

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5079 PCB ENRC 08-16 Department of Environmental Protection
SPONSOR(S): Environment & Natural Resources Council; Mayfield
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Environment & Natural Resources Council	13 Y, 0 N	Perkins	Dixon / Hamby
1) Policy & Budget Council	24 Y, 11 N	Davila	Hansen
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 5079 includes the following statutory revisions and associated fiscal impacts on state government. The bill:

- Authorizes the reorganization of programs within the Department of Environmental Protection (DEP) to realign its water-related programs to enable the agency to better focus on water resource management and restoration efforts. This reorganization will result in no increase in total budget, full-time equivalent (FTE) positions or rate, and only includes the transfer of resources between budget entities.
- Redirects a total of \$172.5 million annually from various trust funds within the DEP to the General Revenue Fund. This provision expires on July 1, 2013.
- Provides for funds remaining in the Water Protection and Sustainability Program Trust Fund after the above mentioned redirection, to be used exclusively for the Total Maximum Daily Load Program.
- Terminates the annual appropriation of \$250,000 from the Conservation and Recreation Lands Trust Fund within the DEP to the Plant Industry Trust Fund within the Department of Agriculture and Consumer Services, for the purpose of implementing the Endangered or Threatened Native Flora Conservation Grants Program.
- Transfers the Bureau of Invasive Plant Management currently within the DEP to the Fish and Wildlife Conservation Commission, with the exception of the permitting program component related to business activities involving the importation, transportation, non-nursery cultivation, collection, sale, or possession of aquatic plant species, which will be transferred to the Department of Agriculture and Consumer Services.

The effective date of the bill is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides Limited Government:

The bill authorizes the reorganization of programs within the DEP to realign its water-related programs to enable the agency to better focus on water resource management and restoration efforts. This reorganization will result in no increase in total budget, Full Time Equivalent (FTE) positions or rate, and only includes the transfer of resources between budget entities.

The bill also authorizes the transfer of the Bureau of Invasive Plant Management to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

DEP Reorganization:

The rapid rate of growth and development throughout Florida has placed considerable pressure on the State's water resources. Recognizing this challenge, the DEP indicates it needs to realign programs to enable it to better focus its water resource management and restoration efforts.

Section 20.255, F.S., provides for six special offices under the Secretary and eight divisions. These six special offices are the Office of Chief of Staff, Office of General Counsel, Office of Inspector General, Office of External Affairs, Office of Legislative and Government Affairs, and Office of Greenways and Trails. The eight divisions are Administrative Services, Air Resource Management, Water Resource Management, Law Enforcement, Resource Assessment and Management, Waste Management, Recreation and Parks, and State Lands.

DEP Trust Funds:

Currently the DEP is responsible for administering twenty-six trust funds within the department. Nine of the twenty-six trust funds are described below:

- Internal Improvement Trust Fund – The purpose of this trust fund is to provide for the acquisition, management, administration, protection and conservation of state-owned lands. The primary revenue sources associated with this trust fund are agriculture, marina and dock leases, commercial upland leases, proceeds from surplus lands, fines, various fees from land transactions, and interest earnings on the investment of idle cash.
- State Park Trust Fund – The purpose of this trust fund is to provide for the administration, maintenance, preservation and improvement of any monument, historic memorial, or state park. The primary revenue sources associated with this trust fund are derived from transfers from the Land Acquisition Trust Fund, park fees and charges, donations, rentals, sales of goods and services, concession revenues, sales taxes collected, perquisites, fines, forfeits, judgments, timber sales, and interest earnings on the investment of idle cash.
- Conservation and Recreation Lands Trust Fund – The purpose of this trust fund is to provide for public ownership of natural areas for the purpose of maintaining unique natural resources; protecting air, land, and water quality; promoting water resource development; promoting restoration activities on public lands; and providing lands for natural resource based recreation; interim management of acquisitions; payments in lieu of taxes to qualifying counties and local governments for all actual tax losses incurred as a result of board of trustees acquisitions; and management of lands and related costs, activities, and functions. The primary revenue sources associated with this trust fund are generated from documentary stamp taxes, severance tax on

phosphate rock, proceeds of surplus land sales, and interest earnings on the investment of idle cash.

- Coastal Protection Trust Fund – The purpose of this trust fund is to provide financial resources that are immediately available for cleanup and rehabilitation after a pollutant discharge; to prevent further damage by the pollutant, and to pay for damages, cleanup and restoration of waterfowl, wildlife, and other natural resources; and to provide funding for marine law enforcement, and emergency cleanup response teams, and equipment located at appropriate ports throughout the state for the purposes of cleaning oil and other toxic materials from coastal waters. The primary revenue sources associated with this trust fund are derived from penalties, judgments, and damages recovered for damage to natural resources, fuel excise tax revenues levied, and interest earnings on the investment of idle cash.
- Water Quality Assurance Trust Fund – The purpose of this trust fund is to serve as a broad-based fund for use in responding to incidents of contamination (excluding petroleum products) that pose a serious danger to the quality of groundwater and surface water resources or otherwise pose a serious danger to the public health, safety, or welfare. It also provides dedicated funding for the monitoring and maintenance for the cleanup and restoration of potable water of any site involving spills, discharges, or escapes of pollutants or hazardous substances which occur as a result of procedures taken by private and governmental entities involving the storage, transportation, and disposal of such products. The primary revenue sources associated with this trust fund are generated from excise taxes on pollutants, acid battery taxes, dry cleaning gross receipt taxes, documentary stamp taxes, annual dry cleaner facility registration fees, and operator certification licenses, permits and fees, legal recoveries, reimbursements, transfer of interest earnings from the Inland Protection Trust Fund and the Coastal Protection Trust Fund, and interest earnings on the investment of idle cash.
- Inland Protection Trust Fund – The purpose of this trust fund is to enable response without delay to incidents of inland contamination related to the storage of petroleum products to protect the public and minimize environmental damage; investigate and assess contaminated sites; restore or replace potable water supplies; cleanup and rehabilitate contaminated sites; and, maintain and monitor contaminated sites and supervise the storage tank compliance verification program. The primary revenue sources associated with this trust fund are derived from registration and renewal fees associated with in-ground or stationary above-ground petroleum storage tanks, excise taxes on petroleum products pollutants, loans from the Coastal Protection Trust Fund, and interest earnings on the investment of idle cash.
- Water Protection and Sustainability Program Trust Fund – The purpose of this trust fund is to provide funding assistance to the Water Management Districts for the implementation of alternative water supply programs; provide funding for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the Total Maximum Daily Load Program associated with agricultural and nonagricultural nonpoint sources; and provide funding for the Disadvantaged Small Community Wastewater Grant Program. The primary revenue sources associated with this trust fund are derived from documentary stamp taxes and interest earnings on the investment of idle cash.
- Air Pollution Control Trust Fund – The purpose of this trust fund is to provide funding for mobile surface air pollution monitoring and control programs; odor and toxic air pollutant identification; monitoring and control activities; and other stationary source program activities. The primary revenue sources associated with this trust fund are derived from fees collected from asbestos removal permits, industrial pollution, air emissions operating permits, vehicle licenses, federal grants, and interest earnings on the investment of idle cash.
- Water Management Lands Trust Fund - To purpose of this trust fund is to provide funding to the five Water Management Districts for the purpose of management, maintenance, capital improvements, and administration of purchased lands. The primary revenue sources associated with this trust fund are derived from documentary stamp taxes, interest earnings on the

investment of idle cash, and transfers of penalty assessment revenues collected by the Water Management Districts.

Bureau of Invasive Plant Management:

Currently the Bureau of Invasive Plant Management (Bureau) is located within the DEP's Division of State Lands. The Bureau has 29.5 FTE's and is responsible for directing the control, eradication, and regulation of noxious aquatic weeds, and directs the research and planning related to these activities. The Bureau is also responsible for achieving eradication or maintenance control of invasive exotic plants on public lands.

The Bureau is comprised of three sections:

- 1) Aquatic Plant Management - The Aquatic Plant Management Section is responsible for implementing a program that designs, funds, coordinates, and contracts for invasive non-native aquatic plant control efforts in public water bodies that meet specified criteria.
- 2) Upland Plant Management - The Upland Plant Management Section is responsible for implementing a program that provides state funds for the control of invasive upland plants on public conservation lands that meet specified criteria.
- 3) Field Operations - The Field Operations Section maintains eight field offices which provide in-the-field support for the Aquatic Plant Management and Upland Plant Management sections. These support activities include planning, directing, overseeing and monitoring plant management activities conducted by department contractors. This section also conducts surveys to identify and locate invasive plant problems so that control activities can be coordinated and implemented before large scale problems arise. In addition to the support of the other two sections in the Bureau, the Field Operations Section is responsible for implementing two permitting programs, specifically: 1) control of aquatic plants when activities are not eligible for reimbursement with state funds; and 2) business activities involving the importation, transportation, nonnursery cultivation, collection, sale, or possession of aquatic plant species.

Effect of Proposed Change

DEP Reorganization:

The bill changes the name of one of six special offices from the Office of Legislative and Government Affairs to the Office of Legislative Affairs and adds a seventh Office of Intergovernmental Programs.

The bill deletes the current Division of Resource Assessment and Management, and allows for the realignment of water-related programs into two separate divisions: the current Division of Water Resource Management and the new Division of Environmental Assessment and Restoration. The DEP reports that this realignment of water-related programs will enable the agency to better focus on water resource management and restoration efforts.

The bill will result in no increase in total budget, FTEs or rate, and only includes the transfer of resources between budget entities.

DEP Trust Funds:

The bill provides the following trust funds to redirect a total of \$172.5 million to the General Revenue Fund:

Trust Fund	Redirect Amount to General Revenue	Other
Internal Improvement Trust Fund	\$400,000	
State Park Trust Fund	\$5.1 million	
Conservation and Recreation Lands Trust Fund	\$18.2 million	The bill deletes the transfer of \$250,000 to the Plant Industry Trust Fund within the Department of Agriculture and Consumer Services for the purpose of implementing the Endangered or Threatened Native Flora Conservation Grants Program.
Water Management Lands Trust Fund	\$30 million	
Coastal Protection Trust Fund	\$1.3 million	
Water Quality Assurance Trust Fund	\$2 million	
Inland Protection Trust Fund	\$52.4 million	
Water Protection and Sustainability Program Trust Fund	\$62 million	Any remaining funds will be used exclusively for the total maximum daily load program. Activities relating to alternative water supply and the Disadvantage Small Community Wastewater Grant Program are suspended from funding within this trust fund until July 1, 2013.
Air Pollution Control Trust Fund	\$1.1 million	

Bureau of Invasive Plant Management:

The bill authorizes a type two transfer¹ of the Bureau of Invasive Plant Management from the DEP to the Fish and Wildlife Conservation Commission. All authority for the activities of the Bureau are transferred to the Fish and Wildlife Conservation Commission except for the permitting program related to business activities involving the importation, transportation, non-nursery cultivation, collection, sale, or possession of aquatic plant species governed by sections 369.25 and 369.251, F.S., which will be transferred to the Department of Agriculture and Consumer Services. The bill provides conforming statutory references relating to certain regulatory authority for aquatic plants and invasive nonnative plants.

C. SECTION DIRECTORY:

Section 1: Amends s. 20.255, F.S., revising the organizational structure of the Department of Environmental Protection.

Section 2: Amends s. 253.01, F.S., redirecting funds from the Internal Improvement Trust Fund to the General Revenue Fund.

Section 3: Amends s. 258.034, F.S., redirecting funds from the State Park Trust Fund to the General Revenue Fund.

¹ s. 20.06 (2), F.S.

- Section 4: Amends s. 259.032, F.S., redirecting funds from the Conservation and Recreation Lands Trust Fund to the General Revenue Fund and deleting funds transferred to the Plant Industry Trust Fund.
- Section 5: Amends s.369.25, F.S., relating to certain regulatory authority for aquatic plants.
- Section 6: Amends s. 369.251, F.S., relating to certain regulatory authority for invasive nonnative plants.
- Section 7: Amends s. 373.59, F.S., redirecting funds from the Water Management Lands Trust Fund to the General Revenue Fund.
- Section 8: Amends s. 376.11, F.S., redirecting funds from the Coastal Protection Trust Fund to the General Revenue Fund.
- Section 9: Amends s. 376.307, F.S., redirecting funds from the Water Quality Assurance Trust Fund to the General Revenue Fund.
- Section 10: Amends s. 376.3071, F.S., redirecting funds from the Inland Protection Trust Fund to the General Revenue Fund.
- Section 11: Amends s. 403.0873, F.S., redirecting funds from the Air Pollution Control Trust Fund to the General Revenue Fund.
- Section 12: Amends s. 403.890, F.S., redirecting funds from the Water Protection and Sustainability Program Trust Fund to the General Revenue Fund.
- Section 13: Amends s. 581.145, F.S., relating to certain regulatory authority for aquatic plants.
- Section 14: Transfers the Bureau of Invasive Plant Management from the DEP to the Fish and Wildlife Conservation Committee; excluding the transfer of authority in s. 369.25 and 369.251, F.S., which is transferred to the Department of Agriculture and Consumer Services.
- Section 15: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

As a result of the \$62 million redirection of funds from the Water Protection and Sustainability Program Trust Fund, funding from this trust fund for the following activities is suspended until July 1, 2013:

- Alternative water supply activities
- Disadvantage Small Community Wastewater Grant Program activities

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The DEP reports that the reorganization will enable the agency to better focus on water resource management and restoration efforts, and better serve the citizens of Florida.

D. FISCAL COMMENTS:

DEP Reorganization:

The bill will result in no increase in total budget, FTEs or rate, and only includes the transfer of resources between budget entities.

DEP Trust Funds:

The bill provides annual redirection of funds totaling \$172.5 million from various trust funds within the DEP to the General Revenue Fund. This provision expires on July 1, 2013.

Bureau of Invasive Plant Management (Type Two Transfer):

BUDGET FY 07-08 (after budget reductions):

<u>Categories</u>	<u>Amount</u>	<u>Fund Source</u>
Salaries	\$ 1,758,288	IPCTF*
Other Personal Services	\$ 457,080	IPCTF
Expenses	\$ 822,437	IPCTF
Operating Capital Outlay	\$ 16,782	IPCTF
Contracted Services	\$ 215,000	IPCTF
Grant	\$ 800,000	GDTF**
Control of Invasive Exotics	\$38,434,647	IPCTF
Transfer-FWCC/Administration	\$ 880,000	IPCTF
Transfer-UF/Aqua Plant Ed Program	\$ 25,000	IPCTF
Transfer-IFAS/DACS/Inv Exotic Plant	\$ 874,171	IPCTF
Transfer-DMS HR	\$ 13,005	IPCTF
Total	\$44,296,410	

* Invasive Plant Control Trust Fund (IPCTF)

** Grant and Donations Trust Fund (GDTF)

Budget Impacts to the DEP:

\$292,489 for department-wide administrative support

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require municipalities or counties to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Currently, the Bureau of Invasive Plant Management is located within the DEP's, Division of State Lands. The Division of State Lands acts as representatives of the Board of Trustees of the Internal Improvement Trust Fund (Board). The Bureau has delegated authority to grant consent of use for aquatic plant management-related activities that occur on submerged lands that are under the control of the Board (sovereign submerged lands). Therefore, when the Bureau grants permits for the control or collection of aquatic plants on sovereign submerged lands, they also grant consent of use. If this program is transferred to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services they will have to obtain delegated authority from the Board to grant consent of use for activities that occur on sovereign submerged lands. If delegated authority is not obtained from the Board by the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, entities that receive permits to control or collect aquatic plants, or their designated representative, will be required to obtain additional authorization from the Board before the activities can occur.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES