

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

BILL: SB 1308

INTRODUCER: Senator Perry

SUBJECT: Environmental Regulation

DATE: January 19, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Rogers</u>	<u>EP</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AEN</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1308 provides that when a water management district (WMD) evaluates a consumptive use permit (CUP), impact offsets may be created if the applicant proposes reclaimed water use to:

- Prevent or stop further saltwater intrusion;
- Raise aquifer levels;
- Improve the water quality of an aquifer; or
- Augment surface water to increase the quantity of water available for water supply.

The bill requires the Department of Environmental Protection (DEP) to develop criteria as part of the water resource implementation rule for the application of an impact offset or a substitution credit to a CUP or to a minimum flows and levels recovery or prevention strategy. The bill requires DEP and the WMDs to enter into a memorandum of agreement no later than December 1, 2018, providing for a coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a consumptive use permit.

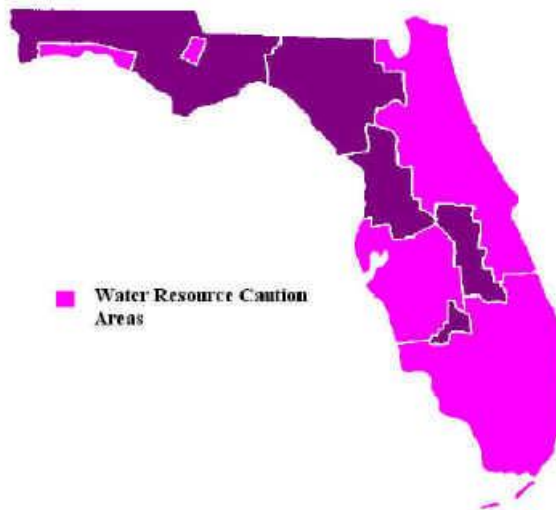
The bill defines the term “contaminated recyclable material” to mean recyclable material having 15 percent or more, measured by weight or volume, of municipal solid waste or nonrecyclable material comingled with recyclable material. The bill prohibits a county or municipality from requiring the recycling of contaminated recyclable material and provides that a county, municipality, or recyclable material contractor is not required to collect, transport, or process contaminated recyclable material, except for certain grandfathered contracts until July 1, 2023.

The bill revises the exemption from the requirement to obtain an environmental resource permit (ERP) for the replacement or repair of an existing dock or pier so long as it is in approximately the same location and no larger in size than the existing dock or pier and no additional aquatic resources are adversely or permanently impacted. The bill also prevents a local government from requiring further verification from DEP for all of the activities and projects exempted from ERP requirements.

II. Present Situation:

Water Supply and Constraints

By 2030, Florida's population is estimated to reach 23,609,000 – almost a 26 percent increase over 2010.¹ Fresh water demand is projected to reach 7.7 billion gallons per day by 2030, an additional 1.3 billion gallons more than the water use for the state in 2010.² In Florida, groundwater accounts for about 90 percent of public and domestic water supply.³ The major source of groundwater supply in Florida is the Floridan Aquifer System, which underlies the entire state.⁴



Water Management Districts (WMDs) are required to ensure an adequate supply of water and water resources for all citizens and natural features, provide protection and improvement of natural systems and water quality, minimize harm to water resources, and promote the reuse of reclaimed water.⁵ The WMDs set minimum flows and minimum levels (MFLs) for surface waters and groundwater, respectively. The purpose of setting MFLs is to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.⁶ The WMDs regulate consumptive use of water through a permitting process.⁷ WMD governing boards are required to conduct regional water supply planning for areas where existing water sources are insufficient to meet projected 20-year demands while sustaining water resources and related natural systems. Those areas are also to be designated as Water

Resource Caution Areas. Chapter 62-40 of the Florida Administrative Code, requires the reuse of reclaimed water in these areas.⁸

Consumptive Use Permits (CUPs)

A consumptive use permit (CUP) establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the Department of Environmental Protection (DEP) and may not be harmful to the water resources of the area. To obtain a CUP, an

¹ Department of Environmental Protection (DEP), *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water*, 11 (December 1, 2015) available at <https://floridadep.gov/sites/default/files/SB536%20Final%20Report.pdf>.

² *Id.*

³ *Id.* at 14.

⁴ DEP, *Aquifers*, available at <https://fldep.dep.state.fl.us/swapp/Aquifer.asp#> (last visited January 16, 2018).

⁵ Section 373.036, F.S.

⁶ Section 373.042, F.S.

⁷ Section 373.219, F.S. Note that a water management district may not require a permit for the use of reclaimed water. Section 373.250 (3)(b), F.S.

⁸ *See also* s. 403.064(2), F.S.

applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as “the three-prong test.” Specifically, the proposed water use must:

- Be a “reasonable-beneficial use;”⁹
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.¹⁰

If two or more competing applications qualify equally, the applicable WMD or the DEP must give preference to a renewal application over an initial application.¹¹ If neither application is a renewal, preference is given to the applicant nearest the source.¹²

Reclaimed Water

Section 373.019(17), F.S., defines the term “reclaimed water” as “water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.” Water conservation and the promotion of reuse of reclaimed water have been established as formal state objectives in ss. 403.064 and 373.250, F.S. Florida tracks its reuse inventory in an annual report compiled by DEP.¹³ In 2016, a total of 478 domestic wastewater treatment facilities reported making reclaimed water available for reuse.¹⁴ The 760 million gallons per day (mgd) of reclaimed water use represents approximately 44 percent of the total domestic wastewater flow in the state.¹⁵ The 1,645 mgd of reuse capacity represents approximately 64 percent of the total domestic wastewater treatment capacity in the state.¹⁶ Reclaimed water from these systems was used to irrigate 397,750 residences, 574 golf courses, 1,053 parks, and 381 schools.¹⁷ Over 12,739 acres of edible crops on 65 farms were reported to be irrigated with reclaimed water.¹⁸ Approximately 43 wastewater treatment facilities do not provide reuse of any kind.¹⁹ Reclaimed water is a type of alternative water supply as defined in s. 373.019(1), F.S., and is eligible for alternative water supply funding.

Originally, water reuse was required only within water resource caution areas, unless such reuse was not economically, environmentally, or technically feasible as determined by a reuse feasibility study. Currently, ch. 62-40 of the Florida Administrative Code requires use of reclaimed water statewide. A domestic wastewater facility located within, discharging within, or serving a population within designated water resource caution areas is required to prepare a reuse

⁹ Section 373.019(16), F.S., defines reasonable-beneficial use as, “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.” *See also* Fla. Admin. Code R. 62-40.410(2) for additional factors to help determine if a water use is a reasonable-beneficial use.

¹⁰ Fla. Admin. Code R. 62-40.410(1).

¹¹ Section 373.233(2), F.S.

¹² *Id.*

¹³ DEP, *2016 Reuse Inventory*, available at https://floridadep.gov/sites/default/files/2016_reuse-report_0.pdf (last visited January 17, 2018); compiled from reports collected pursuant to Fla. Admin. Code R. Ch. 62-610 (note that this report tracks wastewater treatment facilities with permitted capacities of 0.1 million gallons per day or greater).

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 3.

¹⁶ *Id.*

¹⁷ *Id.* at 2.

¹⁸ *Id.*, noting that “[a]round 79 percent of the farmland was dedicated to the production of citrus (i.e., oranges, tangerines, grapefruit, etc.).”

¹⁹ *Id.* at 3.

feasibility study before receiving a domestic wastewater permit.²⁰ Section 403.064, F.S., provides that if the study shows that reuse is feasible, the permit applicant must give significant consideration to making reuse available.

Discharges of Reclaimed Water into Surface Waters

DEP may issue permits for backup discharges. A “backup discharge” is a surface water discharge that occurs as part of a functioning reuse system which has been permitted under DEP rules and which provides reclaimed water for irrigation of public access areas, residential properties, or edible food crops, or for industrial cooling or other acceptable reuse purposes. Backup discharges may occur during periods of reduced demand for reclaimed water in the reuse system. Backup discharges of reclaimed water meeting advanced water treatment standards are presumed to be allowable and are permitted in all waters in the state at a reasonably accessible point where such discharge results in minimal negative impact. Discharges of reclaimed water must meet applicable water quality standards.²¹

Impact Offsets and Substitution Credits

The water resource implementation rule (Florida Administrative Code Chapter 62-40), formerly known as the state water policy rule, is part of the Florida water plan and sets forth the goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives.²² DEP adopts changes or additions to the water resource implementation rule and has adopted a rule establishing criteria for the use of proposed impact offsets and substitution credits when a water management district evaluates applications for CUPs.²³ Substitution credits may be considered if a water management district has adopted rules establishing withdrawal limits from a specified water resource within a defined geographic area.

An impact offset is the use of reclaimed water to reduce or eliminate a harmful impact that has occurred or would otherwise occur as a result of other surface water or groundwater withdrawals. A substitution credit is the use of reclaimed water to replace all or a portion of an existing permitted use of resource-limited surface water or groundwater which then allows a different user or use to initiate a withdrawal or increase its withdrawal from the same resource-limited surface water or groundwater source.²⁴ CUP permit applicants may propose impact offsets or substitution credits as part of a permit application. The portion of a surface water or groundwater allocation made available by an impact offset will be based on the beneficial water resource impact provided by the impact offset project. The proposed withdrawal, after application of a substitution credit, must result in no net adverse impact on the limited water resource or create a net positive impact if required by district rule as part of a strategy to protect or recover a water resource.²⁵

²⁰ *Id.* at 20

²¹ Section 403.086, F.S.

²² Section 373.036(1), F.S.

²³ Fla. Admin. Code R. 62-40.416.

²⁴ Section 373.250(5), F.S.

²⁵ Fla. Admin. Code R. 62-40.416.

Ground Water Regulations

DEP regulates underground injection;²⁶ water well permitting;²⁷ water well construction;²⁸ source water and wellhead protection programs;²⁹ and ground water classes, standards, and monitoring.³⁰ DEP's Aquifer Protection Program is responsible for regulatory programs affecting ground water.³¹ DEP exercises regulatory authority over ground water quality under Chapter 62-520 of the Florida Administrative Code. In Florida, ground water standards are equivalent to the drinking water standards. By definition, a violation of any ground water standard or criterion constitutes pollution.³²

The Safe Drinking Water Act

The Safe Drinking Water Act (SDWA) is the federal law that protects public drinking water supplies throughout the nation.³³ Under the SDWA, the U.S. Environmental Protection Agency (EPA) sets standards for drinking water quality and, with its partners, implements various technical and financial programs to ensure drinking water safety.³⁴ Florida has the primary authority to implement the SDWA, having adopted a Florida SDWA that has been demonstrated to be at least as stringent as the federal law.³⁵ These statutes direct DEP to formulate and enforce rules pertaining to drinking water. The rules adopt the federal primary and secondary drinking water standards and create additional rules to fulfill state requirements. Drinking water standards are set out in ch. 62-550 of the Florida Administrative Code.

Local Government Solid Waste Responsibilities

The governing body of a county has the responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.³⁶ Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county. Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities. Each county must have a recyclable materials recycling program that has a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020.³⁷

²⁶ Fla. Admin. Code R. Ch. 62-528.

²⁷ Fla. Admin. Code R. Ch. 62-532.

²⁸ Fla. Admin. Code R. Chs. 62-531 (Water Well Contractors) and 62-532 (Water Well Permitting and Construction Requirements)

²⁹ Fla. Admin. Code R. Ch. 62-521.

³⁰ Fla. Admin. Code R. Ch. 62-520

³¹ DEP, *Aquifer Protection Program- UIC*, available at <https://floridadep.gov/water/aquifer-protection> (last visited January 19, 2018).

³² Florida Admin. Code s. 62-520.310.

³³ The Public Health Service Act, 42 U.S. ss. 300f to 300j-26 (2016).

³⁴ U.S. Environmental Protection Agency, *Summary of the Safe Water Drinking Act*, available at <https://www.epa.gov/laws-regulations/summary-safe-drinking-water-act> (last visited January 17, 2018).

³⁵ Sections 403.850-403.864, F.S.

³⁶ Section 403.706(1), F.S.

³⁷ Section 403.706(2), F.S.

Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs. Each county must implement a program for recycling construction and demolition debris. If the state's recycling rate is below 60 percent by January 1, 2017; below 70 percent by January 1, 2019; or below 75 percent by January 1, 2021, DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives. The report must identify those additional programs or statutory changes needed to achieve the state's recycling goals. The programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream prior to final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers;
- Aluminum cans;
- Steel cans;
- Glass;
- Plastic bottles;
- Cardboard;
- Office paper; and
- Yard trash.³⁸

Each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.³⁹

“Municipal solid waste” includes any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations.⁴⁰ DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to DEP that:

- The achievement of the goal would have an adverse effect on the financial obligations of the county that are directly related to the county's waste-to-energy facility; and
- The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.

The goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county's waste-to-energy facility.⁴¹

In the development and implementation of a curbside recyclable materials collection program, a county or municipality must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality. Local governments are authorized to enact ordinances that require and direct all residential properties, multifamily dwellings, and apartment complexes and industrial, commercial, and institutional

³⁸ Section 403.706(2)(f), F.S.

³⁹ Section 403.706(3), F.S.

⁴⁰ Section 403.706(5), F.S.

⁴¹ Section 403.706(6), F.S.

establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government. A market must exist for the recyclable materials and the local government must specifically intend for them to be recycled. Local governments are authorized to provide for the collection of the recyclable materials. Such ordinances may include, but are not limited to, provisions that prohibit any person from knowingly disposing of recyclable materials designated by the local government and that ensure the collection of recovered materials as necessary to protect public health and safety.⁴²

A local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or to a facility designated by the local government;
- Restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has registered with DEP; and
- Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.⁴³

Local governments may require a commercial establishment to source separate the recovered materials generated on the premises.⁴⁴

Florida's Recycling Goal

In recognition of the volume of waste generated by Floridians and visitors every year and the value of some of these discarded commodities, the Legislature set a goal to recycle at least 75 percent of the municipal solid waste that would otherwise be disposed of in waste management facilities, landfills, or incineration facilities by 2020.⁴⁵ DEP established several programs and initiatives to reach that goal. In 2015, Florida's recycling rate was 54 percent, meeting the 50 percent target rate specified in statute.⁴⁶

Florida achieved the interim recycling goals established for 2012 and 2014, but Florida's recycling rate for 2016 was 56 percent, falling short of the 2016 interim recycling goal of 60 percent. The current practices in Florida are not expected to significantly increase the recycling rate beyond the 56 percent rate. Without significant changes to Florida's current approach, the state's recycling rate will likely fall short of the 2020 goal of 75 percent.⁴⁷

DEP, in partnership with material recycling facilities (MRFs) across the state, has developed a statewide public education campaign, entitled "Rethink. Reset. Recycle." The campaign addresses the need to educate Florida residents on how to reduce single stream curbside

⁴² Section 403.706(21), F.S.

⁴³ Section 403.7046(3), F.S.

⁴⁴ Section 403.7046(3)(a), F.S.

⁴⁵ Section 403.7032, F.S.; DEP, *Florida and the 2020 75% Recycling Goal* (2017) 5

https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited January 17, 2018).

⁴⁶ DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited January 17, 2018).

⁴⁷ DEP, *Florida and the 2020 75% Recycling Goal* (2017) 5

https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited January 17, 2018).

recycling contamination. Plastic bags, cords, clothing and packaging are causing contamination problems that can shut down MRF operations and cause good loads of recyclables to become trash. The campaign also serves to remind Florida residents of the basics of curbside recycling: clean and dry aluminum and steel cans, plastic bottles and jugs and paper and cardboard. DEP is also working on the following recycling options:

- Evaluating the implications of shifting from a weight-based recycling goal to sustainable materials management processes;
- Researching the concept of moving from a weight-based recycling goal of 75 percent by 2020, to market specific goals such as a food diversion goal or an organics recycling goal;
- Engaging Florida's state universities and the Florida Department of Education to review potential K-12 curriculum programs emphasizing waste reduction and recycling practices;
- Continuing to work with state agencies to identify recycling/cost saving measures specific to their operations; and
- Providing counties not achieving the 2016 interim recycling goal with assistance in analyzing, planning and executing opportunities to increase recycling.⁴⁸

A number of counties and municipalities have instituted single stream recycling programs. Single stream recycling programs allow all accepted recyclables to be placed in a single, curbside recycling cart, comingling materials from paper and plastic bottles to metal cans and glass containers. Single stream recycling programs have been marginally successful in providing curbside collection efficiency by increasing the amount of recyclables collected and residential participation. While there are many advantages to single stream recycling, it has not consistently yielded positive results for the recycling industry. The unexpected consequence of single stream recycling has been the collection of unwanted materials and poorly sorted recyclables, resulting in increased contamination originating in the curbside recycling cart.⁴⁹

Contamination hinders processing at MRFs when unwanted items are placed into recycling carts. Those items are often harmful to the automated equipment typically used to process and separate recyclable materials from single stream collections. While MRFs are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process resulting in additional sorting, processing, energy consumption, and other increased costs due to equipment downtime, repair or replacement costs and delays. In addition to increased recycling processing costs, contamination also results in poorer quality recyclables, and increased rejection and landfilling on unusable materials. Although some local governments have implemented successful single stream recycling programs with low contamination rates, contamination rates for other programs have continued to rise, in some case reaching contamination rates of more than 30-40 percent by weight.⁵⁰

Exceptions to Requirements for Environmental Permits

An environmental resource permit (ERP) is required, if a project exceeds certain thresholds, for surface water management systems and, more specifically, for the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems,

⁴⁸ *Id.* at 11.

⁴⁹ *Id.* at 13.

⁵⁰ *Id.*

dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on or over wetlands or other surface waters).⁵¹ However, for a number of low impact activities and projects that are narrow in scope, an environmental permit under state law is not required.⁵² Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to an agency.⁵³ Activities exempted from an ERP are varied and include the installation of overhead transmission lines, installation and maintenance of boat ramps, work on sea walls and mooring pilings, swales, and foot bridges, the removal of aquatic plants, construction of floating vessel platforms, and work on county roads and bridges, among many others.⁵⁴ Included among activities exempt from the requirement to obtain a permit is the replacement or repair of existing docks and piers, if fill material is not used and the replacement or repaired dock or pier is in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired.⁵⁵ Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity.⁵⁶

III. Effect of Proposed Changes:

Impact Offsets and Substitution Credits

SB 1308 provides that when a water management district (WMD) evaluates a consumptive use permit (CUP), impact offsets may be created if the applicant proposes reclaimed water use to:

- Prevent or stop further saltwater intrusion;
- Raise aquifer levels;
- Improve the water quality of an aquifer; or
- Augment surface water to increase the quantity of water available for water supply.

The bill requires the water resource implementation rule to include criteria for the application of an impact offset or a substitution credit to a consumptive use permit or to a minimum flows and levels recovery or prevention strategy.

Memorandum of Agreement

The bill includes a legislative finding that reuse through aquifer recharge is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems. The bill requires the Department of Environmental Protection (DEP) and the WMDs to develop and enter into a memorandum of agreement (MOA) no later than December 1, 2018 providing for a coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a consumptive use permit. The MOA must provide that the coordinated review is performed only if the applicant for such permits requests a

⁵¹ Fla. Admin. Code R. 62-330.010.

⁵² Section 403.813, F.S.

⁵³ Fla. Admin. Code R. 62-330.50.

⁵⁴ Section 403.813, F.S., Fla. Admin. Code R. 62-330.051.

⁵⁵ Section 403.813(1)(d), F.S.

⁵⁶ Section 403.813(1), F.S.

coordinated review. The goal of the coordinated review is to share information, avoid the need for an applicant to submit redundant information, and ensure, to the extent feasible, a harmonized review of the reclaimed water project under these various permitting programs, including the use of a proposed impact offset or substitution credit.

Contaminated Recyclable Material

The bill amends provisions addressing local government solid waste responsibilities. It defines the term “contaminated recyclable material” to mean recyclable material having 15 percent or more, measured by weight or volume, of municipal solid waste or nonrecyclable material comingled with recyclable material. The bill prohibits a county or municipality from requiring the recycling of contaminated recyclable material and provides that a county, municipality, or recyclable material contractor is not required to collect, transport, or process contaminated recyclable material. The new language grandfathers contracts between a county or municipality and a recyclable material contractor that includes stated terms allowing contamination percentages of 15 percent or more and is executed before the effective date of this act. This exclusion continues until the remaining term of the existing contract expires or until July 1, 2023, whichever occurs first.

ERP Exemptions for Repair or Replacement of Existing Docks or Piers/Verification from DEP

The bill revises the ERP exemption for the repair or replacement of existing docks and piers. Existing law requires the replaced or repaired dock or pier to be in the same location and of the same configuration and dimensions as the deck or pier being replaced or repaired. The bill provides that, in order to be exempt from permitting, the replaced or repaired dock or pier must be in approximately the same location and no larger in size than the existing dock or pier. It also requires that no additional aquatic resources be adversely and permanently impacted by the replacement or repair. The bill provides that for all of the activities and projects excluded from the requirement to obtain a permit, a local government may not require further verification from DEP.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 3 of the bill contains provisions that could apply to certain contracts after the expiration of an exclusion in the bill on July 1, 2023. This may have an effect on the obligation of a contract. Article I, Section 10, of the Florida Constitution provides, in relevant part, “[n]o . . . law impairing the obligation of contracts shall be passed.” Laws that burden or impair contracts are subject to constitutional challenge.⁵⁷

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The bill may have an indeterminate fiscal effect on local government recycling and waste removal services.

The bill may have an indeterminate, negative fiscal impact on DEP as a result of the costs of rulemaking to develop criteria for use of impact offsets or substitution credits. The bill may also have indeterminate negative fiscal impacts on DEP and the WMDs as a result of the costs of developing an MOA for a coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a consumptive use permit.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 373.250, 403.064, 403.706, and 403.813 of the Florida Statutes.

⁵⁷ *In re Advisory Op. to the Governor*, 509 So.2d 292 (Fla. 1987); *Daytona Beach Racing & Recreational Facilities Dist. v. Volusia Cnty.*, 372 So.2d 419 (Fla. 1979); *Dewberry v. Auto Owners Ins. Co.*, 363 So.2d 1077 (Fla. 1978).

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
