

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1091 Environmental Enforcement

**SPONSOR(S):** State Affairs Committee, Agriculture & Natural Resources Subcommittee, Fine and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1450

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	11 Y, 0 N, As CS	Melkun	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee	9 Y, 0 N	White	Pigott
3) State Affairs Committee	23 Y, 0 N, As CS	Melkun	Williamson

### SUMMARY ANALYSIS

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land. In accordance with the state's numerous environmental laws, DEP's responsibilities include compliance and enforcement. Violations of Florida's environmental laws can result in damages and administrative, civil, and criminal penalties. Several types of violations impose a penalty for each offense, with each day during which a violation occurs constituting a separate offense.

The bill increases various statutory penalties for violations of environmental laws. For certain violations, the bill specifies that each day during any portion of which the violation occurs constitutes a separate offense. The bill further specifies that each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense until the violation is resolved by order or judgment.

The bill may have a positive fiscal impact to state and local governments from increases in various statutory penalties for violations of environmental law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Environmental Violations

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land.<sup>1</sup> In accordance with the state's numerous environmental laws, DEP's responsibilities include compliance and enforcement.<sup>2</sup> Violations of Florida's environmental laws can result in damages and administrative, civil, and criminal penalties.

##### *Damages*

In environmental enforcement, damages should compensate the state for the value of the loss to natural resources caused by the violation.<sup>3</sup> DEP may institute a civil action in court or an administrative proceeding in the Division of Administrative Hearings (DOAH) to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.<sup>4</sup> Damages can cover the cost of remediating the damage done to the environment, and/or costs incurred by the state in responding to the damage, such as tracing the source, controlling and abating the source, and restoring the environmental resources to their former condition.<sup>5</sup>

##### *Penalties*

In addition to damages, a violator can be liable for penalties. Penalties differ from damages in that they are designed to punish the wrongdoer rather than to address the harm caused by the violation.<sup>6</sup> In environmental enforcement, penalties should create incentives to bring immediate compliance and curb future violations.<sup>7</sup> In current law, several types of violations impose a penalty for each offense, with each day during which a violation occurs constituting a separate offense.

Administrative penalties may be levied directly by DEP or in a proceeding in DOAH.<sup>8</sup> The formal administrative enforcement process is typically initiated by serving a notice of violation, and is finalized through entry of a consent order or final order.<sup>9</sup> In most administrative proceedings, DEP has the final decision.<sup>10</sup> An administrative law judge has the final decision for administrative proceedings involving the Environmental Litigation Reform Act (Reform Act), codified in s. 403.121, F.S., which is the primary statute addressing DEP's administrative penalties.<sup>11</sup> Compared to the judicial process, the administrative process is generally considered less expensive, faster, and more conducive to negotiated settlement.<sup>12</sup> However, if DEP is seeking immediate injunctive relief, which compels a party to act or stop acting, an order must be obtained from a court.<sup>13</sup>

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<sup>1</sup> DEP, *About DEP*, available at <https://floridadep.gov/about-dep> (last visited Jan. 27, 2020); s. 20.255, F.S.

<sup>2</sup> DEP, *Enforcement Manual: DEP Regulatory Enforcement Organization* (2017), available at <https://floridadep.gov/sites/default/files/Chapter%201%20October%202017.pdf> (last visited Jan. 27, 2020).

<sup>3</sup> DEP, *Enforcement Manual: Judicial Process and Remedies, Collections, and Bankruptcies* (2014), 89, available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (last visited Jan. 27, 2020).

<sup>4</sup> See s. 403.121, F.S.

<sup>5</sup> See ss. 403.121 and 403.141, F.S.

<sup>6</sup> See BLACK'S LAW DICTIONARY 1247 (9th ed. 2009).

<sup>7</sup> DEP, *Enforcement Manual: Judicial Process and Remedies, Collections, and Bankruptcies* (2014), 89, available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (last visited Jan. 27, 2020).

<sup>8</sup> See ch. 120, F.S. The administrative process is formalized in the Administrative Procedure Act.

<sup>9</sup> DEP, *Enforcement Manual: The Administrative Process and Remedies* (2014), 58, available at [https://floridadep.gov/sites/default/files/chapter5\\_0.pdf](https://floridadep.gov/sites/default/files/chapter5_0.pdf) (last visited Jan. 27, 2020).

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

<sup>11</sup> *Id.* at 58-59, 66-70; ch. 2001-258, Laws of Fla.

<sup>12</sup> DEP, *Enforcement Manual: The Administrative Process and Remedies* (2014), 59, available at [https://floridadep.gov/sites/default/files/chapter5\\_0.pdf](https://floridadep.gov/sites/default/files/chapter5_0.pdf) (last visited Jan. 27, 2020).

<sup>13</sup> *Id.* at 59-60.

DEP must proceed administratively when it seeks administrative penalties that do not exceed \$10,000 per assessment; DEP is prohibited from imposing administrative penalties in excess of \$10,000 in a single notice of violation.<sup>14</sup> DEP also may not have more than one notice of violation pending against a party unless the additional violation occurred at a different site or was discovered subsequent to the filing of a previous notice of violation.<sup>15</sup>

Civil penalties are noncriminal fines that are generally levied by a court, but certain agencies may impose them under certain circumstances. The Reform Act allows DEP to seek civil penalties of up to \$10,000 through the administrative process for most environmental violations.<sup>16</sup>

In state court, DEP may pursue two forms of action: a petition to enforce an order previously entered through the administrative process, or a complaint for violations of statutes or rules.<sup>17</sup> Under both actions, DEP may seek injunctive relief, civil penalties, damages, and costs and expenses.<sup>18</sup> For judicially imposed civil penalties, DEP is authorized to recover up to \$10,000 per offense, with each day during any portion of which a violation occurs constituting a separate offense.<sup>19</sup>

A court or an administrative law judge may receive evidence in mitigation, which may result in the decrease or elimination of penalties.<sup>20</sup>

Criminal penalties can include jail or prison time, a criminal fine, or both. Florida law imposes criminal penalties for certain violations of environmental law.<sup>21</sup> Punishments for such violations may vary based on standards of intent, such as willful, reckless indifference, or gross careless disregard.<sup>22</sup>

In addition to DEP, the Department of Legal Affairs, any political subdivision or municipality of the state, and any citizen of the state also have the authority to bring an action for injunctive relief against violators of environmental laws.<sup>23</sup>

### Effect of the Bill

The bill increases various statutory penalties for violations of environmental laws.

The table below outlines the increased penalties for certain environmental violations proposed by the bill. For certain violations, the bill specifies that each day during any portion of which the violation occurs constitutes a separate offense. The bill further specifies that each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense until the violation is resolved by order or judgment.

SECTION OF LAW	DESCRIPTION OF VIOLATION	CURRENT FINE/PENALTY	PROPOSED FINE/PENALTY
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<sup>14</sup> Section 403.121(2)(b), F.S.; DEP, *Enforcement Manual: The Administrative Process and Remedies* (2014), 66-67, available at [https://floridadep.gov/sites/default/files/chapter5\\_0.pdf](https://floridadep.gov/sites/default/files/chapter5_0.pdf) (last visited Jan. 27, 2020). This requirement does not apply to underground injection, hazardous waste, or asbestos programs.

<sup>15</sup> *Id.*

<sup>16</sup> Section 403.121, F.S.

<sup>17</sup> DEP, *Enforcement Manual: Judicial Process and Remedies, Collections, and Bankruptcies* (2014), 86, available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (last visited Jan. 27, 2020).

<sup>18</sup> *Id.*

<sup>19</sup> Section 403.121(1)(b), F.S.

<sup>20</sup> Section 403.121, F.S.

<sup>21</sup> Section 403.161, F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Section 403.412, F.S.

SECTION OF LAW	DESCRIPTION OF VIOLATION	CURRENT FINE/PENALTY	PROPOSED FINE/PENALTY
161.054	DEP is required to assess a civil penalty for refusing to comply with the requirements of a coastal construction; a reconstruction or change of existing structures; a construction or physical activity undertaken specifically for shore protection purposes; or certain other structures and physical activities.	Up to \$10,000 per day	Up to \$15,000 per day
258.397	The Department of Legal Affairs is authorized to bring a civil action for a violation of the requirements of the Biscayne Bay Aquatic Preserve.	\$5,000 per day	\$7,500 per day
258.46	The Board of Trustees of the Internal Improvement Trust Fund is required to charge a civil penalty for violations of regulations for all aquatic preserves.	Between \$500 and \$5,000 per day	Between \$750 and \$7,500 per day
373.129	DEP and the water management districts are authorized to bring actions and proceedings to enforce rules, regulations, and adopted or issued orders; enjoin or abate violations of law, rules, regulations, and adopted orders; protect and preserve the water resources of the state; defend all actions and proceedings involving their powers and duties pertaining to the water resources of the state; and recover a civil penalty for each offense.	\$10,000 per offense	\$15,000 per offense
373.209	DEP is required to assess a civil penalty for violations of regulations for artesian wells.	\$100 per day for each offense	\$150 per day for each offense
373.430	A person who causes pollution or fails to obtain a required permit commits a second degree misdemeanor.	\$5,000	\$10,000
376.065	DEP is required to assess a civil penalty for the operation of a terminal facility without a discharge prevention and response certificate.	\$500	\$750
376.071	DEP is required to assess a civil penalty for any vessel with a pollutant capacity of 10,000 gallons or more that fails to maintain a discharge prevention and control contingency plan.	\$5,000	\$7,500
376.16	DEP is required to assess a civil penalty for violations of the Pollutant Discharge Prevention and Control Act.	Up to \$50,000 per day for each offense	Up to \$75,000 per day for per offense
	DEP is required to assess a civil penalty for a second or subsequent discharge of more than five gallons of gasoline or diesel within 12 months of the first discharge.	2 <sup>nd</sup> discharge: \$500 Subsequent discharges: \$1,000	2 <sup>nd</sup> discharge: \$750 Subsequent discharges: \$1,500
	DEP is required to assess a civil penalty for a second or subsequent discharge of any pollutant other than gasoline or diesel within 12 months of the first discharge.	2 <sup>nd</sup> discharge: \$2,500 Subsequent discharges: \$5,000	2 <sup>nd</sup> discharge: \$3,750 Subsequent discharges: \$7,500
	DEP is required to assess a civil penalty for a subsequent discharge of gasoline or diesel equal to or less than five gallons within 12 months of the first discharge.	\$50	\$75
	DEP is required to assess a civil penalty for a subsequent discharge of a pollutant other than gasoline or diesel equal to or less than five gallons within 12 months of the first discharge.	\$100	\$150

SECTION OF LAW	DESCRIPTION OF VIOLATION	CURRENT FINE/PENALTY	PROPOSED FINE/PENALTY
	A county court is authorized to impose a civil penalty if a violator elects to appear before the court and the court determines that an infraction has been committed for the discharge of gasoline or diesel.	2 <sup>nd</sup> discharge: Up to \$500  Subsequent discharges: Up to \$1,000	2 <sup>nd</sup> discharge: Up to \$750  Subsequent discharges: Up to \$1,500
	A county court is authorized to impose a civil penalty if a violator elects to appear before the court and the court determines that an infraction has been committed for the discharge of a pollutant other than gasoline or diesel.	2 <sup>nd</sup> discharge: Up to \$5,000  Subsequent discharges: Up to \$10,000	2 <sup>nd</sup> discharge: Up to \$7,500  Subsequent discharges: Up to \$15,000
<b>376.25</b>	DEP is required to assess a civil penalty for violations of regulations for gambling vessels.	Up to \$50,000 for each violation	Up to \$75,000 for each violation
<b>377.37</b>	DEP is required to assess a civil penalty for violations of the regulations of oil and gas resources.	Up to \$10,000 for each violation	Up to \$15,000 for each violation
<b>378.211</b>	DEP is authorized to impose a civil penalty for violations of a minor or technical nature of phosphate land reclamation regulations.	\$100 each day for each violation	\$150 each day for each violation
	DEP is authorized to impose a civil penalty for a major violation by an operator of phosphate land reclamation regulations of which a penalty has not been imposed within the last five years.	\$1,000 each day for each violation	\$1,500 each day for each violation
	DEP is authorized to impose a civil penalty for major violations not covered by the violations above for phosphate land reclamation regulations.	\$5,000 each day for each violation	\$7,500 each day for each violation
<b>403.086</b>	DEP is required to assess a civil penalty for failing to conform to regulations for sewage disposal facilities using advanced and secondary waste treatment.	\$500 per day	\$750 per day
<b>403.121</b>	DEP is authorized to impose a civil penalty for violations of pollution control regulations.	Up to \$10,000 per offense	Up to \$15,000 per offense
	DEP is authorized to seek administrative penalties to provide appropriate corrective action with respect to various environmental violations. The law specifies the maximum civil penalty DEP may seek.	Up to \$10,000 per assessment	Up to \$50,000 per assessment
	DEP is required to assess administrative penalties for a drinking water contamination violation related to maximum contaminant levels, with additional penalties under certain conditions.	\$2,000 plus \$1,000 per condition	\$3,000 plus \$1,500 per condition
	DEP is required to assess an administrative penalty for failing to obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance.	\$3,000	\$4,500
	DEP is required to assess an administrative penalty for failing to obtain a wastewater permit other than a surface water discharge permit.	\$1,000	\$2,000
	DEP is required to assess an administrative penalty for an unpermitted or unauthorized wastewater discharge that did not result in a water quality violation.	\$2,000	\$4,000
	DEP is required to assess an administrative penalty for the unpermitted or unauthorized discharge that resulted in a water quality violation.	\$5,000	\$10,000

SECTION OF LAW	DESCRIPTION OF VIOLATION	CURRENT FINE/PENALTY	PROPOSED FINE/PENALTY
	DEP is required to assess an administrative penalty for a dredge and fill or stormwater violation with additional penalties under the following conditions:  <ul style="list-style-type: none"> <li>If the violation occurs in a certain waterbody</li> <li>If the violation occurs in an area of a certain size</li> </ul>	\$1,000  plus \$2,000  plus \$1,000	\$1,500  plus \$3,000  plus \$1,500
	DEP is required to assess an administrative penalty for failing to complete required mitigation, record a conservation easement, or a water quality violation resulting from certain activities.	\$3,000	\$4,500
	DEP is required to assess an administrative penalty for failing to properly or timely construct a stormwater management system for systems serving less than 5 acres.	\$2,000	\$3,000
	DEP is required to assess an administrative penalty against a contractor that conducts unpermitted or unauthorized dredging or filling.	\$5,000	\$7,500
	DEP is required to assess an administrative penalty against a contractor for mangrove trimming or alteration violations.	\$5,000	\$7,500
	DEP is required to assess an administrative penalty for the unpermitted or unauthorized disposal of solid waste, with additional penalties for certain conditions.	\$2,000 plus \$1,000 per condition	\$3,000 plus \$1,500 per condition
	DEP is required to assess an administrative penalty for failure to properly maintain leachate control.	\$3,000	\$4,500
	DEP is required to assess an administrative penalty for failing to construct or maintain a required stormwater management system.	\$2,000	\$3,000
	DEP is required to assess an administrative penalty for an unpermitted or unauthorized air emission or air-emission-permit exceedance, with additional penalties if:  <ul style="list-style-type: none"> <li>The emission was from a major source and the source was major for the pollutant in violation</li> <li>The emission was more than 150 percent of the allowable level</li> </ul>	\$1,000  \$3,000  \$1,000	\$1,500  \$4,500  \$1,500
	DEP is required to assess an administrative penalty for storage tank system and petroleum contamination violations.	\$5,000	\$7,500
	DEP is required to assess an administrative penalty for failing to timely upgrade a storage tank system.	\$3,000	\$4,500
	DEP is required to assess an administrative penalty for release violations of storage tank systems.	\$2,000	\$3,000
	DEP is required to assess an administrative penalty for failing to properly operate, maintain, or close a storage tank system.	\$1,000	\$1,500
	DEP is required to assess an administrative penalty for failure to satisfy financial responsibility requirements or pollution of land, water, wildlife, or property by drilling for oil, gas, or other petroleum products.	\$5,000	\$7,500



SECTION OF LAW	DESCRIPTION OF VIOLATION	CURRENT FINE/PENALTY	PROPOSED FINE/PENALTY
	DEP is required to assess an administrative penalty for failing to install, maintain, or use a required pollution control system or device.	\$4,000	\$6,000
	DEP is required to assess an administrative penalty for failing to obtain a required permit before construction or modification.	\$3,000	\$4,500
	DEP is required to assess an administrative penalty for failing to conduct regular monitoring or testing, to conduct required release detection, or to construct in compliance with a permit.	\$2,000	\$3,000
	DEP is required to assess an administrative penalty for failing to maintain and train staff; prepare and maintain contingency plans; adequately respond to emergencies; or submit required notification to DEP.	\$1,000	\$1,500
	DEP is required to assess an administrative penalty for failing to prepare, submit, maintain, or use required reports or other documentation.	\$500	\$750
	DEP is required to assess an administrative penalty for failing to comply with any departmental regulatory statute or rule not described above.	\$500	\$1,000
	When considering the economic benefit gained by a violator from a violation, the law specifies that the total administrative penalty may not exceed a certain amount.	\$10,000	\$15,000
	The law specifies that the administrative penalties assessed for any violation may not exceed a certain amount against any one violator unless the violator has a history of noncompliance or the economic benefit exceeds a certain amount.	\$5,000 per violator unless economic benefit exceeds \$5,000	\$10,000 per violator unless economic benefit exceeds \$10,000
	The law specifies that the total administrative penalties per assessment for all violations attributable to a specific person may not exceed a certain amount.	\$10,000 per assessment	\$50,000 per assessment
<b>403.141</b>	Any person who causes pollution, fails to obtain a permit, knowingly makes false statements, or fails to provide required notice is liable to the state for any damage to airs, waters, or properties (including wildlife) of the state and is subject to a civil penalty for each offense.	Up to \$10,000 per offense	Up to \$15,000 per offense
<b>403.161</b>	Any person who fails to obtain a permit due to reckless indifference commits a 2 <sup>nd</sup> degree misdemeanor punishable by 60 days in jail, a fine, or both for each offense.	Up to \$5,000 per offense	Up to \$10,000 per offense
<b>403.413</b>	A law enforcement officer is required to assess a civil penalty for dumping litter.	\$100	\$150
<b>403.7234</b>	DEP is required to assess a civil penalty for any small quantity generator who does not comply with the small quantity generator notification and verification program	Between \$50 and \$100 per day for up to 100 days	Between \$75 and \$150 for up to 100 days
<b>403.726</b>	DEP is authorized impose a civil penalty for a violation of hazardous substance regulations.	Up to \$25,000 per day	Up to \$37,500 per day
<b>403.727</b>	DEP is required to assess a civil penalty for a violation of hazardous waste regulations.	Up to \$50,000 per day	Up to \$75,000 per day

SECTION OF LAW	DESCRIPTION OF VIOLATION	CURRENT FINE/PENALTY	PROPOSED FINE/PENALTY
403.93345	DEP is authorized to impose a civil penalty for any anchoring of a vessel on a coral reef or any other damage to a coral reef totaling less than one square meter, if the responsible party has been previously issued at least one warning letter, with additional penalties for violations that occur under certain conditions.	\$150 plus \$150 per condition	\$225 plus \$225 per condition
	DEP is authorized to impose a civil penalty for damage totaling more than one square meter but less than or equal to 10 square meters of a coral reef, with additional penalties for damage occurring under certain conditions.	\$300 plus \$300 per condition	\$450 plus \$450 per condition
	DEP is authorized to impose a civil penalty for damage totaling more than 10 square meters of a coral reef, with additional penalties for damage occurring under certain conditions.	\$1,000 plus \$1,000 per condition	\$1,500 plus \$1,500 per condition
	The law specifies that the total penalties DEP may impose for damage totaling more than 10 square meters of a coral reef may not exceed a certain amount per occurrence.	\$250,000	\$375,000

**B. SECTION DIRECTORY:**

- Section 1. Amends s. 161.054, F.S., to increase penalties.
- Section 2. Amends s. 258.397, F.S., to increase penalties.
- Section 3. Amends s. 258.46, F.S., to increase penalties.
- Section 4. Amends s. 373.129, F.S., to increase penalties.
- Section 5. Amends s. 373.209, F.S., to increase penalties.
- Section 6. Amends s. 373.430, F.S., to increase penalties.
- Section 7. Amends s. 376.065, F.S., to increase penalties.
- Section 8. Amends s. 376.071, F.S., to increase penalties.
- Section 9. Amends s. 376.16, F.S., to increase penalties.
- Section 10. Amends s. 376.25, F.S., to increase penalties.
- Section 11. Amends s. 377.37, F.S., to increase penalties.
- Section 12. Amends s. 378.211, F.S., to increase penalties.
- Section 13. Amends s. 403.086, F.S., to increase penalties.
- Section 14. Amends s. 403.121, F.S., to increase penalties.
- Section 15. Amends s. 403.141, F.S., to increase penalties.
- Section 16. Amends s. 403.161, F.S., to increase penalties.
- Section 17. Amends s. 403.413, F.S., to increase penalties.
- Section 18. Amends s. 403.7234, F.S., to increase penalties.



- Section 19. Amends s. 403.726, F.S., to increase penalties.
- Section 20. Amends s. 403.727, F.S., to increase penalties.
- Section 21. Amends s. 403.93345, F.S., to increase penalties.
- Section 22. Reenacts s. 823.11, F.S., to incorporate amendments made by the bill.
- Section 23. Reenacts s. 403.077, F.S., to incorporate amendments made by the bill.
- Section 24. Reenacts s. 403.131, F.S., to incorporate amendments made by the bill.
- Section 25. Reenacts s. 403.4154, F.S., to incorporate amendments made by the bill.
- Section 26. Reenacts s. 403.860, F.S., to incorporate amendments made by the bill.
- Section 27. Reenacts s. 403.708, F.S., to incorporate amendments made by the bill.
- Section 28. Reenacts s. 403.7191, F.S., to incorporate amendments made by the bill.
- Section 29. Reenacts s. 403.811, F.S., to incorporate amendments made by the bill.
- Section 30. Reenacts s. 403.7186, F.S., to incorporate amendments made by the bill.
- Section 31. Reenacts s. 403.7255, F.S., to incorporate amendments made by the bill.
- Section 32. Provides an effective date of July 1, 2020.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The bill may have an indeterminate positive fiscal impact on state government revenues because the bill increases various penalties associated with the violation of environmental laws.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

The bill may have an indeterminate positive fiscal impact on the revenues of local governments with the delegated authority to assess penalties because the bill increases a number of penalties associated with the violation of environmental laws.

#### **2. Expenditures:**

The bill may have an indeterminate negative fiscal impact on local governments that own and operate wastewater treatment facilities because the bill increases a number of penalties associated with the violation of environmental laws, including permit violations for wastewater treatment facilities.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on the private sector because it increases a number of penalties associated with the violation of environmental laws and, for unauthorized discharges of domestic wastewater, may increase the period during which each day constitutes a separate offense.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 4, 2020, the Agriculture & Natural Resources Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment revised provisions related to determining the period during which a violation is subject to separate penalties for certain criminal violations.

On February 27, 2020, the State Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment increased certain penalties, removed language specifying that each day certain violations occur or are not otherwise remediated constitute separate offenses until the violation is resolved by an order or judgment, and specified that, for unauthorized discharges of domestic wastewater, each day the cause of the discharge is not addressed constitutes a separate offense until the violation is resolved by an order or judgment.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.