

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
ENVIRONMENTAL PRESERVATION AND CONSERVATION
Senator Dean, Chair
Senator Abruzzo, Vice Chair

MEETING DATE: Thursday, April 10, 2014
TIME: 9:00 —11:00 a.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Dean, Chair; Senator Abruzzo, Vice Chair; Senators Altman, Bullard, Gardiner, Grimsley, Latvala, Simpson, and Soto

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|--|--|--|
| 1 | CS/SB 1050 Communications, Energy, and Public Utilities / Hays (Similar H 229, CS/H 357) | Water and Wastewater Utility Systems; Requiring the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds to determine the availability of additional allocation or reallocation of bonds for water facilities or sewage facilities; exempting from regulation by the Florida Public Service Commission a person who resells water service to certain tenants or residents up to a specified cost; establishing a procedure to follow if the commission determines that a utility has failed to provide water and wastewater services that meet certain standards; providing for recovery of costs prudently incurred by a utility to address certain findings of the commission or the Department of Environmental Protection, etc. CU 04/01/2014 Fav/CS EP 04/10/2014 Fav/CS AFT AP | Fav/CS Yeas 7 Nays 0 |
| 2 | SB 830 Bullard (Identical H 1257) | Carryout Bags; Creating statewide standards for reusable bags and recyclable paper bags for stores located within a county or municipality that adopts ordinances pursuant to this act; requiring affected stores to charge customers a fee for each recyclable paper bag provided; prohibiting affected stores from providing plastic carryout bags or other types of bags; authorizing local governments desiring to regulate the use of carryout bags to adopt ordinances pursuant to this act, etc. EP 03/26/2014 Not Considered EP 04/10/2014 Temporarily Postponed CA CM | Temporarily Postponed |
| Consideration of proposed committee bill: | | | |
| 3 | SPB 7126 | Rules Establishing Minimum Water Flows and Levels for Water Bodies; Exempting specified rules from legislative ratification under s. 120.541(3), F.S.; requiring the Department of Environmental Protection to publish a certain notice, etc. | Submitted as Committee Bill Yeas 6 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation
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|-----|-------------------------|--|------------------|
| | | Other related meeting documents | |

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

BILL: CS/CS/SB 1050

INTRODUCER: Environmental Preservation and Conservation Committee; Communications, Energy, and Public Utilities Committee; and Senator Hays

SUBJECT: Water and Wastewater Utility Systems

DATE: April 11, 2014 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|---------------|
| 1. | Caldwell | Caldwell | CU | Fav/CS |
| 2. | Gudeman | Uchino | EP | Fav/CS |
| 3. | | | AFT | |
| 4. | | | AP | |

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

I. Summary:

CS/CS/SB 1050:

- Directs the Division of Bond Finance to review the allocation of private activity bonds for water and wastewater projects;
- Provides an exemption for individuals who resell water service;
- Provides a mechanism within a rate case for the identification and potential resolution of issues involving secondary drinking water standards;
- Requires utilities that do not meet secondary wastewater standards to take certain actions;
- Requires the Public Service Commission (PSC) to adopt rules for compliance requirements and enforcement actions related to secondary water quality standards;
- Allows utilities to recover costs associated with secondary drinking water standards or certain wastewater service issues;
- Authorizes the PSC to create an individual investor-owned utility (IOU) reserve fund and requires the PSC to adopt rules;
- Identifies specific types of expenses eligible for an automatic rate increase or decrease outside of a rate case (also known as pass through treatment) and requires the PSC to adopt rules;
- Authorizes the PSC to establish rules for additional expenses that may be eligible for an automatic rate increase or decrease outside of a rate case;

- Authorizes water utilities to establish a surcharge to recover fixed costs of system improvements intended to maintain or achieve compliance with secondary drinking water standards; and
- Expands the availability of low-interest loans through the Drinking Water State Revolving Loan Fund (SRF) to all for-profit water utilities.

II. Present Situation:

Investor-Owned Water and Wastewater Utility Systems Overview

Water and wastewater services can be provided through privately-owned and operated water and wastewater companies, which are referred to as “investor-owned utilities,” or “IOUs.” The term “utility” is defined as, “a water or wastewater utility and, except as provided in s. 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide water or wastewater service to the public for compensation.”¹ An IOU can range in size from very small systems, owned by an individual as a sole proprietorship and serving only a few dozen customers, to systems owned by large interstate corporations serving tens of thousands of customers in multiple counties.² The remaining water and wastewater customers are served by IOUs in non-jurisdictional counties, by statutorily exempt utilities (such as municipal utilities, cooperatives, and non-profits), by wells and septic tanks, or by systems owned, operated, managed, or controlled by governmental authorities.³

Chapter 367, F.S., concerning water and wastewater systems, grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. Water and wastewater IOUs that operate within a single Florida county have the option to regulate their rates and service or allow the PSC to regulate those rates and services.⁴ Water and wastewater IOUs whose service areas cross county boundaries are regulated by the PSC, unless regulated by an intergovernmental authority.⁵ The PSC currently has jurisdiction over water and wastewater IOUs in 37 of 67 counties in Florida, accounting for approximately 120,537 water customers and 74,317 wastewater customers.⁶

For regulatory purposes, the PSC classifies IOUs into one of three categories based on annual operating revenues:⁷

- Class A has operating revenues of \$1,000,000 or more;
- Class B has operating revenues of \$200,000 or more but less than \$1,000,000; and
- Class C has operating revenues less than \$200,000.

¹ Section 367.021(12), F.S.

² Florida Public Service Commission, *Report of the Study Committee on Investor-Owned Water and Wastewater Utility Systems*, 17 (Feb. 2013), available at <http://www.floridapsc.com/utilities/waterwastewater/Water-Wastewater%20Sub%20Committee%20Report.pdf> (last visited Apr. 7, 2014).

³ Section 367.022(2), F.S.

⁴ Section 367.171, F.S.

⁵ Section 367.171(7), F.S.

⁶ Florida Public Service Commission, *Facts and Figures of the Florida Utility Industry*, 29 (April 2013), available at <http://www.psc.state.fl.us/publications/pdf/general/factsandfigures2013.pdf> (last visited Apr. 7, 2014).

⁷ Rules 25-30.110(4) and 25-30.115, F.A.C. As noted in these rules, this classification system is used by the National Association of Regulatory Utility Commissioners for publishing its system of accounts.

As of 2012, there were 14 Class A utilities, 33 Class B utilities, and 93 Class C utilities under the PSC's jurisdiction.⁸

Study Committee on Investor-Owned Water and Wastewater Utility Systems

Chapter 2012-187, Laws of Florida, created the Study Committee on Investor-Owned Water and Wastewater Utility Systems (study committee) to, “identify issues of concern of investor-owned water and wastewater utility systems, particularly small systems, and their customers,” and to research possible solutions.⁹ The study committee was comprised of 18 members, including 15 voting members and three non-voting members.¹⁰ The study committee was required to consider:

- The ability of small IOUs to achieve economies of scale when purchasing equipment, commodities, or services;
- The availability of low interest loans to small water or wastewater IOUs;
- Any tax incentives or exemptions, temporary or permanent, which are available to small water or wastewater IOUs;
- The impact on customer rates if a utility purchases an existing water or wastewater utility system;
- The impact of a utility providing service through the use of a reseller on customer rates; and
- Other issues that the study committee identifies during its investigation.¹¹

The study committee submitted a report with recommendations to the Governor, President of the Senate, and the Speaker of the House of Representatives and on February 15, 2013.¹² The report made the following recommendations for consideration by the Legislature:

- Increase the availability of low-interest loans to small water and wastewater IOUs by:
 - Expanding availability of low-interest loans through the SRF to all for-profit water utilities;
 - Allowing IOUs to apply pass through treatment for loan service fees or loan origination fees for eligible projects identified by the PSC; and
 - Reviewing the allocation of private activity bonds to determine how much is currently allocated to water and wastewater projects, how much of the allocation is unused or reallocated, and whether any additional amount of private activity bonds should be used for water and wastewater infrastructure;
- Provide ad valorem tax exemptions for real property that is dedicated to providing potable water;
- Provide an ad valorem tax exemption for the property of an IOU owned or operated by a Florida corporation if the rates are established by the governing board of the county or the PSC and the property remains dedicated to providing public utility services;
- Provide a sales tax exemption for sales or leases to a sewer and/or water IOU owned or operated by a Florida corporation if the primary function of the corporation is to construct, maintain, or operate a water or sewer system in Florida;

⁸ *Supra* note 2.

⁹ *Supra* note 2, at 7.

¹⁰ Chapter 2012-187, s. 2, Laws of Fla.

¹¹ *Id.*

¹² *Supra* note 2, at 7.

- Create an exemption from PSC regulation for persons who resell service to individually-metered end-users at a price that does not exceed actual purchase price of water plus actual costs of meter reading and billing not to exceed 9 percent;
- Authorize the PSC, during a rate case, to create individual utility reserve funds to be used for projects identified in an IOU's capital improvement plan, with disbursement subject to approval by the PSC;
- Reduce the impact of rate case expense on customer rates by:
 - Prohibiting the recovery of a rate case expense for attorney or outside consultant fees if the utility receives staff assistance in changing rates and charges;
 - Requiring the utility to recover the four-year amortized rate case expense for only one rate case at a time; and
 - Prohibiting the PSC from awarding rate case expense that exceeds the total rate increase approved by the PSC;
- Provide a mechanism for the resolution of issues involving secondary water and wastewater operational requirements; and
- Identify specific types of expenses eligible for pass through treatment in utility rates, or authorize the PSC to adopt rules identifying such expenses provided the expenses are beyond the utility's control.¹³

Private Activity Bonds

Qualified private activity bonds are tax-exempt bonds issued by a state or local government, the proceeds of which are used for a defined, qualified purpose by an entity other than the government issuing the bonds. For a private activity bond to be tax-exempt, 95 percent or more of the net bond proceeds must be used for one of the qualified purposes listed in sections 142-145, and 1394 of the Internal Revenue Code, which includes facilities used to furnish water or sewer services.¹⁴ The Internal Revenue Code limits an issuing authority, such as a state, to a maximum amount of tax-exempt bonds that can be issued to finance a particular qualified purpose during a calendar year. Facilities used to furnish water or sewer services are subject to this volume cap limits.¹⁵

Private activity bonds are administered in Florida by the Division of Bond Finance of the State Board of Administration (the division) under ss. 159.801-159.816, F.S. Each year, the division determines the amount of private activity bonds permitted to be issued in Florida under the Internal Revenue Code. This amount is allocated yearly on January 1 as follows:¹⁶

- An initial amount is allocated to manufacturing facility projects;
- 50 percent of the amount remaining after the initial allocation is allocated to individual counties and groups of counties identified in s. 159.804(2)(b), F.S., on a per capita basis for any permitted purpose, which may include water and sewer projects;
- 25 percent of the amount remaining after the initial allocation is allocated to the Florida Housing Finance Corporation for use in connection with the issuance of housing bonds.

¹³ *Supra* note 2, at 155-161.

¹⁴ IRS, *Tax-Exempt Private Activity Bonds, Compliance Guide, Publication 4708*, 2 (Sept. 2005) available at <http://www.irs.gov/pub/irs-pdf/p4078.pdf> (last visited Apr. 8, 2014).

¹⁵ *Supra* note 14, at 3.

¹⁶ Section 159.804, F.S.

- 5 percent of the amount remaining after the initial allocation is allocated to the state allocation pool and applied to priority projects, which may include water and sewer projects; and
- 20 percent of the amount remaining after the initial allocation is allocated to the Florida First Business allocation pool for projects certified by the Department of Economic Opportunity.

The study committee was unable to determine the amount of private activity bonds that are allocated to water and wastewater projects, or how the private activity bonds can be fairly distributed.¹⁷

Resellers of Water Service

Certain entities that meet the definition of “utility” are exempt from PSC regulation as utilities, including entities who resell water or wastewater service at a rate or charge that does not exceed the actual purchase price of the water or wastewater.¹⁸ If the reseller includes any additional costs in the rate or charge to the retail customer, the reseller is considered a utility subject to PSC regulation.¹⁹

Reseller utilities, such as mobile home parks and subdivisions, are regulated by the PSC and generally have significant investment in distribution and collection lines and other utility equipment. In a rate proceeding, the PSC determines the utility’s investment and expenses related to the facilities it owns and operates, then sets rates accordingly. The cost of the water and wastewater services purchased from a wholesale provider, which are often a significant portion of the customers’ bills, are allowed to be passed through to the customers pursuant to s. 367.081(4)(b), F.S. Resellers that choose not to pass along costs beyond their costs to purchase water or wastewater (and therefore remain exempt from PSC regulation) generally have very little investment in equipment or lines needed to provide the service. These types of resellers include apartment complexes, condominium buildings, and small master-metered shopping centers.²⁰

A metered charge for water sends an appropriate price signal to end users and is a means of discouraging indiscriminate use of water. However, if a reseller wishes to install sub-meters and bill those users for their actual water use, the reseller will be unable recover those metering and billing costs without becoming regulated and incurring regulatory costs.²¹

Public Service Commission Ratemaking

Pursuant to s. 367.081, F.S., the PSC establishes rates that are just, reasonable, compensatory, and not unfairly discriminatory. The PSC must consider the value and quality of the service and the cost of providing the service, including:

- Debt interest;
- Utilities’ working capital requirements;

¹⁷ *Supra* note 2, at 43.

¹⁸ Section 367.022(8), F.S.

¹⁹ *Supra* note 2, at 61.

²⁰ *Id.*

²¹ *Supra* note 2, at 61-62.

- Maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service; and
- A fair return on the investment of the utility in property used and useful in the public service.

In order for an IOU to increase rates, the utility must file an application for a rate increase with the PSC. The application includes schedules and reports containing the operational, financial, economic, and rate information in order for the PSC staff to evaluate the request. The utility is also required to forecast how much funding is necessary to cover expenses for the next year and the potential return on investment from assets used to provide services.²²

In setting rates, the PSC staff reviews the utility's records, conducts site inspections, and evaluates the value and quality of service based on customer input at a rate case hearing or in writing. Following the rate case hearing, the PSC staff issues a written order with the decision on the rate increase. The utility is required to notify the customers of the revised rates.²³

Quality of Service and Secondary Standards

The Department of Environmental Protection (DEP) has the primary authority to implement and enforce federal and state drinking water and wastewater standards. The focus of the DEP's permitting, monitoring, and enforcement of water and wastewater systems is to ensure compliance with primary drinking water standards and wastewater operational requirements to protect the health and safety of the public and the environment.²⁴

The DEP has adopted secondary drinking water standards for aluminum, chloride, copper, fluoride, iron, manganese, silver, sulfate, zinc, color, odor, pH, total dissolved solids, and foaming agents.²⁵ Testing for the secondary standards is required on a regular basis, though the DEP generally requires corrective action only if users voice significant complaints or if a primary contaminant level has also been exceeded.²⁶

The DEP has not adopted secondary wastewater standards. The DEP requires that new wastewater treatment plants and modifications to existing plants be designed to minimize odors, noise, aerosol drift, and lighting, which may have an adverse effect on neighboring residential and commercial areas.²⁷ The utilities must provide reasonable assurance that such effects will not be potentially harmful to human health or welfare or unreasonably interfere with the enjoyment of life or property.²⁸ If the existing facilities fail to function as intended and create such adverse effects, the permittee must take corrective action.²⁹ The DEP may also require corrective action if there are significant complaints or if a primary contaminant level has been exceeded.³⁰

²²Florida Public Service Commission, *Utility Ratemaking in Florida* (October 2012), available at <http://www.floridapsc.com/publications/consumer/brochure/Ratemaking.pdf#search=ratemaking> (last visited Apr. 8, 2014).

²³ *Id.*

²⁴ See ch. 403, F.S., and Rules 62-550, 62-555, 62-602, and 62-699, F.A.C., for drinking water regulations, and Rules 62-600, 62-604, 62-610, 62-620, 62-621, and 62-640, F.A.C., for wastewater regulations.

²⁵ Rule 62-550.320, F.A.C.

²⁶ *Supra* note 2, at 113.

²⁷ Rule 62-600.400(2)(a), F.A.C.

²⁸ *Id.*

²⁹ Rule 62-600.410, F.A.C.

³⁰ *Supra* note 2, at 113.

The PSC considers an IOU's quality of service in rate cases by evaluating the quality of the product, the operating condition of the IOU's plant and facilities, and the IOU's efforts to address customer satisfaction.³¹ Sanitary surveys, outstanding citations, violations, and consent orders on file with the DEP and county health departments are also considered. In addition, the DEP and county health department officials' testimony and customer testimony concerning quality of service is considered.³² In most cases, the emphasis of this evaluation is on compliance with standards related to the health and safety of the public and the environment.³³ If the PSC determines that an IOU has failed to provide its customers with water or wastewater service that meets the standards set by the DEP or the water management districts, the PSC may reduce the IOU's return on equity until the standards are met.³⁴

Reserve Funds for Water and Wastewater Utilities

The study committee considered the availability of low interest loans to small IOUs. The report noted that affordable and accessible financing is problematic for smaller IOUs because of the risk associated with smaller utilities, insufficient cash reserves, and the limitations of current regulatory policy. During a critical system failure, the smaller IOUs may be unable to address that failure because of limited available funds. In addition, loans typically do not provide sufficient cash flow to fully address the financial needs over the life of the loan. The study committee reports that the establishment of individual utility reserve funding and/or the creation of a statewide reserve fund could reduce borrowing costs and make funding more readily available.³⁵

Section 367.081, F.S., establishes the rate-setting procedures for water and wastewater IOUs regulated by the PSC. However, these procedures do not provide explicit statutory authority for the PSC to establish reserve funds for water and wastewater IOUs during the rate-setting process.

Pass Through Rate Adjustment

A pass through rate adjustment allows a utility to increase or decrease its rates to reflect an increase or decrease in certain expenses without the requirement of the PSC.³⁶ This mechanism provides quick rate relief to a utility when it experiences an increase in one of these types of costs and may help defer the need for a full rate case. Currently, the types of expenses eligible for pass through treatment are limited by statute to:

- Purchased water or wastewater service;
- Electric power;
- Ad valorem taxes;
- Regulatory assessment fees;
- DEP fees for the National Pollutant Discharge Elimination System Program; and
- Water or wastewater quality testing required by the DEP.³⁷

³¹ Rule 25-30.433(1), F.A.C.

³² *Id.*

³³ *Supra* note 2, at 106.

³⁴ Section 367.111(2), F.S.

³⁵ *Supra* note 2, at 67.

³⁶ Section 367.081(4)(b), F.S.

³⁷ *Id.*

Prior to changing rates using this mechanism, the IOU must file, under oath, an affirmation as to the accuracy of the figures and calculations upon which rate changes are based and a statement that the change will not cause the utility to exceed the rate of return on equity last approved by the PSC.³⁸

Drinking Water State Revolving Loan Fund

Sections 403.8532 and 403.8533, F.S., establish the SRF, which is administered by the DEP. The fund provides low-interest loans to eligible entities for planning, designing, and constructing public water facilities. An investor-owned public water system that is legally responsible for public water services and serves no more than 1,500 connections is eligible for a loan. An investor-owned public water system that serves more than 1,500 connections may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems.³⁹ Loan funding is based on a priority system that takes into account public health considerations, compliance, and affordability.⁴⁰

Based on data gathered by the study committee, it was determined that all Class C water IOUs and 28 out of 33 Class B water IOUs serve no more than 1,500 connections and are eligible for the SRF program. The remaining PSC-regulated Class B and Class A water IOUs are not eligible to use the SRF program. The report notes that this data does not include water IOUs that are regulated by counties.⁴¹

III. Effect of Proposed Changes:

Section 1 amends s. 159.8105, F.S., requiring the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds to determine the availability of additional allocations or reallocation of private activity bonds for water and wastewater infrastructure projects.

Section 2 amends s. 367.022, F.S., creating an exemption from PSC regulation for a person who resells water service to his or her tenants or to individually metered residents for a fee that does not exceed the actual purchase price of the water plus up to 9 percent of the actual purchase price or the actual cost of meter reading and billing. The bill makes technical and conforming changes.

Section 3 amends s. 367.081, F.S., creating a mechanism, within the context of a rate case, for the identification and potential resolution of issues involving secondary drinking water standards adopted by the DEP and wastewater operational requirements.

The PSC, in determining the value and quality of water service provided by an IOU, is required to consider the extent to which the IOU meets secondary drinking water standards established by the DEP and the local government. The PSC must consider:

- Testimony and evidence provided by customers and the utility;

³⁸ Section 367.081(4)(c), F.S.

³⁹ Section 403.8532(3), F.S.

⁴⁰ Section 403.8532(9)(a), F.S.

⁴¹ *Supra* note 2, at 36-37.

- Complaints that relate to secondary drinking water standards filed during the previous five years with the PSC, the DEP, county health departments, or the local government;
- Results of past tests required by the DEP or county health department to measure compliance with secondary standards; and
- Results of other tests that the PSC deems necessary.

The bill requires the PSC to consider the extent to which the IOU is in compliance with the rules or ordinances that govern wastewater services. The PSC must consider:

- Testimony and evidence provided by customers and the utility; and
- Complaints regarding violations of governing rules or ordinances that have been filed during the previous five years with the PSC, the DEP, county health department, or the local government.

If, as a result of these analyses, the PSC determines that the IOU's water service does not meet secondary drinking water standards or that the IOU's wastewater service adversely affects customers due to a violation of the rules or ordinances governing its operation, the IOU must take the following steps:

- Provide estimates of the costs and benefits of various solutions to the problems;
- Meet with its customers to discuss the costs and benefits of the various solutions; and
- Report the conclusions of these customer meetings to the PSC.

The PSC is required to adopt rules necessary to assess and enforce the IOU's compliance with these provisions. The rules must prescribe penalties, including fines and reduction of return on equity of up to 100 basis points, if an IOU does not adequately address or offer solutions to the water or wastewater problems.

The bill allows a utility to recover the costs and expenses incurred to resolve deficiencies found by the PSC or the DEP with respect to secondary drinking water standards or certain wastewater service issues. The costs are recoverable through a rate case or separate proceeding initiated by petition of the utility. The utility must describe in its petition the activities and costs projected or incurred to resolve the deficiencies found by the PSC or the DEP. The costs may be a result of action agreed upon by the utility and the PSC, or the DEP, or as a consequence of a consent order.

The bill authorizes the PSC to create a utility reserve fund for a water or wastewater IOU. The PSC is directed to adopt rules that include:

- Provisions related to the expenses for which the fund may be used;
- Segregation of the reserve fund accounts;
- Requirements for the IOU to maintain a capital improvement plan; and
- Requirements for PSC authorization prior to disbursements from the fund.

The bill expands the types of expenses eligible for pass through treatment in IOU rates by adding the following expense items:

- Rates charged by a governmental authority or other regulated water or wastewater utility that provides utility service to the utility;
- Rates or fees the utility is charged for electric power;

- Ad valorem taxes assessed against the utility's used and useful property;
- Fees charged by the DEP in connection with the National Pollutant Discharge Elimination System permit program;
- Regulatory assessment fees imposed by the PSC;
- Costs for water quality or wastewater quality testing required by the DEP;
- Fees charged for wastewater biosolids removal;
- A loan service fee or loan origination fee associated with a loan related to an eligible project;
- Costs incurred for a tank inspection required by the DEP or a local government authority;
- Operator and distribution license fees required by the DEP or a local government authority;
- Water or wastewater operating permit fees charged by the DEP or a local government authority; and
- Consumptive or water use permit fees charged by a water management district.

The bill requires the PSC to adopt rules that determine the types of projects that are considered eligible. The eligible projects are limited to those associated with new infrastructure or improvements to existing infrastructure needed to achieve or maintain compliance with federal or state primary or secondary drinking water standards or wastewater treatment standards that relate to:

- The provision of water or wastewater service for existing customers;
- The remediation or prevention of a violation of primary or secondary health standards;
- The replacement or upgrade of aging water or wastewater infrastructure if needed to achieve or maintain compliance with federal or state primary or secondary drinking water regulations; or
- Projects consistent with the most recent long-range plan of the IOU on file with PSC, except for projects primarily intended to serve future growth.

The bill specifies an IOU may not increase or decrease its rates as a result of an increase or decrease in a specific expense item which occurred more than 12 months before the filing by the IOU.

The bill authorizes the PSC to adopt rules establishing additional specific expense items eligible for pass through treatment. To be eligible for such treatment, an additional expense item must be imposed by a federal, state, or local law, rule, order, or notice and must be outside the control of the utility. If the PSC uses this authority, it must review its rule at least once every five years to determine if each specific expense item should remain eligible for pass through treatment or if any additional expense items should become eligible.

The bill authorizes a water utility to file tariffs establishing a surcharge, or other methods for the automatic adjustment of its rates. The surcharge is to provide for recovery of the costs associated with the depreciation and pretax returns of certain system improvement projects. The projects must be approved by the PSC and placed in service between base rate proceedings and must be for the purpose of achieving compliance with secondary drinking water quality standards adopted by the DEP. The PSC must prescribe procedures the utility must follow in establishing a sliding scale or other automatic adjustment method.

The bill makes technical and conforming changes.

Section 4 amends s. 367.0814, F.S., making technical and conforming changes.

Section 5 amends s. 403.8532, F.S., authorizing the DEP to make, or request that the Florida Water Pollution Control Financing Corporation make, loans, grants, and deposits to for-profit privately owned or investor-owned water systems regardless of the number of service connections.

Section 6 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The expanded availability of low-interest financing through the SRF to additional water IOUs may encourage more of these utilities to make investments in water infrastructure at a lower cost to ratepayers.

Water and wastewater IOUs may be encouraged to make investments in water and wastewater infrastructure at a lower cost to ratepayers as a result of the additional private activity bonds that are made available.

The creation of a regulatory exemption for water resellers who add no more than the costs of meter reading and billing or, alternatively, up to a 9 percent charge to their purchase price for water, will remove the costs and obligations of regulation for the resellers and may encourage them to invest in individual metering apparatus.

The bill may encourage resellers to use individual metering more often for their tenants. Water users can be charged more accurately for the water they consume; therefore, they may experience a positive or negative fiscal impact, depending on their water use.

The establishment of individual reserve funds may reduce borrowing costs and make funding more readily available for PSC-regulated water and wastewater IOUs to make needed improvements and repairs. In some instances, the availability of these reserve funds may allow IOUs to avoid or defer the need for a rate case, providing a cost savings to the ratepayers who would have otherwise been responsible for this expense.

The expanded availability of pass through treatment for new expense items may, in some instances, allow IOUs to avoid or defer the need for a rate case, providing a cost savings to the ratepayer.

Depending on the PSC's application of the mechanism established to identify and potentially resolve secondary water quality issues and wastewater operational issues, IOUs may be compelled to incur additional costs to resolve these issues. To the extent that an IOU is compelled to incur additional costs, these costs will likely be recovered from ratepayers.

C. Government Sector Impact:

The PSC has not identified an impact on agency expenditures; however, it may be required to expend resources to complete rulemaking as required by the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides a list of specified expense items eligible for pass through treatment in IOU rates but indicates that the list is not exclusive. Thus, the bill appears ambiguous as to what types of other expense items might also be eligible for pass through treatment. Further, the direction in s. 367.081(7), F.S., that "the commission shall prescribe the specific procedures to be followed in establishing the sliding scale, or other automatic adjustment method," is unclear.

With respect to the mechanism established to identify and address issues involving secondary drinking water standards and wastewater operational requirements, the bill does not require that the IOU make repairs or improvements to resolve an identified issue but requires the PSC to establish, by rule, penalties for an IOU's failure to "adequately address" the problem. Thus, it is unclear what is required of a utility to "adequately address" a problem or when an IOU would be penalized.

Also, with respect to secondary water standards, the provisions of this bill conflict with those of SB 272, which has passed all committees of reference.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 367.022, 367.081, 367.0814, and 403.8532.

This bill creates section 159.8105 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Environmental Preservation and Conservation on April 10, 2014:

- Removes the reference to taste, odor, color, or corrosiveness adopted by the DEP;
- Requires the PSC to consider the secondary drinking water standards adopted by the DEP;
- Removes the reference to odor, noise, aerosol drift, or lighting in evaluating wastewater service;
- Requires the PSC to determine the value and quality of wastewater service provided by considering the extent to which a utility complies with the rules and ordinances governing the wastewater service;
- Replaces the term “sludge” with the term “biosolids”; and
- Removes the references to achieving or maintaining compliance with primary or secondary drinking water standards required by local governments.

CS by Communications, Energy, and Public Utilities on April 1, 2014:

- Removes a proposed sales tax exemption;
- Allows utilities to recover costs incurred to resolve deficiencies found by the PSC or DEP with respect to secondary drinking water standards or certain wastewater service issues;
- Authorizes water utilities to establish a surcharge to recover fixed costs of system improvements intended to maintain or achieve compliance with secondary drinking water standards; and
- Removes proposed limits on rate case expense recovery.

B. Amendments:

None.



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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 04/10/2014 | . | |
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The Committee on Environmental Preservation and Conservation
(Grimsley) recommended the following:

Senate Amendment

Delete lines 120 - 408
and insert:
secondary drinking water standards adopted by the Department of
Environmental Protection. In making its determination, the
commission shall consider:

a. Testimony and evidence provided by customers and the
utility.

b. Complaints that relate to the secondary drinking water



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11 standards which customers have filed during the past 5 years
12 with the commission, the Department of Environmental Protection,
13 the county health departments, or the applicable local
14 government.

15 c. The results of past tests required by the Department of
16 Environmental Protection or county health departments which
17 measure the utility's compliance with the applicable secondary
18 drinking water standards.

19 d. The results of other tests, if deemed necessary by the
20 commission.

21 4. In determining the value and quality of wastewater
22 service provided by a utility, the commission shall consider the
23 extent to which the utility provides wastewater service to its
24 customers which complies with the rules or ordinances governing
25 its activities. In making its determination, the commission
26 shall consider:

27 a. Testimony and evidence provided by customers and the
28 utility.

29 b. Complaints regarding violations of governing rules or
30 ordinances which customers have filed during the past 5 years
31 with any of the following:

32 (I) The commission;

33 (II) The Department of Environmental Protection;

34 (III) The county health departments; or

35 (IV) The local government.

36 5. If the commission determines that a utility provides
37 water service that does not meet the secondary drinking water
38 quality standards of the Department of Environmental Protection,
39 or that a utility provides wastewater service that adversely



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40 affects customers due to a violation of the rules or ordinances
41 governing its operation, the utility shall provide the
42 commission with estimates of the costs and benefits of various
43 solutions to the problems. The utility shall meet with its
44 customers to discuss the costs and benefits of the various
45 solutions and report to the commission the conclusions of the
46 meetings. The commission shall adopt rules necessary to assess
47 and enforce the utility's compliance with this subparagraph. The
48 rules shall prescribe penalties, including fines and reduction
49 of return on equity of up to 100 basis points, if a utility
50 fails to adequately address or offer solutions to the water or
51 wastewater problems.

52 6. A utility may recover its prudently incurred costs and
53 expenses to resolve deficiencies found by the commission
54 pursuant to this subsection or found by the Department of
55 Environmental Protection in a proceeding under chapter 403,
56 related to noncompliance with secondary drinking water
57 standards, or concerning wastewater service that adversely
58 affect customers due to a violation of the rules or ordinances
59 governing its operation. Such costs shall be recoverable through
60 a rate case filed pursuant to this section or through a separate
61 proceeding initiated by petition of the utility. In its filing,
62 the utility shall describe the activities and costs projected or
63 incurred to resolve the deficiencies found by the commission or
64 the Department of Environmental Protection. Such costs may be a
65 result of action agreed upon by the utility and the commission
66 or the Department of Environmental Protection or as a
67 consequence of a consent order.

68



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69 Notwithstanding ~~the provisions of~~ this paragraph, the commission
70 shall approve rates for service which allow a utility to recover
71 from customers the full amount of environmental compliance
72 costs. Such rates may not include charges for allowances for
73 funds prudently invested or similar charges. For purposes of
74 this requirement, the term "environmental compliance costs"
75 includes all reasonable expenses and fair return on any prudent
76 investment incurred by a utility in complying with the
77 requirements or conditions contained in any permitting,
78 enforcement, or similar decisions of the United States
79 Environmental Protection Agency, the Department of Environmental
80 Protection, a water management district, or any other
81 governmental entity with similar regulatory jurisdiction.

82 (b) In establishing initial rates for a utility, the
83 commission may project the financial and operational data as set
84 out in paragraph (a) to a point in time when the utility is
85 expected to be operating at a reasonable level of capacity.

86 (c) In establishing rates for a utility, the commission may
87 authorize the creation of a utility reserve fund. The commission
88 shall adopt rules to govern the fund, including, but not limited
89 to, rules relating to expenses for which the fund may be used,
90 segregation of reserve account funds, requirements for a capital
91 improvement plan, and requirements for commission authorization
92 before disbursements are made from the reserve fund.

93 (4) (a) On or before March 31 of each year, the commission
94 by order shall establish a price increase or decrease index for
95 major categories of operating costs incurred by utilities
96 subject to its jurisdiction reflecting the percentage of
97 increase or decrease in such costs from the most recent 12-month



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98 historical data available. The commission by rule shall
99 establish the procedure to be used in determining such indices
100 and a procedure by which a utility, without further action by
101 the commission, or the commission on its own motion, may
102 implement an increase or decrease in its rates based upon the
103 application of the indices to the amount of the major categories
104 of operating costs incurred by the utility during the
105 immediately preceding calendar year, except to the extent of any
106 disallowances or adjustments for those expenses of that utility
107 in its most recent rate proceeding before the commission. The
108 rules shall provide that, upon a finding of good cause,
109 including inadequate service, the commission may order a utility
110 to refrain from implementing a rate increase hereunder unless
111 implemented under a bond or corporate undertaking in the same
112 manner as interim rates may be implemented under s. 367.082. A
113 utility may not use this procedure between the official filing
114 date of the rate proceeding and 1 year thereafter, unless the
115 case is completed or terminated at an earlier date. A utility
116 may not use this procedure to increase any operating cost for
117 which an adjustment has been or could be made under paragraph
118 (b), or to increase its rates by application of a price index
119 other than the most recent price index authorized by the
120 commission at the time of filing.

121 (b) Upon verified notice to the commission 45 days before
122 implementation of the increase or decrease, and without a
123 hearing, the approved rates of a utility shall automatically
124 increase or decrease. Such notice shall inform the commission
125 that the utility's costs for a specified expense item have
126 changed.



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127 1. The new rates shall reflect, on an amortized or annual
128 basis, as appropriate, the cost or amount of change in the cost
129 of the specified expense item. The new rates may not reflect the
130 costs of a specified expense item already included in the rates
131 of a utility. Specified expense items eligible for automatic
132 increase or decrease of a utility's rates include, but are not
133 limited to:

134 a. The rates charged by a governmental authority or other
135 water or wastewater utility regulated by the commission which
136 provides utility service to the utility.

137 b. The rates or fees that the utility is charged for
138 electric power.

139 c. The amount of ad valorem taxes assessed against the
140 utility's used and useful property.

141 d. The fees charged by the Department of Environmental
142 Protection in connection with the National Pollutant Discharge
143 Elimination System permit program.

144 e. The regulatory assessment fees imposed upon the utility
145 by the commission.

146 f. Costs incurred for water quality or wastewater quality
147 testing required by the Department of Environmental Protection.

148 g. The fees charged for wastewater biosolids disposal.

149 h. A loan service fee or loan origination fee associated
150 with a loan related to an eligible project. The commission shall
151 adopt rules governing the determination of eligible projects,
152 which shall be limited to those projects associated with new
153 infrastructure or improvements to existing infrastructure needed
154 to achieve or maintain compliance with federal or state primary
155 or secondary drinking water standards or wastewater treatment



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156 standards that relate to:

157 (I) The provision of water or wastewater service for
158 existing customers;

159 (II) The remediation or prevention of a violation of
160 federal or state primary or secondary drinking water standards;

161 (III) The replacement or upgrade of aging water or
162 wastewater infrastructure if needed to achieve or maintain
163 compliance with federal or state primary or secondary drinking
164 water regulations; or

165 (IV) Projects consistent with the most recent long-range
166 plan of the utility on file with the commission. Eligible
167 projects do not include projects primarily intended to serve
168 future growth.

169 i. Costs incurred for a tank inspection required by the
170 Department of Environmental Protection or a local governmental
171 authority.

172 j. Operator and distribution license fees required by the
173 Department of Environmental Protection or a local governmental
174 authority.

175 k. Water or wastewater operating permit or license fees
176 charged by the Department of Environmental Protection or a local
177 governmental authority.

178 1. Consumptive or water use permit fees charged by a water
179 management district.

180 2. A utility may not use the procedure under this paragraph
181 to increase or decrease its rates as a result of an increase or
182 decrease in a specific expense item which occurred more than 12
183 months before the filing by the utility.

184 3. The commission may establish by rule additional specific



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185 expense items that cause an automatic increase or decrease in a
186 utility's rates as provided in this paragraph. To be eligible
187 for such treatment, an additional expense item shall be imposed
188 upon the utility by a federal, state, or local law, rule, order,
189 or notice and shall be outside the control of the utility. If
190 the commission exercises its authority to establish such rule,
191 the commission shall, at least once every 5 years, review the
192 rule and determine if each expense item should continue to be
193 cause for the automatic increase or decrease of a utility's
194 rates, or if any additional items should become cause for the
195 automatic increase or decrease of a utility's rates as provided
196 in this paragraph ~~The approved rates of any utility which~~
197 ~~receives all or any portion of its utility service from a~~
198 ~~governmental authority or from a water or wastewater utility~~
199 ~~regulated by the commission and which redistributes that service~~
200 ~~to its utility customers shall be automatically increased or~~
201 ~~decreased without hearing, upon verified notice to the~~
202 ~~commission 45 days prior to its implementation of the increase~~
203 ~~or decrease that the rates charged by the governmental authority~~
204 ~~or other utility have changed. The approved rates of any utility~~
205 ~~which is subject to an increase or decrease in the rates or fees~~
206 ~~that it is charged for electric power, the amount of ad valorem~~
207 ~~taxes assessed against its used and useful property, the fees~~
208 ~~charged by the Department of Environmental Protection in~~
209 ~~connection with the National Pollutant Discharge Elimination~~
210 ~~System Program, or the regulatory assessment fees imposed upon~~
211 ~~it by the commission shall be increased or decreased by the~~
212 ~~utility, without action by the commission, upon verified notice~~
213 ~~to the commission 45 days prior to its implementation of the~~



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214 ~~increase or decrease that the rates charged by the supplier of~~
215 ~~the electric power or the taxes imposed by the governmental~~
216 ~~authority, or the regulatory assessment fees imposed upon it by~~
217 ~~the commission have changed. The new rates authorized shall~~
218 ~~reflect the amount of the change of the ad valorem taxes or~~
219 ~~rates imposed upon the utility by the governmental authority,~~
220 ~~other utility, or supplier of electric power, or the regulatory~~
221 ~~assessment fees imposed upon it by the commission. The approved~~
222 ~~rates of any utility shall be automatically increased, without~~
223 ~~hearing, upon verified notice to the commission 45 days prior to~~
224 ~~implementation of the increase that costs have been incurred for~~
225 ~~water quality or wastewater quality testing required by the~~
226 ~~Department of Environmental Protection. The new rates authorized~~
227 ~~shall reflect, on an amortized basis, the cost of, or the amount~~
228 ~~of change in the cost of, required water quality or wastewater~~
229 ~~quality testing performed by laboratories approved by the~~
230 ~~Department of Environmental Protection for that purpose. The new~~
231 ~~rates, however, shall not reflect the costs of any required~~
232 ~~water quality or wastewater quality testing already included in~~
233 ~~a utility's rates. A utility may not use this procedure to~~
234 ~~increase its rates as a result of water quality or wastewater~~
235 ~~quality testing or an increase in the cost of purchased water~~
236 ~~services, sewer services, or electric power or in assessed ad~~
237 ~~valorem taxes, which increase was initiated more than 12 months~~
238 ~~before the filing by the utility.~~

239 ~~4. The provisions of This subsection does ~~do~~ not prevent a~~
240 ~~utility from seeking a change in rates under pursuant to the~~
241 ~~provisions of subsection (2).~~

242 (c) Before implementing a change in rates under this



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243 subsection, the utility must ~~shall~~ file an affirmation under
244 oath as to the accuracy of the figures and calculations upon
245 which the change in rates is based, stating that the change will
246 not cause the utility to exceed the range of its last authorized
247 rate of return on equity. A person who ~~Whoever~~ makes a false
248 statement in the affirmation required under this subsection
249 ~~hereunder~~, which statement he or she does not believe to be true
250 in regard to any material matter, commits ~~is guilty of~~ a felony
251 of the third degree, punishable as provided in s. 775.082, s.
252 775.083, or s. 775.084.

253 (d) If, within 15 months after the filing of a utility's
254 annual report required by s. 367.121, the commission finds that
255 the utility exceeded the range of its last authorized rate of
256 return on equity after an adjustment in rates as authorized by
257 this subsection was implemented within the year for which the
258 report was filed or was implemented in the preceding year, the
259 commission may order the utility to refund, with interest, the
260 difference to the ratepayers and adjust rates accordingly. This
261 provision does ~~shall~~ not be construed to require a bond or
262 corporate undertaking not otherwise required.

263 (e) Notwithstanding anything in this section ~~herein~~ to the
264 contrary, a utility may not adjust its rates under this
265 subsection more than two times in any 12-month period. For the
266 purpose of this paragraph, a combined application or
267 simultaneously filed applications that were filed under the
268 provisions of paragraphs (a) and (b) are ~~shall be~~ considered one
269 rate adjustment.

270 (f) At least annually, the commission shall ~~may regularly,~~
271 ~~not less often than once each year,~~ establish by order a



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272 leverage formula or formulae that reasonably reflect the range
273 of returns on common equity for an average water or wastewater
274 utility and that ~~which~~, for purposes of this section, are ~~shall~~
275 ~~be~~ used to calculate the last authorized rate of return on
276 equity for a ~~any~~ utility which otherwise would not have an ~~no~~
277 established rate of return on equity. In any other proceeding in
278 which an authorized rate of return on equity is to be
279 established, a utility, in lieu of presenting evidence on its
280 rate of return on common equity, may move the commission to
281 adopt the range of rates of return on common equity which is
282 ~~that has been~~ established under this paragraph.

283 (7) A water utility may file tariffs establishing a
284 surcharge, or other method for the automatic adjustment of its
285 rates, which shall provide for recovery of the prudently
286 incurred fixed costs consisting of depreciation and pretax
287 returns of certain system improvement projects, as approved by
288 the commission, which are completed and placed in service
289 between base rate proceedings. Such projects shall be for the
290 specific purpose of achieving compliance with secondary drinking
291 water quality standards. With respect to each tariff filed, the
292 commission



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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: WD | . | |
| 04/09/2014 | . | |
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| | . | |
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The Committee on Environmental Preservation and Conservation
(Altman) recommended the following:

Senate Amendment (with title amendment)

Between lines 427 and 428
insert:

Section 5. Subsection (5) is added to section 403.709,
Florida Statutes, to read:

403.709 Solid Waste Management Trust Fund; use of waste
tire fees.—There is created the Solid Waste Management Trust
Fund, to be administered by the department.

(5) (a) Notwithstanding subsection (1), a solid waste



769590

11 landfill closure account is established within the Solid Waste
12 Management Trust Fund to provide funding for the closing and
13 long-term care of solid waste management facilities. The
14 department may use funds from the account to contract with a
15 third party for the closing and long-term care of a solid waste
16 management facility if:

17 1. The facility has or had a department permit to operate
18 the facility;

19 2. The permittee provided proof of financial assurance for
20 closure in the form of an insurance certificate;

21 3. The facility is deemed to be abandoned or was ordered to
22 close by the department;

23 4. Closure is accomplished in substantial accordance with a
24 closure plan approved by the department; and

25 5. The department has written documentation that the
26 insurance company issuing the closure insurance policy will
27 provide or reimburse the funds required to complete closing and
28 long-term care of the facility.

29 (b) The department shall deposit funds received from an
30 insurance company as reimbursement for the costs of closing and
31 long-term care of a facility into the solid waste landfill
32 closure account.

33

34

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

36 And the title is amended as follows:

37 Between lines 41 and 42

38 insert:

39 s. 403.709, F.S.; establishing a solid waste landfill



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40 closure account within the Solid Waste Management
41 Trust Fund for specified purposes; requiring the
42 Department of Environmental Protection to deposit
43 specified funds into the account; amending

By the Committee on Communications, Energy, and Public Utilities; and Senator Hays

579-03541-14

20141050c1

1 A bill to be entitled
2 An act relating to water and wastewater utility
3 systems; creating s. 159.8105, F.S.; requiring the
4 Division of Bond Finance of the State Board of
5 Administration to review the allocation of private
6 activity bonds to determine the availability of
7 additional allocation or reallocation of bonds for
8 water facilities or sewage facilities; amending s.
9 367.022, F.S.; exempting from regulation by the
10 Florida Public Service Commission a person who resells
11 water service to certain tenants or residents up to a
12 specified cost; amending s. 367.081, F.S.;
13 establishing criteria for determining the quality of
14 water and wastewater services provided by a utility;
15 establishing a procedure to follow if the commission
16 determines that a utility has failed to provide water
17 and wastewater services that meet certain standards;
18 requiring the commission to adopt rules that include
19 fines; providing for recovery of costs prudently
20 incurred by a utility to address certain findings of
21 the commission or the Department of Environmental
22 Protection; authorizing the creation of a utility
23 reserve fund to establish rates for a utility;
24 requiring the commission to adopt rules to govern such
25 fund; providing for the automatic increase or decrease
26 of approved rates under certain circumstances;
27 establishing criteria for adjusted rates; specifying
28 expense items that permit an automatic increase or
29 decrease in utility rates; providing standards to

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20141050c1

30 allow the commission to establish, by rule, additional
31 specified expense items that cause an automatic
32 increase or decrease of utility rates; deleting
33 certain requirements for approved utility rates that
34 are automatically increased or decreased, upon notice
35 to the commission; deleting a prohibition to conform
36 to changes made by the act; authorizing a water
37 utility to establish a surcharge or other mechanism to
38 recover the prudently incurred fixed costs of certain
39 system improvement projects approved by the
40 commission; amending s. 367.0814, F.S.; conforming
41 cross-references to changes made by the act; amending
42 s. 403.8532, F.S.; authorizing the Department of
43 Environmental Protection to make, or to request that
44 the Florida Water Pollution Control Financing
45 Corporation make loans, grants, and deposits to for-
46 profit privately owned or investor-owned water
47 systems, and deleting current restrictions on such
48 activities; providing an effective date.

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

51
52 Section 1. Section 159.8105, Florida Statutes, is created
53 to read:

54 159.8105 Allocation of bonds for water and wastewater
55 infrastructure projects.—The division shall review the
56 allocation of private activity bonds to determine the
57 availability of additional allocation or reallocation of bonds
58 for water facilities and sewage facilities.

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20141050c1

59 Section 2. Present subsections (9) through (12) of section
60 367.022, Florida Statutes, are renumbered as subsections (10)
61 through (13), respectively, and a new subsection (9) is added to
62 that section, to read:

63 367.022 Exemptions.—The following are not subject to
64 regulation by the commission as a utility nor are they subject
65 to the provisions of this chapter, except as expressly provided:

66 (9) A person who resells water service to his or her
67 tenants or to individually metered residents for a fee that does
68 not exceed the actual purchase price plus:

69 (a) Up to 9 percent of the actual purchase price; or

70 (b) The actual cost of meter reading and billing.

71 Section 3. Present subsections (7) and (8) of section
72 367.081, Florida Statutes, are renumbered as subsections (8) and
73 (9), respectively, subsections (2) and (4) and present
74 subsection (7) of that section are amended, and a new subsection
75 (7) is added to that section, to read:

76 367.081 Rates; procedure for fixing and changing.—

77 (2) (a) ~~1.~~ The commission shall, ~~either~~ upon request or upon
78 its own motion, fix rates that ~~which~~ are just, reasonable,
79 compensatory, and not unfairly discriminatory.

80 1. In each ~~every~~ such proceeding, the commission shall
81 consider the value and quality of the service and the cost of
82 providing the service, which must ~~shall~~ include, but need not be
83 limited to, debt interest; the requirements of the utility for
84 working capital; maintenance, depreciation, tax, and operating
85 expenses incurred in the operation of all property used and
86 useful in the public service; and a fair return on the
87 investment of the utility in property used and useful in the

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20141050c1

88 public service. However, the commission shall not allow the
89 inclusion of contributions-in-aid-of-construction in the rate
90 base of a any utility during a rate proceeding or, ~~nor shall the~~
91 ~~commission~~ impute prospective future contributions-in-aid-of-
92 construction against the utility's investment in property used
93 and useful in the public service. ; ~~and~~ Accumulated depreciation
94 on such contributions-in-aid-of-construction shall not be used
95 to reduce the rate base, and ~~nor shall~~ depreciation on such
96 contributed assets shall not be considered a cost of providing
97 utility service.

98 2. For purposes of such proceedings, the commission shall
99 consider utility property, including land acquired or facilities
100 constructed or to be constructed within a reasonable time in the
101 future, up to ~~not to exceed~~ 24 months after the end of the
102 historic base year used to set final rates unless a longer
103 period is approved by the commission, to be used and useful in
104 the public service, if:

105 a. Such property is needed to serve current customers;

106 b. Such property is needed to serve customers 5 years after
107 the end of the test year used in the commission's final order on
108 a rate request as provided in subsection (6) at a growth rate
109 for equivalent residential connections up to ~~not to exceed~~ 5
110 percent per year; or

111 c. Such property is needed to serve customers more than 5
112 full years after the end of the test year used in the
113 commission's final order on a rate request as provided in
114 subsection (6) only to the extent that the utility presents
115 clear and convincing evidence to justify such consideration.

116 3. In determining the value and quality of water service

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117 provided by a utility and whether such utility has satisfied its
118 obligation to provide water service to its customers, the
119 commission shall consider the extent to which the utility meets
120 secondary drinking water standards regarding taste, odor, color,
121 or corrosiveness adopted by the Department of Environmental
122 Protection and the local government. In making its
123 determination, the commission shall consider:

124 a. Testimony and evidence provided by customers and the
125 utility.

126 b. Complaints that relate to the secondary drinking water
127 standards which customers have filed during the past 5 years
128 with the commission, the Department of Environmental Protection,
129 the county health departments, or the applicable local
130 government.

131 c. The results of past tests required by the Department of
132 Environmental Protection or county health departments which
133 measure the utility's compliance with the applicable secondary
134 drinking water standards.

135 d. The results of other tests, if deemed necessary by the
136 commission.

137 4. In determining the value and quality of wastewater
138 service provided by a utility, the commission shall consider the
139 extent to which the utility provides wastewater service to its
140 customers which does not cause odor, noise, aerosol drift, or
141 lighting that adversely affects customers. In making its
142 determination, the commission shall consider:

143 a. Testimony and evidence provided by customers and the
144 utility.

145 b. Complaints that relate to the alleged odor, noise,

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20141050c1

146 aerosol drift, or lighting problem which customers have filed
147 during the past 5 years with any of the following:

148 (I) The commission;

149 (II) The Department of Environmental Protection;

150 (III) The county health departments; or

151 (IV) The local government.

152 5. If the commission determines that a utility provides
153 water service that does not meet the secondary water quality
154 standards of the Department of Environmental Protection and the
155 local government regarding taste, odor, color, or corrosiveness,
156 or that a utility provides wastewater service that adversely
157 affects customers due to odor, noise, aerosol drift, or
158 lighting, the utility shall provide the commission with
159 estimates of the costs and benefits of various solutions to the
160 problems. The utility shall meet with its customers to discuss
161 the costs and benefits of the various solutions and report to
162 the commission the conclusions of the meetings. The commission
163 shall adopt rules necessary to assess and enforce the utility's
164 compliance with this subparagraph. The rules shall prescribe
165 penalties, including fines and reduction of return on equity of
166 up to 100 basis points, if a utility fails to adequately address
167 or offer solutions to the water or wastewater problems.

168 6. A utility may recover its prudently incurred costs and
169 expenses to resolve deficiencies found by the commission
170 pursuant to this subsection or found by the Department of
171 Environmental Protection in a proceeding under chapter 403,
172 related to noncompliance with secondary drinking water standards
173 regarding taste, odor, color, or corrosiveness, or concerning
174 wastewater service issues related to odor, noise, aerosol drift,

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175 or lighting. Such costs shall be recoverable through a rate case
176 filed pursuant to this section or through a separate proceeding
177 initiated by petition of the utility. In its filing, the utility
178 shall describe the activities and costs projected or incurred to
179 resolve the deficiencies found by the commission or the
180 department. Such costs may be a result of action agreed upon by
181 the utility and the commission or the department or as a
182 consequence of a consent order.

183

184 ~~Notwithstanding the provisions of this paragraph, the commission~~
185 ~~shall approve rates for service which allow a utility to recover~~
186 ~~from customers the full amount of environmental compliance~~
187 ~~costs. Such rates may not include charges for allowances for~~
188 ~~funds prudently invested or similar charges. For purposes of~~
189 ~~this requirement, the term "environmental compliance costs"~~
190 ~~includes all reasonable expenses and fair return on any prudent~~
191 ~~investment incurred by a utility in complying with the~~
192 ~~requirements or conditions contained in any permitting,~~
193 ~~enforcement, or similar decisions of the United States~~
194 ~~Environmental Protection Agency, the Department of Environmental~~
195 ~~Protection, a water management district, or any other~~
196 ~~governmental entity with similar regulatory jurisdiction.~~

197 (b) In establishing initial rates for a utility, the
198 commission may project the financial and operational data as set
199 out in paragraph (a) to a point in time when the utility is
200 expected to be operating at a reasonable level of capacity.

201 (c) In establishing rates for a utility, the commission may
202 authorize the creation of a utility reserve fund. The commission
203 shall adopt rules to govern the fund, including, but not limited

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204 to, rules relating to expenses for which the fund may be used,
205 segregation of reserve account funds, requirements for a capital
206 improvement plan, and requirements for commission authorization
207 before disbursements are made from the reserve fund.

208 (4) (a) On or before March 31 of each year, the commission
209 by order shall establish a price increase or decrease index for
210 major categories of operating costs incurred by utilities
211 subject to its jurisdiction reflecting the percentage of
212 increase or decrease in such costs from the most recent 12-month
213 historical data available. The commission by rule shall
214 establish the procedure to be used in determining such indices
215 and a procedure by which a utility, without further action by
216 the commission, or the commission on its own motion, may
217 implement an increase or decrease in its rates based upon the
218 application of the indices to the amount of the major categories
219 of operating costs incurred by the utility during the
220 immediately preceding calendar year, except to the extent of any
221 disallowances or adjustments for those expenses of that utility
222 in its most recent rate proceeding before the commission. The
223 rules shall provide that, upon a finding of good cause,
224 including inadequate service, the commission may order a utility
225 to refrain from implementing a rate increase hereunder unless
226 implemented under a bond or corporate undertaking in the same
227 manner as interim rates may be implemented under s. 367.082. A
228 utility may not use this procedure between the official filing
229 date of the rate proceeding and 1 year thereafter, unless the
230 case is completed or terminated at an earlier date. A utility
231 may not use this procedure to increase any operating cost for
232 which an adjustment has been or could be made under paragraph

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233 (b), or to increase its rates by application of a price index
234 other than the most recent price index authorized by the
235 commission at the time of filing.

236 (b) Upon verified notice to the commission 45 days before
237 implementation of the increase or decrease, and without a
238 hearing, the approved rates of a utility shall automatically
239 increase or decrease. Such notice shall inform the commission
240 that the utility's costs for a specified expense item have
241 changed.

242 1. The new rates shall reflect, on an amortized or annual
243 basis, as appropriate, the cost or amount of change in the cost
244 of the specified expense item. The new rates may not reflect the
245 costs of a specified expense item already included in the rates
246 of a utility. Specified expense items eligible for automatic
247 increase or decrease of a utility's rates include, but are not
248 limited to:

249 a. The rates charged by a governmental authority or other
250 water or wastewater utility regulated by the commission which
251 provides utility service to the utility.

252 b. The rates or fees that the utility is charged for
253 electric power.

254 c. The amount of ad valorem taxes assessed against the
255 utility's used and useful property.

256 d. The fees charged by the Department of Environmental
257 Protection in connection with the National Pollutant Discharge
258 Elimination System permit program.

259 e. The regulatory assessment fees imposed upon the utility
260 by the commission.

261 f. Costs incurred for water quality or wastewater quality

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262 testing required by the Department of Environmental Protection.

263 g. The fees charged for wastewater sludge disposal.

264 h. A loan service fee or loan origination fee associated
265 with a loan related to an eligible project. The commission shall
266 adopt rules governing the determination of eligible projects,
267 which shall be limited to those projects associated with new
268 infrastructure or improvements to existing infrastructure needed
269 to achieve or maintain compliance with federal, state, and local
270 governmental primary or secondary drinking water standards or
271 wastewater treatment standards that relate to:

272 (I) The provision of water or wastewater service for
273 existing customers;

274 (II) The remediation or prevention of a violation of
275 federal, state, and local governmental primary or secondary
276 health standards;

277 (III) The replacement or upgrade of aging water or
278 wastewater infrastructure if needed to achieve or maintain
279 compliance with federal, state, and local governmental primary
280 or secondary drinking water regulations; or

281 (IV) Projects consistent with the most recent long-range
282 plan of the utility on file with the commission. Eligible
283 projects do not include projects primarily intended to serve
284 future growth.

285 i. Costs incurred for a tank inspection required by the
286 Department of Environmental Protection or a local governmental
287 authority.

288 j. Operator and distribution license fees required by the
289 Department of Environmental Protection or a local governmental
290 authority.

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291 k. Water or wastewater operating permit fees charged by the
292 Department of Environmental Protection or a local governmental
293 authority.

294 1. Consumptive or water use permit fees charged by a water
295 management district.

296 2. A utility may not use the procedure under this paragraph
297 to increase or decrease its rates as a result of an increase or
298 decrease in a specific expense item which occurred more than 12
299 months before the filing by the utility.

300 3. The commission may establish by rule additional specific
301 expense items that cause an automatic increase or decrease in a
302 utility's rates as provided in this paragraph. To be eligible
303 for such treatment, an additional expense item shall be imposed
304 upon the utility by a federal, state, or local law, rule, order,
305 or notice and shall be outside the control of the utility. If
306 the commission exercises its authority to establish such rule,
307 the commission shall, at least once every 5 years, review the
308 rule and determine if each expense item should continue to be
309 cause for the automatic increase or decrease of a utility's
310 rates, or if any additional items should become cause for the
311 automatic increase or decrease of a utility's rates as provided
312 in this paragraph ~~The approved rates of any utility which~~
313 ~~receives all or any portion of its utility service from a~~
314 ~~governmental authority or from a water or wastewater utility~~
315 ~~regulated by the commission and which redistributes that service~~
316 ~~to its utility customers shall be automatically increased or~~
317 ~~decreased without hearing, upon verified notice to the~~
318 ~~commission 45 days prior to its implementation of the increase~~
319 ~~or decrease that the rates charged by the governmental authority~~

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320 ~~or other utility have changed. The approved rates of any utility~~
321 ~~which is subject to an increase or decrease in the rates or fees~~
322 ~~that it is charged for electric power, the amount of ad valorem~~
323 ~~taxes assessed against its used and useful property, the fees~~
324 ~~charged by the Department of Environmental Protection in~~
325 ~~connection with the National Pollutant Discharge Elimination~~
326 ~~System Program, or the regulatory assessment fees imposed upon~~
327 ~~it by the commission shall be increased or decreased by the~~
328 ~~utility, without action by the commission, upon verified notice~~
329 ~~to the commission 45 days prior to its implementation of the~~
330 ~~increase or decrease that the rates charged by the supplier of~~
331 ~~the electric power or the taxes imposed by the governmental~~
332 ~~authority, or the regulatory assessment fees imposed upon it by~~
333 ~~the commission have changed. The new rates authorized shall~~
334 ~~reflect the amount of the change of the ad valorem taxes or~~
335 ~~rates imposed upon the utility by the governmental authority,~~
336 ~~other utility, or supplier of electric power, or the regulatory~~
337 ~~assessment fees imposed upon it by the commission. The approved~~
338 ~~rates of any utility shall be automatically increased, without~~
339 ~~hearing, upon verified notice to the commission 45 days prior to~~
340 ~~implementation of the increase that costs have been incurred for~~
341 ~~water quality or wastewater quality testing required by the~~
342 ~~Department of Environmental Protection. The new rates authorized~~
343 ~~shall reflect, on an amortized basis, the cost of, or the amount~~
344 ~~of change in the cost of, required water quality or wastewater~~
345 ~~quality testing performed by laboratories approved by the~~
346 ~~Department of Environmental Protection for that purpose. The new~~
347 ~~rates, however, shall not reflect the costs of any required~~
348 ~~water quality or wastewater quality testing already included in~~

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349 a utility's rates. A utility may not use this procedure to
350 increase its rates as a result of water quality or wastewater
351 quality testing or an increase in the cost of purchased water
352 services, sewer services, or electric power or in assessed ad
353 valorem taxes, which increase was initiated more than 12 months
354 before the filing by the utility.

355 4. The provisions of This subsection does ~~do~~ not prevent a
356 utility from seeking a change in rates under pursuant to the
357 provisions of subsection (2).

358 (c) Before implementing a change in rates under this
359 subsection, the utility must ~~shall~~ file an affirmation under
360 oath as to the accuracy of the figures and calculations upon
361 which the change in rates is based, stating that the change will
362 not cause the utility to exceed the range of its last authorized
363 rate of return on equity. A person who ~~Whoever~~ makes a false
364 statement in the affirmation required under this subsection
365 ~~hereunder~~, which statement he or she does not believe to be true
366 in regard to any material matter, commits ~~is guilty of~~ a felony
367 of the third degree, punishable as provided in s. 775.082, s.
368 775.083, or s. 775.084.

369 (d) If, within 15 months after the filing of a utility's
370 annual report required by s. 367.121, the commission finds that
371 the utility exceeded the range of its last authorized rate of
372 return on equity after an adjustment in rates as authorized by
373 this subsection was implemented within the year for which the
374 report was filed or was implemented in the preceding year, the
375 commission may order the utility to refund, with interest, the
376 difference to the ratepayers and adjust rates accordingly. This
377 provision does ~~shall~~ not be construed to require a bond or

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378 corporate undertaking not otherwise required.

379 (e) Notwithstanding anything in this section ~~herein~~ to the
380 contrary, a utility may not adjust its rates under this
381 subsection more than two times in any 12-month period. For the
382 purpose of this paragraph, a combined application or
383 simultaneously filed applications that were filed under the
384 provisions of paragraphs (a) and (b) are ~~shall be~~ considered one
385 rate adjustment.

386 (f) At least annually, the commission shall ~~may regularly,~~
387 ~~not less often than once each year,~~ establish by order a
388 leverage formula or formulae that reasonably reflect the range
389 of returns on common equity for an average water or wastewater
390 utility and that ~~which~~, for purposes of this section, are ~~shall~~
391 ~~be~~ used to calculate the last authorized rate of return on
392 equity for a ~~any~~ utility which otherwise would not have an ~~no~~
393 established rate of return on equity. In any other proceeding in
394 which an authorized rate of return on equity is to be
395 established, a utility, in lieu of presenting evidence on its
396 rate of return on common equity, may move the commission to
397 adopt the range of rates of return on common equity which is
398 ~~that has been~~ established under this paragraph.

399 (7) A water utility may file tariffs establishing a
400 surcharge, or other method for the automatic adjustment of its
401 rates, which shall provide for recovery of the prudently
402 incurred fixed costs consisting of depreciation and pretax
403 returns of certain system improvement projects, as approved by
404 the commission, which are completed and placed in service
405 between base rate proceedings. Such projects shall be for the
406 specific purpose of achieving compliance with secondary drinking

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407 water quality standards regarding taste, odor, color, or
 408 corrosiveness. With respect to each tariff filed, the commission
 409 shall prescribe the specific procedures to be followed in
 410 establishing the sliding scale or other automatic adjustment
 411 method.

412 ~~(8)~~~~(7)~~ The commission shall determine the reasonableness of
 413 rate case expenses and shall disallow all rate case expenses
 414 determined to be unreasonable. A ~~No~~ rate case expense determined
 415 to be unreasonable may not ~~shall~~ be paid by a consumer. In
 416 determining the reasonable level of rate case expense, the
 417 commission shall consider the extent to which a utility has used
 418 ~~utilized~~ or failed to use ~~utilize~~ the provisions of paragraph
 419 (4) (a) or paragraph (4) (b) and such other criteria as it may
 420 establish by rule.

421 Section 4. Subsection (3) of section 367.0814, Florida
 422 Statutes, is amended to read:

423 367.0814 Staff assistance in changing rates and charges;
 424 interim rates.—

425 (3) The provisions of s. 367.081(1), (2) (a), (2) (c), and
 426 (3), and (7) ~~shall~~ apply in determining the utility's rates and
 427 charges.

428 Section 5. Subsection (3) of section 403.8532, Florida
 429 Statutes, is amended to read:

430 403.8532 Drinking water state revolving loan fund; use;
 431 rules.—

432 (3) The department may make, or request that the
 433 corporation make, loans, grants, and deposits to community water
 434 systems, for-profit privately owned or investor-owned water
 435 systems, nonprofit transient noncommunity water systems, and

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436 nonprofit nontransient noncommunity water systems to assist them
437 in planning, designing, and constructing public water systems,
438 ~~unless such public water systems are for-profit privately owned~~
439 ~~or investor-owned systems that regularly serve 1,500 service~~
440 ~~connections or more within a single certified or franchised~~
441 ~~area. However, a for-profit privately owned or investor-owned~~
442 ~~public water system that regularly serves 1,500 service~~
443 ~~connections or more within a single certified or franchised area~~
444 ~~may qualify for a loan only if the proposed project will result~~
445 ~~in the consolidation of two or more public water systems.~~ The
446 department may provide loan guarantees, purchase loan insurance,
447 and refinance local debt through the issue of new loans for
448 projects approved by the department. Public water systems may
449 borrow funds made available pursuant to this section and may
450 pledge any revenues or other adequate security available to them
451 to repay any funds borrowed.

452 (a) The department shall administer loans so that amounts
453 credited to the Drinking Water Revolving Loan Trust Fund in any
454 fiscal year are reserved for the following purposes:

455 1. At least 15 percent for qualifying small public water
456 systems.

457 2. Up to 15 percent for qualifying financially
458 disadvantaged communities.

459 (b) If an insufficient number of the projects for which
460 funds are reserved under this subsection have been submitted to
461 the department at the time the funding priority list authorized
462 under this section is adopted, the reservation of these funds no
463 longer applies. The department may award the unreserved funds as
464 otherwise provided in this section.

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Section 6. This act shall take effect July 1, 2014.

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 Environmental Preservation and Conservation

BILL: SB 830

INTRODUCER: Senator Bullard

SUBJECT: Carryout Bags

DATE: March 24, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|----------------|-----------|--------------------|
| 1. | <u>Hinton</u> | <u>Uchino</u> | <u>EP</u> | <u>Pre-meeting</u> |
| 2. | _____ | _____ | <u>CA</u> | _____ |
| 3. | _____ | _____ | <u>CM</u> | _____ |

I. Summary:

SB 830 provides legislative findings that it is necessary to adopt uniform statewide standards prohibiting the use of plastic carryout bags. The bill removes provisions related to a study that was produced in 2010 and a provision preventing local governments from instituting local ordinances concerning containers, wrappers, and plastic bags. It provides definitions and standards. The bill prohibits certain businesses from providing plastic carryout bags. It provides for the distribution of fees. Lastly, it provides for quarterly reporting, penalties, and local government adoption of ordinances.

II. Present Situation:

Section 403.7033, F.S., was enacted in 2008, requiring the Department of Environmental Protection (DEP) to study “the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments.”¹ The report was submitted on February 1, 2010. Until the DEP’s recommendations are adopted, no state agency or governmental entity may regulate containers, wrappers, or plastic bags.²

The report noted two major concerns regarding retail bags. First, improper disposal of retail bags can hinder recycling, waste management, stormwater management, and litter control. Second, improper disposal affects natural systems and wildlife.³ The report recommended four different options to address the problem of plastic bags:

- Bans;

¹ Chapter 2008-227, s. 96, Laws of Fla.

² Section 403.7033, F.S.

³ DEP, *Florida Department of Environmental Protection, Retail Bags Report*, 4 (Feb. 1, 2010), available at http://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/retailbags/Retail-Bag-Report_01Feb10.pdf (last accessed Mar. 23, 2014).

- Fees and taxes;
- Voluntary measures; and
- Phase-out.

The report concluded that while all methods of reducing plastic bags had merit, some were more effective than others. The fastest results in reducing plastic bag use came from bans, followed closely by fees or taxes. Many people and businesses prefer voluntary measures because they do not involve any new fees or costs.⁴

Banning plastic bags and placing fees and taxes on auxiliary containers, wrappings, or plastic bags have been contemplated in several places, but neither has been widely enacted.⁵ Phasing out retail bags typically involves progressively combining fees and bans. Voluntary measures, which are difficult to quantify, places the responsibility of recycling on the businesses that provide plastic bags and the consumers who use them.⁶ Voluntary measures include providing store recycling bins, using reusable bags, and providing benefits such as discounts for those who use recyclable bags.⁷

One of the most publicized bans was in San Francisco, California. The city passed its ordinance in 2007, requiring pharmacies and supermarkets with gross annual sales of \$2 million or more to provide only paper, compostable, or reusable bags.⁸ Currently, California, Massachusetts, and Washington are considering legislation that would ban single-use bags.⁹

A phase out approach was pursued in Australia in 2005, but an analysis of the program in 2008 concluded the economic costs of a regulatory phase out would significantly outweigh the environmental benefits.¹⁰

Several states have enacted legislation to address compostable plastic bags. For example, California has passed statewide laws, including labeling requirements for compostable or marine degradable plastic bags, and a prohibition of the sale of plastic products labeled as compostable, home compostable, or marine degradable unless they meet certain standards.¹¹

One widely used standard for compostable bags promulgated by the American Society for Testing & Materials is the ASTM D6400 standard. It was developed to establish standards for identifying products and materials that will compost satisfactorily in commercial and municipal aerobic composting facilities.¹²

⁴ *Id.* at 18.

⁵ *Id.* at 15.

⁶ *Id.* at 17.

⁷ *Id.* at 17.

⁸ *Id.* at 15.

⁹ National Conference of State Legislatures, *State Plastic and Paper Bag Legislation: Fees, Taxes and Bans; Recycling and Reuse* (Feb. 2014), <http://www.ncsl.org/research/environment-and-natural-resources/plastic-bag-legislation.aspx> (last visited Mar. 23, 2014).

¹⁰ *Supra* note 3, at 17.

¹¹ *Supra* note 9.

¹² Buygreen.com, *ASTM D6400 certified*, <http://www.buygreen.com/astmd6400certified.aspx#.UzA3rPk7uG4>, (last visited Mar. 24, 2014).

Currently, eight states are considering legislation that would impose a fee or tax on single-use bags.¹³ The fees under consideration range from \$0.01 to \$0.15.¹⁴

Other states that have enacted legislation to address plastic bags are Delaware, Maine, and North Carolina, among others. Delaware requires stores to establish an at-store recycling program. Similarly, Maine also requires recycling receptacles to be available in affected stores. North Carolina enacted a law designed to reduce plastic bag usage in the Outer Banks. The law requires affected retailers to display a sign that reads: "[county name] County discourages the use of single-use plastic and paper bags to protect our environment from excess litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you are not able to, a 100% recycled paper bag will be furnished for your use."¹⁵

Recyclable bags are often marked with a symbol such as this:¹⁶



Labeling may include the percentage of total recycled fiber or plastic as well.

III. Effect of Proposed Changes:

The bill amends s. 403.7033, F.S., removing the ban on laws concerning any regulation of containers, wrappings, or plastic bags. It provides legislative findings, stating that it is necessary and appropriate to adopt uniform statewide standards prohibiting the use of plastic carryout bags. It allows local governments to adopt regulations concerning plastic bags by ordinance. The bill prohibits affected stores from providing plastic carryout bags.

The bill defines:

- “Affected store” to mean stores that are within the jurisdiction of a local government that adopts standards relating to carryout bags and is:
 - A full-line, self-service retail store that has gross annual sales of \$2 million or more and sells canned goods, dry grocery, nonfood, or perishable items; or
 - A drugstore, pharmacy, supermarket, grocery store, convenience store, or other entity of at least 10,000 square feet, which sells a limited line of goods.
- “Carryout bag” to mean a bag provided for the purpose of carrying away goods;
- “Local government” to mean a county or municipality;
- “Plastic carryout bag” to mean a carryout bag made predominantly of plastic;
- “Postconsumer recycled material” to mean material that has completed its use cycle and would normally be disposed of as solid waste;
- “Produce bag” to mean a plastic bag without handles designed to carry produce, meats, or other items from inside the store to the point of sale, or to separate those items from others;

¹³ California, Hawaii, Massachusetts, New York, Pennsylvania, Vermont, Virginia, and Washington are all considering fees or taxes on single-use bags.

¹⁴ *Supra* note 9.

¹⁵ *Supra* note 9.

¹⁶ American Forest and Paper Association, *Recycling Symbol Guidelines*, available at <http://www.afandpa.org/docs/default-source/default-document-library/recycling-symbol-guidelines.pdf?sfvrsn=0> (last visited Mar. 24, 2014).

- “Recyclable paper bag” to mean a bag that:
 - Contains no old-growth fiber;
 - Is 100 percent recyclable and contains at least 40 percent postconsumer recycled material;
 - Is capable of composting, consistent with ASTM D6400 standard;
 - Has printing on it that identifies the manufacturer, its country of origin, and the percentage of postconsumer recycled material used; and
 - Visibly displays the word “recyclable”;
- “Reusable bag” to mean a bag with handles that is designed for multiple reuse and which meets the following requirements:
 - Can carry a minimum of 22 pounds 125 times over a distance of at least 175 feet;
 - Has a minimum volume of 15 liters;
 - Is machine washable or can be cleaned or disinfected;
 - Does not contain certain heavy metals in toxic amounts;
 - Has printing or a tag that identifies the manufacturer and the country of origin, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of postconsumer recycled material used; and
 - If it is plastic, it has to be at least 2.25 mils thick.

The bill requires any store affected by a local ordinance to provide reusable bags at either no cost or for a fee to a customer. Affected stores may also provide recyclable bags for a fee of \$0.10 per bag with no rebate or discount to offset the costs. The number of bags supplied must be indicated on the store receipt. The store may not provide a plastic carryout bag. The bill allows customers to bring whatever type of bag with them to the store for carrying out goods.

The bill provides that 50 percent of the fees collected must be distributed to the school district the store is located in for educational purposes only, and up to 50 percent of the fees may be retained by the store to offset costs associated with complying with s. 403.7033, F.S.

The bill requires quarterly reporting to the local government by any affected store, including:

- The total number of recyclable paper bags provided;
- The fees collected for providing recyclable paper bags; and
- A summary of any effort by the store in the prior quarter to promote customer use of reusable bags.

The bill authorizes local governments to impose a penalty for violations of provisions of the bill.

Lastly, the bill provides that any ordinances relating to carryout bags may only be enacted pursuant to the provisions of the bill, in order to provide uniform statewide standards. The bill will go into effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Depending on the cost to provide recyclable paper bags to customers, the fiscal impact of the provision allowing up to 50 percent of the revenue generated from fees to be used by affected stores to offset the costs of compliance is indeterminate. There will be no effect if the store's portion of the \$0.10 fee charged to consumers for recyclable paper bags fully pays for the cost of the bags. If it is not enough pay for the recyclable paper bags, then it will result in an indeterminate negative fiscal effect on affected stores.

Requiring labeling on bags used in Florida could impose a cost on bag manufactures. Bags that are produced for sale nationally will require different labeling depending on the destination of the bags. The cost cannot be calculated at this time.

Depending on the type of ordinance implemented by a local government, there could be significant fees imposed on consumers if the costs of compliance are passed on via higher costs for the products sold at affected businesses. While cumulatively these costs might be large, on an individual basis, they will be minimal.

C. Government Sector Impact:

The provision of the bill directing 50 percent of fees collected under the provisions of the bill be distributed to the local school district will provide a significant positive financial effect on those school districts if recyclable paper bag use increases substantially.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 119-120: "An affected store may not provide a customer with a plastic carryout bag or other type of bag." This language is not clear. A strict interpretation is that an affected store may not provide any bags, whatsoever. "[O]ther type of bag," likely means another type non-recyclable plastic bag, but it needs clarification.

VIII. Statutes Affected:

This bill substantially amends section 403.7033 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Bullard

39-00482-14

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1 A bill to be entitled
 2 An act relating to carryout bags; amending s.
 3 403.7033, F.S.; providing legislative findings;
 4 deleting obsolete provisions; providing definitions;
 5 creating statewide standards for reusable bags and
 6 recyclable paper bags for stores located within a
 7 county or municipality that adopts ordinances pursuant
 8 to this act; requiring affected stores to charge
 9 customers a fee for each recyclable paper bag
 10 provided; prohibiting affected stores from providing
 11 plastic carryout bags or other types of bags;
 12 providing for allocation of fees collected; providing
 13 reporting requirements for affected stores;
 14 authorizing local governments to impose a penalty;
 15 authorizing local governments desiring to regulate the
 16 use of carryout bags to adopt ordinances pursuant to
 17 this act; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 403.7033, Florida Statutes, is amended
 22 to read:

23 403.7033 Standards for carryout bags ~~Departmental analysis~~
 24 ~~of particular recyclable materials.~~-

25 (1) LEGISLATIVE FINDINGS.-The Legislature finds that
 26 prudent regulation of recyclable materials is crucial to the
 27 ongoing welfare of Florida's ecology and economy. The Department
 28 of Environmental Protection conducted an analysis to determine
 29 the need for new or different regulations of bags used by

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30 customers to carry products from retail establishments and found
31 that the implementation of new standards requiring the
32 prohibition of plastic carryout bags encourages the use of
33 reusable bags. As such, the Legislature finds that it is
34 necessary and appropriate to adopt uniform statewide standards
35 prohibiting the use of plastic carryout bags, which may be
36 adopted by local ordinance across the state ~~the Department of~~
37 ~~Environmental Protection shall undertake an analysis of the need~~
38 ~~for new or different regulation of auxiliary containers,~~
39 ~~wrappings, or disposable plastic bags used by consumers to carry~~
40 ~~products from retail establishments. The analysis shall include~~
41 ~~input from state and local government agencies, stakeholders,~~
42 ~~private businesses, and citizens, and shall evaluate the~~
43 ~~efficacy and necessity of both statewide and local regulation of~~
44 ~~these materials. To ensure consistent and effective~~
45 ~~implementation, the department shall submit a report with~~
46 ~~conclusions and recommendations to the Legislature no later than~~
47 ~~February 1, 2010. Until such time that the Legislature adopts~~
48 ~~the recommendations of the department, no local government,~~
49 ~~local governmental agency, or state government agency may enact~~
50 ~~any rule, regulation, or ordinance regarding use, disposition,~~
51 ~~sale, prohibition, restriction, or tax of such auxiliary~~
52 ~~containers, wrappings, or disposable plastic bags.~~

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

54 (a) "Affected store" means a retail establishment located
55 within a jurisdiction of a local government that adopts
56 standards relating to carryout bags and is:

57 1. A full-line, self-service retail store that has gross
58 annual sales of \$2 million or more and sells canned goods, dry

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59 grocery items, nonfood items, or perishable items; or

60 2. A drugstore, pharmacy, supermarket, grocery store,
61 convenience store, or other entity of at least 10,000 square
62 feet which engages in the retail sale of a limited line of
63 goods, including milk, bread, soda, and snack foods.

64 (b) "Carryout bag" means a bag provided to a customer at
65 the point of sale for the purpose of carrying away goods.

66 (c) "Local government" means a county or municipality.

67 (d) "Plastic carryout bag" means a carryout bag made
68 predominantly of plastic. The term does not include produce bags
69 or reusable bags made of plastic.

70 (e) "Postconsumer recycled material" means material that
71 has completed its intended use or life cycle and typically would
72 be disposed of as solid waste. The term does not include
73 materials or byproducts generated from, or commonly reused in,
74 an original manufacturing or fabrication process.

75 (f) "Produce bag" means a plastic bag without handles used
76 exclusively to carry produce, meats, or other food items inside
77 a store to the point of sale or to prevent such food items from
78 coming into direct contact with other purchased items.

79 (g) "Recyclable paper bag" means a paper bag that:

80 1. Contains no old-growth fiber;

81 2. Is 100 percent recyclable and contains at least 40
82 percent postconsumer recycled material;

83 3. Is capable of composting, consistent with ASTM D6400,
84 the standard specification for labeling of plastics designed to
85 be aerobically composted in municipal or industrial facilities;

86 4. Has printed on the bag the name of the manufacturer, the
87 country in which the bag was manufactured, and the percentage of

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88 postconsumer recycled material used; and

89 5. Visibly displays the word "recyclable" on the outside of
90 the bag.

91 (h) "Reusable bag" means a bag with handles which is
92 specifically designed and manufactured for multiple reuse and
93 which meets all of the following requirements:

94 1. Can carry a minimum of 22 pounds 125 times, over a
95 distance of at least 175 feet.

96 2. Has a minimum volume of 15 liters.

97 3. Is machine washable or can be cleaned or disinfected.

98 4. Does not contain lead, cadmium, or any other heavy metal
99 in toxic amounts as defined by applicable federal standards and
100 regulations for packaging of reusable bags.

101 5. Has printed on the bag, or on a tag permanently affixed
102 to the bag, the name of the manufacturer; the country in which
103 the bag was manufactured; a statement that the bag does not
104 contain lead, cadmium, or any other heavy metal in toxic
105 amounts; and the percentage of postconsumer recycled material
106 used, if any.

107 6. If made of plastic, is at least 2.25 mils thick.

108 (3) STANDARDS FOR CARRYOUT BAGS.-

109 (a) An affected store shall provide reusable bags, at no
110 cost or for a fee, to a customer for the purpose of carrying
111 away goods or other items from the point of sale, subject to the
112 terms of this section.

113 (b) An affected store may provide recyclable paper bags to
114 a customer for a fee of 10 cents for each recyclable paper bag
115 purchased. The affected store may not rebate or otherwise
116 reimburse any portion of the 10 cent charge and shall indicate

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117 on the customer receipt the number of recyclable paper bags
118 provided and the total amount charged for the bags.

119 (c) An affected store may not provide a customer with a
120 plastic carryout bag or other type of bag.

121 (d) This section does not prohibit a customer from using a
122 bag of any type which he or she brings to the affected store or
123 from carrying away goods that are not placed in a bag.

124 (e) Fees collected under this subsection shall be used as
125 follows:

126 1. At least 50 percent of the fees shall be distributed to
127 the school district in which the affected store is located, to
128 be used solely for educational purposes; and

129 2. Up to 50 percent of the fees may be retained by the
130 affected store to offset the costs of complying with this
131 section.

132 (4) REPORTING.—An affected store shall report quarterly to
133 the local government the total number of recyclable paper bags
134 provided, the total amount of fees collected for providing
135 recyclable paper bags, and a summary of any effort by the
136 affected store in the prior quarter to promote customer use of
137 reusable bags. Such reporting shall be done on a form prescribed
138 by the local government and signed by a responsible agent or
139 officer of the affected store confirming that the information
140 provided on the form is accurate and complete. The report must
141 be submitted within 30 days after the end of each of the
142 following quarters:

143 (a) January 1 through March 31.

144 (b) April 1 through June 30.

145 (c) July 1 through September 30.

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2014830__

146 (d) October 1 through December 31.

147 (5) PENALTY.—A local government may impose a penalty for
148 violation of this section.

149 (6) APPLICATION.—To ensure uniform statewide standards, a
150 local government desiring to regulate the use of carryout bags
151 may adopt ordinances relating to carryout bags only pursuant to
152 this section.

153 Section 2. This act shall take effect upon becoming a law.

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 Environmental Preservation and Conservation

BILL: SPB 7126

INTRODUCER: Environmental Preservation and Conservation Committee

SUBJECT: Rules Establishing Minimum Water Flows and Levels for Water Bodies

DATE: April 11, 2014 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------------------------------|
| 1. | Hinton | Uchino | | EP Submitted as Committee Bill |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

SPB 7126 exempts Department of Environmental Protection (DEP) rules establishing minimum flows and levels (MFLs) for the Lower Santa Fe and Ichetucknee Rivers, and associated priority springs, from legislative ratification. It requires the DEP to publish a notice of enactment in the Florida Administrative Register.

II. Present Situation:

Minimum Flows and Levels

MFLs are established for water bodies in order to prevent significant harm as a result of permitted water withdrawals. MFLs are typically determined based on evaluations of topography, soils, and vegetation data collected within plant communities, and other pertinent information associated with the water resource. MFLs take into account the ability of wetlands and aquatic communities to adjust to changes in hydrologic conditions and allow for an acceptable level of hydrologic change to occur. When use of water resources shifts the hydrologic conditions below levels defined by MFLs, significant ecological harm can occur.¹

¹ St. Johns River Water Management District, *Water Supply: An Overview of Minimum Flows and Levels*, <http://www.sjrwmd.com/minimumflowsandlevels/> (last visited Apr. 10, 2014).

The consumptive use of water can draw down water levels and reduce pressure in the aquifer.² By establishing MFLs for non-consumptive uses,³ the water management districts (WMDs) can determine how much water is available for consumptive uses.

Section 373.042, F.S., requires the DEP or WMDs to establish MFLs for priority water bodies to prevent significant harm from water withdrawals. MFLs are considered rules and are subject to ch. 120, F.S., challenges. MFLs are established by the DEP, in coordination with the applicable WMD, using the best available data and are subject to independent scientific peer review at the request of the WMD, or, if requested, by a third party.⁴

MFLs apply to decisions affecting permit applications, declarations of water shortages, and assessments of water supply sources. Computer water budget models for surface waters and groundwater are used to evaluate the effects of existing and/or proposed consumptive uses and the likelihood they might cause significant harm. The WMD governing boards are required to develop recovery or prevention strategies in those cases where a water body or watercourse is violating an MFL, or is anticipated to not meet an MFL within 20 years. Water uses cannot be permitted that cause an MFL to be violated.⁵

Recovery or Prevention Strategy

Recovery or prevention strategies are established to recover a water body so that it meets its MFL, or to prevent the existing flow or level from falling below its MFL within 20 years.⁶ The recovery or prevention strategies include phasing or a timetable that allows for the development of sufficient water supplies for all existing and projected reasonable-beneficial uses. The strategy also includes development of additional water supplies and implementation of conservation strategies, the use of impact offsets, and other efficiency measures to accommodate withdrawals.⁷

Consumptive Use Permits

Consumptive use permits (CUPs) establish the duration and type of consumptive water use as well as the maximum amount of water that may be withdrawn daily.⁸ Each CUP must be consistent with the objectives of the issuing WMD, or the DEP, and may not be harmful to the water resources of the area.⁹ To obtain a CUP, an applicant must establish that the proposed use of water satisfies a statutory test, commonly referred to as “the three-prong test.” Specifically, the proposed water use must:

- Be a “reasonable-beneficial use;”¹⁰

² Department of Community Affairs, *Protecting Florida’s Springs: An Implementation Guidebook*, 3-5 (Feb. 2008), available at <http://www.dep.state.fl.us/springs/reports/files/springsimplementguide.pdf> (last visited Apr. 10, 2014).

³ Examples of consumptive uses include agricultural irrigation, public water supply, golf course irrigation, mining, and power generation. Non-consumptive uses of water include recreational, aesthetic, and navigational uses of water resources.

⁴ Section 373.042, F.S.

⁵ *Supra* note 1.

⁶ Section 373.0421, F.S. See also Rule 62-40.473, F.A.C.

⁷ Rule 62-40.473(6), F.A.C.

⁸ See Rule 40C-2, F.A.C.

⁹ Section 373.219, F.S.

¹⁰ Section 373.019(16), F.S. Reasonable-beneficial use is defined as, “the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public

- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.¹¹

Regional Water Supply Planning

WMDs are required to conduct water supply needs assessments. If the assessment determines that existing resources will not be sufficient to meet reasonable-beneficial uses for the planning period for a particular water supply planning region, it must prepare a regional water supply plan.¹² Regional water supply plans must be based on at least a 20-year planning period and must include:

- A water supply development component;
- A water resource development component;
- A recovery and prevention strategy;
- A funding strategy;
- Consideration of how water supply development projects serve the public interest or save costs;
- Technical data and information;
- Any MFLs established for the planning region;
- The water resources for which future MFLs must be developed; and
- An analysis of where variances may be used to create water supply development or water resource development projects.¹³

Mobile Irrigation Labs

Mobile Irrigation Labs (MILs) consist of one or two person teams that provide site-specific evaluation and analysis of irrigation systems. They also provide recommendations on the improvement of existing irrigation systems and equipment, and education on water conservation, irrigation planning, and irrigation management. MILs operate within all five WMDs and are supported by three of the WMDs, the Department of Agriculture and Consumer Services, the Natural Resources Conservation Service, certain counties, and certain utilities in the state.¹⁴

After evaluating a particular agricultural operation, the MIL provides a report to operation that recommends improvements and irrigation schedules. The schedules offer general guidelines to determine when and how much to irrigate based on system efficiency, crop requirements, and soil characteristics. The program provides for follow-up visits to collect more data and install free soil moisture-sensing devices to help growers adapt the schedule to the site. The program also provides training for farmers to calibrate and maintain the equipment.¹⁵

interest.” See also Rule 62-40.410(2), F.A.C., for a list of 18 factors to help determine whether a water use is a reasonable-beneficial use.

¹¹ Section 373.223(1), F.S.

¹² Section 373.709(1), F.S.

¹³ Section 373.709(2), F.S.

¹⁴ Department of Agriculture and Consumer Services, *Evaluate Your Irrigation System*, <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Water-Policy/Evaluate-Your-Irrigation-System> (last visited Apr. 10, 2014).

¹⁵ DEP, *Statement of Estimated Regulatory Costs*, 24 (Apr. 8, 2015), available at http://www.dep.state.fl.us/water/waterpolicy/docs/mflrulemaking/serc_04_08_2014.pdf (last visited Apr. 10, 2014).

The North Florida Southeast Georgia Regional Groundwater Flow Model

The North Florida Southeast Georgia (NFSEG) Regional Groundwater Flow Model is currently in development. The general goal of the model is to construct a groundwater flow model that will aid in the assessment of climatic and anthropogenic effects on the groundwater resources of north Florida and southeast Georgia.¹⁶ It will also provide a regional framework for the development and application of models for use in assessments of “critical areas of concern.”¹⁷ A “critical area of concern” is an area where there is a particular concern regarding drawdown impacts due to regional and/or local pumping effects. Areas that have been identified as critical areas of concern in the NFSEG Regional Groundwater Flow Model include:

- The Upper Santa Fe Basin;
- The Lower Santa Fe Basin;
- The Upper Suwannee River Basin;
- The Alapaha River Basin; and
- The Upper Etonia Creek Basin.¹⁸

The flow model must be designed and applied such that it will aid in pinpointing the exact sources of impacts on the basin and determine the relative contributions of the various parties involved. One of the ongoing problems the model will be designed to address more accurately is separating climatic impacts from anthropogenic impacts.¹⁹

Legislative Ratification of Agency Rules

Pursuant to s. 120.541, F.S., a rule that meets at least one of three thresholds must be ratified by the Legislature. Those are:

- If the rule is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule;
- If the rule is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule; or
- If the rule is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.²⁰

If a rule requires ratification by the Legislature, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the regular legislative session. The rule may not go into effect until it is ratified by the Legislature.²¹

¹⁶ North Florida Regional Water Supply Partnership, *North Florida Southeast Georgia (NFSEG) Regional Groundwater Flow Model: Goals and Objectives Technical Memo*, available at http://northfloridawater.com/pdfs/NFSEG/NFSEG_goals_objectives_final.pdf (last visited Apr. 10, 2014).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 120.541(2)(a)1.-3., F.S.

²¹ Section 120.541(3), F.S.

Statement of Estimated Regulatory Costs

According to the DEP's statement of estimated regulatory costs for the proposed MFL rule for the Suwannee River and St. Johns River WMDs, applicants for new CUPs or CUP renewals may be affected by the rule, if the CUP has the potential to impact the MFL.²² During the next five years, the DEP anticipates approximately 28 agricultural water use permit holders will be required to provide offsets under the proposed rule, requiring a total offset of 2.6 million gallons per day (mgd). The DEP also anticipates that, of new permit requests over the next five years, approximately 40 agricultural users impacted by the rule will have to provide total offsets of 11.2 mgd. The anticipated offset required to accommodate both groups will be 13.8 mgd.²³

If the entire amount of water is offset by implementing additional agricultural water conservation measures via retrofitting center pivot irrigation systems to make them more efficient, the total cost will approach \$3 million over five years.²⁴ Because the Suwannee River WMD cost-share program typically covers 80 percent of retrofit costs, the actual regulatory burden will likely be significantly less.²⁵ Other possible methods, such as changing withdrawal locations, farming practices, or crop rotation, are difficult to project expected costs for. The development of alternative water supplies for agricultural use as an option to provide offsets will likely be significantly limited by cost and feasibility.²⁶

Proposed Rule 62-42.300 F.A.C.

Proposed Rule 62-42.300, Florida Administrative Code (F.A.C.), establishes MFLs for the Lower Santa Fe and Ichetucknee Rivers and associated priority springs.²⁷ The proposed rule limits the duration of renewed CUPs for existing users that do not request additional allocations to five years if the requested allocation has the potential to affect MFLs in the Ichetucknee or Lower Santa Fe Rivers. CUPs may be issued for longer than five years if the permittee demonstrates that the proposed allocations' impacts on the MFLs will be eliminated or offset.

For a CUP holder that applies for additional allocations in its renewal application that may impact the MFLs in the Ichetucknee or Lower Santa Fe Rivers, the applicant must provide reasonable assurance of elimination or offset of that portion of the requested allocation that exceeds the existing allocation and that results in potential impacts to those water bodies. Such CUPs will be issued for five years unless the potential impacts to the MFLs will be eliminated or offset.

For new CUP applications that impact the MFLs, the entity requesting the permit must provide reasonable assurance that any potential impacts will be eliminated or offset. For existing authorized uses, permits will not be subject to modification unless provided for in future rule revisions.

²² *Supra* note 15, at 1-2.

²³ *Supra* note 15, at 15.

²⁴ *Supra* note 15, at 17.

²⁵ *Supra* note 15, at 16.

²⁶ *Supra* note 15, at 23.

²⁷ Lower Santa Fe priority springs are: Santa Fe Rise, ALA112971, Hornsby, Columbia, Poe, COL 101974, Rum Island, July, Devil's Ear, and GIL.1012973. Ichetucknee River priority springs are: Ichetucknee Head, Blue Hole, Mission, Devil's Eye, Grassy Hole, and Mill Pond.

The rule provides for two special conditions on certain CUPs. For a CUP that is issued for more than five years, it must contain a provision stating that the CUP is subject to modification during the term of the permit, upon reasonable notice by the WMD, to achieve compliance with any approved MFL recovery or prevention strategy. The second provision provides that for new or renewed agricultural CUPs in Columbia, Suwannee, Union, and Gilchrist Counties, and portions of Baker, Bradford, and Alachua Counties, within the boundaries of the SRWMD, the permittee must participate in an MIL program and allow access to the project site for the purpose of conducting an MIL evaluation at least once every five years.

By the publication date of the final peer review report on the NFSEG Regional Groundwater Flow Model, or by December 31, 2019, whichever is earlier, the DEP must:

- Publish a Notice of Proposed Rule to strike Rule 62-42.300(a)-(d), F.A.C., which establishes the MFLs for the Lower Santa Fe and Ichetucknee Rivers and associated priority springs;
- Re-propose MFLs for the Lower Santa Fe and Ichetucknee Rivers and associated priority springs along with any associated recovery or prevention strategies; and
- Adopt the proposed rule in accordance with the timeframes provided in section 120.54(3), F.S.

According to the DEP, the Lower Santa Fe and Ichetucknee Rivers and associated priority springs need increased flows to meet their MFLs.²⁸ While these rules would normally be ratified by the Legislature, a request for a rule adoption hearing has been received and it may not be possible to obtain legislative ratification during the 2014 Regular Legislative Session. The DEP finds that it is critical that the MFL rules take effect as soon as possible because a delay in ratification could further exacerbate the condition of the Santa Fe and Ichetucknee Rivers and associated priority springs.²⁹

III. Effect of Proposed Changes:

The bill exempts Rule 62-42.300, F.A.C., from legislative ratification. The rule establishes MFLs for the Lower Santa Fe and Ichetucknee Rivers and associated priority springs.

The bill specifies that it:

- Serves no other purpose than exempting Rule 62-42.300, F.A.C., from ratification and may not be codified in the Florida Statutes;
- Requires the DEP to publish a notice of the enactment of the exemption in the Florida Administrative Register as soon as the rule is filed for adoption, or as soon thereafter as practicable;
- Does not alter rulemaking authority or constitute a legislative preemption of, or exception to, any other provision of law regarding adoption or enforcement of the rule; and
- Does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

²⁸ DEP, *General MFL Info on Exemption* (Mar. 18, 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

²⁹ *Id.*

The bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

For CUP renewal applications that affect the MFL for the Ichetucknee and Lower Santa Fe Rivers, if permittees are limited to five year permits, there could be an increase in costs for more frequent permit renewals. The DEP estimates that the total amount of additional application fees will be approximately \$9,000.

According to the DEP, for agricultural users over the next five years who receive new CUPs and those who renew their permits, the estimated cost will approach \$3 million for those allocations that affect the MFL for the Lower Santa Fe and Ichetucknee Rivers and associated priority springs. Cost-sharing programs will likely reduce this cost; however the exact reduction cannot be determined at this time.

CUP restrictions could force agricultural users to diversify their farming practices or implement water conservation measures. The economic impact will be determined by the activities of affected users to accommodate any restrictions placed on operations.

For agricultural operations whose costs increase due to the rule, the increased costs of compliance could result in those costs being passed on to consumers.

C. Government Sector Impact:

Any offsets required under the MFL that are eligible for cost-sharing could result in an increase in costs, depending on the number of projects that qualify for cost-sharing. This effect is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

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.



628402

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: FAV | . | |
| 04/10/2014 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Environmental Preservation and Conservation
(Dean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. (1) The rule proposed by the Department of
Environmental Protection as rule 62-42.300, Florida
Administrative Code, entitled "Minimum Flows and Levels and
Recovery and Prevention Strategies," which was published on
March 7, 2014, in the Florida Administrative Register, Vol. 40,
No. 46, pages 1069-1071, and modified by a Notice of Change,



628402

11 published on April 8, 2014, in the Florida Administrative
12 Register, Vol. 40, No. 68, page 1536, is exempt from
13 ratification under s. 120.541(3), Florida Statutes.

14 (2) This act serves no other purpose and shall not be
15 codified in the Florida Statutes. At the time of filing this
16 rule for adoption, or as soon thereafter as practicable, the
17 department shall publish a notice of the enactment of this
18 exemption in the Florida Administrative Register. This act does
19 not alter rulemaking authority delegated by prior law and does
20 not constitute legislative preemption of or exception to any
21 other provision of law governing adoption or enforcement of the
22 rule cited. This act does not cure any rulemaking defect or
23 preempt any challenge based on a lack of authority or a
24 violation of the legal requirements governing the adoption of
25 any rule cited.

26 Section 2. This act shall take effect upon becoming a law.

27
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete everything before the enacting clause
31 and insert:

32 A bill to be entitled
33 An act relating to establishing minimum water flows
34 and levels for water bodies; exempting specified rules
35 from legislative ratification under s. 120.541(3),
36 F.S.; requiring the Department of Environmental
37 Protection to publish a certain notice; providing an
38 effective date.

39



628402

40 WHEREAS, on March 7, 2014, the Department of Environmental
41 Protection proposed rules 62-42.100 and 62-42.200, Florida
42 Administrative Code, establishing the scope and definitions for
43 minimum flows and levels adopted by the department, and rule 62-
44 42.300, Florida Administrative Code, establishing minimum flows
45 and levels for the Lower Santa Fe and Ichetucknee Rivers and
46 associated priority springs, and

47 WHEREAS, on April 8, 2014, the department published a
48 Notice of Change, modifying its proposed rule 62-42.300, Florida
49 Administrative Code, establishing minimum flows and levels for
50 the Lower Santa Fe and Ichetucknee Rivers and associated
51 priority springs, and

52 WHEREAS, such rules will implement the public policy
53 established in s. 1, chapter 2013-229, Laws of Florida, and
54 related laws authorizing the department to establish minimum
55 flows and levels for water bodies that affect multiple water
56 management districts, and

57 WHEREAS, after adoption by the department, rule 62-42.300,
58 Florida Administrative Code, requires legislative ratification
59 pursuant to s. 120.541(3), Florida Statutes, and

60 WHEREAS, a challenge filed in the Division of
61 Administrative Hearings has delayed adoption of rule 62-42.300,
62 Florida Administrative Code, by the department, making the rule
63 unavailable for ratification during the 2014 Regular Session,
64 and

65 WHEREAS, it is important that these rules take effect as
66 soon as possible so that associated flow protection rules can be
67 implemented as soon as possible, and

68 WHEREAS, exempting proposed rule 62-42.300, Florida



628402

69 Administrative Code, from legislative ratification will allow
70 the rules, if otherwise valid, to become effective before the
71 next opportunity for legislative ratification, NOW, THEREFORE,



473160

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 04/10/2014 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Environmental Preservation and Conservation
(Soto) recommended the following:

**Senate Amendment to Amendment (628402) (with title
amendment)**

Delete lines 14 - 26
and insert:

(2) This section serves no other purpose and may not be
codified in the Florida Statutes. At the time of filing this
rule for adoption, or as soon thereafter as practicable, the
department shall publish a notice of the enactment of this
exemption in the Florida Administrative Register. This section



473160

11 does not alter rulemaking authority delegated by prior law and
12 does not constitute legislative preemption of or exception to
13 any other provision of law governing adoption or enforcement of
14 the rule cited. This section does not cure any rulemaking defect
15 or preempt any challenge based on a lack of authority or a
16 violation of the legal requirements governing the adoption of
17 any rule cited.

18 Section 2. Subsection (11) is added to section 381.00651,
19 Florida Statutes, to read:

20 381.00651 Periodic evaluation and assessment of onsite
21 sewage treatment and disposal systems.-

22 (11) (a) By July 1, 2016, the department, in consultation
23 with the Department of Health and county governments, must
24 identify onsite sewage treatment and disposal systems in a
25 county with a population greater than 200,000 based on the 2010
26 Census which, in the determination of the department, may have
27 an adverse impact on the water quality of the Santa Fe River or
28 the Ichetucknee River, including the tributaries. Within 60 days
29 after the department's completion of the identification of these
30 systems, the department shall provide the location of these
31 systems to the county in which these systems are located. Within
32 1 year after the identification of these systems and in
33 consultation with the department, the county in which the
34 systems are located shall develop an onsite sewage treatment and
35 disposal system remediation plan. For each onsite sewage
36 treatment and disposal system or group of systems, the plan must
37 include whether the systems require upgrading, connection to a
38 central sewerage system, or no action. The plan must also
39 include a priority ranking for each system or group of systems



473160

40 which requires remediation.

41 (b) Each remediation plan must be submitted to the
42 department for approval. In reviewing and approving the
43 remediation plans, the department shall consider, at a minimum,
44 all of the following:

45 1. The density of the onsite sewage treatment and disposal
46 systems.

47 2. The number of onsite sewage treatment and disposal
48 systems.

49 3. The proximity of the onsite sewage treatment and
50 disposal system or systems to the Santa Fe River or the
51 Ichetucknee River.

52 4. The estimated nutrient loading of the onsite sewage
53 treatment and disposal system or systems.

54 5. The cost of the proposed remedial action.

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

56

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

58 And the title is amended as follows:

59 Delete lines 33 - 37

60 and insert:

61 An act relating to water quantity and quality;
62 exempting specified rules from legislative
63 ratification under s. 120.541(3), F.S.; requiring the
64 Department of Environmental Protection to publish
65 certain notice; amending s. 381.00651, F.S.; requiring
66 the department to identify certain onsite sewage
67 treatment and disposal systems; requiring certain
68 counties to develop onsite sewage treatment and



473160

69
70

disposal system remediation plans to be submitted to
and approved by the department; providing an

FOR CONSIDERATION By the Committee on Environmental Preservation and Conservation

592-02956-14

20147126__

1 A bill to be entitled
2 An act relating to rules establishing minimum water
3 flows and levels for water bodies; exempting specified
4 rules from legislative ratification under s.
5 120.541(3), F.S.; requiring the Department of
6 Environmental Protection to publish a certain notice;
7 providing an effective date.

8
9 WHEREAS, on March 7, 2014, the Department of Environmental
10 Protection, proposed rules 62-42.100 and 62-42.200, Florida
11 Administrative Code, establishing the scope and definitions for
12 department-adopted Minimum Flows and Levels (MFLs), and rule 62-
13 42.300, Florida Administrative Code, establishing MFLs for the
14 Lower Santa Fe and Ichetucknee Rivers and associated priority
15 springs, and

16 WHEREAS, such rules will implement the public policy
17 established in section 1, Chapter 2013-229, Laws of Florida, and
18 related laws authorizing the department to establish MFLs for
19 water bodies that affect multiple water management districts,
20 and

21 WHEREAS, after adoption by the department, rule 62-42.300,
22 Florida Administrative Code, requires legislative ratification
23 pursuant to s. 120.541(3), Florida Statutes, and

24 WHEREAS, procedures required under the Administrative
25 Procedures Act may delay adoption of the rule by the department,
26 making the rule unavailable for ratification during the 2014
27 Regular Session, and

28 WHEREAS, it is important that these rules take effect as
29 soon as possible so that associated flow protection rules can be

592-02956-14

20147126__

30 timely implemented, and

31 WHEREAS, exempting proposed rule 62-42.300, Florida
32 Administrative Code, from legislative ratification will allow
33 the rule, if otherwise valid, to become effective before the
34 next opportunity for legislative ratification, NOW, THEREFORE,

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

37
38 Section 1. (1) The rule proposed by the Department of
39 Environmental Protection as rule 62-42.300, Florida
40 Administrative Code, entitled "Minimum Flows and Levels and
41 Recovery and Prevention Strategies," which was published on
42 March 7, 2014, in the Florida Administrative Register, Vol. 40,
43 No. 46, pages 1069-1071, is exempt from the ratification
44 requirement imposed under s. 120.541(3), Florida Statutes.

45 (2) This act serves no other purpose and may not be
46 codified in the Florida Statutes. At the time of filing this
47 rule for adoption, or as soon thereafter as practicable, the
48 department shall publish a notice of the enactment of this
49 exemption in the Florida Administrative Register. This act does
50 not alter rulemaking authority delegated by prior law, does not
51 constitute legislative preemption of, or exception to, any other
52 provision of law governing adoption or enforcement of the rule
53 cited. This act does not cure any rulemaking defect or preempt
54 any challenge based on a lack of authority or a violation of the
55 legal requirements governing the adoption of any rule cited.

56 Section 2. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Appropriations Subcommittee on General
Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Commerce and Tourism
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON

18th District

April 10, 2014

Senator Charlie Dean, Chair
Senate Environmental Preservation Committee
325 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Chairman Dean,

Please excuse my absence from committee today. I was in the Environmental Preservation and Conservation Committee presenting a bill and did not return in time for our meeting. Thank you for your courtesy and please contact my office with any questions.

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

Wilton Simpson
Senator, 18th District

A large, stylized handwritten signature in black ink, appearing to read "Charlie Dean".

REPLY TO:

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

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10

Meeting Date

Topic Water Utilities Bill Number 1050

Name Chris Hansen Amendment Barcode 840996
(if applicable) (if applicable)

Job Title Ballard Partners

Address Tallahassee FL Phone 577-0444

City _____ State _____ Zip _____

E-mail Chansen@Ballardfl.com

Speaking: For Against Information "Support Amendment"

Representing Florida Rural Water Association

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic ~~Water~~ Water and Wastewater Utility

Bill Number SB 1050

Name Joanna Bonfanti (Bon-fawn-tee)

Amendment Barcode 8409916 (if applicable)

Job Title Government Affairs

Address 215 S. Monroe St., Suite 601

Phone 850-443-1327

Street

Tallahassee

FL

City

32301

Zip

E-mail jbonfanti@gunster.com

Speaking: For

Against

Information

Representing National Association of Water Companies

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Cannoad Bags Bill Number 830
(if applicable)

Name Samantha Padgett Amendment Barcode _____
(if applicable)

Job Title General Counsel

Address 227 S. Adams St. Phone 850-222-4082

Tallahassee FL 32301 E-mail samantha@flf.org
City State Zip

Speaking: For Against Information

Representing Florida Retail Federation

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date
4/16/14

Topic
PLASTIC BAGS

Bill Number
830

Name
FAUSTO GOMEZ

Amendment Barcode
(if applicable)

Job Title

Address
2350 CORAL WAY # 301

Phone
(305) 860-0780

City
MIAMI FL 33145

E-mail
FGOMEZ@COMERBACKER.COM

State
Zip

Speaking: For Against Information

Representing
TOWN OF CUTLER BAY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Carryout Bags Bill Number 830
Name Holly Parker (if applicable)

Job Title FL Regional Manager Amendment Barcode _____
(if applicable)

Address 1229 Mitchell Ave. Phone 850.567.3393

Tallahassee, FL 32303 E-mail h.parker@surfrider.org
City State Zip

Speaking: For Against Information
Representing Surfrider Foundation

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date April 10, 2014

Topic Carryout Bags Bill Number SB 830 (if applicable)

Name Mark Jean Van Amendment Barcode _____ (if applicable)

Job Title Legislative Director

Address 3324 Charleston Road Phone 850/519-7859

Fallahassess FL 32309 E-mail markjevan@comcast.net
City State Zip

Speaking: For Against Information

Representing Audubon 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4-10-14

Meeting Date

Topic _____ Bill Number 513830 (if applicable)

Name Doug Mann Amendment Barcode _____ (if applicable)

Job Title _____

Address 310 W. College Ave. Phone 222-7535

Tallahassee FL 32301 E-mail _____
City State Zip

Speaking: For Against Information

Representing AIF

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic CARRYOUT BAGS Bill Number 836 (if applicable)
Name DAVID CULLEN Amendment Barcode _____ (if applicable)

Job Title _____

Address 1674 UNIVERSITY PKWY # 296 Phone 941-323-2404
SARASOTA FL 34243 E-mail cullen@cs.com
City State Zip

Speaking: For Against Information
Representing SIERRA CLUB FLORIDA

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

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 10 2014
Meeting Date

3

Topic Minimum Fines & Levels Bill Number SPB 7126
(if applicable)

Name JANET BOWMAN Amendment Barcode _____
(if applicable)

Job Title Director of Legislative Policy & Strategy

Address 625 N. Adams Street Phone 237-9404

Tall City IN State 32301 Zip JANET-BOWMAN@FLSENATE.COM E-mail

Speaking: For Against Information

Representing The Nature Conservancy

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14
Meeting Date



Topic _____ Bill Number 7126 (if applicable)

Name Adam Basford Amendment Barcode _____ (if applicable)

Job Title Legislative Affairs Dir

Address 315 S Calhoun St Phone _____

Valkhasset FL 32301 E-mail _____
Street City State Zip

Speaking: For Against Information

Representing FL Farm Bureau

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3

4-10-14

Meeting Date

Topic _____ Bill Number SB 7126 (if applicable)

Name Drew Berthoff Amendment Barcode _____ (if applicable)

Job Title Deputy Secretary - water policy

Address 3900 Cummingsworth Dr Phone 245-2140

Tallahassee FL 32379 E-mail _____
City State Zip

Speaking: For Against Information

Representing DEP

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: April 10, 2014

8

Topic: MFL's Bill Number: SPB 7126 (if applicable)

Name: MARY JEAN YON Amendment Barcode: (if applicable)

Job Title: Legislative Director

Address: 33824 Charleston Road Phone: 850-519-7859

Tallahassee FL 32309 E-mail: maryjeanyon@com.net

Speaking: [X] For [] Against [] Information

Representing: Audubon Florida

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.

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3

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 10, 2014

Meeting Date

Topic Relating to Rules Establishing MFLs for Water Bodies

Bill Number 7126

Name Steven Minnis

Amendment Barcode 628402

(if applicable)

(if applicable)

Job Title Director of Governmental Affairs and Communications

Address 9225 CR 49

Phone 386.362.1001

Street

Live Oak

Florida 32060

E-mail sam@srwmd.org

City

State

Zip

Speaking: For Against Information

Representing Suwannee River Water Management District

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

APPEARANCE RECORD

3

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

4-10-14

Meeting Date

Topic Rules Est. MFLS

Bill Number SBP 7126

(if applicable)

Name Mark Sexton

Amendment Barcode

(if applicable)

Job Title Alachua County Communications

Phone 352-283-2317

Address 12 SE 1st Street

E-mail W.Sexton@alachua.com

#050

Street Gainesville FL 32001

City State Zip

Speaking: For Against Information

Representing Alachua County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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3

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic WAIVER OF FEES REATIF. Bill Number 226 (if applicable)

Name FRANK MATTHEWS Amendment Barcode (if applicable)

Job Title ATTY

Address PO BOX 6526 Phone

TCH FLA 32301 E-mail State Zip

Speaking: For Against Information

Representing ASSOC. OF FLA COMMUNITY DEVELOPERS

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

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

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3a

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-10-14
Meeting Date

Topic MFL Bill Number _____

Name Mark Sexton Amendment Barcode 473160
(if applicable)

Job Title Alachua County Communications ~~_____~~
(if applicable)

Address 12 SE 1st Street Phone 352-283-2327

Gainesville FL 32601
Street State Zip

City

Speaking: For Against Information

Representing Alachua County

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

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

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APPEARANCE RECORD

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

April 10, 2011
Meeting Date

3a

Topic MFLS Bill Number 7126
Name Steven Miralis Amendment Barcode 473160
(if applicable) *(if applicable)*

Job Title Director of Governmental Affairs & Community Affairs
Address 9225 CR 49 Phone 386.367.1001

Live Oak FL 32060
City State Zip

Speaking: For Against Information

Representing Suwannee River Water Management District

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3a

4/10/14
Meeting Date

Topic Rules/MFLS

Bill Number 7126

Name DAVID COLLIER

Amendment Barcode 3473160
(if applicable)

Job Title

Address 1674 UNIVERSITY PARK

Phone 941-323-2404

SACASOTA FL 34243
City State Zip

E-mail collierd@aol.com

Speaking: For Against Information

Representing SENATE CLERK 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.

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