

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

MEETING DATE: Wednesday, March 18, 2015
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Dean, Chair; Senator Simpson, Vice Chair; Senators Altman, Evers, Hays, Simmons, Smith, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 680 Dean (Compare H 241, H 7021)	Fish and Wildlife Conservation Commission; Requiring personal flotation devices to be used in accordance with the United States Coast Guard approval labels; revising the dates for tarpon tag validity; removing the income requirement for a restricted species endorsement on a saltwater products license; deleting the requirement that the number of tags pursuant to a collection permit be equal to a safe yield of alligators; establishing penalties for the unlawful feeding of wildlife and freshwater fish, etc. EP 03/18/2015 Fav/CS AGG AP	Fav/CS Yeas 7 Nays 0
2	SB 776 Hays (Similar H 1173)	Water and Wastewater; 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 and wastewater infrastructure projects; extending specified tax exemptions to certain investor-owned water and wastewater utilities; authorizing the creation of a utility reserve fund; authorizing the Department of Environmental Protection to require 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, etc. EP 03/18/2015 Fav/CS FT AP	Fav/CS Yeas 7 Nays 0

Workshop - Discussion and testimony only on the following (no vote to be taken):

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation
Wednesday, March 18, 2015, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/HB 7003 Appropriations Committee / State Affairs Committee / Caldwell (Compare S 918)	Water Resources; Revises provisions relating to water resource development; establishment & implementation of minimum flows & levels & total maximum daily loads; Central Florida Water Initiative; projects of South Florida Water Management District; preferred water supply sources; consumptive use permit applications; improvements on private agricultural lands; Northern Everglades & Estuaries Protection Program; power & duties of water management districts with regard to water production & water resource & supply development; regional water supply planning; springs & aquifer protection; surface water classification; & potable water supply. EP 03/18/2015 Workshop-Discussed AGG AP	Workshop-Discussed

Other Related Meeting Documents

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/11
Meeting Date

680
Bill Number (if applicable)

Topic FWC

Amendment Barcode (if applicable)

Name JERRY SAUSON

Job Title EXECUTIVE DIRECTOR

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City _____ State _____ Zip _____

Email FISHAWIC@AOL.COM

Speaking: For Against Information

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

Representing ORGANIZED FISHERMEN OF FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/18/15

Meeting Date

680

Bill Number (if applicable)

Topic FWCC

Amendment Barcode (if applicable)

Name Lane Stephens

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State

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Speaking: For Against Information

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

Representing Florida Airboat Association and nuisance Alligator trappers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
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3/18/15
Meeting Date

680
Bill Number (if applicable)

Topic FWC

Amendment Barcode (if applicable)

Name TRAVIS MOORE

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Speaking: For Against Information

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

Representing Defenders of Wildlife

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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)

3/18/15

Meeting Date

480

Bill Number (if applicable)

Topic Fish + Wildlife Conservation Comm.

Amendment Barcode (if applicable)

Name Brandy Elliott

Job Title Deputy Director, Legis. Affairs

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Phone (850) 617-9449

Street

Tallahassee FL 32399

City

State

Zip

Email

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

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

Representing Fish + Wildlife Conservation Commission

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

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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)

3/18/15

Meeting Date

SB 680

Bill Number (if applicable)

Topic PFD^{US} Coast Guard labels

Amendment Barcode (if applicable)

Name Peggy Matthews

Job Title

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Phone 850 566 6778

City

State

Zip

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Speaking: For Against Information

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

Representing American Watercraft 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
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/SB 680

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Dean

SUBJECT: Fish and Wildlife Conservation Commission

DATE: March 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	Fav/CS
2.			AGG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 680 amends provisions relating to the Fish and Wildlife Conservation Commission (FWC). Specifically, the bill:

- Removes specific labeling requirements for personal floatation devices (PFDs) and allows the use of PFDs labeled in accordance with U.S. Coast Guard (Coast Guard) rules concerning an upcoming new labeling system;
- Revises the effective dates for tarpon tags from July 1 through June 30 to the calendar year;
- Removes a requirement for tax collectors to submit forms relating to the number of unissued Convention on the International Trade of Endangered Species (CITES) tags every year;
- Removes reporting requirements for tarpon landings;
- Corrects the scientific name for tarpon from *megalops atlantica* to the correct name, *Megalops atlanticus*;
- Removes statutory qualifying requirements to receive a Restricted Species Endorsement on a Saltwater Products License;
- Removes rulemaking authority to implement an alligator management and trapping program;
- Ensures all uncured alligator hides are identified as originally intended;
- Removes reporting and shipping details for dealers and buyers of alligator hides;
- Clarifies that a person may not take or possess an alligator or alligator eggs without an alligator license, rather than a “trapping license”;
- Rephrases “Alligator Management and Trapping Program” to “Alligator Management Program”;

- Removes statutory rulemaking authority to limit the number of participants engaged in the taking of alligators or their eggs from the wild;
- Provides exemptions to fee requirements related to hunting alligators;
- Removes statutory requirements to provide the Department of Agriculture and Consumer Services with funds from certain activities related to alligators and makes the transfer of such funds dependent on an annual appropriation;
- Removes rulemaking authority to establish appropriate qualifications for permitting alligator collectors;
- Removes a requirement to use certain funds for alligator husbandry research;
- Removes a requirement to attach CITES tags to the hide of any alligator taken from the wild;
- Removes a requirement to limit the number of CITES tags to the estimated safe yield of alligators in the state;
- Changes penalties for feeding wildlife and freshwater fish;
- Removes definitions of “alligator,” “process or processing,” and “alligator hatchling”;
- Removes a provision relating to alligator study requirements;
- Removes provisions relating to penalties for unlawfully selling certain alligator products;
- Removes a provision relating to penalties for using the words “alligator” and “gator” in certain situations; and
- Reenacts certain sections of statute to incorporate changes made in the bill.

II. Present Situation:

Personal Floatation Devices

The Coast Guard labels PFDs five different ways based on their intended use:

- Type I PFDs are off-shore life jackets that are good for all waters, including rough seas and remote water, where rescue might be slow to arrive;
- Type II PFDs are near-shore buoyant vests for general boating. They are good for calm, inland waters, or where there is a good chance of a quick rescue;
- Type III PFDs are for general boating or some specialized activity that is marked on the PFD for activities such as water skiing, hunting, fishing, canoeing, kayaking, etc. They are designed to complement the activity they are used for;
- Type IV PFDs include throwable devices such as ring buoys and boat cushions; and
- Type V PFDs are only for special uses or conditions.¹

Florida law requires PFDs to be either on hand or worn depending on the situation. Each situation has different requirements:

- All vessels are required to have wearable Coast Guard-approved PFDs for each person onboard. They must be the appropriate size for the people on the vessel, be in serviceable condition, and within easy access;
- Vessels 16 feet in length or longer must also have at least one Coast Guard-approved throwable Type IV PFD that is immediately available in case someone falls overboard;

¹ U. S. Coast Guard, *PFD Selection, Use, Wear & Care*, <http://www.uscg.mil/hq/cg5/cg5214/PFDselection.asp#recreational> (last visited Mar. 16, 2015).

- Children under the age of six must wear a Coast Guard-approved Type I, II, or III Coast Guard approved PFD while onboard vessels less than 26 feet in length while the vessel is underway; and
- Anyone who is water skiing; parasailing; aquaplaning; operating, riding on, or being towed behind a personal watercraft; or some similar activity, must wear a non-inflatable Coast Guard-approved Type I, II, III, or V PFD.²

Currently, the Coast Guard is working to revise the classification and labeling of PFDs. When the process is completed, the intent is to have labels for PFDs that are easier to understand.

According to the final rule promulgated by the Coast Guard, removing the type code system from regulations “will facilitate future incorporation by reference of new industry consensus standards for PFD labeling that more effectively convey safety information and is a step toward harmonization of our regulations with PFD requirements in Canada and other countries.”³

The Coast Guard has indicated that there will be a transition period until the end of 2016 to allow manufacturers time to come into compliance with the new standards and to allow states the time to modify their laws.⁴

Tarpon Tags

In June 2013, the FWC approved a series of changes to the state’s tarpon tag rules. In particular, the FWC voted to manage tarpon as a catch-and-release only species.⁵ However, the FWC does allow the use of tarpon tags to harvest tarpon while in pursuit of an International Game Fish Association record. In conjunction with designating tarpon as a catch-and-release only species, the former recreational bag limit of two was eliminated and harvest and unnecessary destruction of the fish was prohibited.⁶

In addition to these changes, Rule 68B-32.004, F.A.C., now provides that “a person may temporarily possess a tarpon within or without Florida waters only for the purposes of photography, measuring length and girth, and taking a scientific sample.” The rule provides that tarpon of a certain length may not be removed from the water.⁷ Additional changes to rule that need to be addressed in Florida Statutes include eliminating the reporting requirements for the tarpon tag,⁸ and modifying the dates tags are issued from July 1 to June 30 to the calendar year to coincide with the height of the tarpon fishing season.⁹

² FWC, *Boating Regulations*, <http://myfwc.com/boating/regulations/#nogo> (last visited Mar. 16, 2015).

³ Personal Flotation Devices Labeling and Standards, 79 Fed. Reg. 56491 (Oct. 22, 2014).

⁴ FWC, *Senate Bill 680 Agency Analysis*, 7, (Feb. 2, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁵ Rule 68B-32.001, F.A.C.

⁶ *Supra* note 4, at 17.

⁷ Rule 68B-32.004(3), F.A.C.

⁸ *Supra* note 4, at 17.

⁹ *Supra* note 4, at 17.

Tax collectors are required to return all unused tarpon tags to the FWC by August 15 each year. Since tarpon tags have the effective date printed on them, they cannot be used outside of the tag year. The FWC reports that there is no need recover any unused tags.

Lastly, s. 379.357, F.S., refers to the tarpon scientifically as the *megalops atlantica*. The correct scientific name of the tarpon is *Megalops atlanticus*.

Commercial Fishing Licensing

In Florida, a Saltwater Products License (SPL) is required to commercially harvest or sell all saltwater products, harvest over the recreational bag limit, harvest over 100 pounds or two saltwater fish per person per day (whichever is greater) for species that do not have an established bag limit, or use certain gear or equipment as specified by law. Saltwater products harvested under an SPL may only be sold to a licensed Florida wholesale dealer.¹⁰

Florida offers three types of SPLs:¹¹

- An individual SPL authorizes one person to engage in commercial fishing activities from the shore or a vessel. The individual SPL is not tied to any one vessel and is issued in the individual’s name;
- A crew SPL is also issued in an individual’s name and authorizes the named individual to engage in commercial fishing activities from shore or a vessel. It also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities. This means the license holder can take a crew out on any vessel to harvest saltwater fish and the SPL covers the crew as well; and
- A vessel SPL is issued to a valid commercial vessel registration number and authorizes each person aboard that registered vessel to engage in commercial saltwater fishing activities. Unlike the first two SPLs, the vessel SPL is tied to a vessel rather than a person.¹²

The cost for each license is:¹³

SPL Type	Florida Resident	Non-resident	Alien
Individual	\$50	\$200	\$300
Crew	\$150	\$600	\$900
Vessel	\$100	\$400	\$600

Requirements for other commercial licenses vary depending on what species are being harvested. In particular, the Restricted Species Endorsement (RS) is required to commercially harvest and sell species designated as “restricted” by the FWC.¹⁴

¹⁰ FWC, *Commercial Saltwater Product Licenses – Introduction*, <http://www.myfwc.com/license/saltwater/commercial-fishing/new-applicants/#spl> (last visited Mar. 15, 2015).

¹¹ Section 379.361(2)(e)1.-3., F.S.

¹² Section 379.361(2)(e), F.S.

¹³ FWC, *Commercial Saltwater products License Fees*, <http://myfwc.com/license/saltwater/commercial-fishing/csl-fees/> (last visited Mar. 15, 2015).

¹⁴ FWC, *Qualifying for the Restricted Species Endorsement*, <http://www.myfwc.com/license/saltwater/commercial-fishing/qualifying-for-rs/> (last visited Mar. 14, 2015).

The RS was created by the Legislature in 1987 when marine fisheries management was under the legislatively created Marine Fisheries Commission, a predecessor agency to the FWC. The primary purpose of the RS is to help ensure the sustainability of Florida's most important commercially harvested species. Prior to the creation of the RS, some of the state's recreational fishermen were purchasing commercial licenses to enable them to harvest commercial quantities of their favorite species and then keep them for their own personal use, thus circumventing the recreational bag limits.¹⁵

The species currently designated as restricted species are: several species of amberjack, bluefish, cobia, dolphin, drum (black), several species of flounder, several species of grouper, hogfish, almaco jack, Spanish and king mackerel, several species of mullet, permit, Florida and African pompano, red porgy, banded rudderfish, several species of sea bass, spotted seatrout, sheepshead, several species of snapper, tripletail, golden tilefish, wahoo, blue crab, stone crab, spiny lobster, and several species of shrimp.¹⁶

To qualify for an RS on an SPL, a person must:

- Be 16 years of age or older; and either
- Have over 25 percent or \$5,000 of income attributable to the sale of saltwater products under an SPL; or
- Be a charter boat operator with at least 50 percent of income attributable to charter fishing, at least \$2,500 must be attributable to the sale of saltwater products under an SPL.

The income requirements must apply to at least one of the previous three years, and marine aquaculture producers with an SPL can apply income from the sale of marine aquaculture products.¹⁷

Exceptions to these requirements are:

- A permanent RS is available to those who are 62 or older who have qualified for an RS for at least three of the last five years;
- The income requirement for those who are 62 or older is reduced to \$2,500;
- Active military duty time will not be counted against the time required to qualify;
- The purchaser of a commercial vessel associated with an RS will have a complete license year after the purchase to qualify for an RS;
- An immediate family member wishing to carry on the fishing operation of an individual who has died or become permanently disabled will have one complete license year to qualify for an RS;
- The income requirement is waived for residents holding an SPL for three of the previous five years before a disability, if the individual is certified totally and permanently disabled by the U.S. Department of Veterans Affairs, any branch of the U.S. Armed Services, or the Railroad Board, or an individual who is certified disabled by the Social Security Administration or a licensed physician;

¹⁵ *Supra* note 4, at 18.

¹⁶ FWC, *Restricted Species List*, <http://www.myfwc.com/license/saltwater/commercial-fishing/restricted-species/> (last visited Mar. 14, 2015).

¹⁷ *Supra* note 14.

- An honorably discharged resident military veteran who is certified to be permanently disabled with a rating of at least 10 percent has one full license year to qualify for an RS, in addition to an income requirement of \$2,500; and
- An honorably discharged resident military veteran who applies for an RS within 48 months after discharge has one full license year to qualify for an RS.¹⁸

The creation of the RS was supported by Florida's commercial fishing industry, which coordinated with the legislatively created Marine Fisheries Commission, a predecessor agency to the FWC, in developing the endorsement. It is meant to ensure that fish harvested under Florida's commercial licenses, with the higher bag limits typically associated with the commercial fishery, are being harvested for commercial purposes and ultimately ending up in the seafood market.¹⁹

Qualifying requirements for the RS are currently in statute, but, since all aspects of the RS program fall under the FWC's constitutional authority, the requirements have been incorporated into FWC rule, allowing it to respond to stakeholder needs or requests for changes. According to the FWC, some of the existing statutory requirements are confusing and out of date.²⁰

Alligators

The American alligator may be found in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas.²¹ They prefer freshwater lakes and slow-moving rivers and their associated wetlands, but they also can be found in brackish water habitats as well. There are approximately 1.3 million alligators throughout Florida.²²

Due to concerns over declining populations, legal alligator harvesting was halted in 1962. The American alligator was included on the first list of endangered species under the law that preceded the Endangered Species Act in 1967.²³ By the mid-1970s, indications were that the Florida population was recovering rapidly. In 1977, Florida's alligator population was reclassified from endangered to threatened by the U.S. Fish and Wildlife Service. This allowed for management of the growing nuisance alligator problem through harvest, which continues today under the Statewide Nuisance Alligator Program.²⁴

¹⁸ *Supra* note 14.

¹⁹ *Supra* note 4, at 18.

²⁰ *Supra* note 4, at 18

²¹ U.S. Fish and Wildlife Service, *Environmental Conservation Online System, American alligator (Alligator mississippiensis)*, <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=C000#recovery> (last visited Mar. 3, 2015).

²² FWC, *Statewide Nuisance Alligator Program*, <http://myfwc.com/wildlifehabitats/managed/alligator/nuisance/> (last visited Mar. 3, 2015).

²³ U.S. Fish and Wildlife Service, *American Alligator: Alligator mississippiensis* (Feb. 2008), available at <http://www.fws.gov/endangered/esa-library/pdf/alligator.pdf> (last visited Mar. 3, 2015).

²⁴ *Supra* note 6. (FWC ANALYSIS – REMOVE IN FINAL) POINT TO PAGE 7 agency analysis

Despite its recovery, the Florida alligator is still federally listed. However, since 1979, its status has been “Similarity of Appearance (Threatened).”²⁵ This provides safeguards to other imperiled crocodylians, such as the American crocodile, which may be found in south Florida, and the black caiman, which occurs in South America. The listing allows for state-approved management and control programs.²⁶

Currently, the FWC implements three programs that provide for harvesting non-hatchling alligators from the wild. They are the:

- Statewide Alligator Harvest Program;
- Private Lands Alligator Management Program; and
- Statewide Nuisance Alligator Program.

Statewide Alligator Harvest Program

Each year, the FWC establishes alligator management units based on surveys to establish appropriate harvest quotas to provide recreational opportunities for the public to harvest alligators. Anyone may participate, but the number of harvest permits awarded are typically much fewer than the number of people applying for them. According to the FWC, in 2014, 18,000 applications were received for 6,000 permits.²⁷

Through a three-phase program, harvest permits are made available to individuals through a random selection process. Awarded permits that are not purchased in Phase I by the appointed deadline will be made available in Phase II. The second phase of the program is only open to people who were not issued a harvest permit during Phase I. All permits that are not purchased in Phase II by the appointed deadline are sold on a first-come, first-served basis during Phase III. Phase III is open to anyone, including those who already have a harvest permit from either of the two preceding phases. Those who are selected to receive a permit must purchase an Alligator Trapping License. Each permit authorizes taking two alligators, specifies where the alligators may be taken, and comes with two hide validation tags, referred to as CITES tags.²⁸

Another option for participating in the Alligator Harvest Program is to purchase an Alligator Trapping Agent License, which allows those individuals to assist someone who was selected for a harvest permit and has an Alligator Trapping License.

Private Lands Alligator Management Program

The Private Lands Alligator Management Program was established as a mechanism for landowners to sustainably harvest alligators on their properties. To participate in the program, applicants must own or lease a parcel that contains an alligator habitat. Public lands, other than sovereignty submerged lands, for which a governmental entity can demonstrate an ownership or

²⁵ U.S. Fish and Wildlife Service, *Environmental Conservation Online System, American alligator (Alligator mississippiensis)*, <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=C000#recovery> (last visited Mar. 3, 2015).

²⁶ *Supra* note 4, at 8.

²⁷ *Supra* note 4, at 9.

²⁸ FWC, *Statewide Alligator Hunt Permit: General Information*, <http://myfwc.com/license/limited-entry-hunts/general-info/alligator-hunt-permit/> (last visited Mar. 17, 2015).

leasehold interest and with approval of the governmental entity that owns the property are also eligible for inclusion in the program.²⁹

Once the FWC evaluates the property for the sustainable yield of alligators, it issues the required permits and CITES tags up to the sustainable yield. Unlike the Statewide Alligator Harvest Program, participants in this program may take alligators year round, rather than during designated seasons.³⁰ The person permitted to harvest on private lands may be absent when someone with either an Alligator Trapping License or an Alligator Trapping Agent License harvests alligators on the parcel.³¹

Statewide Nuisance Alligator Program

Generally, an alligator may be deemed a nuisance if it is at least four feet long and the person reporting the alligator believes it poses a threat to people, pets, or property. The state does not allow for the relocation of nuisance alligators.³² According to the FWC, they tend to return to where they were initially captured. Smaller alligators, however, are usually relocated to nearby wetland habitats.³³

The FWC contracts with nuisance alligator trappers to remove problem alligators.³⁴ Nuisance alligator trappers must purchase an Alligator Trapping License.³⁵ When a nuisance alligator is reported, the FWC issues a permit to the trapper authorizing the removal of the specific alligator. The public may not hire or provide authorization to a nuisance alligator trapper to remove a nuisance alligator. They may only be handled by FWC-contracted nuisance alligator trappers. Trappers are issued CITES tags at the beginning of each year which need to be attached to each trapped alligator. Nuisance alligator trappers receive \$30 per captured alligator, until all funds are expended. According to the FWC, there is a recurring annual allocation in the FWC's budget of \$210,000 to pay trappers for capturing nuisance alligators.³⁶

Contract trappers are allowed to use designated agents who can operate independently of them, but the agent must be in possession of the harvest permit and tags issued to the nuisance alligator trapper under contract. Trappers are ultimately responsible for their agents, and the trappers' agents must possess either an Alligator Trapping or Alligator Trapping Agent License.³⁷

Alligator Trapping Guides

Alligator trapping guides sell packaged hunts to people who would like to hunt an alligator. They must be properly licensed and permitted under one of the FWC's three programs. The guides solicit clients and provide assistance and equipment to any unskilled participants they are

²⁹ FWC, *Private Lands Alligator Program*, <http://myfwc.com/wildlifehabitats/managed/alligator/private-lands/> (last visited Mar. 3, 2015).

³⁰ *Supra* note 4, at 11.

³¹ *Supra* note 4, at 11.

³² *Supra* note 22.

³³ *Supra* note 4, at 12.

³⁴ FWC, *How to be a Nuisance Alligator Trapper*, <http://myfwc.com/wildlifehabitats/managed/alligator/nuisance/trapper/> (last visited Mar. 3, 2015).

³⁵ *Supra* note 4, at 13.

³⁶ *Supra* note 4, at 13.

³⁷ *Supra* note 4, at 13.

accompanying who have been issued their own harvest permits. The guide may operate with an Alligator Trapping Agent License when guiding a person with an Alligator Trapping License or may operate with the Alligator Trapping License with clients who have either type of license.³⁸

Public Waters Alligator Egg Collection Program

The Public Waters Alligator Egg Collection Program permits the collection of alligator eggs from public waters by up to 30 licensed and permitted alligator farmers in order to provide a consistent source of rearing stock. The number of farms is restricted due to the limited availability of eggs in the wild.³⁹

Areas are established annually by the Alligator Management Program staff. Staff members assess the area and set a quota of 25 to 100 percent of non-depredated, non-flooded nests. Collections are conducted under the direct supervision of FWC biologists. Those eggs are then transferred to the 30 farmers who incubate and hatch the eggs or transfer them to other persons permitted to receive alligator eggs from the wild. The FWC issues an alligator egg collection permit before eggs can be collected under the program. The fee for the permit is limited to \$5 per egg.⁴⁰

Alligator Farming

Alligator farming has been performed in Florida since the 1970s. Despite fluctuations in the market for alligator hides in the last decade, the number of alligator farms has remained fairly constant since 2002 with about 60 farms. Inventories have stayed above 80,000 animals with almost 20,000 alligators harvested annually for their hides and meat. Alligator farmers must obtain an Alligator Farming License. They may employ assistants who must obtain an Alligator Farming Agent's License.⁴¹

Hide and Fur Dealers

Alligator hide dealers solicit, broker, or otherwise buy unpreserved lawfully acquired and tagged alligator hides for the purpose of selling the hides to commercial tanneries or manufacturers of alligator hide products. Under the required Fur and Hide Dealer's License, they do not harvest any part of the alligator. They instead play a role in the final disposition of alligator hides. They must abide by record keeping requirements set by the FWC.⁴²

Alligator Meat Processors

Alligator meat processors are issued a no-cost Alligator Meat Processing Facility Permit by the FWC after being inspected and approved by the Department of Agriculture and Consumer Services (DACCS). They must also purchase an Alligator Processor's License, if the processor is not already in possession of an Alligator Farming License or an Alligator Trapping License.⁴³ The processors buy carcasses from other alligator meat processors, alligator farmers, and

³⁸ *Supra* note 4, at 14.

³⁹ Rule 68A-25.004, F.A.C. See also *supra* note 6. POINTS TO PAGE 14 agency analysis

⁴⁰ *Supra* note 4, at 14.

⁴¹ *Supra* note 4, at 14.

⁴² Rule 68A-25.004, F.A.C.

⁴³ *Supra* note 4, at 15.

program participants permitted to take alligators from the wild. In addition, they import lawfully acquired alligator meat from out of state for reprocessing and repackaging for wholesale and retail sale.⁴⁴

Alligator Marketing and Education – The Department of Agriculture and Consumer Services

Under a contract executed in 1993, \$5 for every CITES tag attached to an alligator taken from the wild through the private lands and nuisance alligator harvest programs is transferred to DACS.⁴⁵ Also, \$1 for every alligator egg taken from public waters is transferred to DACS. The transfers are in support of alligator marketing and education activities overseen by DACS’ Division of Marketing, Bureau of Seafood and Aquaculture.

Alligator Related Licenses and Fees for the 2014 Season⁴⁶

License	Fee
Resident Alligator Trapping License	\$250
Non-Resident Alligator Trapping License	\$1,000
Alligator Trapping Agent’s License (resident and non-resident)	\$50
Alligator Hide Validation (CITES) Tag	Up to \$30 per tag
Resident Fur and Hide Dealer’s License	\$100
Non-Resident Fur and Hide Dealer’s License	\$500
Egg Permit	Up to \$5 per egg
Alligator Farming License (resident and non-resident)	\$250
Alligator Farming Agent’s License (resident and non-resident)	\$50
Alligator Processor’s License (resident and non-resident)	\$250

Violations of alligator management strategies include:

- The unlawful sale, possession, or transporting of alligators or alligator skins;⁴⁷
- Prima facie evidence of intent to violate laws protecting alligators (use of firearms and light at night where alligators might be known to be present);⁴⁸
- Unlawfully selling alligator products;⁴⁹
- Using the words “alligator” or “gator” in certain sales;⁵⁰
- Not possessing a Fur and Hide Dealer’s License, when necessary;⁵¹
- Taking and possessing alligators without a trapping license;⁵²
- Not tagging alligators and hides when required;⁵³
- Violating rules or orders of the FWC;⁵⁴ and

⁴⁴ *Supra* note 4, at 15.

⁴⁵ *Supra* note 4, at 15.

⁴⁶ See generally Part VII of ch. 379, F.S., for alligator licenses and fees.

⁴⁷ Section 379.3014, F.S.

⁴⁸ Section 379.3015, F.S.

⁴⁹ Section 379.3016, F.S.

⁵⁰ Section 379.3017, F.S.

⁵¹ Section 379.364, F.S.

⁵² Section 379.3751, F.S.

⁵³ Section 379.3752, F.S.

⁵⁴ Section 379.401, F.S.

- Illegally killing, possessing, or capturing alligators, other crocodylian, or eggs.⁵⁵

Additionally, the Wildlife Violator Compact Act authorizes reciprocal license suspensions in participating states.⁵⁶

Wildlife Feeding Rules

The FWC has adopted rules that prohibit feeding certain species of wildlife. Those rules, along with types of feeding that are common for the species for which feeding is prohibited, are:

Species	Rule	Common Types of Feeding
Bear, Fox, and Raccoon	Intentionally placing food or garbage, allowing the placement of food or garbage, or offering food or garbage in such a manner that it attracts black bears, foxes, or raccoons and in a manner that is likely to create or creates a public nuisance is prohibited. ⁵⁷	Garbage, pet or livestock food, birdseed, or other foods left unsecured outside or placed out intentionally for these wildlife
Pelican	The intentional feeding or the placement of food that attracts pelicans and modifies the natural behavior of the pelican so as to be detrimental to the survival or health of a local population is prohibited. ⁵⁸	Fish and food scraps handed out or dumped in ways that allow the animals to feed on that material
Sandhill Crane	The intentional feeding of sandhill cranes is prohibited. ⁵⁹	Bird feeders or bread or corn that people leave out, whether for cranes or for other wildlife
Bald Eagle	No person shall take, feed, disturb, possess, sell, purchase or barter, or attempt to engage in any such conduct, any bald eagle or parts thereof, or their nests or eggs, except when authorized by permit or consistent with FWC Eagle Management Guidelines. ⁶⁰	Food scraps handed out or dumped in ways that allow the animals to feed on that material
Alligator and Crocodile	No person shall intentionally feed, or entice with feed, any crocodylian unless held in captivity	Food scraps handed out or dumped in ways that allow the animals to feed on that material

⁵⁵ Section 379.409, F.S.

⁵⁶ Section 379.2255, F.S.

⁵⁷ Rule 68A-4.001(3), F.A.C.

⁵⁸ Rule 68A-4.001(4), F.A.C.

⁵⁹ Rule 68A-4.001(5), F.A.C.

⁶⁰ Rule 68A-16.002, F.A.C.

	under a permit issued by the FWC or otherwise provided. ⁶¹	
--	---	--

The purpose of the rules is to protect both the species and the public. All wild animals have a natural fear of people, but when wild animals are fed by people, animals’ natural fear is diminished. This results in wildlife having more frequent and closer contact with people. Feeding wildlife also results in nuisance and aggressive behavior by the animals, which can pose a risk to public safety, danger to pets and small livestock, and property damage. Wildlife fed by humans also spend more time in developed areas, which exposes them to increased risks of being hit by vehicles, sickness from disrupted natural diets and behaviors, killing by the public, and euthanization by the FWC in order to protect public safety.⁶²

Bear Related Incidences from 2007 to 2013⁶³

Year	2007	2008	2009	2010	2011	2012	2013
Reports from public listing “Bear in Garbage”	848	916	1,347	1,626	1,329	2,064	2,363
Percent of total public reports listing “Bear in Garbage”	30%	33%	40%	39%	33%	33%	33%
Bears euthanized due to conflicts	15	14	19	14	13	22	25
Number of euthanizations that were food related (from intentional or unintentional feeding)	10	11	11	9	10	21	23
Percent of euthanizations that were food related	67%	79%	58%	64%	77%	95%	92%
Feeding rule warnings issued	6	7	10	25	29	22	28
Feeding rule citations issued	7	1	6	4	8	6	4

A first violation of the feeding prohibition rules listed above is a Level II offense, which is a second-degree misdemeanor resulting in punishment of up to 60 days in jail and/or up to a \$500 fine.

A person convicted of a Level II violation within three years after a previous conviction of a Level II or higher violation commits a first-degree misdemeanor, punishable by imprisonment of up to a year and/or a fine of up to \$1,000, with a mandatory minimum fine of \$250.

A person convicted of a Level II violation within five years of two previous Level II or higher violation commits a first-degree misdemeanor, punishable by imprisonment of up to a year

⁶¹ Rule 68A-25.001, F.A.C.

⁶² In Dec. 2014, a woman in Lake Mary was attacked by a bear in her driveway. The event was widely reported and the attack resulted in the euthanization of several bears in the area. The attack and the events that followed resulted in significant exposure to the problem of bears in residential communities and the harm they can cause.

⁶³ *Supra* note 4, at 21.

and/or a fine of up to \$1,000, with a mandatory minimum fine of \$500 and suspension of all recreational licenses for a year.

A person convicted of a Level II violation within 10 years of three previous convictions of a Level II or higher violation commits a first-degree misdemeanor, punishable by imprisonment of up to a year and/or a fine of up to \$1,000, with a minimum mandatory fine of \$750 and suspension of all recreational licenses for three years.⁶⁴

According to the FWC, when FWC officers issue citations for violations of feeding rules, assistant state attorneys reject 28 percent of them and 25 percent of those charged have their adjudications withheld (meaning that there is no criminal misdemeanor, however, fines are assessed).

FWC officers' experiences, as well as adjudication results of citations issued for feeding prohibition rules, reveal that there are varying degrees of severity and willfulness in feeding violations despite the single criminal penalty of a second-degree misdemeanor. Discussions with assistant state attorneys have revealed that some believe a second-degree misdemeanor is too severe a penalty for some initial violations of animal feeding rules, and this may be the reason for the reluctance to prosecute some violations. On the other hand, some citations are prosecuted and violators have been issued significant sentences.

Since 2007, the FWC has recorded the highest levels of human-wildlife conflict in 2012 and 2013. Incidents of human injuries caused by bears and alligators have also been more prevalent. In 2013 and 2014, the FWC documented the most serious human injuries caused by bears since records have been kept, which began in 1976. Many of these human-wildlife interactions result from violations of the animal feeding rules. Since many violations of these rules are not prosecuted, the penalty may have little deterrent effect.

III. Effect of Proposed Changes:

Sections 1-3 amend ss. 327.37, 327.39, and 327.50, F.S., respectively, to remove current PFD type codes and provide that when water skiing, parasailing, aquaplaning, operating a personal watercraft, and for every person under six years of age on board a vessel less than 26 feet, all of which require wearing a PFD, the PFD must be approved by the Coast Guard and used in accordance with the Coast Guard approval label.

Section 4 amends s. 379.357, F.S., to correct the scientific name of tarpon in the statute from the incorrect *megalops atlantica* to the correct name, which is *Megalops atlanticus*.

The bill changes the dates tarpon tags are valid from July 1 through June 30 to January 1 through December 31. Currently tarpon tags may have to be purchased twice during the height of the tarpon fishing season if they have not been used by July 1.

The bill removes a requirement for tax collectors to submit any unissued tags for the previous fiscal year along with a written audit report as to the numbers of unissued tags.

⁶⁴ Section 379.401(2)(b)1.-4., F.S.

The bill also removes reporting requirements for tarpon landings.

Section 5 amends s. 379.361, F.S., to remove all statutory references to the qualifying requirements for acquiring an RS. Current requirements are found in Rule 68B-2.006, F.A.C.

Section 6 amends s. 379.3012, F.S., to rephrase “Alligator Management and Trapping Program” to “Alligator Management Program”, which is the only place the phrase “Alligator Management and Trapping Program” is used in statute or rule.

The bill removes statutory rulemaking authority to implement an alligator management and trapping program. The FWC reports that provisions are no longer needed and removing them will not impact program participants, stakeholders, resource protection, or program implementation. Rule 68A-25.032, F.A.C., governs regulations concerning the establishment of alligator programs. Rule 68A-25.042, F.A.C., governs regulations concerning statewide alligator trapping, permitting, taking, and sale.

The bill also clarifies the word “hereunder” by replacing it with the phrase “alligator management program,” in reference to the existing provision that precludes the FWC’s alligator management program from superseding the regulatory authority or responsibilities of DACS, the Department of Health, or any local governmental entity regarding the processing or handling of food products.

Section 7 amends s. 379.364, F.S., to clarify that it is unlawful for a person to engage in the business of dealing or buying green or dried alligator hides, as opposed to alligator skins, to ensure all uncured alligator hides are identified as originally intended, according to the FWC.

The bill also removes reporting and shipping requirements for dealers and buyers for fur and hide dealers because they are found in Rule 68A-24.004, F.A.C.

Section 8 amends s. 379.3751, F.S., to clarify that a person may not take or possess an alligator or alligator eggs without an “alligator license” rather than a “trapping license”

The bill removes statutory rulemaking authority to limit the number of participants engaged in the taking of alligators or alligator eggs because the provision is already incorporated in Rule 68A-25.002, F.A.C.

It deletes a mandatory requirement to transfer \$1 to DACS for any alligator egg collected and retained, whether or not a fee is assessed for the egg. It makes the transfer of \$1 per egg contingent on an annual appropriation for alligator marketing and education activities.

It removes redundant rulemaking authority to establish appropriate qualifications for permitting alligator collectors.

It requires a person who assists a contracted nuisance alligator trapper to possess an alligator trapping agent’s license;

The bill also provides the following exemptions:

- Contracted nuisance alligator trappers are not required to obtain an alligator trapping license;
- Children under 16 years of age taking an alligator under an alligator harvest program implemented by FWC rule are not required to obtain an alligator trapping agent license;
- People taking an alligator pursuant to an event permit issued under s. 379.353(2)(q), F.S., which contains exemptions for certain veterans, are not required to obtain an alligator trapping or trapping agent license;
- People who meet the disability requirements under s. 379.353(1), F.S., are not required to pay any fee for an alligator trapping or trapping agent license; and
- People engaged in taking an alligator under an FWC permit are not required to pay for an additional wildlife management area permit when hunting alligators under an FWC permit in such an area.

Section 9 amends s. 379.3752, F.S., to reenact the section and remove a requirement for the FWC to use one-third of the revenue from issuing the alligator hatchling tag for alligator husbandry research. The FWC reports that the policy is obsolete and no longer needed to aid in the regulation or management of alligators.

The bill also removes a permissive requirement that CITES tags be attached to the hide of any alligator taken from the wild and that the hide must be possessed, purchased, sold, offered for sale, or transported in accordance with FWC rule. The FWC reports that it is redundant with Rule 68A-25.042, F.A.C.

The bill removes a mandatory transfer of \$5 for any validated hide to the General Inspection Trust Fund, to be used by DACS for the purpose of marketing and education services with respect to alligator products produced in the state. The bill makes the transfer contingent upon an annual appropriation for alligator marketing and education activities.

The bill removes a requirement to limit the number of CITES tags to what the FWC deems to be the safe yield of alligators in the state. The FWC reports that it is redundant with Rule 68A-25.032, F.A.C.

Section 10 amends s. 379.401, F.S., to remove violations involving rules or orders of the FWC relating to the feeding of wildlife, freshwater fish, or feeding or enticement of alligators or crocodiles from the list of Level II violations. These violations are addressed in s. 379.412, which is created in section 11 of the bill.

Section 11 creates s. 379.412, F.S., to provide penalties for feeding wildlife and freshwater fish.

The penalties apply to:

- Feeding wildlife or freshwater fish with food or garbage;
- Attracting or enticing wildlife or freshwater fish with food or garbage; or
- Allowing the placement of food or garbage in a manner that attracts or entices wildlife or freshwater fish.

The penalties do not apply to rules or orders of the FWC that:

- Relate to animals that are held in captivity;

- Restrict the taking or hunting of species over bait or other intentionally placed or deposited food; or
- Restrict the taking or hunting of species in proximity to feeding stations.

A first violation is a noncriminal infraction, punishable by a civil penalty of \$100 and anyone cited for a first violation is subject to the following requirements:

- A person cited for a violation must sign and accept a citation to appear before the county court. The issuing officer may indicate on the citation the time and location of the scheduled hearing and must indicate the applicable civil penalty;
- If a person chooses to pay the civil penalty within 30 days, the person is deemed to have admitted to committing the violation and to have waived his or her right to a hearing before the county court. The admission may not be used as evidence in any other proceedings except to determine the appropriate fine for any subsequent violations;
- If a person refuses to accept the citation, fails to pay the civil penalty, or fails to appear before the county court commits a second-degree misdemeanor; and
- If a person chooses or is required to appear before the county court, that person is deemed to have waived the \$100 civil penalty limitation. If the county court determines a violation has occurred, the court may impose a civil penalty of at least \$100. If a person has been found guilty of committing a violation, he or she may appeal to the circuit court. The bill provides that the commission of a violation must be proved by the legal standard of beyond a reasonable doubt.

A second or any subsequent violations, if all violations are related to freshwater fish or wildlife other than bears, alligators, or other crocodilians, is a second-degree misdemeanor.

Further violations, if all violations involve bears, alligators, or other crocodilians, are classified as second-degree misdemeanors for second violations, first-degree misdemeanors for third violations, and third-degree felonies for any fourth or subsequent violations

The bill defines “violations” as any judicial disposition other than acquittal or dismissal.

Section 12 repeals s. 379.3011, F.S., which relates to alligator trapping program definitions. The FWC reports that the definitions of “alligator” and “process or processing” are unnecessary in aiding the regulation and management of alligator resources. The definition of “alligator hatchling” is in Rule 68A-1.004, F.A.C.

Section 13 repeals s. 379.3013, F.S., which relates to alligator study requirements. It is incorporated in Rule 68A-25.042, F.A.C.

Section 14 repeals s. 379.3016, F.S., which relates to penalties for unlawfully selling alligator products. The prohibition on selling any alligator product manufactured in the form of a stuffed baby alligator or other baby crocodilia, and the prohibition on selling any alligator product manufactured from an endangered species are now found in Rule 68A-25.002, F.A.C. Section 379.3016(3), F.S., provides that a violation of those two provisions is a first-degree misdemeanor. This will make those violations Level II violations, which reduces these violations to second-degree misdemeanors.

Section 15 repeals s. 379.3017, F.S., which relates to a prohibition on the use of the word “alligator” or “gator” when used in connection with the sale of products made from some other crocodilian. This provision has been incorporated in Rule 68A-25.002, F.A.C.

Sections 16-18 reenact sections of the Florida Statutes for the purpose of incorporating amendments made in the bill.

Section 19 provides that the act 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:

Children under the age of 16 who wish to hunt alligators will save \$50 per year under the exemption for an Alligator Trapping Agent License.

Current members of the military and “wounded warriors” taking alligators as part of a FWC sanctioned event will save either the \$250 or \$50 normally required for an Alligator Trapping License or an Alligator Trapping Agent License, respectively. In addition, permanently disabled participants who wish to hunt alligators will experience similar savings.

Contracted nuisance alligator trappers will save \$250 annually because they no longer have to pay \$250 for the Alligator Trapping License when trapping nuisance alligators under contract with the FWC. This will not apply if a nuisance alligator trapper is hunting alligators recreationally or on private lands.

Modified penalties for violations of wildlife feeding rules may have a fiscal impact but it is indeterminate whether it will be negative or positive since initial violations will incur a

lower fine but further violations will incur higher fines. Also, state attorneys may be more willing to prosecute violations leading to additional fines.

C. Government Sector Impact:

Fines assessed for convictions of violations of wildlife feeding rules are deposited in the Clerk of the Circuit Court Fine and Forfeiture Fund. The bill lowers the maximum fine from \$500 to \$100. There could be a fiscal impact but, given the number of citations issued, it is likely to be minimal.

Fines imposed when adjudication is withheld for violations of wildlife feeding rules are remitted to the Department of Revenue for deposit in the General Revenue Fund. The fiscal impact is likely to be minimal.

The FWC estimates that it will experience a negative fiscal impact related to the exemptions on alligator trapping and trapping agent licenses of approximately \$27,500.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.37, 327.39, 327.50, 379.357, 379.361, 379.3012, 379.364, 379.3751, 379.3752, and 379.401.

This bill creates section 379.412 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 379.3011, 379.3013, 379.3016, and 379.3017.

This bill reenacts the following sections of the Florida Statutes: 327.73, 327.375, and 327.54.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Environmental Preservation and Conservation on March 19, 2015:

The CS makes a technical change.

B. Amendments:

None.

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



395562

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 361
and insert:
an alligator license under ~~obtained from the commission a~~

By Senator Dean

5-00520B-15

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1 A bill to be entitled
2 An act relating to the Fish and Wildlife Conservation
3 Commission; amending ss. 327.37, 327.39, and 327.50,
4 F.S.; requiring personal flotation devices to be used
5 in accordance with the United States Coast Guard
6 approval labels; amending s. 379.357, F.S.; revising
7 the dates for tarpon tag validity; deleting the
8 requirement that tax collectors submit forms annually
9 relating to the number of unissued tags; deleting the
10 requirement for submitting forms relating to tarpon
11 landed; amending s. 379.361, F.S.; removing the income
12 requirement for a restricted species endorsement on a
13 saltwater products license; amending s. 379.3012,
14 F.S.; revising the rulemaking authority of the
15 commission relating to the alligator management and
16 trapping program; amending s. 379.364, F.S.; requiring
17 resident dealers to pay a certain fee per annum;
18 removing the requirement for dealers and buyers to
19 forward reports relating to the number and kinds of
20 hide bought; removing the requirement that common
21 carriers only ship, transport, or receive hides or
22 furs marked with certain identifying information;
23 amending s. 379.3751, F.S.; removing the rulemaking
24 authority of the commission to limit the number of
25 participants engaged in the taking of alligators or
26 their eggs from the wild and to establish appropriate
27 qualifications for certain alligator collectors;
28 providing exemptions for alligator trapping licenses;
29 requiring certain licenses to be issued without fee to

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30 residents who meet the requirements for disability;
31 clarifying that a management area permit is not
32 required for a person engaged in the taking of an
33 alligator under a permit that authorizes the taking of
34 alligators; providing that the transfer of fees for
35 marketing and education services is contingent upon
36 annual appropriation; reenacting and amending s.
37 379.3752, F.S.; removing the requirement that the
38 commission expend one-third of the revenue from the
39 issuance of alligator hatchling tags for alligator
40 husbandry research; providing that the transfer of
41 fees for marketing and education services is
42 contingent upon annual appropriation; deleting the
43 requirement that the number of tags pursuant to a
44 collection permit be equal to a safe yield of
45 alligators; amending s. 379.401, F.S.; conforming
46 provisions to changes made by the act; creating s.
47 379.412, F.S.; establishing penalties for the unlawful
48 feeding of wildlife and freshwater fish; providing an
49 exception; repealing s. 379.3011, F.S., relating to
50 the alligator trapping program; repealing s. 379.3013,
51 F.S., relating to alligator study requirements;
52 repealing s. 379.3016, F.S., relating to the
53 prohibition against the sale of alligator products and
54 associated penalties; repealing s. 379.3017, F.S.,
55 relating to the restricted use of the terms
56 "alligator" or "gator" in certain sales; reenacting
57 ss. 327.73(1)(i) and 327.375(1), F.S., to incorporate
58 the amendment made by this act to s. 327.37, F.S., in

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59 references thereto; reenacting s. 327.73(1)(p), F.S.,
60 to incorporate the amendment made by this act to s.
61 327.39, F.S., in a reference thereto; reenacting ss.
62 327.54(1)(c) and 327.73(1)(m), F.S., to incorporate
63 the amendment made by this act to s. 327.50, F.S., in
64 references thereto; providing an effective date.
65

66 Be It Enacted by the Legislature of the State of Florida:
67

68 Section 1. Paragraph (b) of subsection (2) of section
69 327.37, Florida Statutes, is amended to read:

70 327.37 Water skis, parasails, aquaplanes, kiteboarding,
71 kitesurfing, and moored ballooning regulated.—

72 (2)

73 (b) A person may not engage in water skiing, parasailing,
74 aquaplaning, or any similar activity unless such person is
75 wearing a noninflatable ~~type I, type II, type III, or type V~~
76 personal flotation device approved by the United States Coast
77 Guard and used in accordance with the United States Coast Guard
78 approval label.

79 Section 2. Subsection (1) of section 327.39, Florida
80 Statutes, is amended to read:

81 327.39 Personal watercraft regulated.—

82 (1) A person may not operate a personal watercraft unless
83 each person riding on or being towed behind such vessel is
84 wearing a ~~type I, type II, type III, or type V~~ personal
85 flotation device, other than an inflatable device, approved by
86 the United States Coast Guard and used in accordance with the
87 United States Coast Guard approval label.

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88 Section 3. Paragraph (b) of subsection (1) of section
89 327.50, Florida Statutes, is amended to read:

90 327.50 Vessel safety regulations; equipment and lighting
91 requirements.—

92 (1)

93 (b) No person shall operate a vessel less than 26 feet in
94 length on the waters of this state unless every person under 6
95 years of age on board the vessel is wearing a United States type
96 ~~I, type II, or type III~~ Coast Guard approved personal flotation
97 device, used in accordance with the United States Coast Guard
98 approval label, while such vessel is underway. For the purpose
99 of this section, the term "underway" means ~~shall mean~~ at all
100 times except when a vessel is anchored, moored, made fast to the
101 shore, or aground.

102 Section 4. Subsections (1) and (3) of section 379.357,
103 Florida Statutes, are amended to read:

104 379.357 Fish and Wildlife Conservation Commission license
105 program for tarpon; fees; penalties.—

106 (1) The commission shall establish a license program for
107 the purpose of issuing tags to individuals desiring to harvest
108 tarpon (Megalops atlanticus) ~~(megalops atlantica)~~ from the
109 waters of the state. The tags shall be nontransferable, except
110 that the commission may allow for a limited number of tags to be
111 purchased by professional fishing guides for transfer to
112 individuals, and issued by the commission in order of receipt of
113 a properly completed application for a nonrefundable fee of \$50
114 per tag. The commission and any tax collector may sell the tags
115 and collect the fees therefor. Tarpon tags are valid from
116 January July 1 through December 31 June 30. ~~Before August 15 of~~

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117 ~~each year, each tax collector shall submit to the commission all~~
118 ~~unissued tags for the previous fiscal year along with a written~~
119 ~~audit report, on forms prescribed or approved by the commission,~~
120 ~~as to the numbers of the unissued tags. To defray the cost of~~
121 ~~issuing any tag, the issuing tax collector shall collect and~~
122 ~~retain as his or her costs, in addition to the tag fee~~
123 ~~collected, the amount allowed under s. 379.352(6) for the~~
124 ~~issuance of licenses.~~

125 (3) An ~~No~~ individual may not ~~shall~~ take, kill, or possess
126 any fish of the species Megalops atlanticus ~~megalops atlantica~~,
127 commonly known as tarpon, unless such individual has purchased a
128 tarpon tag and securely attached it through the lower jaw of the
129 fish. ~~Said individual shall within 5 days after the landing of~~
130 ~~the fish submit a form to the commission which indicates the~~
131 ~~length, weight, and physical condition of the tarpon when~~
132 ~~caught; the date and location of where the fish was caught; and~~
133 ~~any other pertinent information which may be required by the~~
134 ~~commission. The commission may refuse to issue new tags to~~
135 ~~individuals or guides who fail to provide the required~~
136 ~~information.~~

137 Section 5. Paragraph (b) of subsection (2) of section
138 379.361, Florida Statutes, is amended to read:

139 379.361 Licenses.—

140 (2) SALTWATER PRODUCTS LICENSE.—

141 (b)~~1~~. A restricted species endorsement on the saltwater
142 products license is required to sell to a licensed wholesale
143 dealer those species which the state, by law or rule, has
144 designated as "restricted species." ~~This endorsement may be~~
145 ~~issued only to a person who is at least 16 years of age, or to a~~

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146 ~~firm certifying that over 25 percent of its income or \$5,000 of~~
147 ~~its income, whichever is less, is attributable to the sale of~~
148 ~~saltwater products pursuant to a saltwater products license~~
149 ~~issued under this paragraph or a similar license from another~~
150 ~~state. This endorsement may also be issued to a for-profit~~
151 ~~corporation if it certifies that at least \$5,000 of its income~~
152 ~~is attributable to the sale of saltwater products pursuant to a~~
153 ~~saltwater products license issued under this paragraph or a~~
154 ~~similar license from another state. However, if at least 50~~
155 ~~percent of the annual income of a person, firm, or for-profit~~
156 ~~corporation is derived from charter fishing, the person, firm,~~
157 ~~or for-profit corporation must certify that at least \$2,500 of~~
158 ~~the income of the person, firm, or corporation is attributable~~
159 ~~to the sale of saltwater products pursuant to a saltwater~~
160 ~~products license issued under this paragraph or a similar~~
161 ~~license from another state, in order to be issued the~~
162 ~~endorsement. Such income attribution must apply to at least 1 of~~
163 ~~the last 3 years. For the purpose of this section, "income"~~
164 ~~means that income that is attributable to work, employment,~~
165 ~~entrepreneurship, pensions, retirement benefits, and social~~
166 ~~security benefits.~~

167 ~~2. To renew an existing restricted species endorsement, a~~
168 ~~marine aquaculture producer possessing a valid saltwater~~
169 ~~products license with a restricted species endorsement may apply~~
170 ~~income from the sale of marine aquaculture products to licensed~~
171 ~~wholesale dealers.~~

172 ~~3. The commission may require verification of such income~~
173 ~~for all restricted species endorsements issued pursuant to this~~
174 ~~paragraph. Acceptable proof of income earned from the sale of~~

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- 175 ~~saltwater products shall be:~~
- 176 ~~a. Copies of trip ticket records generated pursuant to this~~
- 177 ~~subsection (marine fisheries information system), documenting~~
- 178 ~~qualifying sale of saltwater products;~~
- 179 ~~b. Copies of sales records from locales other than Florida~~
- 180 ~~documenting qualifying sale of saltwater products;~~
- 181 ~~c. A copy of the applicable federal income tax return,~~
- 182 ~~including Form 1099 attachments, verifying income earned from~~
- 183 ~~the sale of saltwater products;~~
- 184 ~~d. Crew share statements verifying income earned from the~~
- 185 ~~sale of saltwater products; or~~
- 186 ~~e. A certified public accountant's notarized statement~~
- 187 ~~attesting to qualifying source and amount of income.~~
- 188 ~~4. Notwithstanding any other provision of law, any person~~
- 189 ~~who owns a retail seafood market or restaurant at a fixed~~
- 190 ~~location for at least 3 years, who has had an occupational~~
- 191 ~~license for 3 years before January 1, 1990, who harvests~~
- 192 ~~saltwater products to supply his or her retail store, and who~~
- 193 ~~has had a saltwater products license for 1 of the past 3 license~~
- 194 ~~years before January 1, 1990, may provide proof of his or her~~
- 195 ~~verification of income and sales value at the person's retail~~
- 196 ~~seafood market or restaurant and in his or her saltwater~~
- 197 ~~products enterprise by affidavit and shall thereupon be issued a~~
- 198 ~~restricted species endorsement.~~
- 199 ~~5. Exceptions from income requirements shall be as follows:~~
- 200 ~~a. A permanent restricted species endorsement shall be~~
- 201 ~~available to those persons age 62 and older who have qualified~~
- 202 ~~for such endorsement for at least 3 of the last 5 years.~~
- 203 ~~b. Active military duty time shall be excluded from~~

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204 ~~consideration of time necessary to qualify and shall not be~~
205 ~~counted against the applicant for purposes of qualifying.~~

206 ~~e. Upon the sale of a used commercial fishing vessel owned~~
207 ~~by a person, firm, or corporation possessing or eligible for a~~
208 ~~restricted species endorsement, the purchaser of such vessel~~
209 ~~shall be exempted from the qualifying income requirement for the~~
210 ~~purpose of obtaining a restricted species endorsement for a~~
211 ~~complete license year after purchase of the vessel.~~

212 ~~d. Upon the death or permanent disablement of a person~~
213 ~~possessing a restricted species endorsement, an immediate family~~
214 ~~member wishing to carry on the fishing operation shall be~~
215 ~~exempted from the qualifying income requirement for the purpose~~
216 ~~of obtaining a restricted species endorsement for a complete~~
217 ~~license year after the death or disablement.~~

218 ~~e. A restricted species endorsement may be issued on an~~
219 ~~individual saltwater products license to a person age 62 or~~
220 ~~older who documents that at least \$2,500 of such person's income~~
221 ~~is attributable to the sale of saltwater products.~~

222 ~~f. A permanent restricted species endorsement may also be~~
223 ~~issued on an individual saltwater products license to a person~~
224 ~~age 70 or older who has held a saltwater products license for at~~
225 ~~least 3 of the last 5 license years.~~

226 ~~g. Any resident who is certified to be totally and~~
227 ~~permanently disabled by the Railroad Retirement Board, by the~~
228 ~~United States Department of Veterans Affairs or its predecessor,~~
229 ~~or by any branch of the United States Armed Forces, or who holds~~
230 ~~a valid identification card issued by the Department of~~
231 ~~Veterans' Affairs pursuant to s. 295.17, upon proof of the same,~~
232 ~~or any resident certified to be disabled by the United States~~

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233 ~~Social Security Administration or a licensed physician, upon~~
234 ~~proof of the same, shall be exempted from the income~~
235 ~~requirements if he or she also has held a saltwater products~~
236 ~~license for at least 3 of the last 5 license years before the~~
237 ~~date of the disability. A restricted species endorsement issued~~
238 ~~under this paragraph may be issued only on an individual~~
239 ~~saltwater products license.~~

240 ~~h. An honorably discharged, resident military veteran~~
241 ~~certified by the United States Department of Veterans Affairs or~~
242 ~~its predecessor or by any branch of the United States Armed~~
243 ~~Forces to have a service-connected permanent disability rating~~
244 ~~of 10 percent or higher, upon providing proof of such disability~~
245 ~~rating, is not required to provide documentation for the income~~
246 ~~requirement with his or her initial application for a restricted~~
247 ~~species endorsement. Documentation for the income requirement is~~
248 ~~required beginning with the renewal of the restricted species~~
249 ~~endorsement after such veteran has possessed a valid restricted~~
250 ~~species endorsement for a complete license year. This exemption~~
251 ~~applies only to issuance of the endorsement on an individual~~
252 ~~saltwater products license and is a one-time exemption. In order~~
253 ~~to renew the restricted species endorsement on an individual~~
254 ~~saltwater products license, the veteran must document that at~~
255 ~~least \$2,500 of his or her income is attributable to the sale of~~
256 ~~saltwater products.~~

257 ~~i. Beginning July 1, 2014, a resident military veteran who~~
258 ~~applies to the commission within 48 months after receiving an~~
259 ~~honorable discharge from any branch of the United States Armed~~
260 ~~Forces, the United States Coast Guard, the military reserves,~~
261 ~~the Florida National Guard, or the United States Coast Guard~~

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262 ~~Reserve is not required to provide documentation for the income~~
263 ~~requirement with his or her initial application for a restricted~~
264 ~~species endorsement. Documentation for the income requirement is~~
265 ~~required beginning with the renewal of the restricted species~~
266 ~~endorsement after such veteran has possessed a valid restricted~~
267 ~~species endorsement for a complete license year. This exemption~~
268 ~~applies only to issuance of the endorsement on an individual~~
269 ~~saltwater products license and may only be applied one time per~~
270 ~~military enlistment.~~

271 ~~j. Until June 30, 2014, a resident military veteran who~~
272 ~~applies to the commission and who received an honorable~~
273 ~~discharge from any branch of the United States Armed Forces, the~~
274 ~~United States Coast Guard, the military reserves, the Florida~~
275 ~~National Guard, or the United States Coast Guard Reserve between~~
276 ~~September 11, 2001, and June 30, 2014, is not required to~~
277 ~~provide documentation for the income requirement with his or her~~
278 ~~initial application for a restricted species endorsement.~~
279 ~~Documentation for the income requirement is required beginning~~
280 ~~with the renewal of the restricted species endorsement after~~
281 ~~such veteran has possessed a valid restricted species~~
282 ~~endorsement for a complete license year. This exemption applies~~
283 ~~only to issuance of the endorsement on an individual saltwater~~
284 ~~products license.~~

285 Section 6. Section 379.3012, Florida Statutes, is amended
286 to read:

287 379.3012 Alligator management and trapping program
288 implementation; commission authority.-

289 ~~(1) In any alligator management and trapping program that~~
290 ~~the Fish and Wildlife Conservation Commission shall establish,~~

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291 ~~the commission shall have the authority to adopt all rules~~
292 ~~necessary for full and complete implementation of such alligator~~
293 ~~management and trapping program, and, in order to ensure its~~
294 ~~lawful, safe, and efficient operation in accordance therewith,~~
295 ~~may:~~

296 ~~(a) Regulate the marketing and sale of alligators, their~~
297 ~~hides, eggs, meat, and byproducts, including the development and~~
298 ~~maintenance of a state-sanctioned sale.~~

299 ~~(b) Regulate the handling and processing of alligators,~~
300 ~~their eggs, hides, meat, and byproducts, for the lawful, safe,~~
301 ~~and sanitary handling and processing of same.~~

302 ~~(c) Regulate commercial alligator farming facilities and~~
303 ~~operations for the captive propagation and rearing of alligators~~
304 ~~and their eggs.~~

305 ~~(d) Provide hide-grading services by two or more~~
306 ~~individuals pursuant to state-sanctioned sales if rules are~~
307 ~~first promulgated by the commission governing:~~

308 ~~1. All grading-related services to be provided pursuant to~~
309 ~~this section;~~

310 ~~2. Criteria for qualifications of persons to serve as hide-~~
311 ~~graders for grading services to be provided pursuant to this~~
312 ~~section; and~~

313 ~~3. The certification process by which hide-graders~~
314 ~~providing services pursuant to this section will be certified.~~

315 ~~(e) Provide sales-related services by contract pursuant to~~
316 ~~state-sanctioned sales if rules governing such services are~~
317 ~~first promulgated by the commission.~~

318 ~~(2) All contractors of the commission for the grading,~~
319 ~~marketing, and sale of alligators and their hides, eggs, meat,~~

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320 ~~and byproducts shall not engage in any act constituting a~~
321 ~~conflict of interest under part III of chapter 112.~~

322 ~~(3) The powers and duties of the commission to implement~~
323 ~~the alligator management program may hereunder shall~~ not be
324 construed so as to supersede the regulatory authority or lawful
325 responsibility of the Department of Agriculture and Consumer
326 Services, the Department of Health, or any local governmental
327 entity regarding the processing or handling of food products,
328 but is ~~shall be deemed~~ supplemental thereto.

329 Section 7. Section 379.364, Florida Statutes, is amended to
330 read:

331 379.364 License required for fur and hide dealers.—

332 (1) It is unlawful for a ~~any~~ person to engage in the
333 business of a dealer or buyer in green or dried alligator hides
334 ~~skins~~ or green or dried furs in the state or purchase such hides
335 or furs ~~skins~~ within the state until such person has been
336 licensed as herein provided.

337 (2) A person ~~Any resident dealer or buyer~~ who solicits
338 business through the mails, or by advertising, or who travels to
339 buy or employs or has other agents or buyers, shall be deemed a
340 ~~resident state dealer and must pay a license fee of \$100 per~~
341 ~~annum.~~

342 (3) A resident dealer must pay a license fee of \$100 per
343 annum. A nonresident dealer ~~or buyer~~ must pay a license fee of
344 \$500 per annum.

345 ~~(4) All dealers and buyers shall forward to the Fish and~~
346 ~~Wildlife Conservation Commission each 2 weeks during open season~~
347 ~~a report showing number and kind of hides bought and name of~~
348 ~~trapper from whom bought and the trapper's license number, or if~~

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349 ~~trapper is exempt from license under any of the provisions of~~
350 ~~this chapter, such report shall show the nature of such~~
351 ~~exemption. A common carrier may not knowingly ship or transport~~
352 ~~or receive for transportation any hides or furs unless such~~
353 ~~shipments have marked thereon name of shipper and the number of~~
354 ~~her or his fur animal license or fur dealer's license.~~

355 Section 8. Subsections (1), (4), and (5) of section
356 379.3751, Florida Statutes, are amended to read:

357 379.3751 Taking and possession of alligators; trapping
358 licenses; fees.—

359 (1) (a) A ~~No~~ person may not ~~shall~~ take or possess an ~~any~~
360 alligator or the eggs thereof without having first been issued
361 an alligator license under to ~~obtained from the commission a~~
362 ~~trapping license and paid the fee provided in this section.~~ Such
363 license shall be dated when issued and remain valid for 12
364 months after the date of issuance and authorizes ~~shall authorize~~
365 the person to whom it is issued to take or possess alligators
366 and their eggs, and to sell, possess, and process alligators and
367 their hides and meat, in accordance with law and commission
368 rules. Such license is ~~shall~~ not ~~be~~ transferable and is ~~shall~~
369 not ~~be~~ valid unless it bears on its face in indelible ink the
370 name of the person to whom it is issued. Such license shall be
371 in the personal possession of the licensee while such person is
372 taking alligators or their eggs or is selling, possessing, or
373 processing alligators or their eggs, hides, or meat. The failure
374 of the licensee to exhibit such license to a the commission law
375 enforcement officer ~~or its wildlife officers~~, when such person
376 is found taking alligators or their eggs or is found selling,
377 possessing, or processing alligators or their eggs, hides, or

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378 meat, is ~~shall be~~ a violation of law.

379 ~~(b) In order to assure the optimal utilization of the~~
380 ~~estimated available alligator resource and to ensure adequate~~
381 ~~control of the alligator management and harvest program, the~~
382 ~~commission may by rule limit the number of participants engaged~~
383 ~~in the taking of alligators or their eggs from the wild.~~

384 ~~(b)(e)~~ A ~~no~~ person who has been convicted of any violation
385 of s. 379.3015 or s. 379.409 or the rules of the commission
386 relating to the illegal taking of crocodilian species may not
387 ~~shall be issued eligible for issuance of~~ a license for a period
388 of 5 years subsequent to such conviction. In the event such
389 violation involves the unauthorized taking of an endangered
390 crocodilian species, a ~~no~~ license may not ~~shall~~ be issued for 10
391 years subsequent to the conviction.

392 (c) A person taking a nuisance alligator pursuant to
393 contract with the commission is not required to obtain an
394 alligator trapping license. A person assisting a contracted
395 nuisance alligator trapper, unless otherwise exempt under
396 paragraph (d), paragraph (e), or paragraph (f), is required to
397 possess an alligator trapping agent's license as provided in
398 subsection (2).

399 (d) A child under 16 years of age taking an alligator under
400 an alligator harvest program implemented by commission rule is
401 not required to obtain an alligator trapping agent license.

402 (e) A person taking an alligator pursuant to an event
403 permit issued under s. 379.353(2)(q) is not required to obtain
404 an alligator trapping license or an alligator trapping agent
405 license.

406 (f) An alligator trapping license or alligator trapping

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407 agent license must be issued without fee to any resident who
408 meets the requirements for disability under s. 379.353(1).

409 (g) A management area permit under s. 379.354(8) is not
410 required for a person engaged in the taking of an alligator
411 under a permit issued by the commission that authorizes the
412 taking of alligators.

413 (4) A ~~No~~ person may not ~~shall~~ take any alligator egg
414 occurring in the wild or possess any such egg unless he or she
415 ~~such person~~ has obtained, or is a licensed agent of another
416 person who has obtained, an alligator egg collection permit. The
417 alligator egg collection permit is ~~shall be~~ required in addition
418 to the alligator farming license provided in paragraph (2) (d).
419 The commission may ~~is authorized to~~ assess a fee for issuance of
420 the alligator egg collection permit of up to \$5 per egg
421 authorized to be taken or possessed pursuant to such permit.
422 Contingent upon an annual appropriation for alligator marketing
423 and education activities ~~Irrespective of whether a fee is~~
424 ~~assessed~~, \$1 per egg collected and retained, excluding eggs
425 collected on private wetland management areas, shall be
426 transferred from the alligator management program to the General
427 Inspection Trust Fund, to be administered by the Department of
428 Agriculture and Consumer Services for the purpose of providing
429 marketing and education services with respect to alligator
430 products produced in this state, notwithstanding other
431 provisions in this chapter.

432 ~~(5) The commission shall adopt criteria by rule to~~
433 ~~establish appropriate qualifications for alligator collectors~~
434 ~~who may receive permits pursuant to this section.~~

435 Section 9. Section 379.3752, Florida Statutes, is reenacted

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436 and amended to read:

437 379.3752 Required tagging of alligators and hides; fees;
438 revenues.—The tags provided in this section shall be required in
439 addition to any license required under s. 379.3751.

440 (1) A ~~No~~ person may not shall take any alligator occurring
441 in the wild or possess any such alligator unless such alligator
442 is subsequently tagged in the manner required by commission
443 rule. For the tag required for an alligator hatchling, the
444 commission may ~~is authorized to~~ assess a fee of up to ~~not more~~
445 ~~than~~ \$15 for each alligator hatchling tag issued. ~~The commission~~
446 ~~shall expend one third of the revenue generated from the~~
447 ~~issuance of the alligator hatchling tag for alligator husbandry~~
448 ~~research.~~

449 (2) ~~The commission may require that an alligator hide~~
450 ~~validation tag (CITES tag) be affixed to the hide of any~~
451 ~~alligator taken from the wild and that such hide be possessed,~~
452 ~~purchased, sold, offered for sale, or transported in accordance~~
453 ~~with commission rule.~~ The commission may ~~is authorized to~~ assess
454 a fee of up to \$30 for each alligator hide validation tag (CITES
455 tag) issued. Contingent upon an annual appropriation for
456 alligator marketing and education activities ~~Irrespective of~~
457 ~~whether a fee is assessed,~~ \$5 per validated hide, excluding
458 those validated from public hunt programs and alligator farms,
459 shall be transferred from the alligator management program to
460 the General Inspection Trust Fund, to be administered by the
461 Department of Agriculture and Consumer Services for the purpose
462 of providing marketing and education services with respect to
463 alligator products produced in this state, notwithstanding other
464 provisions in this chapter.

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465 ~~(3) The number of tags available for alligators taken~~
466 ~~pursuant to a collection permit shall be limited to the number~~
467 ~~of tags determined by the commission to equal the safe yield of~~
468 ~~alligators as determined pursuant to s. 379.3013.~~

469 Section 10. Paragraph (a) of subsection (2) of section
470 379.401, Florida Statutes, is amended to read:

471 379.401 Penalties and violations; civil penalties for
472 noncriminal infractions; criminal penalties; suspension and
473 forfeiture of licenses and permits.—

474 (2) (a) LEVEL TWO VIOLATIONS.—A person commits a Level Two
475 violation if he or she violates any of the following provisions:

476 1. Rules or orders of the commission relating to seasons or
477 time periods for the taking of wildlife, freshwater fish, or
478 saltwater fish.

479 2. Rules or orders of the commission establishing bag,
480 possession, or size limits or restricting methods of taking
481 wildlife, freshwater fish, or saltwater fish.

482 3. Rules or orders of the commission prohibiting access or
483 otherwise relating to access to wildlife management areas or
484 other areas managed by the commission.

485 4. Rules or orders of the commission relating to the
486 feeding of ~~wildlife, freshwater fish, or~~ saltwater fish.

487 5. Rules or orders of the commission relating to landing
488 requirements for freshwater fish or saltwater fish.

489 6. Rules or orders of the commission relating to restricted
490 hunting areas, critical wildlife areas, or bird sanctuaries.

491 7. Rules or orders of the commission relating to tagging
492 requirements for wildlife and fur-bearing animals.

493 8. Rules or orders of the commission relating to the use of

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494 dogs for the taking of wildlife.

495 9. Rules or orders of the commission which are not
496 otherwise classified.

497 10. Rules or orders of the commission prohibiting the
498 unlawful use of finfish traps.

499 11. All prohibitions in this chapter which are not
500 otherwise classified.

501 12. Section 379.33, prohibiting the violation of or
502 noncompliance with commission rules.

503 13. Section 379.407(7), prohibiting the sale, purchase,
504 harvest, or attempted harvest of any saltwater product with
505 intent to sell.

506 14. Section 379.2421, prohibiting the obstruction of
507 waterways with net gear.

508 15. Section 379.413, prohibiting the unlawful taking of
509 bonefish.

510 16. Section 379.365(2)(a) and (b), prohibiting the
511 possession or use of stone crab traps without trap tags and
512 theft of trap contents or gear.

513 17. Section 379.366(4)(b), prohibiting the theft of blue
514 crab trap contents or trap gear.

515 18. Section 379.3671(2)(c), prohibiting the possession or
516 use of spiny lobster traps without trap tags or certificates and
517 theft of trap contents or trap gear.

518 19. Section 379.357, prohibiting the possession of tarpon
519 without purchasing a tarpon tag.

520 ~~20. Rules or orders of the commission prohibiting the~~
521 ~~feeding or enticement of alligators or crocodiles.~~

522 20.21. Section 379.105, prohibiting the intentional

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523 harassment of hunters, fishers, or trappers.

524 Section 11. Section 379.412, Florida Statutes, is created
525 to read:

526 379.412 Penalties for feeding wildlife and freshwater
527 fish.-

528 (1) The penalties in this section apply to a violation of
529 rules or orders of the commission which prohibit or restrict the
530 following: feeding wildlife or freshwater fish with food or
531 garbage, attracting or enticing wildlife or freshwater fish with
532 food or garbage, or allowing the placement of food or garbage in
533 a manner that attracts or entices wildlife or freshwater fish.

534 This section does not apply to rules or orders of the commission
535 which relate to animals that are held in captivity, restrict the
536 taking or hunting of species over bait or other intentionally
537 placed or deposited food, or restrict the taking or hunting of
538 species in proximity to feeding stations.

539 (2) Any person who violates a prohibition or restriction
540 identified in subsection (1):

541 (a) For a first violation, commits a noncriminal
542 infraction, punishable by a civil penalty of \$100.

543 1. A person cited for a violation under this paragraph must
544 sign and accept a citation to appear before the county court.
545 The issuing officer may indicate on the citation the time and
546 location of the scheduled hearing and must indicate the
547 applicable civil penalty.

548 2. A person cited for a violation under this paragraph may
549 pay the civil penalty by mail or in person within 30 days after
550 receipt of the citation. If the civil penalty is paid, the
551 person shall be deemed to have admitted committing the violation

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552 and to have waived his or her right to a hearing before the
553 county court. Such admission may not be used as evidence in any
554 other proceedings except to determine the appropriate fine for
555 any subsequent violations.

556 3. A person who refuses to accept a citation, who fails to
557 pay the civil penalty for a violation, or who fails to appear
558 before a county court as required commits a misdemeanor of the
559 second degree, punishable as provided in s. 775.082 or s.
560 775.083.

561 4. A person who elects or is required to appear before the
562 county court is deemed to have waived the limitation on civil
563 penalties provided under this paragraph. After a hearing, the
564 county court shall determine whether a violation has been
565 committed, and if so, may impose a civil penalty of at least
566 \$100. A person found guilty of committing a violation may appeal
567 that finding to the circuit court. The commission of a violation
568 must be proved beyond a reasonable doubt.

569 (b) For second and subsequent violations, if all violations
570 are related to freshwater fish or wildlife other than bears,
571 alligators, or other crocodilians, commits a misdemeanor of the
572 second degree, punishable as provided in s. 775.082 or s.
573 775.083.

574 (c) For a second violation, if each violation is related to
575 bears, alligators, or other crocodilians, commits a misdemeanor
576 of the second degree, punishable as provided in s. 775.082 or s.
577 775.083.

578 (d) For a third violation, if all violations are related to
579 bears, alligators, or other crocodilians, commits a misdemeanor
580 of the first degree, punishable as provided in s. 775.082 or s.

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581 775.083.

582 (e) For a fourth or subsequent violation, if all violations
583 are related to bears, alligators, or other crocodilians, commits
584 a felony of the third degree, punishable as provided in s.
585 775.082, s. 775.083, or s. 775.084.

586 (3) As used in this section, the term "violation" means any
587 judicial disposition other than acquittal or dismissal.

588 Section 12. Section 379.3011, Florida Statutes, is
589 repealed.

590 Section 13. Section 379.3013, Florida Statutes, is
591 repealed.

592 Section 14. Section 379.3016, Florida Statutes, is
593 repealed.

594 Section 15. Section 379.3017, Florida Statutes, is
595 repealed.

596 Section 16. Paragraph (i) of subsection (1) of s. 327.73,
597 Florida Statutes, and subsection (1) of s. 327.375, Florida
598 Statutes, are reenacted for the purpose of incorporating the
599 amendment made by this act to s. 327.37, Florida Statutes, in
600 references thereto.

601 Section 17. Paragraph (p) of subsection (1) of s. 327.73,
602 Florida Statutes, is reenacted for the purpose of incorporating
603 the amendment made by this act to s. 327.39, Florida Statutes,
604 in a reference thereto.

605 Section 18. Paragraph (c) of subsection (1) of s. 327.54,
606 Florida Statutes, and paragraph (m) of subsection (1) of s.
607 327.73, Florida Statutes, are reenacted for the purpose of
608 incorporating the amendment made by this act to s. 327.50,
609 Florida Statutes, in references thereto.

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610

Section 19. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

3/20/15

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

776

Meeting Date

Bill Number (if applicable)

Topic Water Bill

Amendment Barcode (if applicable)

Name Gary Williams Ex Dir.

Job Title FL Rural Water Assoc.

Address Street

Phone 668-2746

Tallahassee FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing FL Rural Water Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 776

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Hays

SUBJECT: Water and Wastewater

DATE: March 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 776:

- Directs the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds for water and wastewater projects;
- Provides a sales tax exemption to certain water and wastewater investor-owned utilities (IOUs);
- Provides an exemption for entities who resell water service;
- Authorizes the Public Service Commission (PSC) to create an 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;
- Creates a regulatory limit for water and wastewater IOUs to recover rate case expenses;
- Limits the ability of the PSC to award rate case expenses;
- Eliminates the accumulation of rate case expenses by specifying a utility may not recover approved rate case expenses for more than one rate case at a time;
- Allows the PSC to review secondary drinking water standards and to review wastewater service as it pertains to odor, noise, aerosol drift, or lighting; and
- Expands the availability of low-interest loans through the Drinking Water State Revolving Loan Fund (DWSRF) to all for-profit water utilities.

II. Present Situation:

Sales Tax Exemptions

Chapter 212, F.S., concerning sales taxes, contains the state's statutory provisions authorizing the levying and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. The statutes currently provide more than 200 different exemptions. Florida imposes a six percent tax on tangible personal property sold, used, consumed, distributed, stored for use or consumption, rented, or leased in Florida.

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." 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. A Florida county has the option to regulate the rates and services of water and wastewater IOUs that operate within their jurisdictions 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 145 water and wastewater IOUs in 37 counties in Florida.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;

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 Mar. 16, 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*, 28 (Mar. 2014), available at <http://www.psc.state.fl.us/publications/pdf/general/factsandfigures2014.pdf> (last visited Mar. 16, 2015).

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.

- 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.

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 on February 15, 2013. 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 DWSRF 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;

⁸ *Supra* note 2.

⁹ *Supra* note 2, at 7.

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

¹¹ *Id.*

- Provide a sales tax exemption for sales or leases to a sewer 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;
- 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 nine 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 expenses that exceed 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.¹²

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.¹³ 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 limit.¹⁴

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

- An initial amount is allocated to manufacturing facility projects;
- Fifty 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;

¹² *Supra* note 2, at 155-161.

¹³ 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 Mar. 16, 2015).

¹⁴ *Id.* at 3.

- Twenty-five 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;
- Five 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
- Twenty 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.¹⁵

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.¹⁶

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.¹⁷ 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.¹⁸

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.¹⁹

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 to recover the metering and billing costs being regulated and incurring regulatory costs.²⁰

¹⁵ Section 159.804, F.S.

¹⁶ *Supra* note 2, at 43.

¹⁷ Section 367.022(8), F.S.

¹⁸ *Supra* note 2, at 61.

¹⁹ *Id.*

²⁰ *Supra* note 2, at 61-62.

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.²¹

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.

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;
- A utility's working capital requirements;
- 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 commissioners' decision on the rate increase. The utility is required to notify the customers of the revised rates.²³

²¹ *Supra* note 2, at 67.

²² Florida Public Service Commission, *Utility Ratemaking in Florida* (Oct. 2012), available at <http://www.floridapsc.com/publications/consumer/brochure/Ratemaking.pdf#search=ratemaking> (last visited Mar. 16, 2014).

²³ *Id.*

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 approval.²⁴ 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;
- The Department of Environmental Protection (DEP) fees for the National Pollutant Discharge Elimination System Program; and
- Water or wastewater quality testing required by the DEP.²⁵

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.²⁶

Secondary Water Standards and Quality of Service

The 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.²⁷

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.²⁸ 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.²⁹

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.³⁰ 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

²⁴ Section 367.081(4)(b), F.S.

²⁵ *Id.*

²⁶ Section 367.081(4)(c), F.S.

²⁷ 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.

²⁸ Rule 62-550.320, F.A.C.

²⁹ *Supra* note 2, at 113.

³⁰ Rule 62-600.400(2)(a), F.A.C.

of life or property.³¹ If the existing facilities fail to function as intended and create such adverse effects, the permittee must take corrective action.³² The DEP may also require corrective action if there are significant complaints or if a primary contaminant level has been exceeded.³³ 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.³⁴ 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.³⁵ 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.³⁶

Chapter 2014-68, Laws of Florida, created s. 367.072, F.S., to provide a process for customers to petition the PSC to require compliance with secondary water quality standards. If a utility fails to comply with PSC orders, the process could result in revocation of the utility's certificate of authority. The law provides petition criteria and factors the PSC must consider in its review of the petition and the action it may take to dispose of the petition. The PSC is authorized to adopt rules to administer the provisions. Once a petition has been filed in compliance with the section, a utility is prohibited from filing a rate case until the PSC has issued a final order.

Chapter 2014-68, Laws of Florida, also created s. 367.0812, F.S., to add secondary water quality standards to the criteria that the PSC must consider when setting rates for water service. The law authorizes the PSC to reduce the utility's return on equity up to 100 basis points or deny all or part of a rate increase for a utility's system or part of a system if it determines that the quality of water service is less than satisfactory for the time the system remains unsatisfactory. The law requires a utility to provide an estimate of the costs and benefits of plausible solutions for each concern that the PSC finds, meet with the customers to discuss the costs and benefits of the solution, and periodically report on the progress of implementation. The PSC may require the utility to resolve certain problems and require benchmarks and periodic progress reporting. The law authorizes the PSC to adopt rules to assess and enforce compliance with the secondary water standards and prescribe penalties for a utility's failure to adequately address each concern.

Section 376.11, F.S., requires each utility to provide service to its service area within a reasonable time. It authorizes the commission to amend the service territory or rescind the certificate of authorization of a utility that has failed to provide service as required or it is more feasible for another utility to provide such service. The section also requires each utility to provide safe, efficient, and sufficient service as prescribed by Part VI of ch. 403, F.S., and Parts I and II of ch. 373, F.S. 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.³⁷

³¹ *Id.*

³² Rule 62-600.410, F.A.C.

³³ *Supra* note 2, at 113.

³⁴ Rule 25-30.433(1), F.A.C.

³⁵ *Id.*

³⁶ *Supra* note 2, at 106.

³⁷ Section 367.111(2), F.S.

Drinking Water State Revolving Loan Fund

Sections 403.8532 and 403.8533, F.S., establish the DWSRF, 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.³⁸ Loan funding is based on a priority system that takes into account public health considerations, compliance, and affordability.³⁹

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 DWSRF program. The remaining PSC-regulated Class A and B water IOUs are not eligible to use the DWSRF program. The report notes that this data does not include water IOUs that are regulated by counties.⁴⁰

III. Effect of Proposed Changes:

Section 1 amends s. 159.8105, F.S., to require 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. 212.08, F.S., to provide a sales tax exemption to an IOU owned or operated by Florida corporation if the primary function of the corporation is to construct, maintain, or operate a water or wastewater system in the state. The bill requires the goods and services purchased or leased by the corporation to be used in the state.

Section 3 amends s. 367.022, F.S., to allow a water reseller currently exempt from PSC regulation to add up to a nine percent surcharge and still remain exempt. The surcharge may not exceed the actual cost of the meter reading and billing for water and wastewater bills. The bill does not require the resellers to add a surcharge to the actual purchase price of the water or wastewater service.

Section 4 amends s. 367.081, F.S., to create a utility reserve fund for infrastructure repair and replacement for an investor-owned water or wastewater utility. The reserve fund is funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit. The PSC is required to adopt rules to govern the implementation, management, and use of the fund that include:

- Provisions related to the expenses for which the fund may be used;
- Segregation of the reserve account funds;
- Requirements for the IOU to maintain a capital improvement plan; and

³⁸ Section 403.8532(3), F.S.

³⁹ Section 403.8532(9)(a), F.S.

⁴⁰ *Supra* note 2, at 36-37.

- Requirements for PSC authorization prior to disbursements from the fund.

The bill also 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 disposal;
- 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 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 limits the amount a water and wastewater IOUs can recover from a rate case to 50 percent of the expenses that are determined to be reasonable.

Section 5 amends s. 367.0814, F.S., to limit the ability of the PSC to award certain rate case expenses. The PSC may not award rate case expenses to a water or wastewater IOU in a staff assisted rate case from the date of filing an application until the PSC staff issues the report on the recommended rates, unless the Office of Public Counsel or interested parties intervened. The PSC is authorized to award expenses if the utility is charged fees for consultant or legal services after the initial PSC staff report is made available to customers and the utility. The PSC may also award expenses for attorney or consultant fees incurred as the result of a protest or appeal. The PSC is required to adopt rules to administer this section by December 31, 2015.

Section 6 amends s. 367.0816, F.S., to eliminate the accumulation of rate case expenses. The bill specifies that a utility may not recover approved rate case expenses for more than one rate case at a time. At the end of the rate case, the PSC may issue an order authorizing the utility to collect approved rate case expenses over four years. If a utility files a new rate case before the end of the

four-year period and the utility has not recovered all the rate case expenses for the previous case, the utility cannot collect the outstanding rate case expenses.

Section 7 amends s. 367.111, F.S., to allow the PSC to review secondary drinking water standards established by the DEP. The PSC is also authorized to review wastewater service as it pertains to odor, noise, aerosol drift, or lighting.

Section 8 amends s. 403.8532, F.S., to increase the number of entities that are eligible for DWSRF loans by allowing the DEP to make loans to for-profit, privately owned or investor-owned water systems. The bill also deletes the restriction that a project for a water system that serves 1,500 service connections or more within a single certified or franchised area must result in the consolidation of two or more water systems in order to qualify for a loan.

Sections 9 and 10 amend ss. 367.084 and 367.171, F.S., respectively, to make conforming and technical changes.

Section 11 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other:

According to the PSC, it is unknown if the provision limiting rate case expense recovery would violate Amendments V and XIV of the U.S. Constitution; article 1, sections 2 and 9 of the Florida Constitution; and article X, section 6 of the Florida Constitution. The bill may generate litigation by the water and wastewater IOUs concerning the constitutionality of limiting reasonable rate case expenses.⁴¹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The state will experience decreased revenues as a result of the sales tax exemption provided to qualifying IOUs.

⁴¹ PSC, *Senate Bill 776 Agency Analysis*, 5 (Mar. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

B. Private Sector Impact:

The water and wastewater IOUs that qualify for the sales tax exemption in s. 212.08, F.S., will realize a positive fiscal impact.

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 utility 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 for this expense.

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

The limitation of rate case expenses for staff assisted rate cases may benefit the rate payer; however, the utilities' rates may increase to ensure compliance with the additional secondary water and wastewater standards. Limiting the amount of recovery by 50 percent of rate case expense has the potential to harm and possibly put some companies out of business in instances where a company has slim profit margins from which to absorb those expenses.

If the utility has to petition for new rates within four years, it will be forced to forfeit the unamortized rate case expense, increasing costs to the utility and decreasing costs 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.⁴²

The expanded availability of low-interest financing through the DWSRF to additional water and wastewater IOUs may encourage more of these utilities to make investments in water infrastructure at a lower cost to ratepayers. Lending institutions that have the ability to evaluate the credit worthiness of the large private systems may experience an increase in revenue.

⁴² *Id.*

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.⁴³

The DEP estimates the cost to outsource the financial review of the large for-profit, privately owned or investor-owned systems that request DWSRF funding to be between \$10,000 and \$100,000 annually. The service fees collected through the DWSRF repayments would be used as the source of funding for the contract; however, the actual costs would depend on the number of large private systems that request funding.⁴⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the PSC, the bill does not address how the provision exempting resellers from PSC regulation will be enforced. A seller may not know at the time of the sale where the items being sold will be used. The PSC recommends requiring the purchaser to provide the seller with a written statement certifying the purchaser's entitlement to the exemption in order to provide the seller with clarity as to when sales tax should or should not be collected. The provision may require the PSC to promulgate rules to implement the section and it is unclear if specific rulemaking authority is provided for this section.⁴⁵

The bill assumes intervention by parties other than the Office of Public Counsel prior to the issuance of the proposed agency action. This assumption is not consistent with how staff-assisted rate cases are currently processed.⁴⁶

Subsections 367.111(1) and (2), F.S., require an investor-owned water or wastewater utility to provide service that meets a prescribed criteria and authorizes the PSC to take certain actions against the utility if the standards are not met. Subsections (1) and (2) may conflict with proposed subsection (3) as it authorizes the PSC on its own motion or upon a request by a customer to review whether secondary water or wastewater standards are met, but does not require the PSC to make a finding or provide for consequences if the secondary water or wastewater standards are not met.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.08, 367.022, 367.081, 367.0814, 367.0816, 367.111, and 403.8532.

This bill creates section 159.8105 of the Florida Statutes.

⁴³ *Id.* at 3.

⁴⁴ DEP, *Senate Bill 776 Agency Analysis*, 4 (Feb. 18, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁴⁵ *Supra* note 41, at 3.

⁴⁶ *Supra* note 41.

IX. Additional Information:

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

CS by Environmental Preservation and Conservation on March 18, 2015:
The CS makes technical changes and provides clarifying language.

- B. **Amendments:**

None.

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



691164

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2015	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

159.8105 Allocation of bonds for water and wastewater
infrastructure projects.—The division shall review the
allocation of private activity bonds to determine the
availability of additional allocation and reallocation of bonds



691164

11 for water and wastewater infrastructure projects.

12 Section 2. Paragraph (nnn) is added to subsection (7) of
13 section 212.08, Florida Statutes, to read:

14 212.08 Sales, rental, use, consumption, distribution, and
15 storage tax; specified exemptions.—The sale at retail, the
16 rental, the use, the consumption, the distribution, and the
17 storage to be used or consumed in this state of the following
18 are hereby specifically exempt from the tax imposed by this
19 chapter.

20 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
21 entity by this chapter do not inure to any transaction that is
22 otherwise taxable under this chapter when payment is made by a
23 representative or employee of the entity by any means,
24 including, but not limited to, cash, check, or credit card, even
25 when that representative or employee is subsequently reimbursed
26 by the entity. In addition, exemptions provided to any entity by
27 this subsection do not inure to any transaction that is
28 otherwise taxable under this chapter unless the entity has
29 obtained a sales tax exemption certificate from the department
30 or the entity obtains or provides other documentation as
31 required by the department. Eligible purchases or leases made
32 with such a certificate must be in strict compliance with this
33 subsection and departmental rules, and any person who makes an
34 exempt purchase with a certificate that is not in strict
35 compliance with this subsection and the rules is liable for and
36 shall pay the tax. The department may adopt rules to administer
37 this subsection.

38 (nnn) *Investor-owned water and wastewater utilities.*—Sales
39 or leases to an investor-owned water or wastewater utility owned



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40 or operated by a Florida corporation are exempt from the tax
41 imposed by this chapter if the sole or primary function of the
42 corporation is to construct, maintain, or operate a water or
43 wastewater system in this state and if the goods or services
44 purchased or leased are used in this state.

45 Section 3. Present subsections (9) through (12) of section
46 367.022, Florida Statutes, are redesignated as subsections (10)
47 through (13), respectively, and a new subsection (9) is added to
48 that section, to read:

49 367.022 Exemptions.—The following are not subject to
50 regulation by the commission as a utility nor are they subject
51 to the provisions of this chapter, except as expressly provided:

52 (9) Any person who resells water service to his or her
53 tenants or to individually metered residents for a fee that does
54 not exceed the actual purchase price plus the actual cost of
55 meter reading and billing, not to exceed 9 percent of the actual
56 cost of service.

57 Section 4. Paragraph (c) is added to subsection (2) of
58 section 367.081, Florida Statutes, and paragraph (b) of
59 subsection (4) and subsection (7) of that section are amended,
60 to read:

61 367.081 Rates; procedure for fixing and changing.—

62 (2)

63 (c) In establishing rates for a utility, the commission may
64 create a utility reserve fund for infrastructure repair and
65 replacement for a utility for existing distribution and
66 collection infrastructure that is nearing the end of its useful
67 life or is negatively impacting water quality or reliability of
68 service, to be funded by a portion of the rates charged by the



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69 utility, by a secured escrow account, or through a letter of
70 credit. The commission shall adopt rules to govern the
71 implementation, management, and utilization of the fund,
72 including, but not limited to, rules related to expenses for
73 which the fund may be used, segregation of reserve account
74 funds, requirements for a capital improvement plan, and
75 requirements for commission authorization before disbursements
76 are made from the fund.

77 (4)

78 (b) ~~The approved rates of any utility which receives all or~~
79 ~~any portion of its utility service from a governmental authority~~
80 ~~or from a water or wastewater utility regulated by the~~
81 ~~commission and which redistributes that service to its utility~~
82 ~~customers shall be automatically increased or decreased without~~
83 ~~hearing, upon verified notice to the commission 45 days prior to~~
84 ~~its implementation of the increase or decrease that its costs~~
85 ~~for any specified expense item the rates charged by the~~
86 ~~governmental authority or other utility have changed. The~~
87 ~~approved rates of any utility which is subject to an increase or~~
88 ~~decrease in the rates or fees that it is charged for electric~~
89 ~~power, the amount of ad valorem taxes assessed against its used~~
90 ~~and useful property, the fees charged by the Department of~~
91 ~~Environmental Protection in connection with the National~~
92 ~~Pollutant Discharge Elimination System Program, or the~~
93 ~~regulatory assessment fees imposed upon it by the commission~~
94 ~~shall be increased or decreased by the utility, without action~~
95 ~~by the commission, upon verified notice to the commission 45~~
96 ~~days prior to its implementation of the increase or decrease~~
97 ~~that the rates charged by the supplier of the electric power or~~



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98 ~~the taxes imposed by the governmental authority, or the~~
99 ~~regulatory assessment fees imposed upon it by the commission~~
100 ~~have changed. The new rates authorized shall reflect the amount~~
101 ~~of the change of the ad valorem taxes or rates imposed upon the~~
102 ~~utility by the governmental authority, other utility, or~~
103 ~~supplier of electric power, or the regulatory assessment fees~~
104 ~~imposed upon it by the commission. The approved rates of any~~
105 ~~utility shall be automatically increased, without hearing, upon~~
106 ~~verified notice to the commission 45 days prior to~~
107 ~~implementation of the increase that costs have been incurred for~~
108 ~~water quality or wastewater quality testing required by the~~
109 ~~Department of Environmental Protection.~~

110 1. The new rates authorized shall reflect, on an amortized
111 or annual basis, as appropriate, the cost of, or the amount of
112 change in the cost of, the specified expense item, required
113 water quality or wastewater quality testing performed by
114 laboratories approved by the Department of Environmental
115 Protection for that purpose. The new rates, however, shall not
116 reflect the costs of any specified expense item any required
117 water quality or wastewater quality testing already included in
118 a utility's rates. Specified expense items that are eligible for
119 automatic increase or decrease of a utility's rates include, but
120 are not limited to:

121 a. The rates charged by a governmental authority or other
122 water or wastewater utility regulated by the commission which
123 provides utility service to the utility.

124 b. The rates or fees that the utility is charged for
125 electric power.

126 c. The amount of ad valorem taxes assessed against the



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127 utility's used and useful property.

128 d. The fees charged by the Department of Environmental
129 Protection in connection with the National Pollutant Discharge
130 Elimination System Program.

131 e. The regulatory assessment fees imposed upon the utility
132 by the commission.

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

135 g. The fees charged for wastewater sludge disposal.

136 h. Costs incurred for any tank inspection required by the
137 Department of Environmental Protection or a local governmental
138 authority.

139 i. Operator and distribution license fees required by the
140 Department of Environmental Protection or a local governmental
141 authority.

142 j. Water or wastewater operating permit fees charged by the
143 Department of Environmental Protection or a local governmental
144 authority.

145 k. Consumptive or water use permit fees charged by a water
146 management district.

147 2. A utility may not use this procedure to increase its
148 rates as a result of an increase in a specific expense item
149 which occurred ~~water quality or wastewater quality testing or an~~
150 ~~increase in the cost of purchased water services, sewer~~
151 ~~services, or electric power or in assessed ad valorem taxes,~~
152 ~~which increase was initiated~~ more than 12 months before the
153 filing by the utility.

154 3. The commission may establish by rule additional specific
155 expense items that are outside the control of the utility and



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156 have been imposed upon the utility by a federal, state, or local
157 law, rule, order, or notice. If the commission establishes such
158 rule, the commission shall, at least once every 5 years, review
159 the rule and determine if each expense item should continue to
160 be cause for an automatic increase or decrease and whether
161 additional items should be included.

162 4. ~~The provisions of~~ This subsection does ~~de~~ not prevent a
163 utility from seeking a change in rates pursuant to ~~the~~
164 ~~provisions of~~ subsection (2).

165 (7) The commission shall determine the reasonableness of
166 rate case expenses and shall disallow all rate case expenses
167 determined to be unreasonable. No rate case expense determined
168 to be unreasonable shall be paid by a consumer. In determining
169 the reasonable level of rate case expense, the commission shall
170 consider the extent to which a utility has utilized or failed to
171 utilize ~~the provisions of~~ paragraph (4) (a) or paragraph (4) (b)
172 and such other criteria as it may establish by rule. A utility
173 may recover only up to 50 percent of rate case expenses that are
174 determined to be reasonable.

175 Section 5. Subsection (3) of section 367.0814, Florida
176 Statutes, is amended to read:

177 367.0814 Staff assistance in changing rates and charges;
178 interim rates.—

179 (3) The provisions of s. 367.081(1), (2) (a), and (3) shall
180 apply in determining the utility's rates and charges. However,
181 the commission shall not award rate case expenses to recover
182 attorney fees or fees of other outside consultants who are
183 engaged for purposes of preparing or filing the case if a
184 utility receives staff assistance in changing rates and charges



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185 pursuant to this section, unless the Office of Public Counsel or
186 interested parties have intervened. The commission may award
187 rate case expenses for attorney fees or other outside consultant
188 fees if the fees are incurred for the purpose of providing
189 consulting or legal services to the utility after the initial
190 staff report is made available to customers and the utility. If
191 there is a protest or appeal by a party other than the utility,
192 the commission may award rate case expense to the utility for
193 attorney fees or other outside consultant fees for costs
194 incurred after the protest or appeal. By December 31, 2015, the
195 commission must adopt rules to administer this subsection.

196 Section 6. Section 367.0816, Florida Statutes, is amended
197 to read:

198 367.0816 Recovery of rate case expenses.—

199 (1) The amount of rate case expense determined by the
200 commission pursuant to the provisions of this chapter to be
201 recovered through a public utilities rate shall be apportioned
202 for recovery over a period of 4 years. At the conclusion of the
203 recovery period, the rate of the public utility shall be reduced
204 immediately by the amount of rate case expense previously
205 included in rates.

206 (2) A utility may not recover the 4-year amortized rate
207 case expense for more than one rate case at any given time. If
208 the commission approves and a utility implements a rate change
209 from a subsequent rate case pursuant to this section, any
210 unamortized rate case expense for a prior rate case shall be
211 discontinued. The unamortized portion of rate case expense for a
212 prior case must be removed from rates before the implementation
213 of an additional amortized rate case expense for the most recent



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214 rate proceeding.

215 Section 7. Subsection (3) is added to section 367.111,
216 Florida Statutes, to read:

217 367.111 Service.—

218 (3) The commission may, on its own motion or based on
219 complaints of customers of a water utility subject to its
220 jurisdiction, review water quality as it pertains to secondary
221 drinking water standards established by the Department of
222 Environmental Protection. The commission may, on its own motion
223 or based on complaints of customers of a wastewater utility
224 subject to its jurisdiction, review wastewater service as it
225 pertains to odor, noise, aerosol drift, or lighting.

226 Section 8. Subsection (3) of section 403.8532, Florida
227 Statutes, is amended to read:

228 403.8532 Drinking water state revolving loan fund; use;
229 rules.—

230 (3) The department may make, or request that the
231 corporation make, loans, grants, and deposits to community water
232 systems; for-profit, privately owned, or investor-owned water
233 systems; ~~nonprofit, transient, noncommunity water systems;~~ and
234 nonprofit, nontransient, noncommunity water systems to assist
235 them in planning, designing, and constructing public water
236 systems, ~~unless such public water systems are for-profit~~
237 ~~privately owned or investor-owned systems that regularly serve~~
238 ~~1,500 service connections or more within a single certified or~~
239 ~~franchised area. However, a for-profit privately owned or~~
240 ~~investor-owned public water system that regularly serves 1,500~~
241 ~~service connections or more within a single certified or~~
242 ~~franchised area may qualify for a loan only if the proposed~~



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243 ~~project will result in the consolidation of two or more public~~
244 ~~water systems.~~ The department may provide loan guarantees,
245 purchase loan insurance, and refinance local debt through the
246 issue of new loans for projects approved by the department.
247 Public water systems may borrow funds made available pursuant to
248 this section and may pledge any revenues or other adequate
249 security available to them to repay any funds borrowed.

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

253 1. At least 15 percent for qualifying small public water
254 systems.

255 2. Up to 15 percent for qualifying financially
256 disadvantaged communities.

257 (b) If an insufficient number of the projects for which
258 funds are reserved under this subsection have been submitted to
259 the department at the time the funding priority list authorized
260 under this section is adopted, the reservation of these funds no
261 longer applies. The department may award the unreserved funds as
262 otherwise provided in this section.

263 Section 9. Section 367.084, Florida Statutes, is amended to
264 read:

265 367.084 Rate adjustment orders.—~~An~~ ~~Any~~ order issued by the
266 commission adjusting general increases or reductions of the
267 rates and charges of a ~~any~~ utility or regulated company must be
268 reduced to writing, including any dissenting or concurring
269 opinions, within 20 days after the official vote of the
270 commission. Within such 20-day period, the commission shall also
271 mail a copy to the clerk of the circuit court of each county in



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272 which customers of the utility or regulated company are served
273 who are affected by the rate adjustment, which copy must be kept
274 on file and made available to the public. The commission shall
275 notify all parties of record in the proceeding of the date of
276 such mailing. Such an order is not considered rendered for
277 purposes of appeal, rehearing, or judicial review until the date
278 the copies are mailed as required by this section. This
279 provision does not delay the effective date of the order. Such
280 an order is considered rendered on the date of the official vote
281 for the purposes of s. 367.081(7) ~~s. 367.081(6)~~.

282 Section 10. Subsection (8) of section 367.171, Florida
283 Statutes, is amended to read:

284 367.171 Effectiveness of this chapter.-

285 (8) Each county that which is not subject to ~~excluded from~~
286 ~~the provisions of~~ this chapter shall regulate the rates of all
287 utilities in that county which would otherwise be subject to
288 regulation by the commission pursuant to s. 367.081(1), (2),
289 (3), and (7) and s. 367.165 ~~(6)~~. The county shall not regulate
290 the rates or charges of any system or facility that which would
291 otherwise be exempt from commission regulation pursuant to s.
292 367.022(2). For this purpose the county or its agency shall
293 proceed as though the county or agency is the commission.

294 Section 11. This act shall take effect July 1, 2015.

295
296 ===== T I T L E A M E N D M E N T =====

297 And the title is amended as follows:

298 Delete everything before the enacting clause
299 and insert:

300 A bill to be entitled



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301 An act relating to water and wastewater; creating s.
302 159.8105, F.S.; requiring the Division of Bond Finance
303 of the State Board of Administration to review the
304 allocation of private activity bonds to determine the
305 availability of additional allocation or reallocation
306 of bonds for water and wastewater infrastructure
307 projects; amending s. 212.08, F.S.; extending
308 specified tax exemptions to certain investor-owned
309 water and wastewater utilities; amending s. 367.022,
310 F.S.; exempting from regulation by the Florida Public
311 Service Commission a person who resells water service
312 to certain tenants or residents up to a specified
313 percentage or cost; amending s. 367.081, F.S.;
314 authorizing the creation of a utility reserve fund;
315 requiring the commission to adopt rules to govern the
316 implementation and management of the fund;
317 establishing criteria for adjusted rates; specifying
318 expense items that may be automatically increased or
319 decreased; authorizing the commission to establish, by
320 rule, additional specified expense items that cause an
321 automatic increase or decrease of utility rates;
322 requiring, rather than authorizing, the commission to
323 establish a leverage formula under certain
324 circumstances; restricting a utility from recovering
325 more than a certain percentage of reasonable rate case
326 expenses; amending s. 367.0814, F.S.; prohibiting the
327 commission from awarding rate case expense to recover
328 attorney fees or fees of other outside consultants in
329 certain circumstances; requiring the commission to



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330 adopt rules; amending s. 367.0816, F.S.; prohibiting a
331 utility from recovering certain expenses for more than
332 one rate case at a time; amending s. 367.111, F.S.;
333 authorizing the commission to review water quality and
334 wastewater service under certain circumstances;
335 amending s. 403.8532, F.S.; authorizing the Department
336 of Environmental Protection to require or request that
337 the Florida Water Pollution Control Financing
338 Corporation make loans, grants, and deposits to for-
339 profit, privately owned, or investor-owned water
340 systems; deleting current restrictions on such
341 activities; amending ss. 367.084 and 367.171, F.S.;
342 conforming cross-references; making technical changes;
343 providing an effective date.



786464

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2015	.	
	.	
	.	
	.	

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

- 1 **Senate Amendment to Amendment (691164)**
- 2
- 3 Delete line 135
- 4 and insert:
- 5 g. The fees charged for wastewater biosolids disposal.

By Senator Hays

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1 A bill to be entitled
2 An act relating to water and wastewater; creating s.
3 159.8105, F.S.; requiring the Division of Bond Finance
4 of the State Board of Administration to review the
5 allocation of private activity bonds to determine the
6 availability of additional allocation or reallocation
7 of bonds for water and wastewater infrastructure
8 projects; amending s. 212.08, F.S.; extending
9 specified tax exemptions to certain investor-owned
10 water and wastewater utilities; amending s. 367.022,
11 F.S.; exempting from regulation by the Florida Public
12 Service Commission a person who resells water service
13 to certain tenants or residents up to a specified
14 percentage or cost; amending s. 367.081, F.S.;
15 authorizing the creation of a utility reserve fund;
16 requiring the commission to adopt rules to govern the
17 implementation and management of the fund;
18 establishing criteria for adjusted rates; specifying
19 expense items that may be automatically increased or
20 decreased; authorizing the commission to establish, by
21 rule, additional specified expense items that cause an
22 automatic increase or decrease of utility rates;
23 requiring, rather than authorizing, the commission to
24 establish a leverage formula under certain
25 circumstances; restricting a utility from recovering
26 more than a certain percentage of reasonable rate case
27 expenses; amending s. 367.0814, F.S.; prohibiting the
28 commission from awarding rate case expense to recover
29 attorney fees or fees of other outside consultants in

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30 certain circumstances; requiring the commission to
31 adopt rules; amending s. 367.0816, F.S.; prohibiting a
32 utility from recovering rate case expenses for more
33 than one rate case at a time; amending s. 367.111,
34 F.S.; authorizing the commission to review water
35 quality and wastewater service under certain
36 circumstances; amending s. 403.8532, F.S.; authorizing
37 the Department of Environmental Protection to require
38 or request that the Florida Water Pollution Control
39 Financing Corporation make loans, grants, and deposits
40 to for-profit, privately owned or investor-owned water
41 systems; deleting current restrictions on such
42 activities; amending ss. 367.084 and 367.171, F.S.;
43 conforming cross-references; making technical changes;
44 providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Section 159.8105, Florida Statutes, is created
49 to read:

50 159.8105 Allocation of bonds for water and wastewater
51 infrastructure projects.—The division shall review the
52 allocation of private activity bonds to determine the
53 availability of additional allocation and reallocation of bonds
54 for water and wastewater infrastructure projects.

55 Section 2. Paragraph (nnn) is added to subsection (7) of
56 section 212.08, Florida Statutes, to read:

57 212.08 Sales, rental, use, consumption, distribution, and
58 storage tax; specified exemptions.—The sale at retail, the

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59 rental, the use, the consumption, the distribution, and the
60 storage to be used or consumed in this state of the following
61 are hereby specifically exempt from the tax imposed by this
62 chapter.

63 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
64 entity by this chapter do not inure to any transaction that is
65 otherwise taxable under this chapter when payment is made by a
66 representative or employee of the entity by any means,
67 including, but not limited to, cash, check, or credit card, even
68 when that representative or employee is subsequently reimbursed
69 by the entity. In addition, exemptions provided to any entity by
70 this subsection do not inure to any transaction that is
71 otherwise taxable under this chapter unless the entity has
72 obtained a sales tax exemption certificate from the department
73 or the entity obtains or provides other documentation as
74 required by the department. Eligible purchases or leases made
75 with such a certificate must be in strict compliance with this
76 subsection and departmental rules, and any person who makes an
77 exempt purchase with a certificate that is not in strict
78 compliance with this subsection and the rules is liable for and
79 shall pay the tax. The department may adopt rules to administer
80 this subsection.

81 (nnn) Investor-owned water and wastewater utilities.—Sales
82 or leases to an investor-owned water or wastewater utility owned
83 or operated by a Florida corporation are exempt from the tax
84 imposed by this chapter if the sole or primary function of the
85 corporation is to construct, maintain, or operate a water or
86 wastewater system in this state and if the goods or services
87 purchased or leased are used in this state.

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88 Section 3. Present subsections (9) through (12) of section
89 367.022, Florida Statutes, are redesignated as subsections (10)
90 through (13), respectively, and a new subsection (9) is added to
91 that section, to read:

92 367.022 Exemptions.—The following are not subject to
93 regulation by the commission as a utility nor are they subject
94 to the provisions of this chapter, except as expressly provided:

95 (9) A person who resells water service to his or her
96 tenants or to individually metered residents for a fee that does
97 not exceed the actual purchase price plus the actual cost of
98 meter reading and billing, not to exceed 9 percent of the actual
99 cost of service.

100 Section 4. Paragraph (c) is added to subsection (2) of
101 section 367.081, Florida Statutes, and paragraph (b) of
102 subsection (4) and subsection (7) of that section are amended,
103 to read:

104 367.081 Rates; procedure for fixing and changing.—

105 (2)

106 (c) In establishing rates for a utility, the commission may
107 create a utility reserve fund for infrastructure repair and
108 replacement for a utility, to be funded by a portion of the
109 rates charged by the utility, by a secured escrow account, or
110 through a letter of credit. The commission shall adopt rules to
111 govern the implementation, management, and utilization of the
112 fund, including, but not limited to, rules related to expenses
113 for which the fund may be used, segregation of reserve account
114 funds, requirements for a capital improvement plan, and
115 requirements for commission authorization before disbursements
116 are made from the fund.

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117 (4)

118 (b) The approved rates of a any utility ~~which receives all~~
119 ~~or any portion of its utility service from a governmental~~
120 ~~authority or from a water or wastewater utility regulated by the~~
121 ~~commission and which redistributes that service to its utility~~
122 ~~customers~~ shall be automatically increased or decreased without
123 hearing, upon verified notice to the commission 45 days prior to
124 its implementation of the increase or decrease. Such notice must
125 inform the commission which costs for a specified expense item
126 ~~that the rates charged by the governmental authority or other~~
127 ~~utility have changed. The approved rates of any utility which is~~
128 ~~subject to an increase or decrease in the rates or fees that it~~
129 ~~is charged for electric power, the amount of ad valorem taxes~~
130 ~~assessed against its used and useful property, the fees charged~~
131 ~~by the Department of Environmental Protection in connection with~~
132 ~~the National Pollutant Discharge Elimination System Program, or~~
133 ~~the regulatory assessment fees imposed upon it by the commission~~
134 ~~shall be increased or decreased by the utility, without action~~
135 ~~by the commission, upon verified notice to the commission 45~~
136 ~~days prior to its implementation of the increase or decrease~~
137 ~~that the rates charged by the supplier of the electric power or~~
138 ~~the taxes imposed by the governmental authority, or the~~
139 ~~regulatory assessment fees imposed upon it by the commission~~
140 ~~have changed. The new rates authorized shall reflect the amount~~
141 ~~of the change of the ad valorem taxes or rates imposed upon the~~
142 ~~utility by the governmental authority, other utility, or~~
143 ~~supplier of electric power, or the regulatory assessment fees~~
144 ~~imposed upon it by the commission. The approved rates of any~~
145 ~~utility shall be automatically increased, without hearing, upon~~

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146 ~~verified notice to the commission 45 days prior to~~
147 ~~implementation of the increase that costs have been incurred for~~
148 ~~water quality or wastewater quality testing required by the~~
149 ~~Department of Environmental Protection.~~

150 1. The new rates authorized shall reflect, on an amortized
151 or annual basis, as appropriate, the cost of, or the amount of
152 change in the cost of, the specified expense item, ~~required~~
153 ~~water quality or wastewater quality testing performed by~~
154 ~~laboratories approved by the Department of Environmental~~
155 ~~Protection for that purpose.~~ The new rates, however, shall not
156 reflect the costs of a specified expense item ~~any required water~~
157 ~~quality or wastewater quality testing~~ already included in a
158 utility's rates. Specified expense items that are eligible
159 include:

160 a. The approved rates of a utility that receives all or any
161 portion of its utility service from a governmental authority or
162 from a water or wastewater utility regulated by the commission
163 and which redistributes that service to its own customers.

164 b. The rates or fees that the utility is charged for
165 electric power.

166 c. The amount of ad valorem taxes assessed against used and
167 useful property.

168 d. The fees charged by the Department of Environmental
169 Protection in connection with the National Pollutant Discharge
170 Elimination System Program.

171 e. The regulatory assessment fees imposed by the
172 commission.

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

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175 g. The fees charged for wastewater biosolids disposal.

176 h. Costs incurred for a tank inspection required by the
177 Department of Environmental Protection or a local governmental
178 authority.

179 i. Operator and distribution license fees required by the
180 Department of Environmental Protection or a local governmental
181 authority.

182 j. Water or wastewater operating permit fees charged by the
183 Department of Environmental Protection or a local governmental
184 authority.

185 k. Consumptive or water use permit fees charged by a water
186 management district.

187 2. A utility may not use this procedure to increase its
188 rates as a result of an increase in a specific expense item
189 which occurred ~~water quality or wastewater quality testing or an~~
190 ~~increase in the cost of purchased water services, sewer~~
191 ~~services, or electric power or in assessed ad valorem taxes,~~
192 ~~which increase was initiated~~ more than 12 months before the
193 filing by the utility.

194 3. The commission may establish by rule additional specific
195 expense items that are outside the control of the utility and
196 have been imposed upon the utility by a federal, state, or local
197 law, rule, order, or notice. If the commission establishes such
198 rule, the commission shall, at least once every 5 years, review
199 the rule and determine if each expense item should continue to
200 be cause for an automatic increase or decrease and whether
201 additional items should be included.

202 4. ~~The provisions of~~ This subsection does ~~de~~ not prevent a
203 utility from seeking a change in rates pursuant to ~~the~~

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204 ~~provisions of~~ subsection (2).

205 (7) The commission shall determine the reasonableness of
206 rate case expenses and shall disallow all rate case expenses
207 determined to be unreasonable. No rate case expense determined
208 to be unreasonable shall be paid by a consumer. In determining
209 the reasonable level of rate case expense, the commission shall
210 consider the extent to which a utility has utilized or failed to
211 utilize ~~the provisions of~~ paragraph (4) (a) or paragraph (4) (b)
212 and such other criteria as it may establish by rule. A utility
213 may recover only up to 50 percent of rate case expenses that are
214 determined to be reasonable.

215 Section 5. Subsection (3) of section 367.0814, Florida
216 Statutes, is amended to read:

217 367.0814 Staff assistance in changing rates and charges;
218 interim rates.—

219 (3) The provisions of s. 367.081(1), (2) (a), and (3) shall
220 apply in determining the utility's rates and charges. However,
221 the commission shall not award rate case expenses to recover
222 attorney fees or fees of other outside consultants who are
223 engaged for purposes of preparing or filing the case if a
224 utility receives staff assistance in changing rates and charges
225 pursuant to this section, unless the Office of Public Counsel or
226 interested parties have intervened. The commission may award
227 rate case expenses for attorney fees or other outside consultant
228 fees if the fees are incurred for the purpose of providing
229 consulting or legal services to the utility after the initial
230 staff report is made available to customers and the utility. If
231 there is a protest or appeal by a party other than the utility,
232 the commission may award rate case expense to the utility for

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233 attorney fees or other outside consultant fees for costs
234 incurred after the protest or appeal. By December 31, 2015, the
235 commission must adopt rules to administer this subsection.

236 Section 6. Section 367.0816, Florida Statutes, is amended
237 to read:

238 367.0816 Recovery of rate case expenses.—

239 (1) The amount of rate case expense determined by the
240 commission pursuant to the provisions of this chapter to be
241 recovered through a public utilities rate shall be apportioned
242 for recovery over a period of 4 years. At the conclusion of the
243 recovery period, the rate of the public utility shall be reduced
244 immediately by the amount of rate case expense previously
245 included in rates.

246 (2) A utility may not recover the 4-year amortized rate
247 case expense for more than one rate case at any given time. If
248 the commission approves and a utility implements a rate change
249 from a subsequent rate case pursuant to this section, the
250 utility forfeits any unamortized rate case expense from a prior
251 rate case. The unamortized portion of rate case expense for a
252 prior case must be removed from rates before the implementation
253 of an additional amortized rate case expense for the most recent
254 rate proceeding.

255 Section 7. Subsection (3) is added to section 367.111,
256 Florida Statutes, to read:

257 367.111 Service.—

258 (3) The commission may, on its own motion or based on
259 complaints of customers of a water utility subject to its
260 jurisdiction, review water quality as it pertains to secondary
261 drinking water standards established by the Department of

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262 Environmental Protection. The commission may, on its own motion
263 or based on complaints of customers of a wastewater utility
264 subject to its jurisdiction, review wastewater service as it
265 pertain to odor, noise, aerosol drift, or lighting.

266 Section 8. Subsection (3) of section 403.8532, Florida
267 Statutes, is amended to read:

268 403.8532 Drinking water state revolving loan fund; use;
269 rules.—

270 (3) The department may make, or request that the
271 corporation make, loans, grants, and deposits to community water
272 systems; for-profit, privately owned or investor-owned water
273 systems; ~~nonprofit, transient, noncommunity water systems; and~~ and
274 nonprofit, nontransient, noncommunity water systems to assist
275 them in planning, designing, and constructing public water
276 ~~systems, unless such public water systems are for-profit~~
277 ~~privately owned or investor-owned systems that regularly serve~~
278 ~~1,500 service connections or more within a single certified or~~
279 ~~franchised area. However, a for-profit privately owned or~~
280 ~~investor-owned public water system that regularly serves 1,500~~
281 ~~service connections or more within a single certified or~~
282 ~~franchised area may qualify for a loan only if the proposed~~
283 ~~project will result in the consolidation of two or more public~~
284 ~~water systems.~~ The department may provide loan guarantees,
285 purchase loan insurance, and refinance local debt through the
286 issue of new loans for projects approved by the department.
287 Public water systems may borrow funds made available pursuant to
288 this section and may pledge any revenues or other adequate
289 security available to them to repay any funds borrowed.

290 (a) The department shall administer loans so that amounts

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291 credited to the Drinking Water Revolving Loan Trust Fund in any
292 fiscal year are reserved for the following purposes:

293 1. At least 15 percent for qualifying small public water
294 systems.

295 2. Up to 15 percent for qualifying financially
296 disadvantaged communities.

297 (b) If an insufficient number of the projects for which
298 funds are reserved under this subsection have been submitted to
299 the department at the time the funding priority list authorized
300 under this section is adopted, the reservation of these funds no
301 longer applies. The department may award the unreserved funds as
302 otherwise provided in this section.

303 Section 9. Section 367.084, Florida Statutes, is amended to
304 read:

305 367.084 Rate adjustment orders.—An ~~Any~~ order issued by the
306 commission adjusting general increases or reductions of the
307 rates and charges of a ~~any~~ utility or regulated company must be
308 reduced to writing, including any dissenting or concurring
309 opinions, within 20 days after the official vote of the
310 commission. Within such 20-day period, the commission shall also
311 mail a copy to the clerk of the circuit court of each county in
312 which customers of the utility or regulated company are served
313 who are affected by the rate adjustment, which copy must be kept
314 on file and made available to the public. The commission shall
315 notify all parties of record in the proceeding of the date of
316 such mailing. Such an order is not considered rendered for
317 purposes of appeal, rehearing, or judicial review until the date
318 the copies are mailed as required by this section. This
319 provision does not delay the effective date of the order. Such

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320 an order is considered rendered on the date of the official vote
321 for the purposes of s. 367.081(7) ~~s. 367.081(6)~~.

322 Section 10. Subsection (8) of section 367.171, Florida
323 Statutes, is amended to read:

324 367.171 Effectiveness of this chapter.-

325 (8) Each county that ~~which~~ is not subject to ~~excluded from~~
326 ~~the provisions of~~ this chapter shall regulate the rates of all
327 utilities in that county which would otherwise be subject to
328 regulation by the commission pursuant to s. 367.081(1), (2),
329 (3), and (7) ~~(6)~~. The county may ~~shall~~ not regulate the rates or
330 charges of any system or facility that ~~which~~ would otherwise be
331 exempt from commission regulation pursuant to s. 367.022(2). For
332 this purpose the county or its agency shall proceed as though
333 the county or agency is the commission.

334 Section 11. This act shall take effect July 1, 2015.

1 A bill to be entitled
2 An act relating to water resources; amending s.
3 373.019, F.S.; revising the definition of "water
4 resource development" to include self-suppliers;
5 amending s. 373.0421, F.S.; directing the Department
6 of Environmental Protection and water management
7 district governing boards to implement certain
8 recovery or prevention strategies concurrent with the
9 adoption of minimum flows and levels; providing
10 criteria for such recovery or prevention strategies;
11 requiring revisions to regional water supply plans to
12 be concurrent with relevant portions of the recovery
13 or prevention strategy; directing water management
14 districts to notify the department when water use
15 permit applications are denied for a specified reason;
16 providing for the review and update of regional water
17 supply plans in such cases; creating s. 373.0465,
18 F.S.; providing legislative intent; defining the term
19 "Central Florida Water Initiative Area"; providing for
20 an interagency agreement between the Department of
21 Environmental Protection, the St. Johns River Water
22 Management District, the South Florida Water
23 Management District, the Southwest Florida Water
24 Management District, and the Department of Agriculture
25 and Consumer Services to develop and implement a
26 multi-district regional water supply plan; providing

27 | plan criteria and requirements; providing
28 | applicability; amending s. 373.1501, F.S.; specifying
29 | authority of the South Florida Water Management
30 | District to allocate quantities of, and assign
31 | priorities for the use of, water within its
32 | jurisdiction; directing the district to provide
33 | recommendations to the United States Army Corps of
34 | Engineers when developing or implementing certain
35 | water control plans or regulation schedules; amending
36 | s. 373.2234, F.S.; directing water management district
37 | governing boards to give priority consideration to the
38 | identification of preferred water supply sources for
39 | certain water users; amending s. 373.233, F.S.;
40 | providing conditions under which the department and
41 | water management district governing boards are
42 | directed to give preference to certain applications;
43 | amending s. 373.4591, F.S.; providing priority
44 | consideration to certain public-private partnerships
45 | for water storage, groundwater recharge, and water
46 | quality improvements on private agricultural lands;
47 | amending s. 373.4595, F.S.; revising and providing
48 | definitions relating to the Northern Everglades and
49 | Estuaries Protection Program; clarifying provisions of
50 | the Lake Okeechobee Watershed Protection Program;
51 | directing the South Florida Water Management District
52 | to revise certain rules and provide for a water

53 quality monitoring program; revising provisions for
54 the Caloosahatchee River Watershed Protection Program
55 and the St. Lucie River Watershed Protection Program;
56 revising permitting and annual reporting requirements
57 relating to the Northern Everglades and Estuaries
58 Protection Program; amending s. 373.536, F.S.;
59 requiring a water management district to include an
60 annual funding plan in the water resource development
61 work program; directing the department to post the
62 work program on its website; amending s. 373.703,
63 F.S.; authorizing water management districts to
64 contract with private landowners for water production;
65 amending s. 373.705, F.S.; providing first
66 consideration for funding assistance to certain water
67 supply development projects; requiring governing
68 boards to include certain information in their annual
69 budget submittals; amending s. 373.707, F.S.;
70 authorizing water management districts to provide
71 technical and financial assistance to self-suppliers
72 and to waive certain construction costs of alternative
73 water supply development projects by certain water
74 users; amending s. 373.709, F.S.; requiring water
75 supply plans to include traditional and alternative
76 water supply project options that are technically and
77 financially feasible; directing the department to
78 include certain funding analyses and project

79 | explanations in regional water supply planning
80 | reports; creating part VIII of chapter 373, F.S.,
81 | relating to the Florida Springs and Aquifer Act;
82 | providing legislative findings and intent; defining
83 | terms; providing criteria and requirements for the
84 | development of recovery or prevention strategies for
85 | Priority Florida Springs; directing the department to
86 | perform water quality assessments, establish total
87 | maximum daily loads, and establish basin management
88 | action plans for Priority Florida Springs; providing
89 | criteria and requirements for agricultural best
90 | management practices within the geographic area
91 | encompassed by a basin management action plan that
92 | includes a Priority Florida Spring; requiring each
93 | person engaged in the occupation of agriculture within
94 | such geographic area to implement certain best
95 | management practices or conduct certain water quality
96 | monitoring; amending s. 403.061, F.S.; directing the
97 | department to adopt by rule a specific surface water
98 | classification to protect surface waters used for
99 | treated potable water supply; providing criteria for
100 | such rule; authorizing the reclassification of surface
101 | waters used for treated potable water supply
102 | notwithstanding such rule; amending s. 403.067, F.S.;
103 | directing the department to establish working groups
104 | in areas where sewage treatment and disposal systems

105 represent sources of excess nitrate-nitrite in certain
 106 springs or spring systems; providing duties for the
 107 working groups; requiring the department to award
 108 funds, subject to appropriation, for projects relating
 109 to reducing nutrient impacts; authorizing the
 110 department to consider certain factors in awarding
 111 funds for capital outlay projects; amending s.
 112 403.861, F.S.; directing the department to establish
 113 rules concerning the use of surface waters for public
 114 water supply; requiring permit applicants using
 115 surface water to provide potable public water supply
 116 to petition the department to reclassify the surface
 117 water or to certify that the potable public water
 118 supply will meet certain drinking water standards;
 119 directing the department to designate treated potable
 120 water supplies as a use of surface water; providing an
 121 effective date.

122
 123 Be It Enacted by the Legislature of the State of Florida:

124
 125 Section 1. Subsection (24) of section 373.019, Florida
 126 Statutes, is amended to read:

127 373.019 Definitions.—When appearing in this chapter or in
 128 any rule, regulation, or order adopted pursuant thereto, the
 129 term:

130 (24) "Water resource development" means the formulation

131 and implementation of regional water resource management
132 strategies, including the collection and evaluation of surface
133 water and groundwater data; structural and nonstructural
134 programs to protect and manage water resources; the development
135 of regional water resource implementation programs; the
136 construction, operation, and maintenance of major public works
137 facilities to provide for flood control, surface and underground
138 water storage, and groundwater recharge augmentation; and
139 related technical assistance to local governments, and to
140 government-owned and privately owned water utilities, and self-
141 suppliers.

142 Section 2. Subsection (2) of section 373.0421, Florida
143 Statutes, is amended, subsection (3) is renumbered as subsection
144 (5), and new subsections (3) and (4) are added to that section,
145 to read:

146 373.0421 Establishment and implementation of minimum flows
147 and levels.—

148 (2) If the existing flow or level in a water body is
149 below, or is projected to fall within 20 years below, the
150 applicable minimum flow or level established pursuant to s.
151 373.042, the department or governing board, concurrent with the
152 adoption of the minimum flow or level and as part of the
153 regional water supply plan described in s. 373.709, shall
154 expeditiously implement a recovery or prevention strategy, which
155 includes the development of additional water supplies and other
156 actions, consistent with the authority granted by this chapter,

157 to:

158 (a) Achieve recovery to the established minimum flow or
159 level as soon as practicable; or

160 (b) Prevent the existing flow or level from falling below
161 the established minimum flow or level.

162
163 The recovery or prevention strategy shall include phasing or a
164 timetable which will allow for the provision of sufficient water
165 supplies for all existing and projected reasonable-beneficial
166 uses, including development of additional water supplies and
167 implementation of conservation and other efficiency measures
168 concurrent with, to the maximum extent practical, and to offset,
169 reductions in permitted withdrawals, consistent with ~~the~~
170 ~~provisions of~~ this chapter. The recovery or prevention strategy
171 may not depend solely on water shortage restrictions declared
172 pursuant to s. 373.175 or s. 373.246.

173 (3) In order to ensure that sufficient water is available
174 for all existing and future reasonable-beneficial uses and the
175 natural systems, the applicable regional water supply plan
176 prepared pursuant to s. 373.709 shall be amended to include any
177 water supply development projects and water resource development
178 projects identified in a recovery or prevention strategy. Such
179 amendment shall be approved concurrently with relevant portions
180 of the recovery or prevention strategy.

181 (4) The water management district shall notify the
182 department if an application for a water use permit is denied

183 based upon the impact that the use will have on an established
 184 minimum flow or level. Upon receipt of such notice, the
 185 department shall, as soon as practicable and in cooperation with
 186 the water management district, conduct a review of the
 187 applicable regional water supply plan prepared pursuant to s.
 188 373.709. Such review shall include an assessment by the
 189 department of the adequacy of the plan to meet the legislative
 190 intent of s. 373.705(2)(b) that sufficient water be available
 191 for all existing and future reasonable-beneficial uses and the
 192 natural systems and that the adverse effects of competition for
 193 water supplies be avoided. If the department determines, based
 194 upon this review, that the regional water supply plan does not
 195 adequately address the legislative intent of s. 373.705(2)(b),
 196 the water management district shall immediately initiate an
 197 update of the plan consistent with s. 373.709.

198 Section 3. Section 373.0465, Florida Statutes, is created
 199 to read:

200 373.0465 Central Florida Water Initiative.-

201 (1) FINDINGS.—The Legislature finds that:

202 (a) Historically, the Floridan aquifer system has supplied
 203 the vast majority of the water used in the Central Florida
 204 Coordination Area, as defined in s. 373.0363, which includes
 205 southern Lake County and all of Orange, Osceola, Polk, and
 206 Seminole Counties.

207 (b) Because the boundaries of the St. Johns River Water
 208 Management District, the South Florida Water Management

209 District, and the Southwest Florida Water Management District
210 meet within the Central Florida Coordination Area, the three
211 districts and the Department of Environmental Protection have
212 worked cooperatively to determine that the Floridan aquifer
213 system is locally approaching the sustainable limits of use and
214 are exploring the need to develop sources of water to meet the
215 long-term water needs of the area.

216 (c) The Central Florida Water Initiative, a collaborative
217 process involving the Department of Environmental Protection,
218 the St. Johns River Water Management District, the South Florida
219 Water Management District, the Southwest Florida Water
220 Management District, the Department of Agriculture and Consumer
221 Services, regional public water supply utilities, and other
222 stakeholders, has developed a framework, as set forth in the
223 Central Florida Water Initiative Guiding Document of June 27,
224 2014, for a unified process to address the current and long-term
225 water supply needs of central Florida without causing harm to
226 the water resources and associated natural systems.

227 (d) In order to ensure that the Central Florida Water
228 Initiative participants continue to develop and implement an
229 effective and consistent long-term water resource planning,
230 development, and management strategy for the central Florida
231 area an interagency agreement between the Department of
232 Environmental Protection, the St. Johns River Water Management
233 District, the South Florida Water Management District, the
234 Southwest Florida Water Management District, and the Department

235 of Agriculture and Consumer Services is needed.

236 (e) Developing water sources as an alternative to
 237 continued reliance on the Floridan aquifer will benefit human
 238 and natural systems beyond the boundaries of the Central Florida
 239 Water Initiative.

240 (2) CENTRAL FLORIDA WATER INITIATIVE INTERAGENCY
 241 AGREEMENT.—

242 (a) As used in this subsection, the term "Central Florida
 243 Water Initiative Area" means all of Orange, Osceola, Polk, and
 244 Seminole Counties, and southern Lake County, as designated by
 245 the Southwest Florida Water Management District, the South
 246 Florida Water Management District, and the St. Johns River Water
 247 Management District.

248 (b) By December 31, 2015, the Department of Environmental
 249 Protection shall complete a Central Florida Water Initiative
 250 interagency agreement pursuant to s. 373.046 with the St. Johns
 251 River Water Management District, the South Florida Water
 252 Management District, the Southwest Florida Water Management
 253 District, and the Department of Agriculture and Consumer
 254 Services. The interagency agreement shall apply only to the
 255 Central Florida Water Initiative Area and shall be adopted
 256 pursuant to chapter 120 in the same manner as a rule.

257 (c) The interagency agreement shall:

258 1. Provide for a continuation of the collaborative process
 259 among the state agencies, affected water management districts,
 260 regional public water supply utilities, and other stakeholders.

261 2. Include the guiding principles and goals set forth in
262 the Central Florida Water Initiative Guiding Document of June
263 27, 2014, and build upon the work that has already been
264 accomplished by the Central Florida Water Initiative
265 participants in addressing these guiding principles and goals.

266 3. Require, as set forth in the Central Florida Water
267 Initiative Guiding Document of June 27, 2014, the development
268 and implementation of a single multi-district regional water
269 supply plan, including any needed recovery or prevention
270 strategies and the approved list of water resource or water
271 supply development projects, by the affected water management
272 districts.

273 4. Require uniform rules for regulatory programs that
274 include:

275 a. A single hydrologic model to assess the availability of
276 groundwater.

277 b. A single, uniform definition of "harmful to the water
278 resources" consistent with the term's usage in s. 373.219.

279 c. A single reference condition.

280 d. A single process for permit reviews.

281 e. A single, consistent process, as appropriate, to set
282 minimum flows and levels and reservations.

283 f. A single method for calculating residential per capita
284 water use.

285 (d) In developing the water supply planning and regulatory
286 program consistent with the goals set forth in paragraph (c),

287 the parties to the interagency agreement shall:

288 1. Consider limitations on groundwater use together with
289 opportunities for new, increased, or redistributed groundwater
290 uses that are based on environmental constraints.

291 2. Establish a coordinated process for the identification
292 of new or revised environmental constraints.

293 3. Consider existing prevention and recovery strategies.

294 4. Include a list of water supply options sufficient to
295 meet the water needs of all existing and future reasonable-
296 beneficial uses which avoid environmental harm and are
297 consistent with the public interest.

298 5. Identify which of the water supply sources are
299 preferred water supply sources pursuant to s. 373.2234.

300 6. Provide for partnership agreements among the Department
301 of Environmental Protection, the Department of Agriculture and
302 Consumer Services, water management districts, and water users.

303 (e) Water management district planning and regulatory
304 programs developed pursuant to the interagency agreement shall
305 be approved or adopted as required under this chapter. However,
306 such planning and regulatory programs may not serve to modify
307 planning and regulatory programs in areas of the affected
308 districts that are not within the Central Florida Water
309 Initiative Area, but may include interregional projects located
310 outside the Central Florida Water Initiative Area that are
311 consistent with planning and regulatory programs in the areas in
312 which they are located.

313 Section 4. Subsection (4) of section 373.1501, Florida
 314 Statutes, is amended, subsections (7) and (8) are renumbered as
 315 subsections (8) and (9), respectively, and a new subsection (7)
 316 is added to that section, to read:

317 373.1501 South Florida Water Management District as local
 318 sponsor.—

319 (4) The district is authorized to act as local sponsor of
 320 the project for those project features within the district as
 321 provided in this subsection and subject to the oversight of the
 322 department as further provided in s. 373.026. The district shall
 323 continue to exercise the authority of the state to allocate
 324 quantities of water within its jurisdiction, including the water
 325 supply in relation to the project, and be responsible for
 326 allocating water and assigning priorities among the other water
 327 uses served by the project pursuant to state law. The district
 328 may:

329 (a) Act as local sponsor for all project features
 330 previously authorized by Congress.~~†~~

331 (b) Continue data gathering, analysis, research, and
 332 design of project components, participate in preconstruction
 333 engineering and design documents for project components, and
 334 further refine the Comprehensive Plan of the restudy as a guide
 335 and framework for identifying other project components.~~†~~

336 (c) Construct pilot projects that will assist in
 337 determining the feasibility of technology included in the
 338 Comprehensive Plan of the restudy.~~†~~ and

339 (d) Act as local sponsor for project components.

340 (7) When developing or implementing water control plans or
341 regulation schedules required for the operation of the project,
342 the district shall provide recommendations to the United States
343 Army Corps of Engineers that are consistent with all district
344 programs and plans.

345 Section 5. Section 373.2234, Florida Statutes, is amended
346 to read:

347 373.2234 Preferred water supply sources.—

348 (1) The governing board of a water management district is
349 authorized to adopt rules that identify preferred water supply
350 sources for consumptive uses for which there is sufficient data
351 to establish that a preferred source will provide a substantial
352 new water supply to meet the existing and projected reasonable-
353 beneficial uses of a water supply planning region identified
354 pursuant to s. 373.709(1), while sustaining existing water
355 resources and natural systems. At a minimum, such rules must
356 contain a description of the preferred water supply source and
357 an assessment of the water the preferred source is projected to
358 produce.

359 (2) (a) If an applicant proposes to use a preferred water
360 supply source, that applicant's proposed water use is subject to
361 s. 373.223(1), except that the proposed use of a preferred water
362 supply source must be considered by a water management district
363 when determining whether a permit applicant's proposed use of
364 water is consistent with the public interest pursuant to s.

365 373.223(1)(c).

366 (b) The governing board of a water management district
 367 shall consider the identification of preferred water supply
 368 sources for water users for whom access to or development of new
 369 water supplies is not technically or financially feasible.

370 (c) A consumptive use permit issued for the use of a
 371 preferred water supply source must be granted, when requested by
 372 the applicant, for at least a 20-year period and may be subject
 373 to the compliance reporting provisions of s. 373.236(4).

374 (3)(a) Nothing in This section does not shall be construed
 375 to:

376 1. Exempt the use of preferred water supply sources from
 377 the provisions of ss. 373.016(4) and 373.223(2) and (3), or be
 378 construed to

379 2. Provide that permits issued for the use of a
 380 nonpreferred water supply source must be issued for a duration
 381 of less than 20 years or that the use of a nonpreferred water
 382 supply source is not consistent with the public interest.

383 3. Additionally, nothing in this section shall be
 384 interpreted to Require the use of a preferred water supply
 385 source or to restrict or prohibit the use of a nonpreferred
 386 water supply source.

387 (b) Rules adopted by the governing board of a water
 388 management district to implement this section shall specify that
 389 the use of a preferred water supply source is not required and
 390 that the use of a nonpreferred water supply source is not

391 restricted or prohibited.

392 Section 6. Subsection (2) of section 373.233, Florida
393 Statutes, is amended to read:

394 373.233 Competing applications.—

395 (2) (a) ~~If In the event that~~ two or more competing
396 applications qualify equally under ~~the provisions of~~ subsection
397 (1), the governing board or the department shall give preference
398 to a renewal application over an initial application.

399 (b) If two or more competing applications qualify equally
400 under subsection (1) and none of the competing applications is a
401 renewal application, the governing board or the department shall
402 give preference to the use for which an alternate water supply
403 is not technically or financially feasible.

404 Section 7. Section 373.4591, Florida Statutes, is amended
405 to read:

406 373.4591 Improvements on private agricultural lands.—

407 (1) The Legislature encourages public-private partnerships
408 to accomplish water storage, groundwater recharge, and water
409 quality improvements on private agricultural lands. Priority
410 consideration shall be given to public-private partnerships
411 that:

412 (a) Store or treat water on private lands for purposes of
413 hydrologic improvement, water quality, or water supply;

414 (b) Provide critical ground water recharge; or

415 (c) Provide for changes in land use to activities that
416 minimize nutrient loads and maximize water conservation.

417 (2) (a) When an agreement is entered into between the
418 department, a water management district, or the Department of
419 Agriculture and Consumer Services and a private landowner to
420 establish ~~such~~ a public-private partnership that may create or
421 impact wetlands or other surface waters, a baseline condition
422 determining the extent of wetlands and other surface waters on
423 the property shall be established and documented in the
424 agreement before improvements are constructed.

425 (b) When an agreement is entered into between the
426 Department of Agriculture and Consumer Services and a private
427 landowner to implement best management practices pursuant to s.
428 403.067(7)(c), a baseline condition determining the extent of
429 wetlands and other surface water on the property may be
430 established at the option and expense of the private landowner
431 and documented in the agreement before improvements are
432 constructed. The Department of Agriculture and Consumer Services
433 shall submit the landowner's proposed baseline condition
434 documentation to the lead agency for review and approval, and
435 the agency shall use its best efforts to complete the review
436 within 45 days.

437 (3) The Department of Agriculture and Consumer Services,
438 the department, and the water management districts shall provide
439 a process for reviewing these requests in the timeframe
440 specified. The determination of a baseline condition shall be
441 conducted using the methods set forth in the rules adopted
442 pursuant to s. 373.421. The baseline condition documented in an

443 agreement shall be considered the extent of wetlands and other
444 surface waters on the property for the purpose of regulation
445 under this chapter for the duration of the agreement and after
446 its expiration.

447 Section 8. Paragraph (h) of subsection (1) and subsections
448 (2) through (7) of section 373.4595, Florida Statutes, are
449 amended to read:

450 373.4595 Northern Everglades and Estuaries Protection
451 Program.—

452 (1) FINDINGS AND INTENT.—

453 (h) The Legislature finds that the expeditious
454 implementation of the Lake Okeechobee Watershed Protection
455 Program, the Caloosahatchee River Watershed Protection Program,
456 ~~Plan~~ and the St. Lucie River Watershed Protection Program Plans
457 is needed to improve the quality, quantity, timing, and
458 distribution of water in the northern Everglades ecosystem and
459 that this section, in conjunction with s. 403.067, including the
460 implementation of the plans developed and approved pursuant to
461 subsections (3) and (4), and any related basin management action
462 plan developed and implemented pursuant to s. 403.067(7)(a),
463 provide a reasonable means of achieving the total maximum daily
464 load requirements and achieving and maintaining compliance with
465 state water quality standards.

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

467 (a) "Best management practice" means a practice or
468 combination of practices determined by the coordinating

469 agencies, based on research, field-testing, and expert review,
 470 to be the most effective and practicable on-location means,
 471 including economic and technological considerations, for
 472 improving water quality in agricultural and urban discharges.
 473 Best management practices for agricultural discharges shall
 474 reflect a balance between water quality improvements and
 475 agricultural productivity.

476 (b) "Biosolids" means the solid, semisolid, or liquid
 477 residue generated during the treatment of domestic wastewater in
 478 a domestic wastewater treatment facility, formerly known as
 479 "domestic wastewater residuals" or "residuals," and includes
 480 products and treated material from biosolids treatment
 481 facilities and septage management facilities regulated by the
 482 department. The term does not include the treated effluent or
 483 reclaimed water from a domestic wastewater treatment facility,
 484 solids removed from pump stations and lift stations, screenings
 485 and grit removed from the preliminary treatment components of
 486 domestic wastewater treatment facilities, or ash generated
 487 during the incineration of biosolids.

488 (c) ~~(b)~~ "Caloosahatchee River watershed" means the
 489 Caloosahatchee River, its tributaries, its estuary, and the area
 490 within Charlotte, Glades, Hendry, and Lee Counties from which
 491 surface water flow is directed or drains, naturally or by
 492 constructed works, to the river, its tributaries, or its
 493 estuary.

494 (d) ~~(e)~~ "Coordinating agencies" means the Department of

495 Agriculture and Consumer Services, the Department of
 496 Environmental Protection, and the South Florida Water Management
 497 District.

498 (e)~~(d)~~ "Corps of Engineers" means the United States Army
 499 Corps of Engineers.

500 (f)~~(e)~~ "Department" means the Department of Environmental
 501 Protection.

502 (g)~~(f)~~ "District" means the South Florida Water Management
 503 District.

504 ~~(g) "District's WOD program" means the program implemented~~
 505 ~~pursuant to rules adopted as authorized by this section and ss.~~
 506 ~~373.016, 373.044, 373.085, 373.086, 373.109, 373.113, 373.118,~~
 507 ~~373.451, and 373.453, entitled "Works of the District Basin."~~

508 (h) "Lake Okeechobee Watershed Construction Project" means
 509 the construction project developed pursuant to this section
 510 ~~paragraph (3)(b).~~

511 (i) "Lake Okeechobee Watershed Protection Plan" means the
 512 Lake Okeechobee Watershed Construction Project and the Lake
 513 Okeechobee Watershed Research and Water Quality Monitoring
 514 Program ~~plan developed pursuant to this section and ss. 373.451-~~
 515 ~~373.459.~~

516 (j) "Lake Okeechobee watershed" means Lake Okeechobee, its
 517 tributaries, and the area within which surface water flow is
 518 directed or drains, naturally or by constructed works, to the
 519 lake or its tributaries.

520 ~~(k) "Lake Okeechobee Watershed Phosphorus Control Program"~~

521 ~~means the program developed pursuant to paragraph (3)(c).~~

522 (k)~~(l)~~ "Northern Everglades" means the Lake Okeechobee
 523 watershed, the Caloosahatchee River watershed, and the St. Lucie
 524 River watershed.

525 (l)~~(m)~~ "Project component" means any structural or
 526 operational change, resulting from the Restudy, to the Central
 527 and Southern Florida Project as it existed and was operated as
 528 of January 1, 1999.

529 (m)~~(n)~~ "Restudy" means the Comprehensive Review Study of
 530 the Central and Southern Florida Project, for which federal
 531 participation was authorized by the Federal Water Resources
 532 Development Acts of 1992 and 1996 together with related
 533 Congressional resolutions and for which participation by the
 534 South Florida Water Management District is authorized by s.
 535 373.1501. The term includes all actions undertaken pursuant to
 536 the aforementioned authorizations which will result in
 537 recommendations for modifications or additions to the Central
 538 and Southern Florida Project.

539 (n)~~(o)~~ "River Watershed Protection Plans" means the
 540 Caloosahatchee River Watershed Protection Plan and the St. Lucie
 541 River Watershed Protection Plan developed pursuant to this
 542 section.

543 (o) "Soil amendment" means any substance or mixture of
 544 substances sold or offered for sale for soil enriching or
 545 corrective purposes, intended or claimed to be effective in
 546 promoting or stimulating plant growth, increasing soil or plant

547 productivity, improving the quality of crops, or producing any
548 chemical or physical change in the soil, except amendments,
549 conditioners, additives, and related products that are derived
550 solely from inorganic sources and that contain no recognized
551 plant nutrients.

552 (p) "St. Lucie River watershed" means the St. Lucie River,
553 its tributaries, its estuary, and the area within Martin,
554 Okeechobee, and St. Lucie Counties from which surface water flow
555 is directed or drains, naturally or by constructed works, to the
556 river, its tributaries, or its estuary.

557 (q) "Total maximum daily load" means the sum of the
558 individual wasteload allocations for point sources and the load
559 allocations for nonpoint sources and natural background adopted
560 pursuant to s. 403.067. Before ~~Prior to~~ determining individual
561 wasteload allocations and load allocations, the maximum amount
562 of a pollutant that a water body or water segment can assimilate
563 from all sources without exceeding water quality standards must
564 first be calculated.

565 (3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.—The Lake
566 Okeechobee Watershed Protection Program shall consist of the
567 Lake Okeechobee Watershed Protection Plan, the Lake Okeechobee
568 Basin Management Action Plan adopted pursuant to s. 403.067, the
569 Lake Okeechobee Exotic Species Control Program, and the Lake
570 Okeechobee Internal Phosphorus Management Program. The Lake
571 Okeechobee Basin Management Action Plan adopted pursuant to s.
572 403.067 shall be the component of the Lake Okeechobee Watershed

573 Protection ~~A protection~~ Program for Lake Okeechobee that
574 achieves phosphorus load reductions for Lake Okeechobee ~~shall be~~
575 ~~immediately implemented as specified in this subsection.~~ The
576 Lake Okeechobee Watershed Protection Program shall address the
577 reduction of phosphorus loading to the lake from both internal
578 and external sources. Phosphorus load reductions shall be
579 achieved through a phased program of implementation. ~~Initial~~
580 ~~implementation actions shall be technology-based, based upon a~~
581 ~~consideration of both the availability of appropriate technology~~
582 ~~and the cost of such technology, and shall include phosphorus~~
583 ~~reduction measures at both the source and the regional level.~~
584 ~~The initial phase of phosphorus load reductions shall be based~~
585 ~~upon the district's Technical Publication 81-2 and the~~
586 ~~district's WOD program, with subsequent phases of phosphorus~~
587 ~~load reductions based upon the total maximum daily loads~~
588 ~~established in accordance with s. 403.067.~~ In the development
589 and administration of the Lake Okeechobee Watershed Protection
590 Program, the coordinating agencies shall maximize opportunities
591 provided by federal cost-sharing programs and opportunities for
592 partnerships with the private sector.

593 (a) Lake Okeechobee Watershed Protection Plan.—In order to
594 protect and restore surface water resources, the district, in
595 cooperation with the other coordinating agencies, shall complete
596 a Lake Okeechobee Watershed Protection Plan in accordance with
597 this section and ss. 373.451-373.459. Beginning March 1, 2020,
598 and every 5 years thereafter, the district shall update the Lake

599 Okeechobee Watershed Protection Plan to ensure that it is
 600 consistent with the Lake Okeechobee Basin Management Action Plan
 601 adopted pursuant to s. 403.067. The Lake Okeechobee Watershed
 602 Protection Plan shall identify the geographic extent of the
 603 watershed, be coordinated with the plans developed pursuant to
 604 paragraphs (4) (a) and (c) ~~(b)~~, and include the Lake Okeechobee
 605 Watershed Construction Project and the Lake Okeechobee Watershed
 606 Research and Water Quality Monitoring Program ~~contain an~~
 607 ~~implementation schedule for subsequent phases of phosphorus load~~
 608 ~~reduction consistent with the total maximum daily loads~~
 609 ~~established in accordance with s. 403.067. The plan shall~~
 610 consider and build upon a review and analysis of ~~the following:~~
 611 1. the performance of projects constructed during Phase I
 612 and Phase II of the Lake Okeechobee Watershed Construction
 613 Project, pursuant to subparagraph 1.; ~~paragraph (b)~~.
 614 2. relevant information resulting from the Lake Okeechobee
 615 Basin Management Action Plan ~~Watershed Phosphorus Control~~
 616 ~~Program~~, pursuant to paragraph (b); ~~(e)~~.
 617 3. relevant information resulting from the Lake Okeechobee
 618 Watershed Research and Water Quality Monitoring Program,
 619 pursuant to subparagraph 2.; ~~paragraph (d)~~.
 620 4. relevant information resulting from the Lake Okeechobee
 621 Exotic Species Control Program, pursuant to paragraph (c); and
 622 ~~(e)~~.
 623 5. relevant information resulting from the Lake Okeechobee
 624 Internal Phosphorus Management Program, pursuant to paragraph

625 (d) ~~(f)~~.

626 1.~~(b)~~ Lake Okeechobee Watershed Construction Project.—To
627 improve the hydrology and water quality of Lake Okeechobee and
628 downstream receiving waters, including the Caloosahatchee and
629 St. Lucie Rivers and their estuaries, the district, in
630 cooperation with the other coordinating agencies, shall design
631 and construct the Lake Okeechobee Watershed Construction
632 Project. The project shall include:

633 a.1. Phase I.—Phase I of the Lake Okeechobee Watershed
634 Construction Project shall consist of a series of project
635 features consistent with the recommendations of the South
636 Florida Ecosystem Restoration Working Group's Lake Okeechobee
637 Action Plan. Priority basins for such projects include S-191, S-
638 154, and Pools D and E in the Lower Kissimmee River. In order to
639 obtain phosphorus load reductions to Lake Okeechobee as soon as
640 possible, the following actions shall be implemented:

641 (I)a. The district shall serve as a full partner with the
642 Corps of Engineers in the design and construction of the Grassy
643 Island Ranch and New Palm Dairy stormwater treatment facilities
644 as components of the Lake Okeechobee Water Retention/Phosphorus
645 Removal Critical Project. The Corps of Engineers shall have the
646 lead in design and construction of these facilities. Should
647 delays be encountered in the implementation of either of these
648 facilities, the district shall notify the department and
649 recommend corrective actions.

650 (II)b. The district shall obtain permits and complete

651 construction of two of the isolated wetland restoration projects
652 that are part of the Lake Okeechobee Water Retention/Phosphorus
653 Removal Critical Project. The additional isolated wetland
654 projects included in this critical project shall further reduce
655 phosphorus loading to Lake Okeechobee.

656 (III)e. The district shall work with the Corps of
657 Engineers to expedite initiation of the design process for the
658 Taylor Creek/Nubbins Slough Reservoir Assisted Stormwater
659 Treatment Area, a project component of the Comprehensive
660 Everglades Restoration Plan. The district shall propose to the
661 Corps of Engineers that the district take the lead in the design
662 and construction of the Reservoir Assisted Stormwater Treatment
663 Area and receive credit towards the local share of the total
664 cost of the Comprehensive Everglades Restoration Plan.

665 b.2. Phase II technical plan and construction. ~~By February~~
666 ~~1, 2008,~~ The district, in cooperation with the other
667 coordinating agencies, shall develop a detailed technical plan
668 for Phase II of the Lake Okeechobee Watershed Construction
669 Project which provides the basis for the Lake Okeechobee Basin
670 Management Action Plan adopted by the department pursuant to s.
671 403.067. The detailed technical plan shall include measures for
672 the improvement of the quality, quantity, timing, and
673 distribution of water in the northern Everglades ecosystem,
674 including the Lake Okeechobee watershed and the estuaries, and
675 for facilitating the achievement of water quality standards. Use
676 of cost-effective biologically based, hybrid wetland/chemical

677 and other innovative nutrient control technologies shall be
678 incorporated in the plan where appropriate. The detailed
679 technical plan shall also include a Process Development and
680 Engineering component to finalize the detail and design of Phase
681 II projects and identify additional measures needed to increase
682 the certainty that the overall objectives for improving water
683 quality and quantity can be met. Based on information and
684 recommendations from the Process Development and Engineering
685 component, the Phase II detailed technical plan shall be
686 periodically updated. Phase II shall include construction of
687 additional facilities in the priority basins identified in sub-
688 subparagraph 1.a. subparagraph 1., as well as facilities for
689 other basins in the Lake Okeechobee watershed. ~~This detailed~~
690 ~~technical plan will require legislative ratification pursuant to~~
691 ~~paragraph (i).~~ The technical plan shall:

692 (I)a. Identify Lake Okeechobee Watershed Construction
693 Project facilities designed to contribute to achieving all
694 applicable total maximum daily loads established pursuant to s.
695 403.067 within the Lake Okeechobee watershed.

696 (II)b. Identify the size and location of all such Lake
697 Okeechobee Watershed Construction Project facilities.

698 (III)c. Provide a construction schedule for all such Lake
699 Okeechobee Watershed Construction Project facilities, including
700 the sequencing and specific timeframe for construction of each
701 Lake Okeechobee Watershed Construction Project facility.

702 (IV)d. Provide a schedule for the acquisition of lands or

703 sufficient interests necessary to achieve the construction
 704 schedule.

705 (V)~~e~~. Provide a detailed schedule of costs associated with
 706 the construction schedule.

707 (VI)~~f~~. Identify, to the maximum extent practicable,
 708 impacts on wetlands and state-listed species expected to be
 709 associated with construction of such facilities, including
 710 potential alternatives to minimize and mitigate such impacts, as
 711 appropriate.

712 (VII)~~g~~. Provide for additional measures, including
 713 voluntary water storage and quality improvements on private
 714 land, to increase water storage and reduce excess water levels
 715 in Lake Okeechobee and to reduce excess discharges to the
 716 estuaries.

717 (VIII) ~~The technical plan shall also~~ Develop the
 718 appropriate water quantity storage goal to achieve the desired
 719 Lake Okeechobee range of lake levels and inflow volumes to the
 720 Caloosahatchee and St. Lucie estuaries while meeting the other
 721 water-related needs of the region, including water supply and
 722 flood protection.

723 (IX)~~h~~. Provide for additional source controls needed to
 724 enhance performance of the Lake Okeechobee Watershed
 725 Construction Project facilities. Such additional source controls
 726 shall be incorporated into the Lake Okeechobee Basin Management
 727 Action Plan ~~Watershed Phosphorous Control Program~~ pursuant to
 728 paragraph (b) ~~(e)~~.

729 c.3. Evaluation.—Within 5 years after the adoption of the
730 Lake Okeechobee Basin Management Action Plan pursuant to s.
731 403.067 and every 5 ~~By January 1, 2004, and every 3~~ years
732 thereafter, the department ~~district~~, in cooperation with the
733 other coordinating agencies, shall conduct an evaluation of the
734 Lake Okeechobee Watershed Construction Project and identify any
735 further load reductions necessary to achieve compliance with the
736 ~~all~~ Lake Okeechobee ~~watershed~~ total maximum daily loads
737 established pursuant to s. 403.067. ~~Additionally,~~ The district
738 shall identify modifications to facilities of the Lake
739 Okeechobee Watershed Construction Project as appropriate to meet
740 the total maximum daily loads. Modifications to the Lake
741 Okeechobee Watershed Construction Project resulting from this
742 evaluation shall be incorporated into the Lake Okeechobee Basin
743 Management Action Plan and ~~The evaluation shall be included in~~
744 the applicable annual progress report submitted pursuant to
745 subsection (6).

746 d.4. Coordination and review.—To ensure the timely
747 implementation of the Lake Okeechobee Watershed Construction
748 Project, the design of project facilities shall be coordinated
749 with the department and other interested parties, including
750 affected local governments, to the maximum extent practicable.
751 Lake Okeechobee Watershed Construction Project facilities shall
752 be reviewed and commented upon by the department before ~~prior to~~
753 the execution of a construction contract by the district for
754 that facility.

755 2. Lake Okeechobee Watershed Research and Water Quality
756 Monitoring Program.—The coordinating agencies shall implement a
757 Lake Okeechobee Watershed Research and Water Quality Monitoring
758 Program. Results from the program shall be used by the
759 department, in cooperation with the other coordinating agencies,
760 to make modifications to the Lake Okeechobee Basin Management
761 Action Plan adopted pursuant to s. 403.067, as appropriate. The
762 program shall:

763 a. Evaluate all available existing water quality data
764 concerning total phosphorus in the Lake Okeechobee watershed,
765 develop a water quality baseline to represent existing
766 conditions for total phosphorus, monitor long-term ecological
767 changes, including water quality for total phosphorus, and
768 measure compliance with water quality standards for total
769 phosphorus, including any applicable total maximum daily load
770 for the Lake Okeechobee watershed as established pursuant to s.
771 403.067. Beginning March 1, 2020, and every 5 years thereafter,
772 the department shall reevaluate water quality and quantity data
773 to ensure that the appropriate projects are being designated and
774 incorporated into the Lake Okeechobee Basin Management Action
775 Plan adopted pursuant to s. 403.067. The district shall
776 implement a total phosphorus monitoring program at appropriate
777 structures owned or operated by the district and within the Lake
778 Okeechobee watershed.

779 b. Develop a Lake Okeechobee water quality model that
780 reasonably represents the phosphorus dynamics of Lake Okeechobee

781 and incorporates an uncertainty analysis associated with model
782 predictions.

783 c. Determine the relative contribution of phosphorus from
784 all identifiable sources and all primary and secondary land
785 uses.

786 d. Conduct an assessment of the sources of phosphorus from
787 the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their
788 relative contribution to the water quality of Lake Okeechobee.
789 The results of this assessment shall be used by the coordinating
790 agencies as part of the Lake Okeechobee Basin Management Action
791 Plan adopted pursuant to s. 403.067 to develop interim measures,
792 best management practices, or regulations, as applicable.

793 e. Assess current water management practices within the
794 Lake Okeechobee watershed and develop recommendations for
795 structural and operational improvements. Such recommendations
796 shall balance water supply, flood control, estuarine salinity,
797 maintenance of a healthy lake littoral zone, and water quality
798 considerations.

799 f. Evaluate the feasibility of alternative nutrient
800 reduction technologies, including sediment traps, canal and
801 ditch maintenance, fish production or other aquaculture,
802 bioenergy conversion processes, and algal or other biological
803 treatment technologies and include any alternative nutrient
804 reduction technologies determined to be feasible in the Lake
805 Okeechobee Basin Management Action Plan adopted pursuant to s.
806 403.067.

807 g. Conduct an assessment of the water volumes and timing
808 from the Lake Okeechobee watershed and their relative
809 contribution to the water level changes in Lake Okeechobee and
810 to the timing and volume of water delivered to the estuaries.

811 (b) ~~(e)~~ Lake Okeechobee Basin Management Action Plan
812 Watershed Phosphorus Control Program.—The Lake Okeechobee Basin
813 Management Action Plan adopted pursuant to s. 403.067 shall be
814 the watershed phosphorus control component for Lake Okeechobee
815 and shall be ~~Program is~~ designed to be a multifaceted approach
816 to reducing phosphorus loads by improving the management of
817 phosphorus sources within the Lake Okeechobee watershed through
818 implementation of regulations and best management practices,
819 continued development and continued implementation of improved
820 best management practices, improvement and restoration of the
821 hydrologic function of natural and managed systems, and use
822 utilization of alternative technologies for nutrient reduction.
823 The plan shall contain an implementation schedule for pollutant
824 load reductions consistent with the adopted total maximum daily
825 load. The coordinating agencies shall develop an interagency
826 agreement pursuant to ss. 373.046 and 373.406 that is consistent
827 with the department taking the lead on water quality protection
828 measures through the Lake Okeechobee Basin Management Action
829 Plan adopted pursuant to s. 403.067; the district taking the
830 lead on hydrologic improvements pursuant to paragraph (3) (a);
831 and the Department of Agriculture and Consumer Services taking
832 the lead on agricultural interim measures, best management

833 practices, and other measures adopted pursuant to s. 403.067.
834 The interagency agreement shall specify how best management
835 practices for nonagricultural nonpoint sources are developed and
836 how all best management practices are implemented and verified
837 consistent with s. 403.067 and this section. The interagency
838 agreement shall address measures to be taken by the coordinating
839 agencies during any best management practice reevaluation
840 performed pursuant to subparagraphs 5. and 10. The department
841 shall use best professional judgment in making the initial
842 determination of best management practice effectiveness. The
843 coordinating agencies may develop an intergovernmental agreement
844 with local governments to implement nonagricultural nonpoint
845 source best management practices within their respective
846 geographic boundaries. The coordinating agencies shall
847 facilitate the application of federal programs that offer
848 opportunities for water quality treatment, including
849 preservation, restoration, or creation of wetlands on
850 agricultural lands.

851 1. Agricultural nonpoint source best management practices,
852 developed in accordance with s. 403.067 and designed to achieve
853 the objectives of the Lake Okeechobee Watershed Protection
854 Program as part of a phased approach of management strategies
855 within the Lake Okeechobee Basin Management Action Plan, shall
856 be implemented on an expedited basis. ~~The coordinating agencies~~
857 ~~shall develop an interagency agreement pursuant to ss. 373.046~~
858 ~~and 373.406(5) that assures the development of best management~~

859 ~~practices that complement existing regulatory programs and~~
860 ~~specifies how those best management practices are implemented~~
861 ~~and verified. The interagency agreement shall address measures~~
862 ~~to be taken by the coordinating agencies during any best~~
863 ~~management practice reevaluation performed pursuant to sub-~~
864 ~~paragraph d. The department shall use best professional~~
865 ~~judgment in making the initial determination of best management~~
866 ~~practice effectiveness.~~

867 2.a. As provided in s. 403.067 ~~403.067(7)(e)~~, the
868 Department of Agriculture and Consumer Services, in consultation
869 with the department, the district, and affected parties, shall
870 initiate rule development for interim measures, best management
871 practices, conservation plans, nutrient management plans, or
872 other measures necessary for Lake Okeechobee watershed total
873 maximum daily load reduction. The rule shall include thresholds
874 for requiring conservation and nutrient management plans and
875 criteria for the contents of such plans. Development of
876 agricultural nonpoint source best management practices shall
877 initially focus on those priority basins listed in paragraph (a)
878 ~~subparagraph (b)~~¹. The Department of Agriculture and Consumer
879 Services, in consultation with the department, the district, and
880 affected parties, shall conduct an ongoing program for
881 improvement of existing and development of new agricultural
882 nonpoint source interim measures and ~~or~~ best management
883 practices. The Department of Agriculture and Consumer Services
884 shall adopt ~~for the purpose of adoption of~~ such practices by

885 rule. The Department of Agriculture and Consumer Services shall
886 work with the University of Florida ~~Florida's~~ Institute of Food
887 and Agriculture Sciences to review and, where appropriate,
888 develop revised nutrient application rates for all agricultural
889 soil amendments in the watershed.

890 ~~3.b.~~ As provided in s. 403.067, where agricultural
891 nonpoint source best management practices or interim measures
892 have been adopted by rule of the Department of Agriculture and
893 Consumer Services, the owner or operator of an agricultural
894 nonpoint source addressed by such rule shall either implement
895 interim measures or best management practices or demonstrate
896 compliance with state water quality standards addressed by the
897 Lake Okeechobee Basin Management Action Plan adopted pursuant to
898 s. 403.067 ~~the district's WOD program~~ by conducting monitoring
899 prescribed by the department or the district. Owners or
900 operators of agricultural nonpoint sources who implement interim
901 measures or best management practices adopted by rule of the
902 Department of Agriculture and Consumer Services shall be subject
903 to ~~the provisions of s. 403.067~~ 403.067(7). ~~The Department of~~
904 ~~Agriculture and Consumer Services, in cooperation with the~~
905 ~~department and the district, shall provide technical and~~
906 ~~financial assistance for implementation of agricultural best~~
907 ~~management practices, subject to the availability of funds.~~

908 ~~4.e.~~ The district or department shall conduct monitoring
909 at representative sites to verify the effectiveness of
910 agricultural nonpoint source best management practices.

911 ~~5.d.~~ Where water quality problems are detected for
912 agricultural nonpoint sources despite the appropriate
913 implementation of adopted best management practices, ~~the~~
914 ~~Department of Agriculture and Consumer Services, in consultation~~
915 ~~with the other coordinating agencies and affected parties, shall~~
916 institute a reevaluation of the best management practices shall
917 be conducted pursuant to s. 403.067(7)(c)4. and make appropriate
918 changes to the rule adopting best management practices.

919 ~~6.2.~~ As provided in s. 403.067, nonagricultural nonpoint
920 source best management practices, developed in accordance with
921 s. 403.067 and designed to achieve the objectives of the Lake
922 Okeechobee Watershed Protection Program as part of a phased
923 approach of management strategies within the Lake Okeechobee
924 Basin Management Action Plan, shall be implemented on an
925 expedited basis. ~~The department and the district shall develop~~
926 ~~an interagency agreement pursuant to ss. 373.046 and 373.406(5)~~
927 ~~that assures the development of best management practices that~~
928 ~~complement existing regulatory programs and specifies how those~~
929 ~~best management practices are implemented and verified. The~~
930 ~~interagency agreement shall address measures to be taken by the~~
931 ~~department and the district during any best management practice~~
932 ~~reevaluation performed pursuant to sub-subparagraph d.~~

933 ~~7.a.~~ The department and the district are directed to work
934 with the University of Florida ~~Florida's~~ Institute of Food and
935 Agricultural Sciences to develop appropriate nutrient
936 application rates for all nonagricultural soil amendments in the

937 watershed. As provided in s. 403.067 ~~403.067(7)(e)~~, the
938 department, in consultation with the district and affected
939 parties, shall develop nonagricultural nonpoint source interim
940 measures, best management practices, or other measures necessary
941 for Lake Okeechobee watershed total maximum daily load
942 reduction. Development of nonagricultural nonpoint source best
943 management practices shall initially focus on those priority
944 basins listed in paragraph (a) ~~subparagraph (b)~~¹. The
945 department, the district, and affected parties shall conduct an
946 ongoing program for improvement of existing and development of
947 new interim measures and ~~or~~ best management practices. The
948 department or the district shall adopt such practices by rule
949 ~~The district shall adopt technology-based standards under the~~
950 ~~district's WOD program for nonagricultural nonpoint sources of~~
951 ~~phosphorus. Nothing in this sub-subparagraph shall affect the~~
952 ~~authority of the department or the district to adopt basin-~~
953 ~~specific criteria under this part to prevent harm to the water~~
954 ~~resources of the district.~~

955 8.b. Where nonagricultural nonpoint source best management
956 practices or interim measures have been developed by the
957 department and adopted by the district, the owner or operator of
958 a nonagricultural nonpoint source shall implement interim
959 measures or best management practices and be subject to ~~the~~
960 ~~provisions of s. 403.067 403.067(7).~~ ~~The department and district~~
961 ~~shall provide technical and financial assistance for~~
962 ~~implementation of nonagricultural nonpoint source best~~

963 ~~management practices, subject to the availability of funds.~~

964 9.e. As provided in s. 403.067, the district or the
965 department shall conduct monitoring at representative sites to
966 verify the effectiveness of nonagricultural nonpoint source best
967 management practices.

968 10.d. Where water quality problems are detected for
969 nonagricultural nonpoint sources despite the appropriate
970 implementation of adopted best management practices, ~~the~~
971 ~~department and the district shall institute~~ a reevaluation of
972 the best management practices shall be conducted pursuant to s.
973 403.067(7)(c)4.

974 11.3. ~~The provisions of Subparagraphs 1. and 2. and 7. do~~
975 ~~may~~ not preclude the department or the district from requiring
976 compliance with water quality standards or with current best
977 management practices requirements set forth in any applicable
978 regulatory program authorized by law for the purpose of
979 protecting water quality. ~~Additionally,~~ Subparagraphs ~~1. and 2.~~
980 and 7. are applicable only to the extent that they do not
981 conflict with any rules adopted by the department that are
982 necessary to maintain a federally delegated or approved program.

983 12. The program of agricultural best management practices
984 set forth in chapter 40E-63, Florida Administrative Code, meets
985 the requirements of this paragraph and s. 403.067(7) for the
986 Lake Okeechobee watershed. An entity in compliance with best
987 management practices set forth in chapter 40E-63, Florida
988 Administrative Code, may elect to use that permit in lieu of the

989 requirements of this paragraph. The provisions of s.
 990 373.4595(3)(b)5. apply to this subparagraph.

991 13. The Department of Agriculture and Consumer Services,
 992 in cooperation with the department and the district, shall
 993 provide technical and financial assistance for implementation of
 994 agricultural best management practices, subject to the
 995 availability of funds. The department and district shall provide
 996 technical and financial assistance for implementation of
 997 nonagricultural nonpoint source best management practices,
 998 subject to the availability of funds.

999 14.4- Projects that reduce the phosphorus load originating
 1000 from domestic wastewater systems within the Lake Okeechobee
 1001 watershed shall be given funding priority in the department's
 1002 revolving loan program under s. 403.1835. The department shall
 1003 coordinate and provide assistance to those local governments
 1004 seeking financial assistance for such priority projects.

1005 15.5- Projects that make use of private lands, or lands
 1006 held in trust for Indian tribes, to reduce nutrient loadings or
 1007 concentrations within a basin by one or more of the following
 1008 methods: restoring the natural hydrology of the basin, restoring
 1009 wildlife habitat or impacted wetlands, reducing peak flows after
 1010 storm events, increasing aquifer recharge, or protecting range
 1011 and timberland from conversion to development, are eligible for
 1012 grants available under this section from the coordinating
 1013 agencies. For projects of otherwise equal priority, special
 1014 funding priority will be given to those projects that make best

1015 use of the methods outlined above that involve public-private
1016 partnerships or that obtain federal match money. Preference
1017 ranking above the special funding priority will be given to
1018 projects located in a rural area of opportunity designated by
1019 the Governor. Grant applications may be submitted by any person
1020 or tribal entity, and eligible projects may include, but are not
1021 limited to, the purchase of conservation and flowage easements,
1022 hydrologic restoration of wetlands, creating treatment wetlands,
1023 development of a management plan for natural resources, and
1024 financial support to implement a management plan.

1025 ~~16.6.a.~~ The department shall require all entities
1026 disposing of domestic wastewater biosolids ~~residuals~~ within the
1027 Lake Okeechobee watershed and the remaining areas of Okeechobee,
1028 Glades, and Hendry Counties to develop and submit to the
1029 department an agricultural use plan that limits applications
1030 based upon phosphorus loading consistent with the Lake
1031 Okeechobee Basin Management Action Plan adopted pursuant to s.
1032 403.067. ~~By July 1, 2005, phosphorus concentrations originating~~
1033 ~~from these application sites may not exceed the limits~~
1034 ~~established in the district's WOD program. After December 31,~~
1035 ~~2007,~~ The department may not authorize the disposal of domestic
1036 wastewater biosolids ~~residuals~~ within the Lake Okeechobee
1037 watershed unless the applicant can affirmatively demonstrate
1038 that the phosphorus in the biosolids ~~residuals~~ will not add to
1039 phosphorus loadings in Lake Okeechobee or its tributaries. This
1040 demonstration shall be based on achieving a net balance between

1041 phosphorus imports relative to exports on the permitted
1042 application site. Exports shall include only phosphorus removed
1043 from the Lake Okeechobee watershed through products generated on
1044 the permitted application site. This prohibition does not apply
1045 to Class AA biosolids ~~residuals~~ that are marketed and
1046 distributed as fertilizer products in accordance with department
1047 rule.

1048 17.b. Private and government-owned utilities within
1049 Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie,
1050 Indian River, Okeechobee, Highlands, Hendry, and Glades Counties
1051 that dispose of wastewater biosolids ~~residual~~ sludge from
1052 utility operations and septic removal by land spreading in the
1053 Lake Okeechobee watershed may use a line item on local sewer
1054 rates to cover wastewater biosolids ~~residual~~ treatment and
1055 disposal if such disposal and treatment is done by approved
1056 alternative treatment methodology at a facility located within
1057 the areas designated by the Governor as rural areas of
1058 opportunity pursuant to s. 288.0656. This additional line item
1059 is an environmental protection disposal fee above the present
1060 sewer rate and may not be considered a part of the present sewer
1061 rate to customers, notwithstanding provisions to the contrary in
1062 chapter 367. The fee shall be established by the county
1063 commission or its designated assignee in the county in which the
1064 alternative method treatment facility is located. The fee shall
1065 be calculated to be no higher than that necessary to recover the
1066 facility's prudent cost of providing the service. Upon request

1067 by an affected county commission, the Florida Public Service
 1068 Commission will provide assistance in establishing the fee.
 1069 Further, for utilities and utility authorities that use the
 1070 additional line item environmental protection disposal fee, such
 1071 fee may not be considered a rate increase under the rules of the
 1072 Public Service Commission and shall be exempt from such rules.
 1073 Utilities using ~~the provisions of~~ this section may immediately
 1074 include in their sewer invoicing the new environmental
 1075 protection disposal fee. Proceeds from this environmental
 1076 protection disposal fee shall be used for treatment and disposal
 1077 of wastewater biosolids residuals, including any treatment
 1078 technology that helps reduce the volume of biosolids residuals
 1079 that require final disposal, but such proceeds may not be used
 1080 for transportation or shipment costs for disposal or any costs
 1081 relating to the land application of biosolids residuals in the
 1082 Lake Okeechobee watershed.

1083 18.e. No less frequently than once every 3 years, the
 1084 Florida Public Service Commission or the county commission
 1085 through the services of an independent auditor shall perform a
 1086 financial audit of all facilities receiving compensation from an
 1087 environmental protection disposal fee. The Florida Public
 1088 Service Commission or the county commission through the services
 1089 of an independent auditor shall also perform an audit of the
 1090 methodology used in establishing the environmental protection
 1091 disposal fee. The Florida Public Service Commission or the
 1092 county commission shall, within 120 days after completion of an

1093 audit, file the audit report with the President of the Senate
1094 and the Speaker of the House of Representatives and shall
1095 provide copies to the county commissions of the counties set
1096 forth in subparagraph 17 ~~sub-subparagraph b~~. The books and
1097 records of any facilities receiving compensation from an
1098 environmental protection disposal fee shall be open to the
1099 Florida Public Service Commission and the Auditor General for
1100 review upon request.

1101 19.7. The Department of Health shall require all entities
1102 disposing of septage within the Lake Okeechobee watershed to
1103 develop and submit to that agency an agricultural use plan that
1104 limits applications based upon phosphorus loading consistent
1105 with the Lake Okeechobee Basin Management Action Plan adopted
1106 pursuant to s. 403.067. ~~By July 1, 2005, phosphorus~~
1107 ~~concentrations originating from these application sites may not~~
1108 ~~exceed the limits established in the district's WOD program.~~

1109 20.8. The Department of Agriculture and Consumer Services
1110 shall initiate rulemaking requiring entities within the Lake
1111 Okeechobee watershed which land-apply animal manure to develop
1112 resource management system level conservation plans, according
1113 to United States Department of Agriculture criteria, which limit
1114 such application. Such rules may include criteria and thresholds
1115 for the requirement to develop a conservation or nutrient
1116 management plan, requirements for plan approval, and
1117 recordkeeping requirements.

1118 21. The district shall revise chapter 40E-61, Florida

1119 Administrative Code, to be consistent with this section and s.
 1120 403.067; provide for a monitoring program for nonpoint source
 1121 dischargers required to monitor water quality by s. 403.067; and
 1122 provide for the results of such monitoring to be reported to the
 1123 coordinating agencies.

1124 ~~9. The district, the department, or the Department of~~
 1125 ~~Agriculture and Consumer Services, as appropriate, shall~~
 1126 ~~implement those alternative nutrient reduction technologies~~
 1127 ~~determined to be feasible pursuant to subparagraph (d)6.~~

1128 ~~(d) Lake Okeechobee Watershed Research and Water Quality~~
 1129 ~~Monitoring Program. The district, in cooperation with the other~~
 1130 ~~coordinating agencies, shall establish a Lake Okeechobee~~
 1131 ~~Watershed Research and Water Quality Monitoring Program that~~
 1132 ~~builds upon the district's existing Lake Okeechobee research~~
 1133 ~~program. The program shall:~~

1134 ~~1. Evaluate all available existing water quality data~~
 1135 ~~concerning total phosphorus in the Lake Okeechobee watershed,~~
 1136 ~~develop a water quality baseline to represent existing~~
 1137 ~~conditions for total phosphorus, monitor long term ecological~~
 1138 ~~changes, including water quality for total phosphorus, and~~
 1139 ~~measure compliance with water quality standards for total~~
 1140 ~~phosphorus, including any applicable total maximum daily load~~
 1141 ~~for the Lake Okeechobee watershed as established pursuant to s.~~
 1142 ~~403.067. Every 3 years, the district shall reevaluate water~~
 1143 ~~quality and quantity data to ensure that the appropriate~~
 1144 ~~projects are being designated and implemented to meet the water~~

1145 ~~quality and storage goals of the plan. The district shall also~~
1146 ~~implement a total phosphorus monitoring program at appropriate~~
1147 ~~structures owned or operated by the South Florida Water~~
1148 ~~Management District and within the Lake Okeechobee watershed.~~

1149 ~~2. Develop a Lake Okeechobee water quality model that~~
1150 ~~reasonably represents phosphorus dynamics of the lake and~~
1151 ~~incorporates an uncertainty analysis associated with model~~
1152 ~~predictions.~~

1153 ~~3. Determine the relative contribution of phosphorus from~~
1154 ~~all identifiable sources and all primary and secondary land~~
1155 ~~uses.~~

1156 ~~4. Conduct an assessment of the sources of phosphorus from~~
1157 ~~the Upper Kissimmee Chain of Lakes and Lake Istokpoga, and their~~
1158 ~~relative contribution to the water quality of Lake Okeechobee.~~
1159 ~~The results of this assessment shall be used by the coordinating~~
1160 ~~agencies to develop interim measures, best management practices,~~
1161 ~~or regulation, as applicable.~~

1162 ~~5. Assess current water management practices within the~~
1163 ~~Lake Okeechobee watershed and develop recommendations for~~
1164 ~~structural and operational improvements. Such recommendations~~
1165 ~~shall balance water supply, flood control, estuarine salinity,~~
1166 ~~maintenance of a healthy lake littoral zone, and water quality~~
1167 ~~considerations.~~

1168 ~~6. Evaluate the feasibility of alternative nutrient~~
1169 ~~reduction technologies, including sediment traps, canal and~~
1170 ~~ditch maintenance, fish production or other aquaculture,~~

1171 ~~bioenergy conversion processes, and algal or other biological~~
1172 ~~treatment technologies.~~

1173 ~~7. Conduct an assessment of the water volumes and timing~~
1174 ~~from the Lake Okeechobee watershed and their relative~~
1175 ~~contribution to the water level changes in Lake Okeechobee and~~
1176 ~~to the timing and volume of water delivered to the estuaries.~~

1177 ~~(c)-(e)~~ Lake Okeechobee Exotic Species Control Program.—The
1178 coordinating agencies shall identify the exotic species that
1179 threaten the native flora and fauna within the Lake Okeechobee
1180 watershed and develop and implement measures to protect the
1181 native flora and fauna.

1182 ~~(d)-(f)~~ Lake Okeechobee Internal Phosphorus Management
1183 Program.—The district, in cooperation with the other
1184 coordinating agencies and interested parties, shall evaluate the
1185 feasibility of ~~complete a~~ Lake Okeechobee internal phosphorus
1186 load removal projects feasibility study. The evaluation
1187 ~~feasibility study~~ shall be based on technical feasibility, as
1188 well as economic considerations, and shall consider ~~address~~ all
1189 reasonable methods of phosphorus removal. If projects methods
1190 are found to be feasible, the district shall immediately pursue
1191 the design, funding, and permitting for implementing such
1192 projects methods.

1193 ~~(e)-(g)~~ Lake Okeechobee Watershed Protection Program Plan
1194 implementation.—The coordinating agencies shall be jointly
1195 responsible for implementing the Lake Okeechobee Watershed
1196 Protection Program Plan, consistent with the statutory authority

1197 and responsibility of each agency. Annual funding priorities
 1198 shall be jointly established, and the highest priority shall be
 1199 assigned to programs and projects that address sources that have
 1200 the highest relative contribution to loading and the greatest
 1201 potential for reductions needed to meet the total maximum daily
 1202 loads. In determining funding priorities, the coordinating
 1203 agencies shall also consider the need for regulatory compliance,
 1204 the extent to which the program or project is ready to proceed,
 1205 and the availability of federal matching funds or other nonstate
 1206 funding, including public-private partnerships. Federal and
 1207 other nonstate funding shall be maximized to the greatest extent
 1208 practicable.

1209 (f)~~(h)~~ Priorities and implementation schedules.—The
 1210 coordinating agencies are authorized and directed to establish
 1211 priorities and implementation schedules for the achievement of
 1212 total maximum daily loads, compliance with the requirements of
 1213 s. 403.067, and compliance with applicable water quality
 1214 standards within the waters and watersheds subject to this
 1215 section.

1216 ~~(i) Legislative ratification. The coordinating agencies~~
 1217 ~~shall submit the Phase II technical plan developed pursuant to~~
 1218 ~~paragraph (b) to the President of the Senate and the Speaker of~~
 1219 ~~the House of Representatives prior to the 2008 legislative~~
 1220 ~~session for review. If the Legislature takes no action on the~~
 1221 ~~plan during the 2008 legislative session, the plan is deemed~~
 1222 ~~approved and may be implemented.~~

1223 (4) CALOOSAHATCHEE RIVER WATERSHED PROTECTION PROGRAM AND
 1224 ST. LUCIE RIVER WATERSHED PROTECTION PROGRAM.—A protection
 1225 program shall be developed and implemented as specified in this
 1226 subsection. In order to protect and restore surface water
 1227 resources, the program shall address the reduction of pollutant
 1228 loadings, restoration of natural hydrology, and compliance with
 1229 applicable state water quality standards. The program shall be
 1230 achieved through a phased program of implementation. In
 1231 addition, pollutant load reductions based upon adopted total
 1232 maximum daily loads established in accordance with s. 403.067
 1233 shall serve as a program objective. In the development and
 1234 administration of the program, the coordinating agencies shall
 1235 maximize opportunities provided by federal and local government
 1236 cost-sharing programs and opportunities for partnerships with
 1237 the private sector and local government. The program plan shall
 1238 include a goal for salinity envelopes and freshwater inflow
 1239 targets for the estuaries based upon existing research and
 1240 documentation. The goal may be revised as new information is
 1241 available. This goal shall seek to reduce the frequency and
 1242 duration of undesirable salinity ranges while meeting the other
 1243 water-related needs of the region, including water supply and
 1244 flood protection, while recognizing the extent to which water
 1245 inflows are within the control and jurisdiction of the district.

1246 (a) Caloosahatchee River Watershed Protection Plan.—~~No~~
 1247 ~~later than January 1, 2009,~~ The district, in cooperation with
 1248 the other coordinating agencies, Lee County, and affected

1249 counties and municipalities, shall complete a River Watershed
 1250 Protection Plan in accordance with this subsection. The
 1251 Caloosahatchee River Watershed Protection Plan shall identify
 1252 the geographic extent of the watershed, be coordinated as needed
 1253 with the plans developed pursuant to paragraph (3) (a) and
 1254 paragraph (c) ~~(b)~~ of this subsection, and ~~contain an~~
 1255 ~~implementation schedule for pollutant load reductions consistent~~
 1256 ~~with any adopted total maximum daily loads and compliance with~~
 1257 ~~applicable state water quality standards. The plan shall include~~
 1258 the Caloosahatchee River Watershed Construction Project and the
 1259 Caloosahatchee River Watershed Research and Water Quality
 1260 Monitoring Program.÷

- 1261 1. Caloosahatchee River Watershed Construction Project.—To
 1262 improve the hydrology, water quality, and aquatic habitats
 1263 within the watershed, the district shall, no later than January
 1264 1, 2012, plan, design, and construct the initial phase of the
 1265 Watershed Construction Project. In doing so, the district shall:
- 1266 a. Develop and designate the facilities to be constructed
 1267 to achieve stated goals and objectives of the Caloosahatchee
 1268 River Watershed Protection Plan.
 - 1269 b. Conduct scientific studies that are necessary to
 1270 support the design of the Caloosahatchee River Watershed
 1271 Construction Project facilities.
 - 1272 c. Identify the size and location of all such facilities.
 - 1273 d. Provide a construction schedule for all such
 1274 facilities, including the sequencing and specific timeframe for

1275 construction of each facility.

1276 e. Provide a schedule for the acquisition of lands or
 1277 sufficient interests necessary to achieve the construction
 1278 schedule.

1279 f. Provide a schedule of costs and benefits associated
 1280 with each construction project and identify funding sources.

1281 g. To ensure timely implementation, coordinate the design,
 1282 scheduling, and sequencing of project facilities with the
 1283 coordinating agencies, Lee County, other affected counties and
 1284 municipalities, and other affected parties.

1285 2. Caloosahatchee River Watershed Research and Water
 1286 Quality Monitoring Program.—The district, in cooperation with
 1287 the other coordinating agencies and local governments, shall
 1288 implement a Caloosahatchee River Watershed Research and Water
 1289 Quality Monitoring Program that builds upon the district's
 1290 existing research program and that is sufficient to carry out,
 1291 comply with, or assess the plans, programs, and other
 1292 responsibilities created by this subsection. The program shall
 1293 also conduct an assessment of the water volumes and timing from
 1294 Lake Okeechobee and the Caloosahatchee River watershed and their
 1295 relative contributions to the timing and volume of water
 1296 delivered to the estuary.

1297 (b)2. Caloosahatchee River Watershed Basin Management
 1298 Action Plans Pollutant Control Program.—The basin management
 1299 action plans adopted pursuant to s. 403.067 for the
 1300 Caloosahatchee River watershed shall be the Caloosahatchee River

1301 Watershed Pollutant Control Program. The plans shall be ~~is~~
 1302 designed to be a multifaceted approach to reducing pollutant
 1303 loads by improving the management of pollutant sources within
 1304 the Caloosahatchee River watershed through implementation of
 1305 regulations and best management practices, development and
 1306 implementation of improved best management practices,
 1307 improvement and restoration of the hydrologic function of
 1308 natural and managed systems, and utilization of alternative
 1309 technologies for pollutant reduction, such as cost-effective
 1310 biologically based, hybrid wetland/chemical and other innovative
 1311 nutrient control technologies. The plans shall contain an
 1312 implementation schedule for pollutant load reductions consistent
 1313 with the adopted total maximum daily load. The coordinating
 1314 agencies shall facilitate the use ~~utilization~~ of federal
 1315 programs that offer opportunities for water quality treatment,
 1316 including preservation, restoration, or creation of wetlands on
 1317 agricultural lands.

1318 ~~1.a.~~ Nonpoint source best management practices consistent
 1319 with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the
 1320 objectives of the Caloosahatchee River Watershed Protection
 1321 Program, shall be implemented on an expedited basis. The
 1322 coordinating agencies may develop an intergovernmental agreement
 1323 with local governments to implement the nonagricultural,
 1324 nonpoint-source best management practices within their
 1325 respective geographic boundaries.

1326 ~~2.b.~~ This subsection does not preclude the department or

1327 the district from requiring compliance with water quality
1328 standards, adopted total maximum daily loads, or current best
1329 management practices requirements set forth in any applicable
1330 regulatory program authorized by law for the purpose of
1331 protecting water quality. This subsection applies only to the
1332 extent that it does not conflict with any rules adopted by the
1333 department or district which are necessary to maintain a
1334 federally delegated or approved program.

1335 3.e. Projects that make use of private lands, or lands
1336 held in trust for Indian tribes, to reduce pollutant loadings or
1337 concentrations within a basin, or that reduce the volume of
1338 harmful discharges by one or more of the following methods:
1339 restoring the natural hydrology of the basin, restoring wildlife
1340 habitat or impacted wetlands, reducing peak flows after storm
1341 events, or increasing aquifer recharge, are eligible for grants
1342 available under this section from the coordinating agencies.

1343 4.d. The Caloosahatchee River Watershed Basin Management
1344 Action Plans ~~Pollutant Control Program~~ shall require assessment
1345 of current water management practices within the watershed and
1346 shall require development of recommendations for structural,
1347 nonstructural, and operational improvements. Such
1348 recommendations shall consider and balance water supply, flood
1349 control, estuarine salinity, aquatic habitat, and water quality
1350 considerations.

1351 5.e. ~~After December 31, 2007,~~ The department may not
1352 authorize the disposal of domestic wastewater biosolids

1353 ~~residuals~~ within the Caloosahatchee River watershed unless the
1354 applicant can affirmatively demonstrate that the nutrients in
1355 the biosolids ~~residuals~~ will not add to nutrient loadings in the
1356 watershed. This demonstration shall be based on achieving a net
1357 balance between nutrient imports relative to exports on the
1358 permitted application site. Exports shall include only nutrients
1359 removed from the watershed through products generated on the
1360 permitted application site. This prohibition does not apply to
1361 Class AA biosolids ~~residuals~~ that are marketed and distributed
1362 as fertilizer products in accordance with department rule.

1363 ~~6.f.~~ The Department of Health shall require all entities
1364 disposing of septage within the Caloosahatchee River watershed
1365 to develop and submit to that agency an agricultural use plan
1366 that limits applications based upon nutrient loading consistent
1367 with any basin management action plan adopted pursuant to s.
1368 403.067. ~~By July 1, 2008, nutrient concentrations originating~~
1369 ~~from these application sites may not exceed the limits~~
1370 ~~established in the district's WOD program.~~

1371 ~~7.g.~~ The Department of Agriculture and Consumer Services
1372 shall require ~~initiate rulemaking requiring~~ entities within the
1373 Caloosahatchee River watershed which land-apply animal manure to
1374 develop a resource management system level conservation plan,
1375 according to United States Department of Agriculture criteria,
1376 which limit such application. Such rules may include criteria
1377 and thresholds for the requirement to develop a conservation or
1378 nutrient management plan, requirements for plan approval, and

1379 recordkeeping requirements.

1380 ~~3.— Caloosahatchee River Watershed Research and Water~~
 1381 ~~Quality Monitoring Program. The district, in cooperation with~~
 1382 ~~the other coordinating agencies and local governments, shall~~
 1383 ~~establish a Caloosahatchee River Watershed Research and Water~~
 1384 ~~Quality Monitoring Program that builds upon the district's~~
 1385 ~~existing research program and that is sufficient to carry out,~~
 1386 ~~comply with, or assess the plans, programs, and other~~
 1387 ~~responsibilities created by this subsection. The program shall~~
 1388 ~~also conduct an assessment of the water volumes and timing from~~
 1389 ~~the Lake Okeechobee and Caloosahatchee River watersheds and~~
 1390 ~~their relative contributions to the timing and volume of water~~
 1391 ~~delivered to the estuary.~~

1392 (c)(b) St. Lucie River Watershed Protection Plan.—~~No later~~
 1393 ~~than January 1, 2009,~~ The district, in cooperation with the
 1394 other coordinating agencies, Martin County, and affected
 1395 counties and municipalities shall complete a plan in accordance
 1396 with this subsection. The St. Lucie River Watershed Protection
 1397 Plan shall identify the geographic extent of the watershed, be
 1398 coordinated as needed with the plans developed pursuant to
 1399 paragraph (3) (a) and paragraph (a) of this subsection, and
 1400 ~~contain an implementation schedule for pollutant load reductions~~
 1401 ~~consistent with any adopted total maximum daily loads and~~
 1402 ~~compliance with applicable state water quality standards. The~~
 1403 ~~plan shall~~ include the St. Lucie River Watershed Construction
 1404 Project and St. Lucie River Watershed Research and Water Quality

1405 Monitoring Program.÷
 1406 1. St. Lucie River Watershed Construction Project.—To
 1407 improve the hydrology, water quality, and aquatic habitats
 1408 within the watershed, the district shall, no later than January
 1409 1, 2012, plan, design, and construct the initial phase of the
 1410 Watershed Construction Project. In doing so, the district shall:
 1411 a. Develop and designate the facilities to be constructed
 1412 to achieve stated goals and objectives of the St. Lucie River
 1413 Watershed Protection Plan.
 1414 b. Identify the size and location of all such facilities.
 1415 c. Provide a construction schedule for all such
 1416 facilities, including the sequencing and specific timeframe for
 1417 construction of each facility.
 1418 d. Provide a schedule for the acquisition of lands or
 1419 sufficient interests necessary to achieve the construction
 1420 schedule.
 1421 e. Provide a schedule of costs and benefits associated
 1422 with each construction project and identify funding sources.
 1423 f. To ensure timely implementation, coordinate the design,
 1424 scheduling, and sequencing of project facilities with the
 1425 coordinating agencies, Martin County, St. Lucie County, other
 1426 interested parties, and other affected local governments.
 1427 2. St. Lucie River Watershed Research and Water Quality
 1428 Monitoring Program.—The district, in cooperation with the other
 1429 coordinating agencies and local governments, shall establish a
 1430 St. Lucie River Watershed Research and Water Quality Monitoring

1431 Program that builds upon the district's existing research
 1432 program and that is sufficient to carry out, comply with, or
 1433 assess the plans, programs, and other responsibilities created
 1434 by this subsection. The program shall also conduct an assessment
 1435 of the water volumes and timing from Lake Okeechobee and the St.
 1436 Lucie River watershed and their relative contributions to the
 1437 timing and volume of water delivered to the estuary.

1438 (d)2. St. Lucie River Watershed Basin Management Action
 1439 Plans Pollutant Control Program.~~Basin management action plans~~
 1440 for the St. Lucie River watershed adopted pursuant to s. 403.067
 1441 shall be the St. Lucie River Watershed Pollutant Control Program
 1442 and shall be ~~is~~ designed to be a multifaceted approach to
 1443 reducing pollutant loads by improving the management of
 1444 pollutant sources within the St. Lucie River watershed through
 1445 implementation of regulations and best management practices,
 1446 development and implementation of improved best management
 1447 practices, improvement and restoration of the hydrologic
 1448 function of natural and managed systems, and use ~~utilization~~ of
 1449 alternative technologies for pollutant reduction, such as cost-
 1450 effective biologically based, hybrid wetland/chemical and other
 1451 innovative nutrient control technologies. The plan shall contain
 1452 an implementation schedule for pollutant load reductions
 1453 consistent with the adopted total maximum daily load. The
 1454 coordinating agencies shall facilitate the use ~~utilization~~ of
 1455 federal programs that offer opportunities for water quality
 1456 treatment, including preservation, restoration, or creation of

1457 wetlands on agricultural lands.

1458 1.a. Nonpoint source best management practices consistent
1459 with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the
1460 objectives of the St. Lucie River Watershed Protection Program,
1461 shall be implemented on an expedited basis. The coordinating
1462 agencies may develop an intergovernmental agreement with local
1463 governments to implement the nonagricultural nonpoint source
1464 best management practices within their respective geographic
1465 boundaries.

1466 2.b. This subsection does not preclude the department or
1467 the district from requiring compliance with water quality
1468 standards, adopted total maximum daily loads, or current best
1469 management practices requirements set forth in any applicable
1470 regulatory program authorized by law for the purpose of
1471 protecting water quality. This subsection applies only to the
1472 extent that it does not conflict with any rules adopted by the
1473 department or district which are necessary to maintain a
1474 federally delegated or approved program.

1475 3.e. Projects that make use of private lands, or lands
1476 held in trust for Indian tribes, to reduce pollutant loadings or
1477 concentrations within a basin, or that reduce the volume of
1478 harmful discharges by one or more of the following methods:
1479 restoring the natural hydrology of the basin, restoring wildlife
1480 habitat or impacted wetlands, reducing peak flows after storm
1481 events, or increasing aquifer recharge, are eligible for grants
1482 available under this section from the coordinating agencies.

1483 ~~4.d.~~ The St. Lucie River Watershed Basin Management Action
1484 Plans ~~Pollutant Control Program~~ shall require assessment of
1485 current water management practices within the watershed and
1486 shall require development of recommendations for structural,
1487 nonstructural, and operational improvements. Such
1488 recommendations shall consider and balance water supply, flood
1489 control, estuarine salinity, aquatic habitat, and water quality
1490 considerations.

1491 ~~5.e.~~ ~~After December 31, 2007,~~ The department may not
1492 authorize the disposal of domestic wastewater biosolids
1493 ~~residuals~~ within the St. Lucie River watershed unless the
1494 applicant can affirmatively demonstrate that the nutrients in
1495 the biosolids ~~residuals~~ will not add to nutrient loadings in the
1496 watershed. This demonstration shall be based on achieving a net
1497 balance between nutrient imports relative to exports on the
1498 permitted application site. Exports shall include only nutrients
1499 removed from the St. Lucie River watershed through products
1500 generated on the permitted application site. This prohibition
1501 does not apply to Class AA biosolids ~~residuals~~ that are marketed
1502 and distributed as fertilizer products in accordance with
1503 department rule.

1504 ~~6.f.~~ The Department of Health shall require all entities
1505 disposing of septage within the St. Lucie River watershed to
1506 develop and submit to that agency an agricultural use plan that
1507 limits applications based upon nutrient loading consistent with
1508 any basin management action plan adopted pursuant to s. 403.067.

1509 ~~By July 1, 2008, nutrient concentrations originating from these~~
1510 ~~application sites may not exceed the limits established in the~~
1511 ~~district's WOD program.~~

1512 7.g. The Department of Agriculture and Consumer Services
1513 shall initiate rulemaking requiring entities within the St.
1514 Lucie River watershed which land-apply animal manure to develop
1515 a resource management system level conservation plan, according
1516 to United States Department of Agriculture criteria, which limit
1517 such application. Such rules may include criteria and thresholds
1518 for the requirement to develop a conservation or nutrient
1519 management plan, requirements for plan approval, and
1520 recordkeeping requirements.

1521 ~~3.— St. Lucie River Watershed Research and Water Quality~~
1522 ~~Monitoring Program.—The district, in cooperation with the other~~
1523 ~~coordinating agencies and local governments, shall establish a~~
1524 ~~St. Lucie River Watershed Research and Water Quality Monitoring~~
1525 ~~Program that builds upon the district's existing research~~
1526 ~~program and that is sufficient to carry out, comply with, or~~
1527 ~~assess the plans, programs, and other responsibilities created~~
1528 ~~by this subsection. The program shall also conduct an assessment~~
1529 ~~of the water volumes and timing from the Lake Okeechobee and St.~~
1530 ~~Lucie River watersheds and their relative contributions to the~~
1531 ~~timing and volume of water delivered to the estuary.~~

1532 (e) ~~(e)~~ River Watershed Protection Plan implementation.—The
1533 coordinating agencies shall be jointly responsible for
1534 implementing the River Watershed Protection Plans, consistent

1535 with the statutory authority and responsibility of each agency.
1536 Annual funding priorities shall be jointly established, and the
1537 highest priority shall be assigned to programs and projects that
1538 have the greatest potential for achieving the goals and
1539 objectives of the plans. In determining funding priorities, the
1540 coordinating agencies shall also consider the need for
1541 regulatory compliance, the extent to which the program or
1542 project is ready to proceed, and the availability of federal or
1543 local government matching funds. Federal and other nonstate
1544 funding shall be maximized to the greatest extent practicable.

1545 (f)~~(d)~~ Evaluation.—Beginning ~~By~~ March 1, 2020 ~~2012~~, and
1546 every 5 ~~3~~ years thereafter concurrent with the updates of the
1547 basin management action plans adopted pursuant to s. 403.067,
1548 the district, in cooperation with the other coordinating
1549 agencies, shall conduct an evaluation of any pollutant load
1550 reduction goals, as well as any other specific objectives and
1551 goals, as stated in the River Watershed Protection Programs
1552 Plans. ~~Additionally,~~ The district shall identify modifications
1553 to facilities of the River Watershed Construction Projects, as
1554 appropriate, or any other elements of the River Watershed
1555 Protection Programs ~~Plans~~. The evaluation shall be included in
1556 the annual progress report submitted pursuant to this section.

1557 (g)~~(e)~~ Priorities and implementation schedules.—The
1558 coordinating agencies are authorized and directed to establish
1559 priorities and implementation schedules for the achievement of
1560 total maximum daily loads, the requirements of s. 403.067, and

1561 compliance with applicable water quality standards within the
1562 waters and watersheds subject to this section.

1563 ~~(f) Legislative ratification. The coordinating agencies~~
1564 ~~shall submit the River Watershed Protection Plans developed~~
1565 ~~pursuant to paragraphs (a) and (b) to the President of the~~
1566 ~~Senate and the Speaker of the House of Representatives prior to~~
1567 ~~the 2009 legislative session for review. If the Legislature~~
1568 ~~takes no action on the plan during the 2009 legislative session,~~
1569 ~~the plan is deemed approved and may be implemented.~~

1570 (5) ADOPTION AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY
1571 LOADS AND DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS.—The
1572 department is directed to expedite development and adoption of
1573 total maximum daily loads for the Caloosahatchee River and
1574 estuary. The department is further directed to, ~~no later than~~
1575 ~~December 31, 2008,~~ propose for final agency action total maximum
1576 daily loads for nutrients in the tidal portions of the
1577 Caloosahatchee River and estuary. The department shall initiate
1578 development of basin management action plans for Lake
1579 Okeechobee, the Caloosahatchee River watershed and estuary, and
1580 the St. Lucie River watershed and estuary as provided in s.
1581 403.067 ~~403.067(7)(a)~~ as follows:

1582 (a) Basin management action plans shall be developed as
1583 soon as practicable as determined necessary by the department to
1584 achieve the total maximum daily loads established for the Lake
1585 Okeechobee watershed and the estuaries.

1586 (b) The Phase II technical plan development pursuant to

1587 paragraph (3) (a) ~~(3) (b)~~, and the River Watershed Protection Plans
1588 developed pursuant to paragraphs (4) (a) and (c) ~~(b)~~, shall
1589 provide the basis for basin management action plans developed by
1590 the department.

1591 (c) As determined necessary by the department in order to
1592 achieve the total maximum daily loads, additional or modified
1593 projects or programs that complement those in the legislatively
1594 ratified plans may be included during the development of the
1595 basin management action plan.

1596 (d) As provided in s. 403.067, management strategies and
1597 pollution reduction requirements set forth in a basin management
1598 action plan subject to permitting by the department under
1599 subsection (7) must be completed pursuant to the schedule set
1600 forth in the basin management action plan, as amended. The
1601 implementation schedule may extend beyond the 5-year permit
1602 term.

1603 (e) As provided in s. 403.067, management strategies and
1604 pollution reduction requirements set forth in a basin management
1605 action plan for a specific pollutant of concern are not subject
1606 to challenge under chapter 120 at the time they are
1607 incorporated, in an identical form, into a department or
1608 district issued permit or a permit modification issued in
1609 accordance with subsection (7).

1610 ~~(d) Development of basin management action plans that~~
1611 ~~implement the provisions of the legislatively ratified plans~~
1612 ~~shall be initiated by the department no later than September 30~~

1613 ~~of the year in which the applicable plan is ratified. Where a~~
1614 ~~total maximum daily load has not been established at the time of~~
1615 ~~plan ratification, development of basin management action plans~~
1616 ~~shall be initiated no later than 90 days following adoption of~~
1617 ~~the applicable total maximum daily load.~~

1618 (6) ANNUAL PROGRESS REPORT.—Each March 1 the district, in
1619 cooperation with the other coordinating agencies, shall report
1620 on implementation of this section as part of the consolidated
1621 annual report required in s. 373.036(7). The annual report shall
1622 include a summary of the conditions of the hydrology, water
1623 quality, and aquatic habitat in the northern Everglades based on
1624 the results of the Research and Water Quality Monitoring
1625 Programs, the status of the Lake Okeechobee Watershed
1626 Construction Project, the status of the Caloosahatchee River
1627 Watershed Construction Project, and the status of the St. Lucie
1628 River Watershed Construction Project. In addition, the report
1629 shall contain an annual accounting of the expenditure of funds
1630 from the Save Our Everglades Trust Fund. At a minimum, the
1631 annual report shall provide detail by program and plan,
1632 including specific information concerning the amount and use of
1633 funds from federal, state, or local government sources. In
1634 detailing the use of these funds, the district shall indicate
1635 those designated to meet requirements for matching funds. The
1636 district shall prepare the report in cooperation with the other
1637 coordinating agencies and affected local governments. The
1638 department shall report on the status of the Lake Okeechobee

1639 Basin Management Action Plan, the Caloosahatchee Estuary Basin
 1640 Management Action Plan, and the St. Lucie River and Estuary
 1641 Basin Management Action Plan. The Department of Agriculture and
 1642 Consumer Services shall report on the status of the
 1643 implementation of the agricultural nonpoint source best
 1644 management practices.

1645 (7) LAKE OKEECHOBEE PROTECTION PERMITS.—

1646 (a) The Legislature finds that the Lake Okeechobee
 1647 Watershed Protection Program will benefit Lake Okeechobee and
 1648 downstream receiving waters and is in ~~consistent with~~ the public
 1649 interest. The Lake Okeechobee Watershed Construction Project,
 1650 and structures discharging into or from Lake Okeechobee shall be
 1651 constructed, operated, and maintained in accordance with this
 1652 section.

1653 (b) Permits obtained pursuant to this section are in lieu
 1654 of all other permits under this chapter or chapter 403, except
 1655 those issued under s. 403.0885, if applicable. ~~No~~ Additional
 1656 permits are not required for the Lake Okeechobee Watershed
 1657 Construction Project, or structures discharging into or from
 1658 Lake Okeechobee, ~~if~~ such projects or structures are permitted
 1659 under this section. Construction activities related to
 1660 implementation of the Lake Okeechobee Watershed Construction
 1661 Project may be initiated before ~~prior to~~ final agency action, or
 1662 notice of intended agency action, on any permit from the
 1663 department under this section.

1664 (c) 1. ~~Within 90 days of completion of the diversion plans~~

1665 ~~set forth in Department Consent Orders 91-0694, 91-0707, 91-~~
1666 ~~0706, 91-0705, and RT50-205564, Owners or operators of existing~~
1667 ~~structures which discharge into or from Lake Okeechobee that~~
1668 ~~were subject to Department Consent Orders 91-0694, 91-0707, 91-~~
1669 ~~0706, 91-0705, and RT50-205564 and that are subject to the~~
1670 ~~provisions of s. 373.4592(4) (a) do not require a permit under~~
1671 ~~this section and shall be governed by permits issued under apply~~
1672 ~~for a permit from the department to operate and maintain such~~
1673 ~~structures. By September 1, 2000, owners or operators of all~~
1674 ~~other existing structures which discharge into or from Lake~~
1675 ~~Okeechobee shall apply for a permit from the department to~~
1676 ~~operate and maintain such structures. The department shall issue~~
1677 ~~one or more such permits for a term of 5 years upon the~~
1678 ~~demonstration of reasonable assurance that schedules and~~
1679 ~~strategies to achieve and maintain compliance with water quality~~
1680 ~~standards have been provided for, to the maximum extent~~
1681 ~~practicable, and that operation of the structures otherwise~~
1682 ~~complies with provisions of ss. 373.413 and 373.416 and the Lake~~
1683 ~~Okeechobee Basin Management Action Plan adopted pursuant to s.~~
1684 ~~403.067.~~

1685 1. ~~Permits issued under this paragraph shall also contain~~
1686 ~~reasonable conditions to ensure that discharges of waters~~
1687 ~~through structures:~~

- 1688 a. ~~Are adequately and accurately monitored;~~
- 1689 b. ~~Will not degrade existing Lake Okeechobee water quality~~
1690 ~~and will result in an overall reduction of phosphorus input into~~

1691 ~~Lake Okeechobee, as set forth in the district's Technical~~
 1692 ~~Publication 81-2 and the total maximum daily load established in~~
 1693 ~~accordance with s. 403.067, to the maximum extent practicable;~~
 1694 ~~and~~

1695 ~~e. Do not pose a serious danger to public health, safety,~~
 1696 ~~or welfare.~~

1697 2. For the purposes of this paragraph, owners and
 1698 operators of existing structures which are subject to ~~the~~
 1699 ~~provisions of s. 373.4592(4) (a) and which discharge into or from~~
 1700 ~~Lake Okeechobee shall be deemed in compliance with this~~
 1701 ~~paragraph the term "maximum extent practicable" if they are in~~
 1702 ~~full compliance with the conditions of permits under chapter~~
 1703 ~~chapters 40E-61 and 40E-63, Florida Administrative Code.~~

1704 3. ~~By January 1, 2004,~~ The district shall obtain from
 1705 ~~submit to~~ the department a permit modification to the Lake
 1706 Okeechobee structure permits to incorporate proposed changes
 1707 necessary to ensure that discharges through the structures
 1708 covered by this permit are consistent with the basin management
 1709 action plan adopted pursuant to ~~achieve state water quality~~
 1710 ~~standards, including the total maximum daily load established in~~
 1711 ~~accordance with s. 403.067. These changes shall be designed to~~
 1712 ~~achieve such compliance with state water quality standards no~~
 1713 ~~later than January 1, 2015.~~

1714 (d) The department shall require permits for district
 1715 regional projects that are part of the Lake Okeechobee Watershed
 1716 ~~Construction Project facilities. However, projects identified in~~

1717 ~~sub-subparagraph (3)(b)1.b.~~ that qualify as exempt pursuant to
1718 s. 373.406 do ~~shall~~ not require ~~need~~ permits under this section.
1719 Such permits shall be issued for a term of 5 years upon the
1720 demonstration of reasonable assurances that:

1721 1. District regional projects that are part of the Lake
1722 Okeechobee Watershed Construction Project facility, ~~based upon~~
1723 ~~the conceptual design documents and any subsequent detailed~~
1724 ~~design documents developed by the district,~~ will shall achieve
1725 the design objectives for phosphorus required in subparagraph
1726 (3)(a)1. ~~paragraph (3)(b);~~

1727 2. For water quality standards other than phosphorus, the
1728 quality of water discharged from the facility is of equal or
1729 better quality than the inflows;

1730 3. Discharges from the facility do not pose a serious
1731 danger to public health, safety, or welfare; and

1732 4. Any impacts on wetlands or state-listed species
1733 resulting from implementation of that facility of the Lake
1734 Okeechobee Construction Project are minimized and mitigated, as
1735 appropriate.

1736 (e) At least 60 days before ~~prior to~~ the expiration of any
1737 permit issued under this section, the permittee may apply for a
1738 renewal thereof for a period of 5 years.

1739 (f) Permits issued under this section may include any
1740 standard conditions provided by department rule which are
1741 appropriate and consistent with this section.

1742 (g) Permits issued under ~~pursuant to~~ this section may be

1743 modified, as appropriate, upon review and approval by the
 1744 department.

1745 Section 9. Paragraphs (a) and (b) of subsection (6) of
 1746 section 373.536, Florida Statutes, are amended to read:

1747 373.536 District budget and hearing thereon.—

1748 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
 1749 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

1750 (a) Each district must, by the date specified for each
 1751 item, furnish copies of the following documents to the Governor,
 1752 the President of the Senate, the Speaker of the House of
 1753 Representatives, the chairs of all legislative committees and
 1754 subcommittees having substantive or fiscal jurisdiction over the
 1755 districts, as determined by the President of the Senate or the
 1756 Speaker of the House of Representatives as applicable, the
 1757 secretary of the department, and the governing board of each
 1758 county in which the district has jurisdiction or derives any
 1759 funds for the operations of the district:

1760 1. The adopted budget, to be furnished within 10 days
 1761 after its adoption.

1762 2. A financial audit of its accounts and records, to be
 1763 furnished within 10 days after its acceptance by the governing
 1764 board. The audit must be conducted in accordance with s. 11.45
 1765 and the rules adopted thereunder. In addition to the entities
 1766 named above, the district must provide a copy of the audit to
 1767 the Auditor General within 10 days after its acceptance by the
 1768 governing board.

1769 3. A 5-year capital improvements plan, to be included in
1770 the consolidated annual report required by s. 373.036(7). The
1771 plan must include expected sources of revenue for planned
1772 improvements and must be prepared in a manner comparable to the
1773 fixed capital outlay format set forth in s. 216.043.

1774 4. A 5-year water resource development work program to be
1775 furnished within 30 days after the adoption of the final budget.
1776 The program must describe the district's implementation strategy
1777 and include an annual funding plan for each of the 5 years
1778 included in the plan for the water resource and~~7~~ water supply~~7~~
1779 development components, including ~~and~~ alternative water supply
1780 development, ~~components~~ of each approved regional water supply
1781 plan developed or revised under s. 373.709. The work program
1782 must address all the elements of the water resource development
1783 component in the district's approved regional water supply
1784 plans, as well as the water supply projects proposed for
1785 district funding and assistance. The annual funding plan shall
1786 identify both anticipated available district funding and
1787 additional funding needs for the second through fifth years of
1788 the funding plan. The work program ~~and~~ must identify projects in
1789 the work program which will provide water; explain how each
1790 water resource, and water supply, ~~and alternative water supply~~
1791 ~~development~~ project will produce additional water available for
1792 consumptive uses; estimate the quantity of water to be produced
1793 by each project; and provide an assessment of the contribution
1794 of the district's regional water supply plans in supporting the

1795 implementation of minimum flows and levels and reservations; and
1796 ensure ~~providing~~ sufficient water is available ~~needed~~ to timely
1797 meet the water supply needs of existing and future reasonable-
1798 beneficial uses for a 1-in-10-year drought event and to avoid
1799 the adverse effects of competition for water supplies.

1800 (b) Within 30 days after its submittal, the department
1801 shall review the proposed work program and submit its findings,
1802 questions, and comments to the district. The review must include
1803 a written evaluation of the program's consistency with the
1804 furtherance of the district's approved regional water supply
1805 plans, and the adequacy of proposed expenditures. As part of the
1806 review, the department shall post the work program on its
1807 website and give interested parties the opportunity to provide
1808 written comments on each district's proposed work program.
1809 Within 45 days after receipt of the department's evaluation, the
1810 governing board shall state in writing to the department which
1811 of the changes recommended in the evaluation it will incorporate
1812 into its work program submitted as part of the March 1
1813 consolidated annual report required by s. 373.036(7) or specify
1814 the reasons for not incorporating the changes. The department
1815 shall include the district's responses in a final evaluation
1816 report and shall submit a copy of the report to the Governor,
1817 the President of the Senate, and the Speaker of the House of
1818 Representatives.

1819 Section 10. Subsection (9) of section 373.703, Florida
1820 Statutes, is amended to read:

1821 373.703 Water production; general powers and duties.—In
 1822 the performance of, and in conjunction with, its other powers
 1823 and duties, the governing board of a water management district
 1824 existing pursuant to this chapter:

1825 (9) May join with one or more other water management
 1826 districts, counties, municipalities, special districts, publicly
 1827 owned or privately owned water utilities, multijurisdictional
 1828 water supply entities, regional water supply authorities,
 1829 private landowners, or self-suppliers for the purpose of
 1830 carrying out its powers, and may contract with such other
 1831 entities to finance acquisitions, construction, operation, and
 1832 maintenance, provided that such contracts are consistent with
 1833 the public interest. The contract may provide for contributions
 1834 to be made by each party to the contract for the division and
 1835 apportionment of the expenses of acquisitions, construction,
 1836 operation, and maintenance, and for the division and
 1837 apportionment of resulting benefits, services, and products. The
 1838 contracts may contain other covenants and agreements necessary
 1839 and appropriate to accomplish their purposes.

1840 Section 11. Paragraph (b) of subsection (2), subsection
 1841 (3), and paragraph (b) of subsection (4) of section 373.705,
 1842 Florida Statutes, are amended to read:

1843 373.705 Water resource development; water supply
 1844 development.—

1845 (2) It is the intent of the Legislature that:

1846 (b) Water management districts take the lead in

1847 identifying and implementing water resource development
1848 projects, and be responsible for securing necessary funding for
1849 regionally significant water resource development projects,
1850 including regionally significant projects that prevent or limit
1851 adverse water resource impacts, avoid competition among water
1852 users, or support the provision of new water supplies in order
1853 to help implement a minimum flow or level or water reservation.

1854 (3) (a) The water management districts shall fund and
1855 implement water resource development as defined in s. 373.019.
1856 The water management districts are encouraged to implement water
1857 resource development as expeditiously as possible in areas
1858 subject to regional water supply plans.

1859 (b) Each governing board shall include in its annual
1860 budget submittals required under this chapter:

1861 1. The amount of funds for each project in the annual
1862 funding plan developed pursuant to s. 373.536(6)(a)4.

1863 2. The total amount needed for the fiscal year to
1864 implement water resource development projects, as prioritized in
1865 its regional water supply plans.

1866 (4)

1867 (b) Water supply development projects that meet the
1868 criteria in paragraph (a) and that meet one or more of the
1869 following additional criteria shall be given first consideration
1870 for state or water management district funding assistance:

1871 1. The project brings about replacement of existing
1872 sources in order to help implement a minimum flow or level; ~~or~~

1873 2. The project implements reuse that assists in the
 1874 elimination of domestic wastewater ocean outfalls as provided in
 1875 s. 403.086(9); or

1876 3. The project reduces or eliminates the adverse effects
 1877 of competition between legal users and the natural system.

1878 Section 12. Paragraph (f) of subsection (3), paragraph (a)
 1879 of subsection (6), and paragraph (e) of subsection (8) of
 1880 section 373.707, Florida Statutes, are amended to read:

1881 373.707 Alternative water supply development.—

1882 (3) The primary roles of the water management districts in
 1883 water resource development as it relates to supporting
 1884 alternative water supply development are:

1885 (f) The provision of technical and financial assistance to
 1886 local governments, self-suppliers, and publicly owned and
 1887 privately owned water utilities for alternative water supply
 1888 projects.

1889 (6) (a) Where state ~~The statewide~~ funds are provided
 1890 through specific appropriation or pursuant to the Water
 1891 Protection and Sustainability Program, such funds serve to
 1892 supplement existing water management district or basin board
 1893 funding for alternative water supply development assistance and
 1894 should not result in a reduction of such funding. For each
 1895 project identified in the plans prepared pursuant to s.
 1896 373.536(6) (a) 4. ~~Therefore~~, the water management districts shall
 1897 include in the annual tentative and adopted budget submittals
 1898 required under this chapter the amount of funds allocated for

1899 | water resource development that supports alternative water
 1900 | supply development and the funds allocated for alternative water
 1901 | supply projects ~~selected for inclusion in the Water Protection~~
 1902 | ~~and Sustainability Program~~. It shall be the goal of each water
 1903 | management district and basin boards that the combined funds
 1904 | allocated annually for these purposes be, at a minimum, the
 1905 | equivalent of 100 percent of the state funding provided to the
 1906 | water management district for alternative water supply
 1907 | development. If this goal is not achieved, the water management
 1908 | district shall provide in the budget submittal an explanation of
 1909 | the reasons or constraints that prevent this goal from being
 1910 | met, an explanation of how the goal will be met in future years,
 1911 | and affirmation of match is required during the budget review
 1912 | process as established under s. 373.536(5). The Suwannee River
 1913 | Water Management District and the Northwest Florida Water
 1914 | Management District shall not be required to meet the match
 1915 | requirements of this paragraph; however, they shall try to
 1916 | achieve the match requirement to the greatest extent
 1917 | practicable.

1918 | (8)

1919 | (e) Applicants for projects that may receive funding
 1920 | assistance pursuant to the Water Protection and Sustainability
 1921 | Program shall, at a minimum, be required to pay 60 percent of
 1922 | the project's construction costs. The water management districts
 1923 | may, at their discretion, totally or partially waive this
 1924 | requirement for projects sponsored by:

- 1925 1. Financially disadvantaged small local governments as
 1926 defined in former s. 403.885(5); or
 1927 2. Water users for projects determined by a water
 1928 management district governing board to be in the public interest
 1929 pursuant to paragraph (1)(f), if the projects are not otherwise
 1930 financially feasible.

1931
 1932 The water management districts or basin boards may, at their
 1933 discretion, use ad valorem or federal revenues to assist a
 1934 project applicant in meeting the requirements of this paragraph.

1935 Section 13. Paragraph (a) of subsection (2) and paragraphs
 1936 (a) and (e) of subsection (6) of section 373.709, Florida
 1937 Statutes, are amended to read:

1938 373.709 Regional water supply planning.—

1939 (2) Each regional water supply plan must be based on at
 1940 least a 20-year planning period and must include, but need not
 1941 be limited to:

1942 (a) A water supply development component for each water
 1943 supply planning region identified by the district which
 1944 includes:

1945 1. A quantification of the water supply needs for all
 1946 existing and future reasonable-beneficial uses within the
 1947 planning horizon. The level-of-certainty planning goal
 1948 associated with identifying the water supply needs of existing
 1949 and future reasonable-beneficial uses must be based upon meeting
 1950 those needs for a 1-in-10-year drought event.

1951 a. Population projections used for determining public
 1952 water supply needs must be based upon the best available data.
 1953 In determining the best available data, the district shall
 1954 consider the University of Florida ~~Florida's~~ Bureau of Economic
 1955 and Business Research (BEBR) medium population projections and
 1956 population projection data and analysis submitted by a local
 1957 government pursuant to the public workshop described in
 1958 subsection (1) if the data and analysis support the local
 1959 government's comprehensive plan. Any adjustment of or deviation
 1960 from the BEBR projections must be fully described, and the
 1961 original BEBR data must be presented along with the adjusted
 1962 data.

1963 b. Agricultural demand projections used for determining
 1964 the needs of agricultural self-suppliers must be based upon the
 1965 best available data. In determining the best available data for
 1966 agricultural self-supplied water needs, the district shall
 1967 consider the data indicative of future water supply demands
 1968 provided by the Department of Agriculture and Consumer Services
 1969 pursuant to s. 570.93 and agricultural demand projection data
 1970 and analysis submitted by a local government pursuant to the
 1971 public workshop described in subsection (1), if the data and
 1972 analysis support the local government's comprehensive plan. Any
 1973 adjustment of or deviation from the data provided by the
 1974 Department of Agriculture and Consumer Services must be fully
 1975 described, and the original data must be presented along with
 1976 the adjusted data.

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2015

1977 | 2. A list of water supply development project options,
1978 | including traditional and alternative water supply project
1979 | options that are technically and financially feasible, from
1980 | which local government, government-owned and privately owned
1981 | utilities, regional water supply authorities,
1982 | multijurisdictional water supply entities, self-suppliers, and
1983 | others may choose for water supply development. In addition to
1984 | projects listed by the district, such users may propose specific
1985 | projects for inclusion in the list of alternative water supply
1986 | projects. If such users propose a project to be listed as an
1987 | alternative water supply project, the district shall determine
1988 | whether it meets the goals of the plan, and, if so, it shall be
1989 | included in the list. The total capacity of the projects
1990 | included in the plan must exceed the needs identified in
1991 | subparagraph 1. and take into account water conservation and
1992 | other demand management measures, as well as water resources
1993 | constraints, including adopted minimum flows and levels and
1994 | water reservations. Where the district determines it is
1995 | appropriate, the plan should specifically identify the need for
1996 | multijurisdictional approaches to project options that, based on
1997 | planning level analysis, are appropriate to supply the intended
1998 | uses and that, based on such analysis, appear to be permissible
1999 | and financially and technically feasible. The list of water
2000 | supply development options must contain provisions that
2001 | recognize that alternative water supply options for agricultural
2002 | self-suppliers are limited.

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

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2003 3. For each project option identified in subparagraph 2.,
 2004 the following must be provided:

2005 a. An estimate of the amount of water to become available
 2006 through the project.

2007 b. The timeframe in which the project option should be
 2008 implemented and the estimated planning-level costs for capital
 2009 investment and operating and maintaining the project.

2010 c. An analysis of funding needs and sources of possible
 2011 funding options. For alternative water supply projects, the
 2012 water management districts shall provide funding assistance
 2013 pursuant to s. 373.707(8).

2014 d. Identification of the entity that should implement each
 2015 project option and the current status of project implementation.

2016 (6) Annually and in conjunction with the reporting
 2017 requirements of s. 373.536(6)(a)4., the department shall submit
 2018 to the Governor and the Legislature a report on the status of
 2019 regional water supply planning in each district. The report
 2020 shall include:

2021 (a) A compilation of the estimated costs ~~of~~ and an
 2022 analysis of the sufficiency of potential sources of funding from
 2023 all sources for water resource development and water supply
 2024 development projects as identified in the water management
 2025 district regional water supply plans.

2026 (e) An overall assessment of the progress being made to
 2027 develop water supply in each district, including, but not
 2028 limited to, an explanation of how each project in the 5-year

2029 water resource development work program in s. 373.536(6)(a)4.,
2030 either alternative or traditional, will produce, contribute to,
2031 or account for additional water being made available for
2032 consumptive uses, minimum flows and levels, or water
2033 reservations; an estimate of the quantity of water to be
2034 produced by each project;~~7~~ and an assessment of the contribution
2035 of the district's regional water supply plan in providing
2036 sufficient water to meet the needs of existing and future
2037 reasonable-beneficial uses for a 1-in-10-year drought event, as
2038 well as the needs of the natural systems.

2039 Section 14. Part VIII of chapter 373, Florida Statutes,
2040 consisting of ss. 373.801-373.809, is created to read:

2041 PART VIII

2042 FLORIDA SPRINGS AND AQUIFER ACT

2043 373.801 Legislative findings and intent.-

2044 (1) The Legislature finds that:

2045 (a) Springs are a unique part of this state's scenic
2046 beauty. Springs provide critical habitat for plants and animals,
2047 including many endangered or threatened species, as well as
2048 immeasurable natural, recreational, economic, and inherent
2049 value.

2050 (b) Springs provide recreational opportunities for
2051 swimming, canoeing, wildlife watching, fishing, cave diving, and
2052 many other activities. Such recreational opportunities and the
2053 accompanying tourism benefit state and local economies.

2054 (c) Springs are of great scientific importance in

2055 understanding the diverse functions of aquatic ecosystems. Water
2056 quality of springs is an indicator of local conditions of the
2057 Floridan Aquifer, which is the source of drinking water for many
2058 residents of this state. Water flows in springs reflect regional
2059 aquifer conditions.

2060 (2) It is the intent of the Legislature:

2061 (a) That springs basin management action plans for
2062 Priority Florida Springs are expeditiously developed and
2063 implemented.

2064 (b) That recovery strategies for Priority Florida Springs
2065 that are not meeting minimum flows and levels are expeditiously
2066 developed and implemented.

2067 (c) To prioritize the development of minimum flows and
2068 levels for Priority Florida Springs and implementation of
2069 recovery or prevention strategies for Priority Florida Springs
2070 as applicable.

2071 (d) To prioritize the assessment of all Priority Florida
2072 Springs for potential nutrient impairment through the Florida
2073 total maximum daily load program.

2074 (e) To prioritize the adoption of total maximum daily
2075 loads for impaired Priority Florida Springs.

2076 (f) To prioritize the implementation of basin management
2077 action plans to restore impaired Priority Florida Springs.

2078 373.802 Definitions.—As used in this part, the term:

2079 (1) "Best management practice" means a practice or
2080 combination of practices based on research, field-testing, and

2081 expert review, to be the most effective and practicable on-
 2082 location means, including economic and technological
 2083 considerations, for improving water quality in agricultural and
 2084 urban discharges and improving efficiencies in the use and
 2085 management of water.

2086 (2) "Department" means the Department of Environmental
 2087 Protection, which includes the Florida Geological Survey or its
 2088 successor agency or agencies.

2089 (3) "Priority Florida Springs" includes all first
 2090 magnitude springs in the state and all second magnitude springs
 2091 within state or federally owned lands purchased for conservation
 2092 purposes.

2093 373.803 Priority Florida Springs; generally.—

2094 (1) The department, the water management districts, and
 2095 the Department of Agriculture and Consumer Services shall work
 2096 together in a coordinated manner to restore and maintain the
 2097 water quantity and water quality of Priority Florida Springs.

2098 (2) With respect to Florida springs:

2099 (a) The department has primary responsibility for water
 2100 quality protection through the establishment of basin management
 2101 action plans and other water quality regulations.

2102 (b) The water management districts have primary
 2103 responsibility for the hydrologic recovery of spring flow
 2104 through the establishment of minimum flows and levels and
 2105 recovery plans.

2106 (c) The Department of Agriculture and Consumer Services

2107 has primary responsibility for the development and
 2108 implementation of best management practices for agricultural
 2109 nonpoint sources.

2110 (d) Local governments have primary responsibility for
 2111 providing urban stormwater management services pursuant to the
 2112 provisions of their separate municipal storm sewer system
 2113 permits and the operation of wastewater collection and treatment
 2114 facilities.

2115 (3) The department, the water management districts, and
 2116 the Department of Agriculture and Consumer Services shall
 2117 prioritize the implementation of financial assistance and
 2118 community outreach programs for springs protection that support
 2119 actions to reduce nutrient loading to the environment and
 2120 prevent or abate nutrient over-enrichment of springs. Such
 2121 actions shall include implementing agricultural best management
 2122 practices and may include connecting centralized sewer systems
 2123 to densely populated areas presently served by onsite treatment
 2124 and disposal systems, stormwater management improvements, and
 2125 supporting implementation of ordinances consistent with the
 2126 department's Model Ordinance for Florida-Friendly Fertilizer Use
 2127 on Urban Landscapes referenced in s. 403.9337.

2128 373.805 Recovery or prevention strategies for Priority
 2129 Florida Springs.—

2130 (1) Recovery or prevention strategies for Priority Florida
 2131 Springs shall be developed as follows:

2132 (a) For any minimum flow or level initially adopted after

2133 July 1, 2015, if the Priority Florida Spring is below or is
2134 projected to fall within 20 years below the initial minimum flow
2135 or level, the water management district shall simultaneously
2136 approve the recovery or prevention strategy required by s.
2137 373.0421(2).

2138 (b) When an adopted minimum flow or level is revised, if
2139 the Priority Florida Spring is below or is projected within 20
2140 years to fall below the revised minimum flow or level, the water
2141 management district shall simultaneously approve the recovery or
2142 prevention strategy required by s. 373.0421(2) or modify an
2143 existing recovery or prevention strategy.

2144 (c) For Priority Florida Springs with an adopted minimum
2145 flow or level but without a prevention or recovery strategy as
2146 of July 1, 2015, when the water management district determines
2147 the Priority Florida Spring has fallen below or is projected
2148 within 20 years to fall below the adopted minimum flow or level,
2149 the water management district shall expeditiously approve a
2150 recovery or prevention strategy.

2151 (2) A recovery or prevention strategy for a Priority
2152 Florida Spring must include, at a minimum:

2153 (a) A prioritized list of specific projects necessary to
2154 achieve the minimum flow or level.

2155 (b) The capital cost, operating cost, and measures of cost
2156 benefit for each listed project.

2157 (c) The source and amount of financial assistance from the
2158 water management districts for each project.

2159 (d) Provisions otherwise required by law.
2160 373.807 Protection of water quality in Priority Florida
2161 Springs.-
2162 (1) As expeditiously as practicable, but by December 1,
2163 2018, the department or the department in conjunction with a
2164 water management district shall, for Priority Florida Springs:
2165 (a) Complete an assessment pursuant to s. 403.067 of
2166 Priority Florida Springs for which an impairment determination
2167 has not been made under the numeric nutrient criteria in effect
2168 for spring vents.
2169 (b) Establish a total maximum daily load for nutrients
2170 pursuant to s. 403.067 for Priority Florida Springs determined
2171 by the department to be impaired.
2172 (c) Establish basin management action plans pursuant to s.
2173 403.067 that include the impaired Priority Florida Springs that
2174 are subject to a total maximum daily load.
2175 (2) If a Priority Florida Spring is determined to be
2176 impaired after December 1, 2018, the department shall establish
2177 a basin management action plan to include the impaired spring
2178 within 2 years after the determination of impairment.
2179 (3) Basin management action plans for Priority Florida
2180 Springs must include, at a minimum:
2181 1. A priority listing of all specific projects identified
2182 for implementation of the basin management action plan.
2183 2. The capital cost, operating cost, and measures of cost
2184 benefit for each listed project.

2185 3. The source and amount of financial assistance, if any,
 2186 from the water management districts, the department, and the
 2187 Department of Agriculture and Consumer Services for each
 2188 project.

2189 4. Provisions otherwise required by law.

2190 373.809 Agricultural best management practices for springs
 2191 protection.-

2192 (1) Best management practices for agricultural discharges
 2193 shall reflect a balance between water quality improvements in
 2194 Priority Florida Springs and agricultural productivity.

2195 (2) Subject to the availability of funds, the Department
 2196 of Agriculture and Consumer Services, in cooperation with the
 2197 department and the water management districts, shall provide
 2198 technical and financial assistance for implementation of
 2199 agricultural best management practices pursuant to this section.

2200 (3) The department shall conduct monitoring at
 2201 representative sites to verify the effectiveness of agricultural
 2202 best management practices in accordance with s. 403.067.

2203 (4) Where water quality problems are detected in a
 2204 Priority Florida Spring despite the appropriate implementation
 2205 of adopted agricultural best management practices, a
 2206 reevaluation of the agricultural best management practices shall
 2207 be conducted pursuant to s. 403.067(7)(c)4.

2208 (5) Each person engaged in the occupation of agriculture
 2209 within the geographic area encompassed by a basin management
 2210 action plan that includes a Priority Florida Spring must either

2211 implement agricultural best management practices in accordance
2212 with the rules of the Department of Agriculture and Consumer
2213 Services or conduct water quality monitoring prescribed by the
2214 department or water management district according to the
2215 following schedule:

2216 (a) If a basin management action plan that includes a
2217 Priority Florida Spring was established before July 1, 2015,
2218 each person engaged in the occupation of agriculture within the
2219 geographic area encompassed by the basin management action plan
2220 must, by December 31, 2015, notify the Department of Agriculture
2221 and Consumer Services of his or her intent to either implement
2222 agricultural best management practices or conduct water quality
2223 monitoring prescribed by the department or water management
2224 district.

2225 (b) If a basin management action plan that includes a
2226 Priority Florida Spring is established on or after July 1, 2015,
2227 each person engaged in the occupation of agriculture within the
2228 geographic area encompassed by the basin management action plan
2229 must, within 180 days after establishment of the basin
2230 management action plan, notify the Department of Agriculture and
2231 Consumer Services of his or her intent to either implement
2232 agricultural best management practices or conduct water quality
2233 monitoring prescribed by the department or water management
2234 district.

2235 Section 15. Subsection (29) of section 403.061, Florida
2236 Statutes, is amended to read:

2237 403.061 Department; powers and duties.—The department
2238 shall have the power and the duty to control and prohibit
2239 pollution of air and water in accordance with the law and rules
2240 adopted and promulgated by it and, for this purpose, to:

2241 (29) (a) Adopt by rule special criteria to protect Class II
2242 and Class III shellfish harvesting waters. Such rules may
2243 include special criteria for approving docking facilities that
2244 have 10 or fewer slips if the construction and operation of such
2245 facilities will not result in the closure of shellfish waters.

2246 (b) Adopt by rule a specific surface water classification
2247 to protect surface waters used for treated potable water supply.
2248 These designated surface waters shall have the same water
2249 quality criteria protections as waters designated for fish
2250 consumption, recreation, and the propagation and maintenance of
2251 a healthy, well-balanced population of fish and wildlife, and
2252 shall be free from discharged substances at a concentration
2253 that, alone or in combination with other discharged substances,
2254 would require significant alteration of permitted treatment
2255 processes at the permitted treatment facility or that would
2256 otherwise prevent compliance with applicable state drinking
2257 water standards in the treated water. Notwithstanding this
2258 classification, a surface water used for treated potable water
2259 supply may be reclassified as waters designated for potable
2260 water supply.

2261
2262 The department shall implement such programs in conjunction with

2263 its other powers and duties and shall place special emphasis on
2264 reducing and eliminating contamination that presents a threat to
2265 humans, animals or plants, or to the environment.

2266 Section 16. Paragraph (a) of subsection (7) of section
2267 403.067, Florida Statutes, is amended to read:

2268 403.067 Establishment and implementation of total maximum
2269 daily loads.—

2270 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
2271 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

2272 (a) Basin management action plans.—

2273 1. In developing and implementing the total maximum daily
2274 load for a water body, the department, or the department in
2275 conjunction with a water management district, may develop a
2276 basin management action plan that addresses some or all of the
2277 watersheds and basins tributary to the water body. Such plan
2278 must integrate the appropriate management strategies available
2279 to the state through existing water quality protection programs
2280 to achieve the total maximum daily loads and may provide for
2281 phased implementation of these management strategies to promote
2282 timely, cost-effective actions as provided for in s. 403.151.
2283 The plan must establish a schedule implementing the management
2284 strategies, establish a basis for evaluating the plan's
2285 effectiveness, and identify feasible funding strategies for
2286 implementing the plan's management strategies. The management
2287 strategies may include regional treatment systems or other
2288 public works, where appropriate, and voluntary trading of water

2289 quality credits to achieve the needed pollutant load reductions.

2290 2. A basin management action plan must equitably allocate,
2291 pursuant to paragraph (6) (b), pollutant reductions to individual
2292 basins, as a whole to all basins, or to each identified point
2293 source or category of nonpoint sources, as appropriate. For
2294 nonpoint sources for which best management practices have been
2295 adopted, the initial requirement specified by the plan must be
2296 those practices developed pursuant to paragraph (c). Where
2297 appropriate, the plan may take into account the benefits of
2298 pollutant load reduction achieved by point or nonpoint sources
2299 that have implemented management strategies to reduce pollutant
2300 loads, including best management practices, before the
2301 development of the basin management action plan. The plan must
2302 also identify the mechanisms that will address potential future
2303 increases in pollutant loading.

2304 3. The basin management action planning process is
2305 intended to involve the broadest possible range of interested
2306 parties, with the objective of encouraging the greatest amount
2307 of cooperation and consensus possible. In developing a basin
2308 management action plan, the department shall assure that key
2309 stakeholders, including, but not limited to, applicable local
2310 governments, water management districts, the Department of
2311 Agriculture and Consumer Services, other appropriate state
2312 agencies, local soil and water conservation districts,
2313 environmental groups, regulated interests, and affected
2314 pollution sources, are invited to participate in the process.

2315 The department shall hold at least one public meeting in the
2316 vicinity of the watershed or basin to discuss and receive
2317 comments during the planning process and shall otherwise
2318 encourage public participation to the greatest practicable
2319 extent. Notice of the public meeting must be published in a
2320 newspaper of general circulation in each county in which the
2321 watershed or basin lies not less than 5 days nor more than 15
2322 days before the public meeting. A basin management action plan
2323 does not supplant or otherwise alter any assessment made under
2324 subsection (3) or subsection (4) or any calculation or initial
2325 allocation.

2326 4. The department shall adopt all or any part of a basin
2327 management action plan and any amendment to such plan by
2328 secretarial order pursuant to chapter 120 to implement the
2329 provisions of this section.

2330 5. The basin management action plan must include
2331 milestones for implementation and water quality improvement, and
2332 an associated water quality monitoring component sufficient to
2333 evaluate whether reasonable progress in pollutant load
2334 reductions is being achieved over time. An assessment of
2335 progress toward these milestones shall be conducted every 5
2336 years, and revisions to the plan shall be made as appropriate.
2337 Revisions to the basin management action plan shall be made by
2338 the department in cooperation with basin stakeholders. Revisions
2339 to the management strategies required for nonpoint sources must
2340 follow the procedures set forth in subparagraph (c)4. Revised

2341 basin management action plans must be adopted pursuant to
2342 subparagraph 4.

2343 6. In accordance with procedures adopted by rule under
2344 paragraph (9)(c), basin management action plans, and other
2345 pollution control programs under local, state, or federal
2346 authority as provided in subsection (4), may allow point or
2347 nonpoint sources that will achieve greater pollutant reductions
2348 than required by an adopted total maximum load or wasteload
2349 allocation to generate, register, and trade water quality
2350 credits for the excess reductions to enable other sources to
2351 achieve their allocation; however, the generation of water
2352 quality credits does not remove the obligation of a source or
2353 activity to meet applicable technology requirements or adopted
2354 best management practices. Such plans must allow trading between
2355 NPDES permittees, and trading that may or may not involve NPDES
2356 permittees, where the generation or use of the credits involve
2357 an entity or activity not subject to department water discharge
2358 permits whose owner voluntarily elects to obtain department
2359 authorization for the generation and sale of credits.

2360 7. The provisions of the department's rule relating to the
2361 equitable abatement of pollutants into surface waters do not
2362 apply to water bodies or water body segments for which a basin
2363 management plan that takes into account future new or expanded
2364 activities or discharges has been adopted under this section.

2365 8. The department shall establish a working group in areas
2366 where sewage treatment and disposal systems represent a source

2367 of excess nitrate-nitrite in springs or spring systems that must
2368 be controlled in order to meet a total maximum daily load
2369 adopted under subsection (6). The working group shall consist of
2370 not more than nine active members and shall include
2371 representatives from the department, the Department of Health,
2372 relevant local governments, and relevant local public and
2373 private wastewater utilities. The working group is responsible
2374 for:

2375 a. Collecting and evaluating credible scientific
2376 information on the effects of nutrients, particularly forms of
2377 nitrogen, on springs and spring systems.

2378 b. Developing and implementing a public education plan to
2379 provide area residents with reliable, understandable information
2380 about onsite sewage treatment and disposal systems and springs.

2381 c. Developing projects necessary to reduce the nutrient
2382 impacts from onsite sewage treatment and disposal systems.

2383

2384 The department shall award funds to implement this subparagraph
2385 contingent on a specific appropriation in the General
2386 Appropriations Act, which may include all or part of the costs
2387 associated with public education, construction of central
2388 wastewater facilities, construction of property owner connection
2389 to central wastewater facilities, one-time impact fees
2390 associated with property owner connection to central wastewater
2391 facilities, or the addition of effective nitrate-nitrite
2392 reducing features to existing onsite sewage treatment and

2393 disposal systems. In awarding funds for fixed capital outlay
2394 projects, the department may consider expected nutrient
2395 reduction benefit per unit cost, size and scope of the project,
2396 relative local financial contribution to the project, income
2397 levels of affected customers and other measures of community
2398 financial impact, and other considerations necessary to assure
2399 prudent and timely expenditure of funds and successful project
2400 outcomes.

2401 Section 17. Subsection (21) is added to section 403.861,
2402 Florida Statutes, to read:

2403 403.861 Department; powers and duties.—The department
2404 shall have the power and the duty to carry out the provisions
2405 and purposes of this act and, for this purpose, to:

2406 (21) Establish rules in accordance with this subsection
2407 concerning the use of surface waters for public water supply.

2408 (a) Any permit applicant applying to construct a public
2409 water system to provide potable public water supply using a
2410 surface water of the state that, at the time of the permit
2411 application, does not include potable water supply as a
2412 designated use by the department, shall petition to reclassify
2413 the surface water to include potable water supplies as a
2414 designated use or shall certify in the permit application that
2415 the public water supply utility will provide potable water to
2416 the public that, at a minimum, meets primary drinking water
2417 standards adopted in accordance with s. 403.853. An existing
2418 permittee may elect to file a certification in accordance with

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2015

2419 this paragraph.

2420 (b) Upon receipt of the certification described in
2421 paragraph (a) from an existing permittee or, in the case of a
2422 new permittee for surface water that does not include potable
2423 use at the time of application, upon issuance of the permit, the
2424 department shall act on the certification by adding treated
2425 potable water supplies as a designated use of the surface water.

2426 Section 18. This act shall take effect July 1, 2015.

Statutory Section	Senate Bill 918 Section Number	Description	House Bill 7003 Section Number	Description	Comment
259.032	1	PUBLIC ACCESS TO PUBLIC LANDS Requires DEP to create a database and website providing information on conservation lands the public may access. The bill also requires DEP to partner with third party entities to create a Mobile App so that citizen can access information by location and activity type enhancing their ability to access public land for recreational purposes. Requires implementation by January 1, 2016. By January 1, 2018 the database shall be expanded to include similar land owned by local and federal governments.			Most of this information is currently capture by DEP but not in a format that is readily accessible. The bill does change the responsibility of DEP to limit access to lands where recreational activity would not be consistent with the conservation purposes of the land.
260.1444	2	Sponsorship of State greenways and trails. Excludes the Shared-Use Nonmotorized Trail Network (SUN Trail) from the sponsorship program for greenways and trails.			
335.065	3	Removes concession agreement provisions from statute related to Bicycle and Pedestrian Ways along state roads.			
339.81	4	Creates the Florida Share-Use Nonmotorized Trail Network (SUN Trail) program as a component of the Greenways and Trails System and requires the Department of Transportation to include projects constructed as part of the system in its work program.			
339.82	5	Requires DOT to develop the SUN Trail Network Plan in coordination with DEP and other entities.			
339.83	6	Provides for Sponsorship of SUN Trails through concession agreements with not-for-profit or private sector businesses. Revenues from agreements may be used for maintenance of the trails and related facilities.			
373.019			1	Inserts the term "self-suppliers" in the definition of "Water resource development"	

373.036	7	Requiring certain information to be included in the WMD consolidated annual report for each project related to water quantity and water quality.			
373.042	8	<p>Amends s. 373.042(1). Requires WMDs to establish MFLs for Outstanding Florida Springs. Changes standard for MFLs for OFSSs from “significantly harmful” to “harmful”.</p> <p>Provides an interim minimum flow and minimum level at the water level exceeded 67% of the time based upon long term estimated conditions; or allows use of an established flow or level if one is available.</p>			<p>The House bill does not provide for the use of an interim MFL. Establishment and adoption of MFLs has been a lengthy process and is required before recovery or prevention strategies can be adopted. Allowing for the use of an interim MFL will speed up the process of restoring flows and levels.</p>
373.0421	9	Requires implementation of “harm” standard in establishing MFLs for Outstanding Florida Springs.	2	<p>Requires the department or WMDs to implement recovery and prevention strategies concurrently with the adoption of MFLs if necessary; provides that a recovery and prevention strategy cannot depend solely on water shortage restrictions; requires regional water supply plans to include any water supply and water resource development projects identified in a recovery or prevention strategy; requires a WMD, if it denies a water use permit based on its impact on an MFL, to notify the DEP and requires the DEP and WMD to review the regional water supply plan and update it if necessary.</p>	
373.0465			3	<p>Provides legislative findings and intent; defining the term "Central Florida Water Initiative Area"; providing for an interagency agreement between the Department of Environmental Protection, the St. Johns River Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, and the Department of Agriculture and Consumer Services to develop and implement a multi-district regional</p>	

				water supply plan; providing plan criteria and requirements; providing applicability; requires uniform rules for regulatory programs; requires a single definition of “harmful to the water course” as it relates to the issuance of a consumptive use permit.	
373.1501			4	Specifying authority of the South Florida Water Management District as sponsor of the “Central and Southern Florida Project” to allocate quantities of, and assign priorities for the use of, water within its jurisdiction; directing the district to provide recommendations to the United States Army Corps of Engineers when developing or implementing certain water control plans or regulation schedules. This has been described as clarifying.	This appears to be a clarification of existing law and unlikely to change the position of the Army Corps of Engineers.
373.2234			5	Directs water management district governing boards to give consideration to the identification of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible.	
373.223			6	Provides conditions under which the department and water management district governing boards are directed to give preference to certain applications where the use of alternative water supply is not technically or financially feasible.	
373.4591			7	Provides priority consideration to certain public-private partnerships for water storage, groundwater recharge, water quality improvements and water supply on private agricultural lands.	
373.4595			8	Revises and provides definitions relating to the Northern Everglades and Estuaries Protection Program; deletes definition for district WOD program; clarifies provisions of the Lake Okeechobee Watershed Protection Program; creates the Lake	

				Okeechobee Watershed Research and Water Quality Monitoring Program; provides requirements for the Lake Okeechobee basin management action plan; provides for technical and financial assistance for implementation of agricultural best management practices; directs the South Florida Water Management District to revise certain rules and provide for a water quality monitoring program; revises provisions for the Caloosahatchee River Watershed Protection Program and the St. Lucie River Watershed Protection Program; revises permitting and annual reporting requirements relating to the Northern Everglades and Estuaries Protection Program.	
373.536			9	Requires a water management district to include an annual funding plan in the water resource development work program. Directs the department to post the work program on its website.	This language is incompatible with the Senate provision for a state work program.
373.703			10	Authorizes water management districts to contract with private landowners for water production.	
373.705			11	Directs WMDs to consider for funding assistance certain water supply development projects; requiring governing boards to include certain information in their annual budget submittals.	This language is incompatible with the Senate provision for a state work program.
373.707			12	Authorizes water management districts to provide technical and financial assistance to self-suppliers and to waive certain construction costs of alternative water supply development projects if they are in the public interest and not otherwise financially feasible.	This provision is incompatible with Senate provision for a state work program.
373.709			13	Requires water supply plans to include traditional and alternative water supply project options that are technically and financially feasible; directs the department to report certain funding analyses and	This provision is incompatible with Senate provision for a state work program.

				project explanations in regional water supply planning reports.	
Part VIII	10	Creating Part VIII of Chapter 373, titled the "Florida Springs and Aquifer Protection Act."	14	Creating Part VIII of Chapter 373	Similar
373.801	11	<p>Legislative Findings and Intent</p> <p>Establishes that DEP has primary responsibility for water quality; WMDs have primary responsibility for water quantity; DACS has primary responsibility for the development and implementation of best management practices; and local governments have primary responsibility for providing wastewater and stormwater management.</p> <p>Recognizes the importance of healthy springsheds; the need for effective remedial action to avoid further declines in water quantity and water quality; the need to identify springshed boundaries and vulnerabilities; and the complexity of aquifers and springs.</p> <p>Recognizes that sufficient information exists to act and actions may be continually modified as additional information is acquired.</p>	14	<p>Legislative Findings and Intent</p> <p>Establishes that springs are a unique part of the state, provide recreational opportunities, and are of great scientific importance. Provides the intent of the Legislature that BMAPs be expeditiously developed, recovery strategies be expeditiously developed and implemented when required and the development of MFLs and recovery and prevention strategies be prioritized. Further that the assessments of impairment, adoption of TMDLs and implementation of BMAPs be prioritized.</p>	Similar – See House amendment to s. 373.803 to compare definition of responsibilities of DEP, DACS, WMDs and local governments.
373.802	12	<p>Definitions:</p> <p>Defines "Department", "Local Government", "Onsite sewage treatment and disposal system", "Outstanding Florida Spring", "Springshed", "Spring protection and management zone", "Spring run", and "Spring vent".</p> <p>Outstanding Florida Springs are all first magnitude springs and De Leon, Peacock, Poe, Rock, Wekiwa and Gemini</p> <p>Provides a definition for Spring Protection Zones as areas of the springshed where the Floridan Aquifer is vulnerable to sources of contamination or reduced levels as determined by DEP in consultation with WMD.</p>	14	<p>Definitions:</p> <p>Defines "Best management practices", "Department" and "Priority Florida Springs".</p> <p>Priority Florida Springs includes all first magnitude springs and all second magnitude springs within federal or state owned conservation lands</p>	<p>Second magnitude springs included in the House Bill differ from Senate Bill.</p> <p>House Bill does not include a definition of Spring Protection Zones.</p>

373.803	13	Requires the department to delineate a spring protection and management zone for each Outstanding Florida Spring by July 1, 2016; requiring the department to adopt by rule maps and legal descriptions that depict the delineation of each spring protection and management zone by July 1, 2017.	14	Defines the responsibilities of DEP, DACS, WMDs and Local Governments.	House bill does not require delineation of spring protection zones.
373.805	14	Requires a water management district to adopt a recovery or prevention strategy under certain circumstances; requires the Department of Environmental Protection or a water management district to adopt recovery or prevention strategies under certain circumstances by July 1, 2017; requires the Department of Environmental Protection or a water management district to adopt expeditiously or revise by July 1, 2018, recovery or prevention strategies for Outstanding Florida Springs; provides minimum requirements for recovery and prevention strategies; provides for extensions for local governments.	14	Provides criteria and requirements for the development of recovery or prevention strategies for Priority Florida Springs.	
373.807	15	Requires the department to initiate assessments of Outstanding Florida Springs by July 1, 2015, to be completed by July 1, 2018; requires the department to develop or revise basin management action plans and provides minimum requirements; authorizes local governments to apply for an extension for projects in an adopted basin management action plan; requires local governments to adopt an urban fertilizer ordinance within 6 months of the delineation of a spring protection zone; requires the department, the Department of Health, and local governments to identify onsite sewage treatment and disposal systems within each spring protection and management zone; requiring local governments to develop onsite sewage treatment and disposal system remediation plans under certain circumstances, to be approved by the DEP; prohibits property owners with identified onsite sewage treatment and disposal systems from being required to pay certain costs.	14	Directs the department to perform water quality assessments, establish total maximum daily loads, and establish basin management action plans for Priority Florida Springs; provides minimum requirements for basin management action plans for Priority Florida Springs.	
373.809	16	Requires the department to adopt rules to fund certain pilot projects; requires the DEP to adopt rules for funding projects or land acquisitions for water quality or quantity improvement.	14	Provides for technical and financial assistance for the implementation of agricultural best management practices; requires the reevaluation of agricultural best management practices under certain	These provisions are not comparable

				circumstances; requires each person engaged in the occupation of agriculture within such geographic area to implement certain best management practices or conduct certain water quality monitoring.	
373.811	17	Prohibits certain new wastewater facilities within a spring protection zone of an OFS Prohibits new facilities for the disposal of hazardous waste. Prohibits the land application of Class A or B biosolids and septage in a Spring Protection Zone. Prohibits construction of certain OSTDSs. Requires new agricultural operations within a spring protection zone of an OFS to implement best management practices (BMPs) or be subject to a groundwater monitoring plan approved by the WMD or DEP.			
373.813	18	Authorizes DEP, DOH and DACS to adopt rules. Requires the study of new or improved BMPs and nutrient management tools.			
373.815	19	Requires DEP in conjunction with the WMDs to submit progress reports to the Governor, President and Speaker on the status of TMDLs, BMAPs, MFLs, and recovery and prevention strategies adopted pursuant to the Springs legislation. The report must include the status of each project to achieve certain goals and whether interim 5, 10, and 15 year milestones and 20 year deadline will be met and corrective action plans to achieve milestones and deadline.			
403.061	20	Requires the department to create a consolidated water resources work plan; requires the department to create and maintain a web-based interactive map regarding watersheds and water bodies, their conditions, and work to improve them.	15	Directs the department to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply; providing criteria for such rule; authorizing the reclassification of surface waters used for treated potable water supply notwithstanding such rule. This provision appears address a specific issue.	These provisions are not comparable.

403.0616	21	Creates the Florida Water Resources Advisory Council to provide the Legislature with recommendations for projects submitted by governmental entities as part of a tentative water resources work program; requiring the council to consolidate various reports to enhance the water resources of this state; requiring the department to adopt rules.			
403.0623	22	Requires the department to establish certain standards to ensure statewide consistency in the collection of water quality and quantity data and testing results; requiring the department to maintain a centralized database for testing results and analysis of water quantity and quality data.			
403.067			16	Directs the department to establish a working group to address OSTDS issues when nitrate-nitrite pollution is an issue in springs or spring systems; provides responsibilities; provides for funding contingent on specific appropriation.	
403.861			17	House Bill directs the department to establish rules concerning the use of surface waters for public water supply; requires permit applicants using surface water to provide potable public water supply to petition the department to reclassify the surface water or to certify that the potable public water supply will meet certain drinking water standards; directs the department to designate treated potable water supplies as a use of surface water.	
Effective Date	23	July 1, 2015	18	July 1, 2015	



March 18, 2015

Chairman Charlie Dean
Senate Environmental Preservation and Conservation Committee
325 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100
Email: Bonn.kim@flsenate.gov

RE: CS/HB 7003 – Protect Florida's Water!

Dear Senator Dean:

These comments are being submitted in advance of the Senate Environmental Preservation and Conservation Committee workshop being held at 4:00pm today. We appreciate that the Committee is seeking public input on this important issue and ask that these written comments of the National Parks Conservation Association be noted in the official record of the workshop.

Ensuring the availability of clean, abundant freshwater is critically important to the health and of Everglades National Park, Biscayne National Park, and Big Cypress National Preserve – all of which are impacted by the upstream water bodies referenced in CS/HB 7003. These areas provide vast environmental, economic, and quality of life benefits to the state and must be protected for the enjoyment of this and future generations. Setting clear water quality standards based on best available scientific data is key to the long-term health of these places.

CS/HB 7003 as it is written would weaken existing water quality protections, and fails to set transparent, enforceable means or deadlines for achieving water quality standards. The bill would eliminate hard deadlines for cleaning up Lake Okeechobee without setting new ones (lines 1704-1713). Further, the bill would remove current requirements that structures discharging into Lake Okeechobee obtain permits designed to meet water quality standards and eliminate Best Management Practice (BMP) requirements for upstream discharges (lines 1664-1696).

NPCA has serious concerns about removing these important water quality standards in and around Lake Okeechobee and the affects this effort will have on the national parks of Florida at the receiving end of these flows.

Sincerely,

Cara Capp

Cara Capp
Everglades Restoration Program Manager



3333 Sanibel Captiva Road, Sanibel Island Florida 33957
Telephone 239.472.2329

March 17, 2015

Chairman Charlie Dean
Senate Environmental Preservation and Conservation Committee
325 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100
Transmitted by email: Bonn.kim@flsenate.gov

Dear Senator Dean:

This letter is submitted on behalf of the Sanibel Captiva Conservation Foundation and our 3,000 members to provide comments on CS/HB 7003 for consideration during the Senate Environmental Preservation and Conservation Committee workshop on March 18, 2015. As we are unable to attend in person to provide these comments we ask that they be noted in the record.

Because the bill was fast tracked through the House process and voted on the third day of session there was not much opportunity for the public to comment, so we appreciate your time to hear our concerns about HB7003.

Our network of communities coastal southwest Florida are defined by and highly affected by water; it is the basis of our tourist based economy and the quality of our lives. Water is the reason so many have chosen to set down roots and raise their families here with aspirations that generations will be able to enjoy what brought us here. But Florida's water is in need of help and the very wide ranging issues in HB 7003 take away tools that are needed to address water quality and water supply problems we face and will only get more serious in the years ahead.

We oppose CS/HB 7003 because the bill weakens existing water quality protections and does not set in place transparent, enforceable means or deadlines for achieving water quality standards; it relies on development of alternative sources of water with no language about conservation; it fails to address glaring water supply planning errors.

Water Quality

CS/HB 7003 weakens existing water quality protection for Lake Okeechobee and fails to set an enforceable deadline for achieving water quality standards. Lake O is the heart of the south Florida water system. When pollution is not aggressively addressed there it dooms all downstream waters like the Caloosahatchee and St Lucie rivers and estuaries.

The BMAP for Lake O is only for Phosphorus however 40% of the Caloosahatchee nitrogen load comes from the lake which is not addressed by the BMAP. Under the language of this bill 6000 tons of nitrogen annually will freely flow through the lake into our coastal estuaries. Despite these

facts, HB 7003 relies only on the BMAP to meet water quality which we know it cannot and will not do.

This is not just our opinion; the recently released University of Florida Water Institute Report states clearly that BMAPs for Lake O, the Caloosahatchee and St Lucie will not result in compliance with water quality standards. Yet this bill adopts those very same BMAPs as the only pollution control strategies for the watersheds

The bill also eliminates the 2015 deadline for cleaning up Lake O but fails to set a new deadline. None of the downstream waters can improve if the water feeding into them remains polluted.

The bill language codifies and assures failure to meet water quality standards by relying on Best management practices (BMPs) that are voluntary, are not required to be specific to source controls and provide a free pass for water quality called a presumption of compliance that is not documented or required to show benefits.

The bill removes a requirement that structures discharging into Lake Okeechobee obtain permits designed to meet water quality standards, and the bill cancels requirements for permitting upstream discharges into the lake's tributaries.

The fact is that our states water quality is deteriorating and will continue if specific water quality treatments are not set with targets and timelines that are monitored and verified and, if inadequate, upgraded.

There is an inherent conflict of interest between DACS promoting agriculture and being responsible for ensuring water quality. The primary responsibility for water quality protection and supply should remain with DEP and the WMDs. They should be required to enforce the laws and regulations on the books and be funded sufficiently to do it effectively.

Water Supply

Water resources are increasingly becoming over taxed and will continue if not comprehensively addressed. HB 7003 fails to address the least expensive and most effective option, conservation. Instead the bill emphasizes developing alternative sources with no language about conservation. In fact available freshwater is already over allocated and natural systems are bearing the harm. The language of HB7003 fails to address an inherent problem in this state water planning, specifically it fails to address the need for comprehensive water budgeting of freshwater including water needs for natural systems.

Currently water supply plans do not include a comprehensive water budget; they completely ignore the significant needs of natural systems, springs, lakes and rivers. As a result water supply plans provide assurances for meeting water needs on the 20 year horizon that can only be realized if natural systems carry the burden and suffer the impact of water shortages. The language of the bill does not address this problem but will expand conflicts by adding language to include *self supply*

to the user base a use that is not defined in the bill. The bills language is clearly written to benefit users while not addressing shortages or the needs of natural systems.

HB 7003 hardly mentions conservation at all. First and foremost water conservation must be a primary and priority focus of any water bill due to economic and resource efficiency. It cost us nothing to conserve and actually grows the water pie, where as supply development is extraordinarily expensive.

HB 7003 looks at water supply as a matter of responding to all demands for water as an inescapable mandate to develop more water supply, regardless of the cost to taxpayers. Consumptive use permit applicants should be required to tailor their requests for water to what is available, or to obtain their water from alternative sources.

HB 7003 does not address the inequities in water allocations. Minimum Flows and Levels (MFLs) for natural systems are currently set at "significantly harmful" standard while consumptive users have optimum, permitted quantifies that include a calculated margin of safety and in some cases a drought protection standard. Water needs of natural systems are as critical as water needed for crops, in fact too little freshwater inflow to our estuaries has caused habitat collapses that in turn affect our public crop of fish, crabs, shellfish and shrimp. Resources that not only supply commercial food but are central to our recreational economy. Water should be allocated on an even playing field based on need and availability. This bill does not do that.

We must ask the question of this legislation, how will this help and who does this serve?

This bill does not serve the public interest nor respect the public funding that has been invested to date. We strongly urge you to table HB 7003.

Respectfully submitted,

Rae Ann Wessel
Natural Resource Policy Director
Sanibel Captiva Conservation Foundation
Tel: 239.731.7559
Email: Rawessel@sccf.org

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/18/2015

Meeting Date

Bill Number (if applicable)

Topic HB 7003

Name RICH BODELL

Amendment Barcode (if applicable)

Job Title DIRECTOR WATER POLICY

Address 401 S. MONROE

Phone 30617-1704

Street

City FLA

State

Zip

Email Rich.Bodell@FreshFromFlorida.com

Speaking: For Against Information

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

Representing FDACS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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3/18/15

Meeting Date

SB 918

HB 7003

Bill Number (if applicable)

Topic Water Resources Bill 7003

Amendment Barcode (if applicable)

Name Brett Cyphers

Job Title Executive Director

Address 81 Water Management Dr.
Street

Phone 850-539-5999

Havana FL 32333
City State Zip

Email brett.cyphers@nwfwater.com

Speaking: For Against Information

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

Representing Northwest Florida 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

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3/18/15

Meeting Date

HB 7003

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Ryan Matthews

Job Title Assoc. Dir - Leg. Affairs

Address PB Box 1757

Phone 222 9684

Street

Tallahassee

FL

State

32302

Zip

Email rmatthews@flcities.com

City

Speaking: For Against Information

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

Representing FL League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic HB 7003 Workshop

Amendment Barcode (if applicable)

Name Daniel Delisi

Job Title Chief of Staff

Address 3301 Gun Club Rd.

Phone

Street

West Palm Beach FL

Email dodelisi@a

City

State

Zip

Speaking: For Against Information

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

Representing South Florida 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

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3/18/15
Meeting Date

Bill Number (if applicable)

Topic HB 7003

Amendment Barcode (if applicable)

Name Drew Bartlett

Job Title Deputy Secretary, DEP

Address _____
Street

Phone _____

City State Zip

Email _____

Speaking: For Against Information

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

Representing FDEP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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RAN OUT OF TIME – DID NOT SPEAK

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-18-15

Meeting Date

HB 7003

Bill Number (if applicable)

Topic Water Policy

Amendment Barcode (if applicable)

Name Stephanie Kunkel

Job Title _____

Address 1143 Albritton Dr
Street

Phone 850-320-4208

Tallahassee FL 32301
City State Zip

Email stef.kunkel@gmail.com

Speaking: For Against Information

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

Representing Conservancy of Southwest Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/18/15

Meeting Date

HB 7003

Bill Number (if applicable)

Topic HB 7003

Amendment Barcode (if applicable)

Name Greg Munson

Job Title _____

Address 215 S. Monroe St. Ste 601
Street

Phone 850-521-1980

Tallahassee FL 32301
City State Zip

Email gmunson@gunster.com

Speaking: For Against Information

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

Representing AIF H2O Coalition

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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APPEARANCE RECORD

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3/18/15

Meeting Date

HB 7003

Bill Number (if applicable)

Topic WATER RESOURCES

Amendment Barcode (if applicable)

Name Douglas Buck

Job Title

Address PO Box 1259

Phone 850-224-4316

Tallahassee FL 32301

Email dbuck@fhba.com

Speaking: For Against Information

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

Representing Florida Home Builders Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/18/15
Meeting Date

HB 7003
Bill Number (if applicable)

Topic WATER RESOURCES

Amendment Barcode (if applicable)

Name BART BIBLER

Job Title ENVIRONMENTAL ENGINEER

Address 3673 MOSSY CREEK LANE

Phone 850 570-8165

Street
TALAHASSEE FL 32311
City State Zip

Email bbibler@comcast.net

Speaking: For Against Information

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

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
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3/18/15
Meeting Date

HB 7003
Bill Number (if applicable)

Topic HB 7003 / Water bill

Amendment Barcode (if applicable)

Name Preston Robertson

Job Title VP / General Counsel

Address PO Box 6870
Street

Phone 656-7113

Tall, FL 32301
City State Zip

Email preston@fwfonline.org

Speaking: For Against Information

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

Representing Florida Wildlife Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/18/15

Meeting Date

HB 7003

Bill Number (if applicable)

Topic Water

Amendment Barcode (if applicable)

Name Adam Basford

Job Title Dir of Legislative Affairs

Address 315 S Calhoun #850

Phone _____

Street

City

State

Zip

Email adam.basford@fla.gov

Speaking: For Against Information

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

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)

March 18, 2015
Meeting Date

7003
Bill Number (if applicable)

Topic HB 7003

Amendment Barcode (if applicable)

Name DAVID CHILDS

Job Title Counsel

Address 119 S. Monroe St Suite 300
Street

Phone 850 222-7500

Tallahassee FL 32301
City State Zip

Email DAVIDC@H6SLAW.COM

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/18/15
Meeting Date

7003
Bill Number (if applicable)

Topic WATER RESOURCES

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 1674 UNIVERSITY BLVD
Street

Phone 941.323.2904

SARASOTA FL 34243
City State Zip

Email cullenasa@aol.com

Speaking: For Against Information

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

Representing SIENNA CLUB FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

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3/18/15

Meeting Date

HB 7003

Bill Number (if applicable)

Topic Water Resources

Amendment Barcode (if applicable)

Name Nick Iarossi

Job Title

Address 101 E. College Avenue suite 502

Phone 222-9075

Street

Tallahassee FL 32311

City

State

Zip

Email niarossi@egpcityconsult.com

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

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

Representing Florida Everglades Foundation

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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THE FLORIDA SENATE

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3/18/15

Meeting Date

HB 7003

Bill Number (if applicable)

Topic HB 7003

Amendment Barcode (if applicable)

Name RICK ROTH

Job Title President Roth Fans

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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3-18-15

Meeting Date

Bill Number (if applicable)

Topic Lake Okechobee Water

Amendment Barcode (if applicable)

Name Eric Drape

Job Title _____

Address 308 N Monroe

Phone 222 2473

Street

Tallah _____

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Audubon

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

CourtSmart Tag Report

Room: LL 37
Case: Senate Environmental Preservation and Conservation

Type:
Judge:

Started: 3/18/2015 4:08:48 PM
Ends: 3/18/2015 5:59:45 PM **Length:** 01:50:58

4:08:50 PM Meeting called to order by Senator Dean
4:09:17 PM Roll Call
4:10:28 PM Announcement from Senator Dean
4:10:57 PM Tab 2 SB 776
4:11:04 PM Senator Hays on SB 776
4:11:12 PM Amendment Barcode 691164
4:11:42 PM Senator Hays on Amendment
4:15:38 PM Amendment to Amendment Barcode 786464
4:16:32 PM Amendment to Amendment adopted
4:16:46 PM Question from Senator Soto
4:16:59 PM Response from Diana Caldwell
4:17:30 PM Question from Senator Evers
4:17:52 PM Response from Diana Caldwell
4:18:10 PM Amendment adopted
4:18:26 PM Gary Williams representing Florida Rural Water Assoc. waives in support
4:18:57 PM Roll call on CS/SB 776
4:19:09 PM CS/SB 776 reported favorably
4:19:32 PM Tab 1 SB 680
4:19:44 PM Senator Dean on SB 680
4:20:41 PM Question from Senator Soto
4:21:11 PM Response from FWC
4:21:34 PM Follow-up from Senator Soto
4:21:42 PM Response from FWC
4:22:19 PM Question from Senator Smith
4:22:35 PM Response from FWC
4:23:18 PM Question from Senator Hays
4:23:58 PM Amendment Barcode 395562
4:24:16 PM Amendment adopted
4:24:25 PM Question from Senator Evers
4:25:05 PM Response from Senator Dean
4:25:43 PM Response from FWC
4:26:37 PM Peggy Matthews representing American Watercraft Assoc.
4:27:17 PM Brandy Elliot representing Fish and Wildlife waive in Support
4:27:30 PM Travis Moore representing Defenders of Wildlife waive in Support
4:27:45 PM Lane Stephens representing Florida Airboat Assoc. waives in support
4:28:06 PM Brandy Elliot represent FWC waives in support
4:28:07 PM Jerry Sanson representing Organized Fisherman of FL waives in support
4:28:08 PM Comment from Senator Smith
4:28:43 PM Comment from Senator Soto
4:29:31 PM Roll call on CS/SB 680
4:29:44 PM CS/SB 680 reported favorably
4:30:04 PM Tab 3 CS/HB 7003
4:30:19 PM Pepper Uchino on CS/HB 7003
4:33:32 PM Question from Senator Soto
4:34:00 PM Response from Drew Bartlett, Deputy Secretary for Water Policy
4:34:57 PM Followup from Senator Soto
4:35:14 PM Response form Mr. Bartlett
4:35:42 PM Question from Senator Dean
4:36:17 PM Response from Mr. Bartlett
4:37:32 PM Pepper Uchino on the bill
4:38:28 PM Question from Senator Dean
4:38:39 PM Rich Budell representing FDACS

4:39:45 PM Follow-up from Senator Dean
4:40:28 PM Response from Mr. Budell
4:42:00 PM Question from Senator Hays
4:42:05 PM Response from Mr. Budell
4:44:18 PM Question from Senator Hays
4:44:24 PM Response from Mr. Budell
4:45:20 PM Follow-up from Senator Hays
4:46:20 PM Response from Mr. Bartlett
4:46:37 PM Question from Senator Dean
4:46:43 PM Response from Mr. Bartlett
4:47:31 PM Comment from Senator Dean
4:47:43 PM Question from Senator Soto
4:47:51 PM Response from Mr. Bartlett
4:48:29 PM Follow-up from Senator Soto
4:48:40 PM Response from Mr. Bartlett
4:48:46 PM Response from Daneil DeLisi, SFWMD
4:50:03 PM Question from Senator Altman
4:50:15 PM Response from Mr. DeLisi
4:51:20 PM Follow-up from Senator Altman
4:51:28 PM Response from Mr. DeLisi
4:52:48 PM Follow-up from Senator Altman
4:53:16 PM Response from Mr. DeLisi
4:53:23 PM Question from Senator Soto
4:54:17 PM Response from Mr. DeLisi
4:55:37 PM Follow-up from Senator Soto
4:55:44 PM Response from Mr. DeLisi
4:57:16 PM Question from Senator Simmons
4:58:12 PM Comments from Senator Simmons
4:59:29 PM Response from Mr. DeLisi
5:00:47 PM Follow-up from Senator Altman
5:02:04 PM Response from Mr. DeLisi
5:03:06 PM Response from Mr. Bartlett
5:04:25 PM Follow-up from Senator Simmons
5:06:17 PM Response from Mr. Bartlett
5:07:16 PM Follow-up from Senator Simmons
5:08:20 PM Pepper Uchino on the bill
5:09:48 PM Question from Senator Dean
5:10:03 PM Response from Mr. Budell
5:10:22 PM Pepper Uchino on the bill
5:11:10 PM Question from Senator Altman
5:11:57 PM Response from Mr. DeLisi
5:13:51 PM Question from Senator Dean
5:14:09 PM Response from Mr. Bartlett
5:14:39 PM Question from Senator Dean
5:14:45 PM Response from Mr. Bartlett
5:15:48 PM Question from Senator Dean
5:16:26 PM Response from Mr. Bartlett
5:16:33 PM Question from Senator Simpson
5:16:54 PM Response from Mr. Bartlett
5:19:02 PM Question from Senator Simpson
5:19:09 PM Response from Mr. Bartlett
5:19:44 PM Question from Senator Hays
5:19:53 PM Response from Mr. Bartlett
5:21:21 PM Question from Senator Simmons
5:21:26 PM Response from Mr. Bartlett
5:22:34 PM Follow-up from Senator Simmons
5:23:10 PM Response from Mr. Bartlett
5:24:30 PM Follow-up from Senator Simmons
5:25:04 PM Response from Mr. Bartlett
5:26:07 PM Question from Senator Dean
5:26:21 PM Response from Mr. Budell
5:26:48 PM Follow-up from Senator Dean

5:27:12 PM Response from Mr. Budell
5:28:04 PM Follow-up from Senator Dean
5:28:12 PM Response from Mr. Budell
5:30:47 PM Question from Senator Altman
5:30:52 PM Response from Mr. Budell
5:31:51 PM Follow-up from Senator Altman
5:32:05 PM Response from Mr. Budell
5:34:01 PM Comment from Senator Dean
5:34:12 PM Question from Senator Simmons
5:35:34 PM Response from Mr. Budell
5:36:22 PM Comment from Senator Dean
5:36:30 PM Question from Senator Simpson
5:36:37 PM Response from Mr. Budell
5:37:11 PM Follow-up from Senator Simpson
5:37:19 PM Response from Mr. Budell
5:37:32 PM Response from Mr. Bartlett
5:38:05 PM Question from Senator Evers
5:38:57 PM Response from Brett Cyphers representing NFWFMD
5:40:01 PM Follow-up from Senator Evers
5:40:05 PM Response from Mr. Cyphers
5:40:11 PM Follow-up from Senator Evers
5:40:18 PM Response from Mr. Bartlett
5:41:26 PM Follow-up from Senator Evers
5:42:27 PM Response from Mr. Bartlett
5:42:35 PM Follow-up from Senator Evers
5:42:49 PM Response from Pepper Uchino
5:43:10 PM Follow-up from Senator Evers
5:43:21 PM Question from Senator Hays
5:43:59 PM Response from Mr. DeLisi
5:44:21 PM Follow-up from Senator Hays
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5:45:15 PM Follow-up from Senator Hays
5:45:30 PM Response from Mr. DeLisi
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5:48:23 PM Pepper Uchino on the bill
5:53:18 PM Question from Senator Evers
5:53:27 PM Response from Ryan Matthews representing Florida League of Cities
5:54:06 PM Pepper Uchino on the bill
5:54:24 PM Question from Senator Dean
5:55:11 PM Response from Mr. Budell
5:56:35 PM Follow-up from Senator Dean
5:57:10 PM Response from Mr. Budell
5:58:02 PM Question from Senator Dean
5:58:22 PM Response from Mr. Budell
5:58:42 PM Question from Senator Simpson
5:58:59 PM Response from Mr. Budell
5:59:29 PM Meeting Adjourned