

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Environmental Preservation Committee

BILL: CS/SB 2538

INTRODUCER: Environmental Preservation Committee and Senator Argenziano

SUBJECT: Florida Springs Protection Act

DATE: April 10, 2006

REVISED: 04/19/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Molloy</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u></u>	<u></u>	<u>CA</u>	<u></u>
3.	<u></u>	<u></u>	<u></u>	<u></u>
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I. Summary:

The committee substitute creates the Florida Springs Protection Act to establish legislative findings and intent for springs protection, and to create the Florida Springs Commission (Commission). The Commission must assess the existing condition of all first and second magnitude springs, and evaluate and recommend strategies for protecting and ensuring the long-term viability of the springs. Criteria for conducting the evaluation and developing the recommendations are established, and the Commission is directed to consider relevant studies, springs protection initiatives, and other information currently available for springs protection. The Commission must develop an overall model springs protection plan that applies the recommended strategies.

The committee substitute provides that the Commission must receive and consider public comment, and otherwise maximize public participation from all affected parties. The Florida Springs Commission will expire on July 1, 2010.

The committee substitute creates ss. 369.401, 369.403, and 369.405, Part IV, Florida Statutes:

II. Present Situation:

Florida's Springs and the Florida Springs Initiative¹

Florida has more than 700 recognized springs - 33 first magnitude springs with a flow of more than 100 cubic feet per second discharging about 64.6 million gallons of water per day, 191 second magnitude springs with an average flow of 10 to 100 cubic feet per second discharging

¹ See Bulletin No. 66, *Springs of Florida*, Florida Geological Survey, http://ftp.dep.state.fl.us/pub/geo/web/springs/introduction_and_acknowledgements.pdf

6.46 to 64.4 million gallons of water per day, and 151 third magnitude springs with a flow of 1 to 10 cubic feet per second discharging 600,000 to 6.46 million gallons of water per day. Spring water discharges, primarily discharging from the Floridan Aquifer, are used to determine ground water quality as well as the degree of human impact on the watershed. Rainfall, surface conditions, soil type, mineralogy, the composition of the aquifer system, the porous nature of the system, and flow and length of time in the aquifer all contribute to ground water chemistry.

The Florida Springs Commission was created in 1999 as a multi-agency Commission to recommend strategies for protecting and restoring Florida's springs. The Commission met monthly from September 1999 to September 2000, and produced a report entitled "Florida's Springs, Strategies for Protection and Restoration" which was the basis of the Florida Springs Initiative. The report contained management strategies such as coordinated land use planning and ordinances that protect spring recharge basins, funding and implementing best management practices, and the acquisition of spring recharge basins to protect springs from land use practices that reduce water quality and quantity; regulation strategies to protect spring flow, and funding strategies such as a 25-cent increase in automobile tags for deposit into the Springs Protection and Restoration Trust Fund.

In 2001, the Legislature provided \$2.5 million in funding to support projects for springs restoration, research and protection.

Suwannee River Partnership

The Suwannee River Partnership, formed in 1999, is a coalition of state, federal, regional agencies, local governments, and private business representatives, working together to reduce nitrate levels in the surface waters and ground water resources of the Suwannee River Basin. Initial partnership efforts were limited to the Middle Suwannee River Basin, but in 2003, the Partnership expanded its work program to include the Santa Fe River Basin.

The Suwannee River Partnership programs include the following:

- The Best Management Practices Quality Assurance Program (BMPs) - ensures that BMPs are operated and maintained over a long period of time. Provides assistance to farmers to resolve BMP problems.
- County Alliance for Responsible Environmental Stewardship (CARES) – Certifies and recognizes farmers participating in the Partnership program.
- On-Farm Research – conducts on-farm research to verify BMPs are effective in reducing nitrate loads to ground and surface waters.
- Monitoring – Monitors water quality trends on a regional basis.
- Cost-share programs – With assistance of the U.S. Department of Agriculture and the Florida Department of Agriculture & Consumer Services (DACs), 44 farmers are currently being assisted in Suwannee and Lafayette counties in designing and implementing BMPs for improved waste management operations at dairy and poultry farms.

Partnership members include the Suwannee River Water Management District, DACs, DEP, the Department of Community Affairs, IFAS at the University of Florida, the Florida Cattlemen's Association, the Florida Farm Bureau, the Florida Poultry Association, Sunshine State Milk Products, the Suwannee and Madison county commissions, the City of High Springs, Lake City, and the City of Fanning Springs, Nestle Waters North America, Inc., and Dannon Water.

Wekiva Basin Area Commission

The Wekiva Basin Area Commission was established by Executive Order No. 02-259, issued in September 2002, by Governor Bush. The Commission, which consisted of state, local government, regional governing members, and business and environmental representatives, was directed to consider, evaluate, and make recommendations on the appropriate location for a highway connecting State Road 429 to Interstate 4, to cause the least disruption and greatest protection for the Wekiva Basin ecosystem. The Commission issued its final report in January of 2003, and made recommendations in four broad areas:

- A proposed corridor for the beltway connector;
- Enhanced land use planning and water resources regulation to protect the springshed;
- Priorities for acquiring conservation lands; and
- An implementation plan.

As part of its recommendations, the Commission suggested asking the Legislature to establish the Wekiva River Springshed Protection Act, in part to protect ground water recharge to achieve a no-net loss of recharge potential.

Wekiva River Basin Coordinating Committee

The Wekiva River Basin Coordinating Committee was created by Executive Order No. 03-113, issued by Governor Bush on July 1, 2003. As part of its mission, the Committee was required to delineate a portion of the land area contributing to the surface and ground water of the Wekiva River System which would be known as the Wekiva Study Area. The Committee was to be a forum to identify enhanced land use planning strategies and development standards consistent with protected property rights, which would improve and assure protection of surface and ground water resources, including recharge potential, within the Study Area.

The Committee's final report was released in March 2004, and as part of its recommendations, concluded that:

- The St. Johns River Water Management District should revise its consumptive use permitting thresholds in the Study Area to address proposed water withdrawals above 50,000 gallons per day; create a general permit and include a transition period for existing users not previously subject to the permitting process;
- DACS should study and undertake rulemaking for new or revised BMPs to improve and protect water bodies; and
- DEP should study and undertake rulemaking to address water quality and wastewater treatment standards to achieve nitrogen reduction using best available technologies to protect water quality within the Study Area.

III. Effect of Proposed Changes:

Section 1. Creates Part IV in chapter 369, consisting of ss. 369.401, 369.403, and 369.407, F.S. Section 369.401, F.S., provides that Part IV may be cited as the "Florida Springs Protection Act."

Section 369.403, F.S., establishes legislative intent and findings:

- The springs in Florida are threatened by actual and potential flow reductions and declining water quality.
- Springs have begun to exhibit signs of distress, such as increased nutrient loading and lowered discharge, due to climate patterns and population changes.
- The ground water that feeds springs is recharged by water seeping from the surface, surface water runoff, and through direct conduits such as sinkholes.
- Springs and ground water damaged by overuse can be restored through good stewardship, including effective planning strategies and best-management practices, that can preserve and protect the springs.
- Land use planning decisions can protect and improve spring water quantity and quality, and upland resources.
- Managing land use types, allowable densities and intensities of development, and specific site planning to further minimize impacts rank as important goals in protecting and improving springs.
- Development in the state will add to the pressure for growth and development already affecting surface and ground water resources which contribute to spring flow.
- A need exists to provide for land use decisions that recognize protected property rights and ensure the long-term viability of Florida's springs.
- Cooperative and coordinated efforts, such as the Suwannee River Partnership and the Wekiva River Basin Coordinating Committee, can best develop mechanisms to protect springs.
- To identify protection, restoration and preservation strategies for Florida's springs, the Florida Springs Commission must be created.

Section 369.405, F.S., creates the Florida Springs Commission:

- **Commission Members and organization:**
 - The Commissioner of Agriculture
 - The Secretaries of Community Affairs, Environmental Protection, Health, and Transportation.
 - The Executive Director of the Fish and Wildlife Conservation Commission.
 - 1 member to represent all water management district governing boards.
 - 1 member to represent all regional planning councils.
 - 1 representative each from the Florida Chamber of Commerce, the Florida Association of Community Developers, the American Water Works Association, and the Florida Home Builders Association.
 - 3 members appointed by the Governor.
 - 3 members appointed by the President of the Senate, one of whom must be a member of the Senate.
 - 3 members appointed by the Speaker of the House of Representatives, one of whom must be a member of the House of Representatives.
 - The Secretary of Environmental Protection (DEP) serves as chair of the Commission.
 - Each state or regional governmental commission member may appoint a staff representative who shall have full voting authority.
 - The Commission may appoint technical subcommittees consisting of qualified persons who are not members of the Commission.
 - State agencies, other agencies and local governments are requested to provide assistance to and cooperate with the Commission.

- **Commission Duties and Responsibilities:**
 - Assess existing conditions at all first and second magnitude springs, and include the following information in the assessment:
 - The spring's current land owner, latitude and longitude, water quality and quantity; water use; nearby wetlands; geology and soil types; vegetation; floodplain area data; nearby infrastructure; fish and wildlife resources; cultural and archaeological resources; public access and use; land use plans; nearby hazardous materials; human health and safety concerns; aesthetics and scenic resources; and relevant socioeconomic factors.
 - DEP must work with the water management districts to identify and map all first and second magnitude springs within each water management district.
 - DEP and the districts must perform an assessment and create a uniform geographic information system standard for collecting and reporting springs data.
- Evaluate and recommend strategies for protecting and ensuring the long-term viability of Florida's springs, considering:
 - The protection of property rights.
 - The effectiveness of current land use strategies.
 - The development and application of innovative land use planning strategies.
 - The effectiveness and sufficiency of existing rules.
 - The use of regional partnerships, best-management practices and other incentive-based nonregulatory programs.
 - Relevant studies, springs protection initiatives, and other information available for springs protection, including those provided by the Suwannee River Partnership, the Wekiva Basin Area Commission, the Wekiva River Basin Coordinating Committee, and the Florida Springs Initiative at DEP.
 - Basin management action plans developed by DEP pursuant to the total maximum daily load (TMDL) program.
- Develop an overall model springs protection plan that applies the recommended strategies.
 - The model plan must contain components which can be used by state agencies, local governments, and state residents for more detailed individual spring protection plans.
 - Each individual plan must contain a 5-year strategy for use and management of the spring.
 - The model plan must contain the following minimum components:
 - An analysis of the present environmental conditions and use patterns.
 - An analysis of the ability of the spring to support additional public use.
 - An analysis of the economic potential of spring use.
 - A discussion of the economic potential of spring use.
 - A discussion of actions needed to promote increased public use.
 - A discussion of infrastructure, personnel, and security needs.
 - A discussion of limits on use to avoid detrimental impacts, strategies to leverage resources, and long-term management partnership between the state, regional and local governments, and residents of the area.

- Develop and recommend other appropriate measures to achieve springs protection.
- Receive and consider public comment and maximize public participation from all affected parties.
- The Florida Springs Commission will expire on July 1, 2010.

Section 2. Provides that the act shall take effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The committee substitute does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-share revenues as specified by s. 18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private property owners may be affected by Commission recommendations included in individual spring protection plans developed by local governments.

C. Government Sector Impact:

The overall impact of the committee substitute on state agencies is indeterminate. DEP estimates that mapping efforts will require 56 additional staff persons and associated resources, at an estimated cost of \$25 million per year to complete basic mapping of approximately 120 springs. The Florida Springs Initiative is currently funded at \$2.5 million with 2 staff members.

No funding is provided for the technical committees authorized to be created for the purpose of assisting the Commission in meeting its responsibilities, and no mechanism for considering public comment and providing for public participation is provided in the committee substitute.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 20.03(10), F.S., defines a “Commission” as a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor, and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

Section 20.052, F.S., provides that statutorily created advisory bodies, of which a Commission is one by definition, are subject to requirements that include:

- The entity must be necessary and beneficial to the furtherance of a public purpose.
- The entity must be terminated by the Legislature when no longer essential to the furtherance of a public purpose.
- Members of the entity may not receive compensation, other than per diem and travel expense reimbursement pursuant to s. 112.061, F.S., unless otherwise provided in statute.
- All meetings and records of the entity are public, unless an exemption is specifically provided by law.

The Florida Springs Commission is not assigned to a state agency or other entity. No staffing is assigned to coordinate and compile the data collected by the Commission, to keep records of Commission meetings, or to coordinate the development of the model springs protection plan. The committee substitute does not require the Commission to meet even a minimal number of times, and no locations for meetings are designated. Members of the Commission may be employees of the state.

VIII. Summary of Amendments:

None.

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