

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 670

INTRODUCER: Senators Baxley and Bradley

SUBJECT: Ratification of Rules of the St. Johns River Water Management District

DATE: February 6, 2018

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Rogers</u>	<u>EP</u>	<b>Favorable</b>
2.	<u>Mitchell</u>	<u>Phelps</u>	<u>RC</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 670 ratifies Florida Administrative Code Rule 40C-2.101, which adds regulatory measures for Silver Springs to the Consumptive Use Permit Applicant’s Handbook. These measures are a component of the Silver Springs prevention strategy to ensure that flows and levels within Silver Springs do not fall below the recently adopted minimum flows and levels (MFLs) during the next 20 years.

**II. Present Situation:**

**Florida’s Springs**

Florida’s springs are unique and beautiful resources. The historically crystal clear waters provide not only a variety of recreational opportunities and habitats, but also great economic value for recreation and tourism. Springs are major sources of stream flow in a number of rivers such as the Rainbow, Chassahowitzka, Homosassa, and Ichetucknee.<sup>1</sup> Additionally, Florida’s springs provide a “window” into the Floridan aquifer system, which provides most of the state’s drinking water.

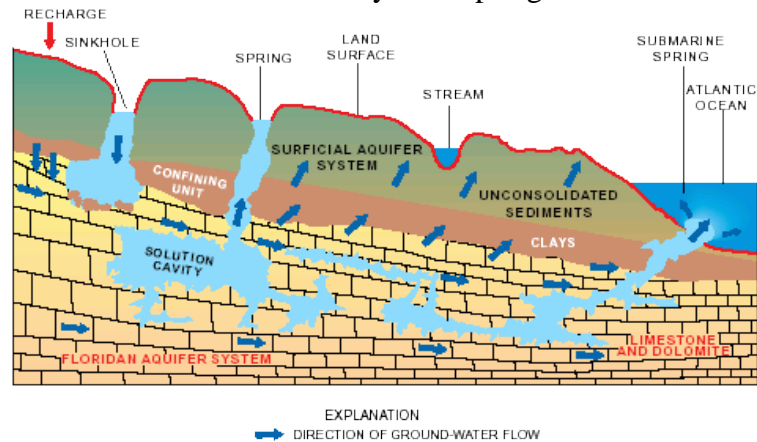
The Floridan aquifer system is a limestone aquifer that has enormous freshwater storage and transmission capacity. The upper portion of the aquifer consists of thick carbonate rocks that have been heavily eroded and covered with unconsolidated sand and clay. The surficial aquifer is located within the sand deposits and forms the land surface that is present today. In portions of Florida, the surficial aquifer lies on top of deep layers of clay sediments that prevent the downward movement of water. Springs form when groundwater is forced out through natural openings in the ground.<sup>2</sup>

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<sup>1</sup> Department of Community Affairs, *Protecting Florida’s Springs: An Implementation Guidebook*, 3-1 (Feb. 2008), available at <http://www.sarasota.wateratlas.usf.edu/upload/documents/Protecting-Floridas-Springs-Implementation-Guidebook.pdf> (last visited December 19, 2017).

<sup>2</sup> *Id.* at 3-1 to 3-2.

### The Water Cycle – Springs<sup>3</sup>



Florida has more than 700 recognized springs, categorized by flow in cubic feet per second. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily from the Floridan aquifer, are used to determine groundwater quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to groundwater chemistry.<sup>4</sup>

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

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

- Land-use management and zoning regulations adopted by county or municipal government;
- Adoption of best management practices (BMPs);
- Educating the public concerning environmental sensitivity; and
- Regulatory action, if necessary.<sup>5</sup>

<sup>3</sup> EPA, *The Water Cycle: Springs*, available at <http://water.usgs.gov/edu/watercyclesprings.html> (last visited November 17, 2017).

<sup>4</sup> Florida Geological Survey, *Springs of Florida Bulletin No. 66*, available at [http://publicfiles.dep.state.fl.us/FGS/FGS\\_Publications/B/B66\\_2004.pdf](http://publicfiles.dep.state.fl.us/FGS/FGS_Publications/B/B66_2004.pdf) (last visited January 4, 2018).

<sup>5</sup> Upchurch, S.B. and Champion, K.M., *Delineation of Spring Protection Areas at Five, First-Magnitude Springs in North-Central Florida (Draft)*, 1 (Apr. 28, 2004), available at [www.waterinstitute.ufl.edu/suwannee-hydro-observ/pdf/delineation-of-spring-protection-zones.pdf](http://www.waterinstitute.ufl.edu/suwannee-hydro-observ/pdf/delineation-of-spring-protection-zones.pdf) (last visited November 17, 2017). See also chs. 373 and 403, Florida Statutes (F.S.)

## Minimum Flows and Levels (MFLs)

MFLs are established for waterbodies in order to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.<sup>6</sup> MFLs are typically determined based on evaluations of natural seasonal fluctuations in water flows or levels, nonconsumptive uses, and environmental values associated with coastal, estuarine, riverine, spring, aquatic, wetlands ecology, and other pertinent information associated with the water resource.<sup>7</sup> MFLs take into account the ability of wetlands and aquatic communities to adjust to changes in hydrologic conditions and allow for an acceptable level of hydrologic change to occur. When uses of water resources shift the hydrologic conditions below levels defined by MFLs, significant ecological harm can occur.<sup>8</sup> The goal of establishing an MFL is to ensure that there is enough water to satisfy the consumptive use of the water resource without causing significant harm to the resource.<sup>9</sup> Consumptive uses of water draw down water levels and reduce pressure in the aquifer.<sup>10</sup> By establishing MFLs for non-consumptive uses, the WMDs are able to determine how much water is available for consumptive use. This is useful when evaluating new or renewal consumptive use permit (CUP) applications.<sup>11</sup>

While the DEP has the authority to adopt MFLs under ch. 373, Florida Statutes (F.S.), the WMDs have the primary responsibility for MFL adoption. The WMDs submit annual MFL priority lists and schedules to the DEP for review and approval. MFLs are calculated using the best information available,<sup>12</sup> are considered rules by the WMDs, and are subject to challenge under the Florida Administrative Procedures Act, ch. 120, F.S.<sup>13</sup> MFLs are subject to independent scientific peer review at the election of the DEP, a WMD, or, if requested, by a third party.<sup>14</sup>

MFLs inform decisions affecting permit applications, declarations of water shortages, and assessments of water supply sources. Computer water budget models for surface waters and groundwater are used to evaluate the effects of existing and proposed consumptive uses and the likelihood they might cause significant harm. The WMD governing boards are required to expeditiously implement recovery or prevention strategies in those cases where a waterbody or watercourse currently does not or is anticipated to not meet an adopted MFL.<sup>15</sup> If the existing flow or water level in a waterbody is below, or is projected to fall within 20 years below, the applicable minimum flow or water level, the DEP or WMD must expeditiously implement a

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<sup>6</sup> Section 373.042, F.S.

<sup>7</sup> Fla. Admin. Code R. 62-40.473(1).

<sup>8</sup> St. Johns River Water Management District (SJRWMD), *Water Supply: An Overview of Minimum Flows and Levels*, available at <http://www.sjrwmd.com/minimumflowsandlevels/> (last visited November 17, 2017).

<sup>9</sup> Department of Environmental Protection (DEP), *Minimum Flows and Minimum Water Levels and Reservations*, available at <https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations> (last visited January 4, 2018).

<sup>10</sup> Department of Community Affairs, *Protecting Florida's Springs: An Implementation Guidebook*, 3-5 (Feb. 2008), available at <http://www.sarasota.wateratlas.usf.edu/upload/documents/Protecting-Floridas-Springs-Implementation-Guidebook.pdf> (last visited December 19, 2017).

<sup>11</sup> SJRWMD, *Minimum flows and levels*, available at <https://www.sjrwmd.com/minimumflowsandlevels/#faq> (last visited January 4, 2018).

<sup>12</sup> Section 373.042(1), F.S.

<sup>13</sup> Section 373.042(6), F.S.

<sup>14</sup> Section 373.042(5)(a), F.S.

<sup>15</sup> Section 373.0421(2), F.S.

recovery or prevention strategy.<sup>16</sup> Recovery or prevention strategies include a phased-in approach or timetable that allows for the development of sufficient water supplies for all existing and projected reasonable-beneficial uses. The strategy also includes development of additional water supplies and implementation of conservation strategies, the use of impact offsets, and other efficiency measures to accommodate withdrawals.<sup>17</sup>

### **Consumptive Use Permits (CUPs)**

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

- Be a “reasonable-beneficial use”;<sup>18</sup>
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.<sup>19</sup>

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 and if neither are renewal applications, preference must be given to the application where the source is nearest to the area of use or application.<sup>20</sup>

### **Alternative Water Supply Development**

One of the ways water demands can be met is through the development of alternative water supplies (AWS).<sup>21</sup> Alternative water supplies include:

- Salt water;
- Brackish surface water and groundwater;
- 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 a nontraditional source for a water supply planning region in a regional water supply plan.<sup>22</sup>

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<sup>16</sup> Section 373.0421, F.S. See also Fla. Admin. Code R. 62-40.473 (2013).

<sup>17</sup> *Id.*

<sup>18</sup> 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.

<sup>19</sup> Section 373.223(1), F.S.

<sup>20</sup> Section 373.233(2), F.S.

<sup>21</sup> Sections 373.707(1)(a)-(b) and 373.1961(2)(a), F.S.

<sup>22</sup> Section 373.019(1), F.S.

Funding for the development of AWSs is a shared responsibility between water suppliers and users, the state, and the WMDs.<sup>23</sup> Water suppliers and users have the primary responsibility for providing funding, while the state and WMDs have the responsibility to provide funding assistance.<sup>24</sup>

AWS development projects may receive state funding through specific appropriation or through the Water Protection and Sustainability Program (WPSP).<sup>25</sup> Applicants for projects that receive funding through the WPSP are required to pay at least 60 percent of the project's construction costs.<sup>26</sup> 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.<sup>27</sup>

### **Regional Water Supply Planning**

WMDs are required to conduct water supply needs assessments. If the assessment determines that existing resources will not be sufficient to meet reasonable-beneficial uses for the planning period for a particular water supply planning region, it must prepare a regional water supply plan.<sup>28</sup> Regional water supply plans must be based on at least a 20-year planning period and must include:

- A water supply development component;
- A water resource development component;
- A recovery and prevention strategy;
- A funding strategy;
- Consideration of how water supply development projects serve the public interest or save costs;
- Technical data and information;
- Any MFLs established for the planning region;
- The water resources for which future MFLs must be developed; and
- An analysis of where variances may be used to create water supply development or water resource development projects.<sup>29</sup>

### **The Prevention Strategy for the Implementation of Silver Springs Minimum Flows and Levels (Strategy)**

In 2016, the Legislature passed Senate Bill 552 which defined "Outstanding Florida Springs"(OFS) to include all historic first magnitude springs, and their associated spring runs, as determined by DEP using the most recent version of the Florida Geological Survey's springs bulletin.<sup>30</sup> The bill required WMDs, by July 1, 2017, to adopt MFLs for all OFSs for which an

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<sup>23</sup> Section 373.707(2)(c), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 373.707(1)(d), and (6), F.S.

<sup>26</sup> Section 373.707(8)(e), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Section 373.709(1), F.S.

<sup>29</sup> Section 373.709(2), F.S.

<sup>30</sup> Section 373.802(4), F.S.

MFL had not yet been adopted.<sup>31</sup> Senate Bill 552 also directed either a WMD or DEP to adopt a recovery or prevention strategy concurrently with the adoption of an MFL for an OFS, if it is below, or projected within 20 years to fall below, the MFL.<sup>32</sup> Additionally, the bill provided minimum requirements for recovery and prevention strategies for OFSs.<sup>33</sup>

Silver Springs, located in Marion County and within the boundaries of the St. Johns River Water Management District (SJRWMD), is a first magnitude spring<sup>34</sup> and is designated as an OFS. The SJRWMD evaluated the recommended MFLs for Silver Springs based on current and projected water use conditions. It was determined that the MFLs are currently being met, but will not be achieved over the next 20 years, triggering the requirement for a prevention strategy.<sup>35</sup> In its Prevention Strategy for the Implementation of Silver Springs Minimum Flows and Levels (Strategy), the district concluded that, based on current projections and permitted allocations, the sustainable groundwater yield (SGY)<sup>36</sup> of the SJRWMD-portion of Marion County will be exceeded between 2025 and 2026.<sup>37</sup>

Consistent with the provisions for establishing and implementing MFLs provided for in section 373.0421, F.S., the Strategy identifies a suite of projects and measures that, when implemented, prevents the Silver Springs MFLs from being violated due to consumptive uses of water, while simultaneously providing sufficient water supplies for all existing and projected reasonable beneficial uses.<sup>38</sup>

The objective of the Strategy is to ensure that flows and levels within Silver Springs do not fall below adopted MFLs during the next 20 years. In order to achieve this objective, the Strategy establishes and maintains groundwater withdrawals at or below the SGY through:

- Water conservation and water supply development projects; or
- By mitigating the impact of groundwater withdrawals on Silver Springs through water resource development projects.<sup>39</sup>

To meet the statutory requirements<sup>40</sup> of an OFS prevention strategy, the Strategy contains the following information:

- A listing of all specific projects and measures identified for implementation of the strategy;
- A priority listing of each project;
- The estimated cost and date of completion for each project;

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<sup>31</sup> Section 373.042(2)(a), F.S.

<sup>32</sup> Section 373.805(1), F.S.

<sup>33</sup> Section 373.805(4), F.S.

<sup>34</sup> Section 373.802(4), F.S.

<sup>35</sup> SJRWMD, *Prevention Strategy for the Implementation of Silver Springs Minimum Flows and Levels (Strategy)* (April 2017) 1, available at <https://www.sjrwmd.com/static/mfls/ssmfl/Silver-Springs-Prevention-Strategy.pdf> (last visited December 19, 2017).

<sup>36</sup> For purposes of this Strategy, the sustainable groundwater yield is defined as the quantity of groundwater from the Upper Floridan aquifer which can be withdrawn without causing significant harm to Silver Springs (i.e., violate its MFLs).

<sup>37</sup> SJRWMD, *Strategy* (April 2017) 6, available at <https://www.sjrwmd.com/static/mfls/ssmfl/Silver-Springs-Prevention-Strategy.pdf> (last visited December 19, 2017).

<sup>38</sup> *Id.* at 1.

<sup>39</sup> *Id.* at 2.

<sup>40</sup> Section 373.805(4), F.S.

- The source and amount of financial assistance offered by the SJRWMD;
- An estimate of each project’s benefit to the OFS; and
- An implementation plan to achieve the adopted MFLs.<sup>41</sup>

Groundwater withdrawals within Marion County contribute to the majority of the pumping-related impacts to Silver Springs. The Strategy focuses primarily on projects and measures within the county boundary where their benefits will be the greatest. The proposed projects and regulatory component listed within the Strategy provide assurance that the MFLs for Silver Springs will be achieved while meeting projected 2035 water use demand and permitted withdrawal quantities<sup>42</sup> (PQ). The projects outlined in the Strategy include the expansion of reclaimed water, aquifer recharge, and conversion from the upper Floridan aquifer (UFA) to the lower Floridan aquifer (LFA) as a primary source of water for a portion of public supply demands.<sup>43</sup> The table included below, taken from the Strategy,<sup>44</sup> depicts the estimated volume and flow benefits to Silver Springs from the four general measures to be employed to ensure that MFLs are maintained:

Table 5. Strategy projects and measures to achieve Silver Springs MFLs in 2035

Project/Measure	Est. Volume (mgd)	Est. Silver Springs Flow Benefit (cfs)	Est. Capital Cost (\$)	Implementation Priority
	Low / High	Low / High	Low / High	
Water Conservation	4.4 / 7.6	1.9 / 4.2	9.6M / 13.1M	1
Aquifer Recharge	2.9	1.4	8.0M	2
Ocala LFA Conversion	7.5	7.0	6.7M - 31.7M	3
Reclaimed water conversion	1.9*	0.5	3.2M	4
TOTAL	16.7 / 19.9	10.8 / 13.1	27.5M / 56.0M	

\* Total reclaimed water available in 2035 (less the 2.9 mgd planned for recharge). Actual groundwater offset is less.

**Prevention Strategy: Regulatory Component**

In addition to rules currently in place, the Strategy includes a regulatory component, which appears in a new Section 3.3.3 of the CUP Applicant’s Handbook (AH), which was adopted as a rule in 40C-2.101, Florida Administrative Code (the rule that would be ratified by this bill). The

<sup>41</sup> SJRWMD, *Strategy* (April 2017) 1, available at <https://www.sjrwmd.com/static/mfls/ssmfl/Silver-Springs-Prevention-Strategy.pdf> (last visited December 19, 2017).

<sup>42</sup> Permitted withdrawal quantities represents a groundwater model simulation where withdrawals are equal to the allocations authorized by existing consumptive use permits. Exceptions within the Northern District Groundwater Flow Model Version 5.0 include permitted agricultural allocations which were adjusted to better reflect average irrigation, and domestic self-supply (a use exempt from permitting) and subthreshold agricultural use (authorized via a general permit by rule), which were both estimated using 2035 projected demand.

<sup>43</sup> SJRWMD, *Strategy* (April 2017) 1, available at <https://www.sjrwmd.com/static/mfls/ssmfl/Silver-Springs-Prevention-Strategy.pdf> (last visited December 19, 2017).

<sup>44</sup> *Id.* at 8.

regulatory component of the Strategy will ensure that the MFL will not be violated by consumptive uses of water permitted by the SJRWMD. Specifically, the new rules will:

- Allow existing permitted uses to retain reasonable-beneficial groundwater allocations up to their demonstrated 2024 demand;
- Require potential impacts to Silver Springs to be offset for groundwater allocation requests greater than the demonstrated 2024 demand and for new uses;
- Define a series of opportunities for permittees to offset potential impacts by implementing alternative water supplies, impact offset projects, water resource development project participation, and the retiring of water use from existing CUPs;
- Authorize the inclusion of irrigation allocations for average climatic conditions in addition to drought conditions, for landscape, recreational, and agricultural irrigation CUPs; and
- Outline a process by which permittees can relocate existing permitted withdrawals to reduce impacts to Silver Springs.<sup>45</sup>

### ***Prevention Strategy: Nonregulatory Component***

The non-regulatory part of SJRWMD's Strategy includes a commitment by the SJRWMD to assist with two water supply development projects (Lower Floridan Aquifer Conversion and Wetland Recharge Park), which will reduce potential impacts to Silver Springs and make more groundwater available from the UFA. The SJRWMD is required to pay at least 25 percent of the total project costs for each of the projects identified in the non-regulatory part of the Strategy.<sup>46</sup> The SJRWMD's share of the cost of the Lower Floridan Conversion Project is estimated to be at least \$1.8 million. The SJRWMD's total costs for 25 percent of all Strategy projects (including non-regulatory projects) will be approximately \$14 million.<sup>47</sup> That significant commitment by the SJRWMD will result in lower costs for the regulated public to achieve the Silver Springs MFLs than if the SJRWMD did not commit to assisting both projects.<sup>48</sup>

### **Legislative Ratification of Agency Rules**

Pursuant to s. 120.541(3), F.S., the Legislature must ratify a rule that:

- Has an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule;
- Has an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule; or
- Increases regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.<sup>49</sup>

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<sup>45</sup> *Id.* at 14.

<sup>46</sup> Section 373.805(4)(d), F.S.

<sup>47</sup> SJRWMD, *Statement of Estimated Regulatory Costs (SERC)*, 5 (on file with the offices of the Senate Committee on Environmental Preservation and Conservation).

<sup>48</sup> *Id.* at 1.

<sup>49</sup> Section 120.541(2)(a), F.S.



If a rule requires ratification by the Legislature, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the regular legislative session. The rule may not go into effect until it is ratified by the Legislature.<sup>50</sup> Florida Administrative Code Rule 40C-2.101, amended to include the regulatory component of the Strategy in new Section 3.3.3 of the CUP AH, is a rule that requires ratification by the Legislature pursuant to s. 120.541(3), F.S.

A statement of estimated regulatory costs (SERC) is an analysis prepared by an agency before the adoption, amendment, or repeal of a rule other than an emergency rule. A SERC must include:

- An economic analysis showing whether the rule exceeds the thresholds requiring legislative ratification;
- A good faith estimate of the number and types of individuals and entities likely to be required to comply with the rule;
- A good faith estimate of the cost to the agency, and to other state and local government entities, of implementing and enforcing the proposed rule, including anticipated effects on state or local revenues;
- A good faith estimate of the transactional costs (direct business costs) likely to be incurred by individuals and entities required to comply with the requirements of the rule;
- An analysis of the impact on small businesses, small counties, and small cities; and
- A description of regulatory alternatives submitted to the agency and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.<sup>51</sup>

A SERC must be prepared by an agency for a proposed rule that:

- Will have an adverse impact on small business; or
- Is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in the state within 1 year after the implementation of the rule.<sup>52</sup>

The SJRWMD determined that a statement of estimated regulatory costs was required for Florida Administrative Code Rule 40C-2.101 and prepared one in advance of rule adoption. The SJRWMD found that the underlying rule that would be ratified by this bill will increase regulatory costs for water users who seek to increase their permitted use of groundwater from the UFA beyond their 2024 water demand. When an applicant seeks to increase its permitted water use from the UFA (which would include brand new users), it will incur higher costs for its additional water use within the Silver Springs area as compared to its existing permitted water use costs. The underlying rule will cause an adverse impact on some businesses who seek to increase their permitted water use beyond their 2024 water demand.<sup>53</sup>

It is projected that in the next five years the SJRWMD will receive a total of approximately 335 CUP applications affecting the minimum water flows and levels for Silver Springs in

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<sup>50</sup> Section 120.541(3), F.S.

<sup>51</sup> Section 120.541(2), F.S.

<sup>52</sup> Section 120.54(3)(b)1., F.S.

<sup>53</sup> SJRWMD, *SERC*, 2 (on file with the offices of the Senate Committee on Environmental Preservation and Conservation).

Florida Administrative Code Rule 40C-8.031(10). Out of those 335 CUP applications, the SJRWMD estimates that 46 CUP applicants will likely request an increase in permitted water use for which there will be an increased regulatory cost under Florida Administrative Code Rule 40C-2.101 (the rule SB 670 would ratify).<sup>54</sup> SJRWMD estimates \$5.42 million to \$27.17 million in total new one-time capital costs within five years of the implementation of the rule. SJRWMD estimates \$17.8 million in recurring costs over the same time period for a total cost of \$23.22 million to \$44.97 million.<sup>55</sup>

### III. Effect of Proposed Changes:

The bill ratifies Florida Administrative Code Rule 40C-2.101, entitled “Publications Incorporated by Reference” which is amended to add supplemental regulatory measures for Silver Springs to the Consumptive Use Permit Applicant’s Handbook. These measures are a component of the overall Strategy that attempt to ensure that flows and levels within Silver Springs do not fall below adopted MFLs during the next 20 years.

The bill also:

- Ratifies Florida Administrative Code Rule 40C-2.101, for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), F.S.;
- Requires the DEP to note its enactment and effective dates in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate;
- Does not alter rulemaking authority or constitute a legislative preemption of, or exception to, any other provision of law regarding adoption or enforcement of the rule; and
- Does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

The bill will take effect upon becoming a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>54</sup> *Id.* at 2.

<sup>55</sup> *Id.* at 3, 4.

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

None.

**B. Private Sector Impact:**

The underlying rule that would be ratified will increase regulatory costs for water users who seek to increase their permitted use of groundwater from the UFA beyond their 2024 water demand. When an applicant seeks to increase its permitted water use from the UFA (which would include brand new users), it will incur higher costs for its additional water use within the Silver Springs area as compared to its existing permitted water use costs. Thus, the underlying rule will cause an adverse impact on some businesses who seek to increase their permitted water use beyond their 2024 water demand.<sup>56</sup>

It is projected that in the next five years the SJRWMD will receive a total of approximately 335 CUP applications affecting the minimum water flows and levels for Silver Springs in Florida Administrative Code Rule 40C-8.031(10). Out of those 335 CUP applications, the SJRWMD estimates that 46 CUP applicants will likely request an increase in permitted water use for which there will be an increased regulatory cost under Florida Administrative Code Rule 40C-2.101 (the rule SB 670 would ratify).<sup>57</sup> SJRWMD estimates \$5.42 million to \$27.17 million in total new one-time capital costs within five years of the implementation of the rule. SJRWMD estimates \$17.8 million in recurring costs over the same time period for a total cost of \$23.22 million to \$44.97 million.<sup>58</sup>

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of Florida law.

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<sup>56</sup> SJRWMD, *SERC*, 2 (on file with the offices of the Senate Committee on Environmental Preservation and Conservation).

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 3, 4.

**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.

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

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