HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/HB 7005	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee; Caldwell and others	110 **Y's**	2 **N's**
COMPANION BILLS:	CS/CS/SB 552	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/HB 7005 passed the House on January 14, 2016, as CS/CS/SB 552.

This bill revises policies relating to Florida's environmental resources including, but not limited to:

- Creating the Florida Springs and Aquifer Protection Act to expedite protection and restoration of the water flow and water quality in the aquifer and Outstanding Florida Springs;
- Ensuring that the appropriate governmental entities continue to develop and implement uniform water supply planning, consumptive water use permitting, and resource protection programs for the area encompassed by the Central Florida Water Initiative;
- Updating and restructuring the Northern Everglades and Estuaries Act to reflect and build upon the Department of Environmental Protection's (DEP) completion of basin management action plans (BMAP) for Lake Okeechobee, the Caloosahatchee Estuary, and the St. Lucie River and Estuary, DEP's continuing development of a BMAP for the inland portion of the Caloosahatchee River watershed, and the Department of Agriculture and Consumer Services' implementation of best management practices in the three basins;
- Modifying water supply and resource planning documents and processes in order to provide more robust representations of the state's water needs and goals;
- Requiring the Office of Economic and Demographic Research to conduct an annual assessment of water resources and conservation lands;
- Requiring DEP to publish an online publicly accessible database of conservation lands on which public access is compatible with conservation and recreation purposes; and
- Requiring DEP to conduct a feasibility study for creating and maintaining a web-based, interactive map of the state's waterbodies as well as regulatory information about each waterbody.

The bill appears to have a significant negative fiscal impact on state government and an indeterminate fiscal impact on local governments and the private sector. See the Fiscal Analysis and Economic Impact section for more detailed information.

The bill was approved by the Governor on January 21, 2016, ch. 2016-1, L.O.F., and will become effective on July 1, 2016.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Water Quantity

Present Situation

Consumptive Use Permitting

A person must apply for and obtain a consumptive use permit (CUP) from the applicable water management district (WMD) before using surface or groundwater of the state, unless the person is solely using the water for domestic use.[1] To obtain a CUP, an applicant must satisfy three requirements, commonly referred to as the "the three-prong test." To satisfy the test, an applicant must establish that the proposed use of water:

- Is for a "reasonable-beneficial use," meaning the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest;[2]
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.[3]

If two or more CUP applications that otherwise comply with the three-prong test are pending for a quantity of water that is inadequate for both or all, or that for any other reason are in conflict, and the WMD or Department of Environmental Protection (DEP) has deemed the applications complete, the WMD or DEP has the right to approve or modify the application that best serves the public interest.[4] In the event that two or more competing applications qualify equally, the WMD or DEP will give preference to a renewal application over an initial application.[5]

Minimum Flows and Levels

The minimum flow of surface water is the limit at which further water withdrawals would be significantly harmful to the water resource or ecology of the area.[6] A minimum level is the level of groundwater in an aquifer and the level of surface water at which further water withdrawals would be significantly harmful to the water resources of the area.[7] Minimum flows and levels (MFLs) are calculated by DEP or the WMDs and adopted by rule.[8] WMDs are required to develop, and annually update, a priority listing of waterbodies within their boundaries for the establishment of MFLs.[9] MFLs are set using the best available information, considering natural seasonal fluctuations, and the protection of non-consumptive uses.[10]

Recovery or Prevention Strategies

For a waterbody that is below an MFL or is projected to fall below it within 20 years, the WMD or DEP is required to expeditiously implement a recovery or prevention strategy as part of the regional water supply plan (RWSP). A recovery or prevention strategy may include implementing conservation measures, developing additional water supplies, and reducing permitted allocations of water to achieve

[1] Section 373.219, F.S.
[2] Section 373.019(16), F.S.
[3] Section 373.223(1), F.S.
[4] *Id.*
[5] Section 373.233(2), F.S.
[6] Section 373.042(1), F.S.
[7] *Id.*
[8] *Id.*
[9] Section 373.042(2), F.S.
[10] Section 373.042(1), F.S.

recovery of a waterbody to the adopted MFL or prevent a waterbody from falling below the adopted MFL.[11] A recovery or prevention strategy must include phasing or a timetable that allows for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses.

Alternative Water Supply Development

One of the ways water demands can be met is through the development of alternative water supplies (AWS).[12] AWS includes:

- Salt water;
- Brackish surface and groundwater;
- Surface water captured predominately during wet-weather flows;
- Sources made available through the addition of new storage capacity for surface or groundwater, water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses;
- The downstream augmentation of waterbodies with reclaimed water;
- Stormwater; and
- Any other water supply source that is designated as nontraditional for a water supply planning region in the applicable RWSP.[13]

Funding for the development of AWS is a shared responsibility between water suppliers and users, the state, and WMDs.[14] Water suppliers and users have the primary responsibility for providing funding, while the state and WMDs have the responsibility to provide funding assistance.[15]

AWS development projects may receive state funding through specific appropriation or through the Water Protection and Sustainability Program (WPSP) if funded by the Legislature.[16] Applicants for projects that receive funding through the WPSP are required to pay at least 60 percent of the project's construction costs.[17] A WMD may waive this requirement for projects developed by financially disadvantaged small local governments. Additionally, a WMD may, at its discretion, use ad valorem or federal revenues to assist a project applicant in meeting the match requirement. [18]

Funding from the WPSP must be used for construction costs of AWS projects, and should not result in a reduction of existing funding assistance from a WMD or basin board. Each WMD is required to include in its annual tentative and adopted budget submittals the amount of funds allocated for water resource development that supports AWS development and the funds allocated for AWS projects selected for inclusion in the WPSP. The goal of each WMD and basin board must be that the combined funds allocated annually for these purposes be, at a minimum, the equivalent of 100 percent of the state funding provided to the WMD for AWS development. If this goal is not achieved, the WMD must provide in its budget submittal an explanation of the reasons or constraints that prevent this goal from being met and an explanation of how the goal will be met in future years. The Suwanee River Water Management District (SRWMD) and the Northwest Florida Water Management District (NWFWMD) are not required to meet the match requirements, but they must try to achieve the match requirement to the greatest extent practicable.[19]

[11] Section 373.0421(2), F.S.
[12] Sections 373.707(1)(a)-(b) and 373.1961(2)(a), F.S.
[13] Section 373.019(1), F.S.
[14] Section 373.707(2)(c), F.S.
[15] *Id.*
[16] Section 373.707(1)(d), and (6), F.S.; the Legislature has not provided funding for AWS projects through the WPSP since Fiscal Year 2008-2009.
[17] Section 373.707(8)(e), F.S.
[18] *Id.*
[19] Section 373.707(6), F.S.

Effect of the Bill

The bill amends s. 373.042, F.S., to exempt rules adopting MFLs from the legislative ratification requirement in s. 120.541(3), F.S.[20] The bill also amends s. 373.042, F.S., regarding MFLs for Outstanding Florida Springs (*see* Springs Protection and Restoration section of the analysis for the effect of the changes).

The bill includes the following revisions to s. 373.0421, F.S., regarding the establishment and implementation of MFLs:

- Requires DEP or WMD to adopt or modify recovery or prevention strategies concurrent with the adoption of an MFL. If an MFL has already been set, requires DEP or WMD to expeditiously adopt recovery or prevention strategies.
- Provides that a recovery or prevention strategy may not solely depend on water shortage restrictions declared pursuant to s. 373.175, F.S., or s. 373.246, F.S.[21]
- Requires a RWSP, prepared pursuant to s. 373.709, F.S.,[22] to be amended to include any water supply development projects and water resource development projects identified in a recovery or prevention strategy. The amended RWSP must be approved concurrently with the relevant portions of the recovery or prevention strategy.
- Requires a WMD to notify DEP when an application for a CUP, which otherwise meets the requirement of s. 373.223, F.S.,[23] is denied based upon the impact that the use will have on an adopted MFL. Upon receiving such notice, and in cooperation with the WMD, DEP must review the applicable RWSP. The review must include an assessment by DEP of the adequacy of the RWSP in meeting the intent of the Legislature that there be sufficient water available for all existing and future reasonable-beneficial uses and the natural systems, and the adverse effects of competition for water supplies be avoided. Based on this review, if DEP determines the RWSP does not adequately address the Legislature's intent, the WMD must immediately initiate an update of the RWSP.

The bill amends s. 373.223, F.S., to require each CUP that authorizes withdrawals of 100,000 gallons per day (gpd) or more from a well 8 inches in diameter or greater to be monitored by the permit holder for water use and reported to the WMD at least annually. The bill also authorizes the WMDs to adopt rules to implement this section or, in lieu of the requirements of this section, WMDs may enforce rules that govern water usage monitoring in effect on July 1, 2016, or, adopt rules that are more stringent than the requirements in this section.

The bill amends s. 373.2234, F.S., regarding preferred water supply sources,[24] to require a WMD to consider the identification of preferred water supply sources for water users for which access to or development of new water supplies is not technically or financially feasible.

The bill amends s. 373.227, F.S., regarding water conservation, to:

- Prohibit modification of a CUP allocation during the permit term if documented conservation measures result in decreased water use, and requires WMDs to adopt rules providing water conservation incentives, which may include permit extensions.
- Prohibit reduction in agricultural irrigation CUPs during the term of the CUP if actual water use is less than permitted use due to weather, crop disease, nursery stock availability, market conditions, or changes in crop type.

[20] Section 120.541(3), F.S., provides legislative ratification requirements for certain rules.
[21] Sections 373.175 and 373.246, F.S., provide for the declaration of a water shortage.
[22] Section 373.709, F.S., establishes the requirements to be included in a RWSP.
[23] Section 373.223, F.S., establishes the requirements for issuance of a CUP.
[24] Section 373.2234, F.S., provides that a "preferred water source" is a water supply source identified by a WMD for consumptive uses for which there is sufficient data to establish that a preferred source will provide a substantial new water supply to meet the existing and projected reasonable-beneficial uses of a water supply planning region while sustaining existing water resources and natural systems.

The bill amends s. 373.233, F.S., regarding competing CUP applications, to require that if two or more competing applications qualify equally, and are not renewal applications, then the WMD or DEP must give preference to the use where the source is nearest to the area of use or application.

The bill amends s. 373.707, F.S., regarding AWS development, to:

- Include self-suppliers as a type of entity that may receive technical and financial assistance from a WMD for AWS projects.
- Specify that state funding made available to a WMD through a specific appropriation should not result in a reduction in WMD or basin board funding for AWS development assistance.
- Require that for each AWS project identified in a WMD's RWSP, the WMD must include in its annual budget submittals the amount of funds allocated for water resource development that supports AWS development and the funds allocated for AWS projects.
- Authorize the WMDs to waive the requirement that applicants for funding under the WPSP pay 60 percent of the construction costs if the project is sponsored by water users, the WMD determines the project to be in the public interest, and the project is not otherwise financially feasible.

The bill creates s. 373.037, F.S., establishing a pilot program for AWS development in restricted allocation areas. The bill:

- Defines a "restricted allocation area" as an area within a water supply planning region of the Southwest Florida Water Management District (SWFWMD), the South Florida Water Management District (SFWMD), or the SJRWMD where existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems and where the WMD has applied allocation restrictions for the use of water, including the Central Florida Water Initiative Area, the Lower East Coast Regional Water Supply Planning Area, the Southern Water Use Caution Area, and the Upper East Coast Regional Water Supply Planning Area.
- Allows the SWFWMD, SFWMD, and SJRWMD to each designate and implement an existing AWS project in their RWSP as the WMD's one pilot project, or amend its RWSP to add a new project. The bill also allows the SWFWMD, SFWMD, or SJRWMD to designate a project in another WMD if the project is located in a restricted allocation area and a substantial quantity of water created will be used within the boundaries of the designating WMD. Selection of the pilot project must be made by July 1, 2017, and is not subject to rulemaking or legal challenge pursuant to ch. 120, F.S.
- Prohibits the SWFWMD, SFWMD, and SJRWMD from:
    - Developing or implementing the pilot project on privately owned land without obtaining written consent of the landowner after July 1, 2016;
    - Engaging in local water supply distribution or selling water to pilot project participants; and
    - Entering into contracts with other entities, public or private, unless it is consistent with the public interest and is based on independent cost estimates, including comparisons with other AWS projects.
- Allows the SWFWMD, SFWMD, and SJRWMD to provide up to 50 percent of funding assistance for the pilot project.
- Requires the SWFWMD, SFWMD, and SJRWMD, if implementing a pilot project, to submit a report, by July 1, 2020, to the Governor and Legislature on the effectiveness of the pilot project and requires certain information be included.

Water Quality

Present Situation

Nutrient Pollution and Sources of Pollution

Nutrient pollution occurs when there are too many nutrients, mainly nitrogen and phosphorus, in a waterbody. [25] Excess nutrients cause algae in the water to grow, which can result in an algal bloom. Algal blooms are thick, floating mats of algae that can be toxic to humans, deplete oxygen levels necessary for fish and shellfish survival, and reduce water clarity. Algal blooms affect the quality of life for Floridians by causing human health issues, reductions in property values, and lost tourism. Contributors of nutrient pollution include onsite sewage treatment and disposal systems (OSTDS), industrial and domestic wastewater discharges, livestock manure, stormwater runoff, commercial and residential fertilization application, and car and power plant air emissions.[26]

Clean Water Act and Water Quality Standards

Congress enacted the Clean Water Act (CWA) in 1972 to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."[27] The CWA requires states to adopt water quality standards (WQS) for their navigable waters, and to review and update those standards at least triennially. WQS must include the:

- Designation of a waterbody's beneficial uses (e.g., public water supply, recreation, fish propagation, and navigation);
- Water quality criteria that define the amount of pollutants, in numeric or narrative form, that the waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.[28]

The U.S. Environmental Protection Agency (EPA) reviews state WQS to ensure compliance with the requirements of the CWA. If the EPA determines that a WQS is inconsistent with the CWA, it will notify the state of the changes needed to meet the requirements of the CWA. If the state does not make the changes, EPA will set the WQS.[29]

Numeric Nutrient Criteria

Water quality criteria are created to protect the beneficial uses of a waterbody and are based on data and scientific judgments about pollutant concentrations and their effects on a waterbody. There are two types of water quality criteria: numeric and narrative. Numeric nutrient criteria establish the maximum allowable concentration of a pollutant in a waterbody. Narrative nutrient criteria describe the types of organisms expected to be found in a healthy waterbody and the desired conditions for a waterbody (e.g., free from excessive algal blooms).[30]

Historically, Florida implemented narrative nutrient criteria for nutrient pollution.[31] However, in July 2008, the Florida Wildlife Federation and other environmental groups sued EPA in an attempt to compel EPA to adopt numeric nutrient criteria for Florida's waterbodies. In January 2009, EPA determined that a numeric nutrient criterion for Florida's waterbodies was necessary to meet the requirements of the CWA. EPA determined that Florida's narrative nutrient criteria alone was insufficient to ensure protection of applicable designated uses, but recognized the ongoing efforts by

[25] *The Facts about Nutrient Pollution*, available at: http://water.epa.gov/polwaste/upload/nutrient_pollution_factsheet.pdf.
[26] *Id.*
[27] 33 U.S.C. §1251
[28] 33 U.S.C. § 1313(c)(2)(A)-(B); 40 C.F.R. §§ 131.6, 131.10-12.
[29] 33 U.S.C. §1313(c) (3)-(4).
[30] EPA Factsheet, W*ater Quality Standards: Protecting Human Health and Aquatic Life* (Feb. 2011), available at: *http://water.epa.gov/scitech/swguidance/standards/upload/WQS_basic_factsheet.pdf*.
[31] DEP's website at: http://www.dep.state.fl.us/water/wqssp/nutrients/

DEP in developing numeric nutrient criteria for Florida's waterbodies. EPA noted that if Florida adopted and EPA approved new or revised WQS that sufficiently addressed its determination before EPA promulgated its WQS, EPA would no longer be obligated to promulgate the WQS.

In August 2009, the parties entered into a consent decree that required EPA to adopt numeric nutrient criteria for Florida's lakes, flowing waters, estuaries, and coastal waters (Consent Decree).[32] DEP suspended its rulemaking proceedings while EPA developed its rules to impose numeric nutrient criteria in Florida. In December 2010, EPA adopted final numeric nutrient criteria rules for all lakes and springs in the state and flowing waters outside of the southern Florida region in accordance with the Consent Decree and subsequent revisions.

Also in December 2010, Florida filed a lawsuit in federal district court against EPA over its intrusion into Florida's previously approved clean water program.[33] The lawsuit alleged that EPA's action was inconsistent with the intent of Congress when it based the CWA on the idea of cooperative federalism whereby the states would be responsible for the control of water quality with oversight by EPA. Control of nutrient loading from predominantly nonpoint sources involves traditional states' rights and responsibilities for water and land resource management, which Congress expressly intended to preserve in the CWA. The lawsuit specifically alleged that EPA's rules and January 2009 necessity determination for promulgating numeric nutrient criteria for Florida's waters were arbitrary, capricious, and an abuse of discretion, and requested the court to enjoin EPA from implementing its numeric nutrient criteria rules in Florida.

On February 18, 2012, the U.S. District Court for the Northern District of Florida found against the state, holding that EPA's determination that Florida's narrative nutrient criteria was inadequate and that numeric criteria are necessary was not arbitrary and capricious.[34] The court also held, however, that EPA's rule setting numeric nutrient criteria for Florida was not arbitrary and capricious save for two exceptions: EPA's stream criteria were found to be arbitrary and capricious, as were the default downstream protection values for unimpaired lakes. In accordance with the court's ruling, the Consent Decree was to remain in effect, with the modification that EPA was required to remedy the numeric nutrient criteria for streams and downstream protection values by May 21, 2012.

In response to EPA promulgating rules to establish numeric nutrient criteria for Florida's waterways, DEP began rulemaking and adopted state numeric nutrient criteria for streams, rivers, lakes, and south Florida estuaries, and submitted them to EPA for approval pursuant to the CWA. Several environmental groups challenged DEP's rules, filing a petition with the Division of Administrative Hearings (DOAH). In June 2012, DOAH issued its ruling finding that DEP acted within its authority in promulgating numeric nutrient criteria for the state and the decision was affirmed by the First District Court of Appeal in February 2013.[35]

On June 27, 2013, EPA formally approved DEP's *Implementation of Florida's Numeric Nutrient Standards*, dated April, 2013. On June 28, 2013, EPA made a revised determination regarding Florida's numeric nutrient criteria that removed all fresh waters from the previous determination and filed a motion to modify the Consent Decree. The motion was granted on January 7, 2014,[36] and appealed by environmental groups. On July 7, 2015, the U.S. Court of Appeals for the 11th Circuit issued its ruling affirming the granting of EPA's motion to modify the Consent Decree.[37]

[32] *Consent Decree*, available at: http://water.epa.gov/lawsregs/rulesregs/upload/Consent-Decree-re-numeric-water-quality-criteria-for-nutrients-for-the-state-of-Florida.pdf
[33] *State of Florida v. Jackson*, Case 3:10-cv-00503-RV-MD (N.D. Fla. 2010).
[34] *State of Florida v. Jackson*, 853 F.Supp.2d 1138 (N.D. Fla. 2012).
[35] *Florida Wildlife Federation, et. al. v. Department of Environmental Protection,* Case No. ID12-320 (Feb. 2013).
[36] *Order Modifying the Consent Decree*, available at: http://www.dep.state.fl.us/secretary/news/2014/01/Order_Modifying_Consent_Decree.pdf
[37] Unpublished opinion available at: http://media.ca11.uscourts.gov/opinions/unpub/files/201410987.pdf

The vast majority of Florida's freshwater streams, lakes, and springs are covered by numeric nutrient criterion, including wetlands in the Everglades Protection Area.[38] Numeric nutrient criteria are also established for all estuary segments and open ocean coastal waters.[39]

Total Maximum Daily Loads

Pursuant to the CWA, states are required to develop lists of waterbodies that do not meet WQS (impaired waters). For impaired waters, the state is charged with developing a total maximum daily load (TMDL) for the waterbody. A TMDL calculates the maximum allowable amount of a pollutant that the waterbody can receive, while implementing the WQS.[40] A waterbody may have several TMDLs, one for each pollutant that exceeds the waterbody's capacity to absorb it safely.

Basin Management Action Plans

When a TMDL has been established for an impaired water, a basin management action plan (BMAP) may be developed by DEP.[41] BMAPs implement comprehensive regulatory, non-regulatory, and incentive-based strategies to reduce pollutant loadings.[42] Regulatory actions may include the issuance or revision of permits for environmental resources, wastewater, and stormwater.[43] Non-regulatory and incentive-based actions may include habitat preservation or restoration, and the development and implementation of best management practices (BMPs).[44]

BMAP development involves collaboration with local stakeholders, local government agencies, and state agencies, including the applicable WMD and the Department of Agriculture and Consumer Services (DACS).[45] The BMAP must be adopted by order of the Secretary of the DEP pursuant to ch. 120, F.S.[46]

Best Management Practices

Nutrient pollution may enter a waterbody through point and nonpoint sources. Point sources of pollution (e.g., a pipe or culvert discharge from a facility) are controlled by National Pollution Discharge Elimination System (NPDES) permits issued for the operation involved.

Nonpoint sources of pollution are categorized as nonagricultural nonpoint sources (e.g., OSTDS, stormwater runoff, and golf courses) or agricultural nonpoint sources from agricultural operations. Nonpoint sources are controlled through the implementation of BMPs.[47]

DEP, in cooperation with the WMDs, establishes BMPs for nonagricultural nonpoint sources. DACS establishes BMPs for agricultural nonpoint sources.[48] DACS has created two types of BMPs: management and structural. Management BMPs involve nutrient and irrigation management and structural BMPs involve changes to the land or installation of structures (e.g., tailwater recovery ponds and fences).[49]

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[38] DEP's website at: http://www.dep.state.fl.us/water/wqssp/nutrients/
[39] *Id.*
[40] 33 U.S.C. §1313 (d) (1)(A).
[41] Section 403.067(7), F.S.
[42] Section 403.067(7)(b)1., F.S.
[43] *Id.*
[44] *Id.*
[45] Section 403.067(7)(a)3., F.S.
[46] Section 403.067(7)(a)4., F.S.
[47] Section 403.067(7)(c), F.S.
[48] *Id.*
[49] *Agricultural and Water Quality*, available at: http://www.freshfromflorida.com/content/download/33106/813038/BMP_Backgrounder.pdf.

Enforcement of BMAPs, BMPs, and Water Quality Monitoring

The BMAP does not relieve the point source discharger from any requirement to obtain, renew, or modify a NPDES permit or to abide by any other requirement of the permit.[50] DEP may reopen a NPDES permit imposing new limits or conditions on point source dischargers.[51]

A nonpoint source discharger included within a BMAP area must demonstrate compliance with pollutant reductions established in an adopted BMAP.[52] A nonpoint source discharger may be subject to enforcement action by DEP or WMD based upon a failure to implement and demonstrate compliance with appropriate BMPs or to conduct water quality monitoring prescribed by DEP or WMD.[53]

DACS is responsible for enforcing BMPs for participants that are enrolled in DACS' agricultural BMP program. A participant is required to keep records to document the implementation and maintenance of BMP practices.[54] These records must be retained for at least 5 years and are subject to DACS' inspection.[55]

Effect of the Bill

The bill amends s. 403.067(7), F.S., as follows:

- Requires each new or revised BMAP to include:
  - Appropriate management strategies to achieve TMDLs;
  - A description of BMPs adopted by rule;
  - A prioritized list of projects with a cost estimate and estimated date of completion;
  - The source and amount of financial assistance by DEP, WMD, or other entity for each project; and
  - An estimate of each project's expected load reduction.
- Specifies that BMAPs, BMPs, and water quality monitoring are enforceable.
- Requires that, by January 1, 2017:
  - DEP initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of the implementation of BMPs or other measures;
  - DEP initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, BMPs, or other measures; and
  - DACS initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, BMPs, or other measures.
- The rules must include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including BMPs or water quality monitoring as a result of noncompliance.

The bill creates s. 403.0675, F.S., regarding progress reports, requiring that, on or before July 1, 2018, and annually thereafter:

- DEP post on its website and submit electronically to the Governor and the Legislature an annual progress report on the status of each adopted TMDL, BMAP, MFL, and recovery or prevention strategy. The report must include the status of each project identified to achieve the TMDL or MFL. If any of the 5-year milestones will not be met, the report must include an explanation of the possible causes and potential solutions. The report must also include project descriptions, estimated costs, proposed priority ranking for project implementation, and funding needed to achieve the TMDL or MFL by the target date. Each WMD must also post the report on its website; and

[50] Section 403.067(7)(b)2.c., F.S.
[51] Section 403.067(7)(b)2.a., F.S.
[52] Section 403.067(7)(b)2.g., F.S.
[53] Section 403.067(7)(b)2.h., F.S.
[54] Chapter 5M, F.A.C.
[55] *Id.*

- DACS post on its website and submit to the Governor and the Legislature an annual progress report on the status of the implementation of the agricultural nonpoint source BMPs, including an implementation assurance report summarizing survey responses and response rates, site inspections and other methods used to verify implementation of and compliance with BMPs pursuant to BMAPs.

The bill creates s. 403.0617, F.S., regarding an innovative nutrient and sediment reduction and conservation pilot project program, and provides as follows:

- DEP may fund pilot projects, contingent upon a specific appropriation, to test the effectiveness of innovative or existing nutrient reduction or water conservation technologies, programs, or practices designed to minimize nutrient pollution or restore flows in waterbodies.
- DEP must initiate rulemaking, by October 1, 2016, to establish criteria for the evaluation and ranking of pilot projects for funding. The criteria must include a determination by DEP that the pilot project will not be harmful to the ecological resources in the study area, and preference must be given to projects that will result in the greatest improvement to water quality and water quantity for the dollars to be expended for the project. DEP must also, at a minimum, consider the following:
    - The level of nutrient impairment of the waterbody, watershed, or water segment where the project is located;
    - The quantity of nutrients the project is estimated to remove from a waterbody, watershed, or water segment with an adopted TMDL;
    - The potential for the project to provide a cost-effective solution to pollution, including pollution caused by OSTDSs;
    - The anticipated impact the project will have on restoring or increasing water flow or water level;
    - The amount of matching funds for the project that 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.

The bill amends s. 403.0623, F.S., regarding environmental data and quality assurance, by requiring:

- DEP to establish uniform standards for collecting and analyzing water quality, water quantity, and related data.
- DEP, to the extent practicable, to coordinate with federal agencies to ensure that its collection and analysis of water data may be used by any state agency, WMD, or local government.
- WMDs and state agencies to show that they follow DEP's collection and analysis standards in order to receive state funds for land acquisition or water resource projects.

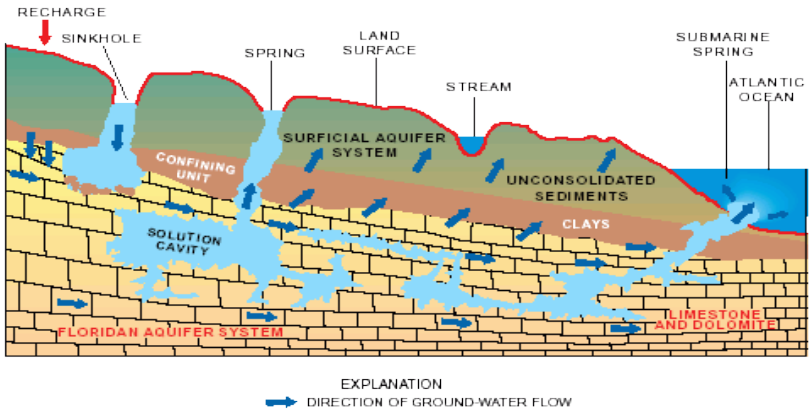
Springs Protection and Restoration

Present Situation

Springs

A spring is a point where groundwater emerges onto the Earth's surface (Figure 4). It is estimated that Florida has more than 900 springs, possibly the largest concentration in the world.[56] Florida has two types of springs, seeps and karst springs.[57]

Figure 4: How are springs formed?[58]



Seeps form when rainwater percolates down through permeable sediments to a much less permeable or impermeable formation, which forces the water to move laterally to the surface.[59] Seeps may also form in karst areas where water flow from the Floridan aquifer is more diffuse. [60] An example of a seep spring in Florida is Ray Hill Seep Spring.[61] It is one of a collection of springs surfacing from the base of an 80-foot high bluff outside of Ponce de Leon, Florida, joining with other, smaller seep springs to form Camp Branch.[62]

The majority of Florida's springs are karst springs.[63] Florida is one of the few places in the world with karst springs.[64] Karst springs occur when groundwater flows to the surface through the highly porous and permeable karst limestone formations of the Floridan aquifer.[65]

The Floridan aquifer is an extensive limestone aquifer underlying all of Florida, and portions of southern Georgia, Alabama, and South Carolina (Figure 5).[66]

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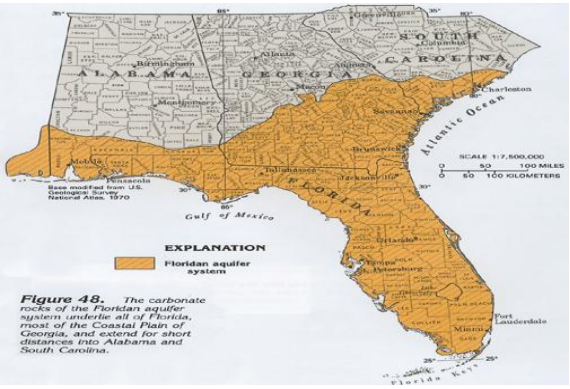
[56] This information can be found on DEP's website at: http://www.dep.state.fl.us/springs/.
[57] *Springs of Florida, Florida Geological Survey Bulletin No. 66*, available at: http://publicfiles.dep.state.fl.us/FGS/WEB/springs/bulletin_66.pdf
[58] Available at: http://water.usgs.gov/edu/watercyclesprings.html.
[59] *Id.*
[60] *Florida Spring Classification System and Spring Glossary*, available at: http://www.dep.state.fl.us/geology/geologictopics/springs/sp_52.pdf
[61] Information available at: NWFWMD's website at *http://ftp.nwfwmd.state.fl.us/rmd/springs/choctawhatchee/docs/rayhill.html*
[62] *Id.*
[63] *Florida Spring Classification System and Spring Glossary*, available at: http://www.dep.state.fl.us/geology/geologictopics/springs/sp_52.pdf
[64] *Florida Springs Initiative Monitoring Network Report and Recognized Sources of Nitrate*, available at: http://www.dep.state.fl.us/springs/reports/files/springs_report_102110.pdf
[65] *Springs of Florida, Florida Geological Survey Bulletin No. 66*, available at: http://publicfiles.dep.state.fl.us/FGS/WEB/springs/bulletin_66.pdf
[66] *Protecting Florida's Springs: An Implementation Guidebook*, available at: http://www.dep.state.fl.us/springs/reports/files/springsimplementguide.pdf

Figure 5: The Floridan aquifer[67]



Springs have dynamic water flows.[68] The magnitude, or size, of a spring is based on the median value of all discharge measurements for a period of record, as follows: [69]

Magnitude	Average flow of water
1	100 cubic feet per second (cfs) or more (64.6 mgd or more)
2	10 to 100 cfs (6.46 to 64.6 mgd)
3	1 to 10 cfs (0.0646 to 6.46 mgd)
4	100 gallons per minute (gpm) to 1 cfs (448 gpm)
5	10 to 100 gpm
6	1 to 10 gpm
7	1 pint to 1 gpm
8	Less than 1 pint per minute

Florida has 33 first magnitude springs, more than any other state or country.[70] Many springs have kept a first magnitude category even though the flows have changed considerably from when the spring was first considered a first magnitude spring.[71] These springs are known as historical first magnitude springs.[72] The term "historical" refers to the period of time prior to the adoption of the Florida Springs Classification System in 2003.[73] Florida has also identified 191 second magnitude and 151 third magnitude springs.[74]

Florida's springs occur primarily in the northern two-thirds of the peninsula and the central panhandle.[75] Thirty-nine of Florida's 67 counties either contain springs or include land areas that contribute water to springs.[76]

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[67] Image is from the U.S. Geological Survey and can be found online at: http://pubs.usgs.gov/ha/ha730/ch_g/G-Floridan1.html.
[68] *Florida Spring Classification System and Spring Glossary*, available at: http://www.dep.state.fl.us/geology/geologictopics/springs/sp_52.pdf
[69] *Id.*
[70] *First Magnitude Springs of Florida*, available at http://publicfiles.dep.state.fl.us/FGS/WEB/listpubs/OFR-85.pdf
[71] *Florida Spring Classification System and Spring Glossary*, available at: http://www.dep.state.fl.us/geology/geologictopics/springs/sp_52.pdf
[72] *Id.*
[73] *Id.*
[74] *Springs of Florida, Florida Geological Survey Bulletin No. 66*, available at: http://publicfiles.dep.state.fl.us/FGS/WEB/springs/bulletin_66.pdf
[75] *Id.*; *Florida Springs Initiative Program Summary and Recommendations, 2007*, available at: http://www.dep.state.fl.us/springs/reports/files/2007springs_report.pdf
[76] *Florida Springs Initiative Program Summary and Recommendations, 2007*, available at: http://www.dep.state.fl.us/springs/reports/files/2007springs_report.pdf

Florida's springs maintain abundant wildlife, provide water flow to rivers and estuaries, and provide for swimming, fishing, kayaking, and other recreational opportunities for residents and visitors.[77]

Artifacts indicate humans have been drawn to Florida's springs for thousands of years.[78] Tools and weapons have been recovered from Wakulla and Little Salt Springs, and spear points have been recovered from the spring-fed riverbeds in north and central Florida.[79] Florida's springs were locations of Spanish missions, steamboat landings, and gristmills.[80] In the mid to late 1800s, Florida's springs served as sites for development, including Silver Springs, Green Cove Springs and De Leon Springs.[81] Some springs were valued for their perceived therapeutic qualities.[82]

Florida's springs were the state's first tourist attraction and have continually provided contributions to its economy.[83] In the 2014-15 Fiscal Year (FY), Florida's 16 spring state parks attracted almost 3.5 million visitors and generated more than $13 million in revenue.[84] Additionally, privately owned and operated parks featuring springs contribute millions of dollars to Florida's economy each year.[85]

Florida's springs are also a source for bottled water. Zephyrhills® Brand 100% Natural Spring Water comes from Crystal Springs, located near Zephyrhills, Florida, and from other springs around the state.[86] Ginnie Springs, in High Springs, Florida, is a source of bottled water for Danone International Brands, Inc.[87]

Spring Flows

A spring's flow rate or discharge rate changes in response to fluctuations in the water level of the Floridan aquifer. Discharge rate is measured in cubic feet per second or gpd. The discharge rate of a spring generally remains stable over extended periods of time. However, because discharge rates are driven by the rate of recharge, climatic fluctuations often have a major effect on spring flow.[88] In addition to climatic conditions, anthropogenic factors, such as over pumping of the aquifer, can also have an impact on spring flows and discharge rates.

During 1998-2002, Florida suffered a major drought with a rainfall deficit totaling more than 50 inches. The resulting reduction in recharge from the drought and normal withdrawals caused a lowering of the aquifer. Many first magnitude springs experienced a significant flow reduction. Some springs, such as Hornsby Spring, ceased flowing completely.[89] To mitigate reductions in discharge rates that could

[77] *Florida's Springs Strategies for Protection and Restoration*, available at: http://www.dep.state.fl.us/springs/reports/files/SpringsTaskForceReport.pdf
[78] *Id.*
[79] *Id.*
[80] *Id.*
[81] *Id.*; Figure 7 - *Springs of Florida, Florida Geological Survey Bulletin No. 66*, available at: http://publicfiles.dep.state.fl.us/FGS/WEB/springs/bulletin_66.pdf
[82] *Springs of Florida, Florida Geological Survey Bulletin No. 66*, available at: http://publicfiles.dep.state.fl.us/FGS/WEB/springs/bulletin_66.pdf
[83] *Florida's Springs Strategies for Protection and Restoration*, available at: http://www.dep.state.fl.us/springs/reports/files/SpringsTaskForceReport.pdf
[84] Department of Environmental Protection, *Florida State Parks: Final Balance Report FY 14-15.* A copy of the report is on file with the State Affairs Committee.
[85] *Florida's Springs Strategies for Protection and Restoration*, available at: http://www.dep.state.fl.us/springs/reports/files/SpringsTaskForceReport.pdf
[86] Zephyrhills® Brand 100% Natural Spring Water website, available at: http://www.zephyrhillswater.com.
[87] *Florida's Springs Strategies for Protection and Restoration*, available at: http://www.dep.state.fl.us/springs/reports/files/SpringsTaskForceReport.pdf
[88] *Springs of Florida, Florida Geological Survey Bulletin No. 66*, available at: http://publicfiles.dep.state.fl.us/FGS/WEB/springs/bulletin_66.pdf
[89] *Id.*

adversely impact a spring's surrounding ecosystem and to restore already reduced discharge rates, DEP and the WMDs establish MFLs and implement recovery or prevention strategies.[90]

Nutrient Pollution and Sources Specific to Groundwater and Springs

The health of Florida's spring water is an indication of the water quality within the aquifer.[91] There has been a documented increase in nitrate concentrations over the past several decades in Florida's springs.[92] The primary sources of nitrogen are from fertilizers, human wastewater, animal waste, and air emissions.[93] Consequently, springs found to have the highest concentrations of nitrogen are located in or near areas where there are agriculture, commercial, and residential developments.[94]

In 2008, DEP proposed a nitrogen threshold of 0.35 milligrams per liter for springs, applicable to nitrate and nitrate+nitrite.[95] Thirty-six of the 49 springs studied exceeded DEP's proposed threshold. As of January 2010, 14 of the 49 springs and 10 waterbodies deriving their flow from springs were identified as impaired due to nitrate enrichment.[96]

Effect of the Bill

The bill creates s. 373.801, F.S., providing the following legislative findings and intent:

- Springs are a unique part of Florida's scenic beauty. They provide critical habitat for plants and animals, immeasurable recreational opportunities (e.g., swimming, canoeing, wildlife watching, and cave diving), and economic value to the state.
- Springs are of great scientific importance in understanding the functions of aquatic systems. Water quality of springs is an indicator of local conditions of the Floridan aquifer, which is the source of drinking water for many residents. Water flows in springs may reflect regional aquifer conditions. Water quantity and quality in springs may be related.
- DEP has primary responsibility for water quality. WMDs have primary responsibility for water quantity. DACS has primary responsibility for developing and implementing agricultural BMPs. Local governments have primary responsibility for providing domestic wastewater collection and treatment and stormwater management. DEP, WMDs, DACS, and local governments must coordinate to restore and maintain the water quantity and water quality of Outstanding Florida Springs (OFS).
- Springs are only as healthy as its aquifer system.
- Springs may be adversely affected by polluted runoff from urban and agricultural lands, discharges from inadequate wastewater and stormwater management practices, stormwater runoff, and reduced water levels of the Floridian aquifer.
- Springs are demonstrating signs of significant ecological imbalance, increased nutrient loading, and declining flow, and without effective remedial action, further declines in water quality and water quantity may occur.
- Springshed boundaries need to be identified and delineated using the best available data.
- Springsheds typically cross WMD and local government jurisdictional boundaries, requiring a coordinated statewide springs protection plan.
- Action is urgently needed, and as additional data is acquired, action must be modified.

[90] Sections 373.042 and 373.0421, F.S.
[91] *Springs of Florida, Florida Geological Survey Bulletin No. 66*, available at: http://publicfiles.dep.state.fl.us/FGS/WEB/springs/bulletin_66.pdf
[92] *Id.*
[93] *Id.*
[94] *Florida Springs Initiative Monitoring Network Report and Recognized Sources of Nitrate*, available at: http://www.dep.state.fl.us/springs/reports/files/springs_report_102110.pdf
[95] *Springs of Florida, Florida Geological Survey Bulletin No. 66*, available at: http://publicfiles.dep.state.fl.us/FGS/WEB/springs/bulletin_66.pdf
[96] *Id.*

The bill creates s. 373.802, F.S., providing definitions, including, but not limited to, the following terms:

- "Outstanding Florida Spring" includes all historic first magnitude springs, including their associated spring runs, as well as De Leon, Peacock, Poe, Rock, Wekiwa, and Gemini Springs, and excludes submarine springs and river rises.
- "Priority focus area" is the area(s) of a basin where the Floridan aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an OFS, and delineated in a BMAP.

The bill creates s. 373.803, F.S., regarding the delineation of priority focus areas for an OFS. It requires DEP, in coordination with the WMDs, to delineate priority focus areas for each OFS that is identified as impaired. The delineation must be completed by July 1, 2018. The delineation will be effective when incorporated into a BMAP.

The bill amends s. 373.219, F.S., with respect to OFSs to require DEP to adopt uniform rules for issuing CUPs to prevent groundwater withdrawals that are harmful to the water resources. The bill also requires DEP to adopt a uniform definition of "harmful to the water resources" to provide WMDs with minimum standards necessary to be consistent with the overall water policy of the state. However, the bill does not prohibit a WMD from adopting a definition that is more protective of the water resources consistent with local or regional conditions and objectives.

The bill amends s. 373.042, F.S., regarding MFLs, to require that:

- If an MFL has not been adopted for an OFS, a WMD or DEP must use emergency rulemaking authority to adopt an MFL no later than July 1, 2017, except for the NWFWMD, which must adopt an MFL no later than July 1, 2026.
- For an OFS identified on a WMD's priority list having the potential to be affected by withdrawals in an adjacent WMD, the adjacent WMD(s) and DEP must develop and implement a recovery or prevention strategy for the OFS not meeting an adopted MFL.

The bill creates s. 373.805, F.S., regarding MFLs for an OFS, as follows:

- Requires DEP or a WMD to concurrently adopt a recovery or prevention strategy with the adoption of the MFL for an OFS if the DEP or WMD determines the OFS is below or is projected to fall below the MFL within 20 years.
- Requires DEP or WMD to concurrently adopt a recovery or prevention strategy or revise an existing one if, upon review of an existing MFL for an OFS, the DEP or WMD determines the OFS is below or is projected to fall below the MFL within 20 years, and allows a revised MFL to be adopted before a revised recovery or prevention strategy if it is less constraining on existing or projected future consumptive uses.
- Requires a WMD or DEP to expeditiously adopt a recovery or prevention strategy for an OFS if the WMD or DEP determines the OFS has fallen below or is projected to fall below the adopted MFL within 20 years.
- Requires a recovery or prevention strategy for an OFS to include, at a minimum:
    - A prioritized list of specific projects to achieve the MFL.
    - The estimated cost, estimated completion date, and estimated benefit for each project.
    - The source and amount of financial assistance from the WMD for each project, which must be at least 25 percent of total project cost unless a specific funding source(s) is identified that will provide more than 75 percent of the project cost. The NWFWMD and the SRWMD are not required to meet the 25 percent threshold.
    - An implementation plan designed with a target to achieve the adopted MFL within 20 years after adoption of the recovery or prevention strategy.
    - Requires the WMDs or DEP to develop a schedule establishing 5, 10, and 15-year targets for achieving the adopted MFL and exempts the schedule from the requirements of ch. 120, F.S.
- Allows a local government to apply to DEP for one extension of up to 5 years for any project in an adopted recovery or prevention strategy. A local government in a rural area of opportunity

may apply for one extension of up to 10 years. DEP may grant an extension if the local government provides sufficient evidence that an extension is in the best interest of the public.

The bill creates s. 373.807, F.S., regarding the protection of water quality in OFSs, as follows:

- Requires DEP, by July 1, 2016, to begin a water quality assessment for each OFS for which an impairment determination has not been made, and to complete each assessment by July 1, 2018.
- Requires DEP to initiate development of a BMAP concurrently with the adoption of a TMDL for an OFS. For TMDLs adopted for an OFS before July 1, 2016, DEP must initiate development of the BMAP by July 1, 2016. During development of a BMAP that includes an OFS, if DEP identifies OSTDSs as contributors of at least 20 percent of nonpoint source nutrient pollution or if DEP determines remediation is necessary to achieve the TMDL, the BMAP must include an OSTDS remediation plan.
- Requires a BMAP for an OFS to be adopted within 2 years after initiation, and the BMAP to include:
    - A list of all projects identified to implement the TMDL;
    - A list of all projects identified in an OSTDS remediation plan, if applicable;
    - A priority rank, estimated cost, and estimated completion date for each listed project;
    - The source and amount of funding to be made available by DEP, a WMD, or others for each listed project;
    - An estimate of each project's nutrient load reduction;
    - Identification of each point source or category of nonpoint source and an estimated allocation of pollutant load for each; and
    - An implementation plan designed with a target to achieve the adopted TMDL within 20 years after adoption of a BMAP.
    - Requires DEP to develop a schedule establishing 5, 10, and 15-year targets for achieving the adopted MFL and exempts the schedule from the requirements of ch. 120, F.S.
- Requires DEP to revise, by July 1, 2018, a BMAP that was adopted before July 1, 2016, which addresses an OFS.
- Allows a local government to apply to DEP for one extension of up to 5 years for any project in an adopted BMAP. A local government in a rural area of opportunity may apply for one extension of up to 10 years. DEP may grant an extension if the local government provides sufficient evidence that an extension is in the best interest of the public.
- Requires local governments, whose jurisdictional boundaries include an OFS or any part of a springshed or delineated priority focus area of an OFS, to, by July 1, 2017, develop, enact and implement an urban landscape fertilizer ordinance.[97]
- Requires DEP, DOH, local governments, and wastewater utilities to jointly develop an OSTDS remediation plan if DEP determines that OSTDS within a priority focus area of an OFS contribute to at least 20 percent of nonpoint source pollution or that remediation is necessary to achieve the TMDL. Requires each OSTDS remediation plan to be included in the BMAP for the OFS. Requires the OSTDS remediation plan to identify cost-effective and financially feasible projects necessary to reduce nutrient impacts from OSTDS and it must be completed and adopted as part of the BMAP no later than the first 5-year milestone requirement. Requires, DEP, in preparing the plan, to:
    - Collect and evaluate credible scientific information on the effect on nutrients on springs; and
    - Develop a public education plan to provide area residents with reliable, understandable information about OSTDS and springs.
- Requires each OSTDS remediation plan to include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for certain systems. DEP must also include in the plan a priority ranking for each system of group of systems that requires remediation and must award

[97] Section 403.9337, F.S., provides for a model ordinance for Florida-friendly fertilizer use on urban landscapes.

funds to implement the remediation projects contingent upon an appropriation in the General Appropriations Act (GAA), which may include all or part of the costs necessary for repair, upgrade, replacement, drainfield modification, initial connection to a central sewerage system, or other action.
- Requires DEP to provide notice to a local government of all permit applicants for a general permit for certain stormwater management systems[98] in a priority focus area of an OFS over which the local government has full or partial jurisdiction.

The bill creates s. 373.811, F.S., prohibiting the following activities within a priority focus area of an OFS:
- New domestic wastewater disposal facilities, including rapid infiltration basins, with permitted capacities of 100,000 gpd or more, except those that meet advanced wastewater treatment standards;
- New OSTDSs on lots less than 1 acre, if it conflicts with an OSTDS remediation plan incorporated in a BMAP;
- New hazardous waste disposal facilities;
- Land application of Class A or Class B domestic biosolids, unless in accordance with a DEP approved nutrient management plan; and
- New agricultural operations that do not implement BMPs, measures to achieve pollution reduction levels, or groundwater monitoring plans.

The bill creates s. 373.813, F.S., regarding water quality and water quantity rules for OFSs, requiring:
- DEP to adopt rules to improve water quality and quantity in administering the Florida Springs and Aquifer Protection Act;
- DACS and DEP to study new or revised agricultural BMPs for improving and protecting OFS, and, if necessary, initiate rulemaking to require implementation; and
- DEP, DACS, and the University of Florida Institute of Food and Agricultural Sciences to conduct research and demonstration projects to develop improved nutrient management tools that can be used by agricultural producers as part of BMPs. The BMPs must be adopted by rule by DACS.

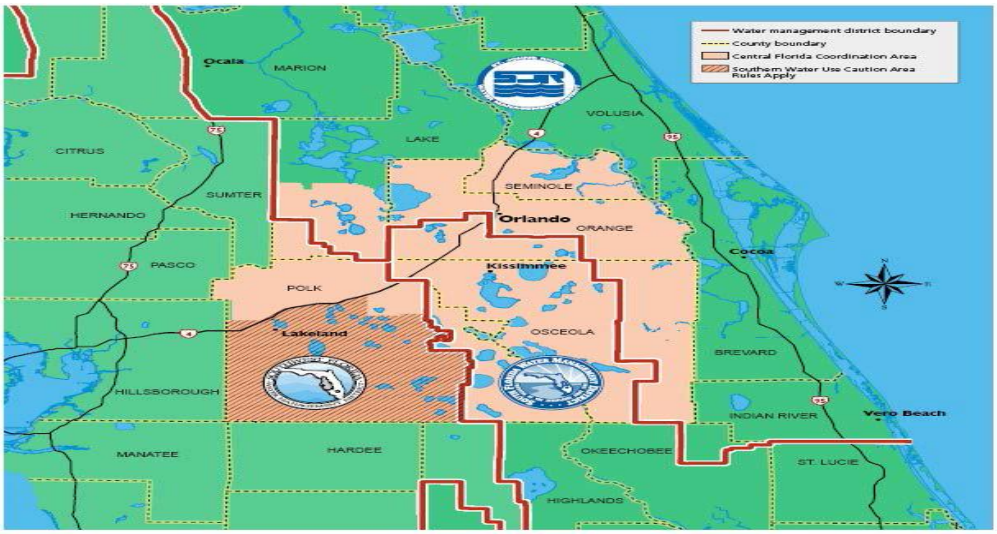
Central Florida Water Initiative

Present Situation

The Central Florida Water Initiative (CFWI) is a collaborative regional water supply endeavor to protect, conserve and restore the water resources of Orange, Osceola, Seminole and Polk counties, and southern Lake county and is where the boundaries of the SWFWMD, the SFWMD, and the SJRWMD converge (Figure 1).[99] The area covers approximately 5,300 square miles, is home to approximately 2.7 million Floridians, supports a large tourist industry, significant agricultural industry and a growing industrial and commercial sector.[100] The area also encompasses extensive natural systems, including the Green Swamp, Reedy Creek Swamp, Boggy Creek Swamp, Shingle Creek Swamp, the Kissimmee Chain of Lakes, which is the headwaters of the Kissimmee River, 16 springs and countless wetlands and surface waterbodies.[101]

Figure 1: CFWI Area

[98] Section 403.814(12), F.S., provides for a general permit for stormwater management systems serving a total project area of up to 10 acres.
[99] *Central Florida Water Initiative Guiding Document*, available at: http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf
[100] *Central Florida Water Initiative Regional Water Supply Plan,* available at: http://cfwiwater.com/pdfs/plans/CFWI_RWSP_DrftPblc2_VolIa_5-1-15.pdf
[101] *Id.*



The area's population is projected to reach 4.2 million by 2035, which is a 49 percent increase from 2010.[102] The area has traditionally relied on the Floridian aquifer for its primary water source.[103] Currently, more than 90 percent of treated wastewater in the area is reused for landscape irrigation, industrial uses, groundwater recharge, and environmental enhancement.[104] Total average water use in the area is projected to increase 40 percent by 2035. Planning efforts have documented that groundwater withdrawals in the area are either rapidly approaching, or have surpassed the maximum rate that can be sustained without causing harm or adverse impacts to the water resources and related natural systems, meaning that groundwater resources alone cannot meet future water demands in the area.[105]

Through the CFWI, the three WMDs are working collaboratively with other agencies and stakeholders to implement effective water resource planning.[106] According to the CFWI RWSP, with appropriate management, continued diversification of water supply sources, conservation, and implementation of water supply and water resource development projects, the water demands of the CFWI area can be met through 2035, while sustaining the water resources and related natural systems.[107] Future challenges in resource development and natural resource protection in the CFWI area require concerted efforts to monitor, implement management measures, characterize current hydrologic conditions, and project future conditions.[108] Successful implementation of these measures requires close coordination and collaboration with state, regional and local governments, utilities, and other water users.[109]

CFWI Guiding Document

The evolving CFWI Guiding Document is intended to describe the collaborative process being implemented in Central Florida.[110] Revisions to the CFWI Guiding Document are made as appropriate under the direction of the CFWI Steering Committee, which comprises a public water supply utility

[102] *Id.*
[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] *Id.*
[107] *Id.*
[108] *Id.*
[109] *Id.*
[110] *Central Florida Water Initiative Guiding Document*, available at: http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf.

representative, a Governing Board member from the SWFWMD, the SFWMD, and the SJRWMD, a DEP representative, and a DACS representative.[111]

The CFWI Guiding Document provides the following principles:

- 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. Strategies should include optimizing the use of existing groundwater sources, implementing demand management, and identifying AWSs that can be permitted and implemented as demands approach the sustainable yield of existing sources.
- Establish consistent rules and regulations for the SWFWMD, SFWMD, and SJRWMD that meet the CFWI goals and implement the results of the CFWI. Adoption of rules and regulations are expected to require coordination with DEP's statewide Consumptive Use Permitting Consistency initiative and the state's five WMDs.[112]

The CWFI Guiding Document also provides the following goals:

- One model;
- One uniform definition of harm;
- One reference condition;
- One process for permit reviews;
- One consistent process, where appropriate, to set MFLs and reservations; and
- One coordinated RWSP, including any needed recovery and prevention strategies.[113]

Effect of the Bill

The bill creates s. 373.0465, F.S., regarding the CFWI, as follows:

- Provides the following legislative findings:
    - The Floridan aquifer has historically supplied the majority of water used in the Central Florida Coordination Area.
    - The SJRWMD, SFWMD, SWFWMD, and DEP have worked collectively to determine that the Floridan aquifer is locally approaching the sustainable limits of use and are exploring the need to develop sources of water to meet the long-term water needs of the area.
    - The CFWI is a collaborative process involving DEP, SJRWMD, SFWMD, SWFWMD, DACS, regional public water supply utilities, and other stakeholders. 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.
    - Developing water sources as an alternative to continued reliance on the Floridan aquifer will benefit existing and future water users and natural systems within and beyond the boundaries of the CFWI.
- Defines the term "Central Florida Water Initiative Area," to mean all of Orange, Osceola, Polk and Seminole Counties, and southern Lake County, as designated by the CFWI Guiding Document of January 30, 2015.
- Requires DEP, SJRWMD, SFWMD, SWFWMD, and DACS to:
    - Continue the collaborative process in the CFWI Area with state agencies, affected WMDs, regional public water supply utilities, and other stakeholders;
    - Build upon the guiding principles and goals set forth in the CFWI Guiding Document of January 30, 2015;

[111] *Id.*
[112] *Id.*
[113] *Id.*

    - Develop and implement, as set forth in the CFWI Guiding Document of January 30, 2015, a single multidistrict RWSP, including recovery or prevention strategies and a list of water supply development projects or water resource projects; and
    - Provide a single hydrologic planning model to assess the availability of groundwater in the CFWI Area.
- Requires DEP, in consultation with SJRWMD, SFWMD, SWFWMD, and DACS, to adopt uniform rules for application in the CFWI Area that include:
    - A single, uniform definition of "harmful to the water resources," consistent with the term's usage in s. 373.219, F.S.;[114]
    - 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 CUP; and
    - An annual conservation goal for each CUP consistent with the RWSP.
- Requires DEP to initiate rulemaking for the uniform rules by December 31, 2016.

Lake Okeechobee Watershed and the Northern Everglades and Estuaries Protection Program

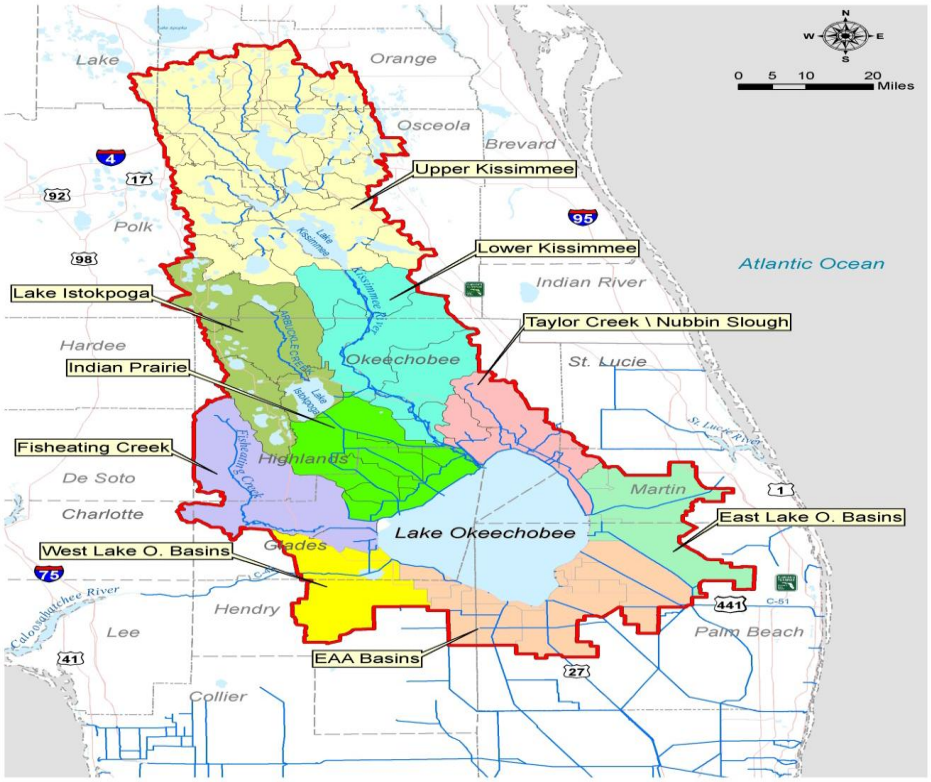
Present Situation

Lake Okeechobee Watershed Protection Program

Lake Okeechobee is Florida's largest freshwater lake and the second largest in the contiguous United States.[115] It provides drinking water, irrigation for agricultural land, and freshwater for the Everglades.[116] The Lake Okeechobee watershed, the area of land that drains or otherwise contributes to the flow of water into the lake, is approximately 1,800 square miles, which is actually larger than Rhode Island (Figure 2).[117]

[114] Section 373.219, F.S., authorizes WMDs or DEP to require CUPs and impose reasonable conditions to assure that the use is not harmful to the water resources of the area.
[115] *DEP Adopts Restoration Plan for Lake Okeechobee*, available at: http://content.govdelivery.com/accounts/FLDEP/bulletins/e1e723.
[116] *Id.*
[117] Section 373.403(12), F.S.; *DEP Adopts Restoration Plan for Lake Okeechobee*, available at: http://content.govdelivery.com/accounts/FLDEP/bulletins/e1e723 and *Executive Summary Lake Okeechobee Protection Plan Update (March 2011)*, available at http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/ne_crwpp_main_123108.pdf.

Figure 2: Lake Okeechobee Boundary and Sub-Watersheds



The Lake Okeechobee Watershed Protection Program is designed to reduce phosphorus loading to the lake, thereby improving water quality in the lake, and in the downstream receiving waters.[118] The initial phase for achieving phosphorous reductions was through the use of the SFWMD's Works of the District (WOD) program with subsequent phasing of reductions through the establishment of a TMDL for phosphorous.[119] The phosphorous TMDL was established in 2001.[120] In December 2014, DEP adopted the Lake Okeechobee BMAP, which implements phosphorus reductions established by the TMDL.[121] The BMAP identifies strategies and projects to reduce phosphorus entering the lake by 33 percent over the next 10 years and for the continued planning and development of long-term projects.[122]

The Lake Okeechobee Watershed Protection Program consists of several components: the Lake Okeechobee Watershed Protection Plan, the Lake Okeechobee Watershed Construction Project, the Lake Okeechobee Watershed Protection Phosphorus Control Program, the Lake Okeechobee Watershed Research and Water Quality Monitoring Program, the Lake Okeechobee Exotic Species Control Program, and the Lake Okeechobee Internal Phosphorus Management Program.[123] The Lake Okeechobee Watershed Protection Plan identifies the geographic extent of the watershed, contains the implementation schedule for phosphorus load reductions consistent with the TMDL, and serves as the framework for the other components of the program.[124] The Lake Okeechobee Watershed Construction Project serves to improve the hydrology and water quality of Lake Okeechobee and of downstream waterbodies through the construction of stormwater treatment areas, water storage reservoirs, and

[118] Section 373.4595(1)(e) and (3), F.S.
[119] Section 373.4595(1)(f) and (3), F.S.
[120] *Total Maximum Daily Load for Total Phosphorous Lake Okeechobee, Florida*, available at: http://www.dep.state.fl.us/water/tmdl/docs/tmdls/final/gp1/Lake_O_TMDL_Final.pdf.
[121] *DEP Adopts Restoration Plan for Lake Okeechobee*, available at: http://content.govdelivery.com/accounts/FLDEP/bulletins/e1e723.
[122] *Id.*
[123] Section 373.4595(3)(a)-(f), F.S.
[124] Section 373.4595(3)(a), F.S.

other projects.[125] The Lake Okeechobee Watershed Protection Phosphorus Control Program is designed to reduce phosphorous loads through the implementation of BMPs, and other technologies for nutrient reduction.[126] The Lake Okeechobee Watershed Research and Water Quality Monitoring Program component assesses sources of phosphorus, evaluates the feasibility of alternative nutrient reduction technologies, and evaluates water quality data.[127] The Lake Okeechobee Exotic Species Control Program identifies exotic plant species and implements measures to protect the native species.[128] The Lake Okeechobee Internal Phosphorus Management Program deals with historical phosphorus loading in Lake Okeechobee's sediments.[129]

Northern Everglades and Estuaries Protection Program

In 2007, the Lake Okeechobee Protection Program was expanded to include the Caloosahatchee River, the St. Lucie River, and their estuaries (Northern Everglades and Estuaries Protection Program or NEEPP).[130] The NEEPP consists of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, recognizing the connectivity of the Everglades, north and south of Lake Okeechobee (Figure 3).[131] Improvements to the hydrology, water quality and aquatic habitats within these watersheds are essential to the protection of the Everglades.[132] Implementation of the Lake Okeechobee Watershed Protection Plan, as well as the watershed protection programs developed for the St. Lucie River and Caloosahatchee River are necessary to achieve and maintain compliance with WQSs and re-establish salinity regimes for a well-balanced ecosystem.[133]

Figure 3: Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds

[125] Section 373.4595(3)(b), F.S.
[126] Section 373.4595(3)(c), F.S.
[127] Section 373.4595(3)(d), F.S.
[128] Section 373.4595(3)(e), F.S.
[129] Section 373.4595(3)(f), F.S.
[130] *Quick Facts: Northern Everglades & Estuaries Protection Program*, available at: http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/spl_northern_everglades.pdf
[131] Section 373.4595(2)(l), F.S.; *Quick Facts: Northern Everglades & Estuaries Protection Program*, available at: http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/spl_northern_everglades.pdf.
[132] Section 373.4595(1)(c), F.S.
[133] Section 373.4595(1)(h) and (4), F.S.

The Caloosahatchee River and St. Lucie River Watershed Protection Programs are each three-pronged approaches.[134] Each has a construction project component, a pollutant control program, and a research and water quality monitoring program.[135]

The construction project component works to improve the hydrology, water quality, and aquatic habitat within the respective watershed.[136] The pollutant control programs are multifaceted approaches to pollutant load reductions through the implementation of BMPs and other innovative nutrient control technologies.[137] The water quality research and water quality monitoring programs are required to build upon the SFWMD's existing program and include an assessment of water volumes and timing from Lake Okeechobee and the respective river watershed and their relative contributions to the timing and volume of water delivered to the respective estuary.[138]

In November 2012, DEP adopted the Caloosahatchee Estuary BMAP, identifying and implementing strategies necessary to achieve the total nitrogen TMDL set for the watershed. In May 2013, DEP adopted the St. Lucie River and Estuary BMAP, to achieve phosphorus, nitrogen, and dissolved oxygen TMDLs set in that watershed.

Effect of the Bill

The bill amends s. 373.4595, F.S., regarding the NEEPP, as follows:

- Subsection (2) is amended to include definitions for the terms "biosolids" and "soil amendment." These terms are used in s. 373.4595, F.S., but were not defined. The definitions of "District's WOD program" and "Lake Okeechobee Watershed Phosphorous Control Program" are removed since these terms are no longer used in the section. The definition of "Lake Okeechobee Watershed Protection Plan" is amended to conform to other changes in the bill.
- Subsection (3) is amended to reflect that the Lake Okeechobee Watershed Protection Program (LOWPP) consists of the Lake Okeechobee Watershed Protection Plan, the Lake Okeechobee BMAP, the Lake Okeechobee Exotic Species Control Program, and the Lake Okeechobee Internal Phosphorous Management Program. Additionally, new language is added to specify that the component of the LOWPP responsible for achieving phosphorus reductions in Lake Okeechobee is the Lake Okeechobee BMAP.
    - Paragraph (3)(a) is amended to:
        - ❖ Require the SFWMD, beginning March 1, 2020, and every 5 years thereafter, to update the Lake Okeechobee Watershed Protection Plan to ensure its consistency with the Lake Okeechobee BMAP.
        - ❖ Require the Lake Okeechobee Watershed Protection Plan to include the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program.
        - ❖ Require the SFWMD 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 is to provide the basis for the Lake Okeechobee BMAP.
        - ❖ Direct DEP, within 5 years after adoption of the Lake Okeechobee BMAP and every 5 years thereafter, to evaluate the Lake Okeechobee Watershed Construction Project to identify any further load reductions needed to achieve compliance with the Lake Okeechobee TMDL. Any modifications to the Lake Okeechobee Watershed Construction Project resulting from the evaluation must be incorporated into the Lake Okeechobee BMAP.

[134] Section 373.4595(4)(a) and (b), F.S.
[135] *Id.*
[136] Section 373.4595(4)(a)1. and (b)1., F.S.
[137] Section 373.4595(4)(a)2. and (b)2., F.S.
[138] Section 373.4595(4)(a)3. and (b)3., F.S.

- ❖ Require the coordinating agencies to implement the Lake Okeechobee Watershed Research and Water Quality Monitoring Program, and for DEP to use the results, in cooperation with the coordinating agencies, to modify the Lake Okeechobee BMAP, as appropriate.
- ❖ Require DEP, beginning March 1, 2020, and every 5 years thereafter, to reevaluate water quality and quantity data to ensure that the appropriate projects are being designated and incorporated into the Lake Okeechobee BMAP.
- ❖ Require results of the phosphorous assessment from the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga to be used as part of the Lake Okeechobee BMAP to develop interim measures, BMPs, or regulations, as applicable.

- Paragraph (3)(b) is amended to specify that the Lake Okeechobee BMAP is the watershed phosphorus control component for Lake Okeechobee. The plan must contain an implementation schedule for pollutant load reductions consistent with the adopted TMDL. The coordinating agencies must develop an interagency agreement that is consistent with DEP taking the lead on water quality protection measures through the Lake Okeechobee BMAP, the SFWMD taking the lead on hydrologic improvements pursuant to the Lake Okeechobee Watershed Protection Plan, and DACS taking the lead on agricultural interim measures, BMPs, and other measures. The interagency agreement must specify how BMPs for nonagricultural nonpoint sources are developed and how all BMPs are implemented and verified. The interagency agreement must also address measures to be taken by the coordinating agencies during any BMP reevaluation that is performed. 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 makes the following additional revisions to paragraph (3)(b):
  - ❖ Requires agricultural nonpoint source BMPs developed and designed to achieve the objectives of the LOWPP as part of a phased approach of management strategies within the Lake Okeechobee BMAP to be implemented on an expedited basis.
  - ❖ Requires an owner or operator of an agricultural nonpoint source who chooses to conduct monitoring instead of implementing BMPs or interim measures to demonstrate compliance with WQS addressed by the Lake Okeechobee BMAP rather than demonstrating compliance with the SFWMD's WOD program.
  - ❖ Requires reevaluation of BMPs to be conducted, pursuant to s. 403.067(7)(c)4, F.S., where water quality problems are detected for agricultural nonpoint sources or nonagricultural nonpoint sources despite the appropriate implementation of adopted BMPs.
  - ❖ Requires nonagricultural nonpoint source BMPs developed and designed to achieve the objectives of the LOWPP as part of a phased approach of management strategies within the Lake Okeechobee BMAP to be implemented on an expedited basis.
  - ❖ 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 the Everglades Program[139] of the SFWMD. Accordingly, an entity in compliance with agricultural BMPs as set forth in the Everglades Program may elect to use that permit in lieu of the requirements of the Lake Okeechobee BMAP. The agricultural BMPs implemented through a permit issued under the Everglades Program are subject to reevaluation as provided for in s. 373.4595(3)(b)5, F.S.
  - ❖ Replaces all references to the term "residuals" with the term "biosolids." The term is synonymous, but biosolids is the more accurate term used in practice today.

[139] Chapter 40E-63, F.A.C., establishes the Everglades Regulatory Program, which requires certain permits and BMPs for entities within the Everglades Agricultural Area.

- ❖ Requires the Department of Health to require all entities disposing of septage within the Lake Okeechobee watershed to develop and submit an agricultural use plan that limits applications based upon phosphorous loading consistent with the Lake Okeechobee BMAP, instead of the phosphorous limits established in the SFWMD's WOD program.
- ❖ Requires the SFWMD to revise ch. 40E-61, F.A.C.,[140] to be consistent with NEEPP, as amended by this bill, to provide for a monitoring program for nonpoint source dischargers required to monitor water quality, and to provide for the results of such monitoring 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.

- Subsection (4) is amended to include the following revisions to the Caloosahatchee and St. Lucie River Watershed Protection Programs:
  - Specifies that the Caloosahatchee River Watershed Protection Plan includes the Caloosahatchee River Watershed Construction Project and the Caloosahatchee River Watershed Research and Water Quality Monitoring Program.
  - Provides that the BMAPs adopted for the Caloosahatchee River watershed are the Caloosahatchee River Watershed Pollutant Control Program.
  - Requires limits on the application of septage within the Caloosahatchee River and St. Lucie River watersheds to be based on nutrient loading consistent with any BMAP, and deletes the requirement that nutrient concentrations not exceed limits established in the SFWMD's WOD program.
  - Specifies that 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 Program.
  - Specifies that the BMAPs adopted for the St. Lucie River are the St. Lucie River Watershed Pollutant Control Program.
  - Requires BMAPs for the Caloosahatchee River and St. Lucie River watersheds to contain an implementation schedule for pollutant load reductions consistent with their adopted TMDL.
  - Requires the SFWMD to initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality and for the monitoring results to be reported to the coordinating agencies.
  - Requires DEP, beginning March 1, 2020, and every 5 years thereafter, concurrent with updates to the BMAPs, to conduct an evaluation of pollutant load reduction goals of the Caloosahatchee River and St. Lucie River Watershed Protection Programs.
- Subsection (5) is amended to require 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. In addition, the bill:
  - Requires management strategies and pollution reduction requirements set forth in a BMAP to be completed pursuant to the schedule set forth in the BMAP, and specifies that the implementation schedule may extend beyond the 5-year permit term.
  - Provides that management strategies and pollution reduction requirements set forth in a BMAP for a specific pollutant of concern are not subject to challenge under ch. 120, F.S., when they are incorporated into a DEP or SFWMD issued permit or permit modification.
- Subsection (6) is amended to require DEP to report on the status of the Lake Okeechobee BMAP, the Caloosahatchee River Watershed BMAP, and the St. Lucie River Watershed BMAP, and for DACS to report on the status of the implementation of agricultural nonpoint source BMPs, and compliance with BMPs in the Lake Okeechobee, Caloosahatchee, and St. Lucie

[140] Chapter 40E-61, F.A.C., sets forth the rule criteria for the Works of the District.

watersheds. The report will be included in the SFWMD's annual report required pursuant to s. 373.036(7), F.S.[141]

- Subsection (7) is amended to include the following revisions to the permitting requirements in s. 373.4595, F.S.:
    - Provides that 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 s. 373.4592(4)(a), F.S.,[142] do not require a permit under this section and must be governed by permits issued under ss. 373.413[143] and 373.416, F.S.,[144] and the Lake Okeechobee BMAP.
    - Requires the SFWMD to submit to DEP, by January 1, 2017, a complete application for permit modification to the Lake Okeechobee structure permits to incorporate the changes necessary to ensure that discharges through the structures are consistent with the BMAP. The bill deletes the provision that these changes must be designed to achieve compliance with WQS by January 1, 2015.
    - Directs DEP to require permits for SFWMD regional projects that are part of the Lake Okeechobee Watershed Construction Project. The bill requires SFWMD to demonstrate reasonable assurances that the regional projects will achieve the design objectives for phosphorous.

Water Supply and Water Resource Planning and Development

Present Situation

Role of WMDs in Water Supply and Water Resource Development

The Legislature intends that sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that the adverse effects of competition for water supplies be avoided.[145] The Legislature has divided the responsibility for water supply development and water resource development between the WMDs and local governments, regional water supply authorities, and publically and privately owned water utilities.[146]

Water supply development is the planning, design, construction, operation, and maintenance of public or private facilities for water collection, production, treatment, transmission, or distribution for sale, resale, or end use.[147] Local governments, regional water supply authorities, and water utilities, both private and public, are to take the lead in securing funding for and implementing water supply development projects.[148]

[141] Section 373.036(7), F.S., sets forth the requirements for the consolidated WMD annual report.
[142] Section 373.4592(4)(a), F.S., sets forth the requirements for the Everglades Construction Project.
[143] Section 373.413, F.S., establishes the requirements for environmental resource permits.
[144] Section 373.416, F.S., establishes the requirements for environmental resource permits for maintenance purposes.
[145] Section 373.705(2)(a), F.S.
[146] Section 373.705(1)(a)-(b), F.S.
[147] Section 373.019(26), F.S.
[148] Section 373.705(2)(c), F.S.

Water resource development is the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments and to government-owned and privately owned water utilities.[149] WMDs are to be lead in water supply planning and in identifying and implementing water resource development projects.[150]

Each WMD is required to fund and implement water resource development projects in areas subject to RWSPs.[151] Water supply development projects that are consistent with RWSPs receive priority funding assistance, from the state or WMD, if the project:

- Supports a dependable, sustainable supply of water that is not financially feasible;
- Provides substantial environmental benefits, but requires assistance to be economically competitive; or
- Significantly implements reuse, storage, recharge, or conservation of water that contributes to the sustainability of regional water sources.[152]

Additionally, if a water supply development project meets one of the above criteria and either brings about replacement of existing sources aiding in the implementation of an MFL, or implements reuse assisting in the elimination of a domestic wastewater ocean outfall, the project will be given first consideration for state or WMD funding assistance.[153]

WMD Water Management Plan

Each WMD is charged with developing a water management plan for the water resources within their respective district.[154] This plan addresses water supply, water quality, flood protection, floodplain management, and natural systems, is based on a 20-year planning period, and is updated at least once every 5 years.[155] The plan must include scientific methodologies for establishing MFLs and all established MFLs, identification of water supply planning regions that singly or collectively encompass the entire district, a districtwide water supply assessment, and any completed RWSP.[156]

Regional Water Supply Plans

If a WMD's water management plan reveals that existing sources of water are inadequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the 20-year planning period, the WMD must develop a RWSP.[157]

A RWSP is also based on at least a 20-year projection, and must include:

- A water supply development component;
- A water resource development component;
- A recovery or prevention strategy, if the existing flow or level is below or projected to fall below an adopted MFL within 20 years;
- A funding strategy for water resource development projects;

[149] Section 373.019(24), F.S.
[150] Section 373.705(2)(b), F.S.
[151] Section 373.705(3), F.S.
[152] Section 373.705(4)(a), F.S.
[153] Section 373.705(4)(b), F.S.
[154] Section 373.036(2)(a), F.S.
[155] *Id.*
[156] Section 373.036(2)(b), F.S.
[157] Section 373.709(1), F.S.

- Consideration of how water supply development projects serve the public interest or save costs by preventing the loss of natural resources or avoid greater future costs for water resource or development;
- Technical data and information necessary to support the RWSP;
- MFLs established within each planning region;
- Reservations of water adopted within each planning region;
- Identification of surface waters or aquifers for which MFLs are scheduled for adoption; and
- An analysis of areas where variances may be used to create water supply or resource development projects.[158]

The water supply development component of the RWSP must include:

- A quantification of water supply needs for all existing and future reasonable-beneficial uses projected through the 20-year planning period based on best available data;
- A list of water supply development project options for local governments, utilities, regional water supply authorities, self-suppliers, and others to choose from for water supply development; and
- For each water supply development project listed there must be:
    - An estimated amount of water to be made available through the project;
    - The timeframe for implementation of the project, and the estimated costs for the project, including operation and maintenance;
    - An analysis of funding needs and sources of possible funding options; and
    - Identification of who should implement the project, as well as the current status of implementation.[159]

The water resource development component of the RWSP must include:

- A list of water resource development projects that support water supply development; and
- For each water resource development project listed there must be:
    - An estimated amount of water to be made available through the project;
    - The timeframe for implementation of the project, and the estimated costs for the project, including operation and maintenance;
    - An analysis of funding needs and possible sources of funding; and
    - Identification of who should implement the project, as well as the current status of implementation.[160]

Each WMD is required to annually report on the status of water resource and water supply development projects identified in its RWSPs.[161] The annual report must include estimated costs and potential sources of funding for the projects, percentage and amount of WMD funds for the development of AWS, a description of the WMD's progress in achieving water resource development objectives, including implementation of its 5-year water resource development work program, and an overall assessment of progress on water supply development.[162]

5-Year Water Resource Development Work Program

Each WMD is required to furnish a 5-year water resource development work program within 30 days after adoption of a final budget. The work program must describe the WMDs implementation strategy and funding plan for water resource, water supply, and AWS development in each approved RWSP. The work program must address all elements of the water resource development component of a RWSP and must:

- Identify projects in the work program which will provide water;

[158] Section 373.709(2)(a)-(j), F.S.
[159] Section 373.709(2)(a), F.S.
[160] Section 373.709(2)(b), F.S.
[161] Section 373.709(6), F.S.
[162] *Id.*

- Explain how each water resource, water supply, and AWS development project will produce additional water for consumptive uses;
- Estimate the quantity of water to be produced by each project; and
- Provide an assessment of the contribution of the WMD's RWSPs in providing sufficient water needed to timely meet water supply needs of existing and future reasonable-beneficial uses for a 1-in-10-year drought.[163]

Improvements on Private Agricultural Lands

An additional mechanism to promote water resource development, as well as improve water quality, is through a public-private partnership.[164] One type of public-private partnership is a collaborative effort between a WMD, DEP, or DACS and a private landowner to accomplish water storage and water quality improvements on private agricultural lands.[165] The public-private partnership is formalized in an agreement between the parties.[166] If the public-private partnership agreement is between a private landowner and a WMD or DEP, the agreement must contain a baseline condition, which determines the extent of wetlands and other surface waters on the property, and will be used for the regulation of such water, even after expiration of the agreement.[167] Establishing a baseline condition is optional for a public-private partnership agreement between a private landowner and DACS when used to implement BMPs.[168]

Public-private partnerships that facilitate nutrient reductions, consistent with TMDLs, within the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed are highly encouraged.[169] Public-private partnerships within the Lake Okeechobee watershed are eligible for state grants and otherwise receive special funding priority.[170]

Effect of the Bill

The bill amends s. 373.709, F.S., regarding regional water supply planning, to:

- Require water supply development project options in a WMD's RWSP to be technically and financially feasible.
- Require the water resource development component of the RWSP to:
    - Include a listing of water resource development projects that support water supply development for all existing and future reasonable-beneficial uses and for the natural systems as identified in the recovery or prevention strategies for adopted MFLs or water reservations.
    - Include for each listed project an estimate of the amount of water to become available through the project for all existing and future reasonable-beneficial uses and for the natural systems as identified in the recovery or prevention strategies for adopted MFLs or water reservations.
- Require an assessment of how the RWSP and the projects identified in the RWSP's funding plans for water supply and water resource development projects support the recovery or prevention strategies for implementation of adopted MFLs or water reservations, including MFLs for OFSs, while ensuring that sufficient water will be available for all existing and future reasonable-beneficial uses and the natural systems identified in the RWSP and avoiding the adverse effects of competition for water supplies.

[163] Section 373.536(6)(a)4., F.S.
[164] Section 373.085(1)(a), F.S.
[165] Section 373.4591, F.S.
[166] *Id.*
[167] *Id.*
[168] *Id.*
[169] Section 373.4595(1)(n), F.S.
[170] Section 373.4595(3)(c)5. and (g), F.S.

- Require DEP to include in its annual status report to the Governor and Legislature an analysis of the sufficiency of potential funding from all sources for water resource development and water supply development projects identified in each of the WMD's RWSPs, and an explanation of how each project identified in the 5-year water resource development work program will contribute to additional water for MFLs or water reservations.

The bill amends s. 373.036, F.S., regarding the consolidated WMD annual report, requiring the report to contain:

- Information on all projects related to water quality or quantity as part of a 5-year work program, including:
  - A list of all specific projects identified to implement a BMAP or recovery or prevention strategy;
  - A priority ranking for each project for which state funding through the water resources work program is requested, which must be made available to the public for comment at least 30 days before submission of the report;
  - The estimated cost and completion date for each listed project;
  - The source and amount of financial assistance to be made available by DEP, a WMD, or other entity for each listed project; and
  - A quantitative estimate of each listed project's benefit to the watershed, waterbody, or water segment.
- A grade for each watershed, waterbody or water segment in which a listed project is located representing the level of impairment and violations of adopted MFLs.

The bill amends s. 373.536, F.S., regarding the 5-year water resource development work program, to require WMDs to include an annual funding plan for each of the 5 years for the water resource and water supply development components of each approved RWSP. The bill requires the annual funding plan to identify anticipated WMD funding and additional funding needs for the second through fifth years of the funding plan. The bill requires the work program to address water supply projects proposed for WMD funding and assistance. In addition, the bill requires the work program to provide an assessment of the RWSPs in supporting the implementation of MFLs and water reservations, and ensure sufficient water is available to avoid adverse effects of competition for water supplies. Lastly, the bill requires DEP to post the work program on its website.

The bill amends the definition of "water resource development" in s. 373.019(24), F.S., to include self-suppliers as an entity that may receive technical assistance related to water resource development, as long as such assistance promotes the policies set forth in s. 373.016, F.S.[171]

The bill amends s. 373.705, F.S., regarding water resource development and water supply development, as follows:

- Specifies that a WMD should secure funding for regionally significant water resource development projects that:
  - Prevent or limit adverse water resource impacts;
  - Avoid competition among water users; or
  - Support new water supplies to meet an MFL or to implement a recovery or prevention strategy or water reservation.
- Requires each WMD to include in its annual budget submittals the amount of funds needed for each water resource development project as prioritized in its RWSPs, along with the total amount needed to implement the projects.
- Requires a water supply development project to be given first consideration for state or WMD funding assistance if the project reduces or eliminates the adverse effects of competition between legal users and the natural system.
- Requires WMDs to promote expanded cost-share criteria for additional conservation practices (e.g., soil and moisture sensors and other irrigation improvements, water-saving equipment, and

[171] Section 373.016, F.S., provides for the declaration of water policy.

water-saving household fixtures) and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.

The bill amends s. 373.703, F.S., regarding water production, authorizing each WMD to join with private landowners to carry out the WMD's duties and to contract with private landowners to finance acquisitions, construction, operation, and maintenance, if it is in the public interest.

The bill amends s. 373.4591, F.S., regarding improvements on private agricultural lands, to reflect that the Legislature encourages public-private partnerships for groundwater recharge on private agricultural lands. In addition to DEP and WMDs, the bill authorizes DACS to enter into an agreement with a private landowner to establish a public-private partnership that may create or impact wetlands or other surface waters. The bill requires priority consideration to be given to public-private partnerships that:

- Store or treat water on private lands for hydraulic improvement, water quality, or water supply;
- Provide critical groundwater recharge; or
- Provide for changes in land use to activities that minimize nutrient loads and maximize water conservation.

Central and Southern Florida Project

Present Situation

The Central and Southern Florida Project (Project), authorized by Congress in 1948, is a multi-purpose project that provides flood control, water supply for municipal, industrial, and agricultural uses, prevention of saltwater intrusion, water supply for the Everglades National Park, and protection of fish and wildlife resources. The primary system includes approximately 1,000 miles of levees, 720 miles of canals, and almost 200 water control structures.

The Project provides an east coast protective levee, extending from the Homestead area north to the eastern shore of Lake Okeechobee near St. Lucie Canal. There are three conservation areas for water impoundment in the Everglades area, west of the east coast protective levee, with control structures to transfer water as necessary. There are also local protective works along the lower east coast with an encirclement of the Lake Okeechobee agricultural area by levees and canals. Enlargement of portions of the Miami, North New River, Hillsboro, and West Palm Beach Canals and existing Lake Okeechobee levees are part of the Project. Also included are construction of new levees on the northeast and northwest shores of Lake Okeechobee, increased outlet capacity for improved control of Lake Okeechobee, floodway channels in the Kissimmee River Basin, with suitable control structures to prevent over drainage, and facilities for regulation of floods in the Upper St. Johns River Basin.

The Project provides water control and protection from the recurrence of flood waters for the highly developed urban area along the lower east coast of Florida and for the agricultural areas around Lake Okeechobee (including the towns around the lake), in the Upper St. Johns and Kissimmee River Basin, and in south Dade County. Another project function is the conservation of floodwaters for beneficial uses during dry seasons. The Project also delivers water to Everglades National Park according to a set schedule.

The U.S. Army Corps of Engineers operates and maintains project works on the St. Lucie Canal, Caloosahatchee River, Lake Okeechobee levees, channels, and major spillways, and the main outlets for Water Conservation Areas 1, 2A, and 3A. The SFWMD operates the remainder of the Project in accordance with regulations prescribed by the U.S. Army Corps of Engineers. Section 373.1501(4), F.S., specifies that the SFWMD is authorized to act as local sponsor of the Project for those project features located within the district. As the local sponsor, SFWMD has an essential role with the U.S. Army Corps of Engineers in developing water management criteria for the Project and is responsible for allocation of water from project storage, except where mandated by federal law.

Effect of the Bill

The bill amends s. 373.1501, F.S., requiring the SFWMD, as local sponsor of the Project, to:

- Exercise the authority of the state to allocate water quantities within its jurisdiction, including water supply in relation to the Project, and to be responsible for allocating water and assigning priorities among other water users served by the Project.
- Provide recommendations to the U.S. Army Corps of Engineers that are consistent with all of the SFWMD's programs and plans, when developing or implementing water control plans or regulation schedules required for operation of the Project.

Surface Water Use Classification

Present Situation

The CWA requires states to adopt WQS for their navigable waters, and to review and update those standards at least every three years. WQS must include:

- Designation of a waterbody's beneficial uses (e.g., public water supply, recreation, fish propagation, and navigation);
- Water quality criteria that define the amounts of pollutants, in numeric or narrative form, that the waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.[172]

Florida has developed the following classifications for a waterbody's designated beneficial uses:

- Class I: potable water supplies; recreation; fish consumption; propagation and maintenance of a healthy, well-balanced population of fish and wildlife;
- Class II: shellfish prorogation or harvesting; fish consumption; propagation and maintenance of a healthy, well-balanced population of fish and wildlife;
- Class III: fish consumption; propagation and maintenance of a healthy, well-balanced population of fish and wildlife;
- Class III-Limited: fish consumption; recreation or limited recreation; propagation and maintenance of a limited population of fish and wildlife;
- Class IV: agricultural water supplies; and
- Class V: navigation, utility, and industrial use.[173]

Reclassification of a waterbody's designated beneficial use can be initiated by DEP or by petition from another entity. A designated beneficial use may be upgraded, but there must be credible information showing the existence or attainability of the beneficial use. For example, a waterbody designated as Class III may be upgraded to a Class II if there is credible information showing that shellfish harvesting and consumption are routinely conducted in the waterbody and that water quality criteria for Class II is attainable.[174]

For a waterbody to be considered for reclassification as a drinking water source, a petitioner must demonstrate that the water quality meets Class I water quality criteria[175] or can meet those criteria after treatment. Potential influences of reclassification on other users of the waterbody must be evaluated and permitting requirements must also be considered.

Petitions to add a waterbody's designated use as drinking water source should determine if it is an existing use (now or since 1975) or an attainable use. Factors to consider when determining whether the use is an existing use can include the presence of drinking water withdrawals and permits authorizing withdrawal for consumptive use. Factors to consider when determining whether the

[172] 33 U.S.C. § 1313(c)(2)(A)-(B); 40 C.F.R. §§ 131.6, 131.10-12.
[173] *Process for Reclassifying the Designated Uses of Florida Surface Waters*, available at: http://www.dep.state.fl.us/water/wqssp/docs/reclass/process_document_080510.pdf.
[174] *Id.*
[175] Water quality criteria are contained in ch. 62-302.530, F.A.C.

designation is an attainable use can include proximity to wastewater sources and effects on water quality.[176]

The water quality criteria discussed in this section of the bill analysis pertain only to the use classification of a waterbody, and are different from the drinking water criteria established under the Florida Safe Drinking Water Act. Florida's drinking water criteria do not change regardless of any changes to the classification of a waterbody.

Effect of the Bill

The bill amends s. 403.061, F.S., authorizing DEP to adopt by rule a specific surface water classification to protect surface water used for treated potable water supply. The bill requires these designated water sources to have the same water quality criteria protections as surface waters designated for fish consumption, recreation, and the propagation and maintenance of a healthy, well-balanced population of fish and wildlife. The bill requires these designated water sources be free from discharged substances at a concentration that, alone or in combination with other discharged substances, would require significant alteration of permitted treatment processes at the permitted treatment facility, or which would otherwise prevent compliance with applicable state drinking water standards. Notwithstanding this classification, a surface water used for treated potable water supply may be reclassified as waters designated for potable water supply.

The bill also amends s. 403.861, F.S., requiring DEP to add treated potable water supply as a designated use of a surface water:

- Upon issuance of a construction permit to construct a new public water system drinking water treatment facility to provide potable water supply using a surface water that, at the time of the permit application, is not being used as a potable water supply system, the classification of which does not include potable water supply as a designated use.
- For existing public water system drinking water treatment facilities that use a surface water as a treated potable water supply, which surface water classification does not include potable water supply as a designated use.

Harris Chain of Lakes Restoration Council

Present Situation

The Harris Chain of Lakes is located largely in Lake County and the northwestern portion of Orange County.[177] It includes tens of thousands of acres of lakes and wetlands and is the headwaters of the Ocklawaha River.[178]

In 2001, the Legislature created the Harris Chain of Lakes Restoration Council to:

- Review audits and all data related to lake restoration techniques and sport fish population recovery strategies;
- Evaluate whether additional studies are needed;
- Explore all possible sources of funding to conduct restoration activities; and
- Report to the Legislature, before November 25 of each year, on the progress of the Harris Chain of Lakes restoration program and provide any recommendations for the next fiscal year.[179]

The Harris Chain of Lakes Restoration Council consists of the following nine voting members:

[176] *Process for Reclassifying the Designated Uses of Florida Surface Waters*, available at: http://www.dep.state.fl.us/water/wqssp/docs/reclass/process_document_080510.pdf.
[177] Harris Chain of Lakes Restoration Council's website at: http://harrischainoflakescouncil.com.
[178] *Id.*
[179] Section 373.467(4), F.S.

- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- An environmental engineer;
- A person with training in biology or another scientific discipline;
- A person with training as an attorney;
- A physician;
- A person with training as an engineer; and
- Two residents of Lake County appointed by the Lake County legislative delegation who do not meet any of the other qualifications for membership enumerated above.[180]

Effect of the Bill

The bill revises s. 373.467, F.S., regarding the Harris Chain of Lakes Restoration Council, as follows:

- Revises the membership of the Council and authorizes the Lake County legislative delegation to waive membership qualifications on a case-by-case basis if good cause is shown.
- Specifies that a resignation or failure to attend three consecutive meetings, without an excuse approved by the chair, results in a vacancy on the Council.

Conservation and Recreational Lands

Present Situation

It is the policy of the state that the citizens of Florida be assured public ownership of natural areas for maintaining its unique natural resources, protecting air, land, and water quality, promoting water resource development to meet the needs of natural systems and the public, promoting restoration activities on public lands, and providing lands for natural resource based recreation.[181] The Legislature intends that lands acquired for conservation and recreation purposes be managed in a way that protects or restores their natural resource values, and provides the greatest benefit, including public access, to the citizens of Florida.[182]

DEP is the lead agency for acquiring state lands for protection and providing oversight for the management of activities on public lands, including lakes, rivers and islands.[183]

As of February 2015, non-submerged conservation lands in Florida consisted of the following:[184]

Managing Entity	Fee Simple Acres	Less-than-fee Acres
Federal Government Lands	4,058,185	117,500
State Government Lands	4,874,019	615,244
County and City Governments Lands	488,208	8,631

Effect of the Bill

The bill amends s. 259.032, F.S., regarding conservation and recreation lands, to ensure the public has knowledge of and access to conservation lands, and requires DEP to:

- Publish, update, and maintain a database of conservation lands where public access is compatible with conservation and recreation purposes.
- Place the database available online to the public by July 1, 2017, including, at a minimum, the location, types of allowable recreational opportunities, points of public access, facilities or other amenities, restrictions, and any other information DEP deems appropriate to increase public

[180] Section 373.467(1)(a), F.S.
[181] Section 259.032(1), F.S.
[182] *Id.*
[183] DEP's website at: http://www.dep.state.fl.us/lands/statelands_cont.htm.
[184] *Summary of Florida Conservation Lands,* available at: http://www.fnai.org/PDF/Maacres_201502_FCL_plus_LTF.pdf.

awareness of recreational opportunities on conservation lands. The data must be electronically accessible, searchable, and downloadable in a generally acceptable format.
- Create, on its own or through partnership with a third-party entity, an application downloadable on mobile devices to be used to locate state lands available for public access using the user's locational information or based upon an activity of interest.
- Include, in the database and application, information for all state conservation lands that the public has a right of access for recreational purposes. Beginning January 1, 2018, to the greatest extent practicable, the database must include similar information for lands owned by federal and local government entities that allow access for recreational purposes.
- Provide a report to the Governor and Legislature, by January 1 of each year, describing the percentage of public lands acquired by the state under ch. 259, F.S.,[185] that the public has access to and DEP's efforts to increase public access to these lands.

Interactive Water Map Feasibility Study

Present Situation

Currently, there is no single resource that lists each watershed and waterbody with information about whether the waterbody is impaired, and if so, whether an MFL, TMDL, or BMAP have been adopted.

Effect of the Bill

The bill creates an undesignated section of law that requires DEP to:
- Evaluate the feasibility and cost of creating and maintaining a web-based, interactive map that includes, at a minimum:
    - All watersheds and each waterbody within those watersheds;
    - The county(s) where the watershed or waterbody is located;
    - The WMD(s) where the watershed or waterbody is located;
    - Whether, if applicable, an MFL has been adopted for the waterbody and if an MFL has not been adopted, the anticipated adoption date;
    - Whether, if applicable, a recovery or prevention strategy has been adopted for the watershed or waterbody and, if a recovery or prevention strategy has not been adopted, the anticipated adoption date;
    - The impairment status of each waterbody;
    - Whether, if applicable, a TMDL has been adopted for an impaired waterbody and, if a TMDL has not been adopted, the anticipated adoption date;
    - Whether, if applicable, a BMAP has been adopted for the watershed and, if a BMAP has not been adopted, the anticipated adoption date;
    - Each project listed on the 5-year water resource development work program developed pursuant to s. 373.536(6)(a)4, F.S.;
    - The agency(s) and local sponsor, if any, responsible for overseeing the project;
    - The total or estimated cost and completion date of each project and the financial contribution of each entity;
    - The estimated quantitative benefit to the watershed or waterbody; and
    - The water projects completed within the last 5 years within the watershed or waterbody.
- Submit a report containing the findings on the feasibility study to the Legislature on or before January 1, 2017.

[185] Chapter 259, F.S., governs land acquisitions for conservation or recreation.

Assessment of Water Resources and Conservation Lands

Present Situation

The Office of Economic and Demographic Research (EDR) conducts research for the Legislature forecasting economic and social trends that affect policy, revenues, and appropriations.[186] EDR researches projects for legislative committees (e.g., sentencing guidelines, environmental land acquisition programs, and the impact of tourism on the state's economy), and also works with Cabinet agencies, statewide commissions, and tasks forces that have legislators among their membership to assess the impact of proposals they are considering submitting to the Legislature.[187]

Effect of the Bill

The bill creates s. 403.928, F.S., which requires EDR to conduct an annual assessment of water resources and conservation lands. The assessment must include all of the following related to water resources:

- Historical and current expenditures and projections of future expenditures by federal, state, regional, and local governments and public and private utilities based upon historical trends and ongoing projects or initiatives associated with:
  - Water supply and demand; and
  - Water quality protection and restoration.
- An analysis and estimates of future expenditures by federal, state, regional, and local governments and public and private utilities necessary to comply with federal and state laws and regulations governing water supply and demand, and water quality protection and restoration. The analysis and estimates must address future expenditures by federal, state, regional, and local governments and public and private utilities necessary to achieve the legislature's intent that sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that adverse effects of competition for water supplies be avoided. The assessment must include a compilation of projected water supply and demand data developed by each WMD pursuant to ss. 373.036[188] and 373.709[189], F.S., with notations regarding any significant differences between the methods used by the WMDs to calculate the data.
- Forecasts of federal, state, regional, and local government revenues dedicated in current law to the purposes of water supply and demand, and water quality protection and restoration, or that have been historically allocated for these purposes, as well as public and private utility revenues.
- Identification of gaps between projected revenues and projected and estimated expenditures.

In addition, the assessment must include the following related to conservation lands:

- Historical and current expenditures and projections of future expenditures by federal, state, regional, and local governments based upon historical trends and ongoing projects or initiatives associated with real property interests eligible for funding under the s. 259.105, F.S.[190]
- An analysis and estimates of future expenditures by federal, state, regional, and local governments necessary to purchase lands identified in plans set forth by state agencies or WMDs.
- An analysis of the ad valorem tax impacts by county resulting from public ownership of conservation lands.
- Forecasts of federal, state, regional, and local government revenues dedicated in current law to maintain conservation lands and the gap between projected expenditures and revenues.

[186] EDR's website at http://edr.state.fl.us/Content/about/index.cfm.
[187] *Id.*
[188] Section 373.036, F.S., provides for WMD water management plans.
[189] Section 373.709, F.S., provides for regional water supply plans.
[190] Section 259.105, F.S., is the Florida Forever Act.

- The total percentage of real property that is publicly owned for conservation purposes.
- A comparison of the cost of acquiring and maintaining conservation lands under fee simple and less than fee ownership.

The assessment must include analyses on a statewide, regional and geographic basis as appropriate and identify analytical challenges in assessing information across the different regions of the state. It must identify overlap in the expenditures for water resources and conservation lands. The bill requires WMDs, DEP, DACS, the Fish and Wildlife Conservation Commission, counties, municipalities, and special districts to provide assistance to EDR related to their respective areas of expertise. In addition, EDR must be given access to all data necessary to complete the assessment, including confidential data.

The bill requires EDR to submit the assessment to the Legislature by January 1, 2017, and by January 1 of each year thereafter.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DEP

Section 1[191]

The bill requires the development and maintenance of a database relating to recreational uses of state conservation lands by July 1, 2017, as well as the creation of a mobile application relating to recreational uses of state conservation lands. The bill also provides that beginning January 1, 2018, to the greatest extent practicable, the database shall include similar information for lands owned by federal and local governmental entities.

To comply with the recreational state lands database portion and creation of the mobile application, DEP estimates it will need one Full Time Employee (FTE) and $126,710 recurring and $481,182 nonrecurring (see chart below). It is expected that this funding will be addressed in the House proposed FY 2016-17 GAA.

Division of Recreation and Parks				
Category/Description	**FTE**	**Recurring**	**Nonrecurring**	**Total Costs**
Salaries and Benefits	1	72,500		72,500
Expenses		6,166	3,882	10,048
Contracted Services/System Development and Maintenance for FL-SOLARIS and FORI, and Mobile Application		20,000	200,000	220,000

[191] Email from Amanda Marsh, Legislative Specialist, DEP, RE: HB 7005 Analysis (Nov. 9, 2015), on file with the Agriculture & Natural Resources Appropriations Subcommittee.

Contracted Services for Mobile Application		27,700	277,300	305,000
Transfer to DMS-HR Services-Statewide Contract		344		344
Total	**1**	**126,710**	**481,182**	**607,892**

To include similar information for federal and local government lands in the database, DEP estimates it will need an additional FTE and funding (see chart below).

Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Salaries and Benefits	1.0	72,500		72,500
Expenses		6,166	3,882	10,048
Contracted Services/System Development and Maintenance for FL-SOLARIS and FORI		25,400	254,400	279,800
Contracted Services/ FNAI Data		20,000		20,000
Transfer to DMS-HR Services-Statewide Contract		344		344
Total	**1.0**	**124,410**	**258,282**	**382,692**

Sections 4 and 20

The bill establishes a voluntary pilot program for AWS development in restricted allocation areas of certain WMDs. The bill allows a WMD to provide up to 50 percent of the funding for the pilot project. DEP estimates that the pilot program, if undertaken by a WMD, would have an indeterminate amount of capital and operaitng costs associated with the effort.[192]

The bill also specifies that if state funds are provided through a specific appropriation for AWS, the state funds serve to supplement existing WMD funding for AWS development.

DEP has requested $30 million nonrecurring Land Acquisition Trust Fund (LATF) in its F Y 2016-17 Legislative Budget Request to provide cost-share incentives for the development of regionally significant non-traditional water supply in priority water supply areas. It is expected that funding for this issue will be addressed in the House proposed FY 2016-17 GAA.

Section 15

According to DEP, the responsible agencies are already heavily invested, in staff time and project funding, in the NEEPP, including actions associated with water quality assessment and TMDL, BMAP and BMP development, adoption and implementation.[193]

The impacts of some of the changes, particularly to the relationships among various agency programs, are difficult to assess in advance. The bill would require a new interagency agreement for the Lake Okeechobee BMAP, which would involve additional staff time to finalize. There would be an indeterminate increased workload associated with the additional implementation plan requirements for the Lake Okeechobee, Caloosahatchee River, and St. Lucie River BMAPs, including the need to revise and adopt the revised BMAPs. The increased workload will be absorbed using existing staff resources. It is unclear how potential local project sponsors would

[192] DEP Analysis - HB 7005 Analysis (Nov. 9, 2015).
[193] *Id.*

respond to the new requirements, particularly in terms of their willingness to make project commitments that would be incorporated into the BMAPs, and thereby, become enforceable.[194]

DEP would also incur additional costs to develop and adopt by rule nonagricultural nonpoint source BMPs for the Lake Okeechobee watershed. All of these activities represent additional staff time. In addition, there are some external costs associated with rulemaking related to travel, information distribution, meeting logistics, public notices and similar administrative costs. These typically would not exceed $20,000 and will be absorbed with existing resources.[195]

Successful implementation of the NEEPP would require continued funding of DEP's watershed management program and technical and financial assistance for implementation of agricultural and nonagricultural BMPs.[196]

DEP has requested funding in its FY 2016-17 Legislative Budget Request that could be used to support implementation of this section and other sections of the bill: $9.4 million in nonrecurring LATF for TMDLs, $25 million in nonrecurring LATF for BMAP restoration projects, and $17 million ($5 million LATF, $12 million Federal Grants Trust Fund) for nonpoint source management planning grants. It is expected that funding of these issues will be addressed in the House proposed FY 2016-17 GAA.

Sections 22-29

According to DEP, the costs associated with implementing the Florida Springs and Aquifer Protection Act created in the bill cannot accurately be quantified. The DEP requirements in the bill are nominally the same as those already required under s. 403.067, F.S. These requirements include assessment of water quality, adoption of TMDLs, and adoption of BMAPs. It does not appear that significant additional expenditures would be required beyond those resulting from the requirements in current law.[197]

However, the bill proposes to expedite the pace at which DEP workload investments would have to be made based on the deadlines and timeframes for adopting new BMAPs or revising existing BMAPs for OFS. These deadlines do not exist in s. 403.067, F.S. DEP would absorb the workload with existing staff.[198]

There are also external costs associated with rulemaking related to travel, information distribution, meeting logistics, public notices and similar administrative costs. These typically would not exceed $20,000 and will be absorbed with existing resources.[199]

DEP has requested $49 million in its FY 2016-17 Legislative Budget Request that could be used to support implementation of these sections of the bill. The request includes $18.1 million in nonrecurring funds from the LATF for springs restoration. This is in addition to the recurring $31.9 million ($1.9 million General Revenue and $30 million LATF) for springs restoration. It is expected that funding of these issues will be addressed in the House proposed FY 2016-17 GAA.

Sections 30 and 35

According to DEP, additional expenditures related to surface water classification are not expected in the short term as DEP has already invested staff resources in the background work where reclassification to Class I (potable water use) is required by federal regulations. Those waterbodies are City of Port St. Joe Freshwater Canal, Tampa Bypass Canal, Alafia River, Peace River, Caloosahatchee River, Marco Lakes and Taylor Creek Reservoir. The costs associated with rulemaking to adopt the reclassification would be managed with existing resources, including travel, information distribution, meeting logistics, public notices and similar administrative costs. The extent to which the legislative direction for a new treated potable water classification would require

[194] *Id.*
[195] *Id.*
[196] *Id.*
[197] *Id.*
[198] *Id.*
[199] *Id.*

additional workload investments is unknown because future candidates for the new classification cannot be predicted.[200]

Section 37

DEP estimates it will need 2 Other Personal Services (OPS) positions and related expenses for the purposes of developing a comprehensive and accurate feasibility study to encompass the scope of requirements for the web-based, interactive map of all watersheds and water bodies within those watersheds. It is expected that this funding will be addressed in the House proposed FY 2016-17 GAA. Other costs associated with the feasibility study will be absorbed within existing resources.[201]

Category/Description	OPS	Recurring	Nonrecurring	Total Costs
Other Personal Services	2.0		127,700	127,700
Expense Category (Travel and Computers)			8,000	8,000
Total	**2.0**		**135,700**	**135,700**

DACS[202]

According to DACS, the Office of Agricultural Water Policy within DACS is currently engaged in many of the activities listed in this bill regarding water supply planning and conservation, NEEP, and springs protection. DACS has the following Legislative Budget Request issues to support these activities:

- $655,149 recurring and $257,115 nonrecurring from the LATF for 8 FTE within the Office Agricultural Water Policy to assist with BMP enrollment and compliance monitoring statewide, including the Northern Everglades and springsheds;
- $7 million recurring funds from the LATF to continue developing and implementing agricultural BMPs statewide, including the Northern Everglades and springsheds;
- $15 million nonrecurring funds from the LATF for large scale nutrient reduction and water retention projects in the Lake Okeechobee watershed;
- $1.5 million nonrecurring General Revenue funding to provide important agricultural water use data to the various WMDs for inclusion in their RWSPs. Additionally, this funding supports important water conservation efforts, including the statewide mobile irrigation labs; and
- $1.4 million nonrecurring funds from the General Inspection Trust Fund for partnership agreements with the WMDs and soil and water conservation districts for activities and projects that will expedite and facilitate BMP development and implementation.

It is expected that funding of these issues will be addressed in the House proposed FY 2016-17 GAA.

Costs associated with rulemaking, rule revisions, and interagency cooperation and coordination are expected to be minimal and will be addressed within existing resources.

EDR

The bill will have a significant negative fiscal impact on EDR because it will require staff to develop the annual assessment of Florida's water resources and conservation lands. It is estimated that

[200] *Id.*
[201] *Id.*
[202] Email from Stormie Knight, Senior Management Analyst, DACS, on file with the Agriculture & Natural Resources Appropriations Subcommittee; DACS Analysis – HB 7005 (Nov. 6, 2015).

EDR will need a recurring $200,000 for the annual assessment. It is expected that this funding will be provided in the House proposed FY 2016-17 GAA.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Section 1

According to DEP, federal and local usage data on conservation lands will have to be derived or acquired.[203] The cost to the local governments choosing to provide the data is indeterminate. The staff workload is likely to increase until the conservation lands owned by local governments are provided.[204]

Sections 22-29

According to DEP, the potential local government expenditures associated with the springs elements of the bill are indeterminate.[205]

There are no costs to local governments for the development of MFLs required by Section 26. The costs of local MFL implementation are indeterminate until after MFLs are established and, where necessary, recovery strategies are determined. These strategies would be developed in conjunction with local governments in the areas.[206]
Most costs related to water quality protection and restoration required of local governments in Section 27 are nominally the same as those that would already be required under existing s. 403.067, F.S., implementation of local BMAPs. However, some additional local investments would be necessary to participate in the preparation of an OSTDS remediation plan and implementation of the fertilizer ordinance required in Section 27, to the extent affected local governments are not already addressing these issues. A potential cost, indeterminate until after completion of an OSTDS remediation plan, if necessary, would be implementation once the plan is incorporated into a BMAP. The current estimated costs of OSTDS that could meet the water quality requirements associated with the legislation range from $15,000 - $20,000 each; connection to a central sewer system ranges from $3,000 - $30,000 per connection depending on circumstances (existing infrastructure, proximity, required treatment level, etc.). Total potential costs are indeterminate and would depend on the nature and scale of remediation, the number of affected properties, the difficulty of building collection and transmission systems, availability of wastewater treatment facilities and other factors. No remediation funds are made available through the legislation. Some existing funding sources for such work from agency programs, such as DEP's State Revolving Fund low-interest loan program, are available and the financing (borrowing) market would be available to certain communities. Grant funds—the sources of money local governments seek first—are limited.[207]

Some costs could accrue to local governments because of the prohibitions associated with OFS priority focus areas in Section 28. The prohibitions on certain new facilities or activities would only

[203] DEP Analysis – HB 7005 (Nov. 9, 2015).
[204] *Id.*
[205] *Id.*
[206] *Id.*
[207] *Id.*

be incurred should a local government intend to propose the facilities, which is an unknown at this point.[208]

Sections 30 and 35

With respect to the treated potable water supply classification in Sections 30 and 35, less stringent criteria for the surface water supply could require somewhat more expensive treatment by potable water systems using that source water. Whether the need for those expenditures would violate the terms of the legislation would depend on the operational interpretation of a "significant alteration of permitted treatment processes" characterized in Section 30.[209]

The classification "treated potable water supply" would have less stringent criteria than the current "potable water supply classification." This means wastewater discharges to the surface water supply could potentially be treated less rigorously. Since the bill would effectively require reclassification to the less stringent criteria, then potable water systems that withdraw source water from the reclassified surface water might have to upgrade their treatment to meet drinking water criteria. For existing systems, this would involve expenditure over and above what they've already invested. For new systems, this would mean an investment over and above what they would previously have had to make.[210]

Section 36

This section requires EDR to conduct an annual assessment of Florida's water resources and conservation lands. The vast quantity of information required to fulfil this requirement does not exist in any single repository, but is widely dispersed. A significant share of information gathering will be performed by local government agencies and special districts, which are required to assist EDR related to their respective areas of expertise, and to make data accessible. Florida has 67 counties and, according to the Florida League of Cities, 410 municipal governments. According to the Florida Department of Economic Opportunity, there are more than 1,650 special districts, which are generally characterized as structurally most similar to local governments. The workload on any one of these more than 2,100 individual entities is unknown, but, at a minimum, would require the involvement of local staff in a variety of departments and involve many hours to accomplish. It is also unclear whether new data systems might have to be built to collect, organize, validate and supply the information on an ongoing annual basis.[211]

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Sections 2 and 14

The bill appears to have a positive economic impact on the private sector by amending the definition of "water resource development" to include self-suppliers as an entity that may receive technical assistance related to water resource development, as long as such assistance promotes the policies set forth in s. 373.016, F.S. In addition, the bill authorizes public-private partnerships for groundwater recharge on private agricultural lands, which should have a positive fiscal impact on the private sector.

Section 10

The requirement for certain CUP permittees to monitor and report water usage to applicable WMDs could result in a negative fiscal impact to those permittees. According to the WMDs,[212] the cost is variable based on well size and whether any modifications to the piping needs to occur to get an

[208] *Id.*
[209] *Id.*
[210] *Id.*
[211] *Id.*

accurate meter reading due to horizontal versus turbulent flow conditions in the piping. Monitoring costs will also vary by site, number of wells, and whether the pump is run by diesel or three-phased power and the type of monitoring device used. The estimated cost of equipment installation could cost between $500 and $3,000 per well. The cost of monitoring could range between $500 and $1,000 per well, per year.[213]

Sections 22-29

The costs associated with the springs elements of the bill are indeterminate. There are no costs to the private sector for the development of MFLs. The costs of local MFL implementation are indeterminate until after MFLs are established and, where necessary, recovery or prevention strategies are determined. These strategies would be developed in conjunction with local stakeholders in the areas. Most costs related to water quality protection and restoration required of the private sector, including the agricultural industry, are nominally the same as those that would be required under existing s. 403.067, F.S., regarding the implementation of local BMAPs. The fiscal impact to homeowners for OSTDS remediation is indeterminate. However, homeowners that need to upgrade OSTDSs would likely see a negative fiscal impact. Homeowners that are currently using OSTDSs that are switched to a central sewer system will have to start paying utility fees for that service.[214] (See Fiscal Impact on Local Governments, Expenditures, Sections 22-29 for more details).

The bill appears to have an indeterminate negative economic impact on the private sector by prohibiting certain activities within a priority focus area of an OFS.

Sections 30 and 35

Indeterminate. An unpredictable increase in costs could accrue to certain privately owned drinking water systems in the future if they propose to withdraw source water from a surface water that is not classified as a potable water supply and which, by definition, would then have to be classified as a "treated potable water supply," with less stringent criteria than a "potable water supply." While not likely given current water quality conditions, less stringent criteria could require somewhat more expensive treatment, depending on the operational interpretation of a "significant" alteration of permitted treatment processes.[215]

D. FISCAL COMMENTS:

None.

[212] Email from Jack Furney, Deputy Director – Office of Water Policy, DEP, RE: Water Use Monitoring (Nov. 16, 2015), on file with the Agriculture & Natural Resources Appropriations Subcommittee.
[213] *Id.*
[214] DEP Analysis – HB 7005 (Nov. 9, 2015).
[215] *Id.*