

Bill No. SB 2346

Barcode 480298

CHAMBER ACTION

Senate

House

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

**Senate Amendment**

Delete everything after the enacting clause

and insert:

Section 1. Section 258.501, Florida Statutes, is  
amended to read:

258.501 Myakka River; wild and scenic river  
designation ~~segment~~.--

(1) SHORT TITLE.--This section may be cited as the  
"Myakka River Wild and Scenic Designation and Preservation  
Act."

(2) LEGISLATIVE DECLARATION.--The Legislature finds  
and declares that ~~a certain segment of~~ the Myakka River in  
Manatee, Sarasota, and Charlotte Counties possesses  
outstandingly remarkable ecological, fish and wildlife, and  
recreational values which are unique in the State of Florida.  
These values give significance to the river as one which  
should be permanently preserved and enhanced for the citizens

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1 of the State of Florida, both present and future. The  
 2 permanent management and administration of the river involves  
 3 a complex interaction of state, regional, and local interests  
 4 which require balancing and coordination of purpose. It is the  
 5 intention of the Legislature to provide for the permanent  
 6 preservation of the ~~designated segment of the~~ Myakka River by  
 7 way of development of a plan for permanent administration by  
 8 agencies of state and local government which will ensure the  
 9 protection necessary but retain that degree of flexibility,  
 10 responsiveness, and expertise which will accommodate all of  
 11 the diverse interests involved in a manner best calculated to  
 12 be in the public interest.

13 (3) DEFINITIONS.--As used in this section, the term:

14 (a) "Activity" means the doing of any act or the  
 15 failing to do any act, whether by a natural person or a  
 16 corporation.

17 (b) "Agreement" means the interagency operating  
 18 agreement between the department, the Department of Community  
 19 Affairs, and Charlotte County, Manatee County, Sarasota  
 20 County, or the City of North Port.

21 (c) "Coordinating council" means the council created  
 22 by subsection (7).

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

25 (e) "Division" means the Division of Recreation and  
 26 Parks of the Department of Environmental Protection.

27 (f) "Major infrastructure facility" means a manmade  
 28 structure which serves the common needs of the population,  
 29 such as a central sewage disposal system, potable water  
 30 system, potable water well serving a system, solid waste  
 31 disposal site or retention area, stormwater system, utility,

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1 causeway, marina, bridge, or roadway.

2 (g) "Person" means an individual, corporation,  
3 governmental agency or institution thereof, business trust,  
4 estate, trust, partnership, association, two or more persons  
5 having a joint or common interest, or other legal entity.

6 (h) "Resource value" means any one or more of the  
7 specific economic, scenic, recreational, geologic, fish and  
8 wildlife, historic, cultural, or ecological features  
9 associated with the river area as determined by the  
10 coordinating council.

11 (i) "River area" means that corridor of land beneath  
12 and surrounding the navigable portion of the Myakka River from  
13 the beginning of the river mile 7.5 to the mouth of the river  
14 at Charlotte Harbor river mile 41.5, together with a corridor  
15 which extends 220 feet landward in either direction from the  
16 center point fo the channel including the maximum upland  
17 extent of wetlands vegetation as determined by the former  
18 Department of Environmental Regulation pursuant to chapter 403  
19 and chapters 17-3 and 17-312, Florida Administrative Code.

20 (j) "Wild and scenic protection zone" means ~~an area~~  
21 ~~which extends 220 feet landward from the river area.~~

22 (4) DESIGNATION OF WILD AND SCENIC RIVER.--

23 (a) The corridor of land surrounding and beneath the  
24 navigable portion of the Myakka River between the beginning of  
25 the river mile 7.5 and the mouth of the river at Charlotte  
26 Harbor river mile 41.5 is ~~hereby~~ designated as a Florida wild  
27 and scenic river for the purposes of this section and is  
28 subject to all of the provisions of this section. ~~Such~~  
29 ~~designated portion is more particularly described as that~~  
30 ~~portion of the Myakka River located between State Road 780 in~~  
31 ~~Sarasota County and the Sarasota-Charlotte County line.~~

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1           (b) The governments of Charlotte County, Manatee  
2 County, Sarasota County, and the City of North Port shall  
3 manage the Myakka River wild and scenic protection zone under  
4 their existing authorities for comprehensive planning, the  
5 regulation of land development activities, in the wild and  
6 scenic protection zone, and other necessary or appropriate  
7 ordinances and in conformance with this section, the  
8 management plan required under subsection (5), and the  
9 agreements adopted by the department and the Department of  
10 Community Affairs with the city and counties ~~county~~ pursuant  
11 to this section.

12           (5) DEVELOPMENT OF MANAGEMENT PLAN.--

13           (a) The department and the coordinating council shall  
14 jointly develop a proposed management plan for the ~~designated~~  
15 ~~segment of the~~ Myakka River, subject to and consistent with  
16 the provisions of this section.

17           (b) The development of the proposed management plan  
18 shall be by public hearing and shall include participation by  
19 all appropriate state agencies and by all appropriate or  
20 interested local governments and private organizations.

21           (c) The proposed management plan shall include  
22 provision for:

23           1. Permanent protection and enhancement of the  
24 ecological, fish and wildlife, and recreational values within  
25 the river area, primary emphasis being given to protecting  
26 agricultural, aesthetic, scenic, historic, archaeological, and  
27 scientific features.

28           2. Continuation of land uses and developments on  
29 private lands within the river area which are in existence on  
30 July 1, 2007 ~~January 1, 1986~~.

31           3. Periodic studies to determine the quantity and

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1 mixture of recreation and other public uses which can be  
2 permitted within the river area without adverse impact on the  
3 resource values of the river area.

4           4. Regulation, control, and distribution of public  
5 access where necessary to protect and enhance the resource  
6 values of the river area.

7           5. Consideration of need for basic facilities to  
8 absorb user impact on the river area, including necessary  
9 toilet or refuse containers, but, if found to be necessary,  
10 located in order to minimize their intrusive impact.

11           6. Restriction of motorized travel by land vehicle or  
12 boat where necessary to protect the resource values in the  
13 river area.

14           7. Agricultural and forestry practices similar in  
15 nature to those in the river area on January 1, 1986.

16           8. Resource management practices within the river area  
17 for the protection, conservation, rehabilitation, or  
18 enhancement of river area resource values.

19           9. Monitoring of existing water quality.

20           10. Continuance of existing drainage and water  
21 management practices within the river area, unless such  
22 existing practices will adversely affect, degrade, or diminish  
23 existing water quality or existing resource values in the  
24 river area, and allowance of new water resource management  
25 practices which will not have an adverse impact on resource  
26 values in the river area.

27           11. Review and regulation of all activities conducted  
28 or proposed to be conducted within the river area which will  
29 or may have an adverse impact on any of the resource values in  
30 the river area as provided in this section.

31           12. Review and regulation, by Charlotte County,

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1 Manatee County, Sarasota County, and the City of North Port  
 2 under their respective authorities, of activities within the  
 3 wild and scenic protection zone; and subsequent prohibition,  
 4 or approval with or without conditions, of such activities in  
 5 order to minimize potential adverse physical and visual  
 6 impacts on resource values in the river area and to minimize  
 7 adverse impacts on private landowners' use of land for  
 8 residential purposes.

9 ~~(d) To the extent not inconsistent with this section,~~  
 10 ~~the proposed management plan may also include any other~~  
 11 ~~provisions deemed by the department to be necessary or~~  
 12 ~~advisable for the permanent protection of the river as a~~  
 13 ~~component of the Florida Wild and Scenic Rivers System.~~

14 (6) AMENDMENT OF REGULATIONS AND COMPREHENSIVE  
 15 PLANS.--

16 (a) Charlotte County, Manatee County, Sarasota County,  
 17 and the City of North Port shall amend their comprehensive  
 18 plans so that the parts of such plans that affect the wild and  
 19 scenic protection zone conform to, or are more stringent than,  
 20 this section, the river management plan, and management  
 21 guidelines and performance standards to be developed and  
 22 contained within agreements to be adopted by the department,  
 23 the Department of Community Affairs, and the city and counties  
 24 ~~county~~. The guidelines and performance standards must be used  
 25 by the department and the Department of Community Affairs to  
 26 review and monitor the regulation of activities by the city  
 27 and counties ~~county~~ in the wild and scenic protection zone.  
 28 Amendments to those comprehensive plans must include specific  
 29 policies and guidelines for minimizing adverse impacts on  
 30 resources in the river area and for managing the wild and  
 31 scenic protection zone in conformance with this section, the

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1 river management plan, and the agreement. Such comprehensive  
 2 plans must be amended within 1 year after the adoption date of  
 3 the agreement, and thereafter, within 6 months following an  
 4 amendment to this section, the river management plan, or the  
 5 agreement, as may be necessary. For the purposes established  
 6 in this subsection, such amendments need not conform to  
 7 statutory or local ordinance limitations on the frequency of  
 8 consideration of amendments to local comprehensive plans.

9 (b) Charlotte County, Manatee County, Sarasota County,  
 10 and the City of North Port shall adopt or amend, within 1 year  
 11 after the department and the Department of Community Affairs  
 12 adopt with the city and with the county agreements for  
 13 regulating activities in the wild and scenic protection zone,  
 14 any necessary ordinances and land development regulations so  
 15 that those ordinances and regulations conform to the purposes  
 16 of this section, the river management plan, and the agreement.  
 17 Thereafter, following any amendment to this section, the river  
 18 management plan, or the agreement, the city and counties  
 19 ~~county~~ must amend or adopt, within 1 year, appropriate  
 20 ordinances and land development regulations to maintain such  
 21 local ordinances and regulations in conformance with this  
 22 section, the river management plan, and the agreement. Those  
 23 ordinances and regulations must provide that activities within  
 24 the river area must be prohibited, or must undergo review and  
 25 either be denied or permitted with or without conditions, so  
 26 as to minimize potential adverse physical and visual impacts  
 27 on resource values in the river area and to minimize adverse  
 28 impacts on private landowners' use of land for residential  
 29 purposes. The resource values of concern are those identified  
 30 in this section and by the coordinating council in the river  
 31 management plan. Activities which may be prohibited, subject

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1 to the agreement, include, but are not limited to, landfills,  
 2 clear cuttings, major new infrastructure facilities, major  
 3 activities that would alter historic water or flood flows,  
 4 multifamily residential construction, commercial and  
 5 industrial development, and mining and major excavations.  
 6 However, appurtenant structures for these activities may be  
 7 permitted if such structures do not have adverse visual or  
 8 measurable adverse environmental impacts to resource values in  
 9 the river area.

10 (c) If the Department of Community Affairs determines  
 11 that the local comprehensive plan or land development  
 12 regulations, as amended or supplemented by the local  
 13 government, are not in conformance with the purposes of this  
 14 section, the river management plan, and the agreement, the  
 15 Department of Community Affairs shall issue a notice of intent  
 16 to find the plan not in compliance and such plan shall be  
 17 subject to the administrative proceedings in accordance with  
 18 s. 163.3184.

19 (7) MANAGEMENT COORDINATING COUNCIL.--

20 (a) Upon designation, the department shall create a  
 21 permanent council to provide interagency and intergovernmental  
 22 coordination in the management of the river. The coordinating  
 23 council shall be composed of one representative appointed from  
 24 each of the following: the department, the Department of  
 25 Transportation, the Fish and Wildlife Conservation Commission,  
 26 the Department of Community Affairs, the Division of Forestry  
 27 of the Department of Agriculture and Consumer Services, the  
 28 Division of Historical Resources of the Department of State,  
 29 the Tampa Bay Regional Planning Council, the Southwest Florida  
 30 Water Management District, the Southwest Florida Regional  
 31 Planning Council, Manatee County, Sarasota County, Charlotte



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1 County, the City of Sarasota, the City of North Port,  
2 agricultural interests, environmental organizations, and any  
3 others deemed advisable by the department.

4 (b) The coordinating council shall review and make  
5 recommendations on all proposals for amendments or  
6 modifications to this section and to the permanent management  
7 plan, as well as on other matters which may be brought before  
8 the council by the department, any local government, or any  
9 member of the council, and shall render its nonbinding  
10 advisory opinion to the Southwest Florida Water Management  
11 District, the department, and affected local governments.

12 (c) The council may adopt bylaws to provide for  
13 election of such officers as it deems necessary, removal of  
14 officers for just cause, meetings, quorum, procedures, and  
15 other such matters as its members may deem advisable in the  
16 conduct of its business. Such bylaws shall be approved by the  
17 department.

18 (d) Such professional staff as the coordinating  
19 council may require shall be provided by the department.

20 (8) PRESERVATION OF EXISTING GOVERNMENTAL AUTHORITY.--

21 (a) Nothing contained in this section shall operate to  
22 divest any agency, water management district, municipality,  
23 county, or special district of any authority or jurisdiction  
24 in existence on January 1, 1986.

25 (b) Notwithstanding paragraph (a), Charlotte County,  
26 Manatee County, Sarasota County, and the City of North Port  
27 must, in exercising their authority and jurisdiction over any  
28 part of the wild and scenic protection zone, act in  
29 conformance with this section, the management plan, and the  
30 agreements entered into pursuant to this section.

31 (9) RULEMAKING AUTHORITY.--

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1           (a) The department is authorized to adopt rules to  
 2 regulate activities within the river area which have adverse  
 3 impact on resource values as adopted by the coordinating  
 4 council within the river area.

5           (b) The department shall coordinate all activities  
 6 related to rule adoption and enforcement with the regulatory  
 7 and management programs of other agencies in order to avoid to  
 8 the maximum extent possible any conflicts or duplication  
 9 arising therefrom.

10           (c) The department and the Department of Community  
 11 Affairs must enter into agreements with the City of North  
 12 Port, Charlotte County, Manatee County, and Sarasota County  
 13 which ~~that~~ provide for guiding and monitoring the regulation  
 14 of activities within the river area by the city and counties  
 15 ~~county~~, in accordance with subsection (6). Such agreements  
 16 shall include guidelines and performance standards for  
 17 regulating proposed activities so as to minimize adverse  
 18 environmental and visual impacts of such activities on the  
 19 resource values in the river area, and to minimize adverse  
 20 impacts to landowners' use of land for residential purposes.

21           (10) PERMITTING AUTHORITY.--

22           (a) No person or entity shall conduct any activity  
 23 within the river area which will or may have an adverse impact  
 24 on any resource value in the river area without first having  
 25 received a permit from the department.

26           (b) A permit may be granted only after a finding by  
 27 the department that the activity for which a permit has been  
 28 requested will not have an adverse impact on resource values  
 29 in the river area.

30           (c) The department may adopt an application fee  
 31 schedule providing for payment of reasonable fees to defray

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1 the cost of processing applications.

2 (11) NOTIFICATION BY REGULATORY AGENCIES.--All state,  
3 regional, and local regulatory agencies shall provide to the  
4 department notification of applications received by the agency  
5 for approval to conduct activities in the river area and  
6 protection zone.

7 (12) LEGAL STATUS OF COMPREHENSIVE PLAN  
8 AMENDMENTS.--It is the intent of this section that the city  
9 and counties ~~county~~ amend their comprehensive plans, land  
10 development regulations, and other appropriate ordinances and  
11 regulations to be in conformance with this section, the river  
12 management plan, and guidelines and performance standards to  
13 be developed and adopted by agreement pursuant to this  
14 section. Such amendments shall have legal status as provided  
15 under s. 163.3194 and must be implemented through appropriate  
16 local regulations in accordance with s. 163.3201.

17 (13) STANDING TO ENFORCE AMENDED COMPREHENSIVE  
18 PLANS.--It is the intent of this section that any aggrieved or  
19 adversely affected person may maintain an action for  
20 injunction or other relief against the city or counties ~~county~~  
21 to prevent any such local government from taking action in  
22 regulating activities not consistent with the comprehensive  
23 plan, land development regulations, and other appropriate  
24 ordinances and regulations, as amended, pursuant to this  
25 section and s. 163.3215.

26 (14) PERMITTED ACTIVITIES.--

27 (a) Nothing in this section shall be construed to  
28 prohibit or regulate any activity taking place outside the  
29 river area and the wild and scenic protection zone for which  
30 necessary permits and licenses are obtained as required by  
31 other provisions of federal, state, or local law.

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1           (b) Nothing in this section shall be construed to  
2 prohibit or limit public utilities from improving,  
3 maintaining, modifying, or expanding existing facilities or  
4 constructing new facilities in the river area or the wild and  
5 scenic protection zone, provided the necessary federal, state,  
6 and local permits and licenses are obtained.

7           (15) PROHIBITED ACTIVITY.--Airboats are prohibited  
8 from operating in the river area north of U.S. Highway 41  
9 (State Road 45), except for uses officially allowed by  
10 government agencies.

11           (16) ENFORCEMENT.--Officers of the department shall  
12 have full authority to enforce any rule adopted by the  
13 department under this section with the same police powers  
14 given them by law to enforce the rules of state parks and the  
15 rules pertaining to saltwater areas under the jurisdiction of  
16 the Florida Marine Patrol.

17           (17) PENALTIES.--Violation of this section or of any  
18 rule adopted under this section constitutes a misdemeanor of  
19 the second degree, punishable as provided in s. 775.082 or s.  
20 775.083. Continuing violation after notice constitutes a  
21 separate violation for each day so continued.

22           Section 2. This act shall take effect July 1, 2007.

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