

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 714

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senators Grimsley and Gaetz

SUBJECT: Environmental Control

DATE: April 23, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Uchino</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Howard</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Howard</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 714 related to environmental control provides the following:

- Revises the organizational restructure of the Department of Environmental Protection (DEP) by eliminating two offices, creating four new offices, and creating a new division, the Division of Water Restoration Assistance;
- Revises requirements and necessary qualifications for membership on the Harris Chain of Lakes Restoration Council (council);
- Allows the DEP to authorize water quality credit trading for land set-asides and land-use modifications that reduce nutrient loads into nutrient impaired surface waters when they are not already required by state law or a permit;
- Provides that the provisions of s. 403.201, F.S., do not prohibit the issuance of moderating provisions or requirements under state law but are subject to approval by the U.S. Environmental Protection Agency, if necessary;
- Creates a solid waste landfill closure account and authorizes the DEP to use funds from the account to contract with a third party for the closing and long-term care of a solid waste management facilities under certain conditions;
- Incentivizes water conservation by prohibiting permitting agencies from modifying permitted water allocations during the term of the permit under certain conditions;
- Directs Water Management Districts (WMDs) to adopt rules providing water conservation incentives, including permit extensions;

- Prohibits WMDs from reducing consumptive use permitted allocation amounts during the term of the permit under certain conditions;
- Changes the requirement that water well contractor license applicants provide a letter from both a water well contractor and a water well inspector to just requiring a letter from either one;
- Requires WMDs to promote expanded cost share criteria for additional conservation practices;
- Revises a bonding requirement for clay settling areas so they can be consolidated and reduce construction impacts; and
- Clarifies a definition of resource recovery facilities to not include a landfill gas-to-energy system or facility for the purposes of exercising flow control authority.

The bill provides an appropriation of \$2,339,764 from the Solid Waste Management Trust Fund within the DEP for the closing and long-term care of solid waste management facilities (see Section V, Fiscal Impact Statement).

The bill provides an effective date of July 1, 2015.

## II. Present Situation:

### Organization of the Department of Environmental Protection

In 1993, the Legislature created the Department of Environmental Protection (DEP).<sup>1</sup> The head of the DEP is a secretary who is appointed by the Governor and confirmed by the Senate.<sup>2</sup> The secretary must appoint three deputy secretaries who supervise, coordinate, and formulate policy from any division, office, or district as assigned by the secretary.<sup>3</sup>

Section 20.255, Florida Statutes, provides the DEP's organizational structure. This includes six administrative districts serving the northwest portion of the state, the northeast portion of the state, the central portion of the state, the southeast portion of the state, the southwest portion of the state, and the southern portion of the state.<sup>4</sup> In addition, there are special offices that are headed by managers appointed by the secretary. These offices include:

- Office of Chief of Staff;
- Office of General Counsel;
- Office of Inspector General;
- Office of External Affairs;
- Office of Legislative Affairs;
- Office of Intergovernmental Programs;
- Office of Greenways and Trails; and
- Office of Emergency Response.<sup>5</sup>

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<sup>1</sup> Chapter 93-213, Laws of Fla.; Section 20.255, F.S.

<sup>2</sup> Section 20.255(1), F.S.

<sup>3</sup> Section 20.255(2)(a), F.S.

<sup>4</sup> Section 20.255(2)(b), F.S.; Department of Environmental Protection, District Offices, <http://www.dep.state.fl.us/secretary/dist/default.htm> (last visited April 22, 2015).

<sup>5</sup> Section 20.255(2)(a), F.S.

Finally, there are seven divisions within the DEP to implement the department's programs:

- Division of Administrative Services;
- Division of Air Resource Management;
- Division of Water Resource Management;
- Division of Environmental Assessment and Restoration;
- Division of Waste Management;
- Division of Recreation and Parks; and
- Division of State Lands.<sup>6</sup>

### **The Harris Chain of Lakes Restoration Council**

The Harris Chain of Lakes is located north and west of the Orlando metropolitan area and is in Lake and Orange counties.<sup>7</sup> It contains tens of thousands of acres of lakes and wetlands and is at the headwaters of the Ocklawaha River.<sup>8</sup>

The council was created by the Legislature in 2001 and consists of nine voting members. The members are:

- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- An environmental engineer;
- A person with training in biology or another scientific discipline;
- A person with training as an attorney;
- A physician;
- A person with training as an engineer; and
- Two residents of Lake County appointed by the Lake County legislative delegation who do not meet any of the other qualifications for membership on the council.<sup>9</sup>

The council's duties are to:

- Review audits and all data related to lake restoration techniques and sport fish population recovery strategies;
- Evaluate whether additional studies are needed;
- Explore all possible sources of funding to conduct the restoration activities; and
- Report to the President of the Senate and the Speaker of the House of Representatives yearly before November 25 on the progress of the Harris Chain of Lakes restoration program and provide any recommendations for the next fiscal year.<sup>10</sup>

The council works with an advisory group composed of one representative from:

- The St. Johns River Water Management District, which also provides staff for the council;
- The DEP;

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<sup>6</sup> Section 20.255(3), F.S.

<sup>7</sup> Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and What Does the Restoration Council Do?*, <http://harrischainoflakescouncil.com/> (last visited Apr. 8, 2015).

<sup>8</sup> *Id.*

<sup>9</sup> Section 373.467, F.S.

<sup>10</sup> *Id.*

- The Department of Transportation;
- The Fish and Wildlife Conservation Commission;
- The Lake County Water Authority;
- The U.S. Army Corps of Engineers; and
- The University of Florida.<sup>11</sup>

### **Water Quality Credit Trading**

Water quality credit trading provides a potentially less costly option for meeting the pollution limits for an impaired waterbody. It is a voluntary, market-based approach for reducing pollution to Florida's impaired rivers, lakes, streams, and estuaries.<sup>12</sup>

The underlying theory is that achieving pollution abatement at the lowest incremental cost at each additional increment reduced is the most cost effective means to achieve pollution abatement. Trading is based on the premise that different dischargers of a pollutant in a watershed can face substantially different costs to control that pollutant. Trading allows pollutant reduction activities to be environmentally valued in the form of credits that can then be traded on a local market to promote cost-effective water quality improvements.<sup>13</sup> Water quality credits are generated when a discharger reduces its loading of a given pollutant below the load allowable for the discharger.<sup>14</sup> Financial savings accrue to parties that buy credits (pollutant reductions) from others for less than the cost of implementing the reductions themselves. Those that sell credits will do so only if the value of the trade is equal to or higher than their investment in the facilities or activities necessary to achieve the pollutant reductions.<sup>15</sup>

Water quality credit trading can accelerate cleanup because potentially unaffordable costs for individual dischargers can be reduced and cooperative relationships built through trading agreements that foster shared responsibility and commitment. Trading can also accommodate new growth, including new pollutant loadings from urban stormwater, and domestic and industrial wastewater discharges. It offers the possibility for the owners of potential new or increased discharges to purchase credits from existing dischargers so that overall pollutant loads to a watershed are not increased and water quality is preserved.<sup>16</sup>

Trading is authorized pursuant to s. 403.067, F.S., The Department of Environmental Protection (DEP) is in the process of rulemaking to amend the water quality credit trading rule to implement statewide trading and detail precisely how trades are to be conducted and tracked in the future.<sup>17</sup> The DEP has conducted four public workshops on the rule, two in late August 2014 to review

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<sup>11</sup> *Id.*

<sup>12</sup> DEP, *The Pilot Water Quality Credit Trading Program for the Lower St. Johns River: A Report to the Governor and Legislature*, 1 (Oct. 2010), available at <http://www.dep.state.fl.us/water/wqssp/docs/WaterQualityCreditReport-101410.pdf> (last visited Apr. 6, 2015).

<sup>13</sup> *Id.*

<sup>14</sup> Lower St. Johns River TMDL Executive Committee, *Basin Management Action Plan: For the Implementation of Total Maximum Daily Loads for Nutrients Adopted by the Florida Department of Environmental Protection for the Lower St. Johns River Basin Main Stem*, 53 (October 2008), available at <http://www.dep.state.fl.us/water/watersheds/docs/bmap/adopted-lsjr-bmap.pdf> (last visited Apr. 6, 2015).

<sup>15</sup> *Supra* note 6, at 2.

<sup>16</sup> *Supra* note 6, at 2.

<sup>17</sup> Fla. Admin. Code R. 62-306 (2010).

potential rule concepts, and two in mid-January 2015 to discuss draft rule language. The public comment period following the most recent workshops closed in early February, but the DEP has accepted some subsequent comments. The DEP will consider all comments received and produce a final proposed rule for adoption in the near future.<sup>18</sup>

### **Variations**

The Florida and Water Pollution Control Act was enacted in 1967.<sup>19</sup> The legislative declaration states, “[t]he pollution of the air and waters of this state constitute a menace to the public health and welfare; create public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of the air and water.”<sup>20</sup>

The act provides the DEP with authority to control and prohibit the pollution of water and air and to establish rules to carry out the act. Section 403.201, F.S., allows the DEP to grant a variance from provisions of the act or adopted rules and regulations. A variance may be granted for any of the following reasons:

- There is no practicable means known or available for the adequate control of the pollution;
- Compliance with the requirements of the variance will require extensive cost and time, therefore, a variance may be issued with a timetable for the actions required; or
- To relieve or prevent hardship. The variances granted under this provision are limited to 24 months. A variance granted for electrical power plant and transmission line siting, as described in Part II of ch. 403, F.S., may be granted for the life of the permit.

A variance is prohibited for the discharge of waste into state waters or for hazardous waste management that would result in the requirement being less stringent than an applicable federal requirement. Research, development, and demonstration permits under s. 403.70715, F.S., are exempt from this provision.<sup>21</sup>

Relief mechanisms may be included in a permit when the natural conditions for the impacted area results in limits that exceed what is authorized in the permit. The relief mechanisms include:

- A site specific alternative criteria for each water quality criteria;
- A variance or exemption for each water quality criteria;
- A variance or exemption for a public water system from the maximum contaminant level or treatments techniques;
- A variance from other permitting standards or conditions; or
- A major or minor exemption for an aquifer.<sup>22</sup>

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<sup>18</sup> DEP, *Senate Bill 714 Agency Analysis* (Feb. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>19</sup> Chapter 67-436, Laws of Fla.

<sup>20</sup> Section 403.21, F.S.

<sup>21</sup> Section 403.201, F.S.

<sup>22</sup> Fla. Admin. Code R. 62-4.050 (2014).

## **Solid Waste Management Trust Fund**

The DEP is responsible for implementing and enforcing the solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state.<sup>23</sup> Counties are responsible for operating solid waste disposal facilities, which are permitted through the DEP, in order to meet the needs of the incorporated and unincorporated areas of the county.<sup>24</sup>

Rule 62-701, F.A.C., establishes the standards for the construction, operation, and closure of a solid waste management facility. Landfills or solid waste disposal sites that close require a closure permit issued by the DEP or a closure plan approved by the DEP. The closure plan includes:

- A design plan;
- A closure operation plan;
- A long-term care plan; and
- Proof of financial assurance, which may include closure insurance, for long-term care and a cost estimate for closure pursuant to Rule 62-701.630, F.A.C.

Section 403.7125, F.S., provides the statutory requirement that the owner or operator of a landfill is responsible for the closure of the landfill and is liable for its improper closure. The owner or operator is required to establish a fee to ensure financial resources are available for the closure of the landfill. Section 403.707(9), F.S., requires the same financial assurance responsibilities for the owner or operator. Sections 403.7125 and 403.707(9), F.S., allow the DEP to establish acceptable financial mechanisms that cover the cost of closure; however, neither section specifies that closure insurance is allowed.

Section 403.709, F.S., creates the Solid Waste Management Trust Fund, which is administered by the DEP. The trust fund requires that, of the money deposited:

- Up to 40 percent must be used for solid waste activities;
- Up to 4.5 percent must be for research and training programs;
- Up to 11 percent must be used for mosquito control, administered by the Department of Agriculture and Consumer Services;
- Up to 4.5 percent for Department of Transportation litter prevention control programs; and
- A minimum of 40 percent for funding a solid waste management grant program for activities related to recycling and waste reduction.

## **Water Conservation and Water Resource Development**

A person must apply for and obtain a consumptive use permit (CUP) from the applicable water management district (WMD) or the Department of Environmental Protection (DEP) before using surface or groundwater of the state, unless the person is solely using the water for domestic use. To obtain a CUP, an applicant must satisfy three requirements, commonly referred to as the “the three-prong test.”

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<sup>23</sup> See s. 403.705, F.S.

<sup>24</sup> See s. 403.706, F.S.

To satisfy the test, an applicant must establish that the proposed use of the water:

- Is for a “reasonable-beneficial use,” meaning the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest;
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.

Applicants may receive a CUP with duration of 20 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Otherwise, the WMD or DEP may issue a CUP for a shorter duration which reflects the period for which such reasonable assurances can be provide.

When a CUP is issued for a 20 year duration, a WMD or DEP may require the permittee to provide a compliance report every ten years during the term of the permit to maintain reasonable assurance the conditions of the CUP continue to be met. Following review of a compliance report, the WMD or the DEP may modify the CUP to ensure that the use meets the conditions for issuance. Permit modifications resulting from review of the compliance report are not subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district.

In several WMDs, when economic conditions or population growth rates result in the actual water use being lower than permitted water use, a modification to reduce the permitted allocation may be made by the WMD only when there is no reasonable likelihood that the allocation will be needed during the permit term. However, in order to incentivize conservation of water, if actual water use is less than permitted water use due to documented implementation of water conservation measures, the WMD may not modify the permitted allocation due to these circumstances during the term of the permit.

In addition, s. 373.227, F.S., requires the DEP, in cooperation with the WMDs, to develop a statewide water conservation program for public water supply that:

- Encourages utilities to implement water conservation programs that are economically efficient, effective, affordable, and appropriate;
- Allows no reduction in, and increase where possible, utility-specific water conservation effectiveness over current programs;
- Is goal-based, accountable, measurable, and implemented collaboratively with water suppliers, water users, and water management agencies;
- Includes cost and benefit data on individual water conservation practices to assist in tailoring practices to be effective for the unique characteristics of particular utility service areas, focusing upon cost-effective measures;
- Uses standardized public water supply conservation definitions and standardized quantitative and qualitative performance measures for an overall system of assessing and benchmarking the effectiveness of water conservation programs and practices;
- Creates a clearinghouse or inventory for water conservation programs and practices available to public water supply utilities;
- Develops a standardized water conservation planning process for utilities; and

- Develops and maintains a Florida-specific water conservation guidance document containing a menu of affordable and effective water conservation practices.

As part of an application for a CUP, a public water supply utility may propose a goal-based water conservation plan that is tailored to its individual circumstances. If the utility provides reasonable assurance that the plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the appropriate WMD, the WMD must approve the plan. The approved plan will satisfy water conservation requirements imposed as a condition of obtaining a CUP.

### **Clay Settling Areas**

In Florida, phosphate mining occurs primarily in central Florida. There are 27 phosphate mines in the state covering more than 491,900 acres. The Florida Legislature required the reclamation of lands mined for phosphate after July 1, 1975. Reclamation standards for phosphate lands include contouring to safe slopes, providing for acceptable water quality and quantity, vegetation, and the return of wetlands to pre-mining type, nature, function, and acreage.<sup>25</sup> A significant byproduct of phosphate mining is clay, which is deposited in clay settling areas. Mining areas, including clay settling areas, must be returned to their natural state after the completion of mining operations.<sup>26</sup>

Section 378.208, F.S., provides that an operator of a mine shall provide appropriate financial assurance to the state that the reclamation of lands subject to the mandatory reclamation obligation will be completed in a timely manner. Compliance with the rate of reclamation established in s. 378.209 is deemed to be appropriate financial assurance. Section 378.208, F.S., provides that mine operators who are not in compliance with the rate of reclamation established in s. 378.209, F.S., must post one or more forms of security, which are listed in s. 378.209(a)-(f), F.S.

### **Water Well Contractors License**

Each person who engages in the business of a water well contractor must obtain a license from a WMD. Persons must submit an application to the WMD in which they reside or in which his or her principal place of business is located. In order to take the licensure exam, an applicant must be 18 years old; have two years of experience in constructing, repairing, or abandoning water wells; complete the an application form; and pay a nonrefundable fee.

An applicant must submit a letter from a water well contractor and a letter from a water well inspector employed by a governmental agency in order to demonstrate two years of experience in constructing, repairing, or abandoning water wells. Further, an applicant must submit a list of at least ten water wells that the applicant has constructed, repaired, or abandoned within the preceding five years.

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<sup>25</sup> DEP, *Mandatory Phosphate Program*, <http://www.dep.state.fl.us/water/mines/manpho.htm> (last visited Mar. 15, 2015).

<sup>26</sup> Section 378.209(1), F.S.



## Resource Recovery

Resource recovery means “the process of recovering materials or energy from solid waste, excluding those materials or solid waste under control of the Nuclear Regulatory Commission.”<sup>27</sup> Section 403.713, F.S., provides that local governments may control the collection and disposal of solid waste and may institute a flow control ordinance for the purpose of ensuring that a resource recovery facility receives an adequate quantity of solid waste.

### III. Effect of Proposed Changes:

**Section 1** amends s. 20.255, F.S., to modify the organizational structure of the Department of Environmental Protection (DEP), by:

- Eliminating the Office of Intergovernmental Programs, which is responsible for three separate programs: the Clearinghouse, the Comprehensive Plan, and the Outer Continental Shelf Program. These programs will be implemented within the Florida Coastal Office, which is established by the bill.
- Eliminating the Office of Greenways and Trails which establishes and manages a statewide system of greenways and trails for recreational and conservation purposes. This program is currently administered by the Division of Recreation and Parks.
- Creating the Office of Technology and Information Services which is responsible for the management and security of information systems.
- Creating the Office of Operations that provides support services for the Division of State Lands and Division of Recreation and Parks.
- Creating the Florida Coastal Office which currently manages over four million acres of submerged lands and select coastal uplands in Florida, oversees the Florida Coastal Management Program, and oversees the Outer Continental Shelf Program. These programs currently exist under the Deputy Secretary of Ecosystem Restoration.
- Creating the Office of the Florida Geological Survey, which undertakes geoscience research and assessments. The Florida Geological Survey currently exists within the DEP under the Deputy Secretary of Regulatory Programs.
- Renaming the “Office of Emergency Response,” which responds to environmental pollution threats, to the “Office of Preparedness and Emergency Response.
- Specifying that the Inspector General for the DEP is appointed by the Chief Inspector General of the Governor’s Office and is subject to the general supervision of the secretary.
- Creating the Division of Water Restoration Assistance, which will enable the consolidation of seven state and federal funded programs under this division. The programs are the Deep Water Horizon response, Clean Water and Drinking Water State Revolving Funds, Beach Management Funding Assistance, Nonpoint Source Management, Total Maximum Daily Loads (TMDL) Grants, Springs funding, Water Project funding, and Alternative Water Supply funding.

**Section 2** creates s. 373.227(5), F.S., to incentivize water conservation by prohibiting permitting agencies from modifying permitted water allocations during the term of the permit if actual water use is less than permitted solely due to documented implementation of water conservation measures beyond what is required in consumptive use permit. Water conservation measures may

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<sup>27</sup> Fla. Admin. Code R. 62-701.200 (2015).

include, but are not limited to, those measures identified in best management practices for agricultural activities. The bill directs the Water Management Districts (WMDs) to adopt rules providing water conservation incentives, including permit extensions. The bill also prohibits the WMDs from reducing consumptive use permitted allocation amounts during the term of the permit which are for agricultural irrigation, if actual water use is less than permitted water use due to weather events, crop diseases, nursery stock availability, market conditions, or changes in crop type.

**Section 3** amends s. 373.323, F.S., relating to the requirements for water well contractor license applicants to demonstrate two years of experience in constructing, repairing, or abandoning water wells. The change requires applicants to provide a letter from a water well contractor or a letter from a water well inspector employed by a governmental agency. A letter from both will no longer be required.

**Section 4** amends s. 373.467, F.S., to revise the membership requirements for the Harris Chain of Lakes Restoration Council. One member must have experience in environmental science or regulation, rather than an environmental engineer. The bill requires an attorney and an engineer, rather than people that have training in either discipline. It also clarifies that the two members, who are residents of the county, are not required to meet any of the other requirements of membership to be appointed to the council. As the statute is currently written, it appears those two members are prohibited from meeting any of the other requirements for membership. The bill provides that the Lake County legislative delegation may waive the qualifications for membership on a case-by-case basis for good cause. The bill provides that resignation by a council member or the failure of a member to attend three consecutive meetings without being excused by the chair of the committee results in a vacancy.

**Section 5** creates s. 373.705(5), F.S., to require the WMDs to promote expanded cost share criteria for additional conservation practices, such as soil and moisture sensors, and other irrigation improvements, water saving equipment, water-saving household fixtures, and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.

**Section 6** creates s. 378.209(4), F.S., amending the timing of land reclamations to exempt constructed clay settling areas where its beneficial use has been extended from the requirements in ss. 378.209(1)(a) through (e) and 378.208, F.S. This revises a bonding requirement for clay settling areas so they can be consolidated and reduce construction costs.

**Section 7** amends s. 403.067, F.S., to allow the DEP to authorize water quality credit trading for land set-asides and land-use modifications, including constructed wetlands and other water quality improvement projects, which reduce nutrient loads into nutrient-impaired surface waters. Currently, land set-asides and land-use modifications may also include changes in crop type, conservation easements, term-limited contracts for environmental services, and other similar activities.

**Section 8** amends s. 403.201, F.S., to provide that the issuance of moderating provisions or requirements under state law is not prohibited by s. 403.201(2), regarding the prohibition of

variances from any provision or requirement concerning discharges of waste into state waters, or hazardous waste management.

**Section 9** amends s. 403.709, F.S., creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities. The bill authorizes the DEP to use funds from the account to contract with a third party for the closing and long-term care of a solid waste management facility if:

- The facility has or had a DEP permit to operate;
- The permittee provided proof of financial assurance for the closure in the form of an insurance certificate;
- The facility is deemed to be abandoned or was ordered to close by the DEP;
- Closure is accomplished in substantial accordance with the closure plan approved by the DEP; and
- The DEP has written documentation that the insurance company issuing the closure insurance policy will provide or reimburse the funds required to complete the closing and long-term care of the facility.

The bill requires the DEP to deposit funds received from an insurance company as reimbursement for the costs of closing or long-term care of the facility into the Solid Waste Landfill Closure account.

**Section 10** provides an appropriation for the 2015-2016 fiscal year of \$2,339,764 in nonrecurring funds from the Solid Waste Management Trust Fund within the DEP for the closing and long-term care of solid waste management facilities.

**Section 11** creates s. 403.713(3), F.S., and clarifies that a resource recovery facilities does not include a landfill gas-to-energy system or facility for the purposes of exercising flow control authority.

**Section 12** reenacts s. 373.414, F.S., for the purpose of incorporating the amendment to s. 403.201, F.S.

**Section 13** 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.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/CS/SB 714, if the federal government rescinds a delegated authority from the state, a permittee may have to obtain both state and federal permits rather than only a state permit for certain activities. The fiscal impact and number of parties that may be affected is unknown.

C. Government Sector Impact:

CS/CS/SB 714 requires the Department of Environmental Protection (DEP) to establish a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closure and long-term care of solid waste management facilities. Funds for these closures would be reimbursed by insurance companies; however, in cases where the insurance company disputes actual expenses and does not reimburse the DEP for costs, the DEP Solid Waste Management Trust Fund would have incurred these costs.

Currently, there are five landfills that could be addressed related to the provisions of the bill. These include Coyote East in Walton County, Coyote Navarre in Santa Rosa County, Coyote West in Walton County, Cerny Road in Escambia County, and Williams Road in Hillsborough County. The DEP has estimated these closure costs to be \$2,339,764 from the Solid Waste Management Trust Fund and anticipates that these costs will be reimbursed.

The bill provides \$2,339,764 in nonrecurring funds from the Solid Waste Management Trust Fund in the Fixed Capital Outlay-Agency Managed-Closing and Long-Term Care of Solid Waste Management Facilities appropriation category within the DEP for the closing and long-term care of solid waste management facilities.

The bill also reorganizes DEP by eliminating two offices, creating four new offices, and creating a new division. The reorganization will be accomplished by reallocating current resources. There is no fiscal impact related to the reorganization.

**VI. Technical Deficiencies:**

On lines 173-174, the phrase “results in a vacancy on the council” may be misinterpreted and could be reworded to specify that resignation of a council member or the failure of a member to attend three consecutive meetings, without an excuse approved by the chair of the committee, results in the removal of the committee member.

**VII. Related Issues:**

According to the DEP:

- Section 2 of the bill does not expand or clarify the authority of existing law. Rules are under development that contain provisions allowed by the bill.
- Section 3 of the bill is ambiguous and could lead to an interpretation that a “moderating provision or requirement” could be granted from a state law, even when that law is necessary for the state’s implementation of federally delegated or approved program. Such an interpretation could result in revocation of the state’s approval to implement a federally delegated or approved program. In instances where a regulated entity’s state approval operates as its federal license, such an interpretation could result in a regulated entity being unable to utilize state approval as a required federal license.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.255, 373.227, 373.323, 373.705, 378.209, 403.067, 403.201, 403.709, and 403.713.

**IX. Additional Information:**

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

**CS by Appropriations on April 21, 2015:**

The committee substitute:

- Revises the organizational structure of the Department of Environmental Protection.
- Incentivizes water conservation by prohibiting permitting agencies from modifying permitted water allocations during the term of the permit under certain conditions;
- Directs Water Management Districts (WMDs) to adopt rules providing water conservation incentives, including permit extensions;
- Prohibits the WMDs from reducing consumptive use permitted allocation amounts during the term of the permit under certain conditions;
- Changes the requirement that water well contractor license applicants provide a letter from both a water well contractor and a water well inspector to just requiring a letter from either one;
- Requires the WMDs to promote expanded cost share criteria for additional conservation practices;
- Revises a bonding requirement for clay settling areas so they can be consolidated and reduce construction impacts;
- Provides an appropriation for the accelerated closure of solid waste management facilities; and
- Clarifies a definition of resource recovery facilities to not include a landfill gas-to-energy system or facility for the purposes of exercising flow control authority.

**CS by Environmental Preservation and Conservation on April 8, 2015:**

- Provides that a member of the Harris Chain of Lakes Restoration Council must be a person with experience in environmental science or regulation, rather than an environmental engineer;
- Clarifies that one member must be an attorney, and another must be an engineer, rather than a person with training in either discipline;
- Clarifies that the two residents may, but are not required to, meet any of the other requirements for membership;
- Provides the Lake County legislative delegation with the authority to waive the qualifications for membership on the council on a case-by-case basis if good cause is shown;
- Provides that resignation by a council member, or failure by a council member to attend three consecutive meetings without an excuse approved by the chair of the council, will result in a vacancy;
- Clarifies that land set-asides and land-use modifications that may qualify for water quality credits must not otherwise be required by state law or a permit; and
- Clarifies that the issuance of any moderating provisions or requirements under state law, which are otherwise prohibited under s. 403.201, F.S., are subject to any necessary approval by the U.S. Environmental Protection Agency.

**B. Amendments:**

None.