

By Senator Montford

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1 A bill to be entitled
 2 An act relating to the Apalachicola Environmental
 3 Stewardship Act; providing a short title; amending s.
 4 259.105, F.S.; appropriating a sum annually for a
 5 specified timeframe from the Florida Forever Fund to
 6 the Apalachicola Area of Critical State Concern for
 7 specified purposes; amending s. 380.0555, F.S.;
 8 renaming the Apalachicola Bay Area of Critical State
 9 Concern as the Apalachicola Area of Critical State
 10 Concern; deleting obsolete language; making technical
 11 changes; providing additional principles for guiding
 12 development within the Apalachicola Area of Critical
 13 State Concern to include projects that protect and
 14 improve water quality; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. This act may be referred to as "The Apalachicola
 19 Environmental Stewardship Act."

20 Section 2. Paragraph (b) of subsection (3) of section
 21 259.105, Florida Statutes, is amended to read:

22 259.105 The Florida Forever Act.—

23 (3) Less the costs of issuing and the costs of funding
 24 reserve accounts and other costs associated with bonds, the
 25 proceeds of cash payments or bonds issued pursuant to this
 26 section shall be deposited into the Florida Forever Trust Fund
 27 created by s. 259.1051. The proceeds shall be distributed by the
 28 Department of Environmental Protection in the following manner:

29 (b) Thirty-five percent to the Department of Environmental

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30 Protection for the acquisition of lands and capital project
31 expenditures described in this section. Of the proceeds
32 distributed pursuant to this paragraph, it is the intent of the
33 Legislature that an increased priority be given to those
34 acquisitions which achieve a combination of conservation goals,
35 including protecting Florida's water resources and natural
36 groundwater recharge.

37 1. At a minimum, 3 percent, and no more than 10 percent, of
38 the funds allocated pursuant to this paragraph shall be spent on
39 capital project expenditures identified during the time of
40 acquisition which meet land management planning activities
41 necessary for public access.

42 2. Beginning in the 2017-2018 fiscal year and continuing
43 through the 2026-2027 fiscal year, at least \$5 million of the
44 funds allocated pursuant to this paragraph shall be spent on
45 land acquisition within the Florida Keys Area of Critical State
46 Concern as authorized pursuant to s. 259.045.

47 3. Beginning in the 2020-2021 fiscal year and continuing
48 through the 2024-2025 fiscal year, at least \$12 million of the
49 funds allocated pursuant to this paragraph shall be spent on
50 land acquisition and projects that improve surface water and
51 groundwater quality in the Apalachicola River and in
52 Apalachicola Bay within the Apalachicola Area of Critical State
53 Concern as authorized pursuant to s. 380.0555, including the
54 construction and replacement of stormwater management facilities
55 and central sewage collection facilities, installation of onsite
56 sewage treatment and disposal systems, direct and indirect
57 potable reuse, other water quality and water supply projects,
58 and land acquisition projects that protect water quality.

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59 a. Priority must be given to land acquisitions that achieve
60 a combination of conservation goals, including protecting and
61 preserving fisheries and wildlife habitats, recreational spaces,
62 nearshore water quality, surface water resources, and
63 groundwater recharge.

64 b. At least 3 percent but not more than 10 percent of the
65 funds allocated for land acquisition shall be spent on projects
66 and activities identified during the time of acquisition,
67 including land management, increased public access and
68 recreational opportunities, and greenways.

69 Section 3. Section 380.0555, Florida Statutes, is amended
70 to read:

71 380.0555 Apalachicola ~~Bay~~ Area; protection and designation
72 as area of critical state concern.—

73 (1) SHORT TITLE.—This act shall be known and cited as the
74 “Apalachicola ~~Bay~~ Area Protection Act.”

75 (2) LEGISLATIVE INTENT.—It is hereby declared that the
76 intent of the Legislature is:

77 (a) To protect the water quality of the Apalachicola ~~Bay~~
78 Area to ensure a healthy environment and a thriving economy for
79 the residents of the area and the state.

80 (b) To financially assist Franklin County and its
81 municipalities in upgrading and expanding their sewerage
82 systems.

83 (c) To protect the Apalachicola ~~Bay~~ Area’s natural and
84 economic resources by implementing and enforcing comprehensive
85 plans and land development regulations.

86 (d) To assist Franklin County and its municipalities with
87 technical and advisory assistance in formulating additional land

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88 development regulations and modifications to comprehensive
89 plans.

90 (e) To monitor activities within the Apalachicola ~~Bay~~ Area
91 to ensure the long-term protection of all the area's resources.

92 (f) To promote a broad base of economic growth which is
93 compatible with the protection and conservation of the natural
94 resources of the Apalachicola ~~Bay~~ Area.

95 (g) To educate the residents of the Apalachicola ~~Bay~~ Area
96 in order to protect and preserve its natural resources.

97 (h) To provide affordable housing in close proximity to
98 places of employment in the Apalachicola ~~Bay~~ Area.

99 (i) To protect and improve the water quality of the
100 Apalachicola ~~Bay~~ Area through federal, state, and local funding
101 of water quality improvement projects, including the
102 construction and operation of wastewater management facilities
103 that meet state requirements.

104 (3) DESIGNATION.—Franklin County, as described in s. 7.19,
105 less all federally owned lands, less all lands lying east of the
106 line formed by the eastern boundary of State Road 319 running
107 from the Ochlockonee River to the intersection of State Road 319
108 and State Road 98 and thence due south to the Gulf of Mexico,
109 and less any lands removed under subsection (4), is hereby
110 designated an area of critical state concern on June 18, 1985.
111 State road, for the purpose of this section, shall be defined as
112 in s. 334.03. For the purposes of this act, this area shall be
113 known as the Apalachicola ~~Bay~~ Area.

114 (4) REMOVAL OF DESIGNATION.—The state land planning agency
115 may recommend to the Administration Commission the removal of
116 the designation from all or part of the area specified in

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117 subsection (3), if it determines that all local land development
118 regulations and local comprehensive plans and the administration
119 of such regulations and plans are adequate to protect the
120 Apalachicola Bay Area, continue to carry out the legislative
121 intent set forth in subsection (2), and are in compliance with
122 the principles for guiding development set forth in subsection
123 (7). If the Administration Commission concurs with the
124 recommendations of the state land planning agency to remove any
125 area from the designation, it shall, within 45 days after
126 receipt of the recommendation, initiate rulemaking to remove the
127 designation. The state land planning agency shall make
128 recommendations to the Administration Commission annually.

129 (5) APPLICATION OF CHAPTER 380 PROVISIONS.—Section
130 380.05(1)-(5), (8), (9), (12), (15), (17), and (21), does ~~shall~~
131 not apply to the area designated by this act for so long as the
132 designation remains in effect. Except as otherwise provided in
133 this act, s. 380.045 does ~~shall~~ not apply to the area designated
134 by this act. All other provisions of this chapter shall apply,
135 including ss. 380.07 and 380.11, except that the "local
136 development regulations" in s. 380.05(13) shall include the
137 regulations set forth in subsection (8) for purposes of s.
138 380.05(13), ~~and the plan or plans submitted pursuant to s.~~
139 ~~380.05(14) shall be submitted no later than February 1, 1986.~~
140 All or part of the area designated by this act may be
141 redesignated pursuant to s. 380.05 as if it had been initially
142 designated pursuant to that section.

143 (6) VESTED RIGHTS OF DEVELOPER.—If a developer has by his
144 or her actions in reliance on prior regulations obtained vested
145 or other legal rights including rights obtained by approval of a

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146 development of regional impact or a substantial deviation
147 thereof pursuant to s. 380.06 that would have prevented a local
148 government from changing those regulations in a way adverse to
149 the developer's interests, ~~nothing in~~ this act does not
150 authorize ~~authorizes~~ any governmental agency to abridge those
151 rights.

152 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
153 and local agencies and units of government in the Apalachicola
154 ~~Bay~~ Area of Critical State Concern shall coordinate their plans
155 and conduct their programs and regulatory activities consistent
156 ~~consistently~~ with the following principles for guiding the
157 development of the Apalachicola Area of Critical State Concern:

158 (a) Land development shall be guided so that the basic
159 functions and productivity of the Apalachicola ~~Bay~~ Area's
160 natural land and water systems will be conserved to reduce or
161 avoid health, safety, and economic problems for present and
162 future residents of the Apalachicola ~~Bay~~ Area.

163 (b) Land development shall be consistent with a safe
164 environment, adequate community facilities, a superior quality
165 of life, and a desire to minimize environmental hazards.

166 (c) Growth and diversification of the local economy shall
167 be fostered only if it is consistent with protecting the natural
168 resources of the Apalachicola ~~Bay~~ Area through appropriate
169 management of the land and water systems.

170 (d) Aquatic habitats and wildlife resources of the
171 Apalachicola ~~Bay~~ Area shall be conserved and protected.

172 (e) Water quantity shall be managed to conserve and protect
173 the natural resources and the scenic beauty of the Apalachicola
174 ~~Bay~~ Area.

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175 (f) The quality of water shall be protected, maintained,
176 and improved for public water supplies, the propagation of
177 aquatic life, and recreational and other uses which are
178 consistent with these uses.

179 (g) No wastes shall be discharged into any waters of the
180 Apalachicola Bay Area without first being given the degree of
181 treatment necessary to protect the water uses as set forth in
182 paragraph (f).

183 (h) Stormwater discharges shall be managed in order to
184 minimize their impacts on the bay system and protect the uses as
185 set forth in paragraph (f).

186 (i) Coastal dune systems, specifically the area extending
187 landward from the extreme high-tide line to the beginning of the
188 pinelands of the Apalachicola Bay Area, shall be protected.

189 (j) Public lands shall be managed, enhanced, and protected
190 so that the public may continue to enjoy the traditional use of
191 such lands.

192 (k) Water quality shall be protected and improved by the
193 construction, operation, maintenance, and replacement of
194 stormwater management facilities; central sewage collection
195 facilities; treatment and disposal facilities; the installation
196 and proper operation and maintenance of onsite sewage treatment
197 and disposal systems; indirect and direct potable reuse; and
198 other water quality and water supply projects.

199 (8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT
200 REGULATIONS.—

201 (a) *Local governments to administer plan elements and*
202 *regulations.*—The following comprehensive plan elements and land
203 development regulations shall be administered by local

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204 governments within their jurisdiction in the Apalachicola Bay
205 Area, as part of their local comprehensive plan and land
206 development regulations. If a local government within the
207 Apalachicola Bay Area has a provision in its local comprehensive
208 plan or its land development regulations which conflicts with a
209 provision of this paragraph or has no comparable provision, the
210 provision of this paragraph shall control.

211 1. Comprehensive plan.—Chapter 1 of Volume I, and chapters
212 4, 5, 7, and 9 of Volume II of the Franklin County Comprehensive
213 Land Use Plan adopted by Ordinance No. 81-4 on June 22, 1981, by
214 the Franklin County Board of County Commissioners and filed with
215 the Secretary of State on June 30, 1981, are incorporated by
216 reference and adopted herein.

217 2. Zoning ordinances.—Ordinance No. 81-5 adopted June 22,
218 1981, by the Franklin County Board of County Commissioners and
219 filed with the Secretary of State on June 30, 1981, and the
220 following amendments are incorporated by reference and adopted
221 herein:

222 a. Ordinance 82-4, adopted June 18, 1982, and filed with
223 the Secretary of State on July 28, 1982.

224 b. Ordinance 83-4, adopted July 19, 1983, and filed with
225 the Secretary of State on July 25, 1983.

226 c. Ordinance 83-7, adopted October 4, 1983, and filed with
227 the Secretary of State on October 6, 1983.

228 d. Ordinance 84-2, adopted April 24, 1984, and filed with
229 the Secretary of State on April 27, 1984.

230 3. Subdivision regulations.—Ordinance No. 74-1 adopted
231 November 15, 1974, by the Franklin County Board of County
232 Commissioners and filed with the Secretary of State on December

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233 4, 1974, and December 5, 1974, and the following amendment are
234 incorporated by reference and adopted herein: Ordinance 79-5,
235 filed with the Secretary of State on May 30, 1979.

236 4. Flood plain management ordinance.—Ordinance No. 83-5
237 adopted on July 7, 1983, by the Franklin County Board of County
238 Commissioners and filed with the Secretary of State on July 15,
239 1983, is incorporated by reference and adopted herein.

240 5. Septic tank ordinance.—Ordinance 79-8 adopted on June
241 22, 1979, by the Franklin County Board of County Commissioners
242 and filed with the Secretary of State on June 27, 1979, is
243 incorporated by reference and adopted herein.

244 6. Construction; electrical connection.—Ordinance No. 73-5A
245 adopted July 3, 1973, by the Franklin County Board of County
246 Commissioners and filed with the Secretary of State on March 6,
247 1981, is incorporated by reference and adopted herein.

248 7. Alligator Point Water Resource District Act.—Ordinance
249 No. 76-7 adopted on November 16, 1976, by the Franklin County
250 Board of County Commissioners and filed with the Secretary of
251 State on March 6, 1981, is incorporated by reference and adopted
252 herein.

253 8. Coastal area building codes.—Ordinance No. 84-1
254 establishing building codes for coastal areas adopted by the
255 Franklin County Board of County Commissioners on February 8,
256 1984, and filed with the Secretary of State on February 2, 1984,
257 is incorporated by reference and adopted herein.

258 9. Standard building code.—Ordinance adopting the 1976
259 Standard Building Code, Ordinance No. 83-1, adopted January 18,
260 1983, by the Franklin County Board of County Commissioners and
261 filed with the Secretary of State January 20, 1983, is

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262 incorporated by reference and adopted herein.

263 10. Local planning agency.—Ordinance No. 77-6 adopted on
264 June 21, 1977, by the Franklin County Board of County
265 Commissioners and filed with the Secretary of State on June 22,
266 1977, is incorporated by reference and adopted herein.

267 11. Coastal high-hazard zones.—Ordinance No. 80-5 adopted
268 on May 29, 1980, by the Franklin County Board of County
269 Commissioners and filed with the Secretary of State on May 30,
270 1980, is incorporated by reference and adopted herein.

271 (b) *Conflicting regulations.*—In the event of any
272 inconsistency between subparagraph (a)1. and subparagraphs
273 (a)2.-11., subparagraph (a)1. shall control. Further, in the
274 event of any inconsistency between subsection (7) and paragraph
275 (a) of this subsection and a development order issued pursuant
276 to s. 380.06, which has become final prior to June 18, 1985, or
277 between subsection (7) and paragraph (a) and an amendment to a
278 final development order, which amendment has been requested
279 prior to April 2, 1985, the development order or amendment
280 thereto shall control. However, any modification to paragraph
281 (a) enacted by a local government and approved by the state land
282 planning agency pursuant to subsection (9) may provide whether
283 it shall control over an inconsistent provision of a development
284 order or amendment thereto. A development order or any amendment
285 thereto referred to in this paragraph shall not be subject to
286 approval by the state land planning agency pursuant to
287 subsection (9).

288 (c) *Effect of existing plans and regulations.*—Legally
289 adopted comprehensive plans and land development regulations
290 other than those listed in this subsection shall remain in full

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291 force and effect unless inconsistent with the principles for
292 guiding development set forth in subsection (7), the elements of
293 the comprehensive plan listed in this subsection, or the land
294 development regulations listed in this subsection.

295 (d) *Developments of regional impact.*—A local government
296 shall approve a development subject to the provisions of s.
297 380.06 only if it also complies with the provisions of this
298 subsection.

299 (9) MODIFICATION TO PLANS AND REGULATIONS.—Any land
300 development regulation or element of a local comprehensive plan
301 in the Apalachicola Bay Area may be enacted, amended, or
302 rescinded by a local government, but the enactment, amendment,
303 or rescission becomes effective only upon the approval thereof
304 by the state land planning agency. The state land planning
305 agency shall review the proposed change to determine if it
306 complies with the principles for guiding development specified
307 in subsection (7) and must approve or reject the requested
308 change as provided in s. 380.05. Further, the state land
309 planning agency, after consulting with the appropriate local
310 government, may, from time to time, recommend the enactment,
311 amendment, or rescission of a land development regulation or
312 element of a comprehensive plan. Within 45 days following the
313 receipt of such recommendation by the state land planning agency
314 or enactment, amendment, or rescission by a local government the
315 commission shall reject the recommendation, enactment,
316 amendment, or rescission or accept it with or without
317 modification and adopt, by rule, any changes. Any such local
318 land development regulation or comprehensive plan or part of
319 such regulation or plan may be adopted by the commission if it

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320 finds that it is in compliance with the principles for guiding
321 development.

322 (10) REQUIREMENTS; LOCAL GOVERNMENTS.—

323 (a) As used in this subsection:

324 1. "Alternative onsite system" means any approved onsite
325 disposal system used in lieu of a standard subsurface system.

326 2. "Critical shoreline zone" means all land within a
327 distance of 150 feet landward of the mean high-water line in
328 tidal areas, the ordinary high-water line in nontidal areas, or
329 the inland wetland areas existing along the streams, lakes,
330 rivers, bays, and sounds within the Apalachicola ~~Bay~~ Area.

331 3. "Pollution-sensitive segment of the critical shoreline"
332 means an area which, due to its proximity to highly sensitive
333 resources, including, but not limited to, productive shellfish
334 beds and nursery areas, requires special regulatory attention.

335 4. "Low-income family" means a group of persons residing
336 together whose combined income does not exceed 200 percent of
337 the 1985 Poverty Income Guidelines for all states and the
338 District of Columbia, promulgated by the United States
339 Department of Health and Human Services, as published in Volume
340 50, No. 46 of the Federal Register, pages 9517-18. Income shall
341 be as defined in said guidelines.

342 (b) Franklin County and the municipalities within it shall,
343 within 60 days after a sewerage system is available for use,
344 notify all owners and users of onsite sewage disposal systems of
345 the availability of such a system and that connection is
346 required within 180 days of the notice. Failure to connect to an
347 available system within the time prescribed shall be a
348 misdemeanor of the second degree, punishable as provided in ss.

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349 775.082 and 775.083. Further, Franklin County and the
350 municipalities within it shall have the right to make the
351 connection if it is not made within the prescribed time and to
352 assess the owner of the real property on which the connection is
353 made for the cost of such connection. Such assessments shall be
354 levied according to law and shall become a lien against the real
355 property, enforced according to law. Franklin County and the
356 municipalities within it shall develop a program and implement
357 ordinances to make available to low-income families the sewer
358 services available upon completion of the proposed sewer
359 projects being funded by this act.

360 (c)1. The Department of Health shall survey all septic tank
361 soil-absorption systems in the Apalachicola ~~Bay~~ Area to
362 determine their suitability as onsite sewage treatment systems.
363 Within 6 months from June 18, 1985, Franklin County and the
364 municipalities within it, after consultation with the Department
365 of Health and the Department of Environmental Protection, shall
366 develop a program designed to correct any onsite sewage
367 treatment systems that might endanger the water quality of the
368 bay.

369 2. Franklin County and the municipalities within it shall,
370 within 9 months from June 18, 1985, enact by ordinance
371 procedures implementing this program. These procedures shall
372 include notification to owners of unacceptable septic tanks and
373 procedures for correcting unacceptable septic tanks. These
374 ordinances shall not be effective until approved by the
375 Department of Health and the Department of Environmental
376 Protection.

377 (d) Franklin County and the municipalities within it shall,

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378 within 12 months from June 18, 1985, establish by ordinance a
379 map of "pollution-sensitive segments of the critical shoreline"
380 within the Apalachicola ~~Bay~~ Area, which ordinance shall not be
381 effective until approved by the Department of Health and the
382 Department of Environmental Protection. Franklin County and the
383 municipalities within it, after the effective date of these
384 ordinances, shall no longer grant permits for onsite wastewater
385 disposal systems in pollution-sensitive segments of the critical
386 shoreline, except for those onsite wastewater systems that will
387 not degrade water quality in the river or bay. These ordinances
388 shall not become effective until approved by the resource
389 planning and management committee. Until such ordinances become
390 effective, the Franklin County Health Department shall not give
391 a favorable recommendation to the granting of a septic tank
392 variance pursuant to section (1) of Ordinance 79-8, adopted on
393 June 22, 1979, by the Franklin County Board of County
394 Commissioners and filed with the Secretary of State on June 27,
395 1979, or issue a permit for a septic tank or alternative waste
396 disposal system pursuant to Ordinance 81-5, adopted on June 22,
397 1981, by the Franklin County Board of County Commissioners and
398 filed with the Secretary of State on June 30, 1981, as amended
399 as set forth in subparagraph (8)(a)2., unless the Franklin
400 County Health Department certifies, in writing, that the use of
401 such system will be consistent with paragraph (7)(f) and
402 subsection (8).

403 (e) Franklin County and the municipalities within it shall,
404 within 9 months from June 18, 1985, enact land development
405 regulations to protect the Apalachicola ~~Bay~~ Area from stormwater
406 pollution, including provisions for development approval, before

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407 the issuance of building permits pursuant to chapter 17-25,
408 Florida Administrative Code, Franklin County and the
409 municipalities within it shall, within 90 days following the
410 above deadline, survey existing stormwater management systems
411 and discharges to determine their effect on the bay and develop
412 a comprehensive stormwater management plan to minimize such
413 effects. The plan will include recommendations and financing
414 options for the retrofitting of existing systems. Franklin
415 County and the municipalities within it shall, as part of an
416 overall stormwater management program, inform its citizens about
417 stormwater, its relationship to land use, and its effect upon
418 the resources of the Apalachicola ~~Bay~~ Area.

419 (f) Franklin County and the municipalities within it shall,
420 beginning 12 months from June 18, 1985, prepare semiannual
421 reports on the implementation of paragraphs (b)-(e) on the
422 environmental status of the Apalachicola ~~Bay~~ Area. The state
423 land planning agency may prescribe additional detailed
424 information required to be reported. Each report shall be
425 delivered to the resource planning and management committee and
426 the state land planning agency for review and recommendations.
427 The state land planning agency shall review each report and
428 consider such reports when making recommendations to the
429 Administration Commission pursuant to subsection (9).

430 Section 4. This act shall take effect July 1, 2020.