

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: SB 702

INTRODUCER: Senators Simon and Trumbull

SUBJECT: Apalachicola Bay Area of Critical State Concern

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<u>Favorable</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 702 permits the Department of Environmental Protection (DEP) to expend up to \$5 million each fiscal year, beginning in Fiscal Year 2023-2024 and continuing through Fiscal Year 2027-2028, for the purpose of entering into financial assistance agreements with the City of Apalachicola to implement projects that improve surface water and groundwater quality within the Apalachicola Bay Area of Critical State Concern. The bill provides project examples. The funding will expire on June 30, 2028.

Since the bill permits the DEP to expend up to \$5 million each fiscal year from Fiscal Year 2023-2024 through Fiscal Year 2027-2028 to improve the water quality of Apalachicola Bay, the fiscal impact is dependent on an appropriation by the Legislature.

The effective date of the bill is July 1, 2023.

II. Present Situation:

Areas of Critical State Concern

The Areas of Critical State Concern Program was created in the Florida Environmental Land and Water Management Act of 1972.¹ The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.² An area of critical state concern may be designated for:

¹ Chapter 72-317, Laws of Fla.; Department of Economic Opportunity (DEO), *Areas of Critical State Concern Program*, <https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Mar. 21, 2023).

² DEO, *Areas of Critical State Concern Program*.

- An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, the uncontrolled private or public development of which would cause substantial deterioration of such resources;
- An area containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts; or
- An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment.³

Areas of critical state concern currently designated in the state include the Big Cypress,⁴ Green Swamp,⁵ Florida Keys,⁶ and Apalachicola Bay⁷ areas of critical state concern.

Apalachicola Bay Area of Critical State Concern

The Apalachicola Bay Area of Critical State Concern was designated in 1985.⁸ The original designation included the City of Apalachicola, the City of Carrabelle, and unincorporated Franklin County, excluding Alligator Point. In 1993, all of that designation was repealed except for the City of Apalachicola.⁹

The Apalachicola River is the largest river in Florida and provides 35 percent of the freshwater entering the northeastern Gulf of Mexico.¹⁰ The Apalachicola River and the adjoining Chattahoochee and Flint Rivers comprise a drainage system encompassing more than 19,000 square miles of southern Georgia, eastern Alabama, and northern Florida. The Apalachicola-Chattahoochee-Flint River Basin harbors one of the highest concentrations of threatened and endangered species in the United States. The Apalachicola Bay is an important nursery ground for numerous commercially and recreationally important fish and invertebrate species.¹¹

The Apalachicola Bay supported a thriving oyster fishery for decades and at one time supplied approximately 90 percent of the oysters sold in Florida and 10 percent sold nationally.¹² That ended in 2012 with the total collapse of the fishery due to drought, climate change, dams, and other pressures.¹³ In response to the devastated oyster population in the Apalachicola Bay, the

³ Section 380.05(2), F.S.

⁴ Section 380.055, F.S.

⁵ Section 380.0551, F.S.

⁶ Section 380.0552, F.S.

⁷ Section 380.0555, F.S.

⁸ Florida Department of Economic Opportunity (DEO), *Apalachicola Bay Area*, <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/city-of-apalachicola> (last visited Mar. 22, 2023).

⁹ *Id.*

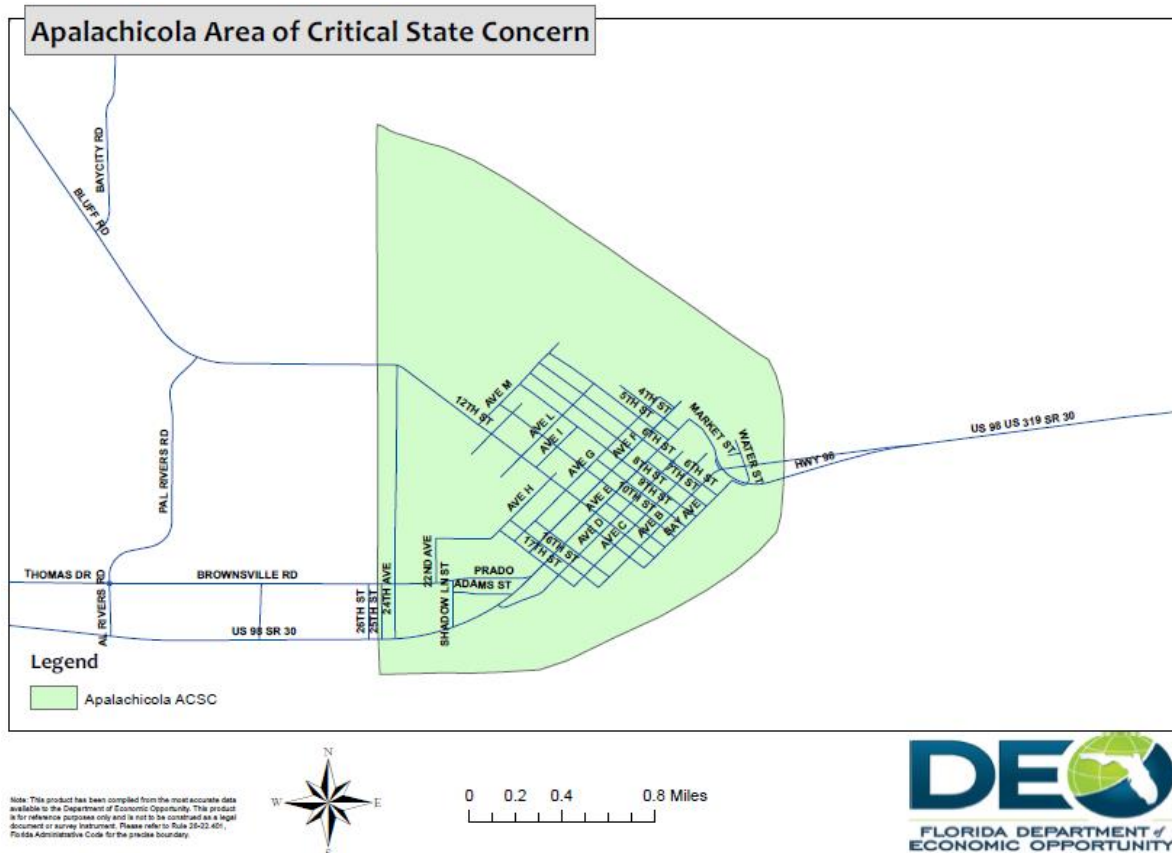
¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Debbie Elliot, NPR, *Florida Closes Iconic Apalachicola Oyster Fishery*, <https://www.npr.org/2020/07/22/894074674/floridas-oyster-beds-devastated-by-years-of-drought-other-pressures> (last visited Mar. 22, 2023); Kevin Spear, WUSF Public Media, *Crippled Apalachicola River leaves Wetland Forests in Peril, Famous*

Florida Fish and Wildlife Conservation Commission suspended harvest of wild oysters for five years, beginning in 2020.¹⁴



The legislative intent of the designation is to:

- Protect the water quality of the Apalachicola Bay Area to ensure a healthy environment and thriving economy for area and state residents;
- Financially assist Franklin County and its municipalities in upgrading and expanding their sewerage systems;
- Protect the Apalachicola Bay Area’s natural and economic resources by implementing and enforcing comprehensive plans and land development regulations;
- Assist Franklin County and its municipalities with technical and advisory assistance in formulating land development regulations and modifications to comprehensive plans;
- Monitor activities within the Apalachicola Bay Area to ensure the long-term protection of all the area’s resources;
- Promote a broad base of economic growth that is compatible with the protection and conservation of the natural resources of the Apalachicola Bay Area;

Oysters Extinct, <https://wusfnews.wusf.usf.edu/environment/2021-01-01/crippled-apalachicola-river-leaves-wetland-forests-in-peril-famous-oysters-extinct> (last visited Mar. 22, 2023).

¹⁴ Florida Fish and Wildlife Conservation Commission, *FWC approves measures to support recovery and restoration of oysters in Apalachicola Bay*, <https://myfwc.com/news/all-news/oyster-commission-1220/> (last visited Mar. 22, 2023). The map shown on the following page may be found at: <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/city-of-apalachicola>.

- Educate the residents of the Apalachicola Bay Area in order to protect and preserve its natural resources;
- Provide affordable housing in close proximity to places of employment in the Apalachicola Bay Area; and
- Protect and improve the water quality of the Apalachicola Bay Area through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet state requirements.¹⁵

State, regional, and local agencies and units of government in the Apalachicola Bay Area are required to coordinate their plans and conduct their programs and regulatory activities consistently using principles for guiding development of the area.¹⁶ These principles require that:

- Land development be guided so that the basic functions and productivity of the Apalachicola Bay Area's natural land and water systems be conserved to reduce or avoid health, safety, and economic problems for present and future residents of the Apalachicola Bay Area;
- Land development be consistent with a safe environment, adequate community facilities, a superior quality of life, and a desire to minimize environmental hazards;
- Growth and diversification of the local economy be fostered only if it is consistent with protecting the natural resources of the Apalachicola Bay Area through appropriate management of the land and water systems;
- Aquatic habitats and wildlife resources of the Apalachicola Bay Area be conserved and protected;
- Water quantity be managed to conserve and protect the natural resources and the scenic beauty of the Apalachicola Bay Area;
- Water quality be protected, maintained, and improved for public water supply, propagation of aquatic life, and recreational and other uses;
- No wastes be discharged into any waters of the Apalachicola Bay Area without first being given the degree of treatment necessary to protect water uses;
- Stormwater discharges be managed in order to minimize impacts on the Bay system and protect its uses;
- Coastal dune systems, specifically the area extending landward from the extreme high-tide line to the beginning of the pinelands of the Apalachicola Bay Area, be protected; and
- Public lands be managed, enhanced, and protected so that the public may continue to enjoy the traditional use of such lands.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 380.0555, F.S., to permit the Department of Environmental Protection to expend up to \$5 million each fiscal year, beginning in Fiscal Year 2023-2024 and continuing through Fiscal Year 2027-2028, for the purpose of entering into financial assistance agreements with the City of Apalachicola to implement projects that improve surface water and groundwater quality within the Apalachicola Bay Area of Critical State Concern. These projects may include the construction of stormwater management facilities and central sewage collection facilities,

¹⁵ Section 380.0555(2), F.S.

¹⁶ Section 380.0555(7), F.S.

¹⁷ *Id.*

installation of onsite sewage treatment and disposal systems,¹⁸ direct and indirect potable reuse, and other water quality and water supply projects. This provision expires on June 30, 2028.

Section 2 provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The City of Apalachicola may receive funding from the Department of Environmental Protection from Fiscal Year 2023-2024 to Fiscal Year 2027-2028 through financial assistance agreements for certain projects.

¹⁸ Onsite sewage treatment and disposal systems, commonly known as septic systems, consist of a septic tank and drainfield. Waste from toilets, sinks, washing machines, and showers flows into the septic tank where bacteria breaks down solids into liquids. Then, the wastewater flows into the drainfield where it undergoes secondary treatment and filtration. Florida Department of Health (DOH), *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Mar. 22, 2023).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 380.0555 of the Florida Statutes.

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.