

By Senator Bennett

21-918-07

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A bill to be entitled

An act relating to the Myakka River; amending s. 258.501, F.S.; includes portions of the river that are in Manatee and Charlotte Counties in the river area that is designated as a Florida wild and scenic river; revises provisions to conform; providing an effective date.

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

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 of the State of Florida, both present and future. The permanent management and administration of the river involves a complex interaction of state, regional, and local interests which require balancing and coordination of purpose. It is the intention of the Legislature to provide for the permanent preservation of the ~~designated segment of the~~ Myakka River by

1 way of development of a plan for permanent administration by  
2 agencies of state and local government which will ensure the  
3 protection necessary but retain that degree of flexibility,  
4 responsiveness, and expertise which will accommodate all of  
5 the diverse interests involved in a manner best calculated to  
6 be in the public interest.

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

8 (a) "Activity" means the doing of any act or the  
9 failing to do any act, whether by a natural person or a  
10 corporation.

11 (b) "Agreement" means the interagency operating  
12 agreement between the department, the Department of Community  
13 Affairs, and Charlotte County, Manatee County, Sarasota  
14 County, or the City of North Port.

15 (c) "Coordinating council" means the council created  
16 by subsection (7).

17 (d) "Department" means the Department of Environmental  
18 Protection.

19 (e) "Division" means the Division of Recreation and  
20 Parks of the Department of Environmental Protection.

21 (f) "Major infrastructure facility" means a manmade  
22 structure which serves the common needs of the population,  
23 such as a central sewage disposal system, potable water  
24 system, potable water well serving a system, solid waste  
25 disposal site or retention area, stormwater system, utility,  
26 causeway, marina, bridge, or roadway.

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

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1 (h) "Resource value" means any one or more of the  
2 specific economic, scenic, recreational, geologic, fish and  
3 wildlife, historic, cultural, or ecological features  
4 associated with the river area as determined by the  
5 coordinating council.

6 (i) "River area" means that corridor of land beneath  
7 and surrounding the navigable portion of the Myakka River from  
8 the beginning of the river mile 7.5 to the mouth of the river  
9 at Charlotte Harbor river mile 41.5, together with a corridor  
10 including the maximum upland extent of wetlands vegetation as  
11 determined by the former Department of Environmental  
12 Regulation pursuant to chapter 403 and chapters 17-3 and  
13 17-312, Florida Administrative Code.

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

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

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

26 (b) The governments of Charlotte County, Manatee  
27 County, Sarasota County, and the City of North Port shall  
28 manage the Myakka River wild and scenic protection zone under  
29 their existing authorities for comprehensive planning, the  
30 regulation of land development activities, and other necessary  
31 or appropriate ordinances and in conformance with this

1 section, the management plan required under subsection (5),  
2 and the agreements adopted by the department and the  
3 Department of Community Affairs with the city and counties  
4 ~~county~~ pursuant to this section.

5 (5) DEVELOPMENT OF MANAGEMENT PLAN.--

6 (a) The department and the coordinating council shall  
7 jointly develop a proposed management plan for the ~~designated~~  
8 ~~segment of the~~ Myakka River, subject to and consistent with  
9 the provisions of this section.

10 (b) The development of the proposed management plan  
11 shall be by public hearing and shall include participation by  
12 all appropriate state agencies and by all appropriate or  
13 interested local governments and private organizations.

14 (c) The proposed management plan shall include  
15 provision for:

16 1. Permanent protection and enhancement of the  
17 ecological, fish and wildlife, and recreational values within  
18 the river area, primary emphasis being given to protecting  
19 agricultural, aesthetic, scenic, historic, archaeologic, and  
20 scientific features.

21 2. Continuation of land uses and developments on  
22 private lands within the river area which are in existence on  
23 January 1, 1986.

24 3. Periodic studies to determine the quantity and  
25 mixture of recreation and other public uses which can be  
26 permitted without adverse impact on the resource values of the  
27 river area.

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

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

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

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

10          8. Resource management practices for the protection,  
11 conservation, rehabilitation, or enhancement of river area  
12 resource values.

13          9. Monitoring of existing water quality.

14          10. Continuance of existing drainage and water  
15 management practices, unless such existing practices will  
16 adversely affect, degrade, or diminish existing water quality  
17 or existing resource values in the river area, and allowance  
18 of new water resource management practices which will not have  
19 an adverse impact on resource values in the river area.

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

24          12. Review and regulation, by Charlotte County,  
25 Manatee County, Sarasota County, and the City of North Port  
26 under their respective authorities, of activities within the  
27 wild and scenic protection zone; and subsequent prohibition,  
28 or approval with or without conditions, of such activities in  
29 order to minimize potential adverse physical and visual  
30 impacts on resource values in the river area and to minimize  
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1 adverse impacts on private landowners' use of land for  
2 residential purposes.

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

8 (6) AMENDMENT OF REGULATIONS AND COMPREHENSIVE  
9 PLANS.--

10 (a) Charlotte County, Manatee County, Sarasota County,  
11 and the City of North Port shall amend their comprehensive  
12 plans so that the parts of such plans that affect the wild and  
13 scenic protection zone conform to, or are more stringent than,  
14 this section, the river management plan, and management  
15 guidelines and performance standards to be developed and  
16 contained within agreements to be adopted by the department,  
17 the Department of Community Affairs, and the city and counties  
18 ~~county~~. The guidelines and performance standards must be used  
19 by the department and the Department of Community Affairs to  
20 review and monitor the regulation of activities by the city  
21 and counties ~~county~~ in the wild and scenic protection zone.  
22 Amendments to those comprehensive plans must include specific  
23 policies and guidelines for minimizing adverse impacts on  
24 resources in the river area and for managing the wild and  
25 scenic protection zone in conformance with this section, the  
26 river management plan, and the agreement. Such comprehensive  
27 plans must be amended within 1 year after the adoption date of  
28 the agreement, and thereafter, within 6 months following an  
29 amendment to this section, the river management plan, or the  
30 agreement, as may be necessary. For the purposes established  
31 in this subsection, such amendments need not conform to

1 statutory or local ordinance limitations on the frequency of  
2 consideration of amendments to local comprehensive plans.

3 (b) Charlotte County, Manatee County, Sarasota County,  
4 and the City of North Port shall adopt or amend, within 1 year  
5 after the department and the Department of Community Affairs  
6 adopt with the city and with the county agreements for  
7 regulating activities in the wild and scenic protection zone,  
8 any necessary ordinances and land development regulations so  
9 that those ordinances and regulations conform to the purposes  
10 of this section, the river management plan, and the agreement.  
11 Thereafter, following any amendment to this section, the river  
12 management plan, or the agreement, the city and counties  
13 ~~county~~ must amend or adopt, within 1 year, appropriate  
14 ordinances and land development regulations to maintain such  
15 local ordinances and regulations in conformance with this  
16 section, the river management plan, and the agreement. Those  
17 ordinances and regulations must provide that activities must  
18 be prohibited, or must undergo review and either be denied or  
19 permitted with or without conditions, so as to minimize  
20 potential adverse physical and visual impacts on resource  
21 values in the river area and to minimize adverse impacts on  
22 private landowners' use of land for residential purposes. The  
23 resource values of concern are those identified in this  
24 section and by the coordinating council in the river  
25 management plan. Activities which may be prohibited, subject  
26 to the agreement, include, but are not limited to, landfills,  
27 clear cuttings, major new infrastructure facilities, major  
28 activities that would alter historic water or flood flows,  
29 multifamily residential construction, commercial and  
30 industrial development, and mining and major excavations.  
31 However, appurtenant structures for these activities may be

1 | permitted if such structures do not have adverse visual or  
2 | measurable adverse environmental impacts to resource values in  
3 | the river area.

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

13 |         (7) MANAGEMENT COORDINATING COUNCIL.--

14 |         (a) Upon designation, the department shall create a  
15 | permanent council to provide interagency and intergovernmental  
16 | coordination in the management of the river. The coordinating  
17 | council shall be composed of one representative appointed from  
18 | each of the following: the department, the Department of  
19 | Transportation, the Fish and Wildlife Conservation Commission,  
20 | the Department of Community Affairs, the Division of Forestry  
21 | of the Department of Agriculture and Consumer Services, the  
22 | Division of Historical Resources of the Department of State,  
23 | the Tampa Bay Regional Planning Council, the Southwest Florida  
24 | Water Management District, the Southwest Florida Regional  
25 | Planning Council, Manatee County, Sarasota County, Charlotte  
26 | County, the City of Sarasota, the City of North Port,  
27 | agricultural interests, environmental organizations, and any  
28 | others deemed advisable by the department.

29 |         (b) The coordinating council shall review and make  
30 | recommendations on all proposals for amendments or  
31 | modifications to this section and to the permanent management



1 | plan, as well as on other matters which may be brought before  
2 | the council by the department, any local government, or any  
3 | member of the council, and shall render its nonbinding  
4 | advisory opinion to the Southwest Florida Water Management  
5 | District, the department, and affected local governments.

6 |         (c) The council may adopt bylaws to provide for  
7 | election of such officers as it deems necessary, removal of  
8 | officers for just cause, meetings, quorum, procedures, and  
9 | other such matters as its members may deem advisable in the  
10 | conduct of its business. Such bylaws shall be approved by the  
11 | department.

12 |         (d) Such professional staff as the coordinating  
13 | council may require shall be provided by the department.

14 |         (8) PRESERVATION OF EXISTING GOVERNMENTAL AUTHORITY.--

15 |         (a) Nothing contained in this section shall operate to  
16 | divest any agency, water management district, municipality,  
17 | county, or special district of any authority or jurisdiction  
18 | in existence on January 1, 1986.

19 |         (b) Notwithstanding paragraph (a), Charlotte County,  
20 | Manatee County, Sarasota County, and the City of North Port  
21 | must, in exercising their authority and jurisdiction over any  
22 | part of the wild and scenic protection zone, act in  
23 | conformance with this section, the management plan, and the  
24 | agreements entered into pursuant to this section.

25 |         (9) RULEMAKING AUTHORITY.--

26 |         (a) The department is authorized to adopt rules to  
27 | regulate activities within the river area which have adverse  
28 | impact on resource values as adopted by the coordinating  
29 | council within the river area.

30 |         (b) The department shall coordinate all activities  
31 | related to rule adoption and enforcement with the regulatory

1 and management programs of other agencies in order to avoid to  
2 the maximum extent possible any conflicts or duplication  
3 arising therefrom.

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

15 (10) PERMITTING AUTHORITY.--

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

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

24 (c) The department may adopt an application fee  
25 schedule providing for payment of reasonable fees to defray  
26 the cost of processing applications.

27 (11) NOTIFICATION BY REGULATORY AGENCIES.--All state,  
28 regional, and local regulatory agencies shall provide to the  
29 department notification of applications received by the agency  
30 for approval to conduct activities in the river area and  
31 protection zone.

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

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

20           (14) PERMITTED ACTIVITIES.--

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

26           (b) Nothing in this section shall be construed to  
27 prohibit or limit public utilities from improving,  
28 maintaining, modifying, or expanding existing facilities or  
29 constructing new facilities in the river area or the wild and  
30 scenic protection zone, provided the necessary federal, state,  
31 and local permits and licenses are obtained.

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

5 (16) ENFORCEMENT.--Officers of the department shall  
6 have full authority to enforce any rule adopted by the  
7 department under this section with the same police powers  
8 given them by law to enforce the rules of state parks and the  
9 rules pertaining to saltwater areas under the jurisdiction of  
10 the Florida Marine Patrol.

11 (17) PENALTIES.--Violation of this section or of any  
12 rule adopted under this section constitutes a misdemeanor of  
13 the second degree, punishable as provided in s. 775.082 or s.  
14 775.083. Continuing violation after notice constitutes a  
15 separate violation for each day so continued.

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

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19 SENATE SUMMARY

20 Includes the navigable portions of the Myakka River, from  
21 the beginning in Manatee County to the mouth of the river  
22 at Charlotte Harbor in Charlotte County, in the Florida  
23 wild and scenic river designation that was previously  
24 designated for the portion of the river that is in  
25 Sarasota County. Conforms existing provisions of the  
26 Myakka River Wild and Scenic Designation and Preservation  
27 Act to include the newly designated portions of the  
28 river.  
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