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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 918
INTRODUCER:	Environmental Preservation and Conservation Committee; and Senators Dean and Margolis
SUBJECT:	Environmental Resources
DATE:	April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 918 provides for the protection of springs and other water resources in Florida, creates a council to provide recommendations for funding water projects throughout the state, provides transparency for the process by which projects are submitted and selected, and provides for statewide consistency in data collection and analysis.

The bill directs the Department of Environmental Protection (DEP) to promote access to conservation lands using an online database and mobile application. The bill requires the DEP to submit a yearly report to the Governor, the President of the Senate, and the Speaker of the House of Representatives describing the percentage of public lands open to the public that were acquired under section 259.032, Florida Statutes, and efforts taken by the DEP to increase public access to such lands.

The bill creates the Shared-Use Nonmotorized Trail (SunTrail) network and directs the Florida Department of Transportation (FDOT) to create a SunTrail plan and include the SunTrail in the FDOT work program. The bill also provides for sponsorship of the SunTrail network.

The bill codifies the Central Florida Water Initiative (CFWI), which is a collaborative process designed to plan for future water needs in central Florida.

The bill makes extensive revisions to the Northern Everglades and Estuaries Protection Program (NEEPP).

Specifically, the bill:

- Specifies additional information to be included in the Consolidated Water Management District Annual Report;
- Changes the standard for minimum flows and levels (MFLs) in Outstanding Florida Springs (OFSs);
- Provides requirements for setting interim MFLs;
- Provides for the application of MFLs in other water management districts when withdrawals in those other districts affect an MFL outside of those districts;
- Creates the Florida Springs and Aquifer Protection Act;
- Provides findings, intent, and definitions;
- Directs the DEP, in coordination with the water management districts (WMDs), to delineate priority focus areas and provides deadlines and considerations;
- Provides requirements for the DEP or a WMD to establish interim MFLs or adopt MFLs and recovery or prevention strategies, as necessary, and provides deadlines;
- Provides requirements for revising MFLs under certain circumstances and provides deadlines;
- Provides minimum requirements for recovery or prevention strategies for OFSs;
- Provides for extensions for local government projects included in a recovery or prevention strategy;
- Directs the DEP to assess OFSs for impairment and provides requirements and deadlines;
- Provides for the adoption of basin management action plans (BMAPs), includes requirements for BMAPs for OFSs, and provides deadlines;
- Provides for the enforcement of BMAPs;
- Requires the adoption of fertilizer use ordinances by local governments under certain circumstances;
- Provides for the identification and assessment of onsite sewage treatment and disposal systems (OSTDSs) in OFSs and directs the development of OSTDS remediation plans as necessary;
- Directs the DEP to develop rules to fund pilot projects that address nutrient pollution or flows in Florida springs and provides deadlines;
- Directs the DEP to develop rules to evaluate, select, and rank projects for environmental improvement, and provides considerations and deadlines;
- Prohibits certain activities within priority focus areas;
- Directs the DEP to develop rules to create a program to improve water quantity and quality to administer the Florida Springs and Aquifer Protection Act;
- Codifies the Central Florida Water Initiative in statute;
- Provides considerations related to preferred water supply sources for entities applying for a water use permit;
- Removes references to the Works of the District program in the NEEPP;
- Amends provisions related to the NEEPP;

- Directs the South Florida Water Management District (SFWMD) to revise Rule 40E-61, Florida Administrative Code, to be consistent with the NEEPP and section 403.067, Florida Statutes, concerning Total Maximum Daily Loads (TMDLs);
- Provides for changes to the Caloosahatchee and St. Lucie River Watershed Protection Programs;
- Provides considerations and funding for water supply development and alternative water supply projects;
- Provides requirements for regional water supply planning;
- Provides for the study and possible revision or creation of best management practices (BMPs) that reduce pollution;
- Requires a report by the DEP on the status of TMDLs, BMAPs, MFLs, and recovery and prevention strategies under Part VIII of chapter 373, Florida Statutes, and provides for milestones, goals, and corrective actions, as necessary;
- Requires the DEP to create a consolidated water resources work plan that covers all water resource projects in the state and provides requirements for the information provided;
- Directs the DEP to create a web-based, interactive map that provides information to the public on water projects being performed throughout the state, and provides requirements for the information to be provided;
- Creates the Florida Water Resources Advisory Council within the DEP to evaluate and rank water resource projects and provide recommendations to the Legislature for funding projects. The bill provides considerations for ranking projects and rulemaking authority to the DEP to implement the program;
- Requires the DEP to establish statewide standards for the collection of water quantity, water quality, and related data to ensure quality, reliability, and validity of the data and testing results;
- Requires the DEP to adopt rules concerning the reclassification of surface waters used for potable water supply; and
- Requires the DEP to adopt rules concerning projects focused on innovative nutrient and sediment reduction and conservation pilot projects.

The bill requires a number of activities that will result in significant long-term costs for several government entities, including the DEP, the Department of Agriculture and Consumer Services (DACS), and the Water Management Districts. The total fiscal impact is indeterminate; however, Senate Bill 2500, the Senate's General Appropriations Bill for Fiscal Year 2015-2016, provides the following: $50 million for Florida's Springs, $50 million for Water Resources, and $25 million for the SunTrail. In addition, SB 2500 provides operational funding support to the Northwest Florida Water Management District for implementation of MFLs of $1.5 million, and nine positions and $1.73 million to the DEP and the DACS.

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

II. Present Situation:

State Lands Database

Section 253.0325, F.S., was created in 1990 to require the Department of Environmental Protection (DEP) to establish a computerized system for state lands records. The DEP contracted

with a company to create the mainframe-based land record system for documents related to lands where title is vested in the Board of Trustees of the Internal Improvement Trust Fund. In 1999, the system was updated to include new technologies and integration components and referred to as the Board of Trustees Land Document System (BTLDS). The law requires the program to include, at a minimum, a document management component, a lands and records management component, an evaluation component, and a mapping component. The DEP is responsible for ensuring the information system is compatible within the DEP and other state, local, and regional government agencies.

In 2008, s. 253.0325, F.S., was amended to require the DEP to include all lands purchased with Preservation 2000 funds and Florida Forever funds. To comply with the requirement, the DEP contracted with an outside vendor to conduct a BTLDS Feasibility Study. The study determined the DEP Division of State Lands would be the clearinghouse for all of the state lands data and solely responsible for maintaining the database.

In 2010, s. 216.0153, F.S., directed the DEP to create, administer, operate, and maintain a comprehensive system and automated inventory of all state lands and real property leased, owned, rented, occupied, or maintained by a state agency, judicial branch, or water management district (WMD). In order to meet the requirement, the DEP created the Florida State Owned Lands and Records Information System (FL-SOLARIS). The database includes all state owned lands in which the state has a fee interest, including a conservation easement acquired through a formal acquisition process for conservation.

The FL-SOLARIS system has been implemented by the DEP and the Department of Management Services (DMS) to include two main components. The Facility Information Tracking System includes 332 users and 65 different agencies, and the Lands Information Tracking System includes 140 users and 50 different agencies.[1]

Trail Development

The development of Florida's bicycle and pedestrian infrastructure did not begin in earnest until the late 20th century. The American railroad industry was deregulated by the Staggers Rail Act of 1980, providing Florida with an immediate abundance of abandoned rail corridors.[2] Organizations such as The Rails-to-Trails Conservancy and The Trust for Public Land, the Florida Department of Transportation (FDOT), and the DEP coordinated to develop numerous abandoned rail corridors as shared-use "rail-trails" for nonmotorized transportation and recreation. Many of Florida's premier nonmotorized trails, including the Pinellas Trail, the Tallahassee-St. Marks Trail, and the West Orange Trail, are a result of rail-trail conversions.

The second major initiative in trail development came in 1991 when Congress shifted surface transportation policy through passage of the Intermodal Surface Transportation Efficiency Act.[3] For the first time, pedestrian and bicycle facilities were identified as components of the nation's transportation infrastructure, and a dedicated funding source was created for multiuse trails and

[1] State of Florida Lands and Facilities Inventory Search, http://webapps.dep.state.fl.us/DslPi/splash?Create=new (last visited Mar. 6, 2015).
[2] Pub. Law No. 96-448, H.R. 72365, 96th Cong. (Oct. 14, 1980).
[3] Pub. Law No. 102–240, H.R. 2950, 102nd Cong. (Dec. 18, 1991).

paths with local governments serving as project sponsors.[4] Many of the resulting projects are community-centric, short-distance trails, initiated by local governments and other governmental entities not traditionally associated with transportation development, such as water management districts and school districts.

Trail Connectivity

While many locales have benefited from federal trail funding, an unintended consequence of trail development being initiated by numerous state entities and local governments is a collection of random trails rather than a statewide system. As a result, many trails lack connectivity with other trails and often serve no meaningful origins and destinations. Trail users are often required to use roads, sidewalks, and highways to connect trails or to complete a trip. Many trail trips are "out-and-back" trips in which the origin and destination are the same location. Such trips serve little to no transportation function and do not realize the full economic potential of a trail network.

In 1995, the Legislature recognized the benefits of an expanded greenways and trails network and created the Florida Greenways Coordinating Council (FGCC).[5] The Legislature tasked the FGCC with promoting the creation of a statewide greenways and trails system and designated the DEP as the lead agency of the system.[6] The FGCC published the Connecting Florida Communities with Greenways and Trails Plan in 1998. The plan contains a multiuse recreational Opportunity Trail Map and is considered the first visioning document for connecting Florida's greenways and trails. The plan provides a comprehensive approach to the Florida Greenways and Trails System (FGTS) by providing a review of existing greenways and trails and recommendations to complete the system. The plan recommends:

- The DEP establish a process to prioritize greenways and trails for ecological, recreational, and cultural significance;
- The DEP identify the critical linkages in the statewide greenways and trails system;
- The FGCC evaluate and prioritize greenways and trails proposed by the DEP based on:
  - Willingness of the landowner;
  - Ecological, recreational, and cultural significance;
  - Acquisition considerations;
  - Management considerations;
  - Community support; and
  - Identification of critical linkages.
- The DEP develop a process for designating lands for the statewide greenways and trails system;
- The FGCC promote awareness and generate support of the greenways and trails system;
- Encouraging landowners to voluntarily sell or donate conservation easements or fee simple title to land;
- Coordinating with owners to acquire linear facilities;
- Encouraging developers to include trails in residential areas and to link residential trails with the statewide system;
- Identifying a funding mechanism for the creation and maintenance of trail systems;

[4] Joe Maher, *Federal Funding for Conservation and Recreation Trails*, 1 (Feb. 2009), *available at* http://www.rff.org/RFF/Documents/RFF-BCK-ORRG_DOT.pdf (last visited Mar. 11, 2015).
[5] Chapter 95-260, Laws of Fla.
[6] *Id*.

- The Legislature create the Florida Greenways and Trails Council; and
- Measuring the success of the statewide trails system by:
  - Tracking the current trail system and new land designations in a database;
  - Maintaining natural areas so they may be considered for designation or remain designated;
  - Creating a system that provides public access to a trail within 15 minutes of every Floridian; and
  - Ensuring a 95 percent satisfaction rate for visitors to greenways and trails facilities.[7]

In 1999, the Legislature created the Florida Greenways and Trails Council as recommended by the 1998 Connecting Communities with Greenways and Trails Plan. Section 260.0142(4), F.S., directs the council to:

- Facilitate a statewide system of interconnected landscape linkages, conservation corridors, greenbelts, recreational corridors and trails, scenic corridors, utilitarian corridors, reserves, regional parks and preserves, ecological sites, and cultural/historic/recreational sites using land-based trails that connect, urban, suburban, and rural areas of the state;
- Recommend priorities for critical links in the FGTS;
- Review recommendations for acquisition funding;
- Review designation proposals to be include in the FGTS;
- Encourage public-private partnerships;
- Review the established benchmarks and make recommendations for appropriate action;
- Recommend updates to the implementation plan for the FGTS;
- Promote greenways and trails support organizations; and
- Support the FGTS through intergovernmental coordination, budget recommendations, and any other appropriate way.

In 2008, Florida was recognized as a leader in greenways and trails and awarded the Best Trails State Award by American Trail. Although the statewide system of trails had expanded to include thousands of miles of paved, unpaved, and paddling trails to accommodate hikers, bikers, equestrians, and paddlers, many gaps to the trail system remain.[8]

In 2013, the DEP published the 2013-2017 Florida Greenways and Trails System Plan. The 2013-2017 plan was the first update to the FGTS since the Connecting Florida Communities with Greenways and Trails Plan was published in 1998. The updated plan provides goals for the FGTS to advance Florida's economy, tourism, health, transportation, recreation, conservation, and quality of life. Specifically, the plan:

- Establishes priorities for coordinating, directing, and focusing resources;
- Provides a new framework for systematically closing the gaps in trails and connecting priority corridors within the FGTS to establish a fully connected and integrated statewide trail network; and

[7] DEP, Florida Greenways Coordinating Council, *Connecting Florida's Communities with Greenways and Trails*, 11-35 (1998), *available at* http://www.dep.state.fl.us/gwt/FGTS_Plan/PDF/1998FGTSPlanConnectingFlorida'sCommunities.pdf (last visited Mar. 5, 2015).
[8] DEP, *Coast to Coast Connector, Status Report: July 1, 2014 to December 31, 2014*, 3 (2014), *available at* http://www.dep.state.fl.us/gwt/FGTS_Plan/Long%20Distance%20Corridors/1st%20Edition%20Jan%202015.pdf (last visited Mar. 5, 2015).

- Provides linkages between additional state planning efforts and the FGTS. The additional state planning efforts include:
  - The Florida Five-year Strategic Plan for Economic Development;
  - The VISIT FLORIDA Marketing Plan;
  - The Florida State Health Improvement Plan;
  - The Florida Transportation Plan 2060;
  - The Florida Statewide Comprehensive Outdoor Recreation Plan; and
  - The Cooperative Conservation Blueprint and Wildlife Action Plan.[9]

The Coast-to-Coast Connector (C2C) is an essential component of the 2013-2017 FGTS plan and the Florida Greenways and Trails Foundation "Close the Gaps" campaign.[10] The C2C is an approximately 275-mile system of local, regional, state, and federal trails crossing nine counties from Titusville to St. Petersburg. Approximately 200 miles of the corridor are developed or funded for completion. The remaining portion of the C2C will cost an estimated $42 million to complete.[11]

Once complete, the C2C will link communities and provide a year-round ecotourism engine throughout the region. The C2C includes two of the state's most popular trails, the Pinellas Trail and the West Orange Trail, each of which have served approximately 1 million users per year and fueled the economic transformation of trail communities, particularly Dunedin and Winter Garden.[12] Components of the C2C will also serve other planned trails including multi-day loop trails such as the 250-mile Heart of Florida Greenway[13] and the 300-mile St. Johns River-to-Sea Loop.[14]

Interagency Coordination

The FDOT created the Florida Bicycle and Pedestrian Partnership Council in 2010, which includes representatives from the FDOT, state agencies, local governments, and non-profit organizations. The council provides policy recommendations for the state's walking, biking, and trail facilities to the FDOT and its partners. The primary focus of the council is to implement bicycle and pedestrian connections, promote bicycle and pedestrian safety, promote the use of design discretion to accommodate bicycle and pedestrian needs, and to promote the State Health Improvement Plan.[15]

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[9] DEP, *Florida Greenways & Trails System Plan, 2013-2017*, 1 (2013), *available at* *http://www.dep.state.fl.us/gwt/FGTS_Plan/PDF/FGTS_Plan_2013-17_publication.pdf* (last visited Mar. 19, 2015).
[10] The Florida Greenways and Trails Foundation is a non-profit organization that supports the mission and programs of the DEP Office of Greenways and Trails.
[11] DEP, *The Coast to Coast Connector*, http://www.dep.state.fl.us/gwt/FGTS_Plan/Long%20Distance%20Corridors/Coast_to_Coast_Connector.htm (last visited Mar. 19, 2015).
[12] *Id.*
[13]The Florida Greenways and Trails Foundation, *Close the Gaps: Heart of Florida Greenway Map* (May 29, 2012), *available at* http://fgtf.org/maps/hof/overview.pdf) (last visited Mar. 11, 2015).
[14] *See* ETM, *St. Johns River-to-Sea Loop Trail Status Update* (Sept. 2011), *available at* http://www.etminc.com/SJR2C/sg_userfiles/SJR2C_Summary_Report_09-19-11.pdf (last visited Mar. 11, 2015).
[15] DOT, *The Florida Bicycle and Pedestrian Partnership Council: 2012/2013 Annual Progress Report*, iii (Oct. 2013), *available at* http://www.dot.state.fl.us/planning/policy/bikeped/Annualrpt2012-13.pdf (last visited Mar. 11, 2015).

The council has directed the FDOT to partner with the DEP to pursue opportunities that contribute to the full implementation of the FGTS Priority Network including:

- Considering additional right of ways for separate shared-use paths during all transportation corridor planning;
- Expanding the limited access pilot-projects;
- Developing an interagency Memoranda of Agreements to promote cooperation; and
- Working with metropolitan planning organizations and other regional entities.[16]

Although both the DEP and the FDOT are tasked with creating a network of connected trails and to coordinate efforts to accomplish each agency's goals, there is no legislation requiring interagency coordination to create a statewide system of shared-use transportation trails.

Trail Benefits

In addition to the intrinsic value nonmotorized travel brings to community mobility, sustainable transportation, and personal health, trails provide access to conservation lands and create wildlife corridors. Trails also produce numerous quantifiable economic benefits, including increasing the value of nearby properties, increasing spending at local businesses, influencing business location and relocation decisions, revitalizing depressed areas, providing sustainable tourism opportunities, and creating jobs.

Property Values

Based on an analysis of comparable trails from across the country, the construction of Miami-Dade County's Ludlam Trail will increase property values within a half mile of the trail 0.32 to 0.73 percent faster than other properties throughout the county. This translates into a total property value increase over a 25-year period of $121 million to $282 million.[17] A study of property values near trails in Delaware found that properties within 50 meters of the bike paths sell for $8,800 more than similar homes.[18] A survey co-sponsored by the National Association of Home Builders and the National Association of Realtors found that proximity to nonmotorized trails came in second only to highway access when recent home buyers were asked about the "importance of community amenities."[19]

Local Businesses and Economic Development

An economic impact analysis of trails in Orange County, Florida, found in 2010 average spending per trail user was $20 per visit, representing food and beverages, transportation, books and maps, bike maintenance, rentals, and more. The West Orange Trail supports 61 jobs and represents an estimated economic impact of $5 million for downtown Winter Garden. Longer

[16] *Id.* at 7
[17] Miami-Dade County, Park and Recreation Department, *Miami-Dade County Trail Benefits Study: Ludlam Trail Case Study*, 57 (Jan. 2011), *available at* http://atfiles.org/files/pdf/Miami-Dade-Ludlam-Trail-Benefits.pdf (last visited Mar. 11, 2015).
[18] David P. Racca and Amardeep Dhanju, *Project Report for Property Value/Desirability Effects of Bike Paths Adjacent to Residential Areas*, 30 (Nov. 2006), *available at http://128.175.63.72/projects/DOCUMENTS/bikepathfinal.pdf* (last visited Mar. 19, 2015).
[19] National Trails Training Partnership, *Benefits of Trails and Greenways*, http://www.americantrails.org/resources/benefits/homebuyers02.html (last visited Mar. 11, 2015).

destination trails increase spending and benefit hotels, bed and breakfasts, and outdoor outfitters.[20] A study of the Great Allegheny Passage, a 132-mile corridor in Pennsylvania, found that users reporting longer average travel distances to the trail were more likely to spend successive days on or near the trail. Those who reported an overnight stay in conjunction with their trips averaged spending $203 per person.[21] A survey on the Greenbrier River Trail, an 81-mile corridor in West Virginia, found an overwhelming majority of trail users were highly educated professionals with high income levels, two-thirds were from outside of West Virginia, 93 percent were staying in the area from one to four days, 58 percent spent between $100 and $500 in the area, and 93 percent indicated that they were highly likely to plan a return trip.[22]

Revitalization of Depressed Areas

Companies often choose locations in communities that offer a high level of amenities to employees as a means of attracting and retaining top-level workers. Trails can make communities attractive to businesses looking to expand or relocate both because of the amenities they offer to employees and the opportunities they offer to trail visitors.[23]

In Dunedin, Florida, after the abandoned CSX railroad was transformed into the Pinellas Trail, the downtown area went from 70 percent storefront occupancy to 95 percent occupancy.[24]

Tourism Opportunities

The Outer Banks of North Carolina generates $60 million in economic activity through bicycle tourism. The one-time investment of $6.7 million on bicycle infrastructure has resulted in an annual nine-to-one return. Analysis of Outer Banks trail amenities shows bicycle tourists tend to be affluent and educated. More than half of survey respondents said bicycling had a strong influence on their decision to return to the area. Two-thirds of respondents said that riding on bike facilities made them feel safer and three-quarters said that more paths, shoulders, and lanes should be built.[25]

A widely accepted tenet in trail development holds that the longer a given trail is, the greater its propensity for becoming a "destination trail," and the greater distance users will travel to use the trail. Users traveling farther stay in the area longer and, consequently, increase spending in the area. Users of the Great Allegheny Passage/C&O Canal Towpath, a 335-mile system of biking

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[20] East Central Florida Regional Planning Council, *Economic Impact Analysis of Orange County Trails*, ii (2011), *available at* http://www.dep.state.fl.us/gwt/economic/PDF/Orange_County_Trail_Report_final_May2011.pdf (last visited Mar. 11, 2015).
[21] Compos, Inc., *The Great Allegheny Passage Economic Impact Study (2007-2008)*, 91 (2009), *available at* http://www.atatrail.org/docs/GAPeconomicImpactStudy200809.pdf (last visited Mar. 11, 2015).
[22] ATI, *Maximizing Economic Benefits from a Rails-to-Trails Project in Southern West Virginia – A Case Study of the Greenbrier River Trail*, 11 (May 2001), *available at* http://atfiles.org/files/pdf/greenbrierecon.pdf (last visited Mar. 11, 2015).
[23] *See* NPS, *Economic Impacts of Protecting Rivers, Trails, and Greenway Corridors: Corporate Relocation and Retention. Rivers, Trails and Conservation Assistance Program* (1995), *available at* http://www.nps.gov/pwro/rtca/econ_all.pdf (last visited Mar. 11, 2015).
[24] DEP, *The Impact of Trails on Communities*, 34 (2010), *available at* http://www.opportunityflorida.com/pdf/Jim%20Wood%20-%20Trails%20and%20Economic%20Impact%20-%20Rural%20Summit.pdf (last visited Mar. 11, 2015).
[25] NCDOT, *Pathways to Prosperity: The Economic Impact of Investments in Bicycling Facilities*, vi-viii (July 2004), *available at* http://www.ncdot.gov/bikeped/download/bikeped_research_eiafulltechreport.pdf (last visited Mar. 5, 2015).

and hiking trails that connects Pittsburgh to Washington, DC, travel an average of 131 miles to the trailhead. Those that traveled 50 miles or more had daily expenditures approximately two times that of users that traveled less.[26]

Trail Development Creates More Jobs than Road Development

A national comparison of the number of jobs created per $1 million spent on various types of transportation projects found that for every $1 million spent on the development of multiuse trails, 9.57 jobs were created while road-only development yields 7.75 jobs.[27]

Sponsorship of Trails and Related Facilities

Section 335.065(3), F.S., authorizes the FDOT to enter into a concession agreement for commercial sponsorship displays, subject to the Highway Beautification Act of 1965 and all federal laws and agreements, on multiuse trails and related facilities with a not-for-profit entity or private sector business or entity. The revenues from the concession agreements may be used for trail maintenance.

In 2012, the Legislature created s. 260.0144, F.S., to authorize the DEP to enter into concession agreements for naming rights for the display of commercial sponsorship on certain state-owned greenway and trail facilities or properties. The DEP may establish the cost for entering into a concession agreement. The law specifies the commercial display contemplated by the concession agreement is for public relations or advertising purposes for the concessionaires and is not to be construed as having a relationship with the DEP other than what is set forth in the terms of the concession agreement. The law also does not grant a proprietary or compensable interest in any sign, or display site or location.

Section 260.0144, F.S., requires 85 percent of the proceeds from the concession agreement with the DEP to be distributed to the appropriate trust fund within the DEP to be used for management and operation of state greenway or trail facilities and properties. The remaining 15 percent goes to the State Transportation Trust Fund.

The signage and display requirements for ss. 335.065(3) and 260.0144, F.S., are as follows:

- The placement of signage or displays is limited to the provisions of s. 337.407, F.S., and ch. 479, F.S., and limited to trailheads, parking areas, or public access points;
- The size of the signage or display is limited to 16 square feet at trailheads and parking areas and four square feet at public access points;
- The FDOT or the DEP must approve the name or display before installation;
- The FDOT or the DEP must ensure:
  - The size, color, materials, construction, and location of the signs are consistent with the management plan of the property and the standards of the FDOT or the DEP;
  - The signs do not intrude on natural and historic settings; and

[26] *Supra* note 21, at 70.
[27] PERI, *Pedestrian and Bicycle Infrastructure: A National Study of Employment Impacts*, 11 (June 2011), *available at* http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.362.5819&rep=rep1&type=pdf (last visited Mar. 11, 2015).

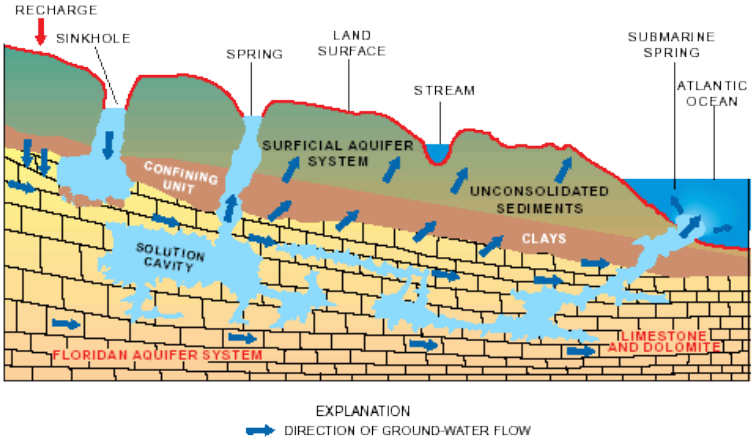
- The signs only contain the logo selected by the sponsor and the wording: "(Name of the sponsor)…proudly sponsors the costs of maintaining the…(Name of the greenway or trail)";
- All costs associated with the signage must be the responsibility of the concessionaire;
- The concession agreement is limited to one year unless extended by a multiyear agreement; and
- The FDOT or the DEP may terminate the agreement for just cause with 60 days advance notice to the concessionaire.

Florida's Springs

Florida's springs are unique and beautiful resources. The historically crystal clear waters provide not only a variety of recreational opportunities and habitats, but also great economic value for recreation and tourism. Springs are major sources of stream flow in a number of rivers such as the Rainbow, Chassahowitzka, Homosassa, and Ichetucknee.[28] Additionally, Florida's springs provide a "window" into the Floridan aquifer system, which provides most of the state's drinking water.

The Floridan aquifer system is a limestone aquifer that has enormous freshwater storage and transmission capacity. The upper portion of the aquifer consists of thick carbonate rocks that have been heavily eroded and covered with unconsolidated sand and clay. The surficial aquifer is located within the sand deposits and forms the land surface that is present today. In portions of Florida, the surficial aquifer lies on top of deep layers of clay sediments that prevent the downward movement of water. Springs form when groundwater is forced out through natural openings in the ground.[29]

The Water Cycle – Springs[30]



Florida has more than 700 recognized springs. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18

[28] Department of Community Affairs, *Protecting Florida's Springs: An Implementation Guidebook*, 3-1 (Feb. 2008), *available at* http://www.dep.state.fl.us/springs/reports/files/springsimplementguide.pdf (last visited Mar. 5, 2015).
[29] *Id*. at 3-1 to 3-2.
[30] U.S. Environmental Protection Agency, *The Water Cycle: Springs*, http://water.usgs.gov/edu/watercyclesprings.html (last visited Mar. 5, 2015).

counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily from the Floridan aquifer, are used to determine ground water quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to ground water chemistry.[31]

The springshed is the area within the groundwater and surface water basins that contributes to the discharge of the spring. The spring recharge basin consists of all areas where water can be shown to contribute to groundwater flow discharging from the spring.

Spring protection zones are sub-areas of the groundwater and surface water basins of each spring or spring system that supply water to the spring and within which human activities, such as waste disposal or water use, are most likely to have negative impacts on the water discharging from the spring. When adverse conditions occur within a spring protection zone, the conditions can be minimized by:

- Land-use management and zoning by county or municipal government;
- Adoption of best management practices (BMPs);
- Educating the public concerning environmental sensitivity; and
- Regulatory action, if necessary.[32]

Nutrients

Phosphorus and nitrogen are essential nutrients for plants and animals and are the limiting nutrients in aquatic environments. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems. Typically, nitrogen is the limiting nutrient in spring systems. Therefore, even modest increases in nitrogen above optimum levels can accelerate algae growth, plant growth, and deplete oxygen levels.

Phosphorus and nitrogen are derived from natural and anthropogenic sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Anthropogenic sources include sewage disposal systems (wastewater treatment facilities and septic tanks), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.

Excessive nutrients may result in harmful algal blooms, nuisance aquatic weeds, and alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and generally impair the aesthetics and tastes of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities. Increased algae production, as a result of increased nutrients, can alter plant communities and affect natural systems.

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[31] Florida Geological Survey, *Springs of Florida Bulletin No. 66*, *available at* http://www.dep.state.fl.us/geology/geologictopics/springs/bulletin66.htm (last visited Mar. 5, 2015).

[32] Upchurch, S.B. and Champion, K.M., *Delineation of Spring Protection Areas at Five, First-Magnitude Springs in North-Central Florida (Draft)*, 1 (Apr. 28, 2004), *available at* www.waterinstitute.ufl.edu/suwannee-hydro-observ/pdf/delineation-of-spring-protection-zones.pdf (last visited Mar. 5, 2015).

In pristine conditions, spring water is high quality and lacks contaminants. It can be used directly for public water supplies or for irrigation. When pollutants are introduced to the land surface, some will be retained, but some will travel into the aquifer and later appear in spring flow. Often, nutrients introduced close to a spring will quickly reach the spring, especially in unconfined areas of the aquifer. While springs are valuable recreational and tourist attractions, they are also an indicator of reduced quality of the water in the aquifer.[33]

Urban Fertilizer Usage and Florida's Model Ordinance

Application of fertilizer in urban areas impacts springsheds when it runs off lawns and impervious surfaces into stormwater collection systems or directly into the surface water. The DEP has provided guidelines to minimize the impact of urban fertilizer use and adopted the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. The model ordinance provides counties and municipalities with a range of options to help minimize fertilizer inputs from urban applications. Some of the suggestions contained in the model ordinance are:

- Restricting the times fertilizer may be applied, such as restricting its application during the rainy season;
- Creating fertilizer free zones around sensitive waterbodies such as ponds, streams, watercourses, lakes, canals, or wetlands;
- Controlling application practices by, for example, restricting fertilizer application on impervious surfaces and requiring prompt cleanup of any fertilizer that is spilled on impervious surfaces; and
- Managing grass clipping and vegetative matter by disposing of such materials properly rather than simply blowing them into the street, ditches, stormwater drains, or waterbodies.[34]

Water Pollution Control Programs

Total Maximum Daily Loads (TMDLs) and Water Quality Standards

Under s. 303 of the federal Clean Water Act (CWA), states are incentivized to adopt water quality standards (WQSs) for their navigable waters and must review and update those standards at least once every three years. These standards include:

- Designation of a waterbody's beneficial uses, such as water supply, recreation, fish propagation, and navigation;
- Water quality criteria that define the amounts of pollutants, in either numeric or narrative standards, that the waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.[35]

In 1999, the Legislature passed the Florida Watershed Restoration Act,[36] which codified the establishment of TMDLs for pollutants of waterbodies as required by the CWA.[37] Each TMDL, which must be adopted by rule, is a scientific determination of the maximum amount of a given

[33] *Supra* note 28, at 3-4.
[34] DEP, *Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes*, 6-9 (2010), *available at* http://www.dep.state.fl.us/water/nonpoint/docs/nonpoint/dep-fert-modelord.pdf (last visited Mar. 5, 2015).
[35] 33 U.S.C. s. 1313(c)(2)(A) (2014); 40 C.F.R. ss. 131.6 and 131.10-131.12.
[36] Chapter 99-223, Laws of Fla.
[37] Section 403.067, F.S.

pollutant that can be absorbed by the waterbody while still meeting WQSs. Waterbodies that do not meet the established WQSs are deemed impaired and, pursuant to the CWA, the DEP establishes a TMDL for the waterbody or section of the waterbody that is impaired.[38] A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background. Waste load allocations are pollutant loads attributable to existing and future point sources, such as discharges from industry and sewage facilities. Load allocations are pollutant loads attributable to existing and future nonpoint sources such as the runoff from farms, forests, and urban areas. [39]

The U.S. Environmental Protection Agency (EPA) and the DEP enforce WQSs through the implementation and enforcement of the National Pollutant Discharge Elimination System (NPDES) permitting program. Every point source that discharges a pollutant into waters of the United States must obtain an NPDES permit establishing the amount of a particular pollutant that an individual point source can discharge into a specific waterbody. The amount of the pollutant that a point source can discharge under a NPDES permit is determined through the establishment of a technology-based effluent limitation. If a waterbody fails to meet the applicable WQS through the application of a technology-based effluent limitation, a more stringent pollution control program called the water quality based effluent limitation is applied.

Basin Management Action Plans (BMAPs)

The DEP is the lead agency in coordinating the implementation of TMDLs and BMAPs through existing water quality protection programs. Such programs include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Non-regulatory and incentive-based programs, including BMPs, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), F.S., and public education;[40]
- Public works, including capital facilities; and
- Land acquisition.[41]

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific water body. First, the BMAP equitably allocates pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources.[42] Then the BMAP establishes the schedule for implementing projects and activities to

[38] *Id*.
[39] Fla. Admin. Code R. 62-620.200(37) (2006). Point source means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are essentially sources of pollution that are not point sources. They can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.
[40] Section 403.061, F.S., grants the DEP the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows the DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.
[41] Section 403.067(7)(b), F.S.
[42] Section 403.067(7), F.S.

meet the pollution reduction allocations. The BMAP process has the flexibility to allow for adaptive changes if necessary. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the general public to collectively determine and share water quality clean-up responsibilities. The DEP works with stakeholders to develop effective BMAPs.[43]

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years and revisions to the plan must be made as appropriate.[44]

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.[45] A nonpoint source discharger may be subject to enforcement action by the DEP or a WMD based upon a failure to implement these requirements.[46]

Provisions of a BMAP must be included in subsequent NPDES permits. The DEP is prohibited from imposing limits or conditions associated with an adopted TMDL in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted BMAP.[47]

NPDES permits issued between the time a TMDL is established and a BMAP is adopted contain a compliance schedule allowing time for the BMAP to be developed. Once the BMAP is developed, a permit will be reopened and individual allocations consistent with the BMAP will be established in the permit. The timeframe for this to occur cannot exceed five years. NPDES permittees may request an individual allocation during the interim, and the DEP may include an individual allocation in the permit.[48]

For an individual point source, reducing pollutant loads established under the TMDL and water quality based effluent limitation regulatory programs can be difficult to accomplish. It may require investment in expensive technology or other costly measures to reduce pollutant loads.[49]

Agricultural Operations

Only lands that are used primarily for bona fide agricultural purposes are classified as agricultural in Florida.[50] The term "bona fide agricultural purposes" means good faith

[43] DEP, *Basin Management Action Plans (BMAPs)*, http://www.dep.state.fl.us/central/Home/Watershed/BMAP.htm (last visited Mar. 5, 2015).
[44] Section 403.067(7)(a)5., F.S.
[45] BMPs for agriculture, for example, include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.
[46] Section 403.067(7)(b)1.h., F.S.
[47] Florida Senate Committee on Environmental Preservation and Conservation, *CS/SB 754 Analysis* (Mar. 14, 2013), *available at* http://flsenate.gov/Session/Bill/2013/0754/Analyses/2013s0754.pre.ep.PDF (last visited Mar. 5, 2015).
[48] *Id*.
[49] *Id*.
[50] Section 193.461(3)(b), F.S.

commercial agricultural use of the land. Certain factors may be taken into account in determining whether an agricultural operation is bona fide:

- The length of time the land has been used for agriculture;
- Whether the use has been continuous;
- The purchase price paid;
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment;
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices;
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease; and
- Other factors as may be applicable.[51]

Industrial Wastewater Program

In Florida, all wastewater that is not defined as domestic wastewater is considered industrial wastewater. The DEP's Industrial Wastewater Program issues permits to facilities for activities that discharge to surface waters and ground waters of the state.[52] Industrial wastewater that discharges to domestic wastewater treatment facilities, however, is regulated under a different program. The DEP is authorized by the EPA to issue permits for discharge to surface waters under the National Pollutant Discharge Elimination System (NPDES). Permits for discharge to ground waters are issued by the DEP under state statutes and rules. Industrial wastewater permits are issued by the district offices.

Two exceptions to the permits issued by the district offices are:

- NPDES permits for steam electric power plants, which are issued by the Industrial Wastewater Section in the Tallahassee office; and
- Industrial wastewater permitting for the phosphate industry, which is handled by the Phosphogypsum Management Section located in Tampa.[53]

Best Management Practices on Agricultural Lands

Agricultural BMPs are guidelines advising producers how to manage the water, nutrients, and pesticides they use to minimize agricultural impacts on Florida's natural resources. Agricultural activity is dependent on the application of fertilizer and pesticides and is linked to the contamination of watersheds with nutrients such as nitrogen and phosphorus. BMPs tend to cover four major areas, which overlap: nutrient management, or how producers use fertilizers; pest management, or how they use pesticides; water management, or how they use and discard

[51] *Id*.
[52] DEP, *Wastewater Program: Industrial Wastewater*, http://www.dep.state.fl.us/Water/wastewater/iw/index.htm (last visited Mar. 5, 2015). Other operations that are considered sources of industrial wastewater include manufacturing, commercial businesses, mining, agricultural production and processing, and wastewater from cleanup of petroleum and chemical contaminated sites.
[53] *Id.*

water; and sediment management, or how they affect the sediments on and around their properties.[54]

BMPs reduce the amount of nutrients, sediments, and pesticides that enter the water system and help reduce water use. Because much of the state is built on limestone, which allows water to return relatively unfiltered to the aquifer, pollutants can enter the water supply quickly, endangering humans and ecosystems.[55]

The Department of Agriculture and Consumer Services (DACS) Office of Agricultural Water Policy is actively involved in developing BMPs. The DACS works cooperatively with agricultural producers, industry groups, the DEP, the state university system, the WMDs, and other interested parties to develop and implement BMP programs that are economically and technically feasible.[56]

Onsite Sewage Treatment and Disposal Systems (OSTDs)

In Florida, septic systems are referred to as onsite sewage treatment and disposal systems. An OSTDS can contain any one of the following components: a septic tank; a subsurface drainfield; an aerobic treatment unit (ATU); a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless, incinerating or organic waste-composting toilet; and a sanitary pit privy.[57] Septic systems are located underground and treat sewage without the presence of oxygen. Sewage flows from a home or business through a pipe into the first chamber, where solids settle out. The liquid then flows into the second chamber where anaerobic bacteria in the sewage break down the organic matter, allowing cleaner water to flow out of the second chamber into a drainfield.[58] Engineers licensed in Florida may specially design OSTDSs to meet the needs of individual property owners. Engineer-designed OSTDS plans are subject to review by the local county health department and must be certified by the engineer as complying with all requirements pertaining to such system.[59]

The Department of Health (DOH) administers onsite sewage programs, develops statewide rules, and provide training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.[60] The Bureau also

[54] University of Florida Institute of Food and Agricultural Sciences, *Best Management Practices*, http://solutionsforyourlife.ufl.edu/hot_topics/agriculture/bmps.shtml (last visited Mar. 5, 2015).
[55] *Id*.
[56] DACS, Office of Agricultural Water Policy, *Home Page* (Jan. 8, 2014), http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Water-Policy (last visited Mar. 5, 2015).
[57] DEP, *Wastewater: Septic Systems*, http://www.dep.state.fl.us/water/wastewater/dom/septic.htm (last visited Mar. 5, 2015).
[58] EPA, *Primer for Municipal Wastewater Treatment Systems*, 22 (2004), *available at* http://water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf (last visited Mar. 5, 2015).
[59] *See* Fla. Admin. Code R. 64E-6.003 (2013) and R. 64E-6.004 (2010).
[60] The DOH does not permit the use of onsite sewage treatment and disposal systems where the estimated domestic sewage flow from the establishment is over 10,000 gallons per day (gpd) or the commercial sewage flow is over 5,000 gpd; where there is a likelihood that the system will receive toxic, hazardous or industrial wastes; where a sewer system is available; or of any system or flow from the establishment is currently regulated by the DEP. The DEP issues the permits for systems that discharge more than 10,000 gpd.

licenses over 700 septic tank contractors and oversees 2.6 million onsite wastewater systems in Florida. [61]

The EPA concluded in its 1997 Report to Congress that "adequately managed decentralized wastewater systems are a cost-effective and long-term option for meeting public health and water quality goals, particularly in less densely populated areas."[62] In Florida, development is dependent on OSTDSs due to the cost and time it takes to install central sewer systems. In rural areas and low-density developments, central sewer is not cost effective. Less than one percent of Florida systems are actively managed. The remainder are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[63]

Land Spreading of Septage

Septage is defined as a mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping of an OSTDS.[64] Approximately 100,000 septic tanks are pumped each year, generating 100 million gallons of septage requiring treatment and disposal.[65] The septage is treated and disposed of at a number of septage treatment facilities regulated by the DOH. When used for land application, the septage is stabilized by raising the pH to 12 for at least two hours or to a pH of 12.5 for 30 minutes.[66] The treated septage is then spread over land at DOH-regulated land application sites.[67] In addition to septage, onsite systems serving restaurants include tanks that separate grease from the sewage stream. The grease is collected, hauled, treated, and land applied similarly to septage. In 2011, there were 92 DOH-regulated land application sites that receive treated septage from 108 DOH-regulated septage treatment facilities. Approximately 40 percent of septage removed from septic tanks is treated at septage treatment facilities and then land applied.[68]

In 2010, the Legislature enacted ch. 2010-205, Laws of Florida., which prohibited the land application of septage from septic tanks effective January 1, 2016. In addition, the law required the DOH, in consultation with the DEP, to provide a report to the Governor and the Legislature recommending alternative methods to establish enhanced treatment levels for the land application of septage by February 1, 2011. The report provided several alternatives to the land application of septage as it is currently performed.[69]

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[61] Hall, P. and Clancy, S.J., *Statewide Inventory of Onsite Sewage Treatment and Disposal Systems in Florida, Final Report*, 6 (June 29, 2009), *available at* http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/_documents/research-reports/_documents/inventory-report.pdf (last visited Mar. 5, 2015).
[62] EPA, *Handbook for Managing Onsite and Clustered (Decentralized) Wastewater Treatment Systems*, 1 (Dec. 2005), *available at* http://water.epa.gov/infrastructure/septic/upload/onsite_handbook.pdf (last visited Mar. 26, 2015).
[63] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, 1 (Oct. 2008) (on file with the Senate Committee on Environmental Preservation and Conservation).
[64] Section 381.0065(2)(n), F.S.
[65] DOH, *Report on Alternative Methods for the Treatment and Disposal of Septage*, 1 (Feb. 2011), *available at* http://pk.b5z.net/i/u/6019781/f/FINAL_REPORT_ON_ALTERNATIVE_METHODS_FOR_THE_TREATMENT_AND_DISPOSAL_OF_SEPTAGE_03282011__2_.pdf (last visited Mar. 5, 2015).
[66] Fla. Admin. Code R. 64E-6.010(7)(a) (2013).
[67] See Fla. Admin. Code R. 64E-6.010 (2013).
[68] *Supra* note 65, at 2.
[69] *Supra* note 65, at 2.

Treatment of septage at domestic wastewater treatment facilities

Treating septage takes advantage of available wastewater treatment facilities' capacity while at the same time centralizing waste treatment operations. However, not all wastewater treatment facilities accept septage because it is a high strength waste, which has the potential to upset facilities' processes and may result in increased operation and maintenance requirements and costs. Furthermore, the distance between central facilities with available treatment capacity and the locations where septage is collected in rural areas can make transport to such facilities cost prohibitive.[70]

Disposal of septage at landfills

Acceptance of septage at Class I landfills has positive impacts because it increases microbial activity within the landfills and results in increased waste decomposition and more rapid waste stabilization. However, landfill instability may result due to disposal of the wet waste stream. Increased difficulty in operating compaction equipment may result due to creation of a slick working surface. Many landfills choose not to accept loads of septage, making land application sites one of the only available options for the disposal of septage.[71]

Advanced Treatment

While most of Florida's OSTDSs are conventional OSTDSs, or passive septic systems, there are other advanced systems capable of providing additional or advanced treatment of wastewater prior to disposal in the drainfield. Advanced OSTDSs can utilize various approaches to improve treatment before discharge to a drainfield, or the drainfield itself can be modified. On occasion, engineers have included the drainfield as part of the treatment process, usually as a means to achieve fecal coliform reduction.[72]

Advanced systems differ in three respects from conventional treatment systems that consist of a septic tank with a drainfield. First, the design of advanced systems is more variable than the approach for conventional systems. Second, they need more frequent checkups and maintenance, which is the reason they require operating permits. Third, the performance expectations are more specific, while failures for advanced systems are less defined.[73] Advanced systems are significantly more expensive to purchase, install, and operate.

ATUs offer advanced treatment for wastewater. ATUs force compressed air through the liquid effluent in the tank to create a highly oxygenated (aerobic) environment for bacteria. Bacteria that thrive in oxygen-rich environments work to break down and digest the wastewater inside the ATU. Aerobic units come in a variety of sizes and shapes and can be made of concrete, fiberglass or polyurethane. They are designed to collect and treat all the water from a home,

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[70] *Supra* note 65, at 2.
[71] *Supra* note 65, at 3.
[72] DOH, Assessment of Water Quality Protection, *Advanced Onsite Sewage Treatment and Disposal Systems: Performance, Management, Monitoring, Draft Final Report*, 14 (August 19, 2013), *available at* http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/advancedostdsfinalreportdraft.pdf (last visited Mar. 5, 2015).
[73] Prepared for DEP by DOH, Bureau of Onsite Sewage Programs, *Revised Quality Assurance Project Plan Assessment of Water Quality Protection by Advanced Onsite Sewage Treatment and Disposal Systems (OSTDS): Performance, Management, Monitoring*, 8 (Aug. 22, 2011) *available at* http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/_documents/final319qapp.pdf (last visited Mar. 5, 2015).

including water from toilets, showers, bathtubs, sinks, and laundry. There are as many as three stages that ATUs take wastewater through before the effluent is dispersed into the drainfield.[74]

Water Pollution Management

Urban Stormwater Management

Unmanaged urban stormwater creates a wide variety of effects on Florida's surface waters and groundwater. Factors that exacerbate unmanaged runoff include:

- Compaction of soil;
- Impervious surfaces such as roads and parking lots;
- Alteration of natural landscape features such as natural depression areas that hold water, floodplains, and wetlands;
- Construction of highly efficient drainage systems that alter the ability of the land to assimilate precipitation; and
- Pollutant loading of receiving water bodies from stormwater discharge.[75]

Urbanization within a watershed decreases the amount of rainwater that seeps into the soil. Rainwater is critical for recharging aquifers, maintaining water levels in lakes and wetlands, and maintaining spring and stream flows. The increased volume, speed, and pollutant loading in stormwater discharged from developed areas leads to flooding, water quality problems, and loss of habitat.[76]

In 1982, to manage urban stormwater and minimize impacts to natural systems, Florida adopted a technology-based rule requiring the treatment of stormwater to a specified level of pollutant load reduction for new development. The rule included a performance standard for the minimum level of treatment and design criteria for BMPs to achieve the performance standard. It also included a rebuttable presumption that discharges from a stormwater management system would meet WQSs when designed in accordance with the BMP design criteria.[77] The performance standard was to reduce post-development stormwater pollutant loading of total suspended solids[78] by 80 percent, or by 95 percent for Outstanding Florida Waters.[79]

In 1990, the DEP developed and implemented the State Water Resource Implementation Rule (originally known as the State Water Policy rule).[80] This rule sets forth the broad guidelines for the implementation of Florida's stormwater program and describes the roles of the DEP, the WMDs, and local governments. One of the primary goals of the program is to maintain the

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[74] Florida Health, Lee County, *Aerobic Treatment Unit Homeowner Education*, http://lee.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/permits/aerobic-treatment-units.html (last visited Mar. 5, 2015).
[75] DEP, *State Stormwater Treatment Rule Development Background*, http://www.dep.state.fl.us/water/wetlands/erp/rules/stormwater/background.htm (last visited Mar. 5, 2015).
[76] *Id*.
[77] *Id*.
[78] Total Suspended Solids is listed as a conventional pollutant under s. 304(a)(4) of the CWA. A conventional pollutant is a water pollutant that is amenable to treatment by a municipal sewage treatment plant.
[79] Fla. Admin. Code R. 62-302.700 (2006), provides that an Outstanding Florida Water is a designated water body worthy of special protection because of its natural attributes. This special designation is applied to certain water bodies, and is intended to protect and preserve their existing states.
[80] *Supra* note 75. *See generally* Fla. Admin. Code R. 62-40.

predevelopment stormwater characteristics of a site. The rule sets a minimum performance standard for stormwater treatment systems to remove 80 percent of the post-development stormwater pollutants "that cause or contribute to violations of WQSs."[81]

The DEP and the WMDs jointly administer the Environmental Resource Permitting (ERP) program for activities that alter surface water flows.[82] Alteration or construction of new stormwater management systems in urban redevelopment areas is regulated by the ERP program pursuant to s. 373.413, F.S., and must comply with all other relevant sections of Part IV of ch. 373, F.S.

Wastewater Treatment Plants

Wastewater treatment is one of the most common forms of pollution control in the United States. Sewerage system components include collection sewers, pumping stations, and treatment plants. Sewage is collected and sent to a treatment plant to remove solids and biological contaminants. Once sewage has been treated, it is typically discharged into streams and other receiving waters, or reused.[83]

The basic function of wastewater treatment is to speed up natural processes by which water is purified. Typically, sewage is treated by primary and secondary processes. In the primary stage, solids are allowed to settle and are removed from the wastewater. The secondary stage uses biological processes to further purify wastewater.[84]

Limits in Florida for effluent to surface water from wastewater treatment plants are required to contain no more than 20 mg/L carbonaceous biochemical oxygen demand (CBOD5)[85] and 20 mg/L total suspended solids (TSS)[86], or 90 percent removal of each from the wastewater influent, whichever is more stringent.[87] There are other limits depending on where the effluent is being discharged.

Advanced Wastewater Treatment

Advanced wastewater treatment (AWT) systems perform additional treatment beyond secondary treatment. AWT can remove more than 99 percent of all impurities from sewage, producing an effluent that may be drinking-water quality. The related technology can be expensive, requiring a high level of technical expertise and well trained treatment plant operators, a steady energy supply, chemicals, and specific equipment that may not be readily available. An example of an AWT process is the modification of a conventional secondary treatment plant to remove additional phosphorus and nitrogen. The effluent standards for AWT on an annual average basis are:

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[81] *Supra* note 75.
[82] Chapter 373, Part IV, F.S. See also DEP, *Environmental Resource Permitting (ERP) Program*, http://www.dep.state.fl.us/water/wetlands/erp/index.htm (last visited Mar. 5, 2015).
[83] U.S. Environmental Protection Agency, Office of Water, *How Wastewater Treatment Works: The Basics*, Report no. 833-F-98-002, 1 (May 1998), *available at* http://www.epa.gov/npdes/pubs/bastre.pdf (last visited Mar. 5, 2015).
[84] *Id*.
[85] For more information on CBOD5, see Fla. Admin. Code R. 62-601.200(5) (1996).
[86] For more information on TSS, see Fla. Admin. Code R. 62-601.200(54) (1996).
[87] Fla. Admin. Code R. 62-600.420 (1993).

- CBOD5 – 5 mg/L;
- Suspended solids – 5 mg/L;
- Total nitrogen – 3 mg/L;
- Total phosphorus – 1 mg/L; and
- High levels of disinfection.[88]

Biosolids

Biosolids are the solid, semisolid, or liquid residue generated during the biological wastewater treatment process. Florida generates approximately 320,000 dry tons of biosolids annually. Biosolids are normally high in organic content and contain moderate amounts of nutrients such as nitrogen and phosphorus, making them valuable as a fertilizer or soil amendment.[89] They may be used beneficially or disposed of in landfills.[90]

Biosolids are classified as AA, A, or B. AA biosolids are considered the highest quality biosolids. They must be treated to a level that essentially eliminates pathogens and meets strict concentration limits for heavy metals. They may be used as fertilizer through commercial distribution and marketing.[91] Class A biosolids are biosolids that meet the same pathogen reduction requirements as Class AA biosolids, meet the same vector attraction (meaning the attraction of disease spreading animals) requirements as Class B biosolids, and meet a series of concentration limits for nine different elements.[92] Class B biosolids must be treated to significantly reduce pathogens and must meet certain concentration limits for heavy metals. Application rates are limited to crop nutrient needs. They are subject to site application restrictions and restrictions on harvesting, grazing, and public access. Also, cumulative heavy metals must be tracked for Class A and B biosolids; however, in Florida, land applied biosolids are almost exclusively Class B. In 2012, approximately 108,272 dry tons of Class B biosolids were land applied.[93]

Minimum Flows and Levels (MFLs)

MFLs are established for water bodies in order to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals. MFLs are typically determined based on evaluations of topography, soils, and vegetation data collected within plant communities and other pertinent information associated with the water resource. MFLs take into account the ability of wetlands and aquatic communities to adjust to changes in hydrologic conditions and allow for an acceptable level of hydrologic change to occur. When uses of water resources shift the hydrologic conditions below levels defined by MFLs, significant ecological harm can occur.[94] The goal of establishing an MFL is to ensure there is enough water to satisfy the

[88] Section 403.086(4), F.S.
[89] DEP, *Biosolids in Florida: 2012 Summary*, 1 (Dec. 2013), *available at* http://www.dep.state.fl.us/water/wastewater/dom/docs/BiosolidsFlorida-2012-Summary.pdf (last accessed Mar. 5, 2015).
[90] *Id*.
[91] *Id*.
[92] Fla. Admin. Code R. 62-640.200(9) (2010).
[93] *Supra* note 89.
[94] SJRWMD, *Water Supply: An Overview of Minimum Flows and Levels*, http://www.sjrwmd.com/minimumflowsandlevels/ (last visited Mar. 5, 2015).

consumptive use of the water resource without causing significant harm to the resource.[95] Consumptive uses of water draw down water levels and reduce pressure in the aquifer.[96] By establishing MFLs for non-consumptive uses, the WMDs are able to determine how much water is available for consumptive use. This is useful when evaluating a new consumptive use permit (CUP) application.[97]

Section 373.042, F.S., requires the DEP or WMDs to establish MFLs for priority water bodies to prevent significant harm from water withdrawals. While the DEP has the authority to adopt MFLs under ch. 373, F.S., the WMDs have the primary responsibility for MFL adoption. The WMDs submit annual MFL priority lists and schedules to the DEP for review and approval. MFLs are considered rules by the WMDs and are subject to ch. 120, F.S., challenges. MFLs are established using the best available data and are subject to independent scientific peer review at the election of the WMD, or, if requested, by a third party.[98]

MFLs apply to decisions affecting permit applications, declarations of water shortages, and assessments of water supply sources. Computer water budget models for surface waters and groundwater are used to evaluate the effects of existing and/or proposed consumptive uses and the likelihood they might cause significant harm. The WMD governing boards are required to develop recovery or prevention strategies in those cases where a water body or watercourse currently does not or is anticipated to not meet an established MFL. Water uses cannot be permitted that cause any MFL to be violated.[99]

Prior to the passage of the Water Resources Act in 1972,[100] MFLs were defined in statute:

- Average minimum flow - the average of the five lowest monthly mean discharge for each month, January through December, occurring during the past twenty years of natural flow. The determination was based on available flow data or in the absence of such data, it was established by reasonable calculations; and
- Average minimum level - the average of the minimum thirty days lake water level occurring during each of the five years of lowest levels in the period of the preceding twenty consecutive years. The determination was based upon available lake level data, supplemented when available by reasonable calculations.[101]

The Water Resources Act of 1972 changed the way minimum flows and minimum levels were defined:

- The minimum flow for a given watercourse is the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area; and

[95] DEP, *Minimum Flows and Levels*, http://www.dep.state.fl.us/water/waterpolicy/mfl.htm (last visited Mar. 5, 2015).
[96] *Supra* note 28, at 3-5.
[97] Florida Senate Committee on Environmental Preservation and Conservation, *SB 244 Analysis*, 2 (Feb. 22, 2013), *available at* http://flsenate.gov/Session/Bill/2013/0244/Analyses/2013s0244.ep.PDF (last visited Mar. 5, 2015).
[98] *Id*.
[99] *Supra* note 94.
[100] Chapter 72-299, Laws of Fla.
[101] Section 373.081, F.S. (1971).

- The minimum water level is the level of ground water in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources of the area.[102]

The ecology of groundwater resources was thought to be non-existent at the time of the 1972 act.

Consumptive Use Permits (CUP)

A CUP establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the DEP and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as "the three-prong test." Specifically, the proposed water use must:

- Be a "reasonable-beneficial use" as defined in s. 373.019(16), F.S.;
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.

Consolidated Water Management District Annual Reports

Each WMD must prepare and submit to the DEP, the Governor, the President of the Senate, and the Speaker of the House of Representatives a consolidated water management district annual report on the management of water resources. Copies of the report are available to the public.[103]

The report must contain:

- A district water management plan annual report. Alternatively, it may contain the annual work plan report,[104] which details the implementation of the strategic plan for the previous fiscal year, addressing success indicators, deliverables, and milestones;[105]
- The DEP approved MFLs annual priority list and schedule;
- The annual five-year capital improvements plan;
- The alternative water supplies annual report;
- The final annual five-year water resource development work program;
- The Florida Forever Water Management District Work Plan annual report;
- The mitigation donation annual report; and
- Any additional information the WMD deems appropriate.

Additionally, the South Florida WMD must include the:

- Lake Okeechobee Protection Program annual progress report;
- Everglades annual progress reports;
- Everglades restoration annual report; and
- Everglades Trust Fund annual expenditure report.[106]

[102] *Supra* note 100.
[103] Section 373.036(7)(a), F.S.
[104] Section 373.036(7)(b)1., F.S.
[105] Section 373.036(2)(e)4., F.S.
[106] Section 373.036(7), F.S.

Rural Areas of Opportunity

Rural areas of opportunity are rural communities and regions composed of rural communities designated by the Governor that have been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.[107]

Rural communities are defined as:

- Counties with a population of 75,000 or fewer;
- Counties with a population of 125,000 or fewer that are contiguous to a county with a population of 75,000 or fewer;
- Designated municipalities within a county that meet the thresholds of the two previous criteria; or
- An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or less and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified below:[108]
  - Low per capita income;
  - Low per capita taxable values;
  - High unemployment;
  - High underemployment;
  - Low weekly earned wages compared to the state average;
  - Low housing values compared to the state average;
  - High percentages of the population receiving public assistance;
  - High poverty levels compared to the state average; and
  - A lack of year-round stable employment opportunities.[109]

Northern Everglades and Estuaries Protection Program

In 2000, the Legislature passed the Lake Okeechobee Protection Act (LOPA), which established a restoration and protection program for the lake. In 2007, the Legislature amended the LOPA,[110] which is now known as the Northern Everglades and Estuaries Protection Program (NEEPP). The NEEPP promotes a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie Rivers. It includes the Lake Okeechobee, Caloosahatchee River, and the St. Lucie River Watershed Protection Programs.[111]

The plans developed under the NEEPP for each of the three Northern Everglades watersheds identify actions to help achieve water quality and water quantity objectives for the watersheds

[107] Section 288.0656(2)(d), F.S.
[108] Section 288.0656(2)(e), F.S.
[109] Section 288.0656(2)(c), F.S.
[110] Chapter 2007-253, LAWS of Fla.
[111] SFWMD, *2014 South Florida Environmental Report: Lake Okeechobee Watershed Protection Program Annual and Three-Year Update*, 8-2 (2014), *available at* http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2014_sfer/v1/chapters/v1_ch8.pdf (last visited Mar. 26, 2015).

and to restore habitat. Water quality objectives are based on TMDLs developed by the DEP. The TMDL for Lake Okeechobee is 140 metric tons of total phosphorus per year, of which 105 metric tons can come from the watershed tributaries and 35 metric tons can come from atmospheric deposition.[112]

The South Florida Water Management District (SFWMD), in cooperation with the DACS and the DEP, collectively known as the coordinating agencies, developed the Lake Okeechobee Watershed Protection Plan (LOWPP), which is reevaluated every three years pursuant to NEEPP. The LOWPP's three main components are the:

- Lake Okeechobee Watershed Construction Project, which includes the Phase I and Phase II Technical Plans;
- Lake Okeechobee Watershed Phosphorus Control Program; and
- Lake Okeechobee Watershed Research and Water Quality Monitoring Program.

It also includes the Lake Okeechobee Exotic Species Control Program and the Lake Okeechobee Internal Phosphorus Management Program.[113]

Section 373.4595, F.S., describes the purposes of the five programs. The Lake Okeechobee Watershed Construction Project improves the hydrology and water quality of Lake Okeechobee and downstream receiving waters, including the Caloosahatchee and St. Lucie Rivers and Estuaries. The Lake Okeechobee Phosphorus Control Program is designed to be a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed. The Lake Okeechobee Watershed Research and Water Quality Monitoring Program assesses sources of phosphorus, evaluates the feasibility of alternative nutrient reduction technologies, and evaluates water quality data. The Lake Okeechobee Internal Phosphorus Management Program addresses phosphorus removal. Lastly, the Lake Okeechobee Watershed Research and Water Quality Monitoring Program assesses sources of phosphorus, evaluates the feasibility of alternative nutrient reduction technologies, and evaluates water quality data.

Lake Okeechobee Basin Management Action Plan

The Lake Okeechobee BMAP was adopted in December 2014. For the first phase of the BMAP, the DEP is focusing on project implementation in the following six sub-watersheds north of the lake:

- The Upper Kissimmee;
- The Lower Kissimmee;
- Taylor Creek/Nubbin Slough;
- Lake Istokpoga;
- Indian Prairie; and
- Fisheating Creek.[114]

[112] *Id.* at 8-10.
[113] *Id.* at 8-10.
[114] DEP, *Basin Management Action Plan for the Implementation of Total Maximum Daily Loads for Total Phosphorus*, xii (Dec. 2014), *available at* http://www.dep.state.fl.us/water/watersheds/docs/bmap/LakeOkeechobeeBMAP.pdf (last accessed Mar. 26, 2015).

The anticipated outcomes of the BMAP's implementation are:

- Improvements in water quality trends in the Lake Okeechobee Watershed;
- Decreased loading of total phosphorus and total nitrogen;
- Decreased loading of total phosphorus and total nitrogen to the St. Lucie and Caloosahatchee Estuaries;
- Increased coordination between state and local governments to achieve surface water quality restoration;
- Determination of effective projects through the stakeholder decision-making and priority-setting processes;
- Enhanced public awareness of stormwater runoff, pollutant sources, pollutant impacts on water quality, and corresponding corrective actions; and
- Enhanced understanding of basin hydrology, water quality, pollutant sources, and legacy loads.

The DEP states the plan will reduce total phosphorus entering the lake by 33 percent over the next 10 years.[115]

The Caloosahatchee and St. Lucie River Watershed Protection Programs

The Caloosahatchee and St. Lucie River Watershed Protection programs are designed to protect and restore surface water resources by addressing the reduction of pollutant loadings, restoration of natural hydrology, and compliance with applicable state water quality standards through a phased program. The program objective is to reduce pollutant loads based upon adopted TMDLs. Both the Caloosahatchee and St. Lucie River Watershed Protection Plans consist of a river watershed construction project, a watershed pollutant control program, and watershed research and water quality monitoring program.[116] To address nutrient pollution in the Caloosahatchee and St. Lucie Watersheds, the DEP adopted the Caloosahatchee Estuary BMAP in November 2012, and the St. Lucie River and Estuary BMAP in May 2013. The BMAP for the upper Caloosahatchee River watershed is under development.

Central Florida Water Initiative (CFWI)

The areas encompassed by the CFWI Planning Area, which consists of all of Orange, Osceola, Seminole, and Polk counties and southern Lake County, have traditionally relied on groundwater from the Floridan aquifer system as the primary source of water. The three WMDs serving the area are the SFWMD, the Southwest Florida Water Management District (SWFWMD), and the St. Johns River Water Management District (SJRWMD).[117]

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[115] DEP, *DEP Adopts Restoration Plan for Lake Okeechobee*, (Dec. 16, 2014), https://depnewsroom.wordpress.com/2014/12/24/dep-adopts-restoration-plan-for-lake-okeechobee/ (last visited Mar. 16, 2015).

[116] SFWMD, *2014 South Florida Environmental Report: Lake Okeechobee Watershed Protection Program Annual and Three-Year Update*, App. 10-2-3 (2012), *available at* http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/crwpp_2012update_sfer_voli_app10_2.pdf (last visited Mar. 26, 2015).

[117] Central Florida Water Initiative, *An Overview*, http://cfwiwater.com/pdfs/2012/06-28/CFWI_Overview_fact_sheet.pdf (last accessed Mar. 16, 2015).

In the past, the three WMDs worked independently to resolve water resource issues, but the decisions of one district can affect the water resources of another. Currently, the WMDs are working collaboratively with other agencies and stakeholders to implement consistent water resource planning, development, and management through the CFWI. However, each WMD currently relies on its own existing criteria to review CUP applications, which leads to inconsistencies and confusion as it relates to permit applications for projects that overlap multiple WMD boundaries.[118]

In 2006, the three WMDs agreed to a Central Florida Coordination Area Action Plan to address the near-term and long-term development of water supplies in the central Florida region.[119] Phase I of the action plan created a framework to deal with the short-term water resource issues and concluded with interim water use regulations limiting groundwater withdrawals to projected 2013 demands and required development of alternative water supplies for future needs. The interim Central Florida Coordination Area rules expired on December 31, 2013, and additional rules specific to the Central Florida Coordination Area have not been promulgated.[120]

Phase II of the action plan began in 2009. The initial objective was to establish new rules prior to the December 31, 2013, sunset date and to implement a long-term approach to water resource management in central Florida. Phase II of the action plan involved coordinated activities on a variety of issues including:

- Regional water supply planning;
- Investigations and development of traditional and alternative water supply projects;
- Assessment of environmental impacts and groundwater sustainability; and
- Development of water use rules and permitting criteria.[121]

The main planning tool for the Phase II process was the development and calibration of the necessary hydrologic models to determine the sustainability of the groundwater supplies. The Phase II process was suspended, however, because of the complexity of the effort and the desire for consensus among stakeholders. Because of those problems, the Phase II effort did not meet the rulemaking deadlines prior to expiration of the interim rule. Additionally, because of the economic downturn in central Florida, the need for and use of permitted water demands in 2013 was lower than expected.[122]

To address the limitations of the 2006 Central Florida Coordination Area Action Plan schedule and still fulfill the overarching objectives outlined in that plan, the CFWI was created in 2011. The CFWI builds on the work of the Central Florida Coordination Area. Both efforts focus on an area that includes all of Orange, Osceola, Seminole, and Polk counties, and southern Lake County. The three affected WMDs, along with the DEP, the DACS, regional public water supply utilities, and other stakeholders are collaborating to develop a unified process to address central

[118] *Id.*
[119] Central Florida Water Initiative, *Central Florida Water Initiative Guiding Document*, 2 (Jan. 30, 2015), *available at* http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf (last visited Mar. 26, 2015).
[120] *Id.*
[121] *Id.*
[122] *Id.* at 3.

Florida's current and long-term water supply needs.[123] It is led by a steering committee comprised of:

- A public water supply utility representative;
- One designated governing board member from each of the WMDs;
- A representative from the DEP; and
- A representative from the DACS.[124]

The guiding principles of the CFWI are:

- Identify the sustainable quantities of traditional groundwater sources available for water supply that can be used without causing unacceptable harm to the water resources and associated natural systems;
- Develop strategies to meet water demands that are in excess of the sustainable yield of existing traditional groundwater sources, implement demand management, and identify alternative water supplies that can be permitted and will be implemented as demands approach the sustainable yield of existing sources; and
- Establish consistent rules and regulations for the three WMDs that meet the goals of the CFWI.[125]

The goals of the CFWI are:

- One hydrologic model;
- A uniform definition of harm;
- One reference condition;
- A process for permit reviews;
- A consistent process, where appropriate, to set MFLs and reservations; and
- A coordinated regional water supply plan, including any needed recovery and prevention strategies.[126]

Works of the District Permits

The Works of the District rule[127] was implemented in 1989. The scope of the original rule was to implement the Surface Water Improvement and Management Plan for Lake Okeechobee, which was designed to reduce loading to Lake Okeechobee to 397 tons of phosphorus per year. In 2000, the passage of the Lake Okeechobee Protection Act required landowners in the Lake Okeechobee watershed to either implement BMPs or monitor to demonstrate compliance with the Works of the District program.

In Lake Okeechobee, a Works of the District permit is required if an entity owns a parcel of land half an acre or greater within a Lake Okeechobee Drainage Basin that connects to or makes use of the Works of the District within the Lake Okeechobee Drainage Basin. The land areas and uses subject to the permits are described in Rules 40E-61.041 and 40E-61.042, F.A.C., both of which relate to permits required in the Lake Okeechobee Drainage Basin. Works of the District

[123] *Id.* at 3.
[124] *Id.* at 5.
[125] *Id.* at 5
[126] *Id*. at 5
[127] Fla. Admin. Code R. 40E-61.

Permits are also required for activities in the Everglades Agricultural Area and the C-139 Basin. Rules concerning permits in the Everglades Agricultural Area may be found in Rule 40E-63, F.A.C.

III. Effect of Proposed Changes:

Section 1 amends s. 259.032, F.S., to require the Department of Environmental Protection (DEP) to develop, publish, update, and maintain a database of state conservation and recreation lands that allow public access. The bill requires the database to be available online by July 1, 2016. The database must include, at a minimum:

- The location of the lands;
- The types of allowable recreational opportunities;
- The points of public access;
- Facilities or other amenities; and
- Land use restrictions.

The DEP is to include any additional information that is appropriate to increase the public awareness of recreational opportunities on conservation lands. The database must be electronically accessible, searchable, and downloadable in a generally acceptable format.

The bill directs the DEP, through its own efforts or in partnership with a third party, to create a downloadable mobile application to locate state lands available for public access using the user's current location or activity of interest. The database and application must include information for all publicly accessible state conservation lands that serve a recreational purpose.

The bill requires that beginning January 1, 2018, to the greatest extent practicable, the database must include similar information for recreational lands with public access that are owned by the federal and local governments.

The bill requires the DEP to submit a report by January 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives, describing the percentage of public lands with public access acquired under s. 259.032, F.S., and efforts taken by the DEP to increase public access to such lands.

Section 2 amends s. 260.0144 F.S., to specify the Shared-Use Nonmotorized Trail (SunTrail) Network is not included in the sponsorship provisions of state greenways and trails under s. 260.0144, F.S.

The bill removes the Florida Keys Overseas Heritage Tail, the Blackwater Heritage Trail, the Tallahassee-St. Marks Historic Railroad State Trail, the Nature Coast State Trail, the Withlacoochee State Trail, the General James A. Van Fleet State Trail, and the Palatka-Lake Butler State Trail trails from the sponsorship provisions under s. 260.0144, F. S. They are addressed in section 6 of the bill.

Section 3 amends s. 335.065, F.S., to remove the Florida Department of Transportation's (FDOT) authority to enter contracts for commercial sponsorship of multiuse trails. The authority

to enter into contracts for commercial sponsorship of multiuse trails is addressed in section 6 of the bill.

Section 4 creates s. 339.81, F.S., to establish the SunTrail as a component of the Florida Greenways and Trails System (FGTS) established in ch. 260, F.S. The network consists of multiuse trails or shared use paths that are independent of motor vehicle traffic.

The bill provides legislative findings:
- Increasing demands continue to be placed on the state's transportation system;
- Significant challenges exist in providing additional capacity to the conventional transportation system and require alternative travel modes; and
- Improving bicyclist and pedestrian safety for both residents and visitors remains a high priority.

Provides the legislative declaration that the development of a nonmotorized trail network will increase mobility and recreational alternatives that enrich quality of life, enhance safety, and that reflect responsible environmental stewardship.

Provides the legislative intent, that the FDOT should make use of its expertise to develop the SunTrail network to access a variety of origins and destinations with limited exposure to motorized vehicles.

The bill specifies that SunTrails are constructed with asphalt, concrete, or another hard surface, and by the virtue of the design, location, extent of connectivity or potential connectivity, and allowable uses, provide nonmotorized transportation opportunities for bicyclists and pedestrians between and within many points of origin and destinations including, but not limited to, communities, conservation areas, state parks, beaches, and other natural or cultural attractions for a variety of trip purposes including work, school, shopping, social, recreational, and personal fitness purposes.

The SunTrail components do not include sidewalks, nature trails, or loop trails in a single park or natural area, or on-road facilities, other than:
- On-road facilities that are no greater than one-half mile in length connecting two or more nonmotorized trails, if the provision of the non-road facility is unfeasible and if the on-road facility is signed and marked for nonmotorized use; and
- On-road components of the Florida Keys Overseas Heritage Trail.

The bill requires the FDOT to include SunTrail projects within the five-year work program. The FDOT and other agencies and units of government are authorized to expend funds and accept gifts and grants of funds, property, and property rights for the development of the SunTrail network. The FDOT is required to allocate $50 million per year to fund and maintain projects within the network. The FDOT is authorized to enter into memoranda of agreement with other governmental entities and may contract with private entities to provide maintenance services on individual components of the network. The FDOT is authorized to adopt rules to assist in developing and maintaining the network.

Section 5 creates s. 339.82, F.S., to direct the FDOT to develop the SunTrail Network Plan in coordination with the DEP, metropolitan planning organizations, local governments, other public agencies, and the Florida Greenways and Trails Council. The plan must be consistent with the FGTS plan developed under s. 260.014, F.S., and be updated at least once every five years. The SunTrail plan must include:

- A needs assessment, including a comprehensive inventory of existing facilities;
- A process that prioritizes projects that:
  - Are identified by the Florida Greenways and Trails Council as priority projects under ch. 260, F.S.;
  - Connect components by closing gaps in the network; and
  - Maximize use of federal, local, and private funds.
- A map showing existing and planned facilities;
- A finance plan in five and 10-year cost-feasible increments;
- Performance measures focusing on trail access and connectivity;
- A timeline for completion of the base network; and
- A marketing plan prepared in conjunction with the Florida Tourism Industry Marketing Corporation.

Section 6 creates s. 339.83, F.S., to provide for sponsorship of SunTrail components by not-for-profit or private sector entities. The bill provides guidance on sponsor signs, pavement markings, and exhibits on nonmotorized trails and related facilities constructed as part of the SunTrail network.

The bill authorizes concession agreements to provide for recognition of trail sponsors in any brochure, map, or website providing trail information. The bill also allows trail websites to provide links to sponsors. Revenue from the agreements may be used for the maintenance of the nonmotorized trails and the related facilities.

The bill requires the concession agreements to be administered the FDOT. The signage, pavement markings, or exhibits must comply with s. 337.407, F.S., and ch. 479, F.S., and are limited as follows:

- A large sign, pavement marking, or exhibit may not be greater than 16 square feet in area and may be located at the trailhead or parking area;
- A small sign, pavement marking, or exhibit may not be greater than four square feet in area and may be located at the designated trail access point where parking is not provided;
- The pavement markings denoting specified distances must be located at least one mile apart;
- Prior to installation, the sign, pavement marking, or exhibit must be approved by the FDOT;
- The FDOT must ensure:
  - The size, color, materials, construction, and location of the signs are consistent with the management plan of the property and the standards of the DEP or the FDOT;
  - The signs do not intrude on natural and historic settings; and
  - The signs only contain the logo selected by the sponsor and the wording: "(Name of the sponsor)…proudly sponsors the costs of maintaining the …(Name of the greenway or trail)";
- Exhibits may provide additional information and materials including, but not limited to, maps and brochures for trail user services related to or in the vicinity of the trail;

- Pavement markings may display mile marker information; and
- All costs associated with a sign, pavement marking, or exhibit must be the responsibility of the concessionaire.

The bill limits the concession agreement to one year unless extended by a multiyear agreement and the FDOT may terminate the agreement for just cause with 60 days advance notice to the concessionaire.

The bill authorizes the FDOT to contract for the provision of services related to the trail sponsorship program including recruitment and qualifications of businesses, review of applications, permit issuance, and fabrication, installation, and maintenance of signs, pavement markings, and exhibits. The FDOT is authorized to reject proposals and to seek other requests for proposals or otherwise perform the work. The contract may allow the contractor to retain a portion of the annual fees as compensation for services.

The bill does not create a proprietary or compensable interest in any sponsorship site and the FDOT may terminate permits or change locations of sponsorship sites as it deems necessary.

The FDOT is authorized to adopt rules to establish the requirements for qualification of businesses, qualification and location of sponsorship sites, permit application and processing, and any rules necessary to implement the criteria of the section.

The bill allows the FDOT to provide variances when necessary to serve the interest of the public or when required to ensure equitable treatment of program participants.

Section 7 amends s. 373.019, F.S., to amend the definition of "water resource development" to add "self-suppliers" to the list of entities that may receive technical assistance as long as such assistance is consistent with the declaration of policy in s. 373.016, F.S.

Section 8 amends s. 373.036, F.S., to provide additional information to be included in the Consolidated Water Management District Annual Report. The information required is related to all water quality or water quantity projects as part of a five-year work program. The following must be included:

- All projects identified to implement a Basin Management Action Plan (BMAP) or recovery or prevention strategy;
- A grade for each watershed, water body, or water segment where a project is located representing the level of impairment and violations of adopted or interim minimum flow or minimum water level. The system must reflect the severity of the impairment;
- Priority ranking of each listed project, for which state funding through the water resources work program is requested, which must be available for public comment at least 30 days before submission of the consolidated annual report;
- Estimated cost of each project;
- Estimated completion date for each project;
- Source and amount of financial assistance that will be made available by the DEP, a water management district (WMD), or some other entity for each project; and

- A quantitative estimate of each project's benefit to the watershed, water body, or water segment in which it is located.

Section 9 amends s. 373.042, F.S., to define minimum flows and levels (MFLs) for outstanding Florida springs (OFSs) to be the limit and level at which further withdrawals would be harmful to the water resources or ecology of the area. The current standard is "significantly harmful."

The bill directs the DEP and WMDs to establish interim MFLs until MFLs are adopted for an OFS pursuant to s. 373.042, F.S. If an MFL has been established but not adopted, the established MFL is the interim MFL.

If an MFL has not been established or adopted, the interim values must be determined using the best existing available information. Upon analysis of estimated long term conditions, the bill defines the interim MFL as the flow or water level exceeded 67 percent of the time. The bill provides guidance for the analysis and a deadline of July 1, 2016, for determining interim MFLs for OFSs. Long-term or short-term seasonal or annual variations in flows or water levels of an OFS due to factors other than water withdrawals are not considered violations of an interim MFL.

For OFSs that are on a WMD's priority list for establishing MFLs that have the potential to be affected by withdrawals in any adjacent WMD, the interim MFL will also be applied to the other district or districts. The bill sets a deadline of July 1, 2017, for the DEP and WMDs to develop and implement a recovery or prevention strategy for an OFS not meeting its adopted or interim MFL.

The bill specifies that the Legislature finds the failure to adopt MFLs or recovery or prevention strategies for OFSs has resulted in an immediate danger to public health, safety, and welfare and immediate action must be taken.

The bill provides the DEP with emergency rulemaking authority to adopt interim MFLs and recovery or prevention strategies concurrent with an interim MFL. They will remain in effect until January 1, 2018, and may not be renewable except as otherwise provided.

Section 10 amends s. 373.0421, F.S., concerning the establishment of MFLs, by adding a cross-reference to incorporate the "harm" standard, as opposed to the "significant harm" standard when addressing MFLs for OFSs.

The bill provides that a recovery or prevention strategy must be adopted and implemented concurrent with the adoption of an MFL and that a recovery or prevention strategy may not depend solely on water shortage restrictions.

The bill requires applicable regional water supply plans developed by the WMDs to be amended to include any water supply and resource development projects identified in a recovery or prevention strategy. The amendment must be approved concurrently with the relevant portions of the recovery or prevention strategy.

The bill requires a WMD to notify the DEP is an application for a water use permit is denied based upon the impact that the use will have on an adopted MFL. If notified, the DEP, in cooperation with the WMD, must conduct a review of the regional water supply plan to determine the plan's adequacy to provide sufficient water for all current and future users and natural systems and to avoid competition. If needed, the WMD must immediately initiate an update of the plan.

Section 11 creates s. 373.0465, F.S., to codify the Central Florida Water Initiative (CFWI) in statute. It provides the following legislative findings:

- The Floridan aquifer has historically supplied the majority of the water used in the Central Florida Coordination Area;
- It has been determined that water supplies within the Central Florida Coordination Area is locally approaching the sustainable limits of use and the need to develop sources of water to meet long-term water needs of the area and are being explored by the DEP and the South Florida Water Management District (SFWMD), the Southwest Florida Water Management District (SWFWMD), and the St. Johns Water Management District (SJRWMD);
- The CFWI has developed an initial framework for a unified process to address the current and long-term water supply needs of central Florida without causing harm to the water resources and associated natural systems; and
- Developing water sources as an alternative to continued reliance on the Floridan aquifer will benefit existing and future water users and natural systems beyond the boundaries of the CFWI.

The bill defines the "Central Florida Water Initiative Area" as all of Orange, Osceola, Polk, and Seminole Counties, and southern Lake County, as designated by the CFWI Guiding Document of January 30, 2015.

It directs the DEP, the SFWMD, the SWFWMD, the SJRWMD, and the Department of Agriculture and Consumer Services (DACS) to:

- Provide for the continuation of the collaborative process in the CFWI area among the state agencies, affected WMDs, regional public water supply utilities, and other stakeholders;
- Build on the guiding principles and goals in the CFWI Guiding Document of January 30, 2015, and the work that has already been accomplished by the CFWI participants;
- Develop and implement a single multidistrict regional water supply plan, including any needed recovery or prevention strategies and a list of water resource or supply development projects; and
- Provide for a single hydrologic planning model to assess the availability of groundwater in the CFWI area.

The bill specifies that the water supply planning program must:

- Consider limitations on groundwater use together with opportunities for new, increased, or redistributed groundwater uses based on conditions established under s. 373.223, F.S.;
- Establish a coordinated process for identification of water resources requiring new or revised conditions established under s. 373.223, F.S.;
- Consider existing recovery or prevention strategies;

- Include a list of water supply options sufficient to meet the water needs of all existing and future reasonable-beneficial uses which meet conditions established under s. 373.223, F.S.; and
- Identify, as necessary, which of the water supply sources are preferred water supply sources pursuant to s. 373.2234, F.S.

The bill directs the DEP, in consultation with the SFWMD, the SWFWMD, the SJRWMD, and the DACS to adopt uniform rules for the CFWI Area that include:

- A single, uniform definition of "harmful to the water resources" consistent with its usage in s. 373.219, F.S.;
- A single method for calculating residential per capita water use;
- A single process for permit reviews;
- A single, consistent process, as appropriate, to set MFLs and water reservations;
- A goal for residential per capita water use for each consumptive use permit; and
- An annual conservation goal for each Consumptive Use Permit (CUP) consistent with the regional water supply plan.

It further provides that the uniform rules must include existing recovery strategies within the CFWI Area adopted before July 1, 2015, and that the DEP may grant variances to the uniform rules if there are unique circumstances or hydrogeological factors that make application of the uniform rules unrealistic or impractical.

The DEP is required to initiate rulemaking for the uniform rules by December 31, 2015. Those rules must be applied by the WMDs only in the CFWI Area. The rules must be implemented by the WMDs without further rulemaking and will be considered WMD rules.

The planning programs developed under this section of the bill may not serve to modify planning programs in areas of the affected WMDs that are not within the CFWI Area, but may include interregional projects located outside the CFWI Area if they are consistent with the planning and regulatory programs in the area they are located.

Section 12 amends s. 373.1501, F.S., to provide that the SFWMD will exercise the authority of the state to allocate water within its jurisdiction, including water supply in relation to the Central and Southern Florida (C&SF) Project, and be responsible for allocating water and assigning priorities among the other water uses served by the project.

The bill requires the SFWMD to provide recommendations to the U.S. Army Corps of Engineers when developing or implementing water control plans or regulation schedules required for the operation of the C&SF Project.

Section 13 amends s. 373.223, F.S., to require a CUP authorizing more than 100,000 gallons per day to be monitored on a yearly basis with the cost to be borne by the permittee.

Section 14 amends s. 373.2234, F.S., to direct the governing boards of the WMDs to consider the identification of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible. The identification of

preferred water supply sources for such water users must be consistent with s. 373.016, F.S., which concerns the policy of Florida with respect to water resources.

Section 15 amends s. 373.227, F.S., to prevent modifying a CUP during the term of the permit when actual water use is less than permitted water use due to documented implementation of water conservation measures. WMDs are required to adopt rules to provide water conservation incentives.

The bill also prevents modifying a permit if actual water use is less than the amount permitted due to:
- Weather events;
- Crop diseases;
- Nursery stock availability; or
- Changes in crop type.

Section 16 amends s. 373.233, F.S., to require a WMD or the DEP to give preference to the use closest to the preferred water source when deciding between two new applications that qualify equally.

Section 17 amends s. 373.4591, F.S., to provide that public-private partnerships may be entered into for groundwater recharge on private agricultural lands. It also provides that priority consideration will be given to public-private partnerships for such lands that:
- Store or treat water on private lands for purposes of enhancing hydrologic improvement, improving water quality, or assisting in water supply;
- Provide critical groundwater recharge; or
- Provide for changes in land use to activities that minimize nutrient loads and maximize water conservation.

Section 18 amends s. 373.4595, F.S., to make changes to the Northern Everglades and Estuaries Protection Program.

- The bill provides legislative intent that the Lake Okeechobee, the Caloosahatchee River, and the St. Lucie River Watershed Protection Programs should be expeditiously implemented.
- The bill defines the terms "biosolids" and "soil amendment" and removes the definitions of "District's Works of the District Program" and the "Lake Okeechobee Watershed Phosphorous Control Program," as all references to those programs are removed throughout this section of the bill.
- The definition of "Lake Okeechobee Watershed Protection Plan" (LOWPP) is amended to conform to other changes in the bill. The bill amends the definition to specify that the term means the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program.

The bill provides that the LOWPP consists of the:
- Lake Okeechobee Watershed Protection Plan;
- Lake Okeechobee Basin Management Action Plan;
- Lake Okeechobee Exotic Species Control Program; and

- Lake Okeechobee Internal Phosphorous Management Program.

The bill stipulates that the Lake Okeechobee BMAP is the component of the LOWPP that achieves phosphorus load reductions for the lake.

The bill amends s. 373.4595(3)(a), F.S., relating to the LOWPP, to:

- Require the SFWMD, beginning March 1, 2020, and every five years after, to update the LOWPP to ensure it is consistent with the Lake Okeechobee BMAP;
- Specify that the Lake Okeechobee Watershed Protection Plan includes the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program;
- Specify that the SFWMD is to cooperate with the other coordinating agencies when designing and constructing the Lake Okeechobee Watershed Construction Project;
- Specify that the Phase II technical plan of the Lake Okeechobee Watershed Construction Project provides the basis for the Lake Okeechobee BMAP and removes a requirement that it be ratified by the Legislature. According to the DEP, it was submitted for ratification on February 1, 2008;
- Direct the DEP, within five years after adoption of the Lake Okeechobee BMAP, and every five years thereafter, to evaluate the Lake Okeechobee Watershed Construction Project to identify any further load reductions needed to achieve compliance with the Lake Okeechobee Total Maximum Daily Load (TMDL). Any modification to the Lake Okeechobee Watershed Construction Project resulting from the evaluation must be incorporated into the Lake Okeechobee BMAP;
- Require the coordinating agencies to implement the Lake Okeechobee Watershed Research and Water Quality Monitoring Program and provide requirements for the program, and for the DEP to use the results, in cooperation with the coordinating agencies, to modify the Lake Okeechobee BMAP, as appropriate. In order to accomplish this, the program shall:
    - Evaluate all available existing water quality data concerning total phosphorus in the Lake Okeechobee watershed, develop a water quality baseline to represent existing conditions for total phosphorus, monitor long-term ecological changes, and measure compliance with Water Quality Standards (WQSs) for total phosphorus;
    - Require the DEP, beginning March 1, 2020, and every five years thereafter, to reevaluate water quality and quantity data to ensure the appropriate projects are being designated and incorporated into the Lake Okeechobee BMAP;
    - Require the SFWMD to implement a total phosphorus monitoring program at appropriate structures owned or operated by it within the Lake Okeechobee watershed;
    - Develop a Lake Okeechobee water quality model that reasonably represents the phosphorus dynamics of Lake Okeechobee and incorporate an uncertainty analysis associated with model predictions;
    - Determine the relative contribution of phosphorus from all identifiable sources and all primary and secondary land uses;
    - Conduct an assessment of the sources of phosphorus from the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their relative contributions to water quality in Lake Okeechobee. The results must be used as part of the Lake Okeechobee BMAP to develop interim measures, best management practices (BMPs), or regulations, as applicable;

- Assess current water management practices within the Lake Okeechobee watershed and develop recommendations for structural and operational improvements, which must balance water supply, flood control, estuarine salinity, maintenance of a healthy lake littoral zone, and water quality considerations;
- Evaluate the feasibility of alternative nutrient reduction technologies and include those technologies determined to be feasible in the Lake Okeechobee BMAP; and
- Conduct an assessment of the water volumes and timing from the Lake Okeechobee watershed and their relative contribution to the water level changes in Lake Okeechobee and to the timing and volume of water delivered to the estuaries.

The bill amends s. 373.4595(3)(b), F.S., to specify that the Lake Okeechobee BMAP is the watershed phosphorus control component for Lake Okeechobee. The bill requires the Lake Okeechobee BMAP to contain an implementation schedule for pollutant load reductions consistent with the adopted TMDL.

The coordinating agencies must develop an interagency agreement. The bill assigns responsibilities to the DEP, the SFWMD, and the DACS. The interagency agreement must specify how BMPs for nonagricultural nonpoint sources are developed and how all BMPs are implemented and verified and must address measures to be taken by the coordinating agencies during any BMP reevaluation. The DEP is required to use best professional judgment in making the initial determination of a BMP's effectiveness. The coordinating agencies are authorized to develop an intergovernmental agreement with local governments to implement nonagricultural nonpoint source BMPs within their respective geographic boundaries.

The bill also:

- States that agricultural nonpoint source BMPs are part of a phased approach of management strategies within the Lake Okeechobee BMAP;
- Adds that where water quality problems are detected for agricultural nonpoint sources despite the appropriate implementation of adopted BMPs, BMPs may be revised and reevaluated;
- Specifies that the DEP, in consultation with the SFWMD and affected parties, shall develop nonagricultural nonpoint source interim measures, BMPs, or other measures necessary for Lake Okeechobee watershed TMDL reduction. It directs the DEP or the SFWMD to adopt new practices by rule;
- Provides that the requirements of the Lake Okeechobee BMAP and s. 403.067(7), F.S., for the Lake Okeechobee watershed are met through the implementation of agricultural BMPs set forth in a permit issued pursuant to Rule 40E-63, F.A.C., regarding the Everglades Program of the district. An entity in compliance with agricultural BMPs in Rule 40E-63, F.A.C., may elect to use the permit issued under Rule 40E-63, F.A.C., in lieu of the requirements of the Lake Okeechobee BMAP. The agricultural BMPs implemented through a permit issued under Rule 40E-63, F.A.C., are subject to reevaluation as provided for in s. 373.4595(3)(b)5., F.S.
- Requires the DACS, in cooperation with the DEP and the SFWMD, to provide technical and financial assistance for implementation of agricultural and nonagricultural nonpoint source BMPs, subject to the availability of funds;
- Requires the DEP to require all entities disposing of biosolids within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to the DEP an agricultural use plan that limits applications based upon

phosphorus loading consistent with the Lake Okeechobee BMAP instead of the phosphorus limits established in the SFWMD's Works of the District (WOD) program;
- Requires the SFWMD to revise Rule 40E-61, F.A.C., regarding the Works of the District (WOD) program, to be consistent with the provisions of the Lake Okeechobee Watershed Protection Program and s. 403.067, F.S., and to provide for a monitoring program for nonpoint source dischargers required to monitor water quality by s. 403.067, F.S., and to provide the results to be reported to the coordinating agencies.
- Requires the SFWMD, in cooperation with the other coordinating agencies, to evaluate the feasibility of Lake Okeechobee internal phosphorous load removal projects. The evaluation must consider all reasonable methods of phosphorous removal.

The bill amends s. 373.4595(4), F.S., to include the following revisions to the Caloosahatchee and St. Lucie River Watershed Protection Programs:
- Regarding the Caloosahatchee Watershed Protection Program, the bill:
  - Specifies the Caloosahatchee River Watershed Protection Plan includes the Caloosahatchee River Watershed Construction Project and the Caloosahatchee River Watershed Research and Water Quality Monitoring Program;
  - Requires the SFWMD, in cooperation with other coordinating agencies and local governments, to implement a Caloosahatchee River Watershed Research and Water Quality Monitoring Program and provides requirements for the program; and
  - Specifies the Caloosahatchee River Watershed BMAPs make up the Caloosahatchee River Watershed Pollutant Control Program;
- Regarding the St. Lucie River Watershed Protection Program, the bill:
  - Specifies the St. Lucie River Watershed Protection Plan includes the St. Lucie River Watershed Construction project and the St. Lucie River Watershed Research and Water Quality Monitoring Programs;
  - Requires the SFWMD, in cooperation with other coordinating agencies and local governments, to establish a St. Lucie River Watershed Research and Water Quality Monitoring Program and provides requirements for the program;
  - Specifies the St. Lucie River Watershed BMAPs make up the St. Lucie River Watershed Pollutant Control Program.

For both programs, the bill requires the SFWMD to initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality and report the results to the coordinating agencies.

The bill requires evaluation of pollutant load reduction goals, and any other objectives and goals contained in the River Watershed Protection Programs beginning March 1, 2020, and every five years thereafter, concurrent with the updates to the BMAPs for both programs.

The bill amends s. 373.4595(5), F.S., to require the DEP to initiate development of BMAPs for the Lake Okeechobee watershed, the Caloosahatchee River watershed and estuary, and the St. Lucie River watershed and estuary, although all the BMAPs listed here are underway or already adopted.

It provides that management strategies and pollution reduction requirements set forth in a BMAP subject to permitting in s. 373.4595(7), F.S., must be completed pursuant to the schedule set

forth in the BMAP, and specifies that the implementation schedule may extend beyond the five-year permit term.

The bill provides that management strategies and pollution reduction requirements set forth in a BMAP are not subject to challenge under ch. 120, F.S., at the time they are incorporated, in an identical form, into a DEP or SFWMD issued permit, or a permit modification issued in accordance s. 373.4595(7), F.S., regarding Lake Okeechobee Protection Permits.

The bill amends s. 373.4595(6), F.S., to require the DEP to report March 1 of every year on the status of the Lake Okeechobee, Caloosahatchee River Watershed, and St. Lucie River Watershed BMAPs. It also requires the DACS to report on the status of the implementation of agricultural nonpoint source BMPs.

The bill amends s. 373.4596(7), F.S., to include the following changes to the permitting requirements in s. 373.4595, F.S.:

- Owners and operators of existing structures that discharge into or from Lake Okeechobee that were subject to certain DEP consent orders and are subject to requirements for the Everglades Construction Project do not require a permit under this section and must be governed by permits issued under ss. 373.413 and 373.416, F.S., and the Lake Okeechobee BMAP;
- Owners and operators of existing structures that are subject to s. 373.4592(4)(a), F.S., relating to the Everglades Construction Project, that discharge into or from Lake Okeechobee, are considered in compliance with the requirements of s. 373.4596(7)(c), F.S., if they are fully compliant with the conditions of permits issued under Rule 40E-63, F.A.C., regarding the Everglades Program of the district;
- The SFWMD must obtain a permit modification from the DEP to the Lake Okeechobee structure permits to incorporate proposed changes necessary to ensure that discharges through the structures covered by the permit are consistent with the BMAP. It removes the provision stating that these changes must be designed to achieve compliance with WQSs by January 1, 2015;
- The DEP must require permits for SFWMD regional projects that are part of the Lake Okeechobee Watershed Construction Project. SFWMD regional projects that are part of the Lake Okeechobee Watershed Construction Project must achieve certain design objectives for phosphorus; and
- The SFWMD must demonstrate reasonable assurances that the regional projects will achieve the design objectives for phosphorus.

The bill provides that the BMAPs for Lake Okeechobee, the Caloosahatchee River watershed and estuary, and the St. Lucie River watershed and estuary are enforceable pursuant to ss. 403.067, 403.121, 403.141, and 403.161, F.S.

Section 19 amends s. 373.536, F.S., to require the WMDs to include an annual funding plan for each of the five years included in their plans for water resource and water supply development components.

The bill specifies that the plan must include the water supply projects proposed for funding and assistance. The plan will identify both anticipated available district funding and additional

funding needs for the second through fifth years of the funding plan. Funding requests for projects submitted to the Florida Water Resources Advisory Council for consideration for state funding must be identified separately. Projects included in the work program must be shown how they support the implementation of MFLs and water reservations and how they help to avoid the adverse effects of competition for water supplies.

The bill requires the DEP to post the work program on its website.

Section 20 amends s. 373.703, F.S., regarding water production, to include private landowners on the list of entities that a WMD is authorized to join with in carrying out its duties.

Section 21 amends s. 373.705, F.S., to specify that it is the intent of the Legislature that WMDs identify and implement water resource development projects, and are responsible for securing necessary funding for regionally significant projects that prevent or limit adverse water resource impacts, avoid competition among water users, or support the provision of new water supplies in order to meet an MFL, implement a recovery or prevention strategy or water reservation.

It also requires the WMDs to include in their annual budget submittals the amount of funds for each project in the annual funding plan pursuant to s. 373.536(6)(a)4., F.S., (amended in section 19 of the bill) and the amount of funds requested for each project submitted for consideration for state funding to the Florida Water Resources Advisory Council.

The bill adds projects that reduce or eliminate the adverse effects of competition between legal users and the natural system to the list of projects that will be given first consideration for state or WMD funding assistance.

The bill adds "if the project reduces or eliminates the adverse effects of competition between legal users and the natural system," to the list of considerations when choosing projects for state or WMD funding assistance.

The bill requires 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, and water-saving household fixtures.

Section 22 amends s. 373.707, F.S., to include self-suppliers as entities that may receive technical and financial assistance from a WMD for alternative water supply projects if the projects reduce competition for limited water supplies and are in the public interest.

The bill provides that when state funds are provided through specific appropriation for a priority project of the water resource work program selected by the Water Resources Advisory Council, those funds serve to supplement existing WMD or basin board funding for alternative water supply development assistance and should not result in a reduction of such funding.

The bill replaces projects selected for inclusion in the Water Protection and Sustainability Program with projects identified in plans prepared pursuant to s. 373.536(6)(a)4., F.S., regarding projects included in the WMDs' annual tentative and adopted budget submittals.

The bill expands the eligibility of local sponsors that a WMD may waive matching construction costs for an alternative water supply project for. Under existing law, only fiscally disadvantaged small local governments qualify. The bill authorizes the WMDs to waive the match requirement for any water user for projects determined by the WMD to be in the public interest and that are not otherwise financially feasible.

Section 23 amends s. 373.709, F.S., to require regional water supply plans to contain a list of water supply projects options that are technically and financially feasible.

It also requires the DEP to report on the status of regional water supply planning in each WMD to include an analysis of the sufficiency of potential sources of funding from all sources for water resource development and water supply development projects. The report must also include an explanation of how each project identified in the five-year water resource development work program will contribute to additional water for MFLs or water reservations

Section 24 creates Part VIII of ch. 373, F.S., to consist of ss. 373.801, 373.802, 373.803, 373.805, 373.807, 373.811, 373.813, and 373.815, F.S., and provides the title, "Florida Springs and Aquifer Protection Act."

Section 25 creates s. 373.801, F.S., to provide legislative findings and intent:

- Detailing the importance of Florida's springs, and various benefits they provide to the state including providing critical habitat for plants and animals. Springs provide immeasurable natural, recreational, economic, and inherent value. Water quality in springs is an indicator of local conditions of the Floridan Aquifer. Water flows in springs reflect regional aquifer conditions. Springs also provide recreational opportunities for Floridians and visitors to the state and economically benefit local and state economies.
- Stating that water quantity and water quality in springs may be related. It also specifies the primary responsibilities of the DEP, WMDs, DACS, and local governments.
- Recognizing that springs are only as healthy as their springsheds and identifying several of the problems affecting springs, including pollution runoff from urban and agricultural lands, stormwater runoff, and reduced water levels of the Floridan aquifer, which may have led to the degradation of many of Florida's springs.
- Recognizing that without significant action, the quality of Florida's springs will continue to degrade.
- Stating that springshed boundaries need to be delineated using the best available data.
- Recognizing that springsheds often cross WMD and local government jurisdictional boundaries, which requires a coordinated response.
- Recognizing that aquifers and springs are complex systems affected by many variables and influences.
- Recognizing that action is urgently needed, and action can be continually modified as additional data is acquired.

Section 26 creates s. 373.802, F.S., to provide definitions for "department," "local government," "onsite sewage and treatment disposal system," "spring run," "springshed," and "spring vent."

The bill also defines:

- "Outstanding Florida Springs," which includes all historic first magnitude springs, as determined by the DEP using the most recent version of the Florida Geological Survey's springs bulletin, excluding submarine springs. The following springs are also considered OFSs: Deleon Spring, Peacock Spring, Poe Spring Rock Springs, Wekiwa Spring, and Gemini Spring.
- "Priority Focus Area," meaning "the area or areas of a basin where the Floridan Aquifer is most vulnerable to groundwater withdrawals or pollutant inputs, where the groundwater travel times are the fastest, and where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the department in consultation with the appropriate water management districts."

Section 27 creates s. 373.803, F.S., to direct the DEP, in consultation with the WMDs, to delineate primary focus areas for each OFS or group of springs that contain one or more OFS, using the best available data. The bill requires the delineation of the priority focus areas to be completed by July 1, 2018. It directs the DEP to consider groundwater travel time, hydrogeology, and nutrient load when delineating the areas.

Section 28 creates s. 373.805, F.S., to direct either a WMD or the DEP to adopt a recovery or prevention strategy simultaneously with the adoption of an MFL for an OFS, if it is below, or projected within 20 years to fall below, an MFL.

If an interim MFL is established for an OFS, the WMD or the DEP must adopt a recovery or prevention strategy by July 1, 2016, if the OFS is below, or projected within 20 years to fall below, the interim MFL.

For an OFS with an MFL adopted before July 1, 2015, the MFL must be revised by July 1, 2018, under the "harm" standard. When an MFL is revised, if the OFS is below, or projected within 20 years to fall below, the revised MFL, a WMD or the DEP must simultaneously adopt or modify a recovery or prevention strategy. The bill provides that a WMD or the DEP may adopt the revised MFL before the adoption of a recovery or prevention strategy if the revised MFL is less constraining on existing or projected future consumptive uses.

For any OFS without an adopted recovery or prevention strategy, a WMD or the DEP must expeditiously adopt a recovery or prevention strategy if the WMD or the DEP determines that the OFS has fallen below, or is projected within 20 years to fall below, the adopted or interim MFL.

The bill provides the following minimum requirements for a recovery or prevention strategy for OFSs:

- A list of all specific projects identified for implementation of the plan;
- A priority listing of each project;
- For each project, the estimated cost and date of completion;
- The source and amount of financial assistance from the WMD for each project. Except for the Northwest and Suwanee River WMDs, it may not be less than 25 percent of the total cost unless there are funding sources that provide more than 75 percent of the total cost of the project;

- An estimate of each project's benefit to an OFS; and
- An implementation plan with a goal to achieve the adopted or interim MFL within 20 years or less after the adoption of a recovery or prevention strategy, with measurable interim milestones to be achieved within five, 10, and 15 years, respectively, intended to achieve the adopted or interim MFL.

The bill also provides for extensions of up to five years for local governments for any project in an adopted recovery or prevention strategy, which may be granted if the local government provides sufficient evidence that an extension is in the best interest of the public. If the local government is in a rural area of opportunity, the DEP may grant an extension of up to 10 years.

Section 29 creates s. 373.807, F.S., to provide a deadline of July 1, 2015, for the DEP to initiate assessment of any OFS for which a determination of impairment has not been made and complete the assessment of them under the numeric nutrient standards for spring vents by July 1, 2018. The bill requires that:

- When a TMDL is adopted, the DEP, or the DEP in coordination with a WMD, will simultaneously initiate development of a BMAP;
- For an OFS that has an adopted nutrient TMDL before July 1, 2015, the DEP, or the DEP in coordination with a WMD, will initiate development of a BMAP by July 1, 2015; and
- As the BMAP is developed, if Onsite Sewage Treatment and Disposal Systems (OSTDSs) are identified as a significant source of pollution that needs to be addressed within a local government jurisdiction, the DEP must notify the local government within 30 days. The local government must develop an OSTDS remediation plan for those systems identified as significant nonpoint sources of nutrient pollution for inclusion in the BMAP.

BMAPs for OFSs must be adopted within three years of their initiation and must include:

- A list of all projects for implementing a TMDL;
- A list of all projects in an OSTDS remediation plan, if applicable;
- A priority ranking of all projects;
- The estimated cost and completion date of each project;
- The source and amount of any financial assistance from the DEP, WMD, or other entity;
- The estimate of each project's nutrient load reduction;
- The identification of each point source or category of nonpoint sources with an estimated allocation of the pollutant load for each point source and category of nonpoint sources; and
- An implementation plan detailing how the TMDL is intended to be achieved within 20 years or less after the adoption of a BMAP along with interim milestones to be achieved at 5, 10, and 15 years, respectively, intended to achieve the adopted TMDL.

The bill requires BMAPs adopted by July 1, 2015, that affect an OFS to be revised by the DEP, or the DEP in conjunction with a WMD, by July 1, 2018. Any OSTDS remediation plans approved by the DEP will be considered incorporated in an existing BMAP until the BMAP is revised. Additionally, a local government may apply for an extension of up to five years, or 10 years in the case of a local government within a rural area of opportunity, for any project in an adopted BMAP upon showing that an extension is in the best interest of the public.

Within six months of delineating a priority focus area of an OFS located fully or partially within a local government's jurisdictional boundaries, the local government must adopt an ordinance that meets or exceeds the requirements of the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. The ordinance must require that, within a priority focus area of an OFS with an adopted nutrient TMDL, the nitrogen application rate of fertilizer may not exceed the lowest, basic maintenance rate of the most recent recommendations by the University of Florida's Institute of Food and Agricultural Sciences (IFAS). The DEP must adopt rules to implement this provision that establish reasonable minimum standards and reflect advancements or improvements regarding nutrient load reduction.

Notwithstanding ss. 381.0064, 381.0065, 381.00651, 381.00655, 381.0066, 381.0067, and 381.0068, F.S., regarding OSTDSs, by July 1, 2017, the DEP, in conjunction with the Department of Health (DOH) and local governments, must identify OSTDSs within each priority focus area and provide that information to the local governments where they are located within 60 days. If the DEP determines that OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nutrient pollution, it will notify the local government that it needs to develop an OSTDS remediation plan within 12 months of notification by the DEP. The plan must identify which systems require repair, upgrade, replacement, drainfield modification, connection to a central sewerage system, or no action. The plan must include a priority ranking of each system or group of systems that require remediation and each plan must be submitted to the DEP for approval. In reviewing and approving remediation plans, the DEP must consider, at a minimum:

- The density of OSTDSs;
- The number of OSTDSs;
- The proximity of the OSTDSs to an OFS;
- The estimated nutrient loading of the OSTDSs; and
- The cost of the proposed action.

In developing the OSTDS remediation plan, the local government must hold at least one public meeting in order to receive public comment on the plan. Approval of the plan by the DEP constitutes a final agency action.

Regarding implementation of the OSTDS remediation plan, a property owner with an OSTDS identified as requiring remediation by the plan is not required to pay the costs of a system inspection, upgrade or replacement, a drainfield modification, or any initial connection fees for connection to a sanitary sewer system. This does not apply to local government programs in existence before July 1, 2015, that conflict with these provisions. Local governments that do not substantially comply with the bill's requirement for OSTDS remediation plans may be ineligible for funding pursuant to s. 403.0617, F.S., regarding innovative pilot programs.

The bill requires the DEP to provide notice to local governments that have any jurisdiction in a priority focus area of an OFS of any permit applicants under s. 403.814(12), F.S., which relates to general permits for the construction, alteration, and maintenance of a stormwater management system serving a total project area of up to 10 acres.

Section 30 creates s. 373.811, F.S., to prohibit activities in a priority focus area of an Outstanding Florida Springs.

Activities prohibited within a priority focus area are:

- Construction of municipal or industrial wastewater disposal system with permitted capacities of 100,000 gallons per day or greater unless the system meets a treatment standard of 3 mg/L total nitrogen on an annual permitted basis, unless the DEP determines a higher standard is necessary;
- Construction of OSTDSs on lots less than one acre, except for those with passive nitrogen removing systems approved by the DOH. This prohibition will not take effect until six months after the DOH has approved such a system for use;
- Construction of facilities for the disposal of hazardous waste;
- Land application of class A or B domestic wastewater biosolids; and
- New agriculture operations that do not implement BMPs, measures necessary to achieve pollution reduction levels established by the DEP, or groundwater monitoring plans approved by a WMD or the DEP.

Section 31 creates s. 373.813, F.S., to direct the DEP to adopt rules to create a program to improve water quantity and quality to administer Part VIII of ch. 373, F.S. It allows the Department of Health (DOH), DACS, and the WMDs to adopt rules to administer Part VIII of ch. 373, F.S.

The bill specifies the DACS is the lead agency for coordinating the reduction of agricultural nonpoint sources of pollution for the protection of OFSs. The DACS and the DEP will study and, if necessary, initiate rulemaking to implement new or revised agricultural BMPs, in cooperation with applicable local governments, and stakeholders, within a reasonable time.

The bill directs the DEP, the DACS, and the Institute of Food and Agriculture Sciences to conduct research into improved or additional nutrient management tools, with a sensitivity to the necessary balance between water quality improvements and agricultural productivity. If necessary, the tools must be incorporated into revised agricultural BMPs adopted by rule by DACS.

Section 32 creates s. 373.815, F.S., to require a yearly progress report by the DEP, in conjunction with the WMDs, beginning July 1, 2016, to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must detail the status of each TMDL, BMAP, MFL, and recovery or prevention strategies adopted pursuant to Part VIII of ch. 373, F.S. It must also include the status of each project identified to achieve an adopted TMDL and adopted or interim MFL, as applicable.

If the report states that any interim five, 10, or 15 year milestone, or the 20 year goal, will not be met, the report must include specific corrective actions that will be taken to achieve these milestones and goals and, if necessary, executive and legislative recommendations.

Section 33 amends s. 403.061, F.S., to require the DEP to create a consolidated water resources work plan that provides a catalog of all water resource projects under construction, completed in the previous five years, or planned to begin construction in the next five years. The plan must be developed in consultation with state agencies, the WMDs, and local governments.

For each project in the plan, there must be:
- A description of the project;
- The total cost of the project; and
- The governmental entity financing the project.

The DEP must also create and maintain a web-based, interactive map that includes:
- All watersheds and each water body within them;
- The county or counties in which the watershed or water body is located;
- The WMD or districts in which the watershed or water body is located;
- Whether an MFL has been adopted for the water body and, if it has not been adopted, when it is anticipated to be adopted;
- Whether a recovery or prevention strategy has been adopted for the watershed or water body and, if it has not been adopted, when it is anticipated to be adopted;
- The impairment status of each watershed or water body;
- Whether a TMDL has been adopted, if necessary, and, if it has not been adopted, when it is anticipated to be adopted;
- Whether a BMAP has been adopted and, if it has not been adopted, when it is anticipated to be adopted;
- Each project listed on the five-year water resources work program pursuant to s. 373.036(7), F.S., (amended in section 8 of the bill);
- The agency or agencies and local sponsor, if any, responsible for overseeing the project;
- The estimated cost and completion date of each project and the financial contribution of each entity;
- The quantitative estimated benefit to the watershed or water body; and
- The water projects completed within the last five years within the watershed or water body.

The bill requires the DEP and the WMDs to prominently display a link on their websites to the interactive map required by the bill.

The information provided in the plan and the information used to develop the web-based interactive map is intended to help facilitate the ability of the Florida Water Resources Advisory Council (described in section 34 of the bill), the Legislature, and the public to consider the projects contained in the tentative water resources work program (also described in section 34 of the bill) in relation to all projects undertaken within a 10-year period and the existing condition of water resources in the project area and in the state as a whole. The bill provides rulemaking authority to the DEP to accomplish this purpose.

The bill also requires the DEP to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply and provides criteria. Notwithstanding this classification or the inclusion of treated water supply as a designated use of a surface water, a surface water used for treated potable water supply may be reclassified as waters designated for potable water supply.

Section 34 creates s. 403.0616, F.S., to create the Florida Water Resources Advisory Council within the DEP.

The advisory council's purpose is to evaluate water resource projects prioritized and submitted by state agencies, WMDs, or local governments. The council must evaluate and recommend projects eligible for state funding as priority projects of statewide, regional, or critical local importance under chs. 373 or 403, F.S.

The council must review and evaluate all water resource projects that are prioritized and reported by state agencies, local governments, or by the WMDs in the consolidated annual report (described in section 8 of the bill) for the purpose of providing the Legislature with recommendations for projects that improve or restore the water resources of the state. It is also responsible for submitting pilot projects that test the effectiveness of innovative or existing nutrient reduction or water conservation technologies or practices designed to minimize nutrient pollution or restore flows in the water bodies of the state.

The council is made up of five voting and five ex officio, nonvoting members. Those members are:

- The Secretary of Environmental Protection, who shall serve as chair of the council;
- The Commissioner of Agriculture;
- The executive director of the Fish and Wildlife Conservation Commission (FWC);
- Two members with expertise in a scientific discipline related to water resources, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives, respectively; and
- The executive directors of the five WMDs, all of whom are non-voting members.

The appointed members serve two-year terms and may not serve more than a total of six years. The appointed members will receive reimbursement for expenses and per diem for travel. The President of the Senate and the Speaker of the House of Representatives may fill a vacancy at any time for an unexpired term of an appointed member.

If a member of the council no longer holds the position required to serve on the council, the interim agency head will represent the agency on the council.

The council is required to hold at least two separately noticed public meetings per year, with notice provided at least five days, but no more than 15 days before each meeting. The DEP will provide staff support.

By July 15 of each year, the council must release a tentative water resources work program with legislative recommendations for water resource projects. The bill provides for a 30-day period for the public to submit comments on the program.

By August 31 of each year, the council must adopt, by an affirmative vote of three of the council members, the tentative work program and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill requires the council to recommend rules for adoption by the DEP to competitively evaluate, select, and rank projects for the tentative water resources work program. The council must develop specific criteria for the evaluation, selection, and ranking of projects. In ranking the projects, preference is given for projects:

- That will have a significant, measurable impact on improving water quantity or water quality;
- In areas of greatest impairment;
- Of state or regional significance;
- Recommended by multiple districts or multiple local governments cooperatively;
- With a significant monetary commitment by the local project sponsor or sponsors;
- In rural areas of opportunity;
- That may be funded through appropriate loan programs; and
- That have significant private contributions of time or money.

The section provides the DEP with rulemaking authority to implement this section of the bill in consultation with the DACS, the FWC, and the WMDs.

Section 35 creates s. 403.0617, F.S., to implement an innovative nutrient and sediment reduction and conservation pilot project program.

The bill directs the DEP to adopt rules to competitively evaluate and rank projects for selection and prioritization by the Water Resources Advisory Council. The projects are intended to test the effectiveness of innovative or existing nutrient reduction or water conservation technologies or practices designed to minimize nutrient pollution or restore flows. The projects may not be harmful to the ecological resources in the study area.

The bill provides the following minimum considerations:
- Level of impairment of the waterbody, watershed, or water segment in which the project is located;
- Quantity of pollutants, especially nitrogen, the project is estimated to remove;
- The potential for the project to provide a cost effective solution to pollution caused by OSTDSs;
- The flow necessary to restore a water resource to its adopted or interim MFL;
- The anticipated impact the project will have on restoring or increasing water flow or water level;
- The amount of matching funds for the project which will be provided by the entities responsible for implementing the project;
- Whether the project is located in a rural area of opportunity, with preference given to the local government responsible for implementing the project;
- For multiple-year projects, whether the project has funding sources that are identified and assured through the expected completion date;
- The cost of the project and length of time it will take to complete relative to its expected benefits; and
- Whether the entities responsible for implementing the project have used their own funds for projects to improve water quality or conserve water use, with preference given to those entities that have expended such funds.

Section 36 amends s. 403.0623, F.S., to direct the DEP, in coordination with the WMDs, to establish statewide standards for the collection of water quantity, water quality, and related data to ensure quality, reliability, and validity of the data and testing results.

The bill requires the WMDs to submit data collected after June 30, 2015, to the DEP for analysis to ensure statewide consistency. The DEP is required to maintain a centralized database for all testing results and analyses, which must be accessible by the WMDs.

The bill directs the DEP to coordinate with federal agencies, to the extent practicable, to ensure its collection and analysis of data is consistent with this section.

The bill requires state agencies and WMDs to use the DEP's testing results and analysis, if available, in order to receive state funds for the acquisition of lands or the financing of a water resource projects.

The bill provides rulemaking authority to the DEP and the WMDs to implement this section of the bill.

Section 37 amends s. 403.861, F.S. to require the DEP to establish rules concerning the use of surface waters for treated potable public water supply.

The bill provides that when a construction permit is issued to construct a new public water system drinking water treatment facility to provide potable water using a surface water of the state that, at the time of the permit application, is not being used as a potable water supply, and the classification of which does not include potable water supply as a designated use, the DEP must add treated potable water supply as a designated use of the surface water segment.

The bill provides that for existing public water system drinking water treatment facilities that use a surface water of the state as a treated potable water supply, and the surface water classification does not include potable water as a designated use, the DEP shall add treated potable water supply as a designated use of the surface water segment.

Section 38 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Existing regulatory programs require local governments to expend funds to comply with Minimum Flows and Levels (MFLs), Water Quality Standards (WQSs), and Basin Management Action Plans (BMAPs). This bill requires additional expenditures for Onsite Sewage Treatment and Disposal Systems (OSTDS) remediation plans and implementation of those plans. A comprehensive fiscal analysis of the bill is required to determine the total impact and whether this bill is a mandate.

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:

The exact impact of CS/SB 918 on the private sector and individuals cannot be calculated because many of the costs are dependent on activities, such as delineation of priority focus areas that have not occurred. Some examples of potential private sector impacts are:

- Provisions that will require some property owners in priority focus areas to upgrade their Onsite Sewage Treatment and Disposal Systems (OSTDSs) or connect to a central sewerage system. This could result in higher rates for sewage disposal compared to the costs of using an OSTDS. Aerobic Treatment Units (ATUs) are also more costly to operate than conventional OSTDSs;
- Rate payers may pay for ongoing operation and maintenance for advanced wastewater treatment plants through rate increases, in addition to costs associated with disposal of Class A and B biosolids in landfills;
- Property owners may have to pay more for passive nitrogen removing systems installed in OSTDSs to install in new developments with lots of less than one acre. They may also face more expensive pump out costs as a result of more expensive disposal options;
- Urban fertilizer use may decrease because of ordinances causing a reduction in revenue for fertilizer companies;
- Septic tank contractors may benefit due to increased scrutiny and required upgrades to OSTDSs;
- An indeterminate positive fiscal impact to local business and real estate prices with the creation of the Shared-Use Nonmotorized Trail (SunTrail);
- The cost of water monitoring, assuming it is for water quantity monitoring, could cost between $300 to $1,500 per well per year, though it depends heavily on how that monitoring is accomplished; and
- Significant cost savings for dischargers currently discharging into class III waters used for potable water supply.

C. Government Sector Impact:

The bill requires a number of activities that will result in significant increased costs for several government entities, including the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), and the Water Management Districts (WMDs).

Senate Bill 2500, the Senate's Fiscal Year 2015-2016 General Appropriations Bill, provides $50 million for Springs restoration and land acquisition, $50 million for Water Resources and land acquisition, and $25 million for SunTrail, from the Land Acquisition Trust Fund. In addition, SB 2500 appropriates six positions and $1,429,721 to the DEP

from the Land Acquisition Trust Fund for information technology initiatives and delineation of springs protection zones as required in CS/SB 918. Three positions and $299,629 from the Land Acquisition Trust Fund are appropriated to the DACS for implementation of agricultural best management practices. For the Northwest Florida Water Management District, $1.5 million is provided from the Land Acquisition Trust Fund for activities related to the establishment of Minimum Flows and Levels.

Additional costs that are indeterminate include:

- Minimum Flows and Levels (MFLs) - The bill would require the Water Management Districts (WMDs) and the Department of Environmental Protection (DEP) to abolish MFLs by certain deadlines, which are expected to cost between $280,000 and $2.25 million per MFL, including agency costs for extensive data collection, analysis and modeling, stakeholder coordination, and rulemaking. Costs can vary widely depending on the complexity of the system and the amount and type of scientific and technical data that exists or must be collected. Revision of existing MFLs and modification of MFLs in rulemaking to comply with the "harm" standard will add additional costs that are indeterminate. Calculation of interim MFLs will be accomplished using existing staff and resources.
- MFLs Recovery or Prevention Strategies - The WMDs (excluding the Northwest Florida and Suwannee River WMDs) would be required to fund at least 25 percent of recovery or prevention strategies projects. However, the WMDs may provide less than a 25 percent match if another specific source(s) of funding will provide more than 75 percent of the project cost. Since the number of project applicants and project costs is unknown, the fiscal impact is indeterminate at this time.
- Basin Management Action Plans (BMAPs) - The bill requires the DEP to develop BMAPs by certain deadlines. The cost to achieve the BMAPs are indeterminate.
- Water Resources Advisory Council - The bill requires the creation of the Water Resources Advisory Council within, and staffed by, the DEP. Per diem for travel to attend council meetings is authorized for the two appointed council members. The estimated cost to the Land Acquisition Trust Fund is indeterminate and should be insignificant.
- Water Use Permits - If water use permits have to be revised to include water use monitoring, the cost could be substantial but indeterminate. It would also require significant staff resources to accomplish, though the cost is indeterminate.
- Alternative Water Supply Projects – The Water Management Districts that provide technical and financial assistance to self-suppliers for alternative water supply projects will result in a negative fiscal impact on those WMDs that provide such assistance. The actual cost to the Land Acquisition Trust Fund is indeterminate.

According to the DEP, creation of a database of lands where public access is available could require significant financial resources for information collection, website, and mobile application development. Development of enhancements to the Water Information Network (WIN) is estimated to cost between $4 million and $5 million over the next five years.

The DACS requested $25 million from the General Revenue Fund to continue the development and implementation of agricultural best management practices in the

Northern Everglades and Florida spring sheds in the fiscal year 2015-2016 Legislative Budget Request. The DACS estimates this amount will be sufficient to implement the provisions in this bill relating to agricultural best management practices.

There may be a positive fiscal impact to the Florida Department of Transportation (FDOT) with the increase in concession agreements for displays at shared-use nonmotorized trail (SunTrail) facilities.

VI. Technical Deficiencies:

The requirement to conduct water monitoring in section 13 of the bill does not specify what kind of monitoring is required or whether or not consumptive use permits must be revised to include monitoring.

In various sections of the bill, the terms "minimum flows and levels" and "minimum flows or levels" are used. In other sections of the bill, the term "minimum flows and minimum water levels" is used. The terms are synonymous but may be interpreted differently under the statutory construction rule that the Legislature is acting intentionally and purposefully when terms are amended in one statute but not another in the same bill.

VII. Related Issues:

The bill does not define "harm" with respect to minimum flows and levels (MFLs) for Outstanding Florida Springs (OFSs). Confusion over what constitutes "harm" could result in a standard that does not capture the intent of the bill sponsor.

The Florida Water Resources Advisory Council is required to release a tentative water resources work program by July 15 of each year. The bill should indicate what year the first work program must be released.

The bill defines outstanding Florida springs as all first magnitude springs in Florida, as defined in the most recent version of the Florida Geological Survey's springs bulletin. A future bulletin could remove one of the first magnitude springs from its list, creating problems for ongoing projects by removing the regulatory structure established in this bill.

It is unclear what happens if the Department of Environmental Protection (DEP) determines that data submitted by a Water Management District (WMD) is inconsistent with statewide standards established by the DEP in coordination with the WMDs.

It is unclear what the definition of "self-suppliers" is.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 259.032, 260.0144, 335.065, 373.019, 373.036, 373.042, 373.0421, 373.1501, 373.223, 373.2234, 373.227, 373.223, 373.2234, 373.227, 373.233, 373.4591, 373.4595, 373.536, 373.703, 373.705, 373.707, 373.709, 403.061, 403.0623, and 403.861.

This bill creates the following sections of the Florida Statutes: 339.81, 339.82, 339.83, 373.0465, 373.801, 373.802, 373.803, 373.805, 373.807, 373.811, 373.813, 373.815, 403.0616, and 403.0617.

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 Environmental Preservation and Conservation on March 24, 2015:

- Changes the implementation date to create a database and website providing information on conservation lands the public may access from January 1, 2016, to July 1, 2016;
- Clarifies that the addition of local and federal land to the database is a continuing endeavor and should be accomplished to the extent practicable;
- Requires the Florida Department of Transportation (FDOT) to budget $50 million yearly for SunTrails;
- Clarifies that the provision of technical assistance to self-suppliers (requiring the expenditure of public funds) must be consistent with the public policy of the state set forth in s. 373.016, F.S., related to water resources;
- Clarifies the grading system required for the status of water resources must reflect the severity of the impairment;
- Clarifies that the list of prioritized projects is for projects for which the water management district or local government are requesting state funding through the water resources work program;
- Changes the date for using an interim Minimum Flow Level (MFL) from January 1, 2016, to July 1, 2016, to align the use of the interim MFL with the adoption of recovery or prevention strategies;
- Adds a provision to ensure natural weather variations do not trigger an interim MFL violation;
- Provides emergency rulemaking authority for the adoption of an interim MFL and recovery or prevention strategies;
- Allows interim MFLs and recovery or prevention strategies to remain in effect until January 1, 2018, and specifies they are renewable during any pending rule challenge or request for ratification;
- Defines the term "Central Florida Water Initiative";
- Provides for an interagency agreement between the Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD), Southwest Florida Water Management District (SWFWMD), St. Johns River Water Management District (SJRWMD), and the Department of Agriculture and Consumer Services (DACS) to develop and implement a multi-district regional water supply plan and provides plan criteria and requirements, including:
  - Uniform rules for regulatory programs;
  - Uniform rules to include a goal for residential per capita water use for each consumptive use permit;
  - A single definition of "harmful to the water course" as it relates to the issuance of Consumptive Use Permits (CUPs);

- Rules to include existing recovery strategies;

- Requires the DEP to initiate rulemaking by December 31, 2015 to be applied by the WMDs only within the Central Florida Water Initiative (CFWI);
- Allows the DEP to grant variances where there are unique circumstances or hydrogeological factors that make application of uniform rules unrealistic or impractical;
- Specifies the authority of the SFWMD as sponsor of the Central and Southern Florida (C&SF) Project to allocate quantities of, and assign priorities for the use of, water within its jurisdiction;
- Directs the district to provide recommendations to the U.S. Army Corps of Engineers when developing or implementing certain water control plans or regulations schedules;
- Directs the WMD governing boards to give consideration to the identification of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible;
- Provides conditions under which the DEP and the WMD governing boards are directed to give preference to certain applications where the use of alternative water supply is not technically or financially feasible;
- Provides that when giving preference to new competing water use applicants for whom alternative water supplies are not technically or financially feasible, the preference must be given to the applicant for whom the water source is nearest;
- Provides priority consideration to certain public-private partnerships for water storage, groundwater recharge, water quality improvements, and water supply on private agricultural lands;
- Clarifies that the role of private land owners is in enhancing hydrologic improvement, improving water quality and assisting in water supply;
- Revises and provides definitions relating to the Northern Everglades and Estuaries Protection Program, including:
  - Deletes definition for "district Works of the District (WOD) program";
  - Clarifies provisions of the Lake Okeechobee Watershed Protection Program;
  - Provides requirements for the Lake Okeechobee BMAP;
  - Provides for technical and financial assistance for implementation of agricultural best management practices;
  - Directs the SFWMD to revise certain rules and provide for a water quality monitoring program;
  - Revises provisions for the Caloosahatchee River Watershed Protection Program and the St. Lucie River Watershed Protection Program;
  - Revises permitting and annual reporting requirements relating to Northern Everglades Estuary Protection Program (NEEPP);
  - Clarifies that reevaluation of agricultural best management practices include revision, if necessary, pursuant to s. 403.067(7)(c)4, F.S.;
  - Changes reference to Rule 40E-63, F.A.C., to "the Everglades Program,"
  - Adds provisions requiring the district to initiate rulemaking to provide for a monitoring program for nonpoint source discharges to monitor water quality in the Caloosahatchee Watershed;

  - Adds provisions requiring the district to initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality in the St. Lucie watershed;
  - Provides that the Basin Management Action Plans for Lake Okeechobee, the Caloosahatchee River watershed and estuary and The St. Lucie River watershed and estuary are enforceable pursuant to ss. 403.067, 403.121, 403.141 and 403.161, F.S.;
- Requires a WMD to include an annual funding plan in the water resource development work program;
- Directs the DEP to post the work program on its website;
- Requires the separate identification of projects submitted for state funding through the water resources work program pursuant to s. 403.0616, F.S.;
- Directs WMDs to consider funding assistance for certain water supply development projects;
- Requiring governing boards to include certain information in their annual budget submittals;
- Authorizes water management districts to provide technical and financial assistance to self-suppliers and to waive certain construction costs of alternative water supply development projects if they are in the public interest and not otherwise financially feasible;
- Clarifies that the provision of technical assistance to self-suppliers (requiring the expenditure of public funds) must be consistent with the public policy of the state set forth in s. 373.707(1)(f), F.S.;
- Includes reference to water resources work program in provisions related to state funding;
- Requires water supply plans to include traditional and alternative water supply project options that are technically and financially feasible;
- Directs the department to report certain funding analyses and project explanations in regional water supply planning reports;
- Revises language to replace "spring protection and management zones" with "priority focus areas";
- Excludes "submarine springs" from definition of "Outstanding Florida Springs";
- Recognizes that priority focus areas may encompass a spring or group of springs;
- Requires the delineation of priority focus areas by July 1, 2018;
- Removes the requirement for a map and legal description depicting spring protection and management zones;
- Revises language to make it clear that implementation plans are intended to achieve certain goals with respect to MFLs and Total Maximum Daily Loads (TMDLs);
- Provides that requirements for local governments to create septic tank remediation plans are notwithstanding other conflicting provisions of law;
- Requires the identification of Onsite Sewage Treatment and Disposal Systems (OSTDS) contributing at least 20 percent of nonpoint source nutrient pollution to Outstanding Florida Springs (OFSs);
- Includes drainfield modification in the types of repairs and upgrades that can be identified for OSTDSs;

- Specifies the types of costs that a property owner is not required to pay if an OSTDS requires remediation;
- Requires the department notify local governments of all permit applicants under s. 403.814(12), F.S., in priority focus areas of OFSs;
- Removes the term "septage" from the types of prohibited land applications in priority focus areas;
- Directs the department to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply and provides criteria for the rule;
- Reduces the number of required meetings by the Water Resources Advisory Council from eight to two;
- Provides for the Innovative Nutrient and Sediment Reduction and Conservation Pilot Project Program;
- Requires the department to adopt rules to competitively evaluate and rank projects for selection and prioritization by the Water Resources Advisory Council pursuant to s. 403.0616, F.S., for submission to the Legislature for funding of pilot projects;
- Provides eligibility for projects that test the effectiveness of innovative or existing nutrient reduction or water conservation technologies or practices designed to minimize nutrient pollution or restore flows in the water bodies of the state;

B. Amendments:

None.