment systems to accept anything other than
863 domestic wastewater.

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

26-01753B-19

20191022__

871 wastewater or toxic or hazardous chemicals.

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

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

898 (j) An onsite sewage treatment and disposal system designed
899 by a professional engineer registered in the state and certified

26-01753B-19

20191022__

900 by such engineer as complying with performance criteria adopted
901 by the department must be approved by the department subject to
902 the following:

903 1. The performance criteria applicable to engineer-designed
904 systems must be limited to those necessary to ensure that such
905 systems do not adversely affect the public health or
906 significantly degrade the groundwater or surface water. Such
907 performance criteria shall include consideration of the quality
908 of system effluent, the proposed total sewage flow per acre,
909 wastewater treatment capabilities of the natural or replaced
910 soil, water quality classification of the potential surface-
911 water-receiving body, and the structural and maintenance
912 viability of the system for the treatment of domestic
913 wastewater. However, performance criteria shall address only the
914 performance of a system and not a system's design.

915 2. A person electing to utilize an engineer-designed system
916 shall, upon completion of the system design, submit such design,
917 certified by a registered professional engineer, to the county
918 health department. The county health department may utilize an
919 outside consultant to review the engineer-designed system, with
920 the actual cost of such review to be borne by the applicant.
921 Within 5 working days after receiving an engineer-designed
922 system permit application, the county health department shall
923 request additional information if the application is not
924 complete. Within 15 working days after receiving a complete
925 application for an engineer-designed system, the county health
926 department either shall issue the permit or, if it determines
927 that the system does not comply with the performance criteria,
928 shall notify the applicant of that determination and refer the

26-01753B-19

20191022__

929 application to the department for a determination as to whether
930 the system should be approved, disapproved, or approved with
931 modification. The department engineer's determination shall
932 prevail over the action of the county health department. The
933 applicant shall be notified in writing of the department's
934 determination and of the applicant's rights to pursue a variance
935 or seek review under ~~the provisions of~~ chapter 120.

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

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

955 5. The property owner shall obtain a biennial system
956 operating permit from the department for each system. The
957 department shall inspect the system at least annually, or on

26-01753B-19

20191022__

958 such periodic basis as the fee collected permits, and may
959 collect system-effluent samples if appropriate to determine
960 compliance with the performance criteria. The fee for the
961 biennial operating permit shall be collected beginning with the
962 second year of system operation.

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

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

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

983 1. The county, each municipality, and those special
984 districts established for the purpose of the collection,
985 transmission, treatment, or disposal of sewage shall ensure, in
986 accordance with the specific schedules adopted by the

26-01753B-19

20191022__

987 Administration Commission under s. 380.0552, the completion of
988 onsite sewage treatment and disposal system upgrades to meet the
989 requirements of this paragraph.

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

995 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

996 b. Suspended Solids of 10 mg/l.

997 c. Total Nitrogen, expressed as N, of 10 mg/l or a
998 reduction in nitrogen of at least 70 percent. A system that has
999 been tested and certified to reduce nitrogen concentrations by
1000 at least 70 percent shall be deemed to be in compliance with
1001 this standard.

1002 d. Total Phosphorus, expressed as P, of 1 mg/l.

1003

1004 In addition, onsite sewage treatment and disposal systems
1005 discharging to an injection well must provide basic disinfection
1006 as defined by department rule.

1007 3. In areas not scheduled to be served by a central sewer,
1008 onsite sewage treatment and disposal systems must, by December
1009 31, 2015, comply with department rules and provide the level of
1010 treatment described in subparagraph 2.

1011 4. In areas scheduled to be served by central sewer by
1012 December 31, 2015, if the property owner has paid a connection
1013 fee or assessment for connection to the central sewer system,
1014 the property owner may install a holding tank with a high water
1015 alarm or an onsite sewage treatment and disposal system that

26-01753B-19

20191022__

1016 meets the following minimum standards:

1017 a. The existing tanks must be pumped and inspected and
1018 certified as being watertight and free of defects in accordance
1019 with department rule; and

1020 b. A sand-lined drainfield or injection well in accordance
1021 with department rule must be installed.

1022 5. Onsite sewage treatment and disposal systems must be
1023 monitored for total nitrogen and total phosphorus concentrations
1024 as required by department rule.

1025 6. The department shall enforce proper installation,
1026 operation, and maintenance of onsite sewage treatment and
1027 disposal systems pursuant to this chapter, including ensuring
1028 that the appropriate level of treatment described in
1029 subparagraph 2. is met.

1030 7. The authority of a local government, including a special
1031 district, to mandate connection of an onsite sewage treatment
1032 and disposal system is governed by s. 4, chapter 99-395, Laws of
1033 Florida.

1034 8. Notwithstanding any other provision of law, an onsite
1035 sewage treatment and disposal system installed after July 1,
1036 2010, in unincorporated Monroe County, excluding special
1037 wastewater districts, that complies with the standards in
1038 subparagraph 2. is not required to connect to a central sewer
1039 system until December 31, 2020.

1040 (m) No product sold in the state for use in onsite sewage
1041 treatment and disposal systems may contain any substance in
1042 concentrations or amounts that would interfere with or prevent
1043 the successful operation of such system, or that would cause
1044 discharges from such systems to violate applicable water quality

26-01753B-19

20191022__

1045 standards. The department shall publish criteria for products
1046 known or expected to meet the conditions of this paragraph. In
1047 the event a product does not meet such criteria, such product
1048 may be sold if the manufacturer satisfactorily demonstrates to
1049 the department that the conditions of this paragraph are met.

1050 (n) Evaluations for determining the seasonal high-water
1051 table elevations or the suitability of soils for the use of a
1052 new onsite sewage treatment and disposal system shall be
1053 performed by department personnel, professional engineers
1054 registered in the state, or such other persons with expertise,
1055 as defined by rule, in making such evaluations. Evaluations for
1056 determining mean annual flood lines shall be performed by those
1057 persons identified in paragraph (2) (j). The department shall
1058 accept evaluations submitted by professional engineers and such
1059 other persons as meet the expertise established by this section
1060 or by rule unless the department has a reasonable scientific
1061 basis for questioning the accuracy or completeness of the
1062 evaluation.

1063 ~~(o) The department shall appoint a research review and~~
1064 ~~advisory committee, which shall meet at least semiannually. The~~
1065 ~~committee shall advise the department on directions for new~~
1066 ~~research, review and rank proposals for research contracts, and~~
1067 ~~review draft research reports and make comments. The committee~~
1068 ~~is comprised of:~~

- 1069 ~~1. A representative of the State Surgeon General, or his or~~
1070 ~~her designee.~~
- 1071 ~~2. A representative from the septic tank industry.~~
- 1072 ~~3. A representative from the home building industry.~~
- 1073 ~~4. A representative from an environmental interest group.~~

26-01753B-19

20191022__

1074 ~~5. A representative from the State University System, from~~
1075 ~~a department knowledgeable about onsite sewage treatment and~~
1076 ~~disposal systems.~~

1077 ~~6. A professional engineer registered in this state who has~~
1078 ~~work experience in onsite sewage treatment and disposal systems.~~

1079 ~~7. A representative from local government who is~~
1080 ~~knowledgeable about domestic wastewater treatment.~~

1081 ~~8. A representative from the real estate profession.~~

1082 ~~9. A representative from the restaurant industry.~~

1083 ~~10. A consumer.~~

1084
1085 ~~Members shall be appointed for a term of 3 years, with the~~
1086 ~~appointments being staggered so that the terms of no more than~~
1087 ~~four members expire in any one year. Members shall serve without~~
1088 ~~remuneration, but are entitled to reimbursement for per diem and~~
1089 ~~travel expenses as provided in s. 112.061.~~

1090 ~~(o)~~ (p) An application for an onsite sewage treatment and
1091 disposal system permit shall be completed in full, signed by the
1092 owner or the owner's authorized representative, or by a
1093 contractor licensed under chapter 489, and shall be accompanied
1094 by all required exhibits and fees. No specific documentation of
1095 property ownership shall be required as a prerequisite to the
1096 review of an application or the issuance of a permit. The
1097 issuance of a permit does not constitute determination by the
1098 department of property ownership.

1099 ~~(p)~~ (q) The department may not require any form of
1100 subdivision analysis of property by an owner, developer, or
1101 subdivider before ~~prior to~~ submission of an application for an
1102 onsite sewage treatment and disposal system.

26-01753B-19

20191022__

1103 (q)~~(r)~~ Nothing in this section limits the power of a
1104 municipality or county to enforce other laws for the protection
1105 of the public health and safety.

1106 (r)~~(s)~~ In the siting of onsite sewage treatment and
1107 disposal systems, including drainfields, shoulders, and slopes,
1108 guttering shall not be required on single-family residential
1109 dwelling units for systems located greater than 5 feet from the
1110 roof drip line of the house. If guttering is used on residential
1111 dwelling units, the downspouts shall be directed away from the
1112 drainfield.

1113 (s)~~(t)~~ Notwithstanding ~~the provisions of~~ subparagraph
1114 (g)1., onsite sewage treatment and disposal systems located in
1115 floodways of the Suwannee and Aucilla Rivers must adhere to the
1116 following requirements:

1117 1. The absorption surface of the drainfield shall not be
1118 subject to flooding based on 10-year flood elevations. Provided,
1119 however, for lots or parcels created by the subdivision of land
1120 in accordance with applicable local government regulations
1121 before ~~prior to~~ January 17, 1990, if an applicant cannot
1122 construct a drainfield system with the absorption surface of the
1123 drainfield at an elevation equal to or above 10-year flood
1124 elevation, the department shall issue a permit for an onsite
1125 sewage treatment and disposal system within the 10-year
1126 floodplain of rivers, streams, and other bodies of flowing water
1127 if all of the following criteria are met:

- 1128 a. The lot is at least one-half acre in size;
1129 b. The bottom of the drainfield is at least 36 inches above
1130 the 2-year flood elevation; and
1131 c. The applicant installs either: a waterless,

26-01753B-19

20191022__

1132 incinerating, or organic waste composting toilet and a graywater
1133 system and drainfield in accordance with department rules; an
1134 aerobic treatment unit and drainfield in accordance with
1135 department rules; a system approved by the State Health Office
1136 that is capable of reducing effluent nitrate by at least 50
1137 percent; or a system approved by the county health department
1138 pursuant to department rule other than a system using
1139 alternative drainfield materials. The United States Department
1140 of Agriculture Soil Conservation Service soil maps, State of
1141 Florida Water Management District data, and Federal Emergency
1142 Management Agency Flood Insurance maps are resources that shall
1143 be used to identify flood-prone areas.

1144 2. The use of fill or mounding to elevate a drainfield
1145 system out of the 10-year floodplain of rivers, streams, or
1146 other bodies of flowing water shall not be permitted if such a
1147 system lies within a regulatory floodway of the Suwannee and
1148 Aucilla Rivers. In cases where the 10-year flood elevation does
1149 not coincide with the boundaries of the regulatory floodway, the
1150 regulatory floodway will be considered for the purposes of this
1151 subsection to extend at a minimum to the 10-year flood
1152 elevation.

1153 (t)~~(u)~~1. The owner of an aerobic treatment unit system
1154 shall maintain a current maintenance service agreement with an
1155 aerobic treatment unit maintenance entity permitted by the
1156 department. The maintenance entity shall inspect each aerobic
1157 treatment unit system at least twice each year and shall report
1158 quarterly to the department on the number of aerobic treatment
1159 unit systems inspected and serviced. The reports may be
1160 submitted electronically.

26-01753B-19

20191022__

1161 2. The property owner of an owner-occupied, single-family
1162 residence may be approved and permitted by the department as a
1163 maintenance entity for his or her own aerobic treatment unit
1164 system upon written certification from the system manufacturer's
1165 approved representative that the property owner has received
1166 training on the proper installation and service of the system.
1167 The maintenance entity service agreement must conspicuously
1168 disclose that the property owner has the right to maintain his
1169 or her own system and is exempt from contractor registration
1170 requirements for performing construction, maintenance, or
1171 repairs on the system but is subject to all permitting
1172 requirements.

1173 3. A septic tank contractor licensed under part III of
1174 chapter 489, if approved by the manufacturer, may not be denied
1175 access by the manufacturer to aerobic treatment unit system
1176 training or spare parts for maintenance entities. After the
1177 original warranty period, component parts for an aerobic
1178 treatment unit system may be replaced with parts that meet
1179 manufacturer's specifications but are manufactured by others.
1180 The maintenance entity shall maintain documentation of the
1181 substitute part's equivalency for 2 years and shall provide such
1182 documentation to the department upon request.

1183 4. The owner of an aerobic treatment unit system shall
1184 obtain a system operating permit from the department and allow
1185 the department to inspect during reasonable hours each aerobic
1186 treatment unit system at least annually, and such inspection may
1187 include collection and analysis of system-effluent samples for
1188 performance criteria established by rule of the department.

1189 (u) ~~(v)~~ The department may require the submission of

26-01753B-19

20191022__

1190 detailed system construction plans that are prepared by a
1191 professional engineer registered in this state. The department
1192 shall establish by rule criteria for determining when such a
1193 submission is required.

1194 (v)~~(w)~~ Any permit issued and approved by the department for
1195 the installation, modification, or repair of an onsite sewage
1196 treatment and disposal system shall transfer with the title to
1197 the property in a real estate transaction. A title may not be
1198 encumbered at the time of transfer by new permit requirements by
1199 a governmental entity for an onsite sewage treatment and
1200 disposal system which differ from the permitting requirements in
1201 effect at the time the system was permitted, modified, or
1202 repaired. An inspection of a system may not be mandated by a
1203 governmental entity at the point of sale in a real estate
1204 transaction. This paragraph does not affect a septic tank phase-
1205 out deferral program implemented by a consolidated government as
1206 defined in s. 9, Art. VIII of the State Constitution (1885).

1207 (w)~~(*)~~ A governmental entity, including a municipality,
1208 county, or statutorily created commission, may not require an
1209 engineer-designed performance-based treatment system, excluding
1210 a passive engineer-designed performance-based treatment system,
1211 before the completion of the Florida Onsite Sewage Nitrogen
1212 Reduction Strategies Project. This paragraph does not apply to a
1213 governmental entity, including a municipality, county, or
1214 statutorily created commission, which adopted a local law,
1215 ordinance, or regulation on or before January 31, 2012.
1216 Notwithstanding this paragraph, an engineer-designed
1217 performance-based treatment system may be used to meet the
1218 requirements of the variance review and advisory committee

26-01753B-19

20191022__

1219 recommendations.

1220 (x)~~(y)~~1. An onsite sewage treatment and disposal system is
1221 not considered abandoned if the system is disconnected from a
1222 structure that was made unusable or destroyed following a
1223 disaster and if the system was properly functioning at the time
1224 of disconnection and was not adversely affected by the disaster.
1225 The onsite sewage treatment and disposal system may be
1226 reconnected to a rebuilt structure if:

1227 a. The reconnection of the system is to the same type of
1228 structure which contains the same number of bedrooms or fewer,
1229 if the square footage of the structure is less than or equal to
1230 110 percent of the original square footage of the structure that
1231 existed before the disaster;

1232 b. The system is not a sanitary nuisance; and

1233 c. The system has not been altered without prior
1234 authorization.

1235 2. An onsite sewage treatment and disposal system that
1236 serves a property that is foreclosed upon is not considered
1237 abandoned.

1238 (y)~~(z)~~ If an onsite sewage treatment and disposal system
1239 permittee receives, relies upon, and undertakes construction of
1240 a system based upon a validly issued construction permit under
1241 rules applicable at the time of construction but a change to a
1242 rule occurs within 5 years after the approval of the system for
1243 construction but before the final approval of the system, the
1244 rules applicable and in effect at the time of construction
1245 approval apply at the time of final approval if fundamental site
1246 conditions have not changed between the time of construction
1247 approval and final approval.

26-01753B-19

20191022__

1248 (z)~~(aa)~~ An existing-system inspection or evaluation and
1249 assessment, or a modification, replacement, or upgrade of an
1250 onsite sewage treatment and disposal system is not required for
1251 a remodeling addition or modification to a single-family home if
1252 a bedroom is not added. However, a remodeling addition or
1253 modification to a single-family home may not cover any part of
1254 the existing system or encroach upon a required setback or the
1255 unobstructed area. To determine if a setback or the unobstructed
1256 area is impacted, the local health department shall review and
1257 verify a floor plan and site plan of the proposed remodeling
1258 addition or modification to the home submitted by a remodeler
1259 which shows the location of the system, including the distance
1260 of the remodeling addition or modification to the home from the
1261 onsite sewage treatment and disposal system. The local health
1262 department may visit the site or otherwise determine the best
1263 means of verifying the information submitted. A verification of
1264 the location of a system is not an inspection or evaluation and
1265 assessment of the system. The review and verification must be
1266 completed within 7 business days after receipt by the local
1267 health department of a floor plan and site plan. If the review
1268 and verification is not completed within such time, the
1269 remodeling addition or modification to the single-family home,
1270 for the purposes of this paragraph, is approved.

1271 (7) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS TECHNICAL
1272 ADVISORY COMMITTEE; RULEMAKING.-

1273 (a) By August 30, 2019, the department shall convene a
1274 technical advisory committee to assist in developing rules that
1275 will increase the availability of nutrient-removing onsite
1276 systems in the marketplace, including such systems that are

26-01753B-19

20191022__

1277 cost-effective, low maintenance, and reliable. The committee
1278 shall consider and recommend regulatory options, such as fast-
1279 track approval, prequalification, and expedited permitting to
1280 facilitate the introduction and use of nitrogen removing systems
1281 that have been reviewed and approved by a national agency or
1282 organization, such as NSF/ANSI 245 systems approved by NSF
1283 International.

1284 (b) The committee shall consist of at least five, but no
1285 more than nine, members representing the home building industry,
1286 the real estate industry, the onsite sewage treatment and
1287 disposal system industry, septic tank contractors, engineers,
1288 and local governments. Members shall provide for their own
1289 expenses.

1290 (c) The department shall initiate rulemaking by January 1,
1291 2020, and adopt rules, taking into account the recommendations
1292 of the technical advisory committee, which are intended to
1293 increase the availability of cost-effective, low-maintenance,
1294 nutrient-removing onsite systems in the marketplace.

1295 (d) The committee automatically dissolves and this
1296 subsection expires on July 1, 2020.

1297 Section 7. Paragraph (d) of subsection (7) and subsections
1298 (8) and (9) of section 381.00651, Florida Statutes, are amended
1299 to read:

1300 381.00651 Periodic evaluation and assessment of onsite
1301 sewage treatment and disposal systems.—

1302 (7) The following procedures shall be used for conducting
1303 evaluations:

1304 (d) *Assessment procedure.*—All evaluation procedures used by
1305 a qualified contractor must ~~shall~~ be documented in the

26-01753B-19

20191022__

1306 environmental health database of the department ~~of Health~~. The
1307 qualified contractor shall provide a copy of a written, signed
1308 evaluation report to the property owner upon completion of the
1309 evaluation and to the county health department within 30 days
1310 after the evaluation. The report must ~~shall~~ contain the name and
1311 license number of the company providing the report. A copy of
1312 the evaluation report shall be retained by the local county
1313 health department for a minimum of 5 years and until a
1314 subsequent inspection report is filed. The front cover of the
1315 report must identify any system failure and include a clear and
1316 conspicuous notice to the owner that the owner has a right to
1317 have any remediation of the failure performed by a qualified
1318 contractor other than the contractor performing the evaluation.
1319 The report must further identify any crack, leak, improper fit,
1320 or other defect in the tank, manhole, or lid, and any other
1321 damaged or missing component; any sewage or effluent visible on
1322 the ground or discharging to a ditch or other surface water
1323 body; any downspout, stormwater, or other source of water
1324 directed onto or toward the system; and any other maintenance
1325 need or condition of the system at the time of the evaluation
1326 which, in the opinion of the qualified contractor, would
1327 possibly interfere with or restrict any future repair or
1328 modification to the existing system. The report shall conclude
1329 with an overall assessment of the fundamental operational
1330 condition of the system.

1331 (8) The county health department, in coordination with the
1332 department, shall administer any evaluation program on behalf of
1333 a county, or a municipality within the county, that has adopted
1334 an evaluation program pursuant to this section. In order to

26-01753B-19

20191022__

1335 administer the evaluation program, the county or municipality,
1336 in consultation with the county health department, may develop a
1337 reasonable fee schedule to be used solely to pay for the costs
1338 of administering the evaluation program. Such a fee schedule
1339 shall be identified in the ordinance that adopts the evaluation
1340 program. When arriving at a reasonable fee schedule, the
1341 estimated annual revenues to be derived from fees may not exceed
1342 reasonable estimated annual costs of the program. Fees shall be
1343 assessed to the system owner during an inspection and separately
1344 identified on the invoice of the qualified contractor. Fees
1345 shall be remitted by the qualified contractor to the county
1346 health department. The county health department's administrative
1347 responsibilities include the following:

1348 (a) Providing a notice to the system owner at least 60 days
1349 before the system is due for an evaluation. The notice may
1350 include information on the proper maintenance of onsite sewage
1351 treatment and disposal systems.

1352 (b) In consultation with the department ~~of Health~~,
1353 providing uniform disciplinary procedures and penalties for
1354 qualified contractors who do not comply with the requirements of
1355 the adopted ordinance, including, but not limited to, failure to
1356 provide the evaluation report as required in this subsection to
1357 the system owner and the county health department. Only the
1358 county health department may assess penalties against system
1359 owners for failure to comply with the adopted ordinance,
1360 consistent with existing requirements of law.

1361 (9) (a) A county or municipality that adopts an onsite
1362 sewage treatment and disposal system evaluation and assessment
1363 program pursuant to this section shall notify the Secretary of

26-01753B-19

20191022__

1364 Environmental Protection, the Department of Health, and the
1365 applicable county health department upon the adoption of its
1366 ordinance establishing the program.

1367 (b) Upon receipt of the notice under paragraph (a), the
1368 department ~~of Environmental Protection~~ shall, within existing
1369 resources, notify the county or municipality of the potential
1370 use of, and access to, program funds under the Clean Water State
1371 Revolving Fund or s. 319 of the Clean Water Act, provide
1372 guidance in the application process to receive such moneys, and
1373 provide advice and technical assistance to the county or
1374 municipality on how to establish a low-interest revolving loan
1375 program or how to model a revolving loan program after the low-
1376 interest loan program of the Clean Water State Revolving Fund.
1377 This paragraph does not obligate the department ~~of Environmental~~
1378 ~~Protection~~ to provide any county or municipality with money to
1379 fund such programs.

1380 (c) The department ~~of Health~~ may not adopt any rule that
1381 alters the provisions of this section.

1382 (d) The department ~~of Health~~ must allow county health
1383 departments and qualified contractors access to the
1384 environmental health database to track relevant information and
1385 assimilate data from assessment and evaluation reports of the
1386 overall condition of onsite sewage treatment and disposal
1387 systems. The environmental health database must be used by
1388 contractors to report each service and evaluation event and by a
1389 county health department to notify owners of onsite sewage
1390 treatment and disposal systems when evaluations are due. Data
1391 and information must be recorded and updated as service and
1392 evaluations are conducted and reported.

26-01753B-19

20191022__

1393 Section 8. Section 381.0068, Florida Statutes, is repealed.

1394 Section 9. Paragraph (a) of subsection (7) of section
1395 403.067, Florida Statutes, is amended to read:

1396 403.067 Establishment and implementation of total maximum
1397 daily loads.—

1398 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
1399 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

1400 (a) *Basin management action plans.*—

1401 1. In developing and implementing the total maximum daily
1402 load for a water body, the department, or the department in
1403 conjunction with a water management district, may develop a
1404 basin management action plan that addresses some or all of the
1405 watersheds and basins tributary to the water body. Such plan
1406 must integrate the appropriate management strategies available
1407 to the state through existing water quality protection programs
1408 to achieve the total maximum daily loads and may provide for
1409 phased implementation of these management strategies to promote
1410 timely, cost-effective actions as provided for in s. 403.151.
1411 The plan must establish a schedule implementing the management
1412 strategies, establish a basis for evaluating the plan's
1413 effectiveness, and identify feasible funding strategies for
1414 implementing the plan's management strategies. The management
1415 strategies may include regional treatment systems or other
1416 public works, where appropriate, and voluntary trading of water
1417 quality credits to achieve the needed pollutant load reductions.

1418 2. A basin management action plan must equitably allocate,
1419 pursuant to paragraph (6) (b), pollutant reductions to individual
1420 basins, as a whole to all basins, or to each identified point
1421 source or category of nonpoint sources, as appropriate. For

26-01753B-19

20191022__

1422 nonpoint sources for which best management practices have been
1423 adopted, the initial requirement specified by the plan must be
1424 those practices developed pursuant to paragraph (c). Where
1425 appropriate, the plan may take into account the benefits of
1426 pollutant load reduction achieved by point or nonpoint sources
1427 that have implemented management strategies to reduce pollutant
1428 loads, including best management practices, before the
1429 development of the basin management action plan. The plan must
1430 also identify the mechanisms that will address potential future
1431 increases in pollutant loading.

1432 3. The basin management action planning process is intended
1433 to involve the broadest possible range of interested parties,
1434 with the objective of encouraging the greatest amount of
1435 cooperation and consensus possible. In developing a basin
1436 management action plan, the department shall assure that key
1437 stakeholders, including, but not limited to, applicable local
1438 governments, water management districts, the Department of
1439 Agriculture and Consumer Services, other appropriate state
1440 agencies, local soil and water conservation districts,
1441 environmental groups, regulated interests, and affected
1442 pollution sources, are invited to participate in the process.
1443 The department shall hold at least one public meeting in the
1444 vicinity of the watershed or basin to discuss and receive
1445 comments during the planning process and shall otherwise
1446 encourage public participation to the greatest practicable
1447 extent. Notice of the public meeting must be published in a
1448 newspaper of general circulation in each county in which the
1449 watershed or basin lies not less than 5 days nor more than 15
1450 days before the public meeting. A basin management action plan

26-01753B-19

20191022__

1451 does not supplant or otherwise alter any assessment made under
1452 subsection (3) or subsection (4) or any calculation or initial
1453 allocation.

1454 4. Each new or revised basin management action plan shall
1455 include:

1456 a. The appropriate management strategies available through
1457 existing water quality protection programs to achieve total
1458 maximum daily loads, which may provide for phased implementation
1459 to promote timely, cost-effective actions as provided for in s.
1460 403.151;

1461 b. A description of best management practices adopted by
1462 rule;

1463 c. A list of projects in priority ranking with a planning-
1464 level cost estimate and estimated date of completion for each
1465 listed project;

1466 d. The source and amount of financial assistance to be made
1467 available by the department, a water management district, or
1468 other entity for each listed project, if applicable; and

1469 e. A planning-level estimate of each listed project's
1470 expected load reduction, if applicable.

1471 5. The department shall adopt all or any part of a basin
1472 management action plan and any amendment to such plan by
1473 secretarial order pursuant to chapter 120 to implement ~~the~~
1474 ~~provisions of~~ this section.

1475 6. The basin management action plan must include milestones
1476 for implementation and water quality improvement, and an
1477 associated water quality monitoring component sufficient to
1478 evaluate whether reasonable progress in pollutant load
1479 reductions is being achieved over time. An assessment of

26-01753B-19

20191022__

1480 progress toward these milestones shall be conducted every 5
1481 years, and revisions to the plan shall be made as appropriate.
1482 Revisions to the basin management action plan shall be made by
1483 the department in cooperation with basin stakeholders. Revisions
1484 to the management strategies required for nonpoint sources must
1485 follow the procedures set forth in subparagraph (c)4. Revised
1486 basin management action plans must be adopted pursuant to
1487 subparagraph 5.

1488 7. In accordance with procedures adopted by rule under
1489 paragraph (9) (c), basin management action plans, and other
1490 pollution control programs under local, state, or federal
1491 authority as provided in subsection (4), may allow point or
1492 nonpoint sources that will achieve greater pollutant reductions
1493 than required by an adopted total maximum daily load or
1494 wasteload allocation to generate, register, and trade water
1495 quality credits for the excess reductions to enable other
1496 sources to achieve their allocation; however, the generation of
1497 water quality credits does not remove the obligation of a source
1498 or activity to meet applicable technology requirements or
1499 adopted best management practices. Such plans must allow trading
1500 between NPDES permittees, and trading that may or may not
1501 involve NPDES permittees, where the generation or use of the
1502 credits involve an entity or activity not subject to department
1503 water discharge permits whose owner voluntarily elects to obtain
1504 department authorization for the generation and sale of credits.

1505 8. The provisions of the department's rule relating to the
1506 equitable abatement of pollutants into surface waters do not
1507 apply to water bodies or water body segments for which a basin
1508 management plan that takes into account future new or expanded

26-01753B-19

20191022__

1509 activities or discharges has been adopted under this section.

1510 9. The department shall submit to the Office of Economic
1511 and Demographic Research the project cost estimates required in
1512 sub-subparagraph 4.c., including any septic to sewer conversion
1513 and septic tank remediation project costs.

1514 Section 10. Subsection (1) of section 381.0061, Florida
1515 Statutes, is amended to read:

1516 381.0061 Administrative fines.—

1517 (1) In addition to any administrative action authorized by
1518 chapter 120 or by other law, the department may impose a fine,
1519 which shall not exceed \$500 for each violation, for a violation
1520 of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s.
1521 381.0072, or part III of chapter 489, for a violation of any
1522 rule adopted under this chapter, or for a violation of any of
1523 the provisions of chapter 386. Notice of intent to impose such
1524 fine shall be given by the department to the alleged violator.
1525 Each day that a violation continues may constitute a separate
1526 violation.

1527 Section 11. For the purpose of incorporating the amendment
1528 made by this act to section 373.036, Florida Statutes, in a
1529 reference thereto, paragraph (b) of subsection (8) of section
1530 373.026, Florida Statutes, is reenacted to read:

1531 373.026 General powers and duties of the department.—The
1532 department, or its successor agency, shall be responsible for
1533 the administration of this chapter at the state level. However,
1534 it is the policy of the state that, to the greatest extent
1535 possible, the department may enter into interagency or
1536 interlocal agreements with any other state agency, any water
1537 management district, or any local government conducting programs

26-01753B-19

20191022__

1538 related to or materially affecting the water resources of the
1539 state. All such agreements shall be subject to the provisions of
1540 s. 373.046. In addition to its other powers and duties, the
1541 department shall, to the greatest extent possible:

1542 (8)

1543 (b) To ensure to the greatest extent possible that project
1544 components will go forward as planned, the department shall
1545 collaborate with the South Florida Water Management District in
1546 implementing the comprehensive plan as defined in s.
1547 373.470(2)(b), the Lake Okeechobee Watershed Protection Plan as
1548 defined in s. 373.4595(2), and the River Watershed Protection
1549 Plans as defined in s. 373.4595(2). Before any project component
1550 is submitted to Congress for authorization or receives an
1551 appropriation of state funds, the department must approve, or
1552 approve with amendments, each project component within 60 days
1553 following formal submittal of the project component to the
1554 department. Prior to the release of state funds for the
1555 implementation of the comprehensive plan, department approval
1556 shall be based upon a determination of the South Florida Water
1557 Management District's compliance with s. 373.1501(5). Once a
1558 project component is approved, the South Florida Water
1559 Management District shall provide to the President of the Senate
1560 and the Speaker of the House of Representatives a schedule for
1561 implementing the project component, the estimated total cost of
1562 the project component, any existing federal or nonfederal
1563 credits, the estimated remaining federal and nonfederal share of
1564 costs, and an estimate of the amount of state funds that will be
1565 needed to implement the project component. All requests for an
1566 appropriation of state funds needed to implement the project

26-01753B-19

20191022__

1567 component shall be submitted to the department, and such
1568 requests shall be included in the department's annual request to
1569 the Governor. Prior to the release of state funds for the
1570 implementation of the Lake Okeechobee Watershed Protection Plan
1571 or the River Watershed Protection Plans, on an annual basis, the
1572 South Florida Water Management District shall prepare an annual
1573 work plan as part of the consolidated annual report required in
1574 s. 373.036(7). Upon a determination by the secretary of the
1575 annual work plan's consistency with the goals and objectives of
1576 s. 373.4595, the secretary may approve the release of state
1577 funds. Any modifications to the annual work plan shall be
1578 submitted to the secretary for review and approval.

1579 Section 12. For the purpose of incorporating the amendment
1580 made by this act to section 373.036, Florida Statutes, in a
1581 reference thereto, subsection (5) of section 373.0363, Florida
1582 Statutes, is reenacted to read:

1583 373.0363 Southern Water Use Caution Area Recovery
1584 Strategy.—

1585 (5) As part of the consolidated annual report required
1586 pursuant s. 373.036(7), the district may include:

1587 (a) A summary of the conditions of the Southern Water Use
1588 Caution Area, including the status of the components of the
1589 West-Central Florida Water Restoration Action Plan.

1590 (b) An annual accounting of the expenditure of funds. The
1591 accounting must, at a minimum, provide details of expenditures
1592 separately by plan component and any subparts of a plan
1593 component, and include specific information about amount and use
1594 of funds from federal, state, and local government sources. In
1595 detailing the use of these funds, the district shall indicate

26-01753B-19

20191022__

1596 those funds that are designated to meet requirements for
1597 matching funds.

1598 Section 13. For the purpose of incorporating the amendment
1599 made by this act to section 373.036, Florida Statutes, in a
1600 reference thereto, subsection (3) of section 373.042, Florida
1601 Statutes, is reenacted to read:

1602 373.042 Minimum flows and minimum water levels.—

1603 (3) By November 15, annually, each water management
1604 district shall submit to the department for review and approval
1605 a priority list and schedule for the establishment of minimum
1606 flows and minimum water levels for surface watercourses,
1607 aquifers, and surface waters within the district. The priority
1608 list and schedule shall identify those listed water bodies for
1609 which the district will voluntarily undertake independent
1610 scientific peer review; any reservations proposed by the
1611 district to be established pursuant to s. 373.223(4); and those
1612 listed water bodies that have the potential to be affected by
1613 withdrawals in an adjacent district for which the department's
1614 adoption of a reservation pursuant to s. 373.223(4) or a minimum
1615 flow or minimum water level pursuant to subsection (1) may be
1616 appropriate. By March 1, annually, each water management
1617 district shall include its approved priority list and schedule
1618 in the consolidated annual report required by s. 373.036(7). The
1619 priority list shall be based upon the importance of the waters
1620 to the state or region and the existence of or potential for
1621 significant harm to the water resources or ecology of the state
1622 or region, and shall include those waters which are experiencing
1623 or may reasonably be expected to experience adverse impacts.
1624 Each water management district's priority list and schedule

26-01753B-19

20191022__

1625 shall include all first magnitude springs, and all second
1626 magnitude springs within state or federally owned lands
1627 purchased for conservation purposes. The specific schedule for
1628 establishment of spring minimum flows and minimum water levels
1629 shall be commensurate with the existing or potential threat to
1630 spring flow from consumptive uses. Springs within the Suwannee
1631 River Water Management District, or second magnitude springs in
1632 other areas of the state, need not be included on the priority
1633 list if the water management district submits a report to the
1634 Department of Environmental Protection demonstrating that
1635 adverse impacts are not now occurring nor are reasonably
1636 expected to occur from consumptive uses during the next 20
1637 years. The priority list and schedule is not subject to any
1638 proceeding pursuant to chapter 120. Except as provided in
1639 subsection (4), the development of a priority list and
1640 compliance with the schedule for the establishment of minimum
1641 flows and minimum water levels pursuant to this subsection
1642 satisfies the requirements of subsection (1).

1643 Section 14. For the purpose of incorporating the amendment
1644 made by this act to section 373.036, Florida Statutes, in a
1645 reference thereto, subsection (7) of section 373.199, Florida
1646 Statutes, is reenacted to read:

1647 373.199 Florida Forever Water Management District Work
1648 Plan.—

1649 (7) By June 1, 2001, each district shall file with the
1650 President of the Senate, the Speaker of the House of
1651 Representatives, and the Secretary of Environmental Protection
1652 the initial 5-year work plan as required under subsection (2).
1653 By March 1 of each year thereafter, as part of the consolidated

26-01753B-19

20191022__

1654 annual report required by s. 373.036(7), each district shall
1655 report on acquisitions completed during the year together with
1656 modifications or additions to its 5-year work plan. Included in
1657 the report shall be:

1658 (a) A description of land management activity for each
1659 property or project area owned by the water management district.

1660 (b) A list of any lands surplused and the amount of
1661 compensation received.

1662 (c) The progress of funding, staffing, and resource
1663 management of every project funded pursuant to former s.
1664 259.101(3), Florida Statutes 2014, s. 259.105, or former s.
1665 373.59(2), Florida Statutes 2014, for which the district is
1666 responsible.

1667
1668 The secretary shall submit the report referenced in this
1669 subsection to the Board of Trustees of the Internal Improvement
1670 Trust Fund together with the Acquisition and Restoration
1671 Council's project list as required under s. 259.105.

1672 Section 15. For the purpose of incorporating the amendment
1673 made by this act to section 373.036, Florida Statutes, in a
1674 reference thereto, paragraph (b) of subsection (1) of section
1675 373.414, Florida Statutes, is reenacted to read:

1676 373.414 Additional criteria for activities in surface
1677 waters and wetlands.—

1678 (1) As part of an applicant's demonstration that an
1679 activity regulated under this part will not be harmful to the
1680 water resources or will not be inconsistent with the overall
1681 objectives of the district, the governing board or the
1682 department shall require the applicant to provide reasonable

26-01753B-19

20191022__

1683 assurance that state water quality standards applicable to
1684 waters as defined in s. 403.031(13) will not be violated and
1685 reasonable assurance that such activity in, on, or over surface
1686 waters or wetlands, as delineated in s. 373.421(1), is not
1687 contrary to the public interest. However, if such an activity
1688 significantly degrades or is within an Outstanding Florida
1689 Water, as provided by department rule, the applicant must
1690 provide reasonable assurance that the proposed activity will be
1691 clearly in the public interest.

1692 (b) If the applicant is unable to otherwise meet the
1693 criteria set forth in this subsection, the governing board or
1694 the department, in deciding to grant or deny a permit, shall
1695 consider measures proposed by or acceptable to the applicant to
1696 mitigate adverse effects that may be caused by the regulated
1697 activity. Such measures may include, but are not limited to,
1698 onsite mitigation, offsite mitigation, offsite regional
1699 mitigation, and the purchase of mitigation credits from
1700 mitigation banks permitted under s. 373.4136. It shall be the
1701 responsibility of the applicant to choose the form of
1702 mitigation. The mitigation must offset the adverse effects
1703 caused by the regulated activity.

1704 1. The department or water management districts may accept
1705 the donation of money as mitigation only where the donation is
1706 specified for use in a duly noticed environmental creation,
1707 preservation, enhancement, or restoration project, endorsed by
1708 the department or the governing board of the water management
1709 district, which offsets the impacts of the activity permitted
1710 under this part. However, the provisions of this subsection
1711 shall not apply to projects undertaken pursuant to s. 373.4137

26-01753B-19

20191022__

1712 or chapter 378. Where a permit is required under this part to
1713 implement any project endorsed by the department or a water
1714 management district, all necessary permits must have been issued
1715 prior to the acceptance of any cash donation. After the
1716 effective date of this act, when money is donated to either the
1717 department or a water management district to offset impacts
1718 authorized by a permit under this part, the department or the
1719 water management district shall accept only a donation that
1720 represents the full cost to the department or water management
1721 district of undertaking the project that is intended to mitigate
1722 the adverse impacts. The full cost shall include all direct and
1723 indirect costs, as applicable, such as those for land
1724 acquisition, land restoration or enhancement, perpetual land
1725 management, and general overhead consisting of costs such as
1726 staff time, building, and vehicles. The department or the water
1727 management district may use a multiplier or percentage to add to
1728 other direct or indirect costs to estimate general overhead.
1729 Mitigation credit for such a donation shall be given only to the
1730 extent that the donation covers the full cost to the agency of
1731 undertaking the project that is intended to mitigate the adverse
1732 impacts. However, nothing herein shall be construed to prevent
1733 the department or a water management district from accepting a
1734 donation representing a portion of a larger project, provided
1735 that the donation covers the full cost of that portion and
1736 mitigation credit is given only for that portion. The department
1737 or water management district may deviate from the full cost
1738 requirements of this subparagraph to resolve a proceeding
1739 brought pursuant to chapter 70 or a claim for inverse
1740 condemnation. Nothing in this section shall be construed to

26-01753B-19

20191022__

1741 require the owner of a private mitigation bank, permitted under
1742 s. 373.4136, to include the full cost of a mitigation credit in
1743 the price of the credit to a purchaser of said credit.

1744 2. The department and each water management district shall
1745 report by March 1 of each year, as part of the consolidated
1746 annual report required by s. 373.036(7), all cash donations
1747 accepted under subparagraph 1. during the preceding water
1748 management district fiscal year for wetland mitigation purposes.
1749 The report shall exclude those contributions pursuant to s.
1750 373.4137. The report shall include a description of the endorsed
1751 mitigation projects and, except for projects governed by s.
1752 373.4135(6), shall address, as applicable, success criteria,
1753 project implementation status and timeframe, monitoring, long-
1754 term management, provisions for preservation, and full cost
1755 accounting.

1756 3. If the applicant is unable to meet water quality
1757 standards because existing ambient water quality does not meet
1758 standards, the governing board or the department shall consider
1759 mitigation measures proposed by or acceptable to the applicant
1760 that cause net improvement of the water quality in the receiving
1761 body of water for those parameters which do not meet standards.

1762 4. If mitigation requirements imposed by a local government
1763 for surface water and wetland impacts of an activity regulated
1764 under this part cannot be reconciled with mitigation
1765 requirements approved under a permit for the same activity
1766 issued under this part, including application of the uniform
1767 wetland mitigation assessment method adopted pursuant to
1768 subsection (18), the mitigation requirements for surface water
1769 and wetland impacts shall be controlled by the permit issued

26-01753B-19

20191022__

1770 under this part.

1771 Section 16. For the purpose of incorporating the amendment
1772 made by this act to section 373.036, Florida Statutes, in
1773 references thereto, paragraph (d) of subsection (4) and
1774 subsections (13) and (14) of section 373.4592, Florida Statutes,
1775 are reenacted to read:

1776 373.4592 Everglades improvement and management.—

1777 (4) EVERGLADES PROGRAM.—

1778 (d) *Everglades research and monitoring program.*—

1779 1. The department and the district shall review and
1780 evaluate available water quality data for the Everglades
1781 Protection Area and tributary waters and identify any additional
1782 information necessary to adequately describe water quality in
1783 the Everglades Protection Area and tributary waters. The
1784 department and the district shall also initiate a research and
1785 monitoring program to generate such additional information
1786 identified and to evaluate the effectiveness of the BMPs and
1787 STAs, as they are implemented, in improving water quality and
1788 maintaining designated and existing beneficial uses of the
1789 Everglades Protection Area and tributary waters. As part of the
1790 program, the district shall monitor all discharges into the
1791 Everglades Protection Area for purposes of determining
1792 compliance with state water quality standards.

1793 2. The research and monitoring program shall evaluate the
1794 ecological and hydrological needs of the Everglades Protection
1795 Area, including the minimum flows and levels. Consistent with
1796 such needs, the program shall also evaluate water quality
1797 standards for the Everglades Protection Area and for the canals
1798 of the EAA, so that these canals can be classified in the manner

26-01753B-19

20191022__

1799 set forth in paragraph (e) and protected as an integral part of
1800 the water management system which includes the STAs of the
1801 Everglades Construction Project and allows landowners in the EAA
1802 to achieve applicable water quality standards compliance by BMPs
1803 and STA treatment to the extent this treatment is available and
1804 effective.

1805 3. The research and monitoring program shall include
1806 research seeking to optimize the design and operation of the
1807 STAs, including research to reduce outflow concentrations, and
1808 to identify other treatment and management methods and
1809 regulatory programs that are superior to STAs in achieving the
1810 intent and purposes of this section.

1811 4. The research and monitoring program shall be conducted
1812 to allow the department to propose a phosphorus criterion in the
1813 Everglades Protection Area, and to evaluate existing state water
1814 quality standards applicable to the Everglades Protection Area
1815 and existing state water quality standards and classifications
1816 applicable to the EAA canals. In developing the phosphorus
1817 criterion, the department shall also consider the minimum flows
1818 and levels for the Everglades Protection Area and the district's
1819 water supply plans for the Lower East Coast.

1820 5. Beginning March 1, 2006, as part of the consolidated
1821 annual report required by s. 373.036(7), the district and the
1822 department shall annually issue a peer-reviewed report regarding
1823 the research and monitoring program that summarizes all data and
1824 findings. The report shall identify water quality parameters, in
1825 addition to phosphorus, which exceed state water quality
1826 standards or are causing or contributing to adverse impacts in
1827 the Everglades Protection Area.

26-01753B-19

20191022__

1828 6. The district shall continue research seeking to optimize
1829 the design and operation of STAs and to identify other treatment
1830 and management methods that are superior to STAs in achieving
1831 optimum water quality and water quantity for the benefit of the
1832 Everglades. The district shall optimize the design and operation
1833 of the STAs described in the Everglades Construction Project
1834 prior to expanding their size. Additional methods to achieve
1835 compliance with water quality standards shall not be limited to
1836 more intensive management of the STAs.

1837 (13) ANNUAL REPORTS.—Beginning March 1, 2006, as part of
1838 the consolidated annual report required by s. 373.036(7), the
1839 district shall report on implementation of the section. The
1840 annual report will include a summary of the water conditions in
1841 the Everglades Protection Area, the status of the impacted
1842 areas, the status of the construction of the STAs, the
1843 implementation of the BMPs, and actions taken to monitor and
1844 control exotic species. The district must prepare the report in
1845 coordination with federal and state agencies.

1846 (14) EVERGLADES FUND.—The South Florida Water Management
1847 District is directed to separately account for all moneys used
1848 for the purpose of funding the Everglades Construction Project
1849 as part of the consolidated annual report required by s.
1850 373.036(7).

1851 Section 17. For the purpose of incorporating the amendment
1852 made by this act to section 373.036, Florida Statutes, in a
1853 reference thereto, subsection (3) of section 373.45926, Florida
1854 Statutes, is reenacted to read:

1855 373.45926 Everglades Trust Fund; allocation of revenues and
1856 expenditure of funds for conservation and protection of natural

26-01753B-19

20191022__

1857 resources and abatement of water pollution.—

1858 (3) The South Florida Water Management District shall
1859 furnish, as part of the consolidated annual report required by
1860 s. 373.036(7), a detailed copy of its expenditures from the
1861 Everglades Trust Fund to the Governor, the President of the
1862 Senate, and the Speaker of the House of Representatives, and
1863 shall make copies available to the public.

1864 Section 18. For the purpose of incorporating the amendment
1865 made by this act to section 373.036, Florida Statutes, in a
1866 reference thereto, subsection (6) of section 373.4595, Florida
1867 Statutes, is reenacted to read:

1868 373.4595 Northern Everglades and Estuaries Protection
1869 Program.—

1870 (6) ANNUAL PROGRESS REPORT.—Each March 1 the district, in
1871 cooperation with the other coordinating agencies, shall report
1872 on implementation of this section as part of the consolidated
1873 annual report required in s. 373.036(7). The annual report shall
1874 include a summary of the conditions of the hydrology, water
1875 quality, and aquatic habitat in the northern Everglades based on
1876 the results of the Research and Water Quality Monitoring
1877 Programs, the status of the Lake Okeechobee Watershed
1878 Construction Project, the status of the Caloosahatchee River
1879 Watershed Construction Project, and the status of the St. Lucie
1880 River Watershed Construction Project. In addition, the report
1881 shall contain an annual accounting of the expenditure of funds
1882 from the Save Our Everglades Trust Fund. At a minimum, the
1883 annual report shall provide detail by program and plan,
1884 including specific information concerning the amount and use of
1885 funds from federal, state, or local government sources. In

26-01753B-19

20191022__

1886 detailing the use of these funds, the district shall indicate
1887 those designated to meet requirements for matching funds. The
1888 district shall prepare the report in cooperation with the other
1889 coordinating agencies and affected local governments. The
1890 department shall report on the status of the Lake Okeechobee
1891 Basin Management Action Plan, the Caloosahatchee River Watershed
1892 Basin Management Action Plan, and the St. Lucie River Watershed
1893 Basin Management Action Plan. The Department of Agriculture and
1894 Consumer Services shall report on the status of the
1895 implementation of the agricultural nonpoint source best
1896 management practices, including an implementation assurance
1897 report summarizing survey responses and response rates, site
1898 inspections, and other methods used to verify implementation of
1899 and compliance with best management practices in the Lake
1900 Okeechobee, Caloosahatchee River, and St. Lucie River
1901 watersheds.

1902 Section 19. For the purpose of incorporating the amendment
1903 made by this act to section 373.036, Florida Statutes, in a
1904 reference thereto, subsection (3) of section 373.463, Florida
1905 Statutes, is reenacted to read:

1906 373.463 Heartland headwaters annual report.—

1907 (3) The cooperative shall also annually coordinate with the
1908 appropriate water management district to submit a status report
1909 on projects receiving priority state funding for inclusion in
1910 the consolidated water management district annual report
1911 required by s. 373.036(7).

1912 Section 20. For the purpose of incorporating the amendment
1913 made by this act to section 373.036, Florida Statutes, in a
1914 reference thereto, subsection (7) of section 373.470, Florida

26-01753B-19

20191022__

1915 Statutes, is reenacted to read:

1916 373.470 Everglades restoration.—

1917 (7) ANNUAL REPORT.—To provide enhanced oversight of and
1918 accountability for the financial commitments established under
1919 this section and the progress made in the implementation of the
1920 comprehensive plan, the following information must be prepared
1921 annually as part of the consolidated annual report required by
1922 s. 373.036(7):

1923 (a) The district, in cooperation with the department, shall
1924 provide the following information as it relates to
1925 implementation of the comprehensive plan:

1926 1. An identification of funds, by source and amount,
1927 received by the state and by each local sponsor during the
1928 fiscal year.

1929 2. An itemization of expenditures, by source and amount,
1930 made by the state and by each local sponsor during the fiscal
1931 year.

1932 3. A description of the purpose for which the funds were
1933 expended.

1934 4. The unencumbered balance of funds remaining in trust
1935 funds or other accounts designated for implementation of the
1936 comprehensive plan.

1937 5. A schedule of anticipated expenditures for the next
1938 fiscal year.

1939 (b) The department shall prepare a detailed report on all
1940 funds expended by the state and credited toward the state's
1941 share of funding for implementation of the comprehensive plan.
1942 The report shall include:

1943 1. A description of all expenditures, by source and amount,

26-01753B-19

20191022__

1944 from the former Conservation and Recreation Lands Trust Fund,
 1945 the Land Acquisition Trust Fund, the former Preservation 2000
 1946 Trust Fund, the Florida Forever Trust Fund, the Save Our
 1947 Everglades Trust Fund, and other named funds or accounts for the
 1948 acquisition or construction of project components or other
 1949 features or facilities that benefit the comprehensive plan.

1950 2. A description of the purposes for which the funds were
 1951 expended.

1952 3. The unencumbered fiscal-year-end balance that remains in
 1953 each trust fund or account identified in subparagraph 1.

1954 (c) The district, in cooperation with the department, shall
 1955 provide a detailed report on progress made in the implementation
 1956 of the comprehensive plan, including the status of all project
 1957 components initiated after the effective date of this act or the
 1958 date of the last report prepared under this subsection,
 1959 whichever is later.

1960
 1961 The information required in paragraphs (a), (b), and (c) shall
 1962 be provided as part of the consolidated annual report required
 1963 by s. 373.036(7). Each annual report is due by March 1.

1964 Section 21. For the purpose of incorporating the amendment
 1965 made by this act to section 373.036, Florida Statutes, in
 1966 references thereto, paragraphs (a) and (b) of subsection (6) of
 1967 section 373.536, Florida Statutes, are reenacted to read:

1968 373.536 District budget and hearing thereon.—

1969 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
 1970 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

1971 (a) Each district must, by the date specified for each
 1972 item, furnish copies of the following documents to the Governor,

26-01753B-19

20191022__

1973 the President of the Senate, the Speaker of the House of
1974 Representatives, the chairs of all legislative committees and
1975 subcommittees having substantive or fiscal jurisdiction over the
1976 districts, as determined by the President of the Senate or the
1977 Speaker of the House of Representatives as applicable, the
1978 secretary of the department, and the governing board of each
1979 county in which the district has jurisdiction or derives any
1980 funds for the operations of the district:

1981 1. The adopted budget, to be furnished within 10 days after
1982 its adoption.

1983 2. A financial audit of its accounts and records, to be
1984 furnished within 10 days after its acceptance by the governing
1985 board. The audit must be conducted in accordance with s. 11.45
1986 and the rules adopted thereunder. In addition to the entities
1987 named above, the district must provide a copy of the audit to
1988 the Auditor General within 10 days after its acceptance by the
1989 governing board.

1990 3. A 5-year capital improvements plan, to be included in
1991 the consolidated annual report required by s. 373.036(7). The
1992 plan must include expected sources of revenue for planned
1993 improvements and must be prepared in a manner comparable to the
1994 fixed capital outlay format set forth in s. 216.043.

1995 4. A 5-year water resource development work program to be
1996 furnished within 30 days after the adoption of the final budget.
1997 The program must describe the district's implementation strategy
1998 and include an annual funding plan for each of the 5 years
1999 included in the plan for the water resource and water supply
2000 development components, including alternative water supply
2001 development, of each approved regional water supply plan

26-01753B-19

20191022__

2002 developed or revised under s. 373.709. The work program must
2003 address all the elements of the water resource development
2004 component in the district's approved regional water supply
2005 plans, as well as the water supply projects proposed for
2006 district funding and assistance. The annual funding plan shall
2007 identify both anticipated available district funding and
2008 additional funding needs for the second through fifth years of
2009 the funding plan. The work program must identify projects in the
2010 work program which will provide water; explain how each water
2011 resource and water supply project will produce additional water
2012 available for consumptive uses; estimate the quantity of water
2013 to be produced by each project; provide an assessment of the
2014 contribution of the district's regional water supply plans in
2015 supporting the implementation of minimum flows and minimum water
2016 levels and water reservations; and ensure sufficient water is
2017 available to timely meet the water supply needs of existing and
2018 future reasonable-beneficial uses for a 1-in-10-year drought
2019 event and to avoid the adverse effects of competition for water
2020 supplies.

2021 (b) Within 30 days after its submittal, the department
2022 shall review the proposed work program and submit its findings,
2023 questions, and comments to the district. The review must include
2024 a written evaluation of the program's consistency with the
2025 furtherance of the district's approved regional water supply
2026 plans, and the adequacy of proposed expenditures. As part of the
2027 review, the department shall post the proposed work program on
2028 its website and give interested parties the opportunity to
2029 provide written comments on each district's proposed work
2030 program. Within 45 days after receipt of the department's

26-01753B-19

20191022__

2031 evaluation, the governing board shall state in writing to the
2032 department which of the changes recommended in the evaluation it
2033 will incorporate into its work program submitted as part of the
2034 March 1 consolidated annual report required by s. 373.036(7) or
2035 specify the reasons for not incorporating the changes. The
2036 department shall include the district's responses in a final
2037 evaluation report and shall submit a copy of the report to the
2038 Governor, the President of the Senate, and the Speaker of the
2039 House of Representatives.

2040 Section 22. For the purpose of incorporating the amendment
2041 made by this act to section 373.036, Florida Statutes, in a
2042 reference thereto, subsection (8) of section 373.707, Florida
2043 Statutes, is reenacted to read:

2044 373.707 Alternative water supply development.—

2045 (8) (a) The water management districts and the state shall
2046 share a percentage of revenues with water providers and users,
2047 including local governments, water, wastewater, and reuse
2048 utilities, municipal, special district, industrial, and
2049 agricultural water users, and other public and private water
2050 users, to be used to supplement other funding sources in the
2051 development of alternative water supplies and conservation
2052 projects that result in quantifiable water savings.

2053 (b) Beginning in the 2005-2006 fiscal year, the state shall
2054 annually provide a portion of those revenues deposited into the
2055 Water Protection and Sustainability Program Trust Fund for the
2056 purpose of providing funding assistance for the development of
2057 alternative water supplies and conservation projects that result
2058 in quantifiable water savings pursuant to the Water Protection
2059 and Sustainability Program. At the beginning of each fiscal

26-01753B-19

20191022__

2060 year, beginning with the 2005-2006 fiscal year, such revenues
2061 shall be distributed by the department into the alternative
2062 water supply trust fund accounts created by each district for
2063 the purpose of alternative water supply development under the
2064 following funding formula:

2065 1. Thirty percent to the South Florida Water Management
2066 District;

2067 2. Twenty-five percent to the Southwest Florida Water
2068 Management District;

2069 3. Twenty-five percent to the St. Johns River Water
2070 Management District;

2071 4. Ten percent to the Suwannee River Water Management
2072 District; and

2073 5. Ten percent to the Northwest Florida Water Management
2074 District.

2075 (c) The financial assistance for alternative water supply
2076 projects allocated in each district's budget as required in
2077 subsection (6) shall be combined with the state funds and used
2078 to assist in funding the project construction costs of
2079 alternative water supply projects and the project costs of
2080 conservation projects that result in quantifiable water savings
2081 selected by the governing board. If the district has not
2082 completed any regional water supply plan, or the regional water
2083 supply plan does not identify the need for any alternative water
2084 supply projects, funds deposited in that district's trust fund
2085 may be used for water resource development projects, including,
2086 but not limited to, springs protection.

2087 (d) All projects submitted to the governing board for
2088 consideration shall reflect the total capital cost for

26-01753B-19

20191022__

2089 implementation. The costs shall be segregated pursuant to the
2090 categories described in the definition of capital costs.

2091 (e) Applicants for projects that may receive funding
2092 assistance pursuant to the Water Protection and Sustainability
2093 Program shall, at a minimum, be required to pay 60 percent of
2094 the project's construction costs. The water management districts
2095 may, at their discretion, totally or partially waive this
2096 requirement for projects sponsored by:

2097 1. Financially disadvantaged small local governments as
2098 defined in former s. 403.885(5); or

2099 2. Water users for projects determined by a water
2100 management district governing board to be in the public interest
2101 pursuant to paragraph (1)(f), if the projects are not otherwise
2102 financially feasible.

2103
2104 The water management districts or basin boards may, at their
2105 discretion, use ad valorem or federal revenues to assist a
2106 project applicant in meeting the requirements of this paragraph.

2107 (f) The governing boards shall determine those projects
2108 that will be selected for financial assistance. The governing
2109 boards may establish factors to determine project funding;
2110 however, significant weight shall be given to the following
2111 factors:

2112 1. Whether the project provides substantial environmental
2113 benefits by preventing or limiting adverse water resource
2114 impacts.

2115 2. Whether the project reduces competition for water
2116 supplies.

2117 3. Whether the project brings about replacement of

26-01753B-19

20191022__

2118 traditional sources in order to help implement a minimum flow or
2119 level or a reservation.

2120 4. Whether the project will be implemented by a consumptive
2121 use permittee that has achieved the targets contained in a goal-
2122 based water conservation program approved pursuant to s.
2123 373.227.

2124 5. The quantity of water supplied by the project as
2125 compared to its cost.

2126 6. Projects in which the construction and delivery to end
2127 users of reuse water is a major component.

2128 7. Whether the project will be implemented by a
2129 multijurisdictional water supply entity or regional water supply
2130 authority.

2131 8. Whether the project implements reuse that assists in the
2132 elimination of domestic wastewater ocean outfalls as provided in
2133 s. 403.086(9).

2134 9. Whether the county or municipality, or the multiple
2135 counties or municipalities, in which the project is located has
2136 implemented a high-water recharge protection tax assessment
2137 program as provided in s. 193.625.

2138 (g) Additional factors to be considered in determining
2139 project funding shall include:

2140 1. Whether the project is part of a plan to implement two
2141 or more alternative water supply projects, all of which will be
2142 operated to produce water at a uniform rate for the participants
2143 in a multijurisdictional water supply entity or regional water
2144 supply authority.

2145 2. The percentage of project costs to be funded by the
2146 water supplier or water user.

26-01753B-19

20191022__

2147 3. Whether the project proposal includes sufficient
2148 preliminary planning and engineering to demonstrate that the
2149 project can reasonably be implemented within the timeframes
2150 provided in the regional water supply plan.

2151 4. Whether the project is a subsequent phase of an
2152 alternative water supply project that is underway.

2153 5. Whether and in what percentage a local government or
2154 local government utility is transferring water supply system
2155 revenues to the local government general fund in excess of
2156 reimbursements for services received from the general fund,
2157 including direct and indirect costs and legitimate payments in
2158 lieu of taxes.

2159 (h) After conducting one or more meetings to solicit public
2160 input on eligible projects, including input from those entities
2161 identified pursuant to s. 373.709(2)(a)3.d. for implementation
2162 of alternative water supply projects, the governing board of
2163 each water management district shall select projects for funding
2164 assistance based upon the criteria set forth in paragraphs (f)
2165 and (g). The governing board may select a project identified or
2166 listed as an alternative water supply development project in the
2167 regional water supply plan, or allocate up to 20 percent of the
2168 funding for alternative water supply projects that are not
2169 identified or listed in the regional water supply plan but are
2170 consistent with the goals of the plan.

2171 (i) Without diminishing amounts available through other
2172 means described in this paragraph, the governing boards are
2173 encouraged to consider establishing revolving loan funds to
2174 expand the total funds available to accomplish the objectives of
2175 this section. A revolving loan fund created under this paragraph

26-01753B-19

20191022__

2176 must be a nonlapsing fund from which the water management
2177 district may make loans with interest rates below prevailing
2178 market rates to public or private entities for the purposes
2179 described in this section. The governing board may adopt
2180 resolutions to establish revolving loan funds which must specify
2181 the details of the administration of the fund, the procedures
2182 for applying for loans from the fund, the criteria for awarding
2183 loans from the fund, the initial capitalization of the fund, and
2184 the goals for future capitalization of the fund in subsequent
2185 budget years. Revolving loan funds created under this paragraph
2186 must be used to expand the total sums and sources of cooperative
2187 funding available for the development of alternative water
2188 supplies. The Legislature does not intend for the creation of
2189 revolving loan funds to supplant or otherwise reduce existing
2190 sources or amounts of funds currently available through other
2191 means.

2192 (j) For each utility that receives financial assistance
2193 from the state or a water management district for an alternative
2194 water supply project, the water management district shall
2195 require the appropriate rate-setting authority to develop rate
2196 structures for water customers in the service area of the funded
2197 utility that will:

- 2198 1. Promote the conservation of water; and
- 2199 2. Promote the use of water from alternative water
2200 supplies.

2201 (k) The governing boards shall establish a process for the
2202 disbursement of revenues pursuant to this subsection.

2203 (l) All revenues made available pursuant to this subsection
2204 must be encumbered annually by the governing board when it

26-01753B-19

20191022__

2205 approves projects sufficient to expend the available revenues.

2206 (m) This subsection is not subject to the rulemaking
2207 requirements of chapter 120.

2208 (n) By March 1 of each year, as part of the consolidated
2209 annual report required by s. 373.036(7), each water management
2210 district shall submit a report on the disbursal of all budgeted
2211 amounts pursuant to this section. Such report shall describe all
2212 alternative water supply projects funded as well as the quantity
2213 of new water to be created as a result of such projects and
2214 shall account separately for any other moneys provided through
2215 grants, matching grants, revolving loans, and the use of
2216 district lands or facilities to implement regional water supply
2217 plans.

2218 (o) The Florida Public Service Commission shall allow
2219 entities under its jurisdiction constructing or participating in
2220 constructing facilities that provide alternative water supplies
2221 to recover their full, prudently incurred cost of constructing
2222 such facilities through their rate structure. If construction of
2223 a facility or participation in construction is pursuant to or in
2224 furtherance of a regional water supply plan, the cost shall be
2225 deemed to be prudently incurred. Every component of an
2226 alternative water supply facility constructed by an investor-
2227 owned utility shall be recovered in current rates. Any state or
2228 water management district cost share is not subject to the
2229 recovery provisions allowed in this paragraph.

2230 Section 23. This act shall take effect July 1, 2019.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19
Meeting Date

628
Bill Number (if applicable)

Topic Water Resources

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Deputy General Counsel

Address PO Box 1757

Phone 222 9684

Tallahassee FL 32302

Email rohara@flcourts.com

City State Zip

Speaking: For Against Information

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

Representing Fla League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

628

Bill Number (if applicable)

Topic Water Resources Infrastructure

Amendment Barcode (if applicable)

Name Frank Bernardino

Job Title Partner

Address 201 West Park Ave, Suite 100

Phone 561/718-2345

Street

Tallahassee FL 32301

Email frank@canfieldflorida.com

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing Polk, Broward & Palm Beach Counties

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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)

3/26/19
Meeting Date

628
Bill Number (if applicable)

Topic Water Resources

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Board Member

Address 2024 Shangri La Lane

Phone 850 3223317

Tally FL 32303
City State Zip

Email _____

Speaking: For Against Information

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

Representing League Women Voters

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)

3/26/2019 Meeting Date

SB 628 Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Julie Fishman

Job Title Commissioner City of Tamarac

Address Street

Phone

City

State

Zip

Email

Speaking: For Against Information

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

Representing FL League of Cities & City of Tamarac

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)

3/26/19

Meeting Date

SB 816

Bill Number (if applicable)

Topic RECYCLING

Amendment Barcode (if applicable)

Name KEYNA CORY

Job Title LOBBYIST

Address 730 E. PARK AVE

Phone 850 681-1065

Street

City

TALLAHASSEE

State

FL

Zip

32301

Email keynacory@paconsultants.com

Speaking: For Against Information

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

Representing NATIONAL WASTE + RECYCLING ASSN - FL CHAPTER

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

8/26/19
Meeting Date

816
Bill Number (if applicable)

Topic Environmental Regulations

✓
Amendment Barcode (if applicable)

Name Jim Spratt

Job Title

Address 310 W. College Ave.
Street

Phone 850-228-1296

TLH FL 32302
City State Zip

Email Jim.spratt@fla.gov

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19
Meeting Date

1022
Bill Number (if applicable)

Topic ~~None~~

Amendment Barcode (if applicable)

Name David Childs

Job Title Counsel

Address 119 S. Monroe St. Suite 300
Street

Phone 850-222-7500

Tallahassee, FL 32301
City State Zip

Email DavidC@kgslaw.com

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19

Meeting Date

1022

Bill Number (if applicable)

Topic Septic Tank

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO

Address 2600 Colonial Place
Street

Phone 567-1073

Tallahassee FL 32307
City State Zip

Email rpayton@fhba.com

Speaking: For Against Information

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

Representing Florida Home Builders Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19

Meeting Date

1022

Bill Number (if applicable)

Topic Onsite treatment + Disposal systems

Amendment Barcode (if applicable)

Name Manny Reyes

Job Title Lobbyist

Address 2121 Ponce de Leon Blvd - 11 Floor

Phone 305-560-5344

Street

Coral Gables

City

FL

State

33134

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Onsite Wastewater Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19
Meeting Date

1022
Bill Number (if applicable)

Topic Onsite Treatment

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Board Member

Address 2024 Shangri La Lane
Street

Phone 8503223317

City

State

Zip

Email

Speaking: For Against Information

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

Representing League Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/26/19

Meeting Date

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

1172

Bill Number (if applicable)

Topic SANITARY Sewer laterals

Amendment Barcode (if applicable)

Name SONATHAN Webber

Job Title Deputy Director

Address 1700 N. Monroe St.

Phone 954-593-4449

Street

TALLAHASSEE FL 32303

Email JWEBBER@FCVOTERS.ORG

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing FLORIDA CONSERVATION VOTERS

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19

Meeting Date

1172

Bill Number (if applicable)

Topic Sewer Laterals

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Board Member

Address 2024 Shangri La Lane

Phone 850 322 3317

Street

Tally

FL

32303

Email

City

State

Zip

Speaking: For Against Information

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

Representing League Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/2019

Meeting Date

SB 1500

Bill Number (if applicable)

Topic Mineral Rights

Amendment Barcode (if applicable)

Name Michael Dobson

Job Title Attorney

Address 215 S. Monroe Street

Phone (850) 999-4100

Tallahassee, FL 32301

Email mdobson@deanmeud.com

Speaking: For Against Information

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

Representing Real Property, Probate and Trust Law Section of Florida Bar

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19 Meeting Date

SB 1666 Bill Number (if applicable)

Topic Boater education - line 8 of Strike ALL

~~847822~~ 847822 Amendment Barcode (if applicable)

Name BONNIE BASTAM

Job Title

Address 10797 Wadesboro Rd Street TLH FL 32317 City State Zip

Phone 850-933-7277

Email Capital.Head@ATT.net

Speaking: For Against Information

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

Representing BOAT U.S.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

1446

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Diana Ferguson

Job Title Attorney

Address 119 S Monroe St Ste 202

Phone 481-6788

Street

Tuee

City

FL

State

32801

Zip

Email

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/19

Meeting Date

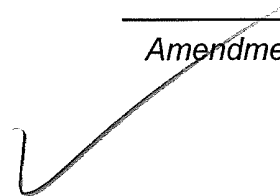
1666

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Robert + Reyes



Job Title _____

Address 817 Ingleside Ave

Phone _____

Street

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Monroe County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19

Meeting Date

1666

Bill Number (if applicable)

Topic Anchoring Vessels

Amendment Barcode (if applicable)

Name Frank Bernardino

Job Title Partner

Address 201 West Park Ave Suite 100

Phone 561/718-2345

Street

Tallahassee

FL

32301

City

State

Zip

Email Frank@antfieldFlorida.com

Speaking: For Against Information

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

Representing Palm Beach County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

1666

Bill Number (if applicable)

Topic Anchoring & Mooring Vessels

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Deputy General Counsel

Address PO Box 1757

Phone 222 9684

Tallahassee FL 32302

Email roharz@flcities.com

Speaking: [] For [] Against [] Information

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

Representing Fla League of Cities

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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.

CourtSmart Tag Report

Room: LL 37 Case No.:
Caption: Senate Committee on Environment and Natural Resources

Type:
Judge:

Started: 3/26/2019 4:01:26 PM
Ends: 3/26/2019 4:38:15 PM Length: 00:36:50

4:01:27 PM Call to order
4:01:32 PM Pledge of Allegiance
4:02:07 PM Chair opening remarks
4:02:16 PM Take up Tab 2 SB 816
4:02:24 PM Senator Perry for an explanation
4:03:08 PM Questions?
4:03:10 PM Senator Berman for a question
4:03:27 PM Senator Perry for a response
4:04:01 PM Take up late filed amendment 321266
4:04:12 PM Senator Perry for an explanation
4:04:17 PM Questions?
4:04:21 PM Appearance forms?
4:04:25 PM Debate?
4:04:33 PM The amendment is adopted
4:04:39 PM Back on the bill as amended
4:04:44 PM Appearance Forms
4:04:48 PM Jim Spratt
4:04:51 PM Keyna Cory
4:04:58 PM Debate?
4:05:01 PM Senator Perry waives close
4:05:06 PM CS/SB 816 is reported favorably
4:05:19 PM Take up Tab 5 SB 1502
4:05:38 PM Senator Bradley for an explanation
4:06:20 PM Questions?
4:06:25 PM appearance forms
4:06:28 PM Debate?
4:06:30 PM Senator Bradley waives close
4:06:36 PM SB 1502 is reported favorably
4:06:47 PM Take up Tab 3 SB 1172
4:07:03 PM Senator Brandes for an explanation
4:08:58 PM Questions?
4:09:01 PM Senator Berman for a question
4:09:17 PM Senator Brandes for a response
4:09:45 PM Senator Berman for a follow up
4:09:54 PM Senator Brandes for a response
4:10:31 PM Appearance forms
4:10:35 PM Trish Neely waives in support
4:10:43 PM Jonathon Webber waives in support
4:10:51 PM Debate?
4:10:54 PM Senator Brandes waives close
4:11:02 PM SB 1172 is reported favorably
4:11:12 PM Take up Tab 7 SB 628
4:11:36 PM Senator Albritton for an explanation
4:12:48 PM Questions?
4:13:48 PM Take up Amendment 416612
4:14:01 PM Questions on the Amendment?
4:14:09 PM Debate?
4:14:14 PM Senator Albritton waives close
4:14:22 PM Amendment is reported favorably
4:14:30 PM Back on the bill as amended
4:14:40 PM Trish Neely waives in support
4:15:03 PM Frank Bernardino

4:15:37 PM Rebecca O'Harra waives in support
4:15:43 PM Debate?
4:15:48 PM Senator Albritton waives close
4:15:54 PM CS/SB 628 is reported favorably
4:16:08 PM Take up Tab 6 SB 1666
4:16:18 PM Senator Flores for an explanation
4:16:41 PM Take up Amendment 847822
4:16:48 PM Senator Flores to explain the amendment
4:17:27 PM Questions?
4:17:34 PM Appearance forms
4:17:41 PM Bonnie Basham
4:20:53 PM Debate?
4:20:56 PM Senator Flores waives close
4:21:05 PM The amendment is adopted
4:21:08 PM Back on the bill as amended
4:21:14 PM Questions?
4:21:17 PM Senator Berman for a question
4:21:30 PM Senator Flores for a response
4:22:06 PM Senator Berman for a follow up
4:22:13 PM Senator Flores for a response
4:22:38 PM Appearance forms
4:22:45 PM Rebecca O'Harra waives in support
4:22:53 PM Robert Reyes waives in support
4:22:59 PM Diana Ferguson waives in support
4:23:13 PM Debate?
4:23:16 PM Senator Berman in debate
4:23:32 PM Chair Montford in debate
4:23:40 PM Senator Flores to close
4:24:08 PM CS/SB 1666 is reported favorably
4:24:26 PM Take up Tab 8 SB 1022
4:24:44 PM Senator Albritton to explain Amendment 700888
4:26:54 PM Questions?
4:26:59 PM Senator Berman for a question on the amendment
4:27:10 PM Senator Albritton for a response
4:28:03 PM Senator Mayfield for a question
4:28:11 PM Senator Albritton for a response
4:28:30 PM Senator Mayfield for a follow up
4:28:44 PM Senator Albritton for a response
4:29:11 PM Debate?
4:29:15 PM Senator Albritton waives close
4:29:19 PM Amendment is adopted
4:29:23 PM Back on the bill as amended
4:29:26 PM Questions?
4:29:29 PM Appearance forms
4:29:33 PM Trish Neely waives in support Manny Reyes
4:29:45 PM Manny Reyes
4:30:48 PM Rusty Payton waives in support
4:30:57 PM David Childs waives in support
4:31:04 PM Debate?
4:31:06 PM Senator Albritton waives close
4:31:12 PM CS/SB 1022 is reported favorably
4:31:25 PM Take up Tab 1 SB 436
4:31:39 PM Senator Albritton to present Senator Hooper's Bill
4:32:46 PM Questions?
4:32:54 PM Debate?
4:32:58 PM Senator Albritton waives close
4:33:05 PM SB 436 is reported favorably
4:33:17 PM Senator Mayfield for a comment
4:33:47 PM *Waiting for Senator Simmons*
4:35:11 PM Take up Tab 4 SB 1500
4:35:26 PM Senator Simmons for an explanation
4:35:40 PM Take up Amendment 553100

4:36:05 PM Senator simmons or an explanation
4:36:36 PM Questions?
4:36:42 PM Debate?
4:36:47 PM Senator Simmons waives close
4:36:52 PM Amendment is adopted
4:36:56 PM back on the bill as amended
4:36:59 PM Questions?
4:37:04 PM Michael Dobson waives in support
4:37:15 PM Debate?
4:37:21 PM Senator Simmons waives close
4:37:32 PM CS/SB 1500 is reported favorably
4:37:50 PM Chair remarks
4:38:02 PM Meeting adjourned