

<b>Tab 1 SB 606 by Bean; (Identical to H 00417) Anchoring Limitation Areas</b>							
265924	A	S	RS	EN, Bean	btw L.17 - 18:	01/13	06:05 PM
128390	SA	S	RCS	EN, Bean	btw L.17 - 18:	01/13	06:05 PM

<b>Tab 2 SB 812 by Hutson; (Similar to H 00549) Public Records/Threatened or Endangered Species</b>							
686264	D	S	RCS	EN, Hutson	Delete everything after	01/13	06:05 PM

<b>Tab 3 SB 7016 by IS; (Identical to H 01073) Statewide Office of Resiliency</b>							
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<b>Tab 4 SB 822 by Albritton; (Identical to H 00659) Drones</b>							
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<b>Tab 5 SPB 7024 by EN; Florida Forever</b>							
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**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**ENVIRONMENT AND NATURAL RESOURCES**

**Senator Montford, Chair**  
**Senator Albritton, Vice Chair**

**MEETING DATE:** Monday, January 13, 2020

**TIME:** 3:30—5:30 p.m.

**PLACE:** Mallory Horne Committee Room, 37 Senate Building

**MEMBERS:** Senator Montford, Chair; Senator Albritton, Vice Chair; Senators Berman, Mayfield, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Presentations by:		Presented
	Florida Department of Environmental Protection: Overview of Resiliency Programs		
	Florida Department of Economic Opportunity: Funding for Disaster Mitigation Projects		
1	<b>SB 606</b> Bean (Identical H 417)	Anchoring Limitation Areas; Designating specified waterways as anchoring limitation areas, etc.  EN 01/13/2020 Fav/CS CA RC	Fav/CS Yeas 3 Nays 2
2	<b>SB 812</b> Hutson (Similar H 549)	Public Records/Threatened or Endangered Species; Providing an exemption from public records requirements for the site-specific location information of certain threatened or endangered species; providing for legislative review and repeal of the exemption; providing a statement of public necessity, etc.  EN 01/13/2020 Fav/CS GO RC	Fav/CS Yeas 5 Nays 0
3	<b>SB 7016</b> Infrastructure and Security (Identical H 1073, Compare H 579, Linked CS/S 178)	Statewide Office of Resiliency; Establishing the office within the Executive Office of the Governor; creating the Statewide Sea-Level Rise Task Force within the office; authorizing the Department of Environmental Protection to contract for specified services, upon request of the task force; requiring the Environmental Regulation Commission to take certain action on the task force's recommendations, etc.  EN 01/13/2020 Favorable AP	Favorable Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Environment and Natural Resources

Monday, January 13, 2020, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 822</b> Albritton (Identical H 659)	Drones; Adding an exception to prohibited uses of a drone, etc.  EN 01/13/2020 Favorable GO RC	Favorable Yeas 5 Nays 0
Consideration of proposed bill:			
5	<b>SPB 7024</b>	Florida Forever; Revising legislative findings under the Florida Forever Act to include wildlife crossings as a land acquisition purpose; requiring the Department of Environmental Protection to consult with specified entities for certain projects related to conservation lands and coastal areas subject to flooding; requiring that certain allocations from the Florida Forever Trust Fund include a specified amount for lands in this state which have been impacted by a hurricane during a specified timeframe and meet certain requirements, etc.	Submitted and Reported Favorably as Committee Bill Yeas 5 Nays 0
Other Related Meeting Documents			



**Florida Department of Environmental Protection  
Office of Resilience and Coastal Protection**

**Alex Reed, Director**

**Senate Environment and Natural Resources • January 13, 2020**





# RESILIENCE AND COASTAL PROTECTION







# RESILIENCE AND COASTAL PROTECTION

## Office of Resilience and Coastal Protection

The Office of Resilience and Coastal Protection, along with the new beach regulation and management components, strives to achieve a more synergized and unified goal of protecting and managing our coastal resources by ensuring optimal quality, longevity and health of these resources over time.

- Created with Executive Order 19-12
- Oversees 4.9 million acres of submerged and coastal lands, and other distinct programs protecting Florida's coastline
- Beach and Inlet Management programs, previously housed in the Division of Water Resource Management, merged into RCP in November 2019
- Focus: comprehensive management of state coastal resources



# RCP OVERVIEW

- Aquatic Preserves
- National Estuarine Research Reserves
- St. Joe Buffer Preserve
- Florida Keys National Marine Sanctuary
- Florida Coastal Management
- Florida Coastal Access Guide
- Offshore/Outer Continental Shelf
- Statewide Ecosystem Assessment of Coastal and Aquatic Resources (SEACAR)
- Florida Coral Reef Conservation
- Clean Boating and Clean Vessel Act
- Florida Resilient Coastlines
- Beach Field Services
- Beach Management Funding Assistance
- Coastal Engineering and Geology
- Beaches, Inlets and Ports
- Coastal Construction Control Line

# AQUATIC PRESERVES

- Intent: “state-owned submerged lands in areas that have exceptional biological, aesthetic and scientific value...be set aside forever as aquatic preserves...for the benefit of future generations.”
- 41 Aquatic Preserves = 2,219,139 acres managed on behalf of BOT
- Management Plans guide management strategies and restoration actions
- Island Inventory and Assessment
- Managed and funded jointly by NOAA and Florida
- Chapter 258, Part II, FS, Chapter’s 18-18, 18-20 and 18-23, FAC



Indian River Lagoon Aquatic Preserve

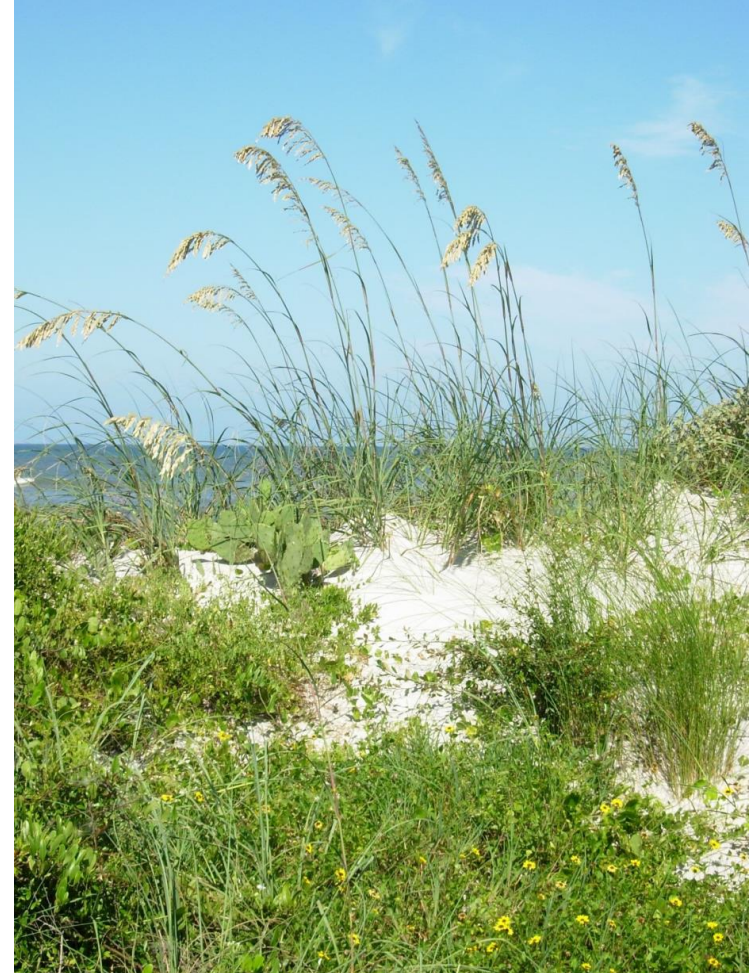






# NATIONAL ESTUARINE RESEARCH RESERVES

- Florida's 3 NERRs are among 29 nationwide
  - Guana Tolomato Matanzas, St. Augustine
  - Rookery Bay, Naples
  - Apalachicola, Eastpoint
- Managed and funded jointly between NOAA and Florida
- Four core NERR programs:
  - Stewardship
  - Coastal Training
  - Education
  - Research
- Sovereign submerged lands and coastal uplands
- Sentinel sites
- Sea level rise planning







# NERR EDUCATION CENTERS



Apalachicola NERR  
Eastpoint



Rookery Bay Research Reserve  
Naples



GTM Research Reserve  
St. Augustine

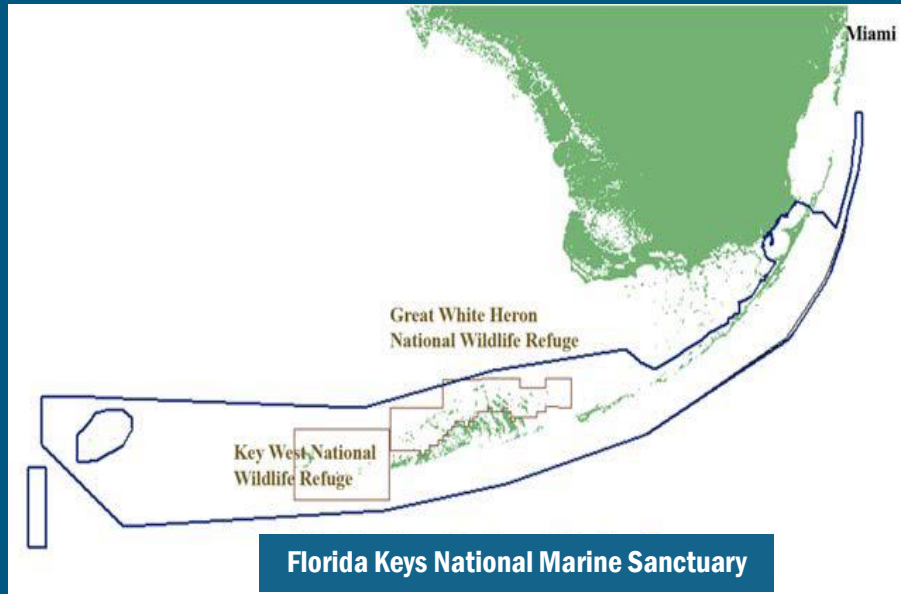




# FLORIDA KEYS NATIONAL MARINE SANCTUARY



# FLORIDA KEYS NATIONAL MARINE SANCTUARY



- Encompasses 2.3 million acres (65% is state submerged lands), including two aquatic preserves (Lignumvitae Key and Coupon Bight)
- FKNMS & Protection Act – 1990
- Managed jointly by NOAA, USFWS & DEP/FWC under BOT MOAs
- Funded by NOAA
- Research and monitoring
- Enforcement and marine zoning
- Draft EIS (zoning plan)



# FLORIDA COASTAL MANAGEMENT PROGRAM

- Chapter 380, Part II Florida Statutes
- Maintains federally approved coastal management program – collection of 24 Florida Statutes administered by state agencies and Water Management Districts
- Managed and funded jointly by NOAA and Florida
- Funds most Aquatic Preserves and Management Plan development
- Federal Consistency and Offshore Projects (Outer Continental Shelf Program)
- Oversees Statewide Ecosystem Assessment of Coastal and Aquatic Resources (SEACAR)
- Administers Coastal Partnership Initiative grants
- Marine Debris
- Uniform Warning and Safety Flag program
- Florida Coastal Access Guide

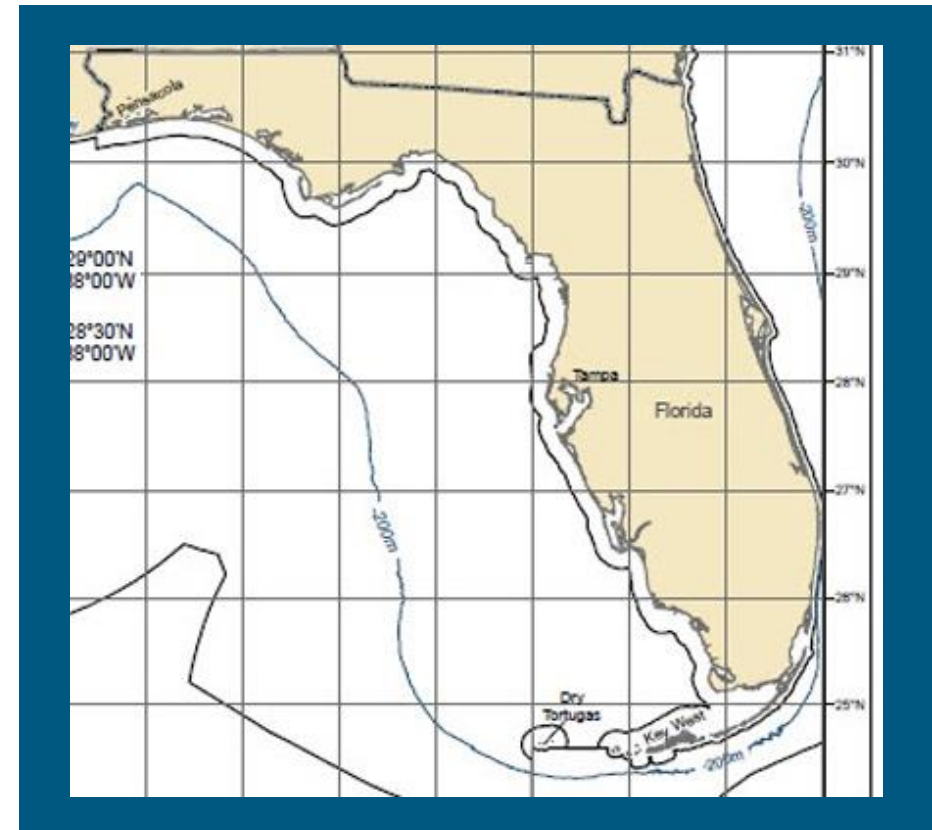






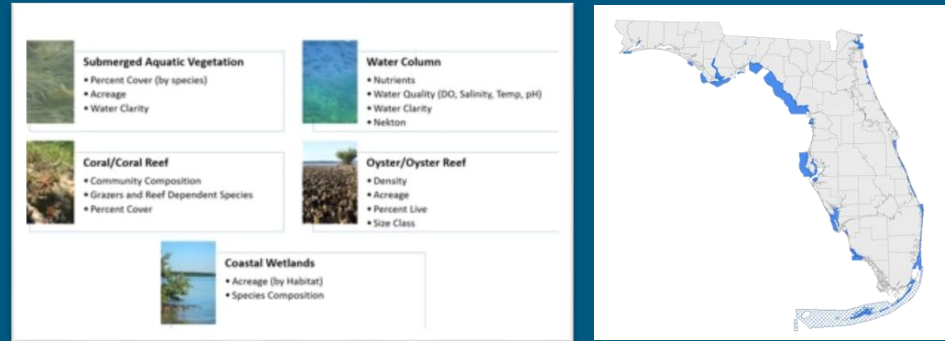
# OFFSHORE PROGRAM

- Focuses on submerged lands seaward of state water boundaries
  - 3 miles off Atlantic Coast
  - 3 leagues (10.36 miles) off Gulf Coast
- Coordinates state's review, oversight, monitoring and response to Outer Continental Shelf activities:
  - Oil and Gas - Leasing, Exploration, Development and Production
  - Geological and Geophysical Research
  - Alternative Energy
  - Pipeline Right-of-Way Permitting
  - Sand and Gravel Use
  - Artificial Reefs
  - Military Operations





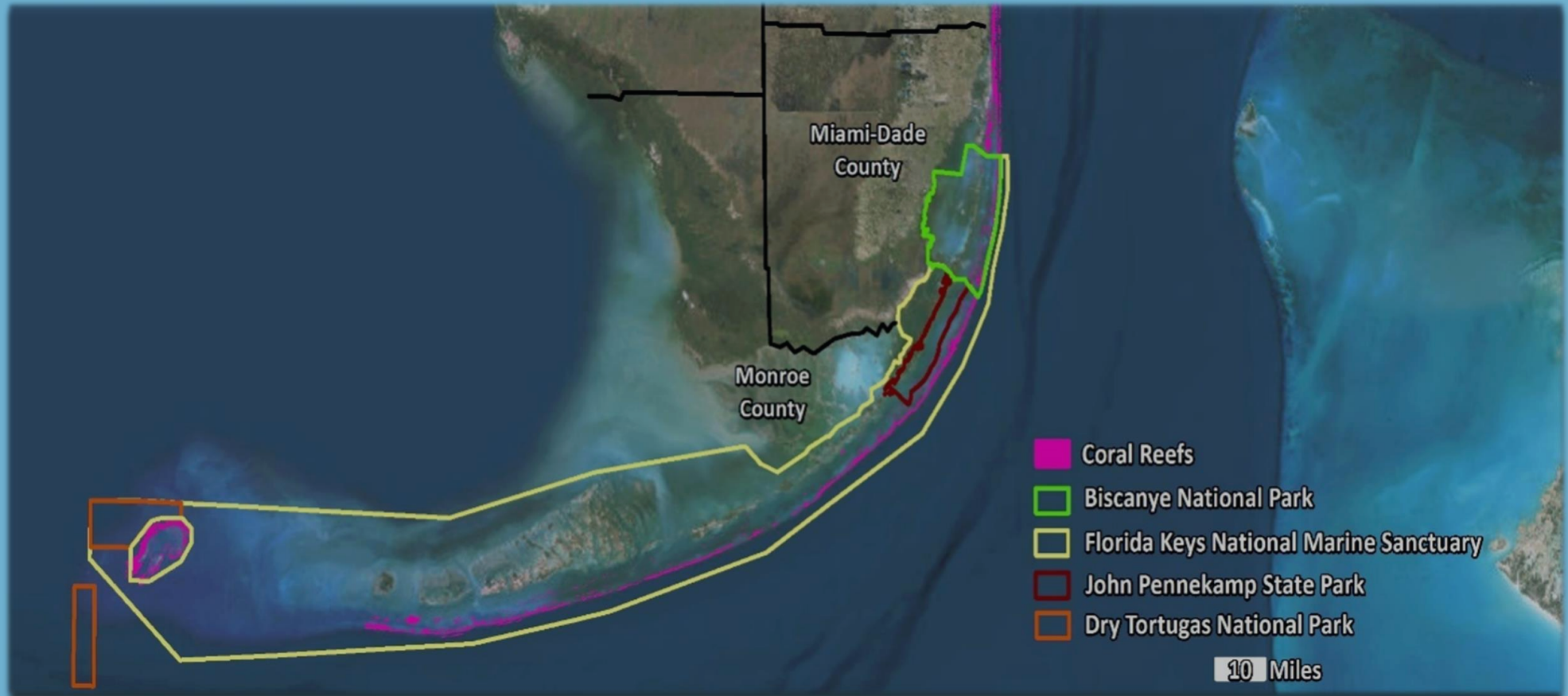
# STATEWIDE ECOSYSTEM ASSESSMENT OF COASTAL AND AQUATIC RESOURCES (SEACAR)



Collaborative process using current knowledge of coastal processes and scientific data obtained from inventory and monitoring programs around the state to study 16 ecological indicators. These indicators will help determine coastal and aquatic habitat status and trends.



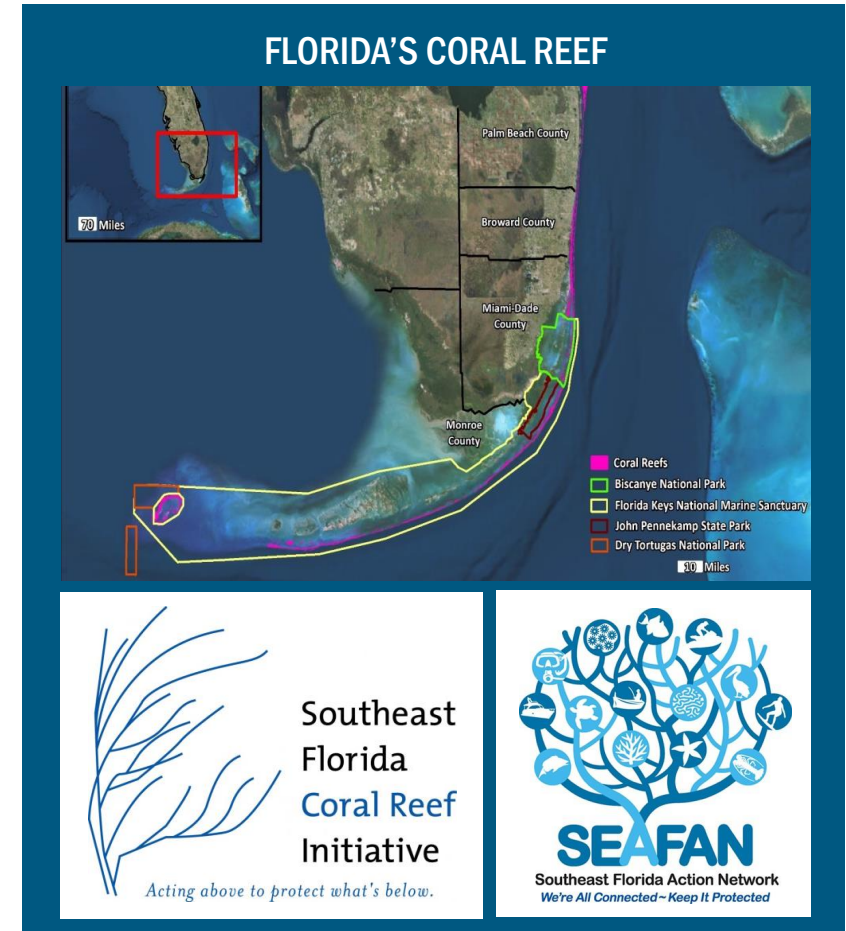
# CORAL REEF CONSERVATION PROGRAM





# CORAL REEF CONSERVATION PROGRAM

- Manages northern Coral Reef from Martin County to Miami-Dade County (240,000 acres)
- Represents Florida on U.S. Coral Reef Task Force and U.S. All Islands Coral Reef Committee
- Leading response efforts to Stony Coral Tissue Loss Disease (SCTLD)
- Assists with vessel groundings/impacts under Coral Reef Protection Act, 403.93345 F.S.
- SEFCRI focuses on five threats to Florida Coral Reef:
  - Maritime industry and coastal construction impacts
  - Lack of awareness and appreciation
  - Land-based sources of pollution
  - Fishing, diving, and other uses
  - Reef resilience





# CLEAN BOATING PROGRAMS

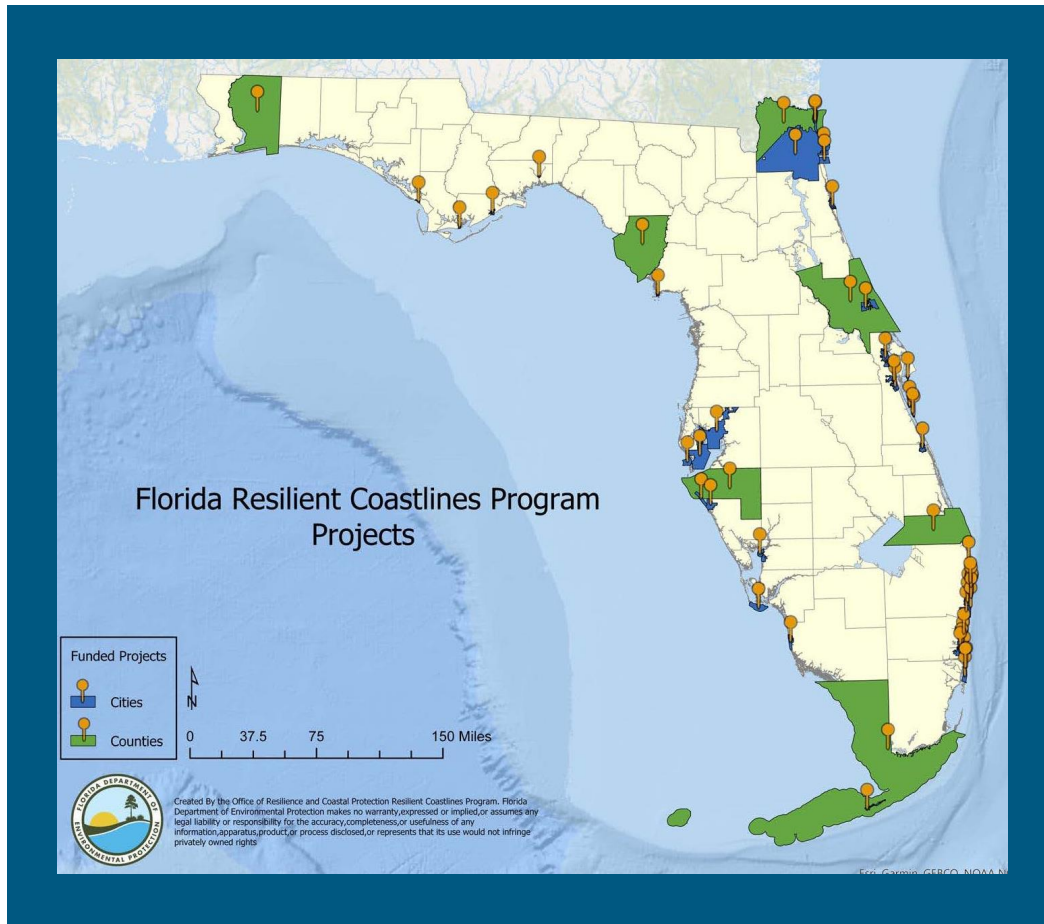
Voluntary, partnership-driven initiatives for marinas, boatyards, and boaters to promote a proactive approach to environmental stewardship

- Clean Marina
- Clean and Resilient Marina
- Clean Boatyard
- Clean Marine Retailer
- Clean Boater
- Clean Boating Partnership
- Clean Vessel Act Pumpouts





# FLORIDA RESILIENT COASTLINES PROGRAM



## STATEWIDE INITIATIVES

- Coastal Resilience Forum
- Developing and piloting Adaptation Action Areas
- Technical assistance and planning documents

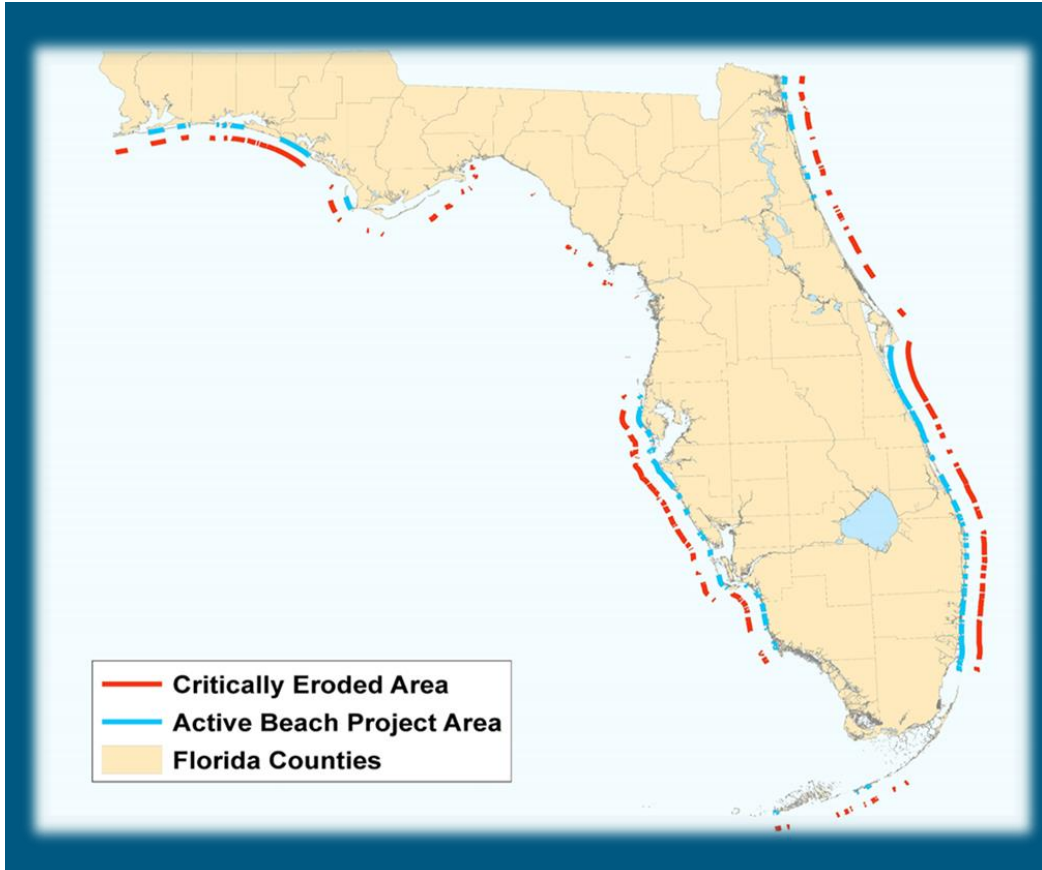
## 60 COMMUNITY PROJECTS

- Adaptation/Resilience Plans
- Flood, Stormwater and Historic Resource Vulnerability Assessments
- Living Shorelines
- Stormwater Outfalls





# BEACH AND INLET MANAGEMENT



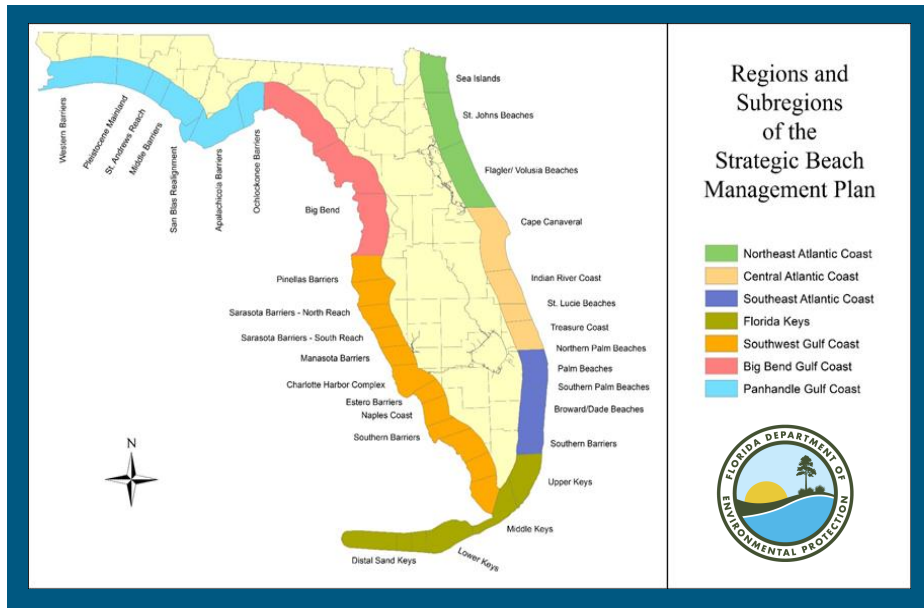
## HEALTHY BEACHES PROVIDE:

- Protective Barrier
- Wildlife Habitat
- Public Recreation
- Tourism Revenue

825 miles of sandy beaches  
419.6 miles critically eroded  
231.3 miles managed  
188.3 miles vulnerable



# BEACH AND INLET MANAGEMENT



- Beach Field Services
- Beach Management Funding Assistance
- Beaches, Inlets and Ports
- Coastal Construction Control Line
- Coastal Engineering and Geology

All five beaches programs work together to manage Florida's coastline. Comprehensive beach management requires a continuous cycle of evaluation and planning, permitting and funding, and monitoring and re-evaluation.





**Thank you!**





## Update on Community Development Block Grant - Mitigation (CDBG-MIT) Program

Ken Lawson, Executive Director  
January 13, 2020



# CDBG - MITIGATION OVERVIEW

**April 2018:** Funds originally announced by HUD

- **\$633,485,000 Florida allocation**

**August 30, 2019:** Federal Register Notice Published

- [FR-6109-N-02](#)

In total, **51 Florida counties** are currently eligible for CDBG-MIT funding

- 2016 and 2017 (Hurricanes Hermine, Matthew, and Irma)

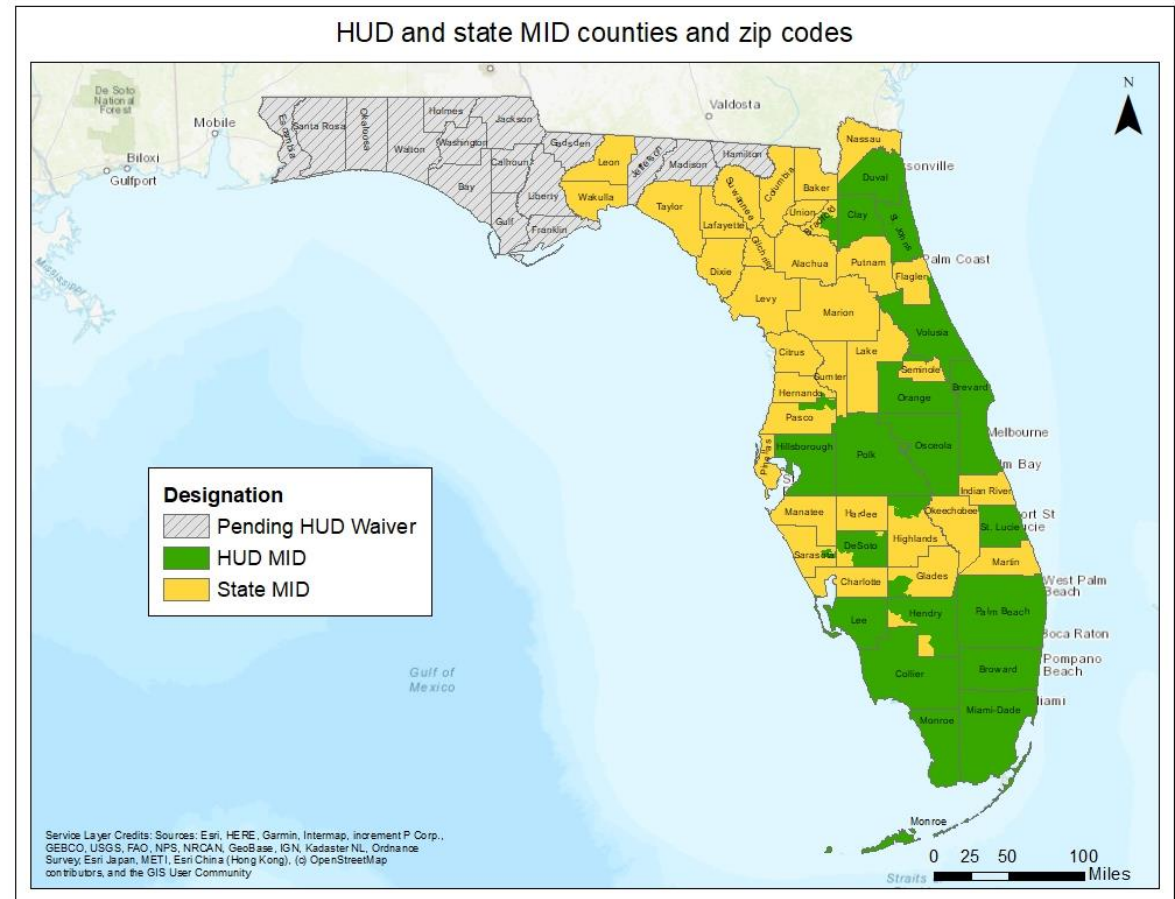
**February 3, 2020:** CDBG-MIT state action plan due to HUD

Florida has **12 years** to expend all CDBG-MIT funding



# STATE MOST IMPACTED AND DISTRESSED (MID) AREAS

- DEO is seeking to increase the entire state's resiliency to disasters.
- To accomplish this goal, DEO submitted a wavier to HUD seeking to make the entire state eligible for CDBG-MIT funding.
- At least 50% of funds must be spent on mitigation needs in HUD-designated Most Impacted and Distressed (MID) areas.
- Remaining funds can be spent in State-designated Most Impacted and Distressed (MID) areas.



# CDBG-MITIGATION ACTION PLAN

- DEO has led the state's efforts to create the federally required State Action Plan.
  - Provides a high-level strategy for how the funding will be used to address eligible communities' disaster mitigation needs.
  - Has been developed in partnership with state and local partners involved in mitigation and resiliency efforts.

## Action Plan due: February 3, 2020

- Public Comment = 45 days
- HUD review = 60 days after submission

## Requirements

- Risk-based needs assessment
- Community Participation Strategy
- Eligible and Ineligible Activities

Federal  
Register  
Notice  
Published

Develop  
State  
Action  
Plan

45 Day  
Public  
Comment  
Period

Review/  
Respond  
to Public  
Comments

Submit  
Action  
Plan to  
HUD

Ongoing Stakeholder Outreach

# ALLOCATION OF CDBG-MITIGATION FUNDS

- After the State Action Plan has been approved by HUD, DEO plans to allocate the funding for the following projects:
- **Infrastructure: \$406,788,000**
  - General Infrastructure
  - Public Safety Hardening Program
  - Critical Facility Generator Program
- **CDBG-MIT as Match: \$100,000,000**
- **Planning and Administrative Costs: \$126,697,000**
- **Total allocation from HUD: \$633,485,000**

# CDBG - MITIGATION CYCLE





# LEARN MORE

To learn more about the DEO Office of Disaster Recovery and programs available to disaster-impacted communities, visit:

[www.RebuildFlorida.gov](http://www.RebuildFlorida.gov)

Email: [cdbg-mit@deo.myflorida.com](mailto:cdbg-mit@deo.myflorida.com)



Thank You.



DEO Office of Legislative and Cabinet Affairs

PH: 850-245-7116

Email: *Nicholas.Alvarez@deo.myflorida.com*



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FLORIDA DEPARTMENT of ECONOMIC OPPORTUNITY

**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 Environment and Natural Resources

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BILL: CS/SB 606

INTRODUCER: Environment and Natural Resources and Senator Bean

SUBJECT: Anchoring Limitation Areas

DATE: January 13, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dyson	Rogers	EN	<b>Fav/CS</b>
2.			CA	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 606 adds the Ortega and Cedar rivers in Duval County, and Kings Bay within the municipal boundaries of Crystal River in Citrus County to the list of designated anchoring limitation areas, which restricts the anchoring of a vessel in such areas at night with certain exceptions.

**II. Present Situation:**

**Ortega River**

The Ortega River is located approximately 4.2 miles southwest of Jacksonville in Duval County, and branches off of the St. Johns River.<sup>1</sup> The Ortega River is known for being the recreational boating center of northeast Florida.<sup>2</sup> It is home to the “Marina Mile” which features several marinas, boat shops, yacht sales, and other marine type shops.<sup>3</sup>

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<sup>1</sup> Marinas.com, *Ortega River Inlet*, [https://marinas.com/view/inlet/wjiwq\\_Ortega\\_River\\_Inlet\\_Jacksonville\\_FL\\_United\\_States](https://marinas.com/view/inlet/wjiwq_Ortega_River_Inlet_Jacksonville_FL_United_States) (last visited Nov. 7, 2019).

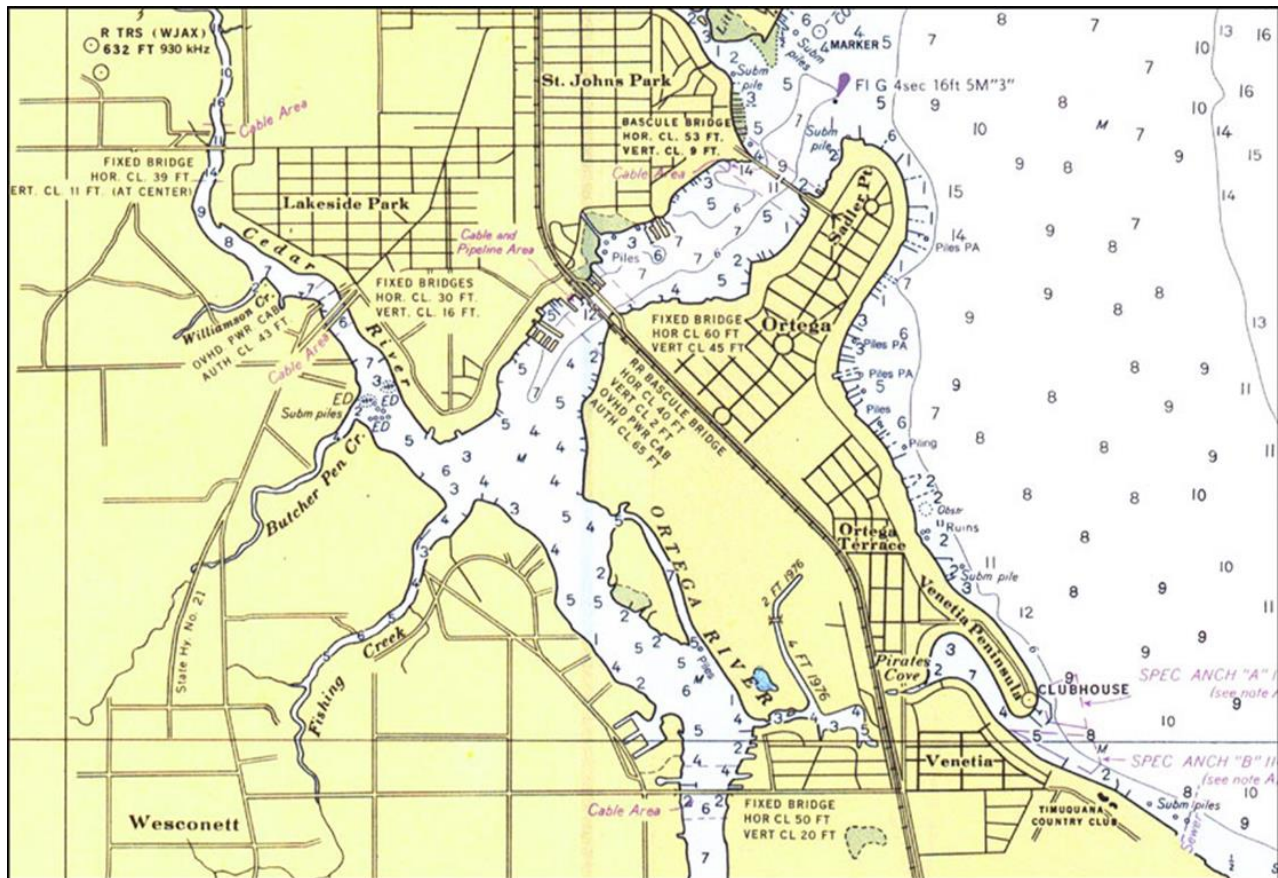
<sup>2</sup> Metro Jacksonville, *The Forgotten Rivers of Jacksonville, Ortega River* (Jun. 18, 2015), <https://www.metrojacksonville.com/article/2015-jun-the-forgotten-rivers-of-jacksonville/page/1> (last visited Nov. 7, 2019).

<sup>3</sup> *Id.*

## Cedar River

The Cedar River is located on the west side of Jacksonville, and runs into the Ortega River.<sup>4</sup> The Cedar River area is well known for outstanding food, especially the Cedar River Restaurant which opened in 1976.<sup>5</sup>

A map of both rivers can be seen below:<sup>6</sup>



## Kings Bay

Kings Bay is located on the west coast of Florida, and together with Crystal River makes up the second largest spring in Florida with more than 70 springs scattered within the 600 acre bay. The springs are the headwaters of Crystal River, which is a short, tidal river that flows seven miles from the headsprings to where it meets the Gulf of Mexico at Crystal Bay in Citrus County, Florida. Crystal River/Kings Bay is the largest natural winter refuge for Manatees on the Florida Gulf Coast.<sup>7</sup>

<sup>4</sup> Metro Jacksonville, *The Forgotten Rivers of Jacksonville, Cedar River* (Jun. 18, 2015), <https://www.metrojacksonville.com/article/2015-jun-the-forgotten-rivers-of-jacksonville/page/> (last visited Nov. 7, 2019).

<sup>5</sup> *Id.*

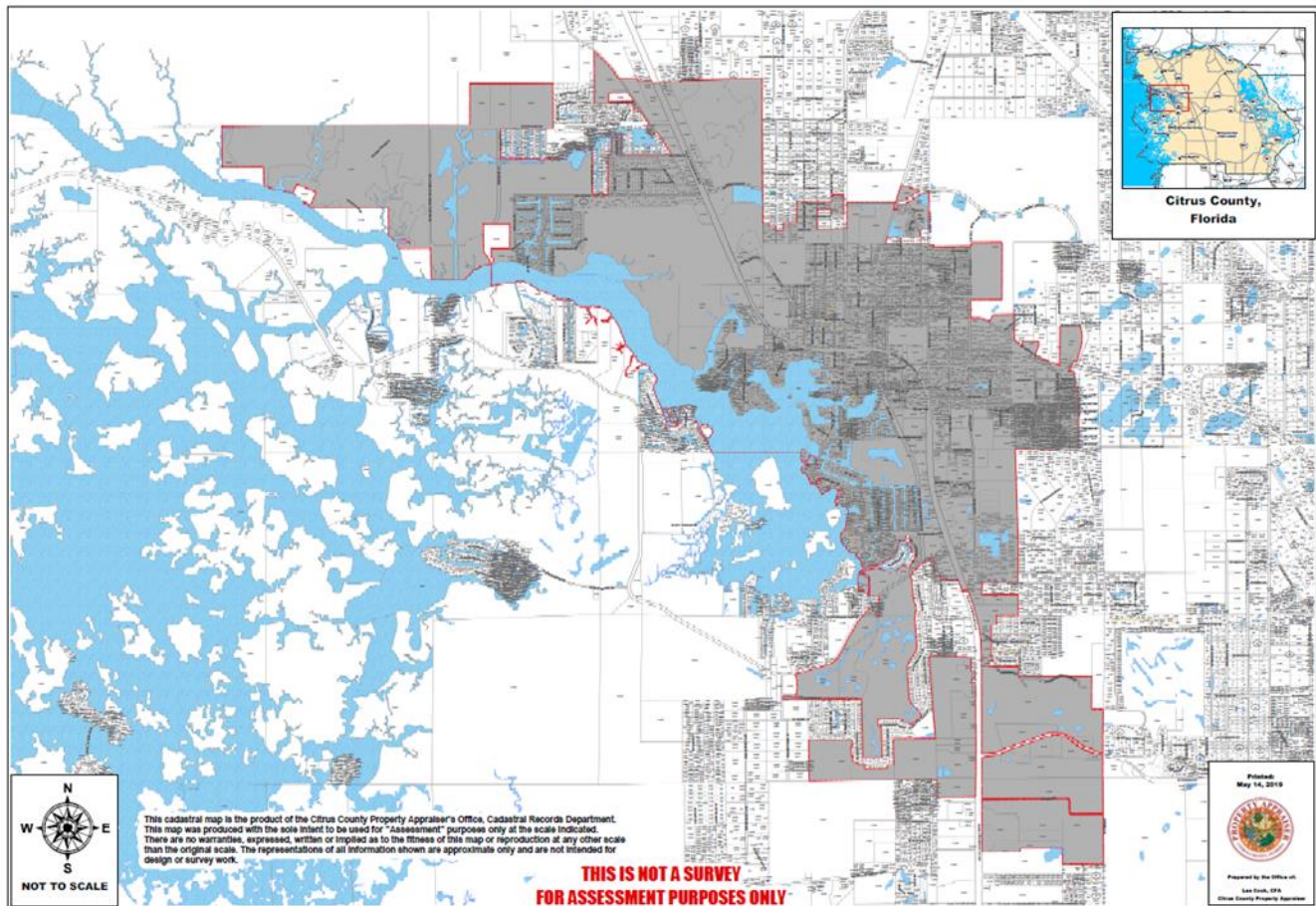
<sup>6</sup> Maps Etc., *St. Johns River: Ortega, 1977*, <http://fcit.usf.edu/florida/maps/pages/3800/f3853/f3853.htm> (last visited Nov. 7, 2019).

<sup>7</sup> Southwest Florida Water Management District, *Crystal River/Kings Bay, Citrus County*, <https://www.swfwmd.state.fl.us/projects/springs/kings-bay> (last visited Jan. 9, 2020).



A map of the water body can be seen below:<sup>8</sup>

## City of Crystal Municipal Limits



### Anchoring and Mooring

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.<sup>9</sup> Mooring is accomplished through the utilization of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.<sup>10</sup>

<sup>8</sup> Crystal River Florida, *City of Crystal Municipal Limits*, [http://crystalriverfl.org/page/open/106/0/Cr\\_Municipal%20Limits\\_Map\\_04\\_14\\_2019.pdf](http://crystalriverfl.org/page/open/106/0/Cr_Municipal%20Limits_Map_04_14_2019.pdf) (last visited Jan. 14, 2020).

<sup>9</sup> Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

<sup>10</sup> Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf> (last visited Nov. 7, 2019).

The anchoring of vessels has created issues in some areas of the state related to the use and enjoyment of the waters. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly;
- Vessels that become derelict;<sup>11</sup>
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.<sup>12</sup>

### ***State Regulation of the Anchoring or Mooring of Vessels***

The Board of Trustees of the Internal Improvement Trust Fund (Board), which consists of the Governor and the Cabinet, is responsible for administering, controlling, and managing sovereignty submerged lands.<sup>13</sup> The board is authorized to adopt rules governing all uses of sovereignty submerged lands including rules for anchoring, mooring, or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages. Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.<sup>14</sup>

Section 327.44, F.S., prohibits a person from anchoring a vessel, except in case of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.<sup>15</sup> Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.<sup>16</sup>

The FWC and other law enforcement agencies are authorized to relocate or remove a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. The FWC or any law enforcement agency the relocates or removes a vessel under these circumstances must be held harmless for all damages to the vessel resulting from the relocation

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<sup>11</sup> Section 823.11(1)(b), F.S. A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property; Citizens that live along the Ortega River have expressed concerns about derelict vessels that have sunk. Vessels that have sunk create a significant danger because the mast can reach close to the surface but cannot be seen by incoming boats. See First Coast News, *Ortega River Homeowners Looking Forward to Removal of 'Abandoned' Boats From River* (Oct. 9, 2019), <https://www.firstcoastnews.com/article/news/local/ortega-river-homeowners-looking-forward-to-removal-of-abandoned-boats-from-river/77-b2c3bcc6-ac86-4570-b449-49ddc1c51a5c> (last visited Dec. 19, 2019).

<sup>12</sup> Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 6 (Dec. 31, 2016), available at <http://www.boatus.com/gov/assets/pdf/fwc-2016-anchoring-and-mooring-report.pdf>.

<sup>13</sup> Section 253.03(7), F.S.

<sup>14</sup> See Fla. Admin. Code Ch. 18-21.

<sup>15</sup> Section 327.44(2), F.S.

<sup>16</sup> Section 327.73, F.S.

or removal unless the damage results from gross negligence or willful misconduct.<sup>17</sup> The costs to relocate or remove a vessel under these circumstances are recoverable against the vessel owner.<sup>18</sup>

The owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility (a facility that services or repairs a yacht with a water line of 120 feet or more in length); or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the local government within which the mooring field is located.<sup>19</sup>

Exceptions from these restrictions apply for:

- A vessel owned or operated by a governmental entity.
- A construction or dredging vessel on an active job site.
- A commercial fishing vessel actively engaged in commercial fishing.
- A vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.<sup>20</sup>

An owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for 5 business days or until the vessel is repaired, whichever occurs first.
- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk.<sup>21</sup>

The owner or operator of a vessel or floating structure may not anchor or moor within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.<sup>22</sup>

A vessel or floating structure may not be anchored, moored, or affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of this state. This does not apply to a private mooring owned by the owner of privately owned submerged lands.<sup>23</sup>

An anchoring or mooring violation of is a noncriminal infraction, punishable as follows:

- For a first offense, up to a maximum of \$50.

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<sup>17</sup> Section 327.44(3), F.S.

<sup>18</sup> Section 327.44(5), F.S.

<sup>19</sup> Section 327.4109(1)(a), F.S.

<sup>20</sup> Section 327.4109(1)(b), F.S.

<sup>21</sup> Section 327.4109(2), F.S.

<sup>22</sup> Section 327.4109(3), F.S.

<sup>23</sup> Section 327.4019(4), F.S.



- For a second offense, up to a maximum of \$100.
- For a third or subsequent offense, up to a maximum of \$250.<sup>24</sup>

In 2019 the Legislature directed the Fish and Wildlife Commission (FWC) to conduct a study that will:

- Investigate whether, and to what extent, long term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state;
- Investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, and vessels moored within public mooring fields on the local and state economies; public safety; public boat ramps, staging docks, and public marinas; and the environment during and after significant tropical storm and hurricane events; and
- Provide recommendations for appropriate management options for long-term stored vessels and vessels anchored or moored outside public mooring fields for more than 30 days to mitigate any identified negative impacts to local communities and this state.<sup>25</sup>

The study should not take more than 2 years and must be submitted to the Governor and Legislature within 6 months after completion. The requirement for the study was contingent on an appropriation and funds have not been appropriated at this time.<sup>26</sup>

### **Anchoring Limitation Areas**

Section 327.4108 F.S., designates three “anchoring limitation areas” that are characterized as “densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant recreational boating traffic.” These anchoring limitation areas include:

- The section of Middle River lying between Northeast 21<sup>st</sup> Court and the Intracoastal Waterway in Broward County;
- Sunset Lake in Miami Dade County; and
- The sections of Biscayne Bay in Miami-Dade County lying between:
  - River Alto Island and Di Lido Island;
  - San Marino Island and San Marco Island; and
  - San Marco Island and Biscayne Island.<sup>27</sup>

Within these anchoring limitation areas, a person may not anchor a vessel at any time during the period between one-half hour after sunset and one-half hour before sunrise.<sup>28</sup> A person may anchor a vessel in an anchoring limitation area:

- If the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor for 3 business days or until the vessel is repaired, whichever occurs first;

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<sup>24</sup> Section 327.4109(5), F.S.

<sup>25</sup> Section 327.4109(6), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Section 327.4108(1), F.S.

<sup>28</sup> Section 327.4108(2), F.S.

- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired; or
- During a regatta, race, marine parade, tournament, exhibition,<sup>29</sup> or other special events, including, but not limited to, public music performances, local government waterfront activities, or fireworks display. A vessel may anchor for the lesser of the duration of the special event or three days.<sup>30</sup>

These limitations do not apply to:

- Vessels owned or operated by a governmental entity or law enforcement, firefighting, military, or rescue purposes;
- Construction or dredging vessels on an active job site;
- Vessels actively engaged in commercial fishing; or
- Vessels engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.<sup>31</sup>

### **Local Regulation of the Anchoring or Mooring of Vessels**

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.<sup>32</sup> Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters for which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scrapping and painting are not authorized within such mooring fields.<sup>33</sup>

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.<sup>34</sup> However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or

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<sup>29</sup> Section 327.48, F.S.

<sup>30</sup> Section 327.4108(3), F.S.

<sup>31</sup> Section 327.4108(4), F.S.

<sup>32</sup> Section 373.118, F.S., and Rule 62-330.420(1), F.A.C.

<sup>33</sup> See Rule 62-330.420, F.A.C.

<sup>34</sup> Section 327.60(3), F.S.; See s. 327.02, F.S., which defines the term “floating structure” as a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such.

local regulation that regulates the anchoring of vessels other than live-aboard vessels outside the marked boundaries of permitted mooring fields.<sup>35</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 327.4108, F.S., adding the Ortega and Cedar rivers in Duval County, and any portions of Kings Bay located within the municipal boundaries of Crystal River in Citrus County to the list of anchoring limitation areas. This means that a person may not anchor their vessel in such areas during the period between one-half hour after sunset and one-half hour before sunrise, with certain exceptions.

**Section 2** of the bill provides an effective date of July 1, 2020.

### 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:

Art. III, s. 10 of the Florida Constitution prohibits the Legislature from enacting any special law unless notice is first published or a referendum is conducted. A special law or “local law” relates to or operates upon a particular person, thing, or part of the state; it does not apply with geographic uniformity across the state and bears no reasonable relationship to differences in population or other legitimate criteria.<sup>36</sup> On the other hand, a general law of local application relates to a class of persons or things or subdivisions of the state, based upon distinctions or differences that are inherent or particular to the class or location. The Legislature is granted wide discretion in making such classifications.<sup>37</sup> If a particular condition exists in only a portion of the state, enactments that reference the

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<sup>35</sup> Section 327.60(2)(f), F.S.; *See* s. 327.02, F.S., which defines the term “live-aboard vessel” as a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats.

<sup>36</sup> *See State ex rel. Landis v. Harris*, 163 So. 237, 240 (Fla. 1934); *Lawnwood Medical Center, Inc. v. Seeger*, 990 So.2d 503 (Fla. 2008).

<sup>37</sup> *Shelton v. Reeder*, 121 So. 2d 145, 151 (Fla. 1960). *See also* Art. X, s. 11 of the Florida Constitution.



limited geographic area may be general laws.<sup>38</sup> “[I]f a law utilizes a classification that is geographical in its terms but the purpose of the statute is one of statewide importance and impact, and the classification is reasonably related to the law’s purpose, it is a valid general law.”<sup>39</sup>

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends s. 327.4108 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environment and Natural Resources Committee on January 13, 2020:**

- Adds any portions of Kings Bay which are located within the municipal boundaries of Crystal River in Citrus County to the list of anchoring limitation areas.

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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<sup>38</sup> *Schrader v. Florida Keys Aqueduct Authority*, 840 So.2d 1050, 1055 (Fla. 2003).

<sup>39</sup> *Id.* at 1056.



265924

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/13/2020	.	
	.	
	.	
	.	

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The Committee on Environment and Natural Resources (Bean)  
recommended the following:

**Senate Amendment (with directory amendment)**

Between lines 17 and 18  
insert:

(e) Any portions of Kings Bay which are located within  
Citrus County and Crystal River and are so designated by local  
ordinance.

===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

And the directory clause is amended as follows:



265924

11       Delete line 9  
12 and insert:  
13       Section 1. Paragraphs (d) and (e) are added to subsection  
14 (1) of



128390

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/13/2020	.	
	.	
	.	
	.	

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The Committee on Environment and Natural Resources (Bean)  
recommended the following:

**Senate Substitute for Amendment (265924) (with directory  
amendment)**

Between lines 17 and 18  
insert:

(e) Any portions of Kings Bay which are located within the  
municipal boundaries of Crystal River in Citrus County.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:





128390

11           Delete line 9  
12 and insert:  
13           Section 1. Paragraphs (d) and (e) are added to subsection  
14 (1) of

By Senator Bean

4-00937-20

2020606\_\_

1                           A bill to be entitled  
2       An act relating to anchoring limitation areas;  
3       amending s. 327.4108, F.S.; designating specified  
4       waterways as anchoring limitation areas; providing an  
5       effective date.

6  
7   Be It Enacted by the Legislature of the State of Florida:  
8

9       Section 1. Paragraph (d) is added to subsection (1) of  
10      section 327.4108, Florida Statutes, to read:

11       327.4108 Anchoring of vessels in anchoring limitation  
12      areas.—

13       (1) The following densely populated urban areas, which have  
14      narrow state waterways, residential docking facilities, and  
15      significant recreational boating traffic, are designated as  
16      anchoring limitation areas:

17       (d) The Ortega River and the Cedar River in Duval County.

18      Section 2. This act shall take effect July 1, 2020.



## 2020 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY:** Florida Fish and Wildlife Conservation Commission

### BILL INFORMATION

<b>BILL NUMBER:</b>	Senate Bill (SB) 812
<b>BILL TITLE:</b>	Public Records/ Threatened or Endangered Species
<b>BILL SPONSOR:</b>	Senator Travis Hutson
<b>EFFECTIVE DATE:</b>	July 1, 2020

### COMMITTEES OF REFERENCE

1) Environment and Natural Resources
2) Governmental Oversight and Accountability
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

### CURRENT COMMITTEE

Environment and Natural Resources
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### SIMILAR BILLS

<b>BILL NUMBER:</b>	House Bill (HB) 549
<b>SPONSOR:</b>	Representative Toby Overdorf

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

### Is this bill part of an agency package?

Yes.

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	November 6, 2019
<b>LEAD AGENCY ANALYST:</b>	Ed Bishop
<b>ADDITIONAL ANALYST(S):</b>	Grant Burton, Rob Beaton
<b>LEGAL ANALYST:</b>	Quilla Miralia
<b>FISCAL ANALYST:</b>	Charlotte Jerrett

### **POLICY ANALYSIS**

## **1. EXECUTIVE SUMMARY**

SB 812 would create section (s.) 379.1026, Florida Statutes (F.S.), to exempt from public records requirements the site-specific location information of certain endangered and threatened species. The bill would provide for the repeal of these provisions on October 2, 2025 unless Legislative review saves the section from repeal. The bill would provide a statement of public necessity which recognizes that the security of information regarding the site-specific location of endangered or threatened species is critical to the protection and survival of such species, and that the harm that may result from the release of such location information outweighs any public benefit that may be derived from the disclosure of the information. The bill would provide an effective date of July 1, 2020.

## **2. SUBSTANTIVE BILL ANALYSIS**

### **1. PRESENT SITUATION:**

Florida Statutes allow open access to most state records for a variety of reasons, aligning with increased transparency for the public trust. These records may include, but are not limited to: reports, citations, closed investigations, email correspondence, budget information, research, and data compiled specific to species and/or habitat.

While maintaining transparency for public trust is an important element toward successful governance, recent activities related to this topic have undermined conservation efforts for the Florida Fish and Wildlife Conservation Commission (Commission) and derailed public trust among collaborators and stakeholders. Current public records laws require Florida state agencies to disclose data and research, including those data that originated from the Commission and data connected with research conducted by outside parties that have their information stored within the Commission.

This research data includes, but is not limited to: population trends, migratory patterns, reproductive ecology, distribution data, den locations, satellite telemetry, point localities for artificial reefs, and mark-recapture data. Collaboration with nongovernmental organizations (NGO's), universities, other management agencies, and private consultants is extremely beneficial when making management decisions for species that the Commission is tasked with conserving.

Additionally, for landowners that are currently enrolled in the Commission's management plan, there is no exemption that protects private property owners from potential trespass and related liability issues when endangered or threatened species are found on their properties. This is cause for private land owners not to allow research or allow for the Commission to develop wildlife management plans that would assist with species management.

### **2. EFFECT OF THE BILL:**

SB 812 would create s. 379.1026, F.S., to exempt from public records requirements the site-specific location information of species that are State-Listed Threatened, Federally-Listed Endangered and Federally-Listed Threatened.

The bill would provide:

Section 1. Definition of the following terms:

Agency: As provided in s. 119.011, F.S., means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

Endangered Species: As provided in s. 379.2291(3)(b), F.S., means any species of fish and wildlife naturally occurring in Florida, whose prospects of survival are in jeopardy due to modification or loss of habitat; overutilization for commercial, sporting, scientific, or educational purposes; disease; predation; inadequacy of regulatory mechanisms; or other natural or manmade factors affecting its continued existence.

Threatened Species: As provided in s. 379.2291(3)(c), F.S., means any species of fish and wildlife naturally occurring in Florida which may not be in immediate danger of extinction, but which exists in such small populations as to become endangered if it is subjected to increased stress as a result of further modification of its environment.

The bill would exempt site-specific location information held by an agency concerning a species listed by a federal agency as endangered or threatened or listed by the Commission as threatened from public records (s. 119.07(1), F.S., and s. 24(a), Article I of the State Constitution). This exemption is not waived by the release of such location information to another agency or to an educational institution or scientific facility for research purposes. This exemption



is subject to the Open Government Sunset Review Act and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal by the Legislature.

## Section 2: Statement of Public Necessity

The bill would provide a Legislative statement of public necessity, recognizing that the release of such location information would jeopardize the continued existence of endangered or threatened species by increasing the risk of exposure to wildlife poachers or by threatening the integrity of the site due to increased use or traffic. This exemption would protect private property owners from potential trespass and related liability issues when endangered or threatened species are found on their properties and encourages such property owners, as well as researchers, to provide agencies with information they might not otherwise provide if such location information were made public. The Legislature finds that the harm that may result from the release of such location information outweighs any public benefit that may be derived from the disclosure of the information.

Section 3: Would provide an effective date of July 1, 2020.

### 3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

### 4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Florida Cattleman's Association Florida Farm Bureau Florida Forestry Association Florida Association of Conservation Districts Florida Natural Areas Inventory (FNAI), Florida State University Florida Resources and Environmental Analysis Center at Florida State University U.S. Fish and Wildlife Service NOAA United States Geologic Survey Florida Diamondback Terrapin Working Group Dr. Craig Stanford, Chair of the International Union for Conservation of Nature (IUCN) SSC Tortoise and Freshwater Turtle Specialist Group Altamaha Environmental Consulting, LLC Private Land Owners
Opponents and summary of position:	Unknown.

### 5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

### 6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

## FISCAL ANALYSIS

### 1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☒

Revenues:	None.
Expenditures:	None.
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

### 2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☐ N ☒

Revenues:	None.
Expenditures:	None.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	N/A

### 3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☐ N ☒

Revenues:	None.
Expenditures:	None.
Other:	N/A

### 4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y ☐ N ☒

If yes, explain impact.	N/A
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Bill Section Number:

N/A

**TECHNOLOGY IMPACT**

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

N/A

**FEDERAL IMPACT**

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.

N/A

**ADDITIONAL COMMENTS****LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments:

**Table 1.** The following examples are those that FWC staff elicited from peers and partners during initial investigation into the problem; this is not an exhaustive list. These examples are real problems that staff handle in conflict with successful conservation of the species. The sub-team used the following examples to define the problem scope.

	Description	Categorical Implications			Impacted FWC Division
		External Collaboration	Compliance	Public Safety	
1	<b>Withholding Data</b> - Spawning locations for Gulf Sturgeon in the Yellow River are not being disclosed to FWC by USFWS because they do not want stakeholders to know where those sites are located.	X			HSC
2	<b>Inaccurate Data</b> - Vague and/or inaccurate information is provided in final reports for listed species research because stakeholders do not want their data stolen or for their animals to be poached; these reports are a requirement of the Scientific Collecting Permit conditions.	X			HSC
6	<b>Safety Concern</b> - People have requested current Florida black bear point locations for ongoing real-time research; locations of 40 adult females are updated every two hours. Interactions between stakeholders and bears are public safety concern.		X	X	FWRI, HSC
7	<b>Illegal Activity</b> - The public uses FWC reports and online resources to locate and collect species that have monetary value on black market; reptiles for pet & food trade have illegal trade value of as much as \$20,000/animal. These illegal sales impact economics of legal trade by undermining legitimate business costs.		X		LE, HSC, FWRI
8	<b>Safety Concern</b> - Florida panther and Florida black bear den locations are of interest to stakeholders but are a public safety concern.		X	X	LE, HSC, FWRI
9	<b>Withholding Data</b> – Universities and researchers apprehensive on sharing location information on protected corals in fear of exploitation (e.g. Pillar, Elkhorn, Staghorn).	X	X		FWRI, LE



		External Collaboration	Compliance	Public Safety	
10	<b>Illegal Activity</b> - Stakeholders request and search on FWC site location data for species popular in the illegal wildlife trade for undisclosed uses (e.g., Eastern indigo snake, Florida salt marsh vole, Black banded sunfish, etc.).		X		LE, HSC, FWRI
11	<b>Illegal Activity</b> - Stakeholders request species location information for Federally-listed and State-Threatened species for the purposes of reducing regulatory burden by eliminating the species on private lands before development (e.g., beach mouse, Key Largo woodrat, Gopher tortoise).		X		LE, HSC
12	<b>Withholding Data</b> - UF collaborators are unwilling to share wading bird nesting locations because they do not want FWC to share those data, thereby creating a situation where numerous onlookers disturb nesting.	X			HSC, FWRI
13	<b>Inaccessible Area</b> - Private landowners with caves on their properties will often not allow access to those habitats because of concerns that FWC will release location information to the public. These caves house colonial nests for bats, among other species. Trespassing, graffiti, fires, and general destruction often result from the public becoming aware of private caves. <b>(F.S. 810.13-Prohibited cave activity)</b>	X		X	LE, HSC, FWRI
14	<b>Withholding Data</b> – USFWS does not want to share the locality information of the Miami tiger beetle with the public because of concerns about illegal collection (i.e., pinning). FWC is a partner on beetle conservation, presenting challenges about disclosing the location of this animal.	X			HSC, FWRI
15	<b>Safety Concern</b> – There are numerous wildlife species that congregate to roost, nest, breed, or otherwise perform necessary survival behavior. Disclosing locations of those sites can be harmful to wildlife because of disturbance during these events (e.g., manatee warm water refuges), and harmful to humans because they may put themselves in harm's way (e.g., viewing bat congregations at busy overpasses and bridges).			X	LE, HSC, FWRI
16	<b>Withholding Data</b> - Notice of Intent to implement Wildlife Best Management Practices, most landowners avoid indicating which imperiled species occur on their land. This is due to the landowner not wanting this information to become public knowledge through Florida's Sunshine law. There are many more landowners that will not participate in Wildlife BMPs to retain privacy regarding species present and management performed on their property.	X			HSC

		External Collaboration	Compliance	Public Safety	
17	<b>Inaccessible Data</b> - data gaps with respect to private lands access. Landowners will not participate in private lands habitat and wildlife management plans due to public records. Allowing this information to be released through a public records request exposes the landowner to a multitude of potential problems including: poachers, trespass, unsolicited requests for access, vendor services, and/or hunting privileges, liability.		X	X	LE, HSC, FWRI
18	<b>Withholding Data</b> - Landowner's wanting to improve habitat for Southeastern American kestrel seek FWC assistance and the biologist recommends and maps locations for nest boxes on the private property. Under current law, this information is available through a public records request which could lead to illegal collection of Southeastern American kestrel from easily accessible nest box locations, by those servicing falconries.	X			LE, HSC FWRI
19	<b>Inaccessible Area</b> - FWC staff prepare wildlife habitat management recommendations for private landowners through the development of comprehensive land management plans. To be effective, these plans must address the private landowner's objectives, property resource conditions and concerns, current management practices, species present or likely to occur on site, and future management recommendations to address resource concerns, enhance habitat and protect at risk species. The risks from exposure to public records requests keep many landowners from requesting FWC assistance. Without assistance and a plan, most landowners will not address resource concerns, will fail to effectively enhance habitat, will not qualify for federal financial aid, and will not protect imperiled species.	X		X	LE, HSC, FWRI
20	<b>Withholding Data</b> – When access is granted FWS staff ask not to gather data for federally listed species due to sunshine laws. Data that could be utilized for improved management for applicable species.	X			HSC, FWRI

**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 Environment and Natural Resources

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BILL: CS/SB 812

INTRODUCER: Committee on Environment and Natural Resources and Senator Hutson

SUBJECT: Public Records/Threatened or Endangered Species

DATE: January 10, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rogers	Rogers	EN	<b>Fav/CS</b>
2.			GO	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 812 exempts site-specific location information for endangered and threatened species from public records laws. The exemption does not apply to animals held in captivity and is not waived by the release of such location information to another agency or to an educational institution or scientific facility for research purposes. The exemption is subject to the Open Government Sunset Review Act and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal by the Legislature. The bill contains legislative findings, including that “the release of such location information would jeopardize the continued existence of protected species by putting them in danger from wildlife poachers or by threatening the integrity of the site due to increased use of or traffic within the site. This exemption protects private property owners from potential trespass and related liability issues when endangered or threatened species are found on their properties and encourages the landowners, as well as researchers, to provide information to the agencies which they would not otherwise provide if the information could be made public.”

## II. Present Situation:

### Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, Florida Statutes (F.S.), provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the Legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

### Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup>

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

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

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020).

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).



custodian of the public record.<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>10</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>12</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>13</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.<sup>14</sup> Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.<sup>15</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act<sup>16</sup> (the Act) prescribes a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>19</sup>

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>20</sup>

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<sup>8</sup> Section 119.07(1)(a), F.S.

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>10</sup> FLA. CONST. art. I, s. 24(c).

<sup>11</sup> *Id.*; see, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); see *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>12</sup> See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>13</sup> See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>14</sup> See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

<sup>15</sup> *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>16</sup> Section 119.15, F.S.

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act also requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>25</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>26</sup>

### **Florida's Management of Endangered Species**

Pursuant to s. 9, Art. IV of the State Constitution, the Florida Fish and Wildlife Conservation Commission (FWC) exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.<sup>27</sup> Under the Florida Endangered and Threatened Species Act, FWC is responsible for research and management of freshwater and upland species and for research and management of marine species.<sup>28</sup> "Endangered species" are defined by statute as any species of fish and wildlife naturally occurring in Florida, whose prospects of survival are in jeopardy due to modification or loss of habitat; overutilization for commercial, sporting, scientific, or educational purposes; disease; predation; inadequacy of

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<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?  
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>25</sup> See generally s. 119.15, F.S.

<sup>26</sup> Section 119.15(7), F.S.

<sup>27</sup> FLA. CONST. art. IV, s. 9.

<sup>28</sup> Section 379.2291(4), F.S.

regulatory mechanisms; or other natural or manmade factors affecting its continued existence.<sup>29</sup> “Threatened species” are defined by statute as any species of fish and wildlife naturally occurring in Florida which may not be in immediate danger of extinction, but which exists in such small populations as to become endangered if it is subjected to increased stress as a result of further modification of its environment.<sup>30</sup>

At the federal level, the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NOAA–Fisheries) is responsible for listing most marine species and the U.S. Fish and Wildlife Service (USFWS) is responsible for other species.<sup>31</sup> FWC rules clarify that Florida endangered and threatened species include federally-designated endangered and threatened species and state-designated threatened species.<sup>32</sup>

The current listing status of all of Florida’s federal and state listed species is found in FWC’s publication “Florida’s Endangered and Threatened Species List” and in agency rules.<sup>33</sup> Intentionally killing or wounding any fish or wildlife of a species designated by FWC as endangered, threatened, or of special concern is a felony.<sup>34</sup> This also applies to intentionally destroying the eggs or nest of any such fish or wildlife.<sup>35</sup> While the USFWS has primary responsibility for Florida species that are federally endangered or threatened, like the sand skink or the Florida scrub-jay, FWC works in partnership with USFWS to help conserve these species.<sup>36</sup>

FWC’s mission is “managing fish and wildlife resources for their long-term well-being and the benefit of people.”<sup>37</sup> Management of listed species includes surveying and monitoring of species, habitat improvement and restoration, development and implementation of management plans, conservation planning, agency commenting on potential impacts to species and citizen awareness. Research is a systematic means of generating the scientific information necessary to support and guide management. Research also leads to a better understanding of how wildlife managers may alter populations through management actions, as well as leading to management actions that have aided in species stabilization and conservation.<sup>38</sup> FWC developed the “Imperiled Species Management Plan” to address the needs of state listed species that did not already have a management plan or specific program in place.<sup>39</sup> The plan focuses primarily on improving the conservation status of Florida’s imperiled wildlife through reducing the risk of

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<sup>29</sup> Section 379.2291(3)(b), F.S.

<sup>30</sup> Section 379.2291(3)(c), F.S.

<sup>31</sup> 50 C.F.R. 17 (animals); 50 C.F.R. 23 (plants); 50 C.F.R. 223 and 224 (marine species).

<sup>32</sup> Fla. Admin. Code R. 68A-27.001.

<sup>33</sup> Fla. Admin. Code R.s 68A–27.003 and 68A–27.0031; FWC, *Florida’s Endangered and Threatened Species*, available at <https://myfwc.com/media/1945/threatend-endangered-species.pdf>.

<sup>34</sup> Section 379.411, F.S.

<sup>35</sup> *Id.*

<sup>36</sup> FWC, *Wildlife Conservation*, <https://myfwc.com/wildlifehabitats/wildlife/> (last visited Dec. 26, 2019).

<sup>37</sup> FWC, *Endangered and Threatened Species Management and Conservation Plan Progress Report Fiscal Year 2018-2019*, available at <https://myfwc.com/media/22264/2018-19-legislative-report.pdf>.

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

<sup>39</sup> FWC, *Florida’s Imperiled Species Management Plan 2016-2026*, available at <https://myfwc.com/media/2030/imperiled-species-management-plan.pdf>.

extinction, maintaining sufficient habitat, and improving public and partner support of conservation efforts.<sup>40</sup>

Habitat restoration is often a key aspect of a species management plan.<sup>41</sup> This includes reestablishment of native habitat and ecological functions after disturbance and as enhancement (improving habitat features) and rehabilitation (accelerating natural recovery of habitat after disturbance). A crucial element for habitat restoration and enhancement is a well-organized framework for research, monitoring, and evaluation. The analysis of information helps to identify the most effective types of restoration, improves cost effectiveness, and improves models that guide managers as they decide on future habitat improvement projects and maintenance after restoration.<sup>42</sup>

### *Site-specific Species Information*

FWC has the following concerns relating to the disclosure of species-specific information:

Current public records laws require Florida state agencies to disclose data and research, including those data that originated from the Commission and data connected with research conducted by outside parties that have their information stored within the Commission.

This research data includes, but is not limited to: population trends, migratory patterns, reproductive ecology, distribution data, den locations, satellite telemetry, point localities for artificial reefs, and mark-recapture data. Collaboration with nongovernmental organizations (NGO's), universities, other management agencies, and private consultants is extremely beneficial when making management decisions for species that the Commission is tasked with conserving.

Additionally, for landowners that are currently enrolled in the Commission's management plan, there is no exemption that protects private property owners from potential trespass and related liability issues when endangered or threatened species are found on their properties. This is cause for private land owners not to allow research or allow for the Commission to develop wildlife management plans that would assist with species management.<sup>43</sup>

The primary concerns raised by FWC include:

- Withholding of data by the federal government, universities, and researchers due to concerns that stakeholders with such information may interfere with species, harm species, or damage species habitat if the location of the species was made public.
- Safety concerns relating to the public putting themselves in harm's way to view species such as bears and panthers.

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<sup>40</sup> *Id.* at iv.

<sup>41</sup> *Id.* at 106.

<sup>42</sup> *Id.*

<sup>43</sup> FWC, *Agency Analysis of SB 812* (Dec. 26, 2019) (on file with the Senate Committee on Environment and Natural Resources).



- Illegal activity for the taking of species that have value on the black market.<sup>44</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 379.1026, F.S., creating a public records exemption for site-specific location information for threatened and endangered species.

The bill clarifies that the use of the terms “agency,” “endangered species,” and “threatened species” have the same meaning as in existing law.

The bill provides that site-specific location information held by an agency concerning a species that is listed by a federal agency as an endangered species or a threatened species or is listed by the Fish and Wildlife Conservation Commission as a threatened species is exempt from the constitutional and statutory provisions relating to public records. The exemption does not apply to animals held in captivity and is not waived by the release of such location information to another agency or to an educational institution or scientific facility for research purposes.

The exemption is subject to the Open Government Sunset Review Act and is subject to repeal on October 2, 2025, unless reviewed and saved from repeal by the Legislature.

**Section 2** creates legislative findings that it is a public necessity that the site-specific location information held by an agency concerning a species that is listed federally as an endangered species or a threatened species or is listed by the Fish and Wildlife Conservation Commission as a threatened species be made exempt from disclosure as a public record. Specific findings include that:

- The release of such location information would jeopardize the continued existence of protected species by putting them in danger from wildlife poachers or by threatening the integrity of the site due to increased use of or traffic within the site.
- The exemption protects private property owners from potential trespass and related liability issues when endangered or threatened species are found on their properties and encourages the landowners, as well as researchers, to provide information to the agencies which they would not otherwise provide if the information could be made public.
- The harm that may result from the release of such site-specific location information outweighs any public benefit that may be derived from the disclosure of the information.

**Section 3** provides an effective date of July 1, 2020.

### IV. Constitutional Issues:

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

None.

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<sup>44</sup> FWC, *Examples Table 1* (Dec. 26, 2019) (on file with the Senate Committee on Environment and Natural Resources) (including specific examples that have raised these concerns).

**B. Public Records/Open Meetings Issues:****Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for site-specific information relating to endangered or threatened species, thus, the bill requires a two-thirds vote to be enacted.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect endangered and threatened species and the general public. This bill exempts only site-specific information relating to endangered or threatened species from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

**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:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates s. 379.1026 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Environment and Natural Resources on January 13, 2020:**

The amendment adds a provision specifying that the exemption does not apply to animals held in captivity.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/13/2020	.	
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	.	

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The Committee on Environment and Natural Resources (Hutson)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 379.1026, Florida Statutes, is created  
to read:

379.1026 Site-specific location information for endangered  
and threatened species; public records exemption.—

(1) As used in this section, the term:

(a) "Agency" has the same meaning as in s. 119.011.



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(b) "Endangered species" has the same meaning as in s. 379.2291(3) (b) .

(c) "Threatened species" has the same meaning as in s. 379.2291(3) (c) .

(2) The site-specific location information held by an agency concerning a species listed by a federal agency as endangered or threatened or listed by the Fish and Wildlife Conservation Commission as threatened is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption does not apply to animals held in captivity and is not waived by the release of such location information to another agency or to an educational institution or scientific facility for research purposes. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the site-specific location information held by an agency concerning a species listed by a federal agency as endangered or threatened or listed by the Fish and Wildlife Conservation Commission as threatened be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature finds that the release of such location information would jeopardize the continued existence of endangered or threatened species by increasing the risk of exposure to wildlife poachers or by threatening the integrity of the site due to increased use or traffic. This exemption protects private property owners from potential trespass and related liability issues when endangered or





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threatened species are found on their properties and encourages such property owners, as well as researchers, to provide agencies with information they might not otherwise provide if such location information were made public. The Legislature finds that the harm that may result from the release of such location information outweighs any public benefit that may be derived from the disclosure of the information.

Section 3. This act shall take effect July 1, 2020.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to public records; creating s.  
379.1026, F.S.; providing an exemption from public  
records requirements for the site-specific location  
information of certain endangered and threatened  
species; providing for future legislative review and  
repeal of the exemption; providing a statement of  
public necessity; providing an effective date.

By Senator Hutson

7-00640A-20

2020812\_\_

A bill to be entitled  
An act relating to public records; creating s.  
379.1026, F.S.; providing an exemption from public  
records requirements for the site-specific location  
information of certain threatened or endangered  
species; providing for legislative review and repeal  
of the exemption; providing a statement of public  
necessity; providing an effective date.

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

Section 1. Section 379.1026, Florida Statutes, is created  
to read:

379.1026 Site-specific location information for threatened  
and endangered species; public records exemption.-

(1) As used in this section, the term:

(a) "Agency" has the same meaning as in s. 119.011.

(b) "Endangered species" has the same meaning as in s.  
379.2291(3) (b) .

(c) "Threatened species" has the same meaning as in s.  
379.2291(3) (c) .

(2) The site-specific location information held by an  
agency concerning a species that is listed federally as an  
endangered species or a threatened species or is listed by the  
Fish and Wildlife Conservation Commission as a threatened  
species is exempt from s. 119.07(1) and s. 24(a), Art. I of the  
State Constitution. This exemption is not waived by the release  
of such public record to another agency or an educational or  
scientific facility for research purposes. This section is

7-00640A-20

2020812\_\_

30 subject to the Open Government Sunset Review Act in accordance  
31 with s. 119.15 and shall stand repealed on October 2, 2025,  
32 unless reviewed and saved from repeal by the Legislature.

33 Section 2. The Legislature finds that it is a public  
34 necessity that the site-specific location information held by an  
35 agency concerning a species that is listed federally as an  
36 endangered species or a threatened species or is listed by the  
37 Fish and Wildlife Conservation Commission as a threatened  
38 species be made exempt from s. 119.07(1), Florida Statutes, and  
39 s. 24(a), Article I of the State Constitution. The Legislature  
40 finds that the release of such location information would  
41 jeopardize the continued existence of protected species by  
42 putting them in danger from wildlife poachers or by threatening  
43 the integrity of the site due to increased use of or traffic  
44 within the site. This exemption protects private property owners  
45 from potential trespass and related liability issues when  
46 endangered or threatened species are found on their properties  
47 and encourages the landowners, as well as researchers, to  
48 provide information to the agencies which they would not  
49 otherwise provide if the information could be made public. The  
50 Legislature finds that the harm that may result from the release  
51 of such site-specific location information outweighs any public  
52 benefit that may be derived from the disclosure of the  
53 information.

54 Section 3. This act shall take effect July 1, 2020.

**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 Environment and Natural Resources

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BILL: SB 7016

INTRODUCER: Infrastructure and Security Committee

SUBJECT: Statewide Office of Resiliency

DATE: January 10, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Price	Miller		<b>IS Submitted as Committee Bill</b>
1.	Schreiber	Rogers	EN	<b>Favorable</b>
2.			AP	

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**I. Summary:**

SB 7016 establishes the Statewide Office of Resiliency within the Executive Office of the Governor. The office must be headed by a Chief Resilience Officer, appointed by and serving at the pleasure of the Governor.

The bill creates the Statewide Sea-Level Rise Task Force, adjunct to the Statewide Office of Resiliency, to recommend consensus projections of the anticipated sea-level rise and flooding impacts along Florida's coastline. The bill provides for task force membership and requires all appointments be made by August 1, 2020. The Chief Resilience Officer must chair the task force and convene it no later than October 1, 2020, after which it must meet upon the call of the chair.

The task force must develop and recommend consensus baseline projections of the expected sea-level rise for planning horizons designated by the task force. The task force is authorized to designate technical advisory groups to inform its decision-making and to request the Department of Environmental Protection (DEP) to contract for services to assist in developing the recommended baseline projections. DEP must serve as contract administrator for such contracts.

The task force must submit its recommended projections to the Environmental Regulation Commission (Commission) for adoption or rejection by January 1, 2021. If adopted, the task force's projections must serve as the state's official estimate of sea-level rise and flooding impacts along Florida's coastline for the purpose of developing future state projects, plans, and programs. The task force must review the adopted projections as it deems appropriate and submit any recommended revisions to the Commission. The bill repeals the provisions relating to the task force on July 1, 2023.

For Fiscal Year 2020-2021, the bill appropriates \$500,000 in nonrecurring funds from the General Revenue Fund to DEP for the authorized contracting and for task force administrative expenses.

## II. Present Situation:

### Sea-Level Rise and Coastal Flooding

With 1,350 miles of coastline and relatively low elevations, Florida is particularly vulnerable to coastal flooding.<sup>1</sup> There are three primary ways that climate change influences coastal flooding: sea-level rise, storm surge intensity, and rainfall intensity and frequency.<sup>2</sup>

Sea-level rise is an observed increase in the average local sea level or global sea level trend.<sup>3</sup> The two major causes of global sea-level rise are thermal expansion caused by the warming of the oceans (water expands as it warms) and the loss of land-based ice (ice sheets and glaciers) due to melting.<sup>4</sup> Since 1880, the average global sea level has risen about 8 to 9 inches, and the rate of global sea-level rise has been accelerating.<sup>5</sup> The National Oceanic and Atmospheric Administration (NOAA) utilizes tide gauges to measure changes in sea level, and provides data on local sea-level rise trends.<sup>6</sup> Analysis of this data shows some low-lying areas in the southeastern U.S. experience higher local rates of sea-level rise than the global average.<sup>7</sup>

Florida's coastal communities are experiencing high-tide flooding events, sometimes referred to as "sunny day" or "nuisance" flooding, with increasing frequency because sea-level rise increases the height of high tides.<sup>8</sup> The areas of the state most at risk from sea-level rise include the 35 coastal counties that contain approximately 76% of Florida's population.<sup>9</sup> In the U.S., sea-level rise and flooding threaten an estimated \$1 trillion in coastal real estate value, and analyses estimate that there is a chance Florida could lose more than \$300 billion in property value by

<sup>1</sup> Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 107-108, 162 (2018) [hereinafter *SHMP*], available at [https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full\\_final\\_approved.6.11.2018.pdf](https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf). This measurement of Florida's coastline increases to over 8,000 miles when considering the intricacies of Florida's coastline, including bays, inlets, and waterways.

<sup>2</sup> *Id.* at 107.

<sup>3</sup> DEP, *Florida Adaptation Planning Guidebook*, Glossary (2018) [hereinafter *DEP Guidebook*], available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf>; see NASA, Facts, *Vital Signs: Sea Level*, <https://climate.nasa.gov/vital-signs/sea-level/> (last visited Dec. 20, 2019).

<sup>4</sup> *DEP Guidebook*, at Glossary; NOAA, *Climate Change: Ocean Heat Content*, <https://www.climate.gov/news-features/understanding-climate/climate-change-ocean-heat-content> (last visited Dec. 19, 2019). More than 90 percent of the warming that has happened on Earth over the past 50 years has occurred in the ocean; IPCC, *The Ocean and Cryosphere in a Changing Climate*, SPM-8, SPM-10, SPM-19, SPM -21, SPM-23, 1-14, 4-3, 4-4, 4-14 (Sept. 2019) [hereinafter *IPCC Ocean and Cryosphere*], available at [https://report.ipcc.ch/srocc/pdf/SROCC\\_FinalDraft\\_FullReport.pdf](https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf). Uncertainty regarding projected sea-level rise by 2100 is mainly determined by ice sheets, especially in Antarctica and Greenland, which are losing ice at increasing rates. The sum of glacier and ice sheet contributions is now the dominant source of global mean sea-level rise.

<sup>5</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment*, 757 (2018) [hereinafter *NCA4*], available at [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf); *IPCC Ocean and Cryosphere*, at SPM-10, 4-3.

<sup>6</sup> NOAA, *What is a Tide Gauge?*, <https://oceanservice.noaa.gov/facts/tide-gauge.html> (last visited Dec. 19, 2019); NOAA, *Tides and Currents, Sea Level Trends*, <https://tidesandcurrents.noaa.gov/sltrends/> (last visited Dec. 19, 2019); see *DEP Guidebook*, at 8, 16.

<sup>7</sup> *NCA4*, at 757.

<sup>8</sup> *SHMP*, at 108, 101, available at [https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full\\_final\\_approved.6.11.2018.pdf](https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf); NOAA, *High-Tide Flooding*, <https://toolkit.climate.gov/topics/coastal-flood-risk/shallow-coastal-flooding-nuisance-flooding> (last visited Dec. 19, 2019).

<sup>9</sup> *DEP Guidebook*, at III, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf>.



2100.<sup>10</sup> Sea-level rise affects the salinity of both surface water and groundwater through saltwater intrusion, posing a risk particularly for shallow coastal aquifers.<sup>11</sup> Sea-level rise also pushes saltwater further upstream in tidal rivers and streams, raises coastal groundwater tables, and pushes saltwater further inland at the margins of coastal wetlands.<sup>12</sup>

Storm surge intensity and the intensity and precipitation rates of hurricanes are generally projected to increase,<sup>13</sup> and studies suggest the overall extent of destruction from hurricanes is also rising.<sup>14</sup> Higher sea levels will cause storm surges to travel farther inland and impact more properties than in the past.<sup>15</sup> Stronger storms and sea-level rise are likely to lead to increased coastal erosion.<sup>16</sup>

Increases in evaporation rates and water vapor in the atmosphere increase rainfall intensity and extreme precipitation events, and the sudden onset of water can overwhelm stormwater infrastructure.<sup>17</sup> As sea levels and groundwater levels rise, low areas drain more slowly, and the combined effects of rising sea levels and extreme rainfall events are increasing the frequency and magnitude of coastal and lowland flood events.<sup>18</sup>

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<sup>10</sup> NCA4, at 324, 758; Zillow, *Climate Change and Housing: Will a Rising Tide Sink All Homes?* (2017), <https://www.zillow.com/research/climate-change-underwater-homes-12890/> (last visited Dec. 20, 2019) (stating that by 2100 \$883 billion in U.S. homes are at risk of being underwater with the total value of potentially underwater properties in Florida at \$413 billion); Union of Concerned Scientists, *New Study Finds 1 Million Florida Homes Worth \$351 Billion Will Be At Risk From Tidal Flooding* (2018), <https://www.ucsusa.org/about/news/1-million-florida-homes-risk-tidal-flooding> (last visited Dec. 20, 2019).

<sup>11</sup> SHMP, at 106, available at [https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full\\_final\\_approved.6.11.2018.pdf](https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf).

<sup>12</sup> *Id.* at 108.

<sup>13</sup> *Id.* at 106, 141; IPCC *Ocean and Cryosphere*, at 6-21, available at [https://report.ipcc.ch/srocc/pdf/SROCC\\_FinalDraft\\_FullReport.pdf](https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf); NCA4, at 95, 97, 116-117, 1482, available at [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf).

<sup>14</sup> See Aslak Grinsted et. al., *Normalized US Hurricane Damage Estimates Using Area of Total Destruction, 1900-2018*, Proceedings of the National Academy of Sciences Nov. 2019, 116 (48) 23942-23946, available at <https://www.pnas.org/content/116/48/23942>.

<sup>15</sup> NCA4, at 758; SHMP, at 107; see also NOAA, *Florida Marine Debris Emergency Response Guide: Comprehensive Guidance Document* (Jan. 2019), available at [https://marinedebris.noaa.gov/sites/default/files/publications-files/FL\\_Marine\\_Debris\\_Emergency\\_Response\\_Guide\\_2019.pdf](https://marinedebris.noaa.gov/sites/default/files/publications-files/FL_Marine_Debris_Emergency_Response_Guide_2019.pdf).

<sup>16</sup> NCA4, 331, 340-341, 833, 1054, 1495; SHMP, at 108, 221; IPCC, *Climate Change and Land*, 4-44-4-45 (Aug. 2019), available at <https://www.ipcc.ch/site/assets/uploads/2019/08/Fullreport-1.pdf>.

<sup>17</sup> SHMP, at 99, 106, 116, 141, 181; NCA4, at 88, 762-763; see Florida Senate, Committee on Infrastructure and Security, *Meeting Packet for October 14, 2019*, 16-20, 23, available at [http://www.flsenate.gov/Committees/Show/IS/MeetingPacket/4649/8266\\_MeetingPacket\\_4649\\_2.pdf](http://www.flsenate.gov/Committees/Show/IS/MeetingPacket/4649/8266_MeetingPacket_4649_2.pdf).

<sup>18</sup> SHMP, at 106; NCA4, at 763.

### *Sea-Level Rise Projections*

Below is a table of projections for future sea-level rise, globally and in regions of Florida:

<b>Sea-Level Rise Projections</b>				
<b>Source</b>	<b>Scale</b>	<b>Years</b>	<b>Low (feet)</b>	<b>High (feet)</b>
Intergovernmental Panel on Climate Change <sup>19</sup>	Global	2046-2065	0.79	1.05
		2081-2100	1.28	2.32
		2100	1.41	2.76
U.S. Global Change Research Program <sup>20</sup>	Global	2030	0.3	0.6
		2050	0.5	1.2
		2100	1	4.3
Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group <sup>21</sup>	Southeast Florida	2030	0.5	0.83
		2060	1.17	2.83
		2100	2.58	6.75
Tampa Bay Climate Science Advisory Panel <sup>22</sup>	Tampa Bay Region	2050	1	2.5
		2100	2	8.5

As seen in these projections, there are considerable variations in estimates of future sea-level rise. In addition, certain research indicates that current sea-level rise projections significantly underestimate future coastal exposure to impacts associated with rising sea levels.<sup>23</sup> Although some local governments and state agencies have adopted sea-level rise estimates for planning purposes, the State of Florida has no officially-established estimates of projected sea-level rise for use by state agencies in developing, planning, and implementing their respective duties and responsibilities.

### *State, Regional, and Local Programs*

Many state, regional, and local programs and policies are in place that address issues relating to sea-level rise and coastal flooding. Examples include the following:

<sup>19</sup> *IPCC Ocean and Cryosphere*, at SPM-7, 4-4, CCB9-21, AI-23. These projected ranges are based on climate models using “representative concentration pathways (RCPs),” which are scenarios of future emissions and concentrations of the full suite of greenhouse gases and aerosols and chemically active gases, as well as land use/land cover.

<sup>20</sup> *NCA4*, at 406, 758, available at [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf).

<sup>21</sup> Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group, *Unified Sea Level Rise Projection, Southeast Florida*, 4-5 (2015), available at <https://southeastfloridacclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf>. These projections are compared to the mean sea level in 1992; see SFRCCC, *Unified Sea Level Rise Projections*, <https://southeastfloridacclimatecompact.org/resources/unified-sea-level-rise-projections/> (last visited Dec. 19, 2019). The SFRCCC will soon release updated projections.

<sup>22</sup> Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 1, 7 (Apr. 2019), available at [http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP\\_SLR\\_Recommendation\\_2019.pdf](http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf).

<sup>23</sup> See Scott A. Kulp & Benjamin H. Strauss, *New Elevation Data Triple Estimates of Global Vulnerability to Sea-Level Rise and Coastal Flooding*, *Nature Communications* 10, 4844 (Oct. 2019), available at <https://www.nature.com/articles/s41467-019-12808-z.pdf>.

- The Department of Environmental Protection's (DEP) Office of Resilience and Coastal Protection implements numerous programs related to sea-level rise and coastal issues, including the Coastal Construction Control Line Program and the Beach Management Funding Assistance Program.<sup>24</sup>
- DEP's Florida Resilient Coastlines Program helps prepare coastal communities and habitats for the effects of climate change, especially sea-level rise, by offering technical assistance and funding to communities dealing with coastal flooding, erosion, and ecosystem changes.<sup>25</sup>
- Other state agencies are working on coastal resilience in Florida, including the following examples. The Department of Transportation plans for resilience to prepare Florida's transportation system for potential hazards.<sup>26</sup> The Department of Economic Opportunity assists communities with adaptation planning and works with DEP on the Community Resiliency Initiative.<sup>27</sup> The Fish and Wildlife Conservation Commission is Florida's lead agency on addressing the impacts of climate change on fish and wildlife, including adaptation strategies for Florida's coastal ecosystems.<sup>28</sup> The Department of Agriculture and Consumer Services develops Florida's energy policy and works on climate change issues.<sup>29</sup> The Division of Emergency Management in the Executive Office of the Governor maintains a statewide emergency management program, and its roles include administering federal mitigation grant programs and serving as Florida's state coordinating agency for the National Flood Insurance Program.<sup>30</sup>
- The water management districts address flood protection as a core part of their respective missions, and many of their activities are related to resilience efforts. For example, the St. John's River Water Management District provides resources and cost-sharing to increase community resilience.<sup>31</sup> The South Florida Water Management District is implementing comprehensive plans for addressing sea-level rise, including a flood protection level of service program, incorporating sea-level rise projections into planning, conducting vulnerability assessments, and assisting local governments.<sup>32</sup>
- In 2010, through a proactive regional collaboration to address climate change, the four counties of Broward, Miami-Dade, Monroe, and Palm Beach formed the Southeast Florida

<sup>24</sup> DEP, *Beaches*, <https://floridadep.gov/rcp/beaches> (last visited Dec. 19, 2019).

<sup>25</sup> DEP, *Florida Resilient Coastlines Program*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program> (last visited Dec. 19, 2019).

<sup>26</sup> DOT, *Florida Transportation Plan (FTP): Resilience*, <http://www.floridatransportationplan.com/resilience.htm> (last visited Dec. 19, 2019); DOT, *Florida Transportation Plan (FTP): Resilience Subcommittee Members*, [http://www.floridatransportationplan.com/resilience\\_committee.htm](http://www.floridatransportationplan.com/resilience_committee.htm) (last visited Dec. 19, 2019).

<sup>27</sup> DEO, *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Dec. 19, 2019).

<sup>28</sup> FWC, *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Dec. 19, 2019); FWC, *A Guide to Climate Change Adaptation for Conservation*, 6-81–6-108, 9-35–9-51 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf>.

<sup>29</sup> DACS, *Office of Energy*, <https://www.fdacs.gov/Divisions-Offices/Energy> (last visited Dec. 19, 2019).

<sup>30</sup> DEM, *Mitigation*, <https://www.floridadisaster.org/dem/mitigation/> (last visited Dec. 19, 2019); DEM, *State Flood Plain Management Program*, <https://www.floridadisaster.org/dem/mitigation/floodplain/> (last visited Dec. 19, 2019).

<sup>31</sup> St. John's River Water Management District, *Sea-Level Rise*, <https://www.sjrwmd.com/localgovernments/sea-level-rise/#projects> (last visited Dec. 19, 2019).

<sup>32</sup> Akintunde Owosina, South Florida Water Management District, Governing Board Meeting, June 13, 2019, Chief, Hydrology and Hydraulics Bureau, *Impact of Sea Level Rise on the SFWMD Mission, Focus on Flood Protection*, 2, 6-10 (June 13, 2019), available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/21964>.

Regional Climate Change Compact.<sup>33</sup> The Compact's innovative work includes developing a Regional Climate Action Plan and developing a Unified Sea-Level Rise Projection.<sup>34</sup> Many local governments in southeast Florida have incorporated the Compact's projections into their planning documents and policies.<sup>35</sup>

- Florida's local governments in coastal areas must have in their comprehensive plans a coastal management element that uses principles to reduce flood risk and eliminate unsafe development in coastal areas.<sup>36</sup> In certain coastal areas, local governments are authorized to establish an "adaptation action area" designation in their comprehensive plan, to develop policies and funding priorities that improve coastal resilience and plan for sea-level rise.<sup>37</sup>

In January of 2019, Governor DeSantis issued Executive Order 19-12, creating the Office of Resilience and Coastal Protection to help prepare Florida's coastal communities and habitats for impacts from sea-level rise by providing funding, technical assistance, and coordination among state, regional, and local entities.<sup>38</sup> In August of 2019, the Governor appointed Florida's first Chief Resilience Officer, which will report to the Executive Officer of the Governor and collaborate with state agencies, local communities, and stakeholders to prepare for the impacts of sea-level rise and climate change.<sup>39</sup>

### **The Environmental Regulation Commission**

The Environmental Regulation Commission (Commission) is an unpaid citizen board within DEP.<sup>40</sup> Under specified statutory provisions and with certain exceptions, the Commission must exercise the standard-setting authority of DEP - approving, modifying, or disapproving proposed rules that contain standards.<sup>41</sup> In exercising its authority, the Commission must consider scientific and technical validity, economic impacts, and relative risks and benefits to the public and the environment.<sup>42</sup>

<sup>33</sup> Regional Climate Leadership Summit, *Southeast Florida Regional Climate Change Compact* (2010), available at <http://southeastfloridacimatecompact.org/wp-content/uploads/2014/09/compact.pdf>; SFRCCC, *What is the Compact?*, <http://southeastfloridacimatecompact.org/about-us/what-is-the-compact/> (last visited Dec. 19, 2019).

<sup>34</sup> SFRCCC, *Regional Climate Action Plan*, <http://southeastfloridacimatecompact.org/regional-climate-action-plan/> (last visited Dec. 19, 2019).

<sup>35</sup> See SFRCCC, *ST-1: Incorporate Projections Into Plans*, <http://southeastfloridacimatecompact.org/recommendations/incorporate-projections-into-plans/> (last visited Dec. 20, 2019).

<sup>36</sup> See ss. 380.24, 163.3177(6)(g), and 163.3178(2)(f), F.S.; see Ch. 2015-69, Laws of Fla.

<sup>37</sup> See ss. 163.3177(6)(g)10. and 163.3164(1), F.S.; see Ch. 2011-139, Laws of Fla.

<sup>38</sup> State of Florida, Office of the Governor, *Executive Order Number 19-12*, 5 (2019), available at <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-12-.pdf>.

<sup>39</sup> Governor Ron DeSantis, News Releases, *Governor Ron DeSantis Announces Dr. Julia Nesheiwat as Florida's First Chief Resilience Officer* (Aug. 1, 2019), <https://flgov.com/2019/08/01/governor-ron-desantis-announces-dr-julia-nesheiwat-as-floridas-first-chief-resilience-officer/> (last visited Dec. 19, 2019).

<sup>40</sup> Section 20.255(6), F.S.; DEP, *Environmental Regulation Commission*, <https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission> (last visited Dec. 19, 2019).

<sup>41</sup> Sections 403.803(13), 403.804, and 403.805(1), F.S. "Standard" is defined as any DEP rule relating to air and water quality, noise, solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substations. The term does not include rules relating to internal management or procedural matters.

<sup>42</sup> Section 403.804, F.S.

The Commission is composed of seven state residents appointed by the Governor, subject to confirmation by the Senate.<sup>43</sup> The appointees must provide reasonable representation from all sections of the state, and be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise related to water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering.<sup>44</sup> Most issues that go before the Commission relate to air pollution, water quality, or waste management.<sup>45</sup> Generally, the Commission meets on the last Thursday of each month, and the public is encouraged to attend and participate.<sup>46</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 14.2031, F.S., entitled “Statewide Office of Resiliency.” The bill establishes the Statewide Office of Resiliency within the Executive Office of the Governor. The office must be headed by a Chief Resilience Officer. The Chief Resilience Officer is appointed by and serves at the pleasure of the Governor, and must perform duties and responsibilities assigned by the Governor.

Adjunct to the Statewide Office of Resiliency, the bill creates the Statewide Sea-Level Rise Task Force.<sup>47</sup> The purpose of the task force is to recommend consensus projections of the anticipated sea-level rise and flooding impacts along Florida’s coastline.

The task force is composed of the following nine members:

- The Chief Resilience Officer, serving as the chair of the task force;
- The Department of Environmental Protection’s (DEP’s) Chief Science Officer, serving as vice-chair of the task force;
- One member appointed by the President of the Florida Senate;
- One member appointed by the Speaker of the Florida House of Representatives; and
- One representative each, appointed by their respective agency head, division director, executive director, or commission chair, from:
  - The Department of Transportation;
  - The Division of Emergency Management;
  - The Department of Agriculture and Consumer Services;
  - The Fish and Wildlife Conservation Commission; and
  - The Department of Economic Opportunity.

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<sup>43</sup> Section 20.255(6), F.S.

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

<sup>45</sup> DEP, *Environmental Regulation Commission*, <https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission> (last visited Dec. 19, 2019).

<sup>46</sup> *Id.*

<sup>47</sup> Section 20.03(8), F.S. The bill defines the task force using the following definition: “an advisory body...created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment”; s. 20.052, F.S. Except as otherwise provided in the bill, the bill requires the task force to operate in a manner consistent with s. 20.052, F.S., which specifies requirements for the establishment, evaluation, and maintenance of certain bodies created by specific statutory enactment as an adjunct to an executive agency.

All appointments to the task force must be made no later than August 1, 2020. The bill requires that any vacancy on the task force be filled in the same manner as the original appointment.

The bill requires the Chief Resilience Officer to convene the task force by no later than October 1, 2020, and the task force must meet thereafter upon the call of the chair. The task force must develop official scientific information, from appropriate sources as determined by the task force, necessary to recommend consensus baseline projections, or a range of projections, of the expected rise in sea level along the state's coastline for planning horizons designated by the task force. The projections may address various geographic areas of the state, as determined by the task force.

DEP must provide administrative support to the task force. The bill authorizes the task force to request DEP to contract for services to assist in developing the recommended official baseline projections. DEP must serve as the contract administrator for any such contracts. The task force is also authorized to designate technical advisory groups, as it deems necessary, to assist in the gathering of scientific data to inform the task force's decision-making.

The bill requires the task force to submit its recommended consensus baseline projections to the Environmental Regulation Commission (Commission) by January 1, 2021. The task force must include in its report supporting data and assumptions it used in developing the recommended projections. The Commission must adopt or reject the task force's recommended projections. Following adoption by the Commission, the projections must serve as the state's official estimate of sea-level rise and flooding impacts along the state's coastline and must be used for developing future state projects, plans, and programs. The task force must review the adopted consensus baseline projections as it deems appropriate, and submit any recommended revisions to the projections to the Commission.

The bill repeals all of the provisions regarding the task force on July 1, 2023. However, the provisions establishing the Statewide Office of Resiliency and the Chief Resilience Officer will remain in effect after that date.

**Section 2** contains an appropriation. For Fiscal Year 2020-2021, the bill appropriates \$500,000 in nonrecurring funds from the General Revenue Fund to DEP to fund any contracts for services that DEP enters into to assist the task force in developing its recommended official baseline projections and for the administrative expenses of the task force.

**Section 3** states that the bill will take effect July 1, 2020.

#### **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 bill creates a new office within the Executive Office of the Governor, and a new position within that office. This will cause the Executive Office of the Governor to require indeterminate additional funding.

The bill requires the Chief Resilience Officer to convene the Statewide Sea-Level Rise Task Force composed of the identified members. Indeterminate but likely insignificant expenses may be incurred by the entities appointing members to the task force. If the task force designates technical advisory groups as authorized by the bill, the entities represented by members of such a group may incur indeterminate expenses.

The bill authorizes the task force to request DEP to contract for services to develop the recommended projections and requires the specified report be submitted to the Commission. The task force may decide to recommend revision of the projections before expiration of the task force on July 1, 2023. In addition, the bill requires DEP to provide administrative support to the task force. DEP will incur indeterminate expenses for any authorized contracts and for providing such support.

The Commission will incur indeterminate expenses to review and adopt or reject the task force's initial recommendations and, if the task force recommends revisions, will incur indeterminate expenses for the same purposes.

For Fiscal Year 2020-2021, the bill contains an appropriation for \$500,000 in nonrecurring funds from the General Revenue Fund to DEP for the expenses associated

with contracting for services to develop the projections and for task force administrative expenses.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 14.2031 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.

By the Committee on Infrastructure and Security

596-02009-20

20207016\_\_

1 A bill to be entitled  
2 An act relating to the Statewide Office of Resiliency;  
3 creating s. 14.2031, F.S.; establishing the office  
4 within the Executive Office of the Governor; providing  
5 for appointment of the Chief Resilience Officer by the  
6 Governor; creating the Statewide Sea-Level Rise Task  
7 Force within the office; specifying the purpose of the  
8 task force; providing for the membership of the task  
9 force; providing timeframes for initial appointments  
10 and the task force's initial meeting; specifying  
11 duties of the task force; authorizing the Department  
12 of Environmental Protection to contract for specified  
13 services, upon request of the task force; requiring  
14 the Department of Environmental Protection to serve as  
15 the task force's contract administrator and to provide  
16 administrative support; authorizing the designation of  
17 technical advisory groups for specified purposes;  
18 prescribing reporting requirements; requiring the  
19 Environmental Regulation Commission to take certain  
20 action on the task force's recommendations; specifying  
21 the function of the consensus baseline projections;  
22 providing for future repeal of the task force;  
23 providing an appropriation; providing an effective  
24 date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28 Section 1. Section 14.2031, Florida Statutes, is created to  
29 read:

596-02009-20

20207016\_\_

30       14.2031 Statewide Office of Resiliency.—The Statewide  
31 Office of Resiliency is established within the Executive Office  
32 of the Governor. The office shall be headed by a Chief  
33 Resilience Officer, who is appointed by and serves at the  
34 pleasure of the Governor. The Chief Resilience Officer shall  
35 perform duties and responsibilities assigned by the Governor.

36       (1) The Statewide Sea-Level Rise Task Force, a task force  
37 as defined in s. 20.03(8), is created adjunct to the Statewide  
38 Office of Resiliency. Except as otherwise provided in this  
39 section, the task force shall operate in a manner consistent  
40 with s. 20.052. The purpose of the task force is to recommend  
41 consensus projections of the anticipated sea-level rise and  
42 flooding impacts along this state's coastline.

43       (2) The task force is composed of the following members:

44       (a) The Chief Resilience Officer, who shall serve as chair.

45       (b) The Chief Science Officer of the Department of  
46 Environmental Protection, who shall serve as vice chair.

47       (c) One member appointed by the President of the Senate.

48       (d) One member appointed by the Speaker of the House of  
49 Representatives.

50       (e) One representative each from the Department of  
51 Transportation, the Division of Emergency Management, the  
52 Department of Agriculture and Consumer Services, the Fish and  
53 Wildlife Conservation Commission, and the Department of Economic  
54 Opportunity, each appointed by his or her respective agency  
55 head, division director, executive director, or commission  
56 chair.

57  
58       All appointments to the task force must be made no later than

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20207016\_\_

59 August 1, 2020. Any vacancy on the task force shall be filled in  
60 the same manner as the original appointment.

61 (3) The Chief Resilience Officer shall convene the task  
62 force by no later than October 1, 2020. The task force shall  
63 meet thereafter upon the call of the chair.

64 (4) (a) The task force shall develop official scientific  
65 information, from appropriate sources as determined by the task  
66 force, necessary to make recommendations on consensus baseline  
67 projections, or a range of projections, of the expected rise in  
68 sea level along the state's coastline for planning horizons  
69 designated by the task force. The projections may address  
70 various geographic areas of the state, as determined by the task  
71 force.

72 (b) The task force may request the Department of  
73 Environmental Protection to contract for services to assist the  
74 task force in developing the recommended official baseline  
75 projections. The Department of Environmental Protection shall  
76 serve as the contract administrator for any such contracts.

77 (c) The Department of Environmental Protection shall  
78 provide administrative support to the task force.

79 (d) The task force may designate technical advisory groups,  
80 as it deems necessary, to assist in the gathering of scientific  
81 data to inform the task force's decisionmaking.

82 (5) By January 1, 2021, the task force shall submit its  
83 recommended consensus baseline projections to the Environmental  
84 Regulation Commission, created pursuant to s. 20.255(6). The  
85 commission shall adopt or reject the task force's recommended  
86 projections. Following adoption by the commission, these  
87 projections serve as the state's official estimate of sea-level

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88 rise and flooding impacts along the state's coastline and must  
89 be used for the purpose of developing future state projects,  
90 plans, and programs. In its report, the task force must include  
91 supporting data and assumptions used by the task force in  
92 developing the recommended projections. The task force shall  
93 review the adopted consensus baseline projections as it deems  
94 appropriate, and shall submit any recommended revisions to the  
95 projections to the commission.

96 (6) Subsections (1) through (5) and this subsection are  
97 repealed July 1, 2023.

98 Section 2. For the 2020-2021 fiscal year, the sum of  
99 \$500,000 in nonrecurring funds is appropriated from the General  
100 Revenue Fund to the Department of Environmental Protection for  
101 the purpose of funding any contracts for services entered into  
102 by the department to assist the Statewide Sea-Level Rise Task  
103 Force in developing its recommended official baseline  
104 projections and for the administrative expenses of the task  
105 force.

106 Section 3. This act shall take effect July 1, 2020.



**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 Environment and Natural Resources

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BILL: SB 822

INTRODUCER: Senator Albritton

SUBJECT: Drones

DATE: January 10, 2019

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Rogers	Rogers	EN	<b>Favorable</b>
2. _____	_____	GO	_____
3. _____	_____	RC	_____

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**I. Summary:**

SB 822 creates an exception from the prohibition against law enforcement agencies using drones to gather information. The bill authorizes the use of drones by a non-law enforcement employee of the Fish and Wildlife Conservation Commission or of the Florida Forest Service for the purpose of managing and eradicating invasive exotic plants or animals on public lands.

**II. Present Situation:**

A drone, also called an Unmanned Aerial Vehicle (UAV) or Unmanned Aerial System (UAS), is defined in s. 934.50, F.S., as a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.<sup>1</sup>

Drones range in size from wingspans of 6 inches to 246 feet, and can weigh from approximately 4 ounces to over 25,600 pounds.<sup>2</sup> They may be controlled manually or through an autopilot that uses a data link to connect the drone's pilot to the drone.<sup>3</sup> Drones can be equipped with infrared

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<sup>1</sup> Section 934.50(2), F.S.

<sup>2</sup> 14 C.F.R. Part 91, Docket No. FAA-2006-25714, Department of Transportation, Federal Aviation Administration, *Unmanned Aircraft Operations in the National Airspace System*, February 6, 2007.

<sup>3</sup> *Id.*

cameras,<sup>4</sup> and “LADAR” (laser radar).<sup>5</sup> In 2011, it was reported that the U.S. Army contracted with two corporations to develop facial recognition and behavioral recognition technologies for drone use.<sup>6</sup>

### **Federal Aviation Authority**

In February 2012, Congress passed the Federal Aviation Authority (FAA) Modernization and Reform Act of 2012 (Act), which required the FAA to safely open the nation’s airspace to drones by September 2015.<sup>7</sup> The FAA regulates the use of drones as it does all aircraft in the national airspace, with an emphasis on safety, efficiency, and national security, but views considerations such as privacy beyond the scope of FAA authority.<sup>8</sup>

Under the authority granted in the 2012 Act, the FAA issued its regulations on the operation and certification of small (less than 55 pounds at take-off) unmanned aircraft systems in June 2016.<sup>9</sup> The 2016 small drone regulations are still in effect and include airspace restrictions and a waiver mechanism allowing for deviations from drone operational restrictions upon application and authorization by the FAA.<sup>10</sup>

### ***FAA Drone Airspace Restrictions***

The FAA has designated generally restricted airspace including drone flight around and over sports stadiums and wildfires at specified times or under specified conditions. Drone operators must educate themselves on these restrictions prior to flying.<sup>11</sup>

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<sup>4</sup> Infrared cameras can see objects through walls based on the relative levels of heat produced by the objects. *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Congressional Research Service, April 3, 2013, available at [www.fas.org/sgp/crs/natsec/R42701.pdf](http://www.fas.org/sgp/crs/natsec/R42701.pdf); Search and rescue drones equipped with thermal imaging help first responders identify the location of people lost in chaotic scenes, and police departments have started using drones with thermal capabilities to identify the location of suspects while keeping an infrared eye on their officers. *Best Infrared Drones (Buying Guide)*, Spire Drones, <https://buythebestdrone.com/best-infrared-drones/> (last visited Dec. 23, 2019).

<sup>5</sup> The research and development laboratory at the Massachusetts Institute of Technology has developed airborne lidar systems that generate detailed 3D imagery of terrain and structures, including those beneath dense foliage. The lab reports that the micro-lidar could be used under both clear and heavy foliage conditions for surveillance and reconnaissance missions as well as for humanitarian assistance and disaster relief operations. Lincoln Laboratory, Massachusetts Institute of Technology, R & D Projects, *Micro-lidar*, <https://www.ll.mit.edu/r-d/projects/micro-lidar> (last visited Dec. 23, 2019).

<sup>6</sup> Popular Science, Clay Dillow, *Army Developing Drones That Can Recognize Your Face From a Distance*, September 28, 2011, <https://www.popsoci.com/technology/article/2011-09/army-wants-drones-can-recognize-your-face-and-read-your-mind/> (last visited Dec. 23, 2019); see also PoliceOne.com, 2017 Guide to Emerging Technologies, Val Van Brocklin, *Facial recognition technology and a ‘reasonable expectation of privacy’*, May 16, 2017, <https://www.policeone.com/emerging-tech-guide/articles/facial-recognition-technology-and-a-reasonable-expectation-of-privacy-cxdrWsBRCu8Dieb/> (last visited Dec. 23, 2019).

<sup>7</sup> Public Law 112-95, February 14, 2012, The FAA Modernization and Reform Act of 2012, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Congressional Research Service, April 3, 2013, available at [www.fas.org/sgp/crs/natsec/R42701.pdf](http://www.fas.org/sgp/crs/natsec/R42701.pdf).

<sup>8</sup> 14 C.F.R. Parts 21, 43, 61, 91, 101, 107, 119, 133, and 183; *Operation and Certification of Small Unmanned Aircraft Systems*, 81 Fed. Reg. 42064-42214.

<sup>9</sup> *Id.*

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

<sup>11</sup> It is a federal crime, punishable by up to 12 months in prison, to interfere with firefighting efforts on public lands. Congress has authorized the FAA to impose a civil penalty of up to \$20,000 against any drone pilot who interferes with

### **Use of Drones in Florida – Section 934.50, F.S.**

A law enforcement agency is defined in s. 934.50, F.S., as a lawfully established state or local public agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws.<sup>12</sup>

Section 934.50(3)(b), F.S., provides that a real property owner, tenant, occupant, invitee, or licensee of the property is presumed to have a reasonable expectation of privacy from drone surveillance<sup>13</sup> of the property or the owner, tenant, occupant, invitee, or licensee by another person, state agency,<sup>14</sup> or political subdivision,<sup>15</sup> if he or she cannot be seen by persons at ground level who are in a place they have a legal right to be.<sup>16</sup>

Section 934.50, F.S., prohibits law enforcement agencies from using a drone to gather evidence or other information, with certain exceptions.<sup>17</sup> Evidence obtained or collected by a law enforcement agency using a drone is not admissible in a criminal prosecution in any court of law in this state unless it is permitted under one of the statute's exceptions.<sup>18</sup> An aggrieved party may initiate a civil action against a law enforcement agency to obtain all appropriate relief in order to prevent or remedy a violation of s. 934.50, F.S.<sup>19</sup>

The exceptions in s. 934.50(4), F.S., for law enforcement agencies using drones to gather evidence and other information are as follows:

- The U.S. Secretary of Homeland Security determines that credible intelligence exists indicating a high risk of a terrorist attack by an individual or organization and the drone is used to counter the risk;
- The law enforcement agency first obtains a search warrant authorizing the use of a drone; or

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wildfire suppression, law enforcement or emergency response operations. FAA, Unmanned Aircraft Systems, *Airspace Restrictions*, [https://www.faa.gov/uas/where\\_to\\_fly/airspace\\_restrictions/#wildfires](https://www.faa.gov/uas/where_to_fly/airspace_restrictions/#wildfires) (last visited Nov. 6, 2019).

<sup>12</sup> Section 934.50(2)(d), F.S.

<sup>13</sup> Surveillance is defined in s. 934.50(2)(e), F.S.: With respect to an owner, tenant, occupant, invitee, or licensee of privately owned real property, the observation of such persons with sufficient visual clarity to be able to obtain information about their identity, habits, conduct, movements, or whereabouts; or with respect to privately owned real property, the observation of such property's physical improvements with sufficient visual clarity to be able to determine unique identifying features or its occupancy by one or more persons.

<sup>14</sup> A state agency, as defined in s. 11.45, F.S., is a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government other than the Florida Public Service Commission.

<sup>15</sup> A political subdivision is defined in s. 11.45, F.S., as a separate agency or unit of local government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

<sup>16</sup> Section 934.50(3)(b), F.S.; *see also* s. 934.50(5)(b)-(d) F.S., providing for compensatory damages, injunctive relief, attorney fees, and punitive damages for a violation of s. 934.50(3)(b), F.S.

<sup>17</sup> Section 934.50(3)(a), F.S.

<sup>18</sup> Section 934.50(6), F.S.

<sup>19</sup> Section 934.50(5)(a), F.S.

- The law enforcement agency has reasonable suspicion that swift action is necessary to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect or the destruction of evidence, or to achieve purposes including, but not limited to, facilitating the search for a missing person.<sup>20</sup>

Non-law enforcement exceptions authorize use of a drone:

- By a person or an entity engaged in a business or profession licensed by the state if the drone is used only to perform reasonable tasks within the scope permitted under such person's or entity's license.
- By a property appraiser who uses a drone solely for the purpose of assessing property for ad valorem taxation.
- To capture images by or for an electric, water, or natural gas utility.
- For aerial mapping, if the person or entity using a drone for this purpose is operating in compliance with Federal Aviation Administration regulations.
- To deliver cargo, if the person or entity using a drone for this purpose is operating in compliance with Federal Aviation Administration regulations.
- To capture images necessary for the safe operation or navigation of a drone that is being used for a purpose allowed under federal or Florida law.
- By a communications service provider for routing, siting, installation, maintenance, or inspection of facilities used to provide communications services.

The Fish and Wildlife Conservation Commission,<sup>21</sup> the Florida Department of Agriculture and Consumer Services (housing the Florida Forest Service<sup>22</sup> and Office of Agricultural Law Enforcement<sup>23</sup>), and the Department of Environmental Protection<sup>24</sup> all have law enforcement personnel and could be considered law enforcement agencies.

### **Weaponized Drones Prohibited in Florida**

In Florida, s. 330.411, F.S., prohibits a person from possessing or operating an unmanned aircraft or unmanned aircraft system as defined in s. 330.41, F.S., with an attached weapon, firearm, explosive, destructive device, or ammunition as defined in s. 790.001, F.S.<sup>25</sup> North Dakota is the only state that allows law enforcement agencies to utilize weaponized drones. The weapons are limited to the non-lethal variety such as tear gas, rubber bullets, beanbags, pepper spray, and tasers.<sup>26</sup>

<sup>20</sup> Section 934.50(4)(a)-(c), F.S. There are additional exceptions to the prohibition on the use of drones that are not law enforcement agency related. These exceptions can be found in s. 934.50(4)(d)-(j), F.S.

<sup>21</sup> FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Dec. 27, 2019).

<sup>22</sup> DACS, Florida Forest Service, <https://www.fdacs.gov/Divisions-Offices/Florida-Forest-Service> (last visited Dec. 27, 2019).

<sup>23</sup> DACS, *Office of Agricultural Law Enforcement*, <https://www.fdacs.gov/Divisions-Offices/Agricultural-Law-Enforcement> (last visited Dec. 27, 2019).

<sup>24</sup> DEP, *Division of Law Enforcement and Emergency Response*, <https://floridadep.gov/dleer> (last visited Dec. 27, 2019).

<sup>25</sup> Section 330.41(2)(c), F.S., defines an unmanned aircraft system as a drone and its associated elements, including communication links and the components used to control the drone which are required for the pilot in command to operate the drone safely and efficiently; s. 330.41(2)(b), F.S., specifies that "drone" has the same meaning as s. 934.50(2), F.S.

<sup>26</sup> North Dakota House Bill 1328 (2015), available at <https://www.legis.nd.gov/assembly/64-2015/documents/15-0259-05000.pdf?20150501154934>.

## Use of Drones for Land Management

The U.S. Department of Interior (DOI)<sup>27</sup> and the U.S. Forest Service<sup>28</sup> use drones extensively to enhance science, safety, and savings in relation to their core missions. Drones can be less disruptive to sensitive animal species than manned aircraft.<sup>29</sup> They can carry sophisticated sensors and possess the ability to transmit real-time data that can be recorded for future analysis.<sup>30</sup> Drones can gather repeatable, scientifically valid observations leading to better science and therefore better policy decisions.<sup>31</sup> DOI missions often expose personnel to significant safety hazards. From 1937 to 2000, 66 percent of all field biologist fatalities in DOI were aviation-related.<sup>32</sup> Additionally, drones have also been used to replace ground personnel in certain missions, reducing their risk of injury. The cost of using drones can be significantly less expensive than using manned flights.<sup>33</sup> DOI identifies the following types of endeavors as being particularly well suited to drone technology:

- Wildfires
- Wildlife Monitoring
- Hydrology
- Geological surveys
- Geophysical surveys
- Volcanic activity.<sup>34</sup>

The U.S. Fish and Wildlife Service uses drones for wildfire detection and observation, invasive plant and animal monitoring and mapping, wildlife population counts, mapping coastal erosion, discovering illegal activity on public lands, and search and rescue operations.<sup>35</sup>

## Invasive Species Management

The Florida Fish and Wildlife Conservation Commission (FWC) regulates nonnative animal species and invasive aquatic plants.<sup>36</sup> Nonnative species are animals living outside captivity and which are not historically present in the state.<sup>37</sup> More than 500 fish and wildlife nonnative species have been documented in Florida.<sup>38</sup> Nonnative species do not all pose a threat to

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<sup>27</sup> Department of Interior, *Unmanned Aircraft Systems (UAS) Integration Strategy* (2015-2020), available at [https://www.doi.gov/sites/doi.gov/files/uploads/DOI\\_UAS\\_Integration\\_Strategy\\_2015-2020.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/DOI_UAS_Integration_Strategy_2015-2020.pdf).

<sup>28</sup> U.S. Forest Service, *Unmanned Aircraft Systems*, <https://www.fs.fed.us/managing-land/fire/aviation/uas> (last visited Dec. 23, 2019).

<sup>29</sup> Department of Interior, *Unmanned Aircraft Systems (UAS) Integration Strategy* (2015-2020), available at [https://www.doi.gov/sites/doi.gov/files/uploads/DOI\\_UAS\\_Integration\\_Strategy\\_2015-2020.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/DOI_UAS_Integration_Strategy_2015-2020.pdf).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Department of Interior Office of Aviation Services, *DOI Unmanned Aircraft Systems (UAS)*, <https://www.doi.gov/aviation/uas> (last visited Dec. 23, 2019).

<sup>35</sup> U.S. Fish and Wildlife Service, *Unmanned Aircraft Systems take flight in Southeast Region*, <https://www.fws.gov/southeast/articles/unmanned-aircraft-systems-take-flight-in-southeast-region/> (last visited Dec. 23, 2019).

<sup>36</sup> Sections 369.252, 379.231, and 379.2311, F.S.

<sup>37</sup> FWC, *Nonnative Species Information*, <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Dec. 23, 2019).

<sup>38</sup> FWC, *Florida's Nonnative Fish and Wildlife*, <http://myfwc.com/wildlifehabitats/nonnatives/> (last visited Dec. 23, 2019).

Florida's ecology, but some can become invasive species by causing harm to native species and domestic pets, posing a threat to human health and safety, or causing economic damage.<sup>39</sup> A few of Florida's nonnative species arrived by natural range expansions, but many were introduced by humans. The most common pathway by which exotic fish and wildlife species find their way into Florida's habitats is through escape or release by pet owners.<sup>40</sup>

Examples of invasive species in Florida that were originally pets are Burmese pythons, Nile monitor lizards, Gambian pouched rats, monk parakeets, and Cuban tree frogs. Other invasive species in Florida include lionfish, several other species of python and anaconda, wild boar, Rhesus macaque, green iguana, Nile crocodile, and Argentine tegu.<sup>41</sup>

To manage and minimize the impacts of nonnative species, it is unlawful to import for sale or use, or to release within the state, any species not native to Florida, unless authorized by FWC.<sup>42</sup> FWC has identified priority invasive species, including tegu lizards, several snake species, and lionfish.<sup>43</sup> FWC implemented a pilot program in 2018 to use private contractors to slow the advance and eradicate the priority invasive species from the state.<sup>44</sup>

Department of Agriculture and Consumer Services' (DACS's) Division of Plant Industry has the primary responsibility for addressing invasive plant species with a focus on plant pests and noxious weeds.<sup>45</sup> DACS's Forest Service also plays an important role in invasive species management. Invasive plants can displace native plants and associated wildlife, and can alter natural processes such as fire regimes and hydrology.<sup>46</sup>

The Division of State Lands within the Department of Environmental Protection is tasked with addressing the management of state lands, including the management of invasive species on conservation lands.<sup>47</sup> The water management districts are responsible for managing district-owned lands, and the South Florida Water Management District (SFWMD), in particular, has extensive programs for invasive plant and animal species. Specifically, SFWMD "is the largest single landowner in the region with nearly 1.5 million acres of public land within our boundaries.... Non-native plants and animals often aggressively invade natural habitats and drastically alter the ecology of natural systems"<sup>48</sup> SFWMD has numerous programs to combat invasive species including utilizing aerial drone technology to survey district lands from above to spot invasive pythons and alert hunters where they have been seen to help find and eliminate

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

<sup>40</sup> FWC, *Nonnative Species Information*, <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Jan 7, 2020).

<sup>41</sup> Section 379.2311, F.S.

<sup>42</sup> Section 379.231, F.S.

<sup>43</sup> Section 379.2311, F.S.

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

<sup>45</sup> *See generally*, chapter 581, F.S.; Fla. Admin. Code R. Chap. 5B-57.

<sup>46</sup> DACS, Forest Service, *Invasive Non-Native Plants*, <https://www.fdacs.gov/Divisions-Offices/Florida-Forest-Service/Our-Forests/Forest-Health/Invasive-Non-Native-Plants> (last visited Dec. 23, 2019).

<sup>47</sup> Sections 253.034(5)(b) and 259.032(9)(e), F.S.

<sup>48</sup> SFWMD, *Vegetation and Exotic Control*, <https://www.sfwmd.gov/our-work/vegetation> (last visited Dec. 23, 2019).



them faster.<sup>49</sup> Note, however, that the water management districts do not employ law enforcement personnel.

### **III. Effect of Proposed Changes:**

SB 822 amends s. 934.50, F.S., to authorize a non-law enforcement employee of the Fish and Wildlife Conservation Commission or of the Florida Forest Service to use drones for the purpose of managing and eradicating invasive exotic plants or animals on public lands.

The bill provides an effective date of July 1, 2020.

### **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.

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<sup>49</sup> SFWMD, *SFWMD Python Hunters Nearing 2,000 Snakes Eliminated*, <https://myemail.constantcontact.com/SFWMD-Python-Hunters-Nearing-2-000-Snakes-Eliminated.html?soid=1117910826311&aid=9hpww0vXYtw> (last visited Dec. 23, 2019).

**C. Government Sector Impact:**

There may be a positive indeterminate impact to the government sector associated with being able to use drone technology for invasive species management. One example of the cost savings associated with drones is that the U.S. Fish and Wildlife Service and U.S. Geological Survey estimated the cost to survey a specific project was about \$2,500 using drone technology. Estimates to fly a similarly equipped manned aircraft for that mission ranged from \$40,000-\$50,000.<sup>50</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

During the 2019 Legislative session, certain law enforcement positions were transferred from FWC to DEP, making DEP a law enforcement agency. Additionally, the Forest Service may not be the only entity within DACS that could potentially utilize drones for invasive exotic species management. Under the bill as written, the Division of Plant Industry may not be able to use drones to manage invasive species.

**VIII. Statutes Affected:**

This bill substantially amends section 934.50 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.

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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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<sup>50</sup> Department of Interior, *Unmanned Aircraft Systems (UAS) Integration Strategy* (2015-2020), available at [https://www.doi.gov/sites/doi.gov/files/uploads/DOI\\_UAS\\_Integration\\_Strategy\\_2015-2020.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/DOI_UAS_Integration_Strategy_2015-2020.pdf).

By Senator Albritton

26-00749A-20

2020822\_\_

A bill to be entitled  
An act relating to drones; amending s. 934.50, F.S.;  
adding an exception to prohibited uses of a drone;  
providing an effective date.

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

Section 1. Paragraph (k) is added to subsection (4) of  
section 934.50, Florida Statutes, and subsection (3) of that  
section is republished, to read:

934.50 Searches and seizure using a drone.—

(3) PROHIBITED USE OF DRONES.—

(a) A law enforcement agency may not use a drone to gather  
evidence or other information.

(b) A person, a state agency, or a political subdivision as  
defined in s. 11.45 may not use a drone equipped with an imaging  
device to record an image of privately owned real property or of  
the owner, tenant, occupant, invitee, or licensee of such  
property with the intent to conduct surveillance on the  
individual or property captured in the image in violation of  
such person's reasonable expectation of privacy without his or  
her written consent. For purposes of this section, a person is  
presumed to have a reasonable expectation of privacy on his or  
her privately owned real property if he or she is not observable  
by persons located at ground level in a place where they have a  
legal right to be, regardless of whether he or she is observable  
from the air with the use of a drone.

(4) EXCEPTIONS.—This section does not prohibit the use of a  
drone:

26-00749A-20

2020822\_\_

30       (k) By a non-law enforcement employee of the Fish and  
31 Wildlife Conservation Commission or of the Florida Forest  
32 Service for the purpose of managing and eradicating invasive  
33 exotic plants or animals on public lands.

34       Section 2. This act shall take effect July 1, 2020.

**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 Environment and Natural Resources

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BILL: SPB 7024

INTRODUCER: Environment and Natural Resources Committee

SUBJECT: Florida Forever

DATE: January 10, 2020

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schreiber	Rogers		<b>EN Submitted as Comm. Bill/Fav</b>

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## **I. Summary:**

SPB 7024 allocates \$10 million of Florida Forever funding each year for acquiring lands and conservation easements in Florida in areas impacted by a hurricane within the five years prior to the fiscal year for which the acquisition funding is appropriated. In order to receive such funding, properties must be either conservation lands or coastal areas subject to flooding as a result of sea-level rise.

The bill requires the Department of Environmental Protection (DEP) to consult with other specified agencies for Florida Forever projects related to conservation lands and coastal areas subject to sea-level rise, in order to maximize the benefits of such projects by coordinating on acquisitions that complement the agencies' respective plans. The bill requires DEP's Acquisition and Restoration Council to give increased priority to such projects when DEP and certain agencies coordinate to maximize the benefits of a project.

The bill requires that the connection of wildlife habitat with a wildlife crossing be included in the benefits that land acquisition under the Florida Forever program is planned to provide. The bill requires that the number of acres of wildlife crossings acquired be included as a measurement for evaluating achievement of the program's goal of increasing protection of Florida's biodiversity.

## **II. Present Situation:**

### **Florida Forever**

As a successor to Preservation 2000, the Legislature created the Florida Forever program in 1999 as the Blueprint for conserving Florida's natural resources.<sup>1</sup> The Florida Forever Act reinforced the state's commitment to conserve its natural and cultural heritage, provide urban open space, and better manage the land acquired by the state.<sup>2</sup> Florida Forever encompasses a wide range of

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<sup>1</sup> Chapter 99-247, Laws of Fla.

<sup>2</sup> DEP, *Florida Forever Five Year Plan*, 49 (2019), available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf>.

goals, including: land acquisition; environmental restoration; water resource development and supply; increased public access; public lands management and maintenance; and increased protection of land through the purchase of conservation easements.<sup>3</sup> The state has acquired more than 2.4 million acres since 1991 under the Preservation 2000 and Florida Forever programs.<sup>4</sup> Under Florida Forever, the issuance of up to \$5.3 billion in Florida Forever bonds is authorized to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources, in urban and rural settings, for the purposes of restoration, conservation, recreation, water resource development, or historical preservation, and for capital improvements<sup>5</sup> to lands and water areas which accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.<sup>6</sup>

The Florida Forever Trust Fund was created to serve as the repository for Florida Forever bond proceeds to fund the Florida Forever Program. The Florida Forever Trust Fund is administered by the Department of Environmental Protection (DEP). DEP is required to distribute revenues from the Florida Forever Trust Fund in accordance with s. 259.105(3), F.S., which sets forth the allocation of the proceeds of cash payments or bonds deposited into the Florida Forever Trust Fund and is depicted in the graph below.

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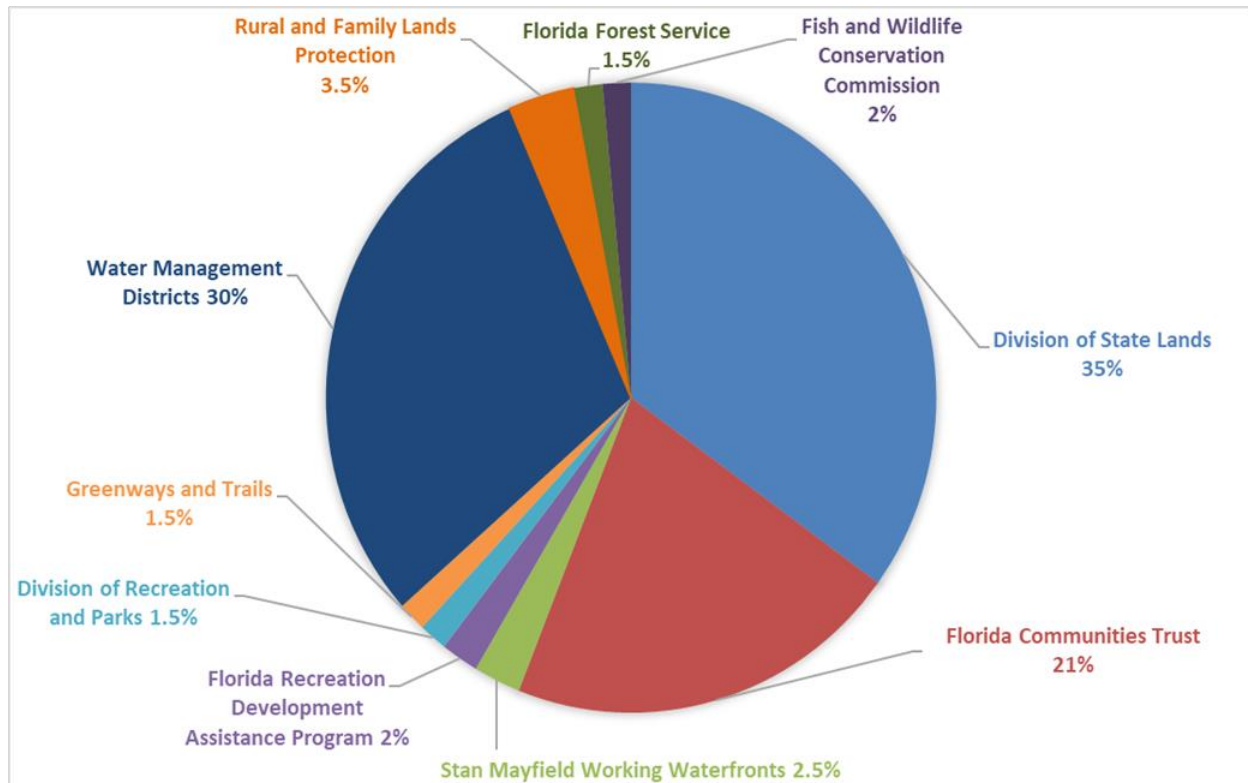
<sup>3</sup> Section 259.105, F.S.

<sup>4</sup> DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Jan. 5, 2020); see Florida Natural Areas Inventory, *Summary of Florida Conservation Lands* (Feb. 2019), available at [https://www.fnai.org/PDF/Maacres\\_201902\\_FCL\\_plus\\_LTF.pdf](https://www.fnai.org/PDF/Maacres_201902_FCL_plus_LTF.pdf). This inventory provides a complete summary of the total amount of conservation lands in Florida.

<sup>5</sup> Section 259.03(3), F.S. The terms “capital improvement” or “capital project expenditure,” when used in ch. 259, F.S., mean “those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of this chapter. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities’ signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas. Such activities shall be identified prior to the acquisition of a parcel or the approval of a project. The continued expenditures necessary for a capital improvement approved under this subsection shall not be eligible for funding provided in this chapter.”

<sup>6</sup> Section 215.618, F.S.





### ***Division of State Lands – 35 Percent***

The Division of State Lands (DSL) within DEP oversees the Florida Forever program, under which the state has protected over 770,279 acres of land purchased with about \$3 billion in Florida Forever funds.<sup>7</sup> Florida Forever projects and acquisitions are required to contribute to the achievement of one or more of the following program goals:

- Enhance the coordination and completion of land acquisition projects;
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels;
- Protect, restore, and maintain the quality and natural functions of land, water, and wetlands systems of the state;
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state;
- Increase natural resource-based public recreational and educational opportunities;
- Preserve significant archaeological or historic sites;
- Increase the amount of forestland available for sustainable management of natural resources;
- Increase the amount of open space available in urban areas; and
- Mitigate the effects of natural disasters and floods in developed areas.<sup>8</sup>

<sup>7</sup> DEP, *Florida Forever Five Year Plan*, 51 (2019), available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf>.

<sup>8</sup> Section 259.105(4), F.S.

The Acquisition and Restoration Council (ARC) is a 10-member body<sup>9</sup> that makes recommendations on the acquisition, management, and disposal of state-owned lands.<sup>10</sup> ARC accepts applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and individuals for project proposals eligible for Florida Forever funding. In evaluating each application, ARC is required to consider whether the project:

- Meets multiple program goals;
- Is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources;
- Enhances or facilitates management of properties already under public ownership;
- Has significant archaeological or historic value;
- Has funding sources that are identified and assured through at least the first 2 years of the project;
- Contributes to the solution of water resource problems on a regional basis;
- Has a significant portion of its land area in imminent danger of development, losing its significant natural attributes or recreational open space, or subdivision that would result in multiple ownership and make acquisition of the project more costly or less likely to be accomplished;
- Implements an element from a plan developed by an ecosystem management team;
- Is one of the components of Everglades restoration efforts;
- May be purchased at 80 percent of appraised value;
- May be acquired, in whole or in part, using alternatives to fee simple; and
- Is a joint acquisition.<sup>11</sup>

ARC is required to give increased priority to:

- Projects for which matching funds are available;
- Project elements previously identified on an acquisition list which can be acquired at 80 percent or less of appraised value;
- Projects that can be acquired in less than fee ownership (acquiring land at less than fee ownership means acquisition of an interest in the property which allows the conservation and protection of resources on the property at less cost while keeping the land in private ownership);
- Projects that contribute to improving the quality or quantity of surface water or groundwater; and
- Projects that contribute to improving the water quality and flow of springs; and

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<sup>9</sup> Section 259.035(1), F.S. Four of ARC's 10 members are appointed by the Governor, three from scientific disciplines related to land, water, or environmental sciences and one with least five years of experience in managing lands for both active and passive types of recreation. Four of the members are the Secretary of Environmental Protection, the director of the Florida Forest Service of the Department of Agriculture and Consumer Services, the executive director of the Fish and Wildlife Conservation Commission, and the director of the Division of Historical Resources of the Department of State, or their respective designees. One member is appointed by the Commissioner of Agriculture from a discipline related to agriculture, including silviculture, and one member is appointed by the Fish and Wildlife Conservation Commission from a discipline related to wildlife management or wildlife ecology.

<sup>10</sup> DEP, *Florida Forever Five Year Plan*, 49 (2019), available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf>.

<sup>11</sup> Section 259.105(9), F.S.

- Projects for which the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions.<sup>12</sup>

Using its established criteria, ARC develops a priority list of applications. An affirmative vote of at least five members of ARC is required to place a proposed project on the priority list. ARC evaluates and selects projects twice per year, in June and December, and ranks the projects annually.<sup>13</sup> Each project on the priority list is placed in one of the following categories of expenditure for land conservation projects: climate change; critical natural lands; less-than-fee; partnerships or regional incentives; or substantially complete (greater than 85 percent complete).<sup>14</sup> Projects are ranked within each category from highest to lowest priority.

The climate change category includes lands where acquisition or other conservation measures will address the challenges of global climate change, such as through protection, restoration, mitigation, and strengthening of Florida's land, water, and coastal resources.<sup>15</sup> This category includes lands that provide opportunities to sequester carbon, provide habitat, protect coastal lands or barrier islands, and otherwise mitigate and help adapt to the effects of sea-level rise and meet other objectives of the program.<sup>16</sup> Generally, when developing its priority list, ARC gives greater consideration to lands that help address the challenges of global climate change.<sup>17</sup>

The proposed project list is presented to the Governor and the Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund (BOT).<sup>18</sup> The BOT is responsible for acting on ARC's recommendations by approving the acquisition of each parcel.<sup>19</sup> While the BOT is authorized to remove projects from the proposed list, the BOT may not add or rearrange projects on the list.<sup>20</sup> DSL prepares an annual work plan based on the priority list developed by ARC, which outlines the specific projects and acquisitions within projects that will be negotiated for purchase with Florida Forever funds available for that fiscal year for land acquisition.<sup>21</sup>

At least \$5 million of the funds allocated to DSL under Florida Forever, beginning in the 2017-2018 fiscal year and continuing through the 2026-2027 fiscal year, are required to be spent on land acquisition within the Florida Keys Area of Critical State Concern.<sup>22</sup>

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<sup>12</sup> Section 259.105(10), F.S.

<sup>13</sup> DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Oct. 29, 2019).

<sup>14</sup> Section 259.105(17), F.S.

<sup>15</sup> Section 259.105(17)(d), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Fla. Admin. Code R. 18-24.006(3)(d)5.; *see also* Fla. Admin. Code R. 18-24.0022(2)(c)6.

<sup>18</sup> Section 259.105(14), F.S.

<sup>19</sup> DEP, *Florida Forever Five Year Plan*, 50 (2019), available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf>.

<sup>20</sup> Section 259.105(14), F.S.

<sup>21</sup> Section 259.105(17), F.S.

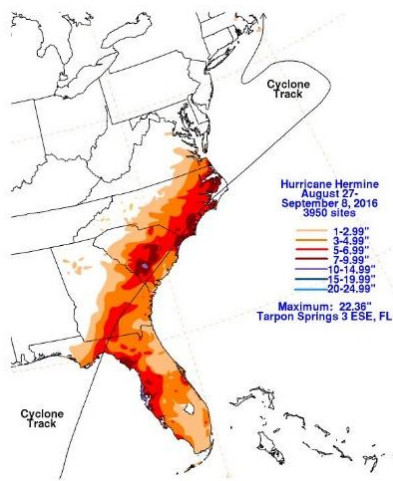
<sup>22</sup> Section 259.105(3)(b), F.S.

## Hurricanes

Hurricanes are tropical cyclones with maximum sustained surface winds of at least 74 miles per hour.<sup>23</sup> Major hurricanes to directly hit Florida within the last five years are reflected in the chart below.<sup>24</sup>

Hurricane	Date	Category
Michael <sup>25</sup>	October 10, 2018	5
Irma <sup>26</sup>	September 10-11, 2017	1-4
Matthew <sup>27</sup>	October 7, 2016	3-4
Hermine <sup>28</sup>	August 30, 2016	1

### Hurricane Hermine



In late August of 2016, Hurricane Hermine made landfall at its peak intensity, just east of St. Marks, Florida.<sup>29</sup> Hermine brought moderate storm surge to coastal areas. The combined effects of surge and tide produced maximum inundation levels of four to seven feet above ground level to the east of Hermine's location along the coastlines of Dixie, Jefferson, Levy and Taylor Counties. Hermine produced heavy rainfall across large areas of western and northern Florida. The heavy rainfall caused flooding in streets and low-lying areas around the west coast of Florida, and on several rivers in northern Florida. Governor Scott declared a state of emergency for 51 counties. On September 28, 2016, a major disaster was declared. According to a report from the Florida Office of Insurance Regulation, insured losses to property in Florida

reached \$139 million with 19,699 claims.<sup>30</sup>

<sup>23</sup> Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 134-135 (2018), available at [https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full\\_final\\_approved.6.11.2018.pdf](https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf).

<sup>24</sup> In addition to those listed in the table, other hurricanes have impacted Florida within the past five years, such as Dorian.

<sup>25</sup> See NOAA, National Weather Service, *Hurricane Michael (AL142018)*, (2019), available at [https://www.nhc.noaa.gov/data/tcr/AL142018\\_Michael.pdf](https://www.nhc.noaa.gov/data/tcr/AL142018_Michael.pdf).

<sup>26</sup> See NOAA, National Weather Service, *Hurricane Irma (AL112017)*, (2017), available at [https://www.nhc.noaa.gov/data/tcr/AL112017\\_Irma.pdf](https://www.nhc.noaa.gov/data/tcr/AL112017_Irma.pdf).

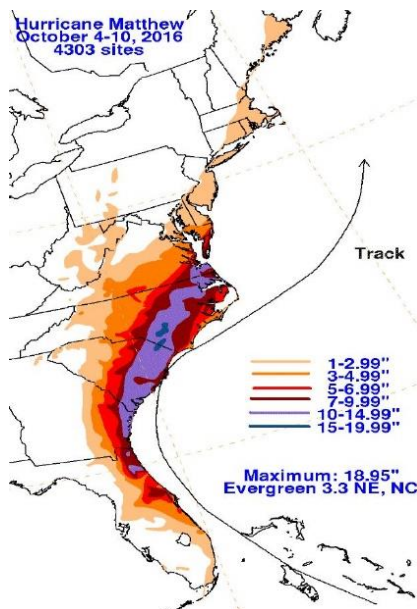
<sup>27</sup> See NOAA, National Weather Service, *Hurricane Matthew (AL142016)*, (2016), available at [https://www.nhc.noaa.gov/data/tcr/AL142016\\_Matthew.pdf](https://www.nhc.noaa.gov/data/tcr/AL142016_Matthew.pdf).

<sup>28</sup> See NOAA, National Weather Service, *Hurricane Hermine (AL092016)*, (2016), available at [https://www.nhc.noaa.gov/data/tcr/AL092016\\_Hermine.pdf](https://www.nhc.noaa.gov/data/tcr/AL092016_Hermine.pdf).

<sup>29</sup> DEO, *State of Florida 2019 - Mitigation Action Plan Draft*, 12-13 (2019), available at [http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/state-action-plan/cdbg-mit-state-action-plan-draft-for-public-comment.pdf?sfvrsn=966041b0\\_2](http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/state-action-plan/cdbg-mit-state-action-plan-draft-for-public-comment.pdf?sfvrsn=966041b0_2); see DEM, *Hermine Recovery*, <https://www.floridadisaster.org/info/hermine-recovery/> (last visited Jan. 5, 2020).

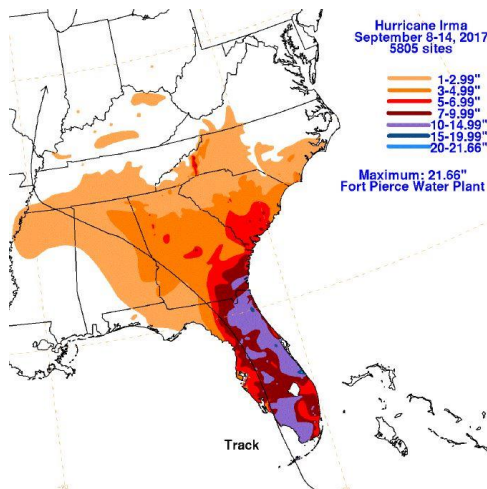
<sup>30</sup> DEO, *State of Florida 2019 - Mitigation Action Plan Draft*, 12-13 (2019).

### *Hurricane Matthew*



In October of 2016, Hurricane Matthew paralleled the coast of the southeastern United States for 36 hours.<sup>31</sup> Florida saw significant storm surge and high winds, which caused damage to infrastructure, homes, and businesses. As Matthew approached, states of emergency were declared along Florida's eastern coast and widespread evacuations were ordered for extensive areas. As the storm passed to the east, over one million people in Florida lost power. In Fernandina Beach, on October 7, there was a peak surge of 9.88 feet above normal. Major erosion and damage to infrastructure occurred in areas around Jacksonville, Flagler Beach, and other parts of Florida's east coast. Many homes were damaged by the combination of wind and rainfall. Portions of the state experienced heavy rainfall with several regions receiving more than 10 inches of rain in a 24-hour period. In northeast Florida, the St. John's River was flooded by storm surge of up to 4.3 feet. On October 11, 2016, a major disaster was declared.<sup>32</sup>

### *Hurricane Irma*



Hurricane Irma, a Category 4 storm, made landfall on September 10, 2017 in the Florida Keys.<sup>33</sup> Irma devastated coastlines, infrastructure, and homes. It then turned northward, making a second landfall near Marco Island in southwest Florida, and then progressed northeast through the center of the state. Hurricane force winds pummeled southeast Florida and portions of central Florida. Northern portions of Florida were affected by tropical storm force winds. Storm surges impacted the state's coastal areas from the Florida Keys up to the northern border. South Florida counties experienced surges of more than eight feet, with Monroe and Miami-Dade recording observed surges of more than

15 feet. Surges along the St. Johns River and its tributaries were extreme. Irma produced moderate rainfall across much of western and central Florida. The most significant concentration of Irma-related damage occurred in the Florida Keys. There, the storm destroyed 1,200 homes

<sup>31</sup> DEO, *State of Florida 2019 - Mitigation Action Plan Draft*, 13-14 (2019), available at [http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/state-action-plan/cdbg-mit-state-action-plan-draft-for-public-comment.pdf?sfvrsn=966041b0\\_2](http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/state-action-plan/cdbg-mit-state-action-plan-draft-for-public-comment.pdf?sfvrsn=966041b0_2); see DEM, *Matthew Recovery*, <https://www.floridadisaster.org/info/matthew-recovery/> (last visited Jan. 4, 2020).

<sup>32</sup> DEO, *State of Florida 2019 - Mitigation Action Plan Draft*, 13-14 (2019).

<sup>33</sup> DEO, *State of Florida 2019 - Mitigation Action Plan Draft*, 14 (2019), available at [http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/state-action-plan/cdbg-mit-state-action-plan-draft-for-public-comment.pdf?sfvrsn=966041b0\\_2](http://www.floridajobs.org/docs/default-source/office-of-disaster-recovery/cdbg-mitigation/state-action-plan/cdbg-mit-state-action-plan-draft-for-public-comment.pdf?sfvrsn=966041b0_2); see DEM, *Irma Recovery*, <https://www.floridadisaster.org/info/irma-recovery/> (last visited Jan. 5, 2020).



and significantly damaged an additional 3,000 homes. Irma severely damaged many bridges, roadways and state beaches. On September 10, 2017, a major disaster was declared for Hurricane Irma. The declaration encompassed all 67 Florida counties.<sup>34</sup>

### *Hurricane Michael*

On October 10, 2018, Hurricane Michael made landfall near Mexico Beach as a Category 5 Hurricane, ranking by pressure as the third-most intense Atlantic hurricane ever to make landfall in the United States.<sup>35</sup> Michael struck northwest Florida with wind speeds in excess of 155 miles per hour.<sup>36</sup> The storm devastated that area of the state, causing billions of dollars of damage and the loss of many businesses, homes, and lives. Governor Rick Scott declared a state of emergency on October 7, 2018 in 26 Florida counties, which was later extended to additional counties.<sup>37</sup> DEP issued an emergency order to address needs and expedite restoration efforts for structures, water and wastewater management systems, public works, and other systems damaged by the hurricane.<sup>38</sup> A major disaster was declared on October 11, 2018.<sup>39</sup>

The Office of Economic and Demographic Research's (EDR) 2019 Annual Assessment of Florida's Water Resources and Conservation Lands discusses Hurricane Michael, and states the following:

While the storm caused widespread destruction, land that was proposed for future conservation prior to the storm is expected to still be suitable for conservation. EDR has identified 287,268.32 acres of land that withstood sustained hurricane force winds which are on lists of future potential conservation land from state agencies. In addition, the [Northwest Florida Water Management District] has broadly identified a class of 3,053,976 acres within its boundaries that it has some interest in acquiring. At this time, it is unknown how this general class interplays with the state agency plans...Given the large number of acres that have been identified for potential land acquisition, policy makers may see conservation as an option as they develop a vision and plan for recovery in this area. Purchasing lands for conservation would have the benefit of protecting identified lands while providing immediate financial relief to willing local land owners.<sup>40</sup>

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<sup>34</sup> DEO, *State of Florida 2019 - Mitigation Action Plan Draft*, 14 (2019).

<sup>35</sup> State of Florida, Office of the Governor, Executive Order Number 19-261 (Nov. 25, 2019), available at <https://www.floridadisaster.org/globalassets/executive-orders/michael/eo-19-261-hurricane-michael-extension-7-11-25-19.pdf>.

<sup>36</sup> Office of Economic and Demographic Research, *Annual Assessment of Florida's Water Resources and Conservation Lands*, 2019 Edition, 157 (2019), available at [http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment\\_2019Edition.pdf](http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment_2019Edition.pdf).

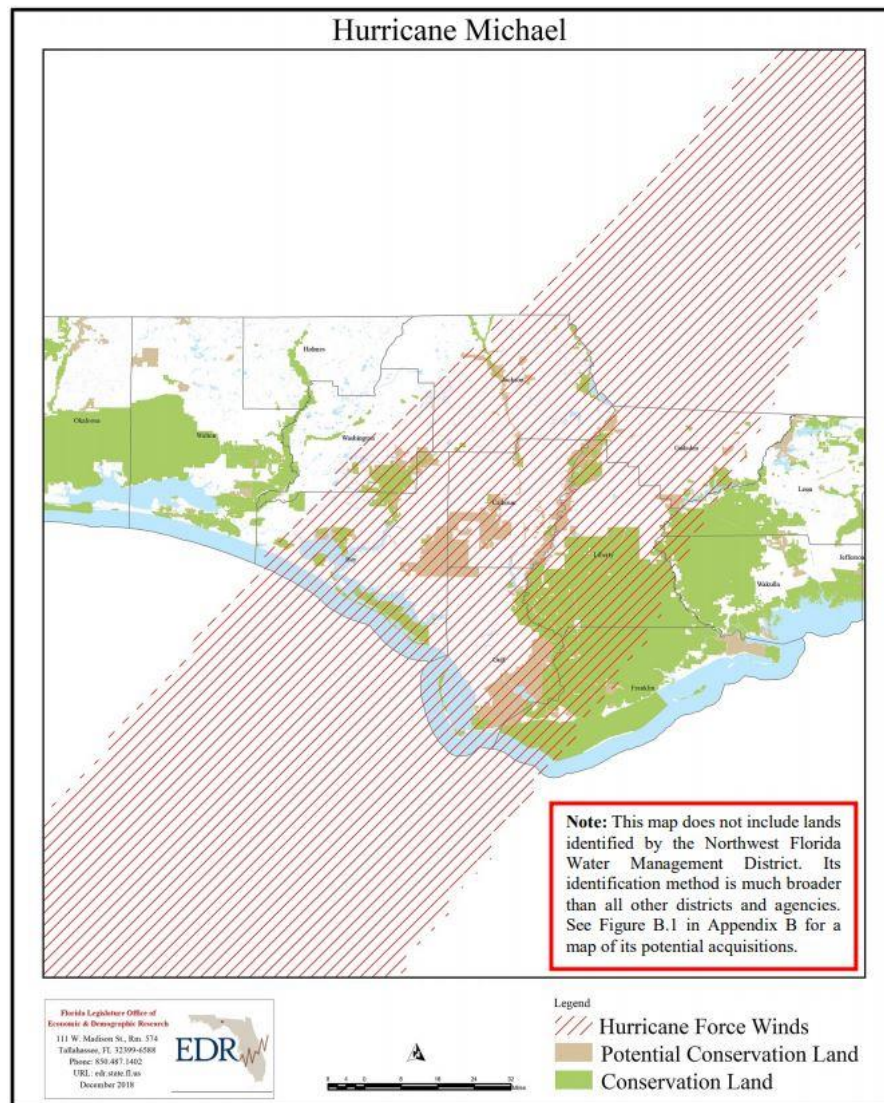
<sup>37</sup> See DEM, *Michael Recovery*, <https://www.floridadisaster.org/info/michael/> (last visited Jan. 4, 2020).

<sup>38</sup> DEP, Third Amended and Restated Emergency Final Order, OGCC No. 18-1335 (Feb. 1, 2019), available at [https://floridadep.gov/sites/default/files/18-1335%20-%20Third%20Amended%20Hurricane%20Michael%20EFO%20for%20Repairs\\_0.pdf](https://floridadep.gov/sites/default/files/18-1335%20-%20Third%20Amended%20Hurricane%20Michael%20EFO%20for%20Repairs_0.pdf).

<sup>39</sup> FEMA, *Florida Hurricane Michael (DR-4399)*, <https://www.fema.gov/disaster/4399> (last visited Jan. 7, 2020).

<sup>40</sup> Office of Economic and Demographic Research, *Annual Assessment of Florida's Water Resources and Conservation Lands*, 2019 Edition, 158 (2019), available at [http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment\\_2019Edition.pdf](http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment_2019Edition.pdf).

Below is a map of conservation lands acquired in the past or identified for future acquisition (as of January of 2019) located within the area that felt sustained hurricane force winds.



### Property Acquisition for Resilience

Strategies for recovering from, and increasing resilience to, hurricanes and sea level rise include the voluntary government acquisition of impacted or at-risk properties.<sup>41</sup> Such acquisition is often known as a “buyout,” and generally involves voluntary government acquisition, demolition or relocation of structures, and maintenance of the site as open space to conserve natural floodplain functions.<sup>42</sup> Programs exist at the national, state, and local levels to fund such purchases. For example, the Federal Emergency Management Agency (FEMA) administers hazard mitigation programs to reduce risk, increase resilience, and provide federal disaster aid,

<sup>41</sup> See Thomas Ruppert et al., *Managing Property Buyouts at the Local Level: Seeking Benefits and Limiting Harms* (2018), available at <https://www.flseagrant.org/wp-content/uploads/ELR-final-pdf.pdf>.

<sup>42</sup> FEMA, Frequently Asked Questions, *Property Acquisitions for Open Space*, available at [https://www.fema.gov/media-library-data/1487973067729-d34bd451527229a45bad0ef5ac6ddf93/508\\_FIMA\\_Acq\\_FAQs\\_2\\_24\\_17\\_Final.pdf](https://www.fema.gov/media-library-data/1487973067729-d34bd451527229a45bad0ef5ac6ddf93/508_FIMA_Acq_FAQs_2_24_17_Final.pdf).



such as the Hazard Mitigation Grant Program that makes funding available when authorized under a Presidential major disaster declaration, in areas of the state requested by the Governor.<sup>43</sup> FEMA's hazard mitigation programs can fund buyout programs.<sup>44</sup> Also, the U.S. Department of Housing and Urban Development (HUD) administers programs that can be used to fund buyout programs, such as the Community Development Block Grant Disaster Recovery Program.<sup>45</sup>

In Florida, federal funding is available for property acquisition for disaster recovery and resilience planning. For example, in 2019, it was announced that \$633 million would be available to the state for disaster mitigation projects in areas impacted by presidentially declared disasters in 2016 and 2017, which include Hurricanes Hermine, Matthew, and Irma.<sup>46</sup> Additional funding was also announced at the end of 2019 for areas impacted by Hurricanes Michael and Irma.<sup>47</sup> Florida's Department of Economic Opportunity uses money from HUD to fund the Rebuild Florida Voluntary Home Buyout Program.<sup>48</sup> This program helps reduce the impact of future disasters by providing grant funding for local governments to purchase homes damaged by Hurricane Irma from willing homeowners in high-risk flood areas, or fulfill local match requirements for FEMA hazard mitigation funding.<sup>49</sup> DEP guidance explains how federal hazard mitigation funding may be available to purchase flood prone properties that can be restored to open space to adaptively enhance the natural function of the floodplain.<sup>50</sup>

Federally-funded buyout programs and acquisition of flood prone properties are important strategies for sea-level rise adaptation and hurricane recovery. However, a 2019 federal government report found that the rising number of natural disasters, especially hurricanes, and increasing reliance on federal disaster aid are a key source of federal fiscal exposure that will likely continue to increase.<sup>51</sup> Disaster costs are projected to increase as certain extreme weather

<sup>43</sup> FEMA, *Hazard Mitigation Assistance Guidance*, 4 (2015), available at [https://www.fema.gov/media-library-data/1424983165449-38f5dfc69c0bd4ea8a161e8bb7b79553/HMA\\_Guidance\\_022715\\_508.pdf](https://www.fema.gov/media-library-data/1424983165449-38f5dfc69c0bd4ea8a161e8bb7b79553/HMA_Guidance_022715_508.pdf).

<sup>44</sup> FEMA, *Frequently Asked Questions, Property Acquisitions for Open Space*, available at [https://www.fema.gov/media-library-data/1487973067729-d34bd451527229a45bad0ef5ac6ddf93/508\\_FIMA\\_Acq\\_FAQs\\_2\\_24\\_17\\_Final.pdf](https://www.fema.gov/media-library-data/1487973067729-d34bd451527229a45bad0ef5ac6ddf93/508_FIMA_Acq_FAQs_2_24_17_Final.pdf); see Katharine J. Mach et al., *Managed Retreat Through Voluntary Buyouts of Flood-Prone Properties*, SCIENCE ADVANCES, 2 (Oct. 9, 2019), available at <https://advances.sciencemag.org/content/advances/5/10/eaax8995.full.pdf>. Analysis of data on FEMA-funded buyouts shows that Florida ranks 23rd in the nation for such property buyouts.

<sup>45</sup> HUD, *Community Development Block Grant Disaster Recovery Program*, <https://www.hudexchange.info/programs/cdbg-dr/> (last visited Jan. 5, 2020); HUD, *Disaster Recovery Buyout Program Overview, Considerations, and Strategies*, <https://www.hudexchange.info/resource/3186/disaster-recovery-buyout-program-overview/> (last visited Jan. 5, 2020).

<sup>46</sup> DEO, *Rebuild Florida's Mitigation Program*, <http://www.floridajobs.org/rebuildflorida/mitigation> (last visited Jan. 5, 2020).

<sup>47</sup> Governor Ron DeSantis, *Governor Ron DeSantis Thanks President Trump and HUD Secretary Carson for Additional \$326 Million in Hurricane Recovery Dollars for Areas Impacted by Hurricanes Michael and Irma*, <https://www.flgov.com/2019/12/03/governor-ron-desantis-thanks-president-trump-and-hud-secretary-carson-for-additional-326-million-in-hurricane-recovery-dollars-for-areas-impacted-by-hurricanes-michael-and-irma/> (last visited Jan. 5, 2020).

<sup>48</sup> DEO, *Rebuild Florida Voluntary Home Buyout Program*, <http://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/hurricane-irma/irma-voluntary-home-buyout-program> (last visited Jan. 5, 2020).

<sup>49</sup> Governor Ron DeSantis, *Governor Ron DeSantis Announces \$44 Million in Awards for Voluntary Home Buyouts in Irma-Impacted Communities*, <https://www.flgov.com/2019/12/03/governor-ron-desantis-announces-44-million-in-awards-for-voluntary-home-buyouts-in-irma-impacted-communities/> (last visited Jan. 5, 2020).

<sup>50</sup> DEP, *Florida Adaptation Planning Guidebook*, 40, 79, 81 (2018), available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf>.

<sup>51</sup> U.S. Government Accountability Office, *Climate Change - Potential Economic Costs and Opportunities to Reduce Federal Fiscal Exposure*, 6-7 (Dec. 2019), available at <https://www.gao.gov/assets/710/703452.pdf>.

events become more frequent and intense due to climate change.<sup>52</sup> Following the passage of the Disaster Recovery Reform Act of 2018, FEMA will increasingly implement measures for resilience, pre-disaster mitigation, and a culture of preparedness in its mitigation programs.<sup>53</sup>

Other states also implement programs for buyouts or acquisition in floodplains. For example, following Hurricane Sandy in 2012, New York City reassessed its resiliency strategies.<sup>54</sup> Governor Andrew Cuomo created a program to buy flood prone areas to maintain as open space or transform into coastal buffer zones, parks or other non-residential uses that will help protect nearby communities from the impacts of extreme weather.<sup>55</sup> New Jersey's Blue Acres Floodplain Acquisition program makes eligible for acquisition properties damaged by, or prone to damage by, storms or storm-related flooding, or that may buffer or protect other lands from such damage.<sup>56</sup> Government acquisition of flood-prone properties has generally been funded by federal agencies, but some buyout programs have been entirely state or locally funded.<sup>57</sup>

### Sea-Level Rise and Coastal Flooding

With 1,350 miles of coastline and relatively low elevations, Florida is particularly vulnerable to coastal flooding.<sup>58</sup> There are three primary ways that climate change influences coastal flooding: sea-level rise, storm surge intensity, and rainfall intensity and frequency.<sup>59</sup>

Sea-level rise is an observed increase in the average local sea level or global sea level trend.<sup>60</sup> The two major causes of global sea-level rise are thermal expansion caused by the warming of the oceans (water expands as it warms) and the loss of land-based ice (ice sheets and glaciers) due to melting.<sup>61</sup> Since 1880, the average global sea level has risen about 8 to 9 inches, and the

<sup>52</sup> *Id.* at 7.

<sup>53</sup> FEMA, *Disaster Recovery Reform Act (DRRA), Annual Report*, iv-vi, 9-14 (Oct. 2019), available at <https://www.fema.gov/media-library-data/1576858019956-8ad76980a61611d59089ba4f88b2f1e1/DRRAAnnualReport.pdf>; see FEMA, *DRRA Acquisition of Property for Open Space* (July 17, 2019), available at [https://www.fema.gov/media-library-data/1568995238062-93928194f5ecf656c8647d06b1acd1ff/Acquisition\\_Fact\\_Sheet\\_FINAL\\_09-19-19.pdf](https://www.fema.gov/media-library-data/1568995238062-93928194f5ecf656c8647d06b1acd1ff/Acquisition_Fact_Sheet_FINAL_09-19-19.pdf).

<sup>54</sup> New York City, *A Stronger, More Resilient New York*, <https://www1.nyc.gov/site/sirr/report/report.page> (last visited Jan. 5, 2020).

<sup>55</sup> New York State, *Governor Cuomo Announces State to Extend Buyout Program for Staten Island Homeowners Affected by Superstorm Sandy*, <https://www.governor.ny.gov/news/governor-cuomo-announces-state-extend-buyout-program-staten-island-homeowners-affected> (last visited Jan. 5, 2020).

<sup>56</sup> NJ DEP, *Blue Acres Floodplain Acquisition*, [https://www.nj.gov/dep/greenacres/blue\\_flood\\_ac.html](https://www.nj.gov/dep/greenacres/blue_flood_ac.html) (last visited Jan. 5, 2020).

<sup>57</sup> Katharine J. Mach et al., *Managed Retreat Through Voluntary Buyouts of Flood-Prone Properties*, SCIENCE ADVANCES, 1 (Oct. 9, 2019), available at <https://advances.sciencemag.org/content/advances/5/10/eaax8995.full.pdf>.

<sup>58</sup> Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 107-108, 162 (2018) [hereinafter *SHMP*], available at [https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl-shmp/shmp-2018-full\\_final\\_approved.6.11.2018.pdf](https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl-shmp/shmp-2018-full_final_approved.6.11.2018.pdf). This measurement of Florida's coastline increases to over 8,000 miles when considering the intricacies of Florida's coastline, including bays, inlets, and waterways.

<sup>59</sup> *Id.* at 107.

<sup>60</sup> DEP, *Florida Adaptation Planning Guidebook*, Glossary (2018) [hereinafter *DEP Guidebook*], available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf>; see NASA, *Facts, Vital Signs: Sea Level*, <https://climate.nasa.gov/vital-signs/sea-level/> (last visited Dec. 20, 2019).

<sup>61</sup> *DEP Guidebook*, at Glossary; NOAA, *Climate Change: Ocean Heat Content*, <https://www.climate.gov/news-features/understanding-climate/climate-change-ocean-heat-content> (last visited Dec. 19, 2019). More than 90 percent of the warming that has happened on Earth over the past 50 years has occurred in the ocean; IPCC, *The Ocean and Cryosphere in a Changing Climate*, SPM-8, SPM-10, SPM-19, SPM-21, SPM-23, 1-14-1-15, 4-3, 4-4, 4-14 (Sept. 2019) [hereinafter *IPCC Ocean and Cryosphere*], available at [https://report.ipcc.ch/srocc/pdf/SROCC\\_FinalDraft\\_FullReport.pdf](https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf). Uncertainty

rate of global sea-level rise has been accelerating.<sup>62</sup> The National Oceanic and Atmospheric Administration (NOAA) utilizes tide gauges to measure changes in sea level, and provides data on local sea-level rise trends.<sup>63</sup> Analysis of this data shows some low-lying areas in the southeastern U.S. experience higher local rates of sea-level rise than the global average.<sup>64</sup>

Florida's coastal communities are experiencing high-tide flooding events, sometimes referred to as "sunny day" or "nuisance" flooding, with increasing frequency because sea-level rise increases the height of high tides.<sup>65</sup> The areas of the state most at risk from sea-level rise include the 35 coastal counties that contain approximately 76% of Florida's population.<sup>66</sup> In the U.S., sea-level rise and flooding threaten an estimated \$1 trillion in coastal real estate value, and analyses estimate that there is a chance Florida could lose more than \$300 billion in property value by 2100.<sup>67</sup> Sea-level rise affects the salinity of both surface water and groundwater through saltwater intrusion, posing a risk particularly for shallow coastal aquifers.<sup>68</sup> Sea-level rise also pushes saltwater further upstream in tidal rivers and streams, raises coastal groundwater tables, and pushes saltwater further inland at the margins of coastal wetlands.<sup>69</sup>

Storm surge intensity and the intensity and precipitation rates of hurricanes are generally projected to increase,<sup>70</sup> and studies suggest the overall extent of destruction from hurricanes is also rising.<sup>71</sup> Higher sea levels will cause storm surges to travel farther inland and impact more

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regarding projected sea-level rise by 2100 is mainly determined by ice sheets, especially in Antarctica and Greenland, which are losing ice at increasing rates. The sum of glacier and ice sheet contributions is now the dominant source of global mean sea-level rise.

<sup>62</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment*, 757 (2018)[hereinafter *NCA4*], available at [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf); *IPCC Ocean and Cryosphere*, at SPM-10, 4-3.

<sup>63</sup> NOAA, *What is a Tide Gauge?*, <https://oceanservice.noaa.gov/facts/tide-gauge.html> (last visited Dec. 19, 2019); NOAA, *Tides and Currents, Sea Level Trends*, <https://tidesandcurrents.noaa.gov/sltrends/> (last visited Dec. 19, 2019); see *DEP Guidebook*, at 8, 16.

<sup>64</sup> *NCA4*, at 757.

<sup>65</sup> *SHMP*, at 108, 101, available at [https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full\\_final\\_approved.6.11.2018.pdf](https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf); NOAA, *High-Tide Flooding*, <https://toolkit.climate.gov/topics/coastal-flood-risk/shallow-coastal-flooding-nuisance-flooding> (last visited Dec. 19, 2019).

<sup>66</sup> *DEP Guidebook*, at III, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf>.

<sup>67</sup> *NCA4*, at 324, 758; Zillow, *Climate Change and Housing: Will a Rising Tide Sink All Homes?* (2017), <https://www.zillow.com/research/climate-change-underwater-homes-12890/> (last visited Dec. 20, 2019) (stating that by 2100 \$883 billion in U.S. homes are at risk of being underwater with the total value of potentially underwater properties in Florida at \$413 billion); Union of Concerned Scientists, *New Study Finds 1 Million Florida Homes Worth \$351 Billion Will Be At Risk From Tidal Flooding* (2018), <https://www.ucsusa.org/about/news/1-million-florida-homes-risk-tidal-flooding> (last visited Dec. 20, 2019).

<sup>68</sup> *SHMP*, at 106, available at [https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full\\_final\\_approved.6.11.2018.pdf](https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf).

<sup>69</sup> *Id.* at 108.

<sup>70</sup> *Id.* at 106, 141; *IPCC Ocean and Cryosphere*, at 6-21, available at [https://report.ipcc.ch/srocc/pdf/SROCC\\_FinalDraft\\_FullReport.pdf](https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf); *NCA4*, at 95, 97, 116-117, 1482, available at [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf).

<sup>71</sup> See Aslak Grinsted et. al., *Normalized US Hurricane Damage Estimates Using Area of Total Destruction, 1900-2018*, *Proceedings of the National Academy of Sciences* Nov. 2019, 116 (48) 23942-23946, available at <https://www.pnas.org/content/116/48/23942>.

properties than in the past.<sup>72</sup> Stronger storms and sea-level rise are likely to lead to increased coastal erosion.<sup>73</sup>

Increases in evaporation rates and water vapor in the atmosphere increase rainfall intensity and extreme precipitation events, and the sudden onset of water can overwhelm stormwater infrastructure.<sup>74</sup> As sea levels and groundwater levels rise, low areas drain more slowly, and the combined effects of rising sea levels and extreme rainfall events are increasing the frequency and magnitude of coastal and lowland flood events.<sup>75</sup>

### *Sea-Level Rise Projections*

Below is a table of projections for future sea-level rise, globally and in regions of Florida:

Sea-Level Rise Projections				
Source	Scale	Years	Low (feet)	High (feet)
Intergovernmental Panel on Climate Change <sup>76</sup>	Global	2046-2065	0.79	1.05
		2081-2100	1.28	2.32
		2100	1.41	2.76
U.S. Global Change Research Program <sup>77</sup>	Global	2030	0.3	0.6
		2050	0.5	1.2
		2100	1	4.3
Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group <sup>78</sup>	Southeast Florida	2030	0.5	0.83
		2060	1.17	2.83
		2100	2.58	6.75
Tampa Bay Climate Science Advisory Panel <sup>79</sup>	Tampa Bay Region	2050	1	2.5
		2100	2	8.5

<sup>72</sup> NCA4, at 758; SHMP, at 107; see also NOAA, *Florida Marine Debris Emergency Response Guide: Comprehensive Guidance Document* (Jan. 2019), available at [https://marinedebris.noaa.gov/sites/default/files/publications-files/FL\\_Marine\\_Debris\\_Emergency\\_Response\\_Guide\\_2019.pdf](https://marinedebris.noaa.gov/sites/default/files/publications-files/FL_Marine_Debris_Emergency_Response_Guide_2019.pdf).

<sup>73</sup> NCA4, 331, 340-341, 833, 1054, 1495; SHMP, at 108, 221; IPCC, *Climate Change and Land*, 4-44–4-45 (Aug. 2019), available at <https://www.ipcc.ch/site/assets/uploads/2019/08/Fullreport-1.pdf>.

<sup>74</sup> SHMP, at 99, 106, 116, 141, 181; NCA4, at 88, 762-763; see Florida Senate, Committee on Infrastructure and Security, *Meeting Packet for October 14, 2019*, 16-20, 23, available at [http://www.flsenate.gov/Committees/Show/IS/MeetingPacket/4649/8266\\_MeetingPacket\\_4649\\_2.pdf](http://www.flsenate.gov/Committees/Show/IS/MeetingPacket/4649/8266_MeetingPacket_4649_2.pdf).

<sup>75</sup> SHMP, at 106; NCA4, at 763.

<sup>76</sup> IPCC *Ocean and Cryosphere*, at SPM-7, 4-4, CCB9-21, AI-23. These projected ranges are based on climate models using “representative concentration pathways (RCPs),” which are scenarios of future emissions and concentrations of the full suite of greenhouse gases and aerosols and chemically active gases, as well as land use/land cover.

<sup>77</sup> NCA4, at 406, 758, available at [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf).

<sup>78</sup> Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group, *Unified Sea Level Rise Projection, Southeast Florida*, 4-5 (2015), available at <https://southeastfloridacclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf>. These projections are compared to the mean sea level in 1992; see SFRCCC, *Unified Sea Level Rise Projections*, <https://southeastfloridacclimatecompact.org/resources/unified-sea-level-rise-projections/> (last visited Dec. 19, 2019). The SFRCCC will soon release updated projections.

<sup>79</sup> Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 1, 7 (Apr. 2019), available at [http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP\\_SLR\\_Recommendation\\_2019.pdf](http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf).

## Wildlife Crossings

Wildlife-vehicle collisions can have a broad range of consequences for both humans and wildlife, including human injuries and fatalities, threats to the individual survival and population size of wildlife, and other impacts such as vehicle damage.<sup>80</sup> Wildlife crossings are structures that allow wildlife to safely cross human-made barriers, such as roads. Examples of wildlife crossings include underpasses or overpasses, tunnels or culverts, and other types of crossings allowing wildlife to move safely between separated or fragmented areas of habitat.<sup>81</sup>

Currently, there are at least 73 wildlife crossing locations in Florida.<sup>82</sup> These crossings have the potential to reduce motor vehicle collisions with wildlife, benefitting both humans and wildlife.<sup>83</sup> For example, in areas where crossings and fencing are in place panther deaths caused by vehicle collisions in Florida have been sharply reduced.<sup>84</sup> The Fish and Wildlife Conservation Commission, the Department of Transportation, and the U.S. Fish and Wildlife Service consider the potential need for new crossings and fencing as new roads are built or as existing roads require added capacity.<sup>85</sup> Including wildlife crossings early in the planning stages for these kind of projects lowers the costs of including them.

When ARC is developing its priority list of projects for Florida Forever funding, projects that close a critical gap in a recreational or ecological greenway, or landscape linkage, are given greater consideration than those that do not.<sup>86</sup> The Florida Forever program emphasizes linking together areas of wildlife habitat, and counts the acres of such linkages to measure progress towards achieving the program's goal of increasing protection for Florida's biodiversity.<sup>87</sup>

## III. Effect of Proposed Changes:

**Section 1** revises s. 259.105, F.S., which establishes the Florida Forever program.

The bill amends paragraph (3)(b) of the statute, which requires thirty-five percent of the proceeds in the Florida Forever Trust Fund to be distributed to the Department of Environmental Protection (DEP) for the acquisition of lands and capital project expenditures, especially those that achieve conservation goals. The bill requires that, beginning in Fiscal Year 2020-2021 and for each fiscal year thereafter, at least \$10 million of the funds allocated pursuant to paragraph (3)(b) must be spent on acquiring lands or conservation easements in Florida in areas impacted by a hurricane within the five years prior to the fiscal year for which the funds for the acquisition

<sup>80</sup> U.S. Department of Transportation, Federal Highway Administration, *Wildlife-Vehicle Collision Reduction Study*, 7 (2008), available at <https://www.fhwa.dot.gov/publications/research/safety/08034/08034.pdf>; FWC, *Roads*, <https://myfwc.com/wildlifehabitats/wildlife/bear/living/roads/> (last visited Jan. 3, 2020).

<sup>81</sup> See Van der Ree, R. et al., *Wildlife Tunnel Enhances Population Viability*, *Ecology and Society* 14(2): 7 (2009), <http://www.ecologyandsociety.org/vol14/iss2/art7/>.

<sup>82</sup> FWC, *Wildlife Crossing Locations in Florida*, [http://geodata.myfwc.com/datasets/da8f537fae4042799b1d2aff8a77642b\\_1/data?page=8](http://geodata.myfwc.com/datasets/da8f537fae4042799b1d2aff8a77642b_1/data?page=8) (last visited Jan. 3, 2020).

<sup>83</sup> DOT, *Wildlife Crossing Guidelines*, 1 (2018), available at [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/wildlifecrossingguidelines\\_2018revisions.pdf?sfvrsn=e84b7844\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/environment/pubs/wildlifecrossingguidelines_2018revisions.pdf?sfvrsn=e84b7844_0).

<sup>84</sup> FWC, *Wildlife Crossings*, <https://myfwc.com/wildlifehabitats/wildlife/panther/wildlife-crossings/> (last visited Jan. 2, 2020).

<sup>85</sup> *Id.*

<sup>86</sup> Fla. Admin. Code R. 18-24.006(3)(d)3.

<sup>87</sup> Section 259.105(4)(b)3., F.S.



are appropriated. In order to receive such funding, property must be either conservation lands as defined in s. 253.034(2)(c), F.S., or coastal areas subject to flooding as a result of sea-level rise.<sup>88</sup>

The bill requires that, for Florida Forever projects related to conservation lands and coastal areas subject to flooding due to sea-level rise, DEP must consult with the following agencies: the Division of Emergency Management, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, the Department of Transportation, the Department of Economic Opportunity, and the relevant water management districts. The goal of this consultation is to maximize the benefits of such projects by coordinating, whenever possible, on acquisitions that complement the planned projects of these agencies. The bill also requires DEP's Acquisition and Restoration Council to give increased priority to projects that maximize the benefits of acquiring conservation lands or coastal areas subject to flooding due to sea-level rise, when such projects use coordinated planning efforts between DEP and any of the aforementioned agencies.

The bill requires that the connection of wildlife habitat with a wildlife crossing be included in the benefits that land acquisition under the Florida Forever program is planned to provide. The bill requires that the number of acres of wildlife crossings acquired be included as a measurement for evaluating achievement of the program's goal of increasing protection for Florida's biodiversity.

**Section 2** states that the bill takes effect July 1, 2020.

#### **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>88</sup> Section 253.034(2)(c), F.S. "Conservation lands" are defined as "lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands. Lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation may not be designated conservation lands except as otherwise authorized under this section. These lands shall include, but not be limited to, the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or Florida College System institution campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that do not possess significant natural or historical resources. However, lands acquired solely to facilitate the acquisition of other conservation lands, and for which the land management plan has not yet been completed or updated, may be evaluated by the Board of Trustees of the Internal Improvement Trust Fund on a case-by-case basis to determine if they will be designated conservation lands."

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:

The bill allocates \$10 million for acquiring certain lands or property rights in areas impacted by hurricanes, which may include purchasing privately-owned property from hurricane victims wishing to sell their impacted property. Therefore, this bill may result in a positive, indeterminate impact on the private sector.

The bill may result in private property that is at risk of future damage or destruction from hurricanes being acquired by the government. This may result in the prevention of significant losses to property owners when a hurricane strikes. Such acquisition may also help protect other private property that is near the acquired property. Therefore, this bill may result in a positive, indeterminate impact on the private sector.

C. Government Sector Impact:

The bill requires that at least \$10 million of Florida Forever funding, from the thirty-five percent for projects intended to achieve conservation goals, be spent on acquiring certain lands or conservation easements impacted by a hurricane within the 5 years before the fiscal year for which funds for the acquisition are appropriated. This allocation will result in at least \$10 million less in funding being available annually for Florida Forever projects that do not meet the criteria specified in the bill.

The bill requires DEP to consult and coordinate with other state agencies for certain types of Florida Forever projects. The bill also requires DEP to change its implementation of the Florida Forever program to incorporate requirements for wildlife crossings. Implementing any of these changes may require rulemaking. These changes may cause DEP to incur additional costs.

The bill's requirements for DEP to consult and coordinate with other agencies may increase efficiency and maximize the achievement of collective state goals through Florida Forever funding. This may result in a positive, indeterminate fiscal impact on the public sector.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 259.105 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.

**FOR CONSIDERATION By** the Committee on Environment and Natural Resources

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A bill to be entitled

An act relating to Florida Forever; amending s. 259.105, F.S.; revising legislative findings under the Florida Forever Act to include wildlife crossings as a land acquisition purpose; requiring the Department of Environmental Protection to consult with specified entities for certain projects related to conservation lands and coastal areas subject to flooding; requiring that certain allocations from the Florida Forever Trust Fund include a specified amount for lands in this state which have been impacted by a hurricane during a specified timeframe and meet certain requirements; revising legislative intent regarding the use of certain funds; requiring the Acquisition and Restoration Council to give increased priority to certain projects that maximize the benefits associated with the acquisition of certain conservation lands or coastal areas; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2), paragraph (b) of subsection (3), and paragraph (b) of subsection (4) of section 259.105, Florida Statutes, are amended, and paragraph (i) is added to subsection (2) and paragraph (g) is added to subsection (10) of that section, to read:

259.105 The Florida Forever Act.—

(2)(a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous

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30 financial resources for purchasing environmentally significant  
31 lands to protect those lands from imminent development or  
32 alteration, thereby ensuring present and future generations'  
33 access to important waterways, open spaces, and recreation and  
34 conservation lands.

35         2. The continued alteration and development of the state's  
36 natural and rural areas to accommodate the state's growing  
37 population have contributed to the degradation of water  
38 resources, the fragmentation and destruction of wildlife  
39 habitats, the loss of outdoor recreation space, and the  
40 diminishment of wetlands, forests, working landscapes, and  
41 coastal open space.

42         3. The potential development of the state's remaining  
43 natural areas and escalation of land values require government  
44 efforts to restore, bring under public protection, or acquire  
45 lands and water areas to preserve the state's essential  
46 ecological functions and invaluable quality of life.

47         4. It is essential to protect the state's ecosystems by  
48 promoting a more efficient use of land, to ensure opportunities  
49 for viable agricultural activities on working lands, and to  
50 promote vital rural and urban communities that support and  
51 produce development patterns consistent with natural resource  
52 protection.

53         5. The state's groundwater, surface waters, and springs are  
54 under tremendous pressure due to population growth and economic  
55 expansion and require special protection and restoration  
56 efforts, including the protection of uplands and springsheds  
57 that provide vital recharge to aquifer systems and are critical  
58 to the protection of water quality and water quantity of the

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59 aquifers and springs. To ensure that sufficient quantities of  
60 water are available to meet the current and future needs of the  
61 natural systems and citizens of the state, and assist in  
62 achieving the planning goals of the department and the water  
63 management districts, water resource development projects on  
64 public lands, if compatible with the resource values of and  
65 management objectives for the lands, are appropriate.

66 6. The needs of urban, suburban, and small communities in  
67 the state for high-quality outdoor recreational opportunities,  
68 greenways, trails, and open space have not been fully met by  
69 previous acquisition programs. Through such programs as the  
70 Florida Communities Trust and the Florida Recreation Development  
71 Assistance Program, the state shall place additional emphasis on  
72 acquiring, protecting, preserving, and restoring open space,  
73 ecological greenways, and recreation properties within urban,  
74 suburban, and rural areas where pristine natural communities or  
75 water bodies no longer exist because of the proximity of  
76 developed property.

77 7. Many of the state's unique ecosystems, such as the  
78 Florida Everglades, are facing ecological collapse due to the  
79 state's burgeoning population growth and other economic  
80 activities. To preserve these valuable ecosystems for future  
81 generations, essential parcels of land must be acquired to  
82 facilitate ecosystem restoration.

83 8. Access to public lands to support a broad range of  
84 outdoor recreational opportunities and the development of  
85 necessary infrastructure, if compatible with the resource values  
86 of and management objectives for such lands, promotes an  
87 appreciation for the state's natural assets and improves the

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88 quality of life.

89 9. Acquisition of lands, in fee simple, less than fee  
90 interest, or other techniques shall be based on a comprehensive  
91 science-based assessment of the state's natural resources which  
92 targets essential conservation lands by prioritizing all current  
93 and future acquisitions based on a uniform set of data and  
94 planned so as to protect the integrity and function of  
95 ecological systems and working landscapes, and provide multiple  
96 benefits, including preservation of fish and wildlife habitat,  
97 connection of wildlife habitat with a wildlife crossing,  
98 recreation space for urban and rural areas, and the restoration  
99 of natural water storage, flow, and recharge.

100 10. The state has embraced performance-based program  
101 budgeting as a tool to evaluate the achievements of publicly  
102 funded agencies, build in accountability, and reward those  
103 agencies which are able to consistently achieve quantifiable  
104 goals. While previous and existing state environmental programs  
105 have achieved varying degrees of success, few of these programs  
106 can be evaluated as to the extent of their achievements,  
107 primarily because performance measures, standards, outcomes, and  
108 goals were not established at the outset. Therefore, the Florida  
109 Forever program shall be developed and implemented in the  
110 context of measurable state goals and objectives.

111 11. The state must play a major role in the recovery and  
112 management of its imperiled species through the acquisition,  
113 restoration, enhancement, and management of ecosystems that can  
114 support the major life functions of such species. It is the  
115 intent of the Legislature to support local, state, and federal  
116 programs that result in net benefit to imperiled species habitat

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117 by providing public and private land owners meaningful  
118 incentives for acquiring, restoring, managing, and repopulating  
119 habitats for imperiled species. It is the further intent of the  
120 Legislature that public lands, both existing and to be acquired,  
121 identified by the lead land managing agency, in consultation  
122 with the Fish and Wildlife Conservation Commission for animals  
123 or the Department of Agriculture and Consumer Services for  
124 plants, as habitat or potentially restorable habitat for  
125 imperiled species, be restored, enhanced, managed, and  
126 repopulated as habitat for such species to advance the goals and  
127 objectives of imperiled species management for conservation,  
128 recreation, or both, consistent with the land management plan  
129 without restricting other uses identified in the management  
130 plan. It is also the intent of the Legislature that of the  
131 proceeds distributed pursuant to subsection (3), additional  
132 consideration be given to acquisitions that achieve a  
133 combination of conservation goals, including the restoration,  
134 enhancement, management, or repopulation of habitat for  
135 imperiled species. The council, in addition to the criteria in  
136 subsection (9), shall give weight to projects that include  
137 acquisition, restoration, management, or repopulation of habitat  
138 for imperiled species. The term "imperiled species" as used in  
139 this chapter and chapter 253, means plants and animals that are  
140 federally listed under the Endangered Species Act, or state-  
141 listed by the Fish and Wildlife Conservation Commission or the  
142 Department of Agriculture and Consumer Services. As part of the  
143 state's role, all state lands that have imperiled species  
144 habitat shall include as a consideration in management plan  
145 development the restoration, enhancement, management, and



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146 repopulation of such habitats. In addition, the lead land  
147 managing agency of such state lands may use fees received from  
148 public or private entities for projects to offset adverse  
149 impacts to imperiled species or their habitat in order to  
150 restore, enhance, manage, repopulate, or acquire land and to  
151 implement land management plans developed under s. 253.034 or a  
152 land management prospectus developed and implemented under this  
153 chapter. Such fees shall be deposited into a foundation or fund  
154 created by each land management agency under s. 379.223, s.  
155 589.012, or s. 259.032(9)(c), to be used solely to restore,  
156 manage, enhance, repopulate, or acquire imperiled species  
157 habitat.

158 12. There is a need to change the focus and direction of  
159 the state's major land acquisition programs and to extend  
160 funding and bonding capabilities, so that future generations may  
161 enjoy the natural resources of this state.

162 (i) The department shall consult with the Division of  
163 Emergency Management, the Department of Agriculture and Consumer  
164 Services, the Fish and Wildlife Conservation Commission, the  
165 Department of Transportation, the Department of Economic  
166 Opportunity, and the relevant water management districts on  
167 projects related to conservation lands and coastal areas subject  
168 to flooding as a result of sea-level rise. The goal of this  
169 consultation is to maximize the benefits of such projects by  
170 coordinating, wherever possible, acquisitions that complement  
171 the planned projects of these agencies.

172 (3) Less the costs of issuing and the costs of funding  
173 reserve accounts and other costs associated with bonds, the  
174 proceeds of cash payments or bonds issued pursuant to this

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section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(b) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures described in this section. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions that ~~which~~ achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge.

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

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

3. Beginning in the 2020-2021 fiscal year, and in each fiscal year thereafter, at least \$10 million of the funds allocated pursuant to this paragraph shall be spent on the acquisition of lands or conservation easements in this state in areas that were impacted by a hurricane within the 5 years before the fiscal year for which funds for the acquisition are appropriated and that are either conservation lands as defined in s. 253.034(2)(c) or coastal areas subject to flooding as a

592-02097D-20

20207024pb

204 result of sea-level rise. For the purposes of this subsection, a  
205 hurricane-impacted area is the area specifically identified by  
206 the Governor pursuant to an executive order.

207 (4) It is the intent of the Legislature that projects or  
208 acquisitions funded pursuant to paragraphs (3) (a) and (b)  
209 contribute to the achievement of the following goals, which  
210 shall be evaluated in accordance with specific criteria and  
211 numeric performance measures developed pursuant to s.

212 259.035(4):

213 (b) Increase the protection of this state's ~~Florida's~~  
214 biodiversity at the species, natural community, and landscape  
215 levels, as measured by:

216 1. The number of acres acquired of significant strategic  
217 habitat conservation areas;

218 2. The number of acres acquired of highest priority  
219 conservation areas for Florida's rarest species;

220 3. The number of acres acquired of significant landscapes,  
221 landscape linkages, wildlife crossings, and conservation  
222 corridors, giving priority to completing linkages;

223 4. The number of acres acquired of underrepresented native  
224 ecosystems;

225 5. The number of landscape-sized protection areas of at  
226 least 50,000 acres that exhibit a mosaic of predominantly intact  
227 or restorable natural communities established through new  
228 acquisition projects or augmentations to previous projects; or

229 6. The percentage increase in the number of occurrences of  
230 imperiled species on publicly managed conservation areas.

231  
232 Florida Forever projects and acquisitions funded pursuant to

592-02097D-20

20207024pb

paragraph (3)(c) shall be measured by goals developed by rule by the Florida Communities Trust Governing Board created in s. 380.504.

(10) The council shall give increased priority to:

(g) Projects that maximize the benefits associated with the acquisition of conservation lands or coastal areas subject to flooding as a result of sea-level rise through coordinated planning efforts with the Division of Emergency Management, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, the Department of Transportation, the Department of Economic Opportunity, or the water management districts.

Section 2. This act shall take effect July 1, 2020.

**Bonn, Kim**

---

**From:** Brown, Natalie  
**Sent:** Monday, January 13, 2020 11:57 AM  
**To:** Rogers, Ellen  
**Cc:** Bonn, Kim; Peck, Taylor; Graf, Shruti  
**Subject:** SB 7016 - SOR/Sea Level Task Force

Ellen,

Senator Lee has asked Senator Montford to present SB 7016 in Environment and Natural Resources. Please let me know if you need anything.

Thank you,

Natalie Brown  
*Legislative Assistant to Senator Tom Lee*  
*Florida Senate, District 20*  
*Office: 813-653-7061*

# APPEARANCE RECORD



(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/13/20  
Meeting Date

\_\_\_\_\_  
Bill Number (if applicable)

Topic Office of Resilience & Coastal Protection Amendment Barcode (if applicable) \_\_\_\_\_

Name Alex Reed

Job Title Director

Address 3900 Commonwealth Blvd Phone \_\_\_\_\_  
Street

Tallahassee FL 32399 Email \_\_\_\_\_  
City State Zip

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Dept. of Environmental Protection

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**



1/13/20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 812

Bill Number (if applicable)

Topic Public Records/Threatened or Endangered Species Amendment Barcode (if applicable)

Name Jessica Crawford

Job Title Legislative Affairs Director

Address 620 S. Meridian Street

Street

Tallahassee

City

FL

State

32399

Zip

Phone 850-487-3795

Email Jessica.Crawford@myfla.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

## APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

6/15/20  
Meeting Date

*Bill Number (if applicable)*

Topic ENDANGERED SPECIES

Amendment Barcode (if applicable)

Name DAVID COLLIER

Job Title \_\_\_\_\_

Address 1047, East St  
Street

Phone 931-323-2424

City FL State FL Zip 32305

Email willhense@ccny.cuny.edu

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Syrah Lyle Flores

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/20

Meeting Date

SB 606

Bill Number (if applicable)

Topic Anchor Wye

Amendment Barcode (if applicable)

Name Kingsley Ross

Job Title Retired

Address 234 Harbor Pt Dr

Street

Cranfordville, FL

City

State

32327

Zip

Phone 850 300 1378

Email Kingsley.Ross@retiree.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/13/20

Meeting Date

SB 606

Bill Number (if applicable)

Topic Anchoring Limitation

Amendment Barcode (if applicable)

Name Laura Boehmer

Job Title Partner, The Southern Group

Address 123 S Adams St.

Street

Tallahassee, FL

City

State

32301

Zip

Phone (850) 671-4401

Email Boehmer@thesoutherngroup.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing City of Crystal River

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/13/20

606

*Meeting Date*

*Bill Number (if applicable)*

Topic Anchoring Ban in Jacksonville

*Amendment Barcode (if applicable)*

Name Bonnie Basham

Job Title \_\_\_\_\_

Address 133 Oak Street, #15

Phone 850-933-7277

*Street*

Tallahassee

FL

32301

Email capital.ideas@att.net

*City*

*State*

*Zip*

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Boat Owners of the United States (BoatUS)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-13-20

Meeting Date

606

Bill Number (if applicable)

Topic ANTI-BOATER ANCHORING BANS

Amendment Barcode (if applicable)

Name JERRY PAUL

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
Street

Phone 850-386-5267

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \*AMERICAN CRUISING ASSOCIATION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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*\* AG LCA*  
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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/13/20

Meeting Date

~~#B~~ SB 606

Bill Number (if applicable)

Topic Anchoring Limitation Areas

Amendment Barcode (if applicable)

Name Major Rob Rowe

Job Title Section Leader for Boating & Waterways

Address 620 S. Meridian St.

Phone 850-487-3795

Street

Tallahassee

City

FL

State

32399

Zip

Email Robert.Rowe@myfwc.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Fish & Wildlife Conservation Commission

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/13/20  
Meeting Date

7022  
Bill Number (if applicable)

Topic FLORIDA FOREVER

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title \_\_\_\_\_

Address 10402 CADET ST  
Street

Phone 941-323-2904

TLH FL 33301  
City State Zip

Email cullenasec@aol.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FLORIDA FOREVER

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-13-2020  
Meeting Date

7016  
Bill Number (if applicable)

Topic Statewide Office of Resiliency

Amendment Barcode (if applicable)

Name Brian Lee

Job Title Legislative Director

Address 1203 Buckingham Dr  
Street

Phone 850 766 7309

Tallahassee FL  
City State Zip

Email blee@fwwatch.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Food & Water Watch

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

1-13-2020

*Meeting Date*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

7016

*Bill Number (if applicable)*

Topic SB 7016 - Statewide Office of Resiliency, by Infrastructure and Security

*Amendment Barcode (if applicable)*

Name Natalie Fausel

Job Title \_\_\_\_\_

Address 201 West Park Ave., Suite 100

Phone 561-317-0889

*Street*

Tallahassee

FL

32301

Email natalie@anfieldflorida.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Resiliency Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1-13-2020

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 7016

Bill Number (if applicable)

Topic Resiliency / Sea Level Rise

Amendment Barcode (if applicable)

Name Susan Glickman

Job Title Florida Director

Address PO Box 310

Phone 727-742-9003

Street Indian Rocks Beach

Email susan@cleanenergy.org

City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Southern Alliance for Clean Energy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/13/19

Meeting Date

7018

Bill Number (if applicable)

Topic Residency Office

Amendment Barcode (if applicable)

Name Kim Ross

Job Title Vice President

Address 603 N MLK Jr Blvd  
Street

Phone 850-888-2565

Tallahassee FL 32301  
City State Zip

Email kim@rethinkenergyflorida.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Rethink Energy Action Fund

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. <sup>(unrecorded)</sup>

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01/13/2020

Meeting Date

SB 7016

Bill Number (if applicable)

Topic Chief Resiliency office

Amendment Barcode (if applicable)

Name Joseph Salveng ("Saul's - Verg")

Job Title Attorney/lobbyist

Address 301 S. Brough St, #600

Phone

Street

TLH

City

FL

State

32301

Zip

Email

Speaking:



For



Against



Information

Waive Speaking:

(The Chair will read this information into the record.)



In Support



Against

Representing

Florida Association of Counties

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/13/20

Meeting Date

7016

Bill Number (if applicable)

Topic SB 7016: Statewide Office of Resiliency

Amendment Barcode (if applicable)

Name Ryann Lynn

Job Title Clean Energy Advocate

Address 3110 1st Ave N #211

Street

St Petersburg, FL

City

State

33713

Zip

Phone (847) 644-7929

Email rlynn@environmentflorida.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Environment Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)



# CourtSmart Tag Report

**Room:** LL 37

**Case No.:**

**Type:**

**Caption:** Environmental and Natural Resources

**Judge:**

**Started:** 1/13/2020 3:37:40 PM

**Ends:** 1/13/2020 5:26:23 PM

**Length:** 01:48:44

3:37:38 PM Senator Montford addresses - meeting on hold due to technical issues  
3:40:15 PM Recording Paused  
3:43:45 PM Recording Resumed  
3:43:54 PM Senator Montford continues meeting.  
3:44:09 PM Roll call by Kim  
3:44:14 PM Quorum present  
3:44:55 PM 2 presentations today  
3:45:20 PM Alex Reed - Florida DEP, with Overview of Resiliency Program  
3:46:52 PM Alex Reed - gives presentation  
3:47:41 PM Aquatic reserves overview  
3:49:38 PM Education centers  
3:51:11 PM Florida Keys National Estuary  
3:51:59 PM Restoration Blue print  
3:52:10 PM Restoration Blueprint  
3:52:17 PM Central office - 12 different programs  
3:54:12 PM Statewide Eco Assessment  
3:55:17 PM Coral Reef Program  
3:56:18 PM Clean Boating Program  
3:56:54 PM Clean Vessel Pump-out Program  
3:57:28 PM Beach Land  
3:59:46 PM Beach Management Program  
4:00:28 PM Chair Montford - questions  
4:00:37 PM Senator Wright with comments and question  
4:00:53 PM Alex Reed responds  
4:01:11 PM Senator Berman with question regarding beaches seaweed  
4:01:35 PM Alex Reed responds  
4:01:50 PM Senator Berman follow up question  
4:02:06 PM Alex Reed answers on erosion  
4:02:46 PM Chair Montford - no public testimony  
4:03:08 PM Tab 2 - Senator Hutson presents SB 812  
4:03:27 PM No questions  
4:04:14 PM Take up Amendment 265924  
4:04:29 PM Questions on the Amendment- none  
4:04:42 PM No public testimony no debate  
4:04:54 PM Amendment is adopted  
4:05:00 PM No questions on the bill as amended  
4:05:10 PM Personal Testimony  
4:05:15 PM David Cullen of Sierra Club Florida  
4:07:18 PM Jessica Crawford waive in support  
4:07:40 PM Senator Hutson to close on bill  
4:07:55 PM Roll call on SB 812  
4:08:00 PM SB 812 reported favorably  
4:08:30 PM Presentation by Ken Lawson from DEO Funding for Disaster Mitigation Projects  
4:14:20 PM Questions from the committee -  
4:15:20 PM Senator Albritton with question  
4:16:15 PM Ken Lawson responds  
4:16:25 PM Senator Mayfield with question on timing  
4:17:51 PM Ken Lawson  
4:17:57 PM Senator Mayfield with follow up question  
4:18:42 PM Ken Lawson  
4:19:05 PM Senator Mayfield follow up  
4:19:15 PM Ken Lawson answers

4:19:27 PM Chair Montford with question  
4:19:34 PM Ken Lawson replies  
4:19:42 PM Chair Montford with follow up  
4:19:53 PM Ken Lawson answers  
4:20:06 PM Chair Montford with follow up  
4:20:34 PM Ken Lawson with comment  
4:20:44 PM Chair Montford comments  
4:20:55 PM Ken Lawson  
4:21:14 PM Chair Montford -  
4:21:35 PM Thanks Ken Lawson for the Presentation  
4:21:43 PM Chair Montford comments  
4:21:54 PM Chair Montford - introduces the for 2020 Session Page participants  
4:22:24 PM Tab 1 - Senator Bean SB 606  
4:22:34 PM Senator Bean presents his bill SB 606  
4:25:45 PM Questions on SB 606- none  
4:26:44 PM Take up amendment 265924  
4:26:59 PM Senator Bean explains the amendment  
4:27:11 PM Questions on the amendment by members- none  
4:28:04 PM Substitute amendment 128390 presented  
4:28:27 PM No questions, no public appearance or debate  
4:28:47 PM SB 606 as amended appearance cards  
4:29:29 PM Kingsley Ross, retiree of Crawfordville against the bill, of Crawfordville FL  
4:31:23 PM Questions for Mr. Ross- none  
4:32:18 PM Laura Boehmer, Partner, the Southern Group of Crystal City in support  
4:32:36 PM Jerry Paul of American Cruising Association against the bill  
4:47:02 PM Bonnie Basham of Boat Owners of the United States (BoatUS), of Tallahassee against the bill  
4:49:10 PM Chair Montford - Debate on SB 606  
4:50:13 PM Senator Albritton has questions for Fish Wildlife Conservation Commission FWC  
4:50:51 PM Response from FWC on derelict vessels Major Rob Rowe  
4:52:32 PM Senator Albritton with follow up  
4:52:54 PM Major Rowe responds  
4:54:27 PM Major Rowe responds  
4:54:28 PM Senator Albritton follow up question  
4:54:59 PM Major Rowe answers  
4:56:06 PM Senator Albritton  
4:56:29 PM Major Rowe on accountability  
4:57:58 PM Major Rowe on accountability  
4:58:09 PM Senator Albritton continues on another issue  
4:59:11 PM Major Rowe responds on challenges with boating community  
5:01:07 PM Senator Albritton concludes  
5:02:39 PM Chair Montford recognizes Senator Mayfield  
5:03:06 PM Senator Mayfield on survey  
5:03:18 PM Major Rowe responds  
5:03:40 PM Senator Mayfield with follow up question  
5:04:11 PM Major Rowe responds  
5:04:35 PM Senator Mayfield continues  
5:05:55 PM Major answers  
5:07:00 PM Chair Montford recognized Senator Berman with question to Senator Bean  
5:07:37 PM Chair Montford recognizes Senator Wright to debate  
5:08:33 PM Chair Montford recognizes Senator Mayfield  
5:09:58 PM Chair Montford- Senator Bean to close on bill  
5:11:11 PM Senator Bean closes on bill  
5:11:34 PM Roll Call on CS 606  
5:11:58 PM CS606 reported favorably  
5:12:13 PM Tab 4 SB822 by Senator Albritton  
5:12:32 PM Senator Albritton explains bill  
5:12:44 PM Senator Berman with question on the bill  
5:13:04 PM Sen Albritton answers  
5:13:12 PM Senator Wright with question and comment on the bill  
5:14:40 PM Senator Albritton with response  
5:15:07 PM No appearance, no debate, waive close  
5:15:23 PM Roll Call on SB 822

**5:15:31 PM** SB 822 is reported Favorable  
**5:15:36 PM** Gavel passed to Vice Chair Albritton  
**5:15:49 PM** Senator Montford presents SB7016 for Senator Lee  
**5:17:09 PM** Questions on SB7016-  
**5:18:08 PM** Senator Berman with question  
**5:18:17 PM** Senator Montford answers  
**5:18:30 PM** Senator Berman next question  
**5:18:43 PM** Senator Montford replies  
**5:19:25 PM** Chair Albritton - appearance  
**5:19:30 PM** Natalie Fausel of Tallahassee for Resiliency Florida in support  
**5:19:41 PM** Brian Lee of Tallahassee in support  
**5:19:51 PM** Ryann Lynn Clean Energy Advocate for Environment Florida in support  
**5:20:03 PM** Joseph Salzberg Attorney Lobbyist of Tallahassee in support  
**5:20:14 PM** Ken Ross Vice President of Rethink Energy Action Fund of Tallahassee in support  
**5:20:18 PM** Susan Glickman Florida Director of Indian Rocks Beach Southern Alliance for Clean Energy in support  
**5:21:24 PM** Debate- Senator Berman  
**5:22:55 PM** Senator Montford waives close  
**5:22:56 PM** Roll Call for SB 7016 roll call  
**5:23:02 PM** SB7016 is reported favorable  
**5:23:13 PM** Chair Montford to explain 7024  
**5:23:26 PM** Questions on SB7024-none  
**5:24:19 PM** David Cullen with information  
**5:24:35 PM** Debate on the bill - none  
**5:25:14 PM** Senator Mayfield moves this bill be a CS  
**5:25:32 PM** Roll Call on SPB 7024  
**5:25:36 PM** SPB 7024 is found favorable as a committee bill  
**5:25:45 PM** Chair Montford  
**5:25:53 PM** Senator Berman  
**5:26:01 PM** Senator Barman moves to adjourn  
**5:26:09 PM** Meeting adjourned