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| Tab 2 | SB 906 by Farmer; (Identical to H 01415) Prohibited Reptiles | | | | |
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| Tab 3 | SB 1042 by Albritton; (Identical to H 01061) Aquatic Preserves | | | | |
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| Tab 4 | SB 1096 by Cruz (CO-INTRODUCERS) Stewart, Berman; Bottled Water | | | | |
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| Tab 5 | SB 1098 by Cruz (CO-INTRODUCERS) Stewart, Berman; Fees/Bottled Water Companies/Department of Environmental Protection | | | | |
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ENVIRONMENT AND NATURAL RESOURCES

Senator Montford, Chair
Senator Albritton, Vice Chair

MEETING DATE: Tuesday, January 21, 2020

TIME: 4:30—6:00 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 |
|-----|--|--|----------------------------|
| 1 | Presentation by the Office of Economic and Demographic Research on the Annual Assessment of Florida's Water Resources and Conservation Lands | | Presented |
| 2 | SB 906 Farmer (Identical H 1415) | Prohibited Reptiles; Prohibiting a person, party, firm, association, or corporation from keeping, possessing, importing, selling, bartering, trading, or breeding for personal use or sale for personal use green iguanas or black and white tegus, etc. EN 01/21/2020 Favorable CA RC | Favorable Yeas 4 Nays 0 |
| 3 | SB 1042 Albritton (Identical H 1061) | Aquatic Preserves; Creating the Nature Coast Aquatic Preserve; designating the preserve for inclusion in the aquatic preserve system; outlining the authority of the Board of Trustees of the Internal Improvement Trust Fund in respect to the preserve; prohibiting the establishment and management of the preserve from infringing upon the riparian rights of upland property owners adjacent to or within the preserve, etc. EN 01/21/2020 Favorable GO RC | Favorable Yeas 4 Nays 0 |
| 4 | SB 1096 Cruz (Linked S 1098) | Bottled Water; Requiring the Department of Environmental Protection to monitor certain consumptive use permits; providing penalties for nonpayment of fees; directing the department to adopt rules, etc. EN 01/21/2020 Temporarily Postponed AG RC | Temporarily Postponed |

COMMITTEE MEETING EXPANDED AGENDA

Environment and Natural Resources

Tuesday, January 21, 2020, 4:30—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|--|-----------------------|
| 5 | SB 1098 Cruz (Linked S 1096) | Fees/Bottled Water Companies/Department of Environmental Protection; Requiring the Department of Environmental Protection to charge bottled water companies a specified fee per gallon extracted; requiring the fees to be deposited into the Water Protection and Sustainability Program Trust Fund, etc. EN AG AP | Temporarily Postponed |

Other Related Meeting Documents

Annual Assessment of Florida's Water Resources and Conservation Lands

2020 Edition

January 21, 2020

Presented by:

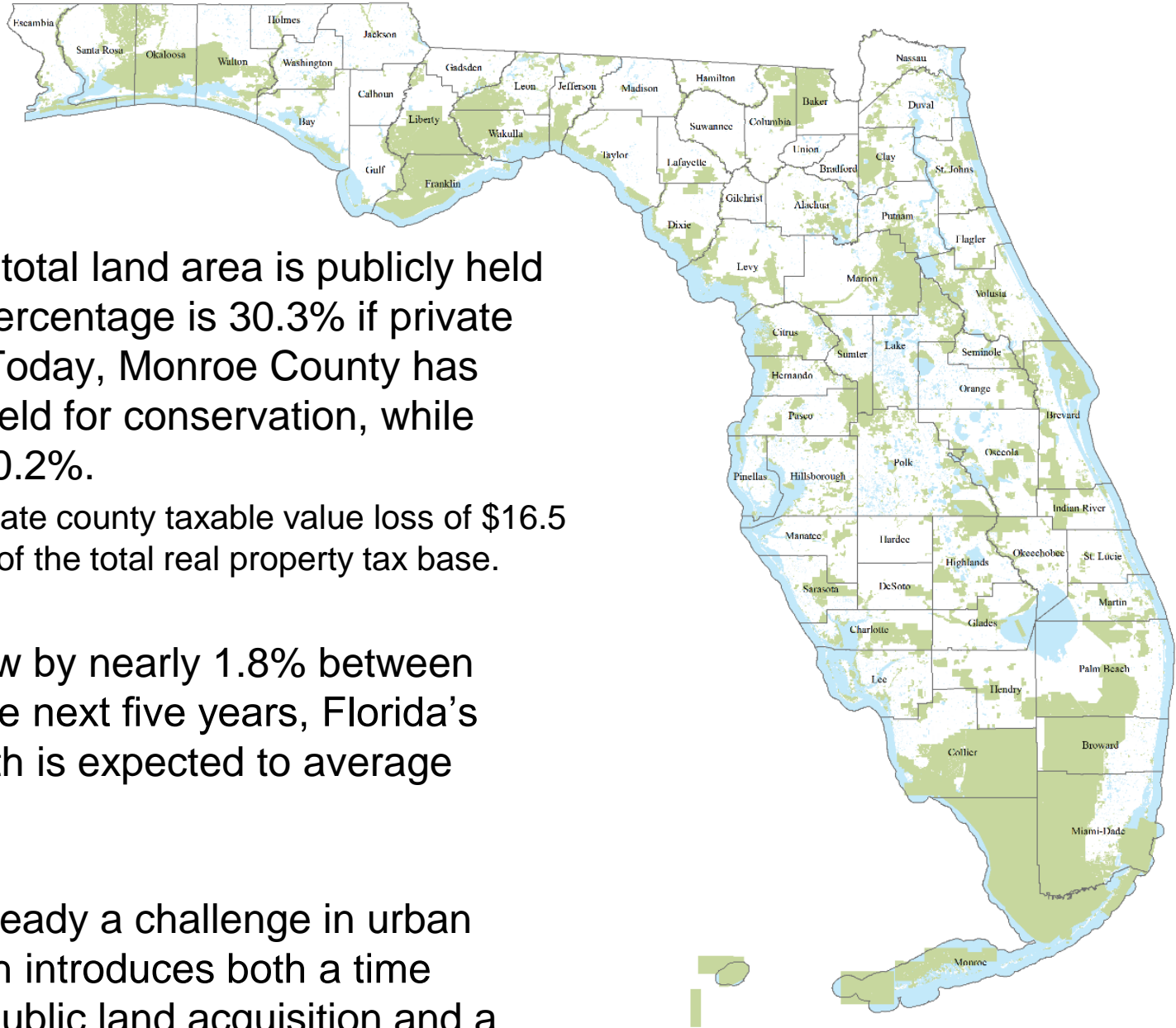


The Florida Legislature
Office of Economic and
Demographic Research
850.487.1402
<http://edr.state.fl.us>

Statutorily Required Assessment

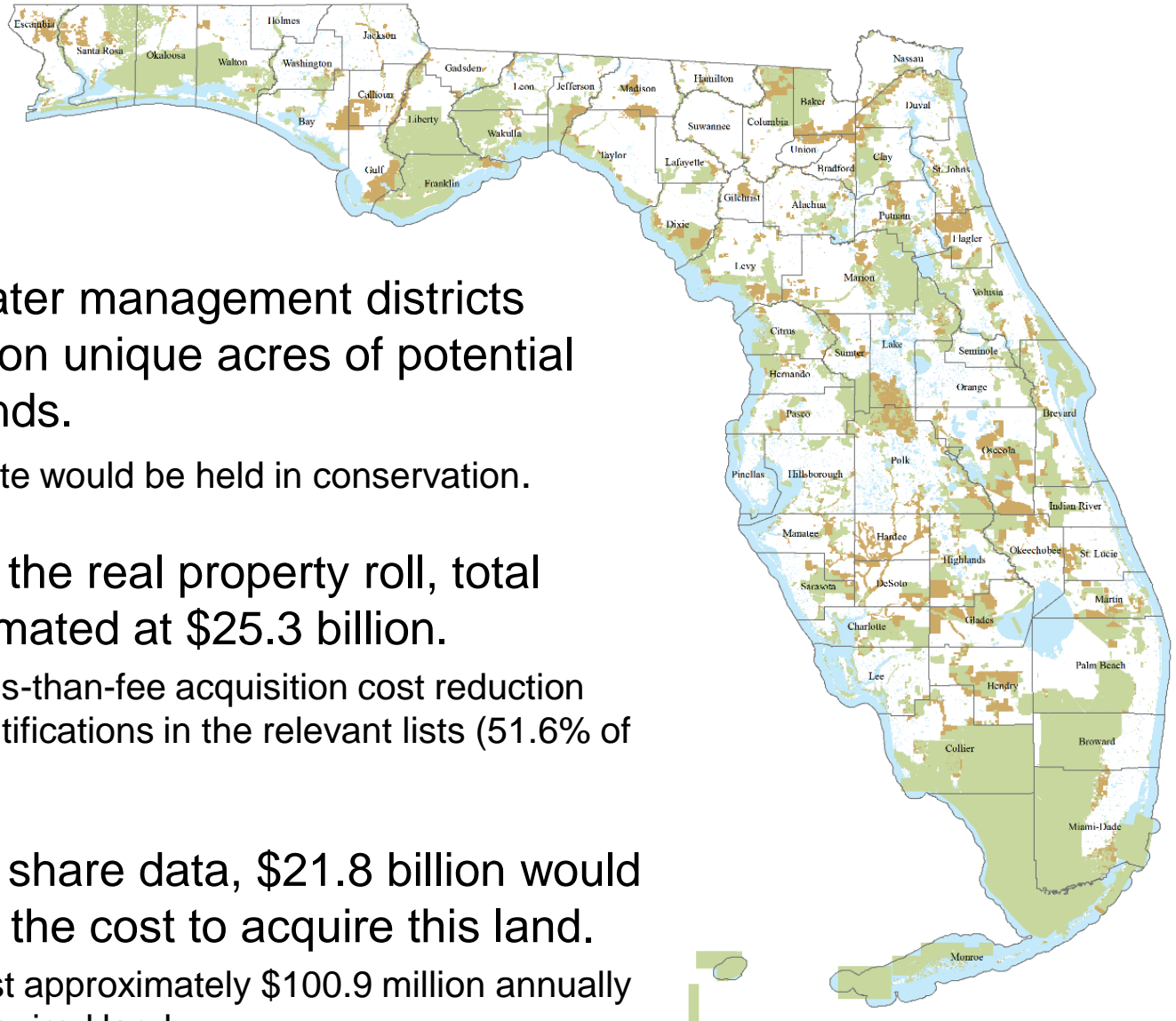
- Section 403.928, Florida Statutes, requires EDR to assess:
 - Conservation Lands
 - Historical and projected expenditures through the Florida Forever program.
 - Projected expenditures to acquire lands identified in state agency and WMD plans.
 - Property tax impacts resulting from public ownership of conservation lands.
 - Projected revenues dedicated to maintain conservation lands and any funding gap.
 - The percentage of Florida land that is publicly owned for conservation purposes.
 - Comparison of the costs to acquire & maintain land under fee and less-than-fee ownership.
 - Water Resources
 - Historical and projected expenditures for water supply & quality.
 - Estimated expenditures needed to comply with laws regarding water supply & quality.
 - Estimated expenditures necessary to achieve the Legislature's intent that sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems.
 - Requires development of integrated statewide water demand and supply model capable of annual updates and annual projections.
 - Projected revenues dedicated or historically allocated to for water supply & quality, as well as public and private utility revenues.
 - Determination of any gaps between projected revenues and projected and estimated expenditures.

Conservation Lands



- In Florida, 29.5% of the total land area is publicly held for conservation. This percentage is 30.3% if private ownership is included. Today, Monroe County has 94.9% of its land area held for conservation, while Union County has only 0.2%.
 - This results in an aggregate county taxable value loss of \$16.5 billion, or a loss of 2.4% of the total real property tax base.
- Florida's population grew by nearly 1.8% between 2018 and 2019. Over the next five years, Florida's annual population growth is expected to average 1.5%.
- Population density is already a challenge in urban areas. Continued growth introduces both a time constraint on strategic public land acquisition and a demand for more efficient development practices.

Conservation Lands: Future Acquisitions



- State agencies and water management districts identify nearly 3.8 million unique acres of potential future conservation lands.
 - If acquired, 41.3% of state would be held in conservation.
- Using Just Value from the real property roll, total acquisition cost is estimated at \$25.3 billion.
 - This accounts for the less-than-fee acquisition cost reduction suggested by some identifications in the relevant lists (51.6% of the fee cost).
- Based on historic cost share data, \$21.8 billion would be the state's share of the cost to acquire this land.
 - Additionally, it would cost approximately \$100.9 million annually to manage the newly acquired land.

Map excludes lands identified by the NFWFMD

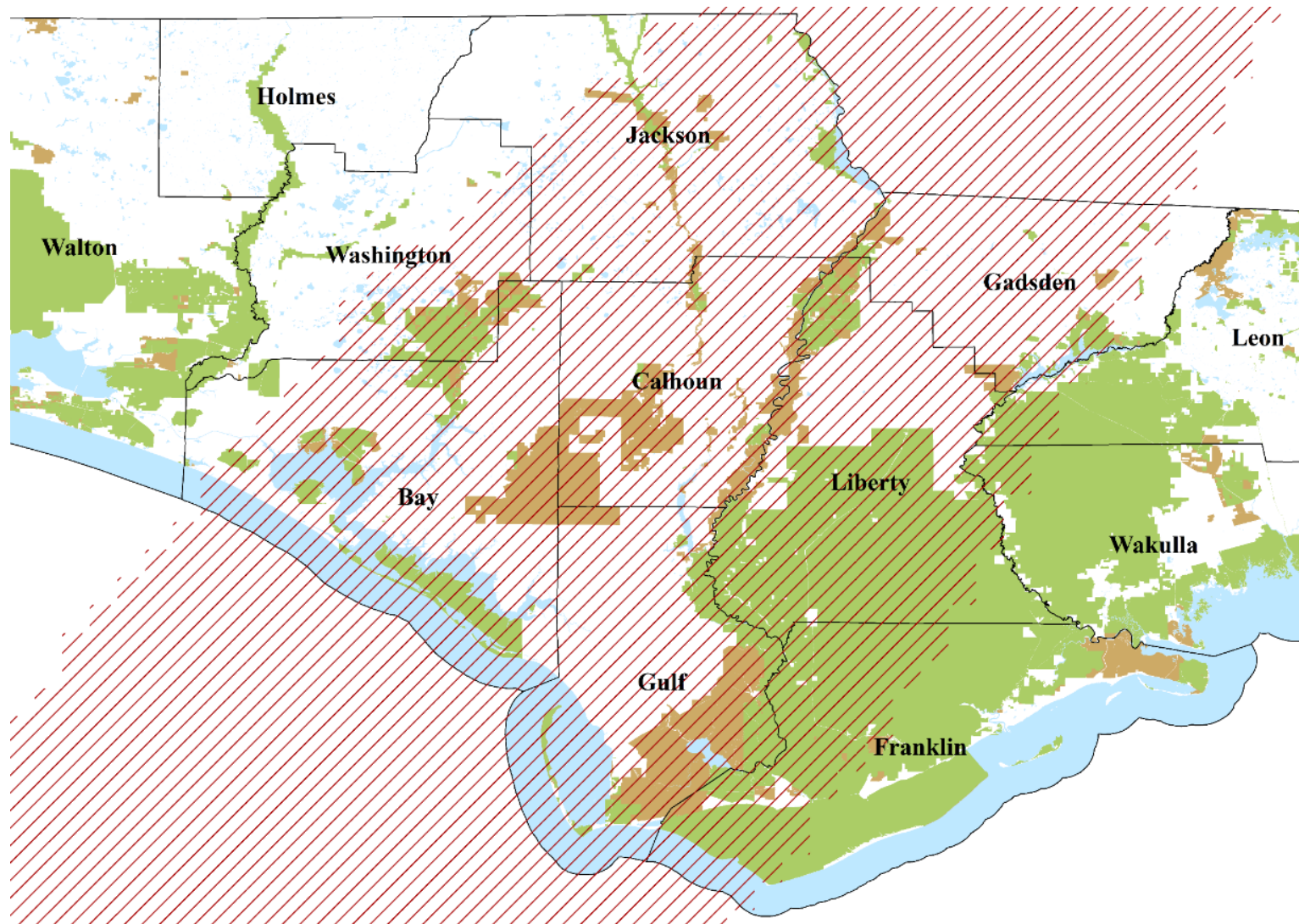
Conservation Lands: Expenditures (in \$millions)

| History | FY 09-10 | FY 10-11 | FY 11-12 | FY 12-13 | FY 13-14 | FY 14-15 | FY 15-16 | FY 16-17 | FY 17-18 | FY 18-19 |
|------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Land Acquisition | \$175.02 | \$145.10 | \$56.78 | \$47.91 | \$37.93 | \$56.79 | \$30.37 | \$84.10 | \$74.11 | \$49.53 |
| Land Management | \$198.07 | \$170.54 | \$146.64 | \$154.43 | \$159.81 | \$175.90 | \$195.71 | \$215.68 | \$226.55 | \$226.35 |
| Total | \$373.09 | \$315.64 | \$203.42 | \$202.34 | \$197.74 | \$232.70 | \$226.08 | \$299.78 | \$300.66 | \$275.87 |

| Forecast | FY 19-20 | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 | FY 27-28 | FY 28-29 |
|------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Land Acquisition | \$71.30 | \$71.04 | \$73.50 | \$85.03 | \$90.36 | \$98.02 | \$107.96 | \$116.92 | \$127.41 | \$139.05 |
| Land Management | \$237.78 | \$245.70 | \$252.50 | \$261.88 | \$270.45 | \$279.24 | \$288.78 | \$298.34 | \$308.26 | \$318.59 |
| Total | \$309.07 | \$316.74 | \$326.00 | \$346.92 | \$360.81 | \$377.27 | \$396.74 | \$415.26 | \$435.67 | \$457.64 |

- Nearly 72% of historical conservation land expenditures has been spent on land management.
- The expenditure forecast is based on the historical trends.
 - To acquire all lands on potential lists will take 370 years at the current pace.

Conservation Lands: Hurricane Michael



- Hurricane force winds impacted 734,924 acres of existing conservation lands and 285,084 acres of potential conservation lands identified on agency lists.

Conservation Lands: Hurricane Michael

| Manager | Acres Affected |
|--------------|-------------------|
| Federal | 364,494.63 |
| State | 259,735.45 |
| Regional | 92,700.20 |
| Local | 3,436.92 |
| Private | 14,478.06 |
| Unmanaged | 79.01 |
| Total | 734,924.25 |

- 259,735 acres of existing conservation land managed by the state and impacted by the storm are expected to require increased land management expenditures in the near-term (LBRs continue heightened level of funding through FY 2020-21).

| Acquisition List | Acres |
|------------------|-------------------|
| Florida Forever | 259,714.35 |
| Rec & Parks | 9,885.51 |
| FWC | 2,314.73 |
| DACS RFLPP | 69,260.17 |
| Overlap* | 56,090.51 |
| Total | 285,084.26 |

- 285,084 unique acres are identified on lists, the majority of which are on DEP's Florida Forever Priority List.

*4,465 acres are identified on both the Florida Forever and Rec & Parks lists, and 51,625 acres are identified on both the Florida Forever and FWC Inholdings and Additions lists.

Conservation Lands: Hurricane Michael

- Given the large number of acres within Hurricane Michael's direct path which have already been identified for potential land acquisition, EDR suggested in 2019 that policy makers could consider accelerated land conservation purchases as they develop the vision and plan for recovery.
- Purchasing lands for conservation would have the benefit of protecting the identified lands while providing financial relief to willing local land owners.
- Current SB 7024 formalizes and expands this concept by proposing \$10 million each year for acquisition of hurricane-impacted land identified as either conservation land or coastal lands subject to flooding as a result of sea-level rise.

Water Supply: State Expenditures & Funds (in \$millions)

- Today, the vast majority of costs related to water supply are addressed regionally or locally.
- The limited state expenditures are primarily through the Drinking Water Revolving Loan Fund, largely a federal funding source, used to make loans for the replacement or modification of existing water systems to achieve the public health goals of the Safe Drinking Water Act.
- In addition, limited state funding remains from an alternative water supply program, the dedicated funding for which was repealed in FY 2008-09.
- The forecast displayed here assumes continuation of the pace of state expenditures.

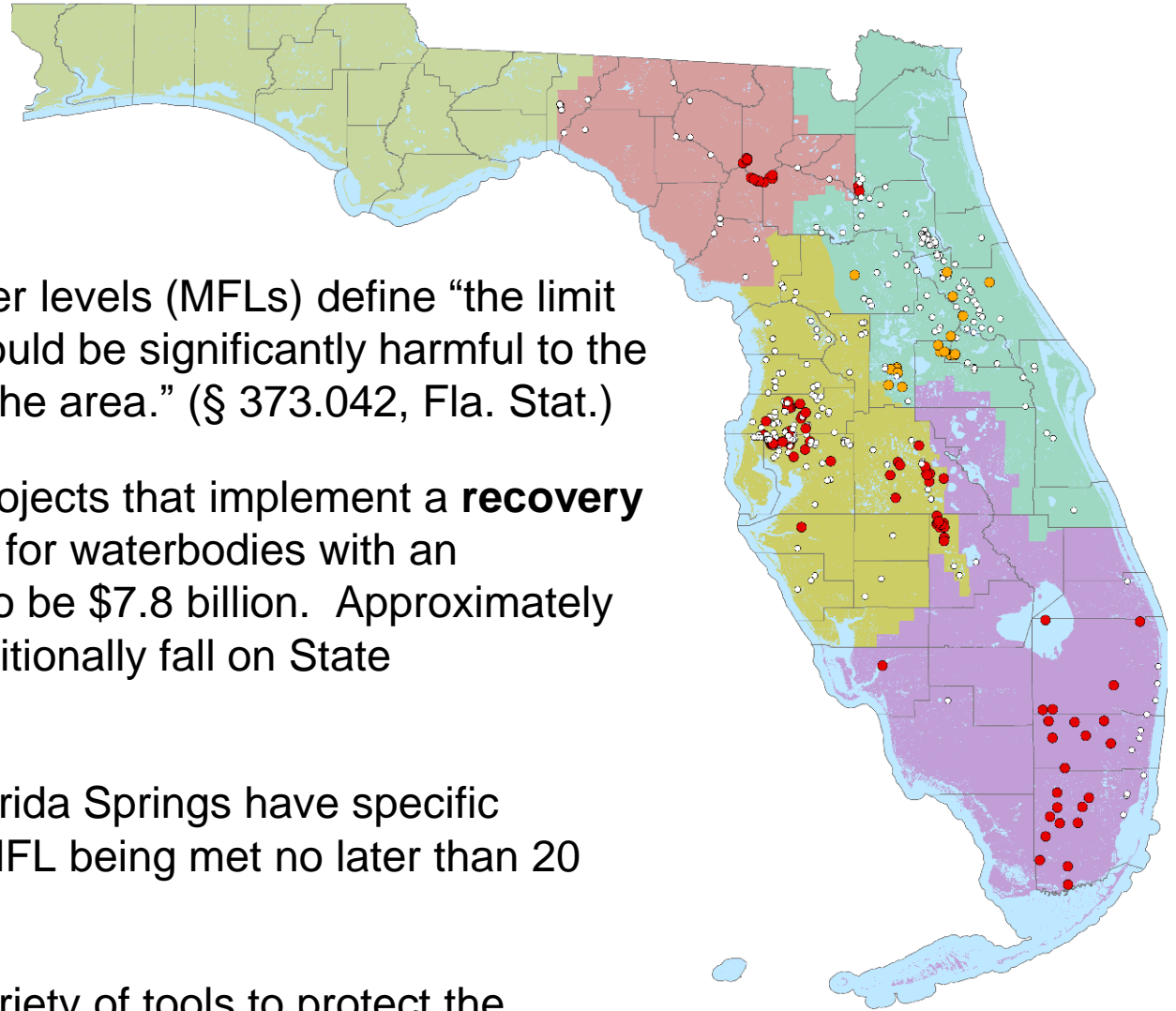
| Expenditure Forecast | FY 19-20 | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 | FY 27-28 | FY 28-29 |
|----------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Total | \$86.86 | \$96.28 | \$107.71 | \$96.95 | \$100.32 | \$101.66 | \$99.64 | \$100.54 | \$100.61 | \$100.27 |

| Revenue Forecast | FY 19-20 | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 | FY 27-28 | FY 28-29 |
|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Federal Grants | \$32.06 | \$32.95 | \$33.56 | \$33.36 | \$34.30 | \$35.34 | \$35.94 | \$36.83 | \$37.71 | \$38.52 |
| Repayment of Loans | \$54.83 | \$43.06 | \$45.29 | \$47.73 | \$45.36 | \$46.13 | \$46.40 | \$45.96 | \$46.16 | \$46.18 |
| Total | \$86.89 | \$76.01 | \$78.86 | \$81.09 | \$79.66 | \$81.46 | \$82.34 | \$82.80 | \$83.87 | \$84.70 |

Expenditures to Ensure Sufficient Water Supply: Total Expenditure Forecast

- To have a complete expenditure forecast for supply as statutorily required, regional, local, and utility expenditures must be included as part of a unified total which also takes into account future needs.
- To assess these future needs, EDR considered the **alternative water supply (AWS) options**, the related costs, and the quantity of water generated, focusing on the planning regions where the forecasted water demand exceeded the inferred water supply.
- A robust regression analysis has been developed to estimate the costs of future AWS projects in each region.
- Using the WMD demand forecast and averaging the low and high scenarios, \$1.0 billion is needed for AWS projects through 2035.
 - The state's cost share of this is historically low, averaging less than 4.5%. A unique revenue source dedicated to this purpose currently does not exist.

State Expenditures to Ensure Sufficient Water Supply



- Minimum flow or minimum water levels (MFLs) define “the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.” (§ 373.042, Fla. Stat.)
- The cost to complete known projects that implement a **recovery or prevention strategy** (RPS) for waterbodies with an established MFL is estimated to be \$7.8 billion. Approximately 4.5% of this amount would traditionally fall on State Government.
- Only RPSs for Outstanding Florida Springs have specific achievement targets with the MFL being met no later than 20 years after adoption.
- While the WMDs may use a variety of tools to protect the natural systems, EDR focuses on projects included in recovery or prevention strategies for the implementation of MFLs.

White – Meeting
Orange – In Prevention
Red – In Recovery

Expenditures to Ensure Sufficient Water Supply: State Expenditure Forecast (in \$millions)

- Considering a 2-year average completion time for AWS projects, assuming a 20-year time horizon for all MFL recovery or prevention strategies (RPS), and applying the average state cost share of 4.5% to both, the following forecast of state expenditures is produced.

| | FY 19-20 | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 | FY 27-28 | FY 28-29 |
|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| AWS | \$1.79 | \$1.79 | \$1.90 | \$2.17 | \$2.15 | \$2.15 | \$2.15 | \$2.15 | \$2.54 | \$3.04 |
| MFL RPS | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 |
| Total | \$19.18 | \$19.18 | \$19.29 | \$19.56 | \$19.54 | \$19.54 | \$19.54 | \$19.54 | \$19.93 | \$20.43 |
| | FY 29-30 | FY 30-31 | FY 31-32 | FY 32-33 | FY 33-34 | FY 34-35 | FY 35-36 | FY 36-37 | FY 37-38 | FY 38-39 |
| AWS | \$3.04 | \$3.04 | \$3.04 | \$4.34 | \$N/A* | \$N/A* | \$N/A* | \$N/A* | \$N/A* | \$N/A* |
| MFL RPS | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 |
| Total | \$20.43 | \$20.43 | \$20.43 | \$21.73 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 | \$17.39 |

*FY33-34 through FY38-39 AWS expenditures are not expected to be zero. Statewide demand forecasts are not currently available beyond 2035 and with a two-year construction period would be for the unknown water needs of 2036 through 2041.

Water Quality: State Expenditures (in \$millions)

| History | FY 09-10 | FY 10-11 | FY 11-12 | FY 12-13 | FY 13-14 | FY 14-15 | FY 15-16 | FY 16-17 | FY 17-18 | FY 18-19 |
|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|------------|
| Total | \$606.01 | \$564.18 | \$550.28 | \$514.39 | \$518.65 | \$603.27 | \$671.59 | \$794.91 | \$869.46 | \$1,021.94 |

| Forecast | FY 19-20 | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 | FY 27-28 | FY 28-29 |
|----------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Total | \$1,062.06 | \$1,103.75 | \$1,147.09 | \$1,192.12 | \$1,238.92 | \$1,287.56 | \$1,338.10 | \$1,390.63 | \$1,445.23 | \$1,501.96 |

- The state's greater funding role is related to water quality protection and restoration. In addition to funding for WMDs and Everglades restoration, the Legislature provides funding to DEP, DACS, and FWC which collectively dominate state expenditures for water quality-related programs and initiatives. Examples of the agencies' expenditures include:
 - DEP: Water quality assessment including the development of Total Maximum Daily Loads (TMDLs), financial assistance programs (e.g., springs grants and nonpoint source grants), regulatory and clean-up programs.
 - DACS: Best Management Practices (BMPs) and nitrate and nitrite research.
 - FWC: Red Tide research.
- Expenditures have been rapidly increasing over the most recent six fiscal years.

Water Quality: State Revenues (in \$millions)

- Water quality revenues consist of: Doc Stamps, fees and licenses, fines, penalties, judgements, grants and donations, pollutant taxes and fees, repayment of loans, sales and leases, severance taxes, and sale of bonds.

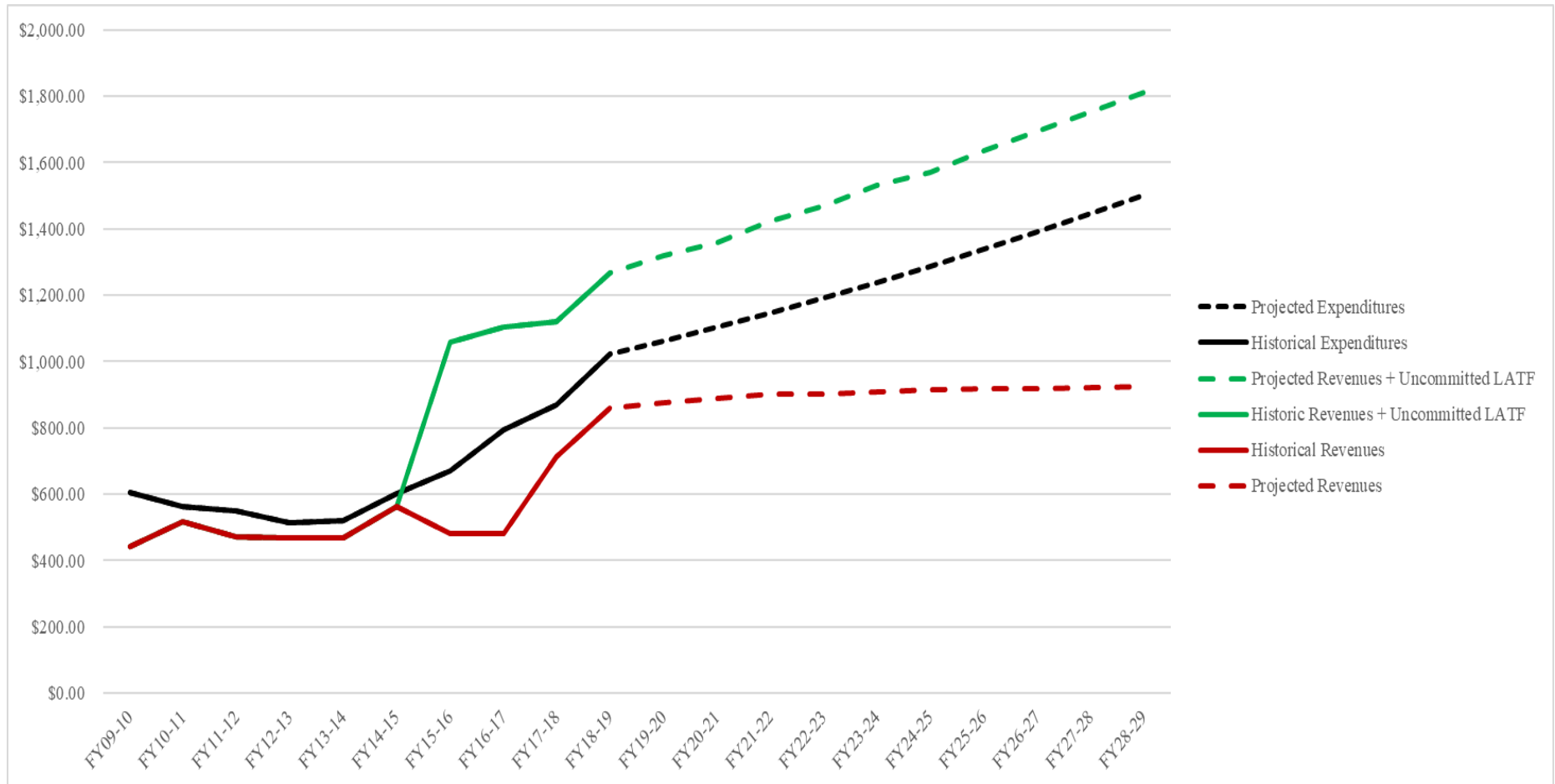
| History | FY 09-10 | FY 10-11 | FY 11-12 | FY 12-13 | FY 13-14 | FY 14-15 | FY 15-16 | FY 16-17 | FY 17-18 | FY 18-19 |
|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Total | \$440.73 | \$517.71 | \$471.24 | \$467.12 | \$467.55 | \$561.43 | \$482.57 | \$481.04 | \$712.50 | \$857.95 |
| Forecast | FY 19-20 | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 | FY 27-28 | FY 28-29 |
| Total | \$876.71 | \$887.85 | \$900.27 | \$902.35 | \$907.21 | \$913.47 | \$917.19 | \$916.51 | \$920.94 | \$924.74 |

- Additional Doc Stamp revenue exists within the LATF that is currently uncommitted, but still spent on qualifying purposes.

| Forecast | FY 19-20 | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 | FY 27-28 | FY 28-29 |
|-----------------------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Uncommitted LATF Based on Statute | \$443.22 | \$470.12 | \$521.82 | \$567.40 | \$622.40 | \$657.43 | \$716.84 | \$778.30 | \$831.68 | \$887.00 |

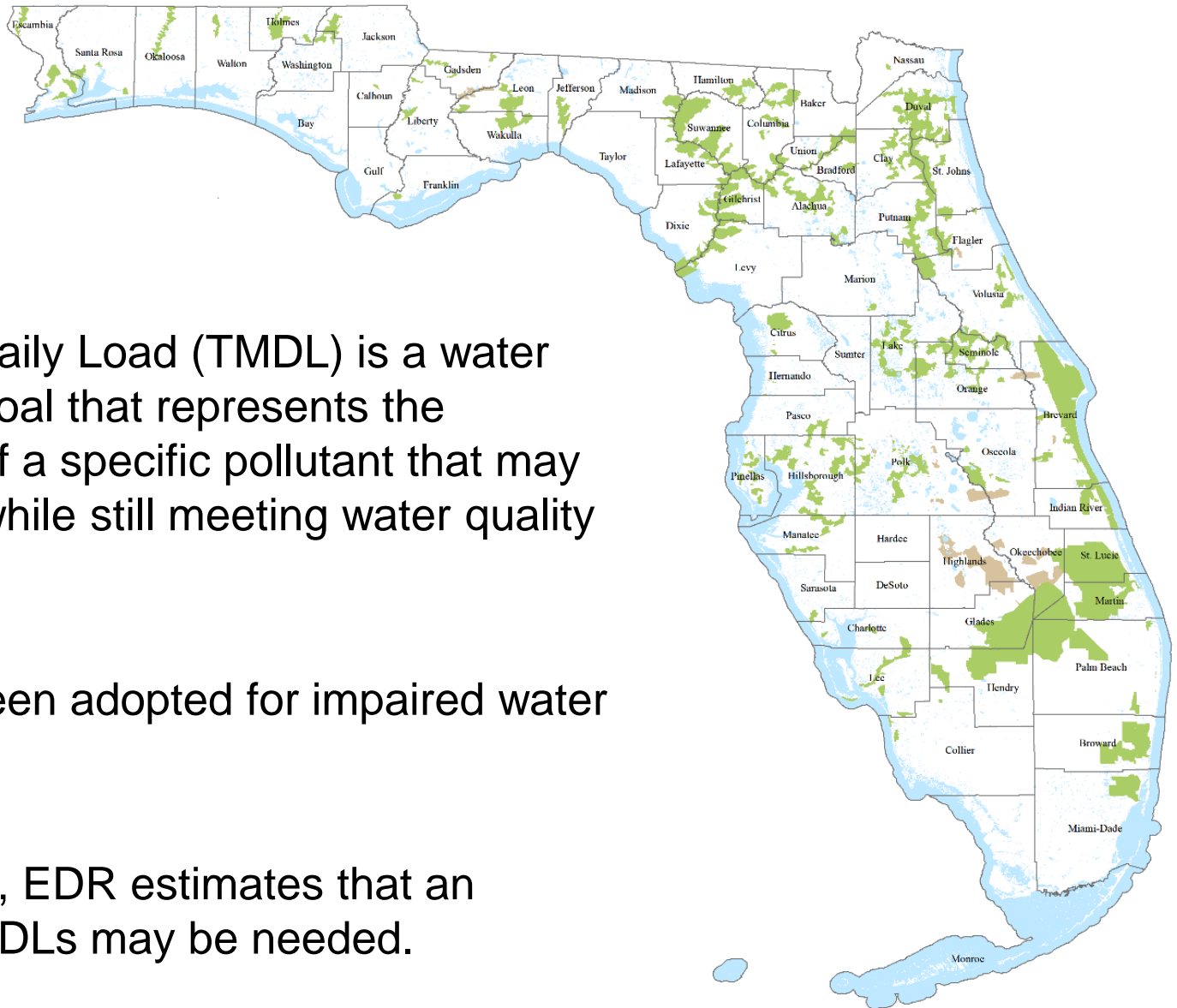
Source: August 2019 forecast by Revenue Estimating Conference.

Water Quality: State Funding Gap



- Based upon recent trends and known information, the existence of a gap in future funding for water quality depends upon the use of the uncommitted LATF Doc Stamps.
- This analysis, however, does not address the potentially increasing pace or cost of new or updated restoration plans, programs, and initiatives that will be needed to achieve water quality standards. These costs may be substantial and change the trajectory of the projected expenditures.

Impaired Waters: TMDLs



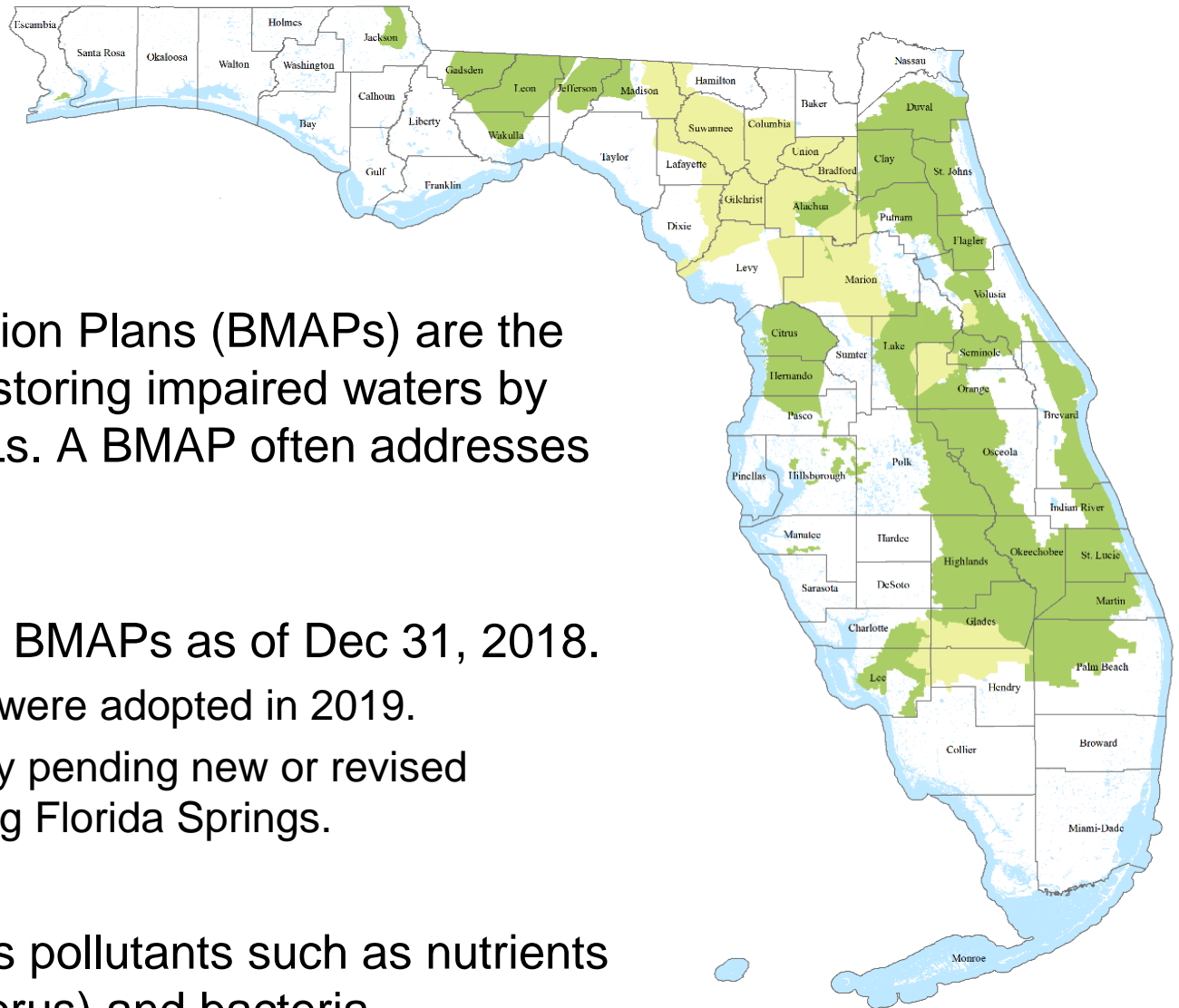
- A Total Maximum Daily Load (TMDL) is a water quality restoration goal that represents the maximum amount of a specific pollutant that may enter a waterbody while still meeting water quality standards.
- 426 TMDLs have been adopted for impaired water segments.
- Based on DEP data, EDR estimates that an additional 1,355 TMDLs may be needed.

Accelerated TMDL Development Expenditure Forecast

| | FY 19-20 | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 | FY 27-28 | FY 28-29 |
|-------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Total | \$30.79 | \$30.79 | \$30.79 | \$30.79 | \$30.79 | \$22.67 | \$22.67 | \$22.67 | \$22.67 | \$22.67 |

- The historical rate of TMDL development is approximately 20 per year and this rate is reflected in the prior gap calculation. The accelerated forecast shown above suggests 156 per year in the first 5 years and 115 per year in the last five years.
- The average cost to develop a TMDL has been historically \$196,970.27. Development costs are the state's responsibility.
- Forecast assumes high priority waterbodies/impairments will be completed over the first five years, and low/medium priority over the full ten years.
 - The priority schedule and ten-year timeframe is based on information in DEP's Comprehensive Verified List.

Impaired Waters: BMAPs



- Basin Management Action Plans (BMAPs) are the state's blueprints for restoring impaired waters by meeting adopted TMDLs. A BMAP often addresses multiple TMDLs.
- There were 24 adopted BMAPs as of Dec 31, 2018.
 - Six additional BMAPs were adopted in 2019.
 - There are five currently pending new or revised BMAPs for Outstanding Florida Springs.
- BMAPs address various pollutants such as nutrients (e.g., nitrogen, phosphorus) and bacteria.

Alternative BMAP State Expenditure Forecast

| | FY 19-20 | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 | FY 26-27 | FY 27-28 |
|--------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| State | \$385.0 | \$376.5 | \$376.5 | \$363.1 | \$363.1 | \$246.3 | \$230.5 | \$230.5 | \$191.9 |

| | FY 28-29 | FY 29-30 | FY 30-31 | FY 31-32 | FY 32-33 | FY 33-34 | FY 34-35 | FY 35-36 |
|--------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| State | \$179.9 | \$176.0 | \$165.5 | \$165.5 | \$120.6 | \$103.7 | \$103.7 | \$8.8 |

- This alternative forecast reflects all anticipated state expenditures to execute the 24 BMAPs adopted as of December 31, 2018. It is based on data available from DEP's 2019 STAR Report.
 - Additional expenditures may still be necessary to achieve the water quality restoration goals reflected in these BMAPs.
 - Additional BMAPs are certain, but not included at this time.
 - In this alternative forecast, state expenditures average 72% of the total cost.
- Cost estimates for planned and underway projects with missing data are based on reported costs for other projects of the same types.

State/SFWMD Historical Expenditures for Everglades Restoration (in \$millions)

| | |
|--|-------------------|
| CERP | \$1,666.81 |
| Critical Projects | \$54.00 |
| Kissimmee River Restoration | \$202.20 |
| Herbert Hoover Dike | \$100.00 |
| Restoration Strategies | \$346.00 |
| Everglades Construction Project | \$1,627.80 |
| Northern Everglades | \$533.60 |
| Central and South Florida Project (Non-CERP) | \$215.60 |
| Total | \$4,746.01 |

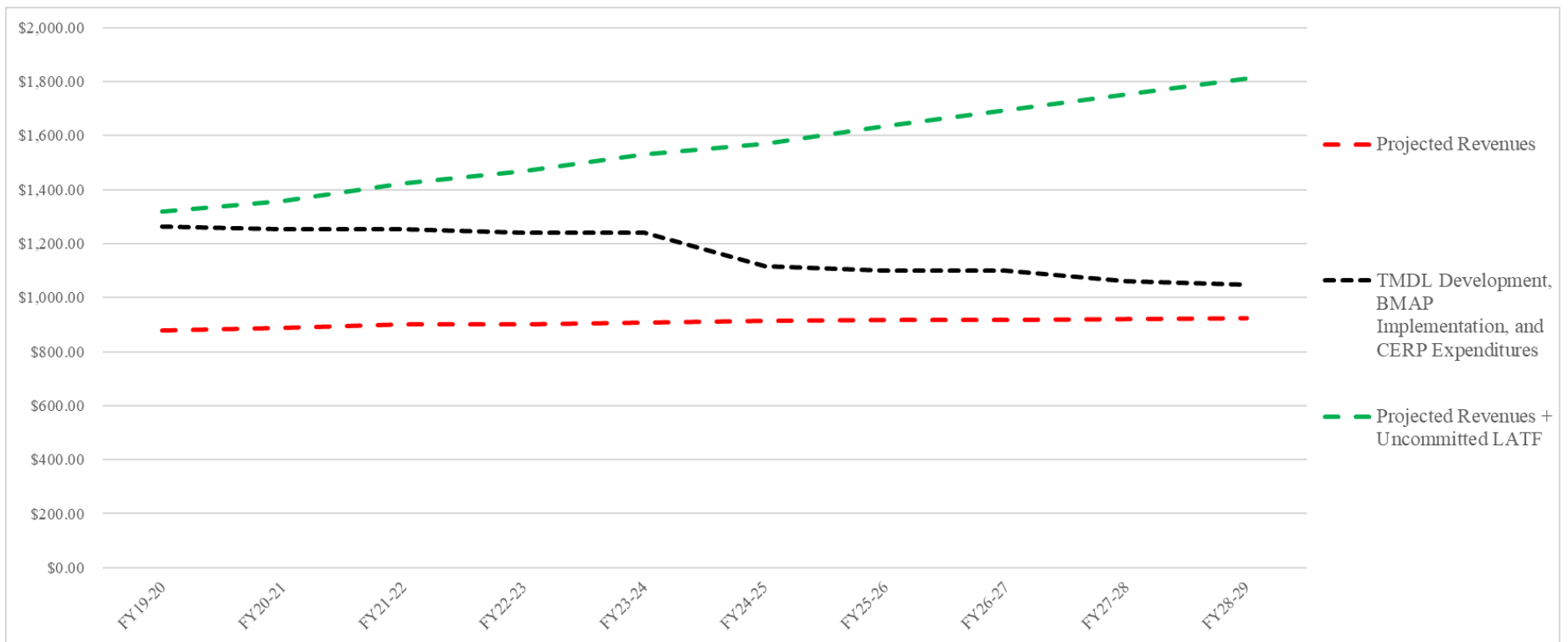
Expenditures are cumulative over the history of the initiative as of September 30, 2019.

Alternative State/SFWMD Expenditure Forecast for CERP

- The Comprehensive Everglades Restoration Plan (CERP) was approved by Congress in 2000. Overall, costs will be split equally between the federal government and the State of Florida (including its lead entity, the South Florida Water Management District).
- Over the last five years, the inflation-adjusted expenditures for CERP have averaged \$217.7 million per year.
- EDR's inflation-adjusted updates to previously reported total costs indicate that an additional \$16.9 billion is needed.
- At the current rate of expenditures, 78 more years will be needed to fully implement CERP (2097).
- The original goal was completion in 30 years. In the alternative forecast, this goal is maintained. To meet it, the State/SFWMD expenditures would need to increase to \$846.3 million per year.
 - If the state proactively undertakes projects ahead of federal approval, it runs the risk that the federal government will not provide its expected share for those projects.

Alternative Expenditure Forecast for Water Quality: Recalculated Funding Gap

- Combining just the alternative forecasts for TMDL development, BMAP implementation, and CERP implementation produces a revised expenditure total that exceeds projected revenues in every year unless the uncommitted LATF dollars are used for these purposes.
- Other water quality initiatives required by law that are not included in this limited alternative scenario would likely produce at least a near-term funding gap, even after the inclusion of uncommitted LATF dollars.



2016 Florida Infrastructure Report Card*

American Society of Civil Engineers, Florida Section



“High population growth, aging infrastructure, and sensitive ecological environments such as Florida’s Everglades are increasing the need and urgency to invest in Florida’s [drinking] water infrastructure.”



“More than half of Florida’s stormwater entities revealed an inability to address all capital improvement needs, and only 1 in 4 stormwater utilities stated that today’s operation and maintenance capabilities were adequate only to meet the most urgent needs.”



“While Florida is a national leader in reclaimed water use, which helped offset the State’s potable water needs and is a vital component of water resource and ecosystem management, population growth, aging infrastructure, and sensitive ecological environments are increasing the need to invest in Florida’s wastewater infrastructure.”

Infrastructure: EPA Needs Estimates (in \$millions)

- The EPA periodically conducts two infrastructure needs surveys. The surveys include capital investment needs for a 20-year window and strictly consider existing infrastructure.
 - Drinking Water Infrastructure Needs Survey and Assessment (2015)
 - Drinking water systems were sampled and surveyed. The reported need is a statewide total extrapolated from the responses.
 - Clean Watersheds Needs Survey (2012)
 - Only includes needs from responding representatives of publicly-owned wastewater and stormwater systems. There is no effort to account for the needs of non-responsive facilities and private utilities.

| System Type | Estimated Needs (Adjusted to FY18-19 using CPI, in \$millions) |
|----------------|--|
| Drinking Water | \$ 23,718.27 |
| Wastewater* | \$ 20,027.40 |
| Stormwater | \$ 557.66 |
| Total | \$44,303.33 |

- The two largest components of the drinking water needs are transmission/distribution (\$14.9 billion) and treatment (\$5.1 billion).

*Wastewater needs exclude the unofficial estimate for Decentralized Wastewater Treatment. Florida's estimated needs, adjusted to FY2018-19 using the CPI, totaled \$6,241.23 (in \$millions).

Infrastructure: Next Steps

- The only existing Florida-specific estimates are the EPA's, which exclude operations and maintenance expenditures. Nationally, those expenditures constitute the majority of public spending on water supply and wastewater treatment (CBO 49910).
- Over the next year, EDR plans to develop a detailed survey of publicly and privately-owned utilities to obtain additional data regarding immediate repair and replacement costs for aging infrastructure. This is a necessary precursor to the development of a baseline and the identification of any existing infrastructure gaps.
- EDR will also begin collecting and reviewing adopted budgets and Capital Improvement Plans for Florida's publicly-owned water, wastewater, and stormwater systems to aggregate capital investment expenditures and forecast future infrastructure needs.



2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Fish and Wildlife Conservation Commission

| <u>BILL INFORMATION</u> | |
|-------------------------|--------------------------|
| BILL NUMBER: | Senate Bill (SB) 906 |
| BILL TITLE: | Prohibited Reptiles |
| BILL SPONSOR: | Senator Gary Farmer, Jr. |
| EFFECTIVE DATE: | July 1, 2020 |

| <u>COMMITTEES OF REFERENCE</u> |
|--------------------------------------|
| 1) Environment and Natural Resources |
| 2) Community Affairs |
| 3) Rules |
| 4) Click or tap here to enter text. |
| 5) Click or tap here to enter text. |

| <u>CURRENT COMMITTEE</u> |
|-----------------------------------|
| Environment and Natural Resources |

| <u>SIMILAR BILLS</u> | |
|----------------------|----------------------------------|
| BILL NUMBER: | Click or tap here to enter text. |
| SPONSOR: | Click or tap here to enter text. |

| <u>PREVIOUS LEGISLATION</u> | |
|-----------------------------|----------------------------------|
| BILL NUMBER: | Click or tap here to enter text. |
| SPONSOR: | Click or tap here to enter text. |
| YEAR: | Click or tap here to enter text. |
| LAST ACTION: | Click or tap here to enter text. |

| <u>IDENTICAL BILLS</u> | |
|------------------------|----------------------------------|
| BILL NUMBER: | Click or tap here to enter text. |
| SPONSOR: | Click or tap here to enter text. |

| |
|--|
| Is this bill part of an agency package? |
| No. |

| <u>BILL ANALYSIS INFORMATION</u> | |
|----------------------------------|------------------------|
| DATE OF ANALYSIS: | November 27, 2019 |
| LEAD AGENCY ANALYST: | Kristen Penney Sommers |
| ADDITIONAL ANALYST(S): | N/A |
| LEGAL ANALYST: | Quilla Miralia |
| FISCAL ANALYST: | Charlotte Jerrett |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

SB 906 would make a few technical changes to existing language and would prohibit the possessing, importing, selling, bartering, trading or breeding for personal use or sale of the Argentine black and white tegus or green iguanas.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Argentine black and white tegus were introduced by way of the live animal/pet trade and were first observed in the wild in Florida in 2002. Multiple species of tegus are common in the pet trade. They are sold in pet stores, bred by commercial breeders in Florida and are imported from other countries. Three species have been found in the wild in Florida: Argentine black and white tegu, gold tegu and red tegu. Argentine black and white tegus are native to South America and can reach five feet in length. Tegus negatively impact native wildlife by competing for both food and habitat. Multiple disjunct populations of black and white tegus are currently established in Miami-Dade (largest population), Hillsborough, and Charlotte (new emerging population) Counties with additional sightings of escaped or released captive animals across the state. Gold tegus are thought to be reproducing in a small area of Miami-Dade County.

Because the general locations of reproducing tegu populations are known, there is the potential for eradication or at the very least reducing the impact that these species pose to Florida. The Florida Fish and Wildlife Conservation Commission (Commission) has utilized staff and private contractors to trap in areas with known established tegu populations. Staff also respond to confirmed observations elsewhere in the state and provide a trap-loan program for members of the public that report tegus on their properties. The Commission has additionally taken steps to remove legal barriers to allow for the lethal take of tegus by members of the public. Tegus are not protected in Florida and in 2017, Executive Order 17-11 was signed allowing for the lethal removal of all non-native reptiles on 22 Commission-managed public lands in south Florida without the need for a permit or hunting license and with no bag limit. Through these efforts, over 7,800 tegus have been reported to the Commission as removed from the wild or found dead in Florida by Commission staff, partners and the public since 2012, primarily in Miami-Dade County.

Green iguanas were also introduced by way of the live animal trade and first observed in the wild in Florida in the 1960's. Baby iguanas continue to be sold in pet stores, flea markets, and reptile shows. Green iguanas are native to Central and South America and can reach up to five feet in length. Iguanas are found primarily in urban/suburban areas across south Florida, however, they may also be found in natural areas such as state parks and throughout the Florida Keys. Iguana impacts in Florida include social impacts, economic impacts and likely some ecological impacts. Iguanas regularly consume ornamental plants on private properties, such as hibiscus, roses and orchids and defecate on decks, sidewalks and in pools. Iguanas burrow into or under infrastructure, such as sea walls or canal banks, which undermines the integrity of those structures.

Unlike tegus, iguanas have long been established in much of south Florida with population fluctuations over the years as a result of extreme cold weather events. The likelihood of eradicating this species in Florida is low. The Commission focuses our management strategies on reducing the impacts of this species. Currently, the Commission provides technical assistance to citizens through workshops, over the phone and through educational materials to empower citizens to remove iguanas themselves or lessen local impacts where they occur in urban and suburban environments. In 2018, the Commission initiated removal efforts on public conservation lands, resulting in nearly 5,000 iguanas being removed.

Pursuant to Article IV, Section (s.) 9 of the Florida Constitution, the Commission exercises the exclusive regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life to include non-native species.

Section 379.372(2)(a), Florida Statutes (F.S) currently provides:

No person, party, firm, association, or corporation shall keep, possess, import into the state, sell, barter, trade, or breed the following species for personal use or for sale for personal use:

1. Burmese or Indian python (*Python molurus*).
2. Reticulated python (*Python reticulatus*).

3. Northern African python (*Python sebae*).
4. Southern African python (*Python natalensis*).
5. Amethystine or scrub python (*Morelia amethystinus*).
6. Green Anaconda (*Eunectes murinus*).
7. Nile monitor (*Varanus niloticus*).
8. Any other reptile designated as a conditional or prohibited species by the commission.

Rules relating to non-native species are found in Chapter 68-5, F.A.C. Conditional species are not allowed to be possessed for personal use, however, commercial use including breeding is allowed. License holders conducting commercial activity with conditional species cannot sell these in Florida's retail market as personal pets; however, may sell out of state for that purpose. Conditional non-native reptile species are listed in Rule 68-5.004, F.A.C., and are as follows:

- (3) Red-eared sliders
- (4) Nonnative snakes and lizards
 - (a) Indian or Burmese python (*Python molurus*).
 - (b) Reticulated python (*Python reticulatus*).
 - (c) Northern African python (*Python sebae*).
 - (d) Southern African python (*Python natalensis*).
 - (e) Amethystine python (*Morelia amethystinus*).
 - (f) Scrub python (*Morelia kinghorni*).
 - (g) Green anaconda (*Eunectes murinus*).
 - (h) Nile monitor (*Varanus niloticus*).

Prohibited reptiles are provided in Rule 68-5.006, F.A.C., and include all sea snakes (68-5.006(3)(b)). However, in February of 2019, the Commission directed staff to file final rule language that will add four species of non-native reptiles to the prohibited list in this chapter to include the yellow anaconda, Beni anaconda, DeSchauensee's anaconda, and brown tree snake. Prohibited species cannot be bred, sold in-state or exported for sale.

A permit is currently not required to possess tegus or green iguanas as personal pets, in accordance with Rule 68A-6.0022(2)(a), F.A.C. However, a license is required to possess tegus or green iguanas for commercial use (exhibition or sale). Because pet owners are not currently required to have a permit for personal possession, the number of tegus or iguanas currently in personal possession is unknown, however is likely in the thousands.

A November 2019 survey of all Class III license holders that allows for the sale of reptiles found 382 license holders listed that may sell iguanas with more than 5,307 in inventory. Tegus are listed on 106 Class III licenses with more than 1,245 individuals in recent inventory.

2. EFFECT OF THE BILL:

SB 906 would add two additional species to the list regulated under s. 379.372(2)(a), F.S. If passed, the Commission would need to initiate rule development to address regulating these species to make it consistent with statute. If rules were developed that are consistent with current rules, that would remove Argentine black and white tegus or green iguanas from future sale as personal pets in the retail market, but would allow them to be bred commercially and exported for sale. Rulemaking would likely include addressing grandfathering individuals who may currently possess these animals as pets.

A permit is currently not required to possess tegus or green iguanas as personal pets, in accordance with Rule 68A-6.0022(2)(a), F.A.C. A license is required to possess either of these species for commercial use (exhibition or sale). SB 906 would no longer allow for the commercial selling of these two species in Florida for personal use. Some businesses, such as pet stores, currently engaged in this activity may be impacted.

Section 379.372(2)(b), F.S., would also provide for grandfathering of individuals who held a permit for the listed species prior to July 1, 2010. Because personal possession of both species does not currently require a license or permit, this provision would be hard to enforce or interpret for these two additional species or could cause potentially thousands of pet owners to no longer lawfully possess any green iguanas or Argentine black and white tegus as pets obtained after July 1, 2010. This change would likely impact a substantial number of pet owners.

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: | Land managing partners and citizens that are currently being impacted by these two species will be in support. The Commission has received requests from other state and federal agencies to regulate tegus. Many citizens have come to public meetings or sent letters to the Commission to ask that the agency regulate iguanas. |
| Opponents and summary of position: | Those who either own or sell these two species will likely be opposed. Those that breed and or sell these species may state that they will be economically impacted. |

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: | Indeterminate; any fines imposed would be deposited by the clerk of court in the county fine and forfeiture fund pursuant to section 142.01, F.S., unless adjudication is withheld; if adjudication is withheld, then funds are deposited to the state general revenue fund. |
|-----------|--|

| | |
|---|-------|
| 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: | Indeterminate; any fines imposed would be deposited by the clerk of court in the county fine and forfeiture fund pursuant to section. 142.01, F.S., unless adjudication is withheld; if adjudication is withheld, then funds are deposited to the state general revenue fund. |
| Expenditures: | The Commission would incur additional costs for developing rules and implementing permitting, grandfathering and enforcement activities; those costs could be absorbed within existing resources. |
| 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: | Indeterminate; the commercial herpetological industry that breed, import, export and sell tegus or iguanas would be negatively impacted. |
| Expenditures: | Violators of these provisions would be subject to fines. |
| Other: | N/A |

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

| | |
|-------------------------|-----|
| If yes, explain impact. | No. |
| 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 | N/A |
|--|-----|

| | |
|-------------------------------------|--|
| agency including any fiscal impact. | |
|-------------------------------------|--|

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

For enforcement purposes, language including all tegus would be preferable. The Commission would suggest that the language in section 1 (2) (a) (9) be replaced with “any species of the genera *Salvator* and *Tupinambis*”. This would prevent law enforcement and prosecutors from having to prove species and prevent additional damage from tegu species that aren’t currently listed.

Because of the prevalence of these two species in trade, many members of the public may not either know about options to legally hold these species (should grandfathering language be altered to address the above 2010 deadline) or options to provide these animals to the Commission’s Exotic Pet Amnesty Program (EPAP). Additional resources for the Commission to provide no-cost permits may be needed because of the volume of these two species currently in personal possession.

The Commission has observed that when one non-native species is regulated or restricted, another similar species that is not regulated often replaces it in trade. More than one species of tegu is currently in trade in the commercial herpetological industry, including but not limited to, gold tegus and red tegus. Tegu species have also been hybridized in the pet industry to create designer color morphs, which could make it difficult for law enforcement to enforce this proposed language because the identification of the species (particularly differentiating between hybrids) will be challenging, if not impossible. If all species of tegu are not regulated simultaneously, the commercial herpetological industry will likely move to other species that will likely cause similar impacts to native species if released or create additional morphs that may make the statute difficult to enforce. There are currently seven identified species of tegus split between two genera; *Salvator* and *Tupinambis*.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

| | |
|---------------------------|-----|
| Issues/concerns/comments: | N/A |
|---------------------------|-----|



SB 906

2017 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Fish and Wildlife Conservation Commission

BILL INFORMATION

| | |
|------------------------|-------------------|
| BILL NUMBER: | SB 0230 |
| BILL TITLE: | Nonnative Animals |
| BILL SPONSOR: | Artiles |
| EFFECTIVE DATE: | 7/1/2017 |

COMMITTEES OF REFERENCE

| |
|---|
| 1) Environmental Preservation and Conservation |
| 2) Appropriations Subcommittee on the Environment and Natural Resources |
| 3) Appropriations |
| 4) Click or tap here to enter text. |
| 5) Click or tap here to enter text. |

CURRENT COMMITTEE

| |
|---|
| Environmental Preservation and Conservation |
|---|

SIMILAR BILLS

| | |
|---------------------|----------|
| BILL NUMBER: | HB 0587 |
| SPONSOR: | Beshears |

PREVIOUS LEGISLATION

| | |
|---------------------|----------------------------------|
| BILL NUMBER: | None |
| SPONSOR: | Click or tap here to enter text. |
| YEAR: | Click or tap here to enter text. |
| LAST ACTION: | Click or tap here to enter text. |

IDENTICAL BILLS

| | |
|---------------------|----------------------------------|
| BILL NUMBER: | None |
| SPONSOR: | Click or tap here to enter text. |

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

| | |
|--------------------------|-------------------|
| DATE OF ANALYSIS: | February 17, 2017 |
|--------------------------|-------------------|

| | |
|-------------------------------|-----------------------------|
| LEAD AGENCY ANALYST: | Kristen Sommers |
| ADDITIONAL ANALYST(S): | Paul Schultz, Lawson Snyder |
| LEGAL ANALYST: | Emily Norton |
| FISCAL ANALYST: | Charlotte Jerrett |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill amends 379.231, F.S. and directs the Florida Fish and Wildlife Conservation Commission (Commission), in consultation with the Department of Environmental Protection, to establish a pilot program to eradicate lizards in the genus *Tupinambis* (tegu lizards) and species listed in 379.372(2)(a), F.S. on public lands in Florida. Specifically, it calls for contracting with licensed hunters to conduct removal efforts on public lands at the direction of the Commission, provides two years of funding in total of \$600,000 from the Land Acquisition Trust Fund, and requires a report to the Legislature and Governor by January 1, 2020.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Pursuant to Article IV, Section 9 of the Florida Constitution, the Commission exercises the exclusive regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, to include non-native species.

The Commission regulates non-native species pursuant to 68-5.001, Florida Administrative Code (F.A.C), which, save a few exceptions, prevents the transport, introduction, or possession of any non-native freshwater fish, aquatic invertebrate, marine plant, marine animal, or wild animal life into the state that might reasonably be expected to result in liberation into the state, without a permit from the Commission.

Additionally, 68-5.001, F.A.C, allows the unrestricted take of all non-native species of freshwater aquatic life, and wild animal life, not otherwise specifically regulated by the Commission. The rule additionally identifies a list of "Conditional Non-native species", found in 68-5.002, F.A.C., and prohibits the import, sale, possession, and transport of any live specimens, hybrids, or eggs, except as permitted by the Commission.

Tegus are not regulated as a Conditional or Prohibited species under 68-5, F.A.C, and may be acquired for personal possession. Persons selling tegus must have a license from FWC (379.3761 F.S.).

Tegus have established reproducing populations in Florida and are negatively impacting native wildlife through competition with them for both food and habitat. As examples, tegus have been documented disturbing both crocodile and alligator nests, and consuming alligator eggs. Tegus also utilize gopher tortoise burrows (a threatened species in Florida) and have been documented to consume juvenile gopher tortoises in Hillsborough County.

Currently, breeding populations of tegus are known to occur both in Miami-Dade and Hillsborough counties. Over 4,000 tegus have been removed from the wild in the last five years, primarily in Miami-Dade County, via Commission staff, contract work, and removal efforts by agency partners primarily on public lands. Removal efforts have been most effective using traps. Research is being conducted by the University of Florida (UF), U.S. Geological Survey (USGS), and others to determine the most feasible ways to remove tegus from the wild. Currently, a limited number of wildlife operators will remove tegus for homeowners or on other private lands. At least one business operator removes tegus from private lands and sells them locally, nationally, and internationally as part of the pet trade.

Tegus are not a hunted species. Using licensed hunters on FWC managed lands would require rule changes to each wildlife management area (WMA) where this activity could occur; however, tegus are not found on many FWC managed lands. Many of the lands where tegus are found in South Florida are private lands and public lands managed by other agencies that may not allow hunting per their regulations, but would allow for private contractors to remove tegus using traps, such as county or water management district lands. In eastern Hillsborough County, tegus seem to occur mostly on public conservation land that is managed by Hillsborough County Environmental Lands Program or in State Parks. Hunting is not an authorized activity on these lands. Hunting on Everglades National Park is prohibited per the federal legislation that established this National Park. An act of Congress would be needed to

change that ability, however the removal of pythons is consistent with their authorities using other means such as private contractors. Finally, hunting activities are limited for certain times of the year that generally do not include the summer when tegus are most likely to be encountered and removed. As written, the requirement to use licensed hunters, or to "hunt" these species limits the Commission's ability to fulfill the intent of this legislation but identifying the take of these species using terms like "remove" or "capture" would allow these efforts to be pursued without rule changes and Federal legislative action.

Seven large constrictor snakes, one large lizard, and one freshwater turtle are listed in 68-5.002, F.A.C., as "Conditional Species". Personal possession of these species are restricted and these permits "shall only be issued to individuals or institutions engaged in research, or to commercial import or export businesses, public aquaria, public zoological parks, or public exhibitors providing educational exhibits. Permits shall not be issued for display of these species in private aquaria, private zoological parks, or for personal possession, except as provided in Rule 68-5.002, F.A.C."

At the time the rule changed to include conditional reptiles, individuals who personally possessed these species were grandfathered and must keep a Reptile of Concern License for the life of the animal. No future personal acquisitions are allowed. Currently, pythons and other conditional reptiles can be taken on some WMAs during hunting seasons in south Florida: Everglades and Francis S. Taylor WMA, Holey Land WMA, Rotenberger WMA, Big Cypress WMA, Picayune Strand WMA, Rocky Glades Public Small Game Hunting Area (PSGHA), Southern Glades Wildlife and Environmental Area (WEA). Some areas have an added "conditional reptile season" during March and April following small game season. Big Cypress WMA is the only federal land that allows for hunting of conditional reptiles during any hunting season. All species taken in a hunt must be killed on property.

FWC also provides no-cost, year round permits to allow for the take of conditional reptiles on areas where FWC is the lead managing agency (Everglades and Francis S. Taylor WMA, Holey Land WMA and Rotenberger WMA). At this time, 129 members of the public have this recreational permit. FWC has also provided two month-long public involvement removal events designed to help raise awareness about Burmese pythons in the Everglades. The Python Challenge events were held in 2013 and 2016.

The red-eared slider, a freshwater turtle is currently listed in 68-5.002, F.A.C., as a conditional reptile, but allows for some possession of the species. This species, not native to Florida but native elsewhere in the United States can be found in many natural areas around Florida. No removal efforts are being made to remove this species from the wild by FWC.

All species of sea snakes in the Family Hydrophiidae are listed as "Prohibited Species" in 68-5.003, F.A.C., and possession is restricted to male specimens for exhibition with highly regulated containment provisions as described in subparagraph 68-5.001(4)(a)6., F.A.C. Sea snakes, the only reptile species group listed as prohibited in Florida are a venomous reptile that are considered a high ecological and human health and safety risk. No populations of sea snakes are known in Florida, therefore no removal efforts are being made at this time.

2. EFFECT OF THE BILL:

Additional FWC staff (1 to 2) will be needed to deal with the workload required to develop and oversee private contractors, and to develop and oversee agreements with public land managing agencies where tegus occur and hunting will be allowed. There will also be additional staffing needs for budgeting oversight. Targeted tegu removal on public lands where tegu removal has been sparse may be increased using private contractors.

This bill would also allow for the removal of other species of reptiles, such as red-eared sliders or sea snakes that are not considered "hunted" species or where that removal efforts are not effective by hunting means.

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: | Click or tap here to enter text. |
| Is the change consistent with the agency's core mission? | Y <input type="checkbox"/> N <input type="checkbox"/> |

| | |
|--|----------------------------------|
| Rule(s) impacted (provide references to F.A.C., etc.): | Click or tap here to enter text. |
|--|----------------------------------|

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

| | |
|-------------------------------------|---------|
| Proponents and summary of position: | Unknown |
| Opponents and summary of position: | Unknown |

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☒ **N** ☐

| | |
|--------------------------------|--|
| If yes, provide a description: | A summary report with recommendations and findings is required at the end of the two year pilot program. |
| Date Due: | 1/1/2020 |
| Bill Section Number(s): | (f) Lines 71-74 |

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

Y ☐ **N** ☒

| | |
|-------------------------|----------------------------------|
| Board: | Click or tap here to enter text. |
| Board Purpose: | Click or tap here to enter text. |
| Who Appoints: | Click or tap here to enter text. |
| Changes: | Click or tap here to enter text. |
| Bill Section Number(s): | Click or tap here to enter text. |

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: | The bill directs the FWC to implement a pilot program to mitigate the impact of tegu lizards and species listed in s. 379.372(2) (a), F.S. |
| Does the legislation contain a State Government appropriation? | The bill provides for an appropriation from the Land Acquisition Trust Fund in the amount of \$300,000 per year for two years, beginning in FY 2017-18. |
| If yes, was this appropriated last year? | No. |

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☒ N ☐

| | |
|---------------|--|
| Revenues: | The private sector would have the ability to competitively bid for contracts to remove tegus from public lands in Florida. |
| Expenditures: | Potential expenditures for removing tegus from public lands; voluntary for those private sector members who want to participate in any removal program |
| Other: | N/A |

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

| | |
|-------------------------|-----|
| If yes, explain impact. | No. |
| 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.

Click or tap here to enter text.

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.

The bill directs the Commission to seek permission from the National Park Service to deploy hunting teams in Everglades National Park.

ADDITIONAL COMMENTS

Click or tap here to enter text.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

The bill creates new subsections within 379.231, F.S. However, subsection (2) of the existing statute makes a violation of "this section" a level three violation under 379.4015, F.S. Without a change to that existing language the criminal penalty could be interrupted to apply to all the newly created bill language. If that is not the intent modifying 379.231(2) in the following way would prevent an expansion of the penalties application. Ex: "(2) A person in violation of this subsection (1) commits a Level Three violation under s. 379.4015."

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 906

INTRODUCER: Senator Farmer

SUBJECT: Prohibited Reptiles

DATE: January 21, 2020

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|-------------|----------------|-----------|------------------|
| 1. Anderson | Rogers | EN | Favorable |
| 2. _____ | _____ | CA | _____ |
| 3. _____ | _____ | RC | _____ |

I. Summary:

SB 906 adds the green iguana (*Iguana iguana*) and the black and white tegu (*Salvator merianae*) to the list of species that may not be kept, possessed, imported into the state, sold, bartered, traded, or bred in this state.

II. Present Situation:

Nonnative Species

Pursuant to s. 9, Art. IV of the State Constitution, the FWC exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.¹ These powers include authority with respect to the control and management of nonnative species.² Nonnative species are animals living outside captivity and which are not historically present in the state.³ More than 500 fish and wildlife nonnative species have been documented in Florida.⁴ Not all nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.⁵ 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 the FWC.⁶

¹ Fla. Const. Art. IV, s. 9.

² Fish and Wildlife Conservation Commission (FWC), *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environment and Natural Resources).

³ FWC, *What is a nonnative species?*, <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Jan. 13, 2020).

⁴ FWC, *Florida's Exotic Fish and Wildlife*, <http://myfwc.com/wildlifehabitats/nonnatives/> (last visited on Jan. 13, 2020).

⁵ *Id.*

⁶ Section 379.231, F.S.

Prohibited or conditional nonnative snakes and lizards

Prohibited species are nonnative species that pose a very high risk to native fish and wildlife, to the ecology of native wildlife communities, or to human safety. Possession of these species requires a permit from the FWC and is generally limited to public exhibition and research.⁷

Conditional species⁸ are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Conditional nonnative snakes and lizards are not authorized to be acquired for personal possession.⁹ Specifically, the following nonnative snakes and lizards are prohibited from being kept, possessed, imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use:

- Burmese or Indian python;
- Reticulated python;
- Northern African python;
- Southern African python;
- Amethystine or scrub python;
- Green Anaconda;
- Nile Monitor; and
- Any other reptile designated as a conditional or prohibited species by the FWC.¹⁰

A reptile dealer, researcher, or public exhibitor providing educational exhibits may apply for a permit to import or possess conditional nonnative snakes and lizards.¹¹ Conditional nonnative snakes and lizards must be kept indoors or in outdoor enclosures with a fixed roof and must be permanently identified with a passive integrated transponder (PIT) tag, also known as a microchip.¹² Owners of such species must submit a Captive Wildlife Disaster and Critical Incident Plan to the FWC and must maintain records of their inventory.¹³

In 2018, the Legislature created s. 379.2311, F.S., which directed FWC to create a pilot program to mitigate the impact of priority invasive species on the public lands or waters of the state. The goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of priority invasive species, contain their populations, and eradicate them from this state. As part of the program, FWC is authorized to enter into contracts to capture or destroy animals belonging to priority invasive species found on public lands, in the waters of this state, or on private lands or waters with the consent of the owner. All captures and disposals of animals that are priority invasive species must be documented and photographed and the geographic location of the take must be recorded for research purposes. FWC is required to submit a report of findings and recommendations regarding its

⁷ Section 379.372, F.S.; see Fla. Admin. Code R. 68-5.003 for a complete list of prohibited species.

⁸ Statute uses the phrase “reptiles of concern,” but FWC lists such species in its conditional species list. See FWC, *Reptiles of Concern*, <https://myfwc.com/license/captive-wildlife/reptiles-of-concern/> (last visited Dec. 30, 2019); s. 379.372(b), F.S.

⁹ FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Jan. 13, 2020).

¹⁰ Section 379.372(2)(a), F.S.

¹¹ Fla. Admin. Code R. 68-5.005(1); see FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Jan. 13, 2020).

¹² Fla. Admin. Code R. 68-5.005(5).

¹³ *Id.*

implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2021.

Priority invasive species are:

- Lizards of the genus *Tupinambis*, also known as tegu lizards;
- The conditional lizard and snake species listed above;
- *Pterois volitans*, also known as red lionfish; and
- *Pterois miles*, also known as the common lionfish or devil firefish.¹⁴

Tegus

The Argentine Black and White Tegu (*Tupinambis merianae*), commonly referred to as a tegu, is a large species of lizard that can grow up to four feet in length and is native to South America.¹⁵ Tegus are not innately aggressive but have sharp teeth, strong jaws, and sharp claws, which they will use to defend themselves if threatened.¹⁶ Tegus are an invasive species and have known breeding populations in Miami-Dade and Hillsborough counties¹⁷ and an emerging population in Charlotte County.¹⁸ The tegu causes harm to native species by disturbing alligator nests and consuming their eggs, and utilizing gopher tortoise burrows and consuming juvenile gopher tortoises.¹⁹

The tegu is not designated as a conditional or prohibited species.²⁰ However, a person must possess a license from FWC to sell a tegu or for public exhibition.²¹ A November 2019 survey of all Class III license holders allowing for the sale of reptiles found 106 license holders listed that may sell tegus with more than 1,245 in inventory.²² FWC developed a trapping removal program and works with other agencies and organizations to assess the tegu's threat and develop management strategies.²³ The goal of the program is to minimize the impact of tegus on native wildlife and natural areas.²⁴ A limited number of commercial wildlife operators trap and remove tegus for homeowners or on other private lands.²⁵

Members of the public may also remove and kill tegus from 22 FWC managed public lands without a license or permit.²⁶ Through these efforts, over 7,800 tegus have been reported to the

¹⁴ Section 379.2311, F.S.

¹⁵ FWC, *Argentine black and white tegu*, <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited Jan. 2, 2020).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 2 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).

¹⁹ FWC, *Argentine black and white tegu*, <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited Jan. 2, 2020).

²⁰ *Id.*

²¹ *Id.*; see s. 379.3761, F.S.

²² Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 3 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).

²³ *Id.* (under Frequently Asked Questions).

²⁴ *Id.*

²⁵ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environment and Natural Resources).

²⁶ FWC, EO 17-11 (Mar. 31, 2017), available at <https://myfwc.com/media/3682/eo-17-11.pdf>.

Commission as removed from the wild or found dead in Florida by FWC staff, partners, and the public since 2012, primarily in Miami-Dade County.²⁷

Green Iguanas

Green iguanas (*Iguana iguana*) are large, typically green lizards, though they can sometimes be brown or almost black in color.²⁸ Some adults can take on an orange or pink coloration during certain times of the year. Male green iguanas can grow to over five feet in length and weigh up to 17 pounds. Females can also reach five feet in length but usually do not exceed seven pounds. Females typically reach reproductive maturity at two to four years of age. Green iguanas can live up to 10 years in the wild and 19 years in captivity. Green iguanas thrive in southern Florida and are not cold hardy.²⁹

Green iguanas are a nonnative, invasive species in Florida.³⁰ Green iguanas can live on the ground, in shrubs, or in trees in a variety of habitats including suburban developments, urban areas, small towns, and agricultural areas. They are excellent swimmers, tolerating both salt and freshwater and can submerge themselves for up to four hours at a time.³¹

Green iguanas cause damage to residential and commercial landscape vegetation and are often considered a nuisance by property owners. Iguanas are attracted to trees with foliage or flowers, most fruits (except citrus) and almost any vegetable. Some green iguanas cause damage to infrastructure by digging burrows that erode and collapse sidewalks, foundations, seawalls, berms, and canal banks. Green iguanas may also leave droppings on docks, moored boats, seawalls, porches, decks, pool platforms, and inside swimming pools.

Green iguanas are not designated as conditional or prohibited species.³² However, a person must possess a license from the FWC to sell a green iguana or for public exhibition.³³ A November 2019 survey of all Class III license holders allowing for the sale of reptiles found 382 license holders listed that may sell iguanas with more than 5,307 in inventory.³⁴

The FWC encourages removal of green iguanas from private properties by landowners. Members of the public may also remove and kill iguanas from 22 FWC managed public lands without a license or permit.³⁵ The FWC hosts Iguana Technical Assistance Public Workshops to help empower homeowners to manage this nonnative species on their own property with legal

²⁷ Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 2 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).

²⁸ FWC, *Invasive Green Iguana*, <https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/> (last visited Dec. 30, 2019).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*; see s. 379.3761, F.S.

³⁴ Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 3 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).

³⁵ FWC, EO 17-11 (Mar. 31, 2017), available at <https://myfwc.com/media/3682/eo-17-11.pdf>.

trapping and removal options.³⁶ In 2018, FWC initiated removal efforts on public conservation lands, resulting in nearly 5,000 iguanas being removed.³⁷

III. Effect of Proposed Changes:

Section 1 amends s. 379.372, F.S., to add the green iguana (*Iguana iguana*) and the black and white tegu (*Salvator merianae*) to the list of species that may not be kept, possessed, imported into the state, sold, bartered, traded, or bred in this state.

Section 2 reenacts s. 379.2311, F.S., to incorporate the amendment made in section 1.

Section 3 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:

There may be a negative fiscal impact to commercial owners of tegus and iguana who are no longer able to sell the species under the bill.

³⁶ FWC, *Nonnative Species Public Workshops*, <https://myfwc.com/wildlifehabitats/nonnatives/public-workshops/> (last visited Dec. 30, 2019).

³⁷ Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 2 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

FWC has suggested that for enforcement purposes, language including all tegu species would be preferable. FWC suggested that the language on line 63 of the bill be replaced with “any species of the genera *Salvator* and *Tupinambis*” to prevent law enforcement and prosecutors from having to prove species and prevent additional damage from tegu species that aren’t currently listed.³⁸

There is more than one species of tegu currently in trade in the commercial herpetological industry, including but not limited to, gold tegus and red tegus. The pet industry has created designer color hybrids of tegu species, which could make it difficult for law enforcement to enforce the proposed language because of challenges in identification of the species.³⁹ If all species of tegu are not regulated simultaneously, the commercial herpetological industry may move to sell other species that would cause similar impacts to native species if released or create additional hybrid species that may make the statute difficult to enforce.⁴⁰ There are currently seven identified species of tegus split between two genera: *Salvator* and *Tupinambis*.⁴¹

VIII. Statutes Affected:

This bill substantially amends section 379.372 of the Florida Statutes.
This bill reenacts section 379.2311 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.

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

³⁸ Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 6 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

By Senator Farmer

34-00321-20

2020906__

1 A bill to be entitled
2 An act relating to prohibited reptiles; amending s.
3 379.372, F.S.; making technical changes; prohibiting a
4 person, party, firm, association, or corporation from
5 keeping, possessing, importing, selling, bartering,
6 trading, or breeding for personal use or sale for
7 personal use green iguanas or black and white tegus;
8 reenacting s. 379.2311(1), F.S., relating to the
9 definition of the term "priority invasive species," to
10 incorporate the amendment made to s. 379.372, F.S., in
11 a reference thereto; providing an effective date.
12

13 Be It Enacted by the Legislature of the State of Florida:
14

15 Section 1. Section 379.372, Florida Statutes, is amended to
16 read:

17 379.372 Capturing, keeping, possessing, transporting, or
18 exhibiting venomous reptiles, reptiles of concern, conditional
19 reptiles, or prohibited reptiles; license required.—

20 (1) (a) A ~~No~~ person, a party, a firm, an association, or a
21 corporation may not ~~shall~~ capture, keep, possess, or exhibit any
22 poisonous or venomous reptile or reptile of concern without
23 first having obtained a special permit or license therefor from
24 the Fish and Wildlife Conservation Commission as provided in
25 this section.

26 (b) ~~By December 31, 2007,~~ The commission shall establish a
27 list of reptiles of concern, including venomous, nonvenomous,
28 native, nonnative, or other reptiles, which require additional
29 regulation for capture, possession, transportation, or

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exhibition due to their nature, habits, status, or potential to negatively impact humans, the environment, or ecology.

(c) It is ~~shall be~~ unlawful for any person, party, firm, association, or corporation, whether licensed hereunder or not, to capture, keep, possess, or exhibit any venomous reptile or reptile of concern in any manner not approved as safe, secure, and proper by the commission. Venomous reptiles or reptiles of concern held in captivity are subject to inspection by the commission. The commission shall determine whether the reptiles are securely, safely, and properly penned. If ~~In the event that~~ the reptiles are not safely penned, the commission must ~~shall~~ report the situation in writing to the person, party, firm, association, or corporation owning the reptiles. Failure of the person, party, firm, association, or corporation to correct the situation within 30 days after such written notice is ~~shall be~~ grounds for revocation of the license or permit of the person, party, firm, association, or corporation.

(d) Venomous reptiles or reptiles of concern must ~~shall~~ be transported in a safe, secure, and proper manner. The commission shall establish by rule the requirements for the transportation of venomous reptiles or reptiles of concern.

(2) (a) A ~~No~~ person, a party, a firm, an association, or a corporation may not ~~shall~~ keep, possess, import into the state, sell, barter, trade, or breed any of the following species for personal use or for sale for personal use:

1. Burmese or Indian python (*Python molurus*).
2. Reticulated python (*Python reticulatus*).
3. Northern African python (*Python sebae*).
4. Southern African python (*Python natalensis*).

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5. Amethystine or scrub python (*Morelia amethystinus*).

6. Green Anaconda (*Eunectes murinus*).

7. Nile monitor (*Varanus niloticus*).

8. Green iguana (*Iguana iguana*).

9. Black and white tegu (*Salvator merianae*).

10.8. Any other reptile designated as a conditional or prohibited species by the commission.

(b) If a person, party, firm, association, or corporation holds a permit issued before July 1, 2010, under subsection (1) to legally possess a species listed in paragraph (a), that person, party, firm, association, or corporation may possess such reptile for the remainder of the life of the reptile.

(c) If a person, party, firm, association, or corporation holds a permit issued before July 1, 2010, under subsection (1) to legally possess a reptile listed in paragraph (a), and the reptile remains alive following the death or dissolution of the licensee, the reptile may be legally transferred to another entity holding a permit authorizing possession of the reptile for the remainder of the life of the reptile.

(d) If the commission designates a species of reptile as a conditional or prohibited species after July 1, 2010, the commission may authorize the personal possession of that newly designated species by those licensed to possess that species of reptile before the effective date of the species' designation by the commission as a conditional or prohibited species. The personal possession of such reptile is not a violation of paragraph (a) if the personal possession was authorized by the commission.

(e) This subsection does not apply to traveling wildlife

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88 exhibitors that are licensed or registered under the United
89 States Animal Welfare Act or to zoological facilities that are
90 licensed or exempted by the commission from the licensure
91 requirement.

92 Section 2. For the purpose of incorporating the amendment
93 made by this act to section 379.372, Florida Statutes, in a
94 reference thereto, subsection (1) of section 379.2311, Florida
95 Statutes, is reenacted to read:

96 379.2311 Nonnative animal management.—

97 (1) As used in this section, the term "priority invasive
98 species" means the following:

99 (a) Lizards of the genus *Tupinambis*, also known as tegu
100 lizards;

101 (b) Species identified in s. 379.372(2)(a);

102 (c) *Pterois volitans*, also known as red lionfish; and

103 (d) *Pterois miles*, also known as the common lionfish or
104 devil firefish.

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



SB 1042

2014 AGENCY LEGISLATIVE BILL ANALYSIS

BILL INFORMATION

| | |
|------------------------|-------------------|
| BILL NUMBER: | HB 1123 |
| BILL TITLE: | Aquatic Preserves |
| BILL SPONSOR: | Rep. Porter |
| EFFECTIVE DATE: | July 1, 2014 |

COMMITTEES OF REFERENCE

| |
|---|
| 1.) Agriculture & Natural Resources Subcommittee |
| 2.) Agriculture & Natural Resources Appropriations Subcommittee |
| 3.) State Affairs Committee |
| |
| |

CURRENT COMMITTEE

Agriculture & Natural Resources Appropriations Subcommittee

SIMILAR BILLS

| | |
|---------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |

PREVIOUS LEGISLATION

| | |
|---------------------|------|
| BILL NUMBER: | None |
| SPONSOR: | |
| YEAR: | |
| LAST ACTION: | |

IDENTICAL BILLS

| | |
|---------------------|-----------|
| BILL NUMBER: | SB 1094 |
| SPONSOR: | Sen. Dean |

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

| | |
|-------------------------------|--|
| DATE OF ANALYSIS: | February, 27, 2014 |
| LEAD AGENCY ANALYST: | Amanda Marsh 850-245-2129 amanda.marsh@dep.state.fl.us |
| ADDITIONAL ANALYST(S): | |
| LEGAL ANALYST: | |
| FISCAL ANALYST: | |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill creates the Nature Coast Aquatic Preserve as the state's 42nd aquatic preserve; describes the boundaries of the preserve; outlines the authorities of the Board of Trustees of the Internal Improvement Trust Fund (BOT); requires the BOT to adopt rules; prohibits infringement upon the riparian rights of upland property owners from the management of the preserve; provides enforcement and an effective date.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Beginning in 1966, Florida began establishing aquatic preserves for the long-term preservation of submerged lands of exceptional ecological character. In 1975, the Legislature enacted the Aquatic Preserve Act to preserve submerged lands recognized for having exceptional biological, aesthetic, and scientific value. There are currently 41 aquatic preserves expanding more than 2.2 million acres of environmentally and aesthetically important sovereignty submerged lands (SSL) and associated uplands.

The legislative designation of an area as an Aquatic Preserve provides additional resource protection provisions, management criteria, and regulation of human activity. The designation establishes the perpetual maintenance of the aquatic preserve core principles of natural resource protection and promoting public access to these valued resources.

The existing St. Martins Marsh Aquatic Preserve, as described in s. 258.39(20), lies in the submerged lands adjacent to Citrus County. Further south and running adjacent to Pinellas County lies the Pinellas County Aquatic Preserve. In between these two Aquatic Preserves lies the area to be designated by this bill as the Nature Coast Aquatic Preserve. This area presently has natural resources of mangrove shorelines, islands, spring fed rivers, limestone outcroppings, sandy beaches, oyster bars, mud flats, and sea grass beds.

2. EFFECT OF THE BILL:

Section 1 designates the Nature Coast Aquatic Preserve to preserve the area for the enjoyment of future generations. This section also creates the boundaries of the preserve, including submerged bottom lands, the water column upon those lands, and all publically-owned islands. It excludes privately owned uplands unless the private landowner arranges to have his lands included in the preserve.

The bill provides the following provisions to maintain the aquatic preserve:

- Further sales, transfers, or leases of the SSL may not be approved unless there is extreme hardship and the sale, transfer, or lease is in the public interest. All other Aquatic Preserves have this same language, except the extreme hardship provision which is only consistent with the Biscayne Bay Aquatic Preserves statute.
- Dredging and filling of SSL may not be approved except for public noticed minimal dredging of existing public navigation projects, out of public necessity, or for preservation of the preserve. Other physical alterations and eliminating hazardous conditions may be authorized as necessary to enhance the quality and utility of the preserve or protect public health and public interest. These provisions are consistent with existing Aquatic Preserve statutes, however, there is a difference in

the language for provision 2.b.3., which provides for minimal dredging and filling for maintenance of existing marinas, piers or docks and the attendant navigation channel and access roads.

- No drilling of wells, excavation for shell or minerals, or erection of structures other than docks. Additionally, no seaward relocation of bulkhead lines or further establishment of bulkhead lines except when located at the mean high water line.
- Only BOT grant of approval through a letter of consent to allow construction, replacement or relocation of seawall, which can only be granted if riprap construction is used.
- Authorizes certain activities in the Nature Coast Aquatic Preserve, including the ability to negotiate with private land owners to accomplish the purposes of the act and conduct restoration and enhancement efforts in the preserve. The bill specifically provides for authorization to stabilize eroding shorelines through planting of natural vegetation and placement of riprap. This language is consistent with other Aquatic Preserves.

Section 1 further establishes requirements for rulemaking to the extent that additional management criteria are required to accommodate special circumstances and to provide for human activity within the preserve. These provisions are already provided for in Chapter 18-20, F.A.C., which would apply to this new Aquatic Preserve without the need for further rulemaking.

- The bill ensures that the establishment or management of the preserve not infringe on riparian rights of upland property owners. Lastly, the bill is enforceable in accordance with section 403.412 (with authorized penalties of \$5,000 per day) and is subject to the provisions to the Florida Electrical Power Plant Siting Act.

Section 2 provides an effective date of July 1, 2014.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

| | |
|---|--|
| If yes, explain: | <p>Yes; the legislation requires the adoption of rules only if additional management criteria are required to accommodate special circumstances and to provide for human activity within the preserve. These provisions are already provided for in Chapter 18-20, F.A.C., which would apply to this new Aquatic Preserve without the need for further rulemaking.</p> <p>Most of Chapter 18-20, F.A.C., applies broadly to all APs that do not otherwise have specific rules. Specifically, Rule 18-20.002 states that the chapter applies to "future aquatic preserves established through general or special acts of the legislature."</p> <p>At present, SB 1094 does have specific requirements relating to the Nature Coast Aquatic Preserve, though they do not appear to conflict with the rules in Chapter 18-20 F.A.C. such that Chapter 18-20 F.A.C. couldn't be used. Specific statutory requirements that are not included in the rules or slightly modified from the rules could be implemented without the need for further rulemaking.</p> |
| What is the expected impact to the agency's core mission? | None. |
| Rule(s) impacted (provide references to F.A.C., etc.): | Chapter 18-20, F.A.C., titled "Florida Aquatic Preserves." |

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

| | |
|---------------------------|---------|
| List any known proponents | Unknown |
|---------------------------|---------|

| | |
|--|---------|
| and opponents: | |
| Provide a summary of the proponents' and opponents' positions: | Unknown |

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

| | |
|--------------------------------|----|
| If yes, provide a description: | No |
| Date Due: | |
| Bill Section Number: | |

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL?

| | |
|-------------------------|----|
| Board: | No |
| Board Purpose: | |
| Who Appointments: | |
| Appointee Term: | |
| Changes: | |
| Bill Section Number(s): | |

FISCAL ANALYSIS**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?**

| | |
|---|------|
| Revenues: | None |
| Expenditures: | None |
| Does the legislation increase local taxes or fees? | 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? | |

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|------------------|-------------------|----------------|----------------|--|--|--------------|--------------|--|--|--|--------------|--|--|--|-------------------|---|--|----------------|--|--|--|--------------|--|--|--|----------|--|---|--|----------|--|--|--|------------------|--|
| Revenues: | None | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Expenditures: | <p>Currently, Florida has 41 Aquatic Preserves covering approximately 2.2 million acres. The proposed Nature Coast Aquatic Preserve would add approximately 520,000 acres.</p> <p>Based on historical information for the creation of an Aquatic Preserve, the potential operating costs to create and manage the Nature Coast Aquatic Preserve are as follows:</p> <table><tr><td></td><td><u>Startup</u></td><td><u>Startup</u></td><td><u>Startup</u></td></tr><tr><td></td><td></td><td><u>Costs</u></td><td><u>Costs</u></td></tr><tr><td></td><td></td><td></td><td><u>(non-</u></td></tr><tr><td></td><td></td><td></td><td><u>recurring)</u></td></tr><tr><td><u>Salaries and Benefits - 2.0 FTEs</u></td><td></td><td><u>Startup</u></td><td></td></tr><tr><td></td><td></td><td><u>Costs</u></td><td></td></tr><tr><td>Manager - Environmental Specialist III</td><td></td><td>\$59,398</td><td></td></tr><tr><td>Field/Office Biologist - Environmental Spec I</td><td></td><td>\$46,703</td><td></td></tr><tr><td></td><td></td><td><u>\$106,101</u></td><td></td></tr></table> <p><u>Expenses (utilize existing State office space and surplus vehicle)</u></p> | | <u>Startup</u> | <u>Startup</u> | <u>Startup</u> | | | <u>Costs</u> | <u>Costs</u> | | | | <u>(non-</u> | | | | <u>recurring)</u> | <u>Salaries and Benefits - 2.0 FTEs</u> | | <u>Startup</u> | | | | <u>Costs</u> | | Manager - Environmental Specialist III | | \$59,398 | | Field/Office Biologist - Environmental Spec I | | \$46,703 | | | | <u>\$106,101</u> | |
| | <u>Startup</u> | <u>Startup</u> | <u>Startup</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <u>Costs</u> | <u>Costs</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | <u>(non-</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | <u>recurring)</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Salaries and Benefits - 2.0 FTEs</u> | | <u>Startup</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <u>Costs</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Manager - Environmental Specialist III | | \$59,398 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Field/Office Biologist - Environmental Spec I | | \$46,703 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <u>\$106,101</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | |
|--|---|-----------------|----------------|
| | Utilities | \$1,200 | |
| | Office Supplies and Computers | \$2,500 | \$1,800 |
| | Cell Phone | \$1,500 | |
| | Fuel | \$3,500 | |
| | Scientific , Education and Field Supplies | \$9,000 | |
| | Vehicle/Vessel Maintenance and Repair | \$8,000 | |
| | | <u>\$25,700</u> | <u>\$1,800</u> |
| | Total Operating Cost | \$131,801 | \$1,800 |
| Does the legislation contain a State Government appropriation? | No | | |
| If yes, was this appropriated last year? | | | |

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

| | |
|---------------|---------------|
| Revenues: | None |
| Expenditures: | Indeterminate |
| Other: | |

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

| | |
|---|--|
| Does the bill increase taxes, fees or fines? | The bill provides that the Department of Legal Affairs may bring an action for civil penalties of \$5,000 in order to enforce the statute. |
| Does the bill decrease taxes, fees or fines? | No |
| What is the impact of the increase or decrease? | Unknown |
| Bill Section Number: | 1 |

TECHNOLOGY IMPACT

| | |
|---|----|
| Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)? | No |
| If yes, describe the anticipated impact to the agency including any fiscal impact. | |

FEDERAL IMPACT

| | |
|--|----|
| Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)? | No |
| If yes, describe the anticipated impact including | |

| | |
|--------------------|--|
| any fiscal impact. | |
|--------------------|--|

ADDITIONAL COMMENTS

- As drafted, the construction of new docks, piers, and marinas would be prohibited within the boundaries of this preserve.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

| | |
|---|--|
| Issues/concerns/comments and recommended action: | <ul style="list-style-type: none"> |
|---|--|

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 1042

INTRODUCER: Senator Albritton

SUBJECT: Aquatic Preserves

DATE: January 21, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|------------------|
| 1. | Anderson | Rogers | EN | Favorable |
| 2. | | | GO | |
| 3. | | | RC | |

I. Summary:

SB 1042 designates the coastal region of Pasco, Hernando, and Citrus counties as the Nature Coast Aquatic Preserve and provides legislative intent. The bill provides the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) with the authority to maintain the preserve in a manner that is in the public interest and specifies authorized and prohibited activities within the preserve. The bill requires the Board of Trustees to adopt and enforce rules related to the management and preservation of the preserve and specifies that the creation of the preserve shall not infringe upon the riparian rights of adjacent property owners. The bill provides for civil penalties and specifies the preserve is subject to the Power Plant Siting Act.

II. Present Situation:

Sovereign Submerged Lands

Upon attaining statehood in 1845, “the state of Florida by virtue of its sovereignty assumed title to and sovereignty over the navigable waters in the state and lands thereunder.”¹ The title to lands under navigable waters passed from the United States to the state through operation of the federal “equal footing” doctrine,² and included the submerged bed up to the “ordinary high water mark” of navigable rivers and lakes.³

¹ *Merrill-Stevens Co. v. Durkee*, 62 Fla. 549, 57 So. 428, 432 (1912).

² *Pollard v. Hagan*, 44 U.S. 212 (1845) (Under the Equal Footing Doctrine, the new states admitted into the Union since the adoption of the Constitution were given the same rights in submerged lands as the original states).

³ *Coastal Petroleum Co. v. American Cyanamid Co.*, 492 So. 2d 339, 342 (Fla 1986); *Tilden v. Smith*, 94 Fla. 502, 113 So. 708, 712 (1927) (Concerning the boundary of fresh waters, the ordinary high water mark is the point where the presence and action of the water are so common and usual as to leave a mark upon the soil).

The Florida Constitution⁴ provides that:

The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.

Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters. Title to sovereign submerged lands is held by the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees).⁵ The Board of Trustees is responsible for the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state, including all sovereign submerged lands.⁶ The Department of Environmental Protection's Office of Resilience and Coastal Protection carries out the Aquatic Preserve Program on behalf of the Board of Trustees.

Aquatic Preserves

The Florida Aquatic Preserve Act of 1975⁷ was created to ensure that the state-owned submerged lands in areas which have exceptional biological, aesthetic, and scientific value be set aside forever as aquatic preserves or sanctuaries for the benefit of future generations.⁸ An aquatic preserve is an exceptional area of submerged lands and its associated waters set aside to be maintained in its natural condition.⁹ Florida has 41 aquatic preserves, encompassing about 2.2 million acres.¹⁰ All but four of these submerged lands are located along Florida's 8,400 miles of coastline, in the shallow waters of marshes and estuaries. The other four are located inland, near springs and rivers. Aquatic preserves serve many valuable ecological and economic functions, including providing nurseries for juvenile fish and other aquatic life, and providing habitat for shorebirds. The aquatic preserves are also valuable for recreation, providing a host of outdoor activities such as fishing, swimming, and boating.¹¹

Below is a map of Florida's aquatic preserves¹² with the Big Bend Seagrasses Aquatic Preserve, the Pinellas County Aquatic Preserve, and the St. Martins March Aquatic Preserve specifically identified (each are mentioned in the bill as the proposed preserve would lie between them).

⁴ Art. X, s. 11 of the Florida Constitution.

⁵ DEP, *Submerged Land Management*, <https://floridadep.gov/lands/bureau-public-land-administration/content/submerged-lands-management> (last visited Jan. 13, 2020).

⁶ Section 253.03, F.S.

⁷ Section 258.35, F.S.

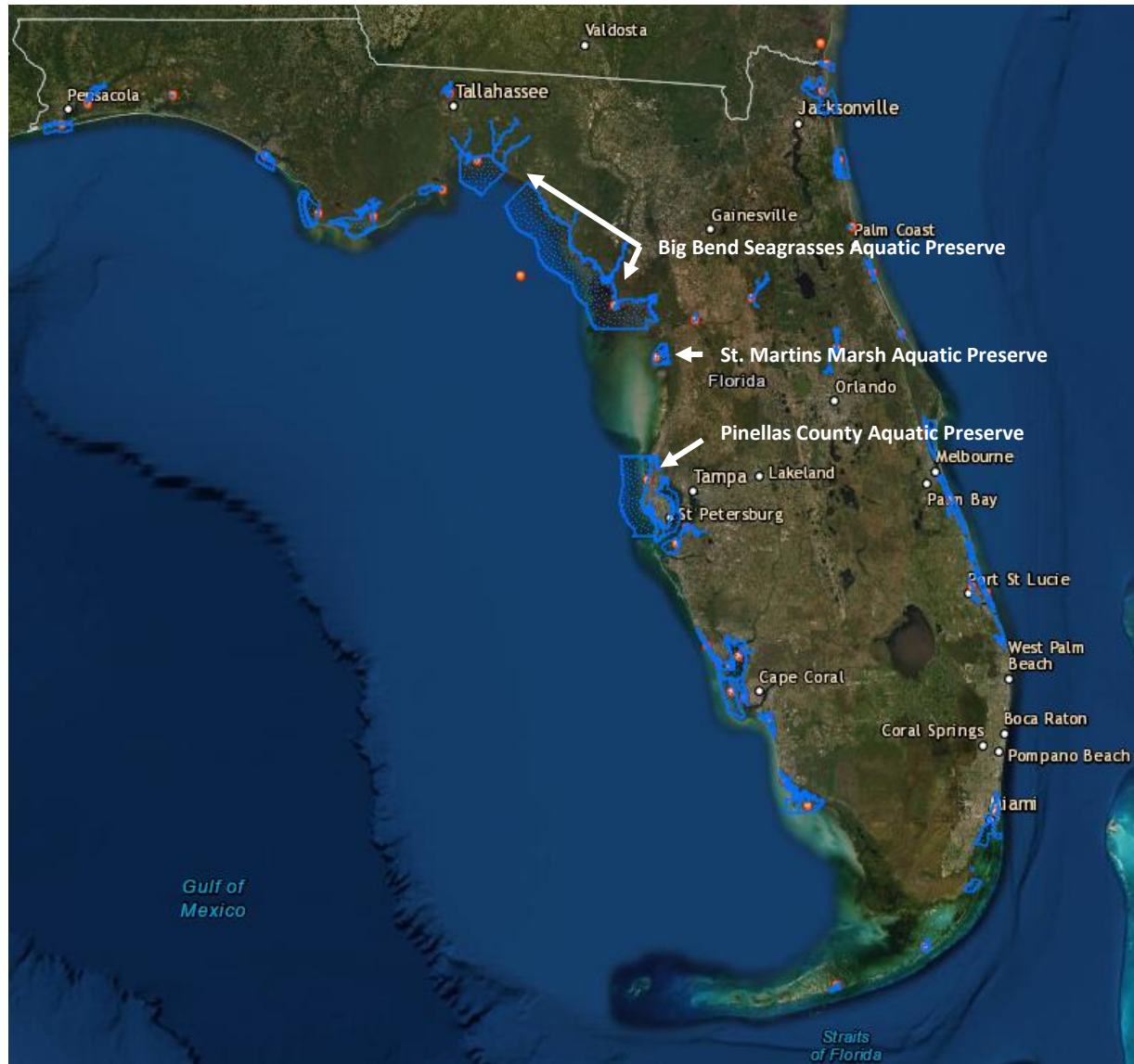
⁸ Section 258.36, F.S.

⁹ Section 258.37, F.S.

¹⁰ DEP, *Aquatic Preserve Program*, <https://floridadep.gov/rcp/aquatic-preserve> (last visited Jan. 1, 2020).

¹¹ *Id.*

¹² DEP, *Aquatic Preserves of Florida StoryMap Component*, <https://fdep.maps.arcgis.com/home/webmap/viewer.html?webmap=4cf441902aef48dfac100d90f37df3f0> (last visited Jan. 4, 2020).



Current law¹³ restricts certain activities, such as the construction of utility cables and pipes and spoil disposal, in aquatic preserves in order to conserve their unique biological, aesthetic, and scientific value. Section 258.42, F.S., directs the Board of Trustees to maintain aquatic preserves subject to the following requirements:

- No further sale, lease, or transfer of sovereign submerged lands may be approved or consummated by the Board of Trustees except when such sale, lease, or transfer is in the public interest.
- The Board of Trustees cannot approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve except when public road and bridge construction projects have no reasonable alternative and it is shown to be not contrary to the public interest.

¹³ Section 258.42, F.S.

- No further dredging or filling of submerged lands may be approved by the Board of Trustees except for certain activities that must be authorized pursuant to a permit.

The Board of Trustees' rules further provide that only minimal or maintenance dredging is permitted in a preserve, and any alteration of the preserves' physical conditions is restricted unless the alteration enhances the quality or utility of the preserve or the public health generally.¹⁴ Minerals may not be mined (with the exception of oyster shells), and oil and gas well drilling is prohibited. However, the state is not prohibited from leasing the oil and gas rights and permitting drilling from outside the preserve to explore for oil and gas if approved by the Board of Trustees. Docking facilities and structures for shore protection are restricted as to size and location.¹⁵

No wastes or effluents may be discharged into the preserve which substantially inhibit the accomplishment of the purposes of this act. Riparian owners may selectively trim or alter mangroves on adjacent publicly owned submerged lands, provided that the selective trimming or alteration is in compliance with the requirements of state law including permit requirements for mangrove trimming.¹⁶

Leases of sovereign submerged lands are significantly higher for leases within aquatic preserves. A rate of two times the existing rate is applied to aquatic preserve leases if 75% or more of the lease shoreline and the adjacent 1000 feet on either side of the leased area is in a natural, unbulkheaded, non-seawalled or non-ripped condition.¹⁷

Nature Coast

"The Nature Coast" is located along Florida's Big Bend region and encompasses 980,000 acres across eight counties (Citrus, Dixie, Hernando, Jefferson, Pasco, Levy, Taylor, and Wakulla) and the City of Dunnellon.¹⁸ This area is a sanctuary to endangered species¹⁹ and has many natural resources, including mangroves, spring fed rivers, limestone outcroppings, sandy beaches, oyster bars, mud flats, and seagrass beds.²⁰

Florida Electrical Power Plant Siting Act

The Power Plant Siting Act (PPSA)²¹ is the state's centralized process for licensing large power plants. DEP acts as the lead agency in the certification process, which replaces local and state

¹⁴ Fla. Admin. Code R. 18-20.004. Note that every aquatic preserve in the state has specific restrictions and policies that are set out in the Florida Administrative Code and/or ch. 258, F.S.

¹⁵ Section 258.42, F.S. Administrative rules applicable to aquatic preserves generally may be found in Chapters 18-20, F.A.C., Management Policies, Standards and Criteria.

¹⁶ Section 258.42, F.S.

¹⁷ Fla. Admin. Code Rule 18-21.011(1)(b)5.

¹⁸ Nature Coast Coalition, Nature Coast History, <http://www.naturecoastcoalition.com/nchistory.htm> (last visited Jan. 13, 2020), see also Florida Nature Coast, *Where would you like to go?*, <http://floridanaturecoast.org/> (last visited Jan. 14, 2020).

¹⁹ *Id.*

²⁰ Department of Environmental Protection, *House Bill 1123*, 2 (Feb. 27, 2014)(on file with the Senate Committee on Environmental and Natural Resources).

²¹ Sections 403.501-403.518, F.S.

permits.²² The certification addresses permitting, land use and zoning, and property interests. A certification grants approval for the location of the power plant and its associated facilities such as a natural gas pipeline supplying the plant's fuel, rail lines for bringing coal to the site, and roadways and electrical transmission lines carrying power to the electrical grid, among others. As it relates to aquatic preserves, the PPSA specifically provides that the certification can exempt the applicant from state statutes or rules protecting aquatic preserves upon a finding that the public interests set forth in the PPSA override the public interest protected by the statute or rule.²³

III. Effect of Proposed Changes:

SB 1042 creates the Nature Coast Aquatic Preserve in the area described by the map below:



²² Section 403.504, F.S.

²³ Section 403.511(2)(b)2., F.S.

The bill creates the “Nature Coast Aquatic Preserve” in the area identified above. The intent of the designation is that the Nature Coast Aquatic Preserve be preserved in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

The following restrictions will be applicable within the aquatic preserve:

- The Board of Trustees may not sell, transfer, or lease sovereign submerged lands in the preserve, except upon a showing of extreme hardship on the part of the applicant and a determination by the board that such sale, transfer, or lease is in the public interest.
- The Board of Trustees may not approve the further dredging or filling of submerged lands of the preserve except:
 - Minimum dredging and spoiling of submerged lands may be authorized for existing public navigation projects, as a public necessity, or for preservation of the preserve.
 - Other alterations of the physical conditions of the submerged lands, including the placement of riprap, may be authorized as necessary to enhance the quality and utility of the aquatic preserve.
 - The Board of Trustees may authorize minimum dredging and filling of the submerged lands for the construction and maintenance of marinas, piers, or docks and the maintenance of existing attendant navigation channels and access roads. Such projects may be authorized only upon a specific finding by the board that there is assurance that the project will be constructed and operated in a manner that will not adversely affect the water quality, valuable habitats, and utility of the preserve. This provision does not authorize the connection of upland canals to the waters of the preserve.
 - The Board of Trustees may authorize the dredging of submerged lands if the Board of Trustees determines that such dredging is necessary to eliminate conditions hazardous to the public health or to eliminate stagnant waters, islands, and spoil banks, and that such dredging would enhance the aesthetic and environmental quality, habitats, and utility of the preserve and is clearly in the public interest as determined by the board.
- Before approving any dredging or filling the board must provide for public notice of such dredging or filling.
- There may not be any drilling of wells, excavation for shell or minerals, or erection of structures other than docks within the preserve unless such activity is associated with activity that is authorized by the bill.
- The Board of Trustees may not approve the seaward relocation of bulkhead lines or the further establishment of bulkhead lines except when a proposed bulkhead line is located at the line of mean high water along the shoreline. Construction, replacement, or relocation of a seawall is prohibited without the approval of the Board of Trustees, which approval may be granted only if riprap construction is used in the seawall. Approval is granted by a letter of consent.
- The Board of Trustees may, for lands lying within the preserve:
 - Enter into agreements for and establish lines delineating sovereignty and privately owned lands.
 - Enter into agreements for the exchange of, and exchange, sovereignty lands for privately owned lands.
 - Accept gifts of land within or contiguous to the preserve.

- Negotiate or enter into agreements with owners of lands contiguous to public lands for any public or private use of any of such lands.
- Take any action that is convenient or necessary to accomplish any of the acts and matters authorized under this paragraph.
- Conduct restoration and enhancement efforts in the preserve and its tributaries.
- Stabilize eroding shorelines of the preserve and its tributaries which are contributing to turbidity by planting natural vegetation to the greatest extent feasible and placing riprap, as determined by Pasco, Hernando, and Citrus Counties in conjunction with the Department of Environmental Protection.

The Board of Trustees is required to adopt and enforce rules that provide:

- Additional preserve management criteria as necessary to accommodate special circumstances.
- Regulation of human activity within the preserve in such a manner as not to interfere unreasonably with lawful and traditional public uses of the preserve, such as sport fishing, commercial fishing, boating, and swimming.
- Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be authorized, but only after a formal finding of compatibility with the purposes of the aquatic preserve.

The establishment or the management of the preserve is not authorized to infringe upon the riparian rights of upland property owners adjacent to or within the preserve. Reasonable improvement for ingress and egress, mosquito control, shore protection, public utility expansion, and similar purposes may be authorized by the board or the Department of Environmental Protection, subject to any other applicable laws under the jurisdiction of other agencies. However, before approving any such improvements, the board or the department must give public notice. In addition, the bill authorizes enforcement pursuant to the Environmental Protection Act,²⁴ and authorizes the Department of Legal Affairs to bring a civil action with a penalty of \$5,000 per day against a person who violates the provisions of the bill.

The bill clarifies that it is subject to the Florida Electrical Power Plant Siting Act.

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.

²⁴ Section 403.412, F.S., is the Environmental Protection Act, which authorizes the Department of Legal Affairs, any political subdivision, or citizen of the state to maintain an action for injunctive relief against any agency with the duty of enforcing laws, rules, and regulations for the protection of the air, water, and other natural resources of the state to compel such governmental authority to enforce such laws, rules, and regulations.

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:

Sovereign submerged lands leases within the area identified for the Nature Coast Aquatic Preserve would become more expensive. This would create a negative fiscal impact to future lessees.

C. Government Sector Impact:

The bill requires the adoption of rules which would have a negative fiscal impact on the Department of Environmental Protection. A similar bill was proposed in 2014, and the Department of Environmental Protection estimated at the time that it would cost approximately \$131,801 in recurring costs and \$1,800 in nonrecurring startup costs to establish the Nature Coast Aquatic Preserve.²⁵ Discussions with the department indicate it would still incur a significant cost to establish the preserve.

The bill allows the Department of Legal Affairs to bring an action for civil penalties of \$5,000 per day for persons who violate provisions relating to the Nature Coast Aquatic Preserve. This would have a positive fiscal impact to the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁵ Department of Environmental Protection, *House Bill 1123*, 2 (Feb. 27, 2014) (on file with the Senate Committee on Environmental and Natural Resources).

VIII. Statutes Affected:

This bill creates s. 258.3991 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.

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

By Senator Albritton

26-01332-20

20201042__

A bill to be entitled
An act relating to aquatic preserves; creating s.
258.3991, F.S.; creating the Nature Coast Aquatic
Preserve; designating the preserve for inclusion in
the aquatic preserve system; describing the boundaries
of the preserve; outlining the authority of the Board
of Trustees of the Internal Improvement Trust Fund in
respect to the preserve; requiring the board to adopt
rules; prohibiting the establishment and management of
the preserve from infringing upon the riparian rights
of upland property owners adjacent to or within the
preserve; providing civil penalties; providing
applicability; providing an effective date.

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

Section 1. Section 258.3991, Florida Statutes, is created
to read:

258.3991 Nature Coast Aquatic Preserve.—

(1) DESIGNATION.—The area described in subsection (2) which
lies within Pasco, Hernando, and Citrus Counties, is designated
by the Legislature for inclusion in the aquatic preserve system
under the Florida Aquatic Preserve Act of 1975 and shall be
known as the "Nature Coast Aquatic Preserve." It is the intent
of the Legislature that the Nature Coast Aquatic Preserve be
preserved in an essentially natural condition so that its
biological and aesthetic values may endure for the enjoyment of
future generations.

(2) BOUNDARIES.—For the purposes of this section, the

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20201042__

30 Nature Coast Aquatic Preserve consists of the state-owned
31 submerged lands lying west of the right-of-way of U.S. Highway
32 19 within the boundaries of Pasco County, as described in s.
33 7.51, Hernando County, as described in s. 7.27, and Citrus
34 County, as described in s. 7.09, to the south boundary of St.
35 Martins Marsh Aquatic Preserve, as described in s. 258.39(20),
36 and the westerly projection thereof, and also including all the
37 state-owned submerged lands within Citrus County lying west of
38 the west boundary of St. Martins Marsh Aquatic Preserve, lying
39 north of the westerly projection of the south boundary of St.
40 Martins Marsh Aquatic Preserve, and lying south of a line
41 extending westerly along northerly coordinate 1663693 feet,
42 Florida West Zone (NAD83), where the northern and southern
43 boundaries of the Nature Coast Aquatic Preserve will be
44 continuous with the southern boundary of the Big Bend Seagrasses
45 Aquatic Preserve and the northern boundary of the Pinellas
46 County Aquatic Preserve, respectively.

47 (3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the
48 Internal Improvement Trust Fund shall maintain the aquatic
49 preserve subject to the following:

50 (a) The board may not approve or consummate the further
51 sale, transfer, or lease of sovereign submerged lands in the
52 preserve, except upon a showing of extreme hardship on the part
53 of the applicant and a determination by the board that such
54 sale, transfer, or lease is in the public interest.

55 (b) The board may not approve the further dredging or
56 filling of submerged lands of the preserve except:

57 1. Minimum dredging and spoiling of submerged lands may be
58 authorized for existing public navigation projects, as a public

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necessity, or for preservation of the preserve according to the expressed intent of this section.

2. Other alterations of the physical conditions of the submerged lands, including the placement of riprap, may be authorized as necessary to enhance the quality and utility of the aquatic preserve.

3. The board may authorize minimum dredging and filling of the submerged lands for the construction and maintenance of marinas, piers, or docks and the maintenance of existing attendant navigation channels and access roads. Such projects may be authorized only upon a specific finding by the board that there is assurance that the project will be constructed and operated in a manner that will not adversely affect the water quality, valuable habitats, and utility of the preserve. This subparagraph does not authorize the connection of upland canals to the waters of the preserve.

4. The board may authorize the dredging of submerged lands if the board determines that such dredging is necessary to eliminate conditions hazardous to the public health or to eliminate stagnant waters, islands, and spoil banks, and that such dredging would enhance the aesthetic and environmental quality, habitats, and utility of the preserve and is clearly in the public interest as determined by the board.

(c) Before approving any dredging or filling as provided in paragraph (b), the board must give public notice of such dredging and filling as required under s. 253.115.

(d) There may not be any drilling of wells, excavation for shell or minerals, or erection of structures other than docks within the preserve unless such activity is associated with

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20201042__

activity that is authorized under this section.

(e) The board may not approve the seaward relocation of bulkhead lines or the further establishment of bulkhead lines except when a proposed bulkhead line is located at the line of mean high water along the shoreline. Construction, replacement, or relocation of a seawall is prohibited without the approval of the board, which approval may be granted only if riprap construction is used in the seawall. The board may grant approval under this paragraph by a letter of consent.

(f) Notwithstanding this section, the board may, for lands lying within the preserve:

1. Enter into agreements for and establish lines delineating sovereignty and privately owned lands.

2. Enter into agreements for the exchange of, and exchange, sovereignty lands for privately owned lands.

3. Accept gifts of land within or contiguous to the preserve.

4. Negotiate or enter into agreements with owners of lands contiguous to public lands for any public or private use of any of such lands.

5. Take any action that is convenient or necessary to accomplish any of the acts and matters authorized under this paragraph.

6. Conduct restoration and enhancement efforts in the preserve and its tributaries.

7. Stabilize eroding shorelines of the preserve and its tributaries which are contributing to turbidity by planting natural vegetation to the greatest extent feasible and placing riprap, as determined by Pasco, Hernando, and Citrus Counties in

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117 conjunction with the Department of Environmental Protection.

118 (4) RULES.—

119 (a) The board shall adopt and enforce reasonable rules to
120 carry out this section and to provide:

121 1. Additional preserve management criteria as necessary to
122 accommodate special circumstances.

123 2. Regulation of human activity within the preserve in such
124 a manner as not to interfere unreasonably with lawful and
125 traditional public uses of the preserve, such as sport fishing,
126 commercial fishing, boating, and swimming.

127 (b) Other uses of the preserve, or human activity within
128 the preserve, although not originally contemplated, may be
129 authorized by the board, but only subsequent to a formal finding
130 of compatibility with the purposes of this section.

131 (5) RIPARIAN RIGHTS.—The establishment or the management of
132 the preserve may not operate to infringe upon the riparian
133 rights of upland property owners adjacent to or within the
134 preserve. Reasonable improvement for ingress and egress,
135 mosquito control, shore protection, public utility expansion,
136 and similar purposes may be authorized by the board or the
137 Department of Environmental Protection, subject to any other
138 applicable laws under the jurisdiction of other agencies.
139 However, before approving any such improvements, the board or
140 the department must give public notice as required under s.
141 253.115.

142 (6) ENFORCEMENT.—This section may be enforced in accordance
143 with s. 403.412. In addition, the Department of Legal Affairs
144 may bring an action for civil penalties of \$5,000 per day
145 against a person as defined in s. 1.01(3) who violates this

26-01332-20

20201042__

146 section or any rule or regulation issued hereunder.

147 (7) APPLICABILITY.—This section is subject to the Florida
148 Electrical Power Plant Siting Act, as described in ss. 403.501-
149 403.518.

150 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.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 1096

INTRODUCER: Senator Cruz and others

SUBJECT: Bottled Water

DATE: January 17, 2020

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|--------------|----------------|-----------|--------------------|
| 1. Schreiber | Rogers | EN | Pre-meeting |
| 2. _____ | _____ | AG | _____ |
| 3. _____ | _____ | RC | _____ |

I. Summary:

SB 1096 requires the Department of Environmental Protection (DEP) to monitor the consumptive use permits for all bottled water companies to ensure compliance with the limits of allowable water extraction. In order to ensure compliance, water must be measured in gallons at the bottling facility. The bill requires DEP to adopt rules to implement and enforce the bill.

The bill requires that a daily fine not to exceed \$500 be imposed for each day a company withholds payment of the fees imposed under the section created by the bill. The bill does not apply to bottled water companies extracting less than 55 million gallons per calendar year.

SB 1098 adds to the section of law created by SB 1096 a fee of five cents per gallon on water extracted for the production of bottled water. SB 1096 only takes effect if SB 1098 or similar legislation is adopted in the same legislative session and goes into effect.

II. Present Situation:

Regulation of Bottled Water

The U.S. Food and Drug Administration regulates the bottled water industry for safety and water quality.¹ Bottled water is water intended for human consumption that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents.² A “bottled water plant” is an establishment in which bottled water is prepared for sale.³ In Florida, the regulation of bottled water plants is preempted to the state.⁴ The Department of Agriculture and Consumer Service’s (DACS) Division of Food Safety regulates bottling, labeling, and handling at bottled water plants.⁵ DACS requires bottled water plants to obtain a food permit, which must be renewed annually.⁶

Florida law requires that bottled water come from an “approved source,” which is defined as any source of water that complies with the federal Safe Drinking Water Act.⁷ Bottled water must be processed in conformance with the applicable federal regulations.⁸ It must conform to specific federal standards for water quality, label statements, and adulteration.⁹ If the label bears a name or trademark containing terms such as “springs,” “well,” or “natural” then the label must also state the source of the water, if the correct source is not indicated in the name or trademark.¹⁰ The person operating the bottled water plant is responsible for all water sampling and analysis.¹¹

¹ 21 C.F.R. pt. 129; 21 C.F.R. s. 165.110; FDA, *FDA Regulates the Safety of Bottled Water Beverages Including Flavored Water and Nutrient-Added Water Beverages*, <https://www.fda.gov/food/buy-store-serve-safe-food/fda-regulates-safety-bottled-water-beverages-including-flavored-water-and-nutrient-added-water> (last visited Jan. 6, 2020).

² Section 500.03(1)(d), F.S. Florida law defines “bottled water” using the description provided in federal regulation; 21 C.F.R. s. 165.110(a)(1). The full description of “bottled water” in the federal regulation is: “water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents. Fluoride may be optionally added within the limitations established in § 165.110(b)(4)(ii). Bottled water may be used as an ingredient in beverages (e.g., diluted juices, flavored bottled waters). It does not include those food ingredients that are declared in ingredient labeling as “water,” “carbonated water,” “disinfected water,” “filtered water,” “seltzer water,” “soda water,” “sparkling water,” and “tonic water.” The processing and bottling of bottled water shall comply with applicable regulations in part 129 of this chapter.”

³ Section 500.03(1)(e), (n), and (p), F.S.

⁴ Section 500.511, F.S.; see s. 367.022(1), F.S. The sale, distribution, or furnishing of bottled water is not regulated by the Florida Public Service Commission as a utility.

⁵ Section 500.12, F.S.; see DACS, *Food Establishments*, <https://www.fdacs.gov/Business-Services/Food-Establishments> (last visited Jan. 6, 2020); see DEP, *Source & Drinking Water Program*, <https://floridadep.gov/water/source-drinking-water> (last visited Jan. 6, 2020).

⁶ Section 500.12(1)(b) and (c), F.S.; Fla. Admin. Code R. 5K-4.020(4)(b). The annual permitting fee for a bottled water plant is \$500.

⁷ Sections 500.03(1)(c) and 500.147(3), F.S.; see s. 500.03(1)(w), F.S. “Natural water” is defined as “bottled spring water, artesian well water, or well water that has not been altered with water from another source or that has not been modified by mineral addition or deletion, except for alteration that is necessary to treat the water through ozonation or an equivalent disinfection and filtration process.”

⁸ Section 500.147(3), F.S.; 21 C.F.R. pt. 129.

⁹ Section 500.147(3), F.S.; 21 C.F.R. s. 165.110; see DACS, Division of Food Safety, *Bottled Water Testing Requirements*, <https://www.fdacs.gov/content/download/72733/file/Bottled-Water-Testing-Requirements.pdf> (last visited Jan. 6, 2020).

¹⁰ Section 500.11(1)(o), F.S.

¹¹ Section 500.147(3), F.S.

Consumptive Use Permits

Consumptive use is any use of water which reduces the supply from which it is withdrawn or diverted.¹² A consumptive use permit (CUP), also known as a water use permit (WUP), establishes the duration and type of water use as well as the maximum quantity of water that may be withdrawn.¹³ The Department of Environmental Protection (DEP) and the water management districts are authorized to issue CUPs and impose reasonable conditions as necessary to assure such use is consistent with DEP or district goals and is not harmful to the water resources of the area.¹⁴ This authority is primarily delegated to the water management districts, which implement extensive CUP programs within their respective jurisdictions.¹⁵ To obtain a CUP, an applicant must establish that the proposed use of water:

- Is a reasonable-beneficial use;¹⁶
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.¹⁷

Each of the five water management districts publishes an applicant's handbook, incorporated by reference into their respective rules, identifying the procedures and information used by district staff for review of CUP applications.¹⁸ Generally, there are two types of CUP permits: general permits that may be granted by rule based on regulatory thresholds for factors such as withdrawal volume or pipe diameter, and individual permits requiring applications when regulatory thresholds are exceeded.¹⁹ The districts have different schedules for application processing fees, which can vary based on total requested withdrawal amounts or type of application.²⁰ DEP and the districts are authorized to grant permits for a period of up to twenty years, if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit.²¹

¹² Fla. Admin. Code R. 62-40.210(4).

¹³ Chapter 373, part II, F.S.

¹⁴ Section 373.219, F.S. No permit is required for domestic consumption of water by individual users.

¹⁵ Section 373.216, F.S.; Fla Admin. Code Chapters 40A-2, 40B-2, 40C-2, 40D-2, and 40E-2.

¹⁶ Section 373.019(16), F.S. "Reasonable-beneficial use" is defined as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest"; Fla. Admin. Code R. 62-40.410. DEP rules contain a list of factors that must be considered when determining whether a water use is a reasonable-beneficial use.

¹⁷ Section 373.223, F.S.; see s. 373.229, F.S. Permit applications must contain certain specified information.

¹⁸ South Florida WMD, *Applicant's Handbook for Water Use Permit Applications* (2015)[hereinafter *SFWMD WUP Handbook*], available at https://www.sfwmd.gov/sites/default/files/documents/wu_applicants_handbook.pdf; Southwest Florida WMD, *Water Use Permit - Applicant's Handbook Part B* (2015)[hereinafter *SWFWMD WUP Handbook*], available at https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/WUP_Applicants_Handbook_Part_B.pdf; St. John's River WMD, *Applicant's Handbook: Consumptive Uses of Water* (2018)[hereinafter *SJRWMD CUP Handbook*], available at <https://www.sjrwmd.com/static/permitting/CUP-Handbook-20180829.pdf>; Northwest Florida WMD, *Water Use Permit Applicant's Handbook* (2015)[hereinafter *NFWWMD WUP Handbook*], available at https://www.nfwwater.com/content/download/8605/71075/Applicant_Handbook_201504.pdf; Suwannee River WMD, *Water Use Permit Applicant's Handbook* (2019)[hereinafter *SRWMD WUP Handbook*], available at https://www.flrules.org/gateway/readRefFile.asp?refId=11315&filename=REFERENCE%20MATERIAL_WUP%20Applicant%27s%20Handbook%20FINAL%2010-31-2019.pdf.

¹⁹ See Michael T. Olexa et al., University of Florida, Institute of Food and Agricultural Sciences, *Handbook of Florida Water Regulation: Consumptive Use*, 2 (2017), available at <https://edis.ifas.ufl.edu/pdf/FE/FE60400.pdf>; The water management districts' respective rules contain various exemptions from CUP permitting, such as for firefighting purposes.

²⁰ See s. 373.109, F.S.

²¹ Section 373.236, F.S.

The water management districts are required to include appropriate monitoring efforts as part of their CUP programs.²² CUPs must be monitored when they authorize groundwater withdrawals of 100,000 gallons or more per day from a well with an inside diameter of 8 inches or more.²³ Such monitoring must be at intervals and must use methods determined by the applicable district.²⁴ The results of such monitoring must be reported to the applicable district at least annually.²⁵ The districts' respective CUP applicant handbooks contain various monitoring standards, which may include thresholds for required monitoring, reporting requirements, and specific standards for metering.²⁶ Generally, pursuant to the handbooks, the permittee is responsible for required monitoring of withdrawal quantities.

Minimum Flows and Minimum Water Levels

Minimum Flows and Minimum Water Levels (MFLs) are adopted standards that identify the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.²⁷ DEP and the water management districts are required to establish MFLs, based on priority lists, for surface water courses, aquifers, and surface waters.²⁸ By establishing the limit at which further withdrawals would be significantly harmful, the MFLs provide a benchmark to help establish excess quantities of water that are available from priority water bodies. A key goal of establishing an MFL is to ensure there is enough water to satisfy the consumptive use of the water resource without causing significant harm to the resource.²⁹

III. Effect of Proposed Changes:

Section 1 creates s. 500.458, F.S., entitled “Bottled water; extraction monitoring; fine.”

The bill requires the Department of Environmental Protection (DEP) to monitor the consumptive use permits for all bottled water companies to ensure compliance with the limits of allowable water extraction for natural water and water from an approved source. In order to ensure compliance, water must be measured in gallons at the bottling facility. The bill requires DEP to adopt rules to implement and enforce the requirements in the bill.

The bill requires that a daily fine not to exceed \$500 be imposed for each day a company withholds payment of the fees imposed under s. 500.458, F.S.

The bill exempts bottled water companies extracting less than 55 million gallons per calendar year from these requirements.

²² Section 373.216, F.S.

²³ Section 373.223(6), F.S. The water management districts are authorized to adopt or enforce certain rules in lieu of these requirements, in accordance with the statute.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *SFWMD WUP Handbook*, at 93-98; *SWFWMD WUP Handbook*, at 70-71, 76-92; *SJRWMD CUP Handbook*, at 4-1-4-3; *NFWMD WUP Handbook*, at 63-64; *SRWMD WUP Handbook*, at 43-44, 50.

²⁷ Section 373.042, F.S.

²⁸ Sections 373.042 and 373.0421, F.S.; Fla. Admin. Code R. 62-40.473.

²⁹ *see* DEP, *Minimum Flows and Minimum Water Levels and Reservations*, <https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations> (last visited Jan. 9, 2020).

Section 2 states that the act shall take effect July 1, 2020, if SB 1098 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. SB 1098 adds a fee to s. 500.458, F.S.³⁰

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:

Article VII, section 19 of the Florida Constitution requires any legislation imposing or authorizing a new state tax or fee, or raising an existing state tax or fee, to be approved by two-thirds of the membership of both houses of the Legislature.³¹ A state tax or fee that is so imposed, authorized, or raised must be contained in a separate bill that contains no other subject.³² The constitutional language describes “fee” as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”³³

SB 1098 imposes a fee of 5 cents per gallon on water extracted for the production of bottled water. The fee is added to s. 500.458, F.S., which is created by SB 1096 and includes all other provisions relating to the fee. The fee in SB 1098 is contained in a bill with no other subject, separate from SB 1096 to which it is linked, and SB 1098 must be approved by two-thirds of the membership of both houses of the Legislature.

E. Other Constitutional Issues:

None.

³⁰ Senate Bill 1098 adds the following language to s. 400.458, F.S.: “The department shall assess bottled water companies a fee of 5 cents per gallon on water extracted for the production of bottled water, including natural water and water from an approved source as defined in s. 500.03, and shall deposit the fees into the Water Protection and Sustainability Program Trust Fund under s. 403.890, F.S.”

³¹ FLA. CONST. art. VII, s. 19.

³² *Id.*

³³ *Id.*

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

None.

B. Private Sector Impact:

The bill requires that water extracted for bottled water be measured in gallons at the bottling facility and requires a daily fine for bottled water companies that do not pay certain fees for extraction. Therefore, the bill may have a negative, indeterminate fiscal impact on private bottled water companies.

C. Government Sector Impact:

The bill requires the Department of Environmental Protection (DEP) to perform certain monitoring of consumptive use permits to ensure compliance, impose daily fines in certain circumstances, and perform rulemaking to implement and enforce the newly created section. Therefore, the bill may cause DEP to incur additional costs.

The bill requires DEP to impose a daily fine of up to \$500 for failure to pay certain fees, which may have an indeterminate, positive fiscal impact on the government sector.

VI. Technical Deficiencies:

None.

VII. Related Issues:

On line 28 of the bill, there is a blank space that should be filled in with “1098.”

VIII. Statutes Affected:

This bill creates section 500.458 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.



439322

LEGISLATIVE ACTION

Senate

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. .
. .
. .
. .

House

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

Senate Amendment

Delete lines 26 - 28
and insert:
that are permitted to extract less than 55 million gallons per
calendar year.

Section 2. This act shall take effect July 1, 2020, if SB
1098 or similar legislation takes effect, if such legislation is

By Senator Cruz

18-00713-20

20201096__

1 A bill to be entitled
2 An act relating to bottled water; creating s. 500.458,
3 F.S.; requiring the Department of Environmental
4 Protection to monitor certain consumptive use permits;
5 providing penalties for nonpayment of fees; directing
6 the department to adopt rules; providing
7 applicability; providing a contingent effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
10

11 Section 1. Section 500.458, Florida Statutes, is created to
12 read:

13 500.458 Bottled water; extraction monitoring; fine.—

14 (1) The Department of Environmental Protection shall
15 monitor the consumptive use permits for all bottled water
16 companies to ensure compliance with the limits of allowable
17 water extraction for natural water and water from an approved
18 source as defined in s. 500.03. To ensure compliance, water
19 shall be measured in gallons at the bottling facility.

20 (2) A daily fine not to exceed \$500 shall be imposed for
21 each day a company withholds payment of the fees imposed under
22 this section.

23 (3) The department shall adopt rules under ss. 120.536(1)
24 and 120.54 to implement and enforce this section.

25 (4) This section does not apply to bottled water companies
26 extracting less than 55 million gallons per calendar year.

27 Section 2. This act shall take effect July 1, 2020, if SB
28 ____ or similar legislation takes effect, if such legislation is
29 adopted in the same legislative session or an extension thereof

18-00713-20

20201096__

30 and becomes a law.

| Name | Expiration Date | Allocation Per Year (gallons) | Actual Usage 2018 (gallons) | Primary Location |
|--------------------------------------|------------------------|--|--|-----------------------------|
| Shuler Springs, LLC | 1/1/2040 | 111,690,000 | 915,055 | Liberty |
| Ice River Springs USA, Inc. | 4/1/2032 | 36,500,000 | No reporting due to H. Michael damage | Jackson |
| Nestlé Waters North America, Inc. | 12/1/2028 | 144,175,000 | 12,952,390 | Washington |
| Johnny & Jimmy Patronis | 10/1/2033 | 54,750,000 | 23,473,880 | Bay |

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
Water Use Permits for Bottled Water

| Permit Number | Project Name | County | Permitted Annual Allocation (MG)* | 2019 Reported Water Usage (MG)* |
|----------------------|------------------------|---------------|--|--|
| 28-00390-W | Keystone Bear Hollow | Highlands | 219 | 9.517 |
| 28-00425-W | Sandhill Springs | Highlands | 168 | 1.014 |
| 28-00454-W | Purah Spring Water Inc | Highlands | 52.56 | 0.012 |

* Million Gallons

Note: Data reflects the most recent usage as reported by the Permittee, and may not include the entire year.

| Project Name | Expiration Date | Allocation (Gallons/Year) | 2018 Use (Gallons) | Allocation (Million Gallons Per Day) | 2018 Use (Million Gallons Per day) | County |
|---------------------------------|-----------------|---------------------------|--------------------|--------------------------------------|------------------------------------|--------|
| Niagara Bottling | 2/11/2034 | 332,150,000 | 252,621,300 | 0.91 | 0.692 | Lake |
| Silver Springs Bottled Water Co | 9/11/2022 | 150,530,000 | 87,463,280 | 0.412 | 0.240 | Marion |
| Orange Springs Specialty Water | 6/14/2031 | 71,980,000 | 419,520 | 0.197 | 0.001 | Marion |
| Black Sink Well | 3/13/2026 | 182,140,000 | no use | 0.499 | no use | Marion |
| Spring of Life Spring Water | 9/11/2022 | 100,000,000 | 21,826,400 | 0.274 | 0.060 | Lake |
| Dickson Trust | 9/10/2023 | 73,000,000 | 43,164,000 | 0.2 | 0.118 | Marion |

| Permit Name | Permit Number | 2014 Avg. Water Use (MGY) | 2015 Avg. Water Use (MGY) | 2016 Avg. Water Use (MGY) | 2017 Avg. Water Use (MGY) | 2018 Avg. Water Use (MGY) | 2019 Avg. Water Use (MGY) | Permitted Allocation (MGY) |
|------------------------------|---------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|----------------------------|
| DS Services of America, Inc. | 221114 | 10.950 | 13.870 | 10.220 | 6.935 | 5.110 | N/A | 46.355 |
| Nestle Waters North America | 218544 | 239.805 | 300.760 | 256.595 | 309.755 | 272.290 | 255.975 | 288.818 |
| 7 Springs | 218202 | 40.880 | 43.435 | 61.685 | 63.145 | 100.74 | 43.143 | 420.480 |

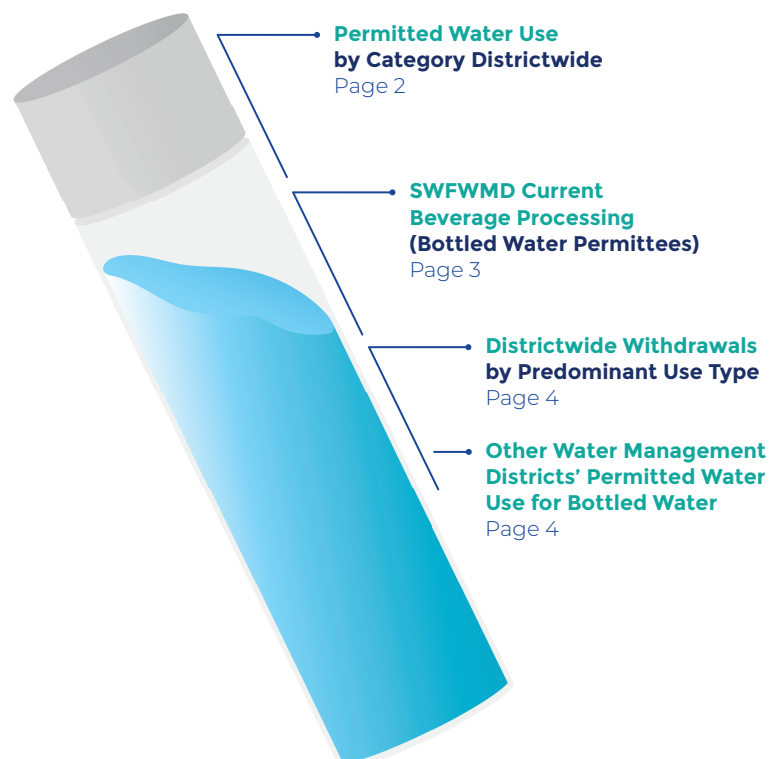
Southwest Florida Water Management District

Water Use Fact Sheet

The District encompasses Citrus, DeSoto, Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Sarasota and Sumter counties, as well as portions of Charlotte, Highlands, Lake, Levy, Marion and Polk counties.

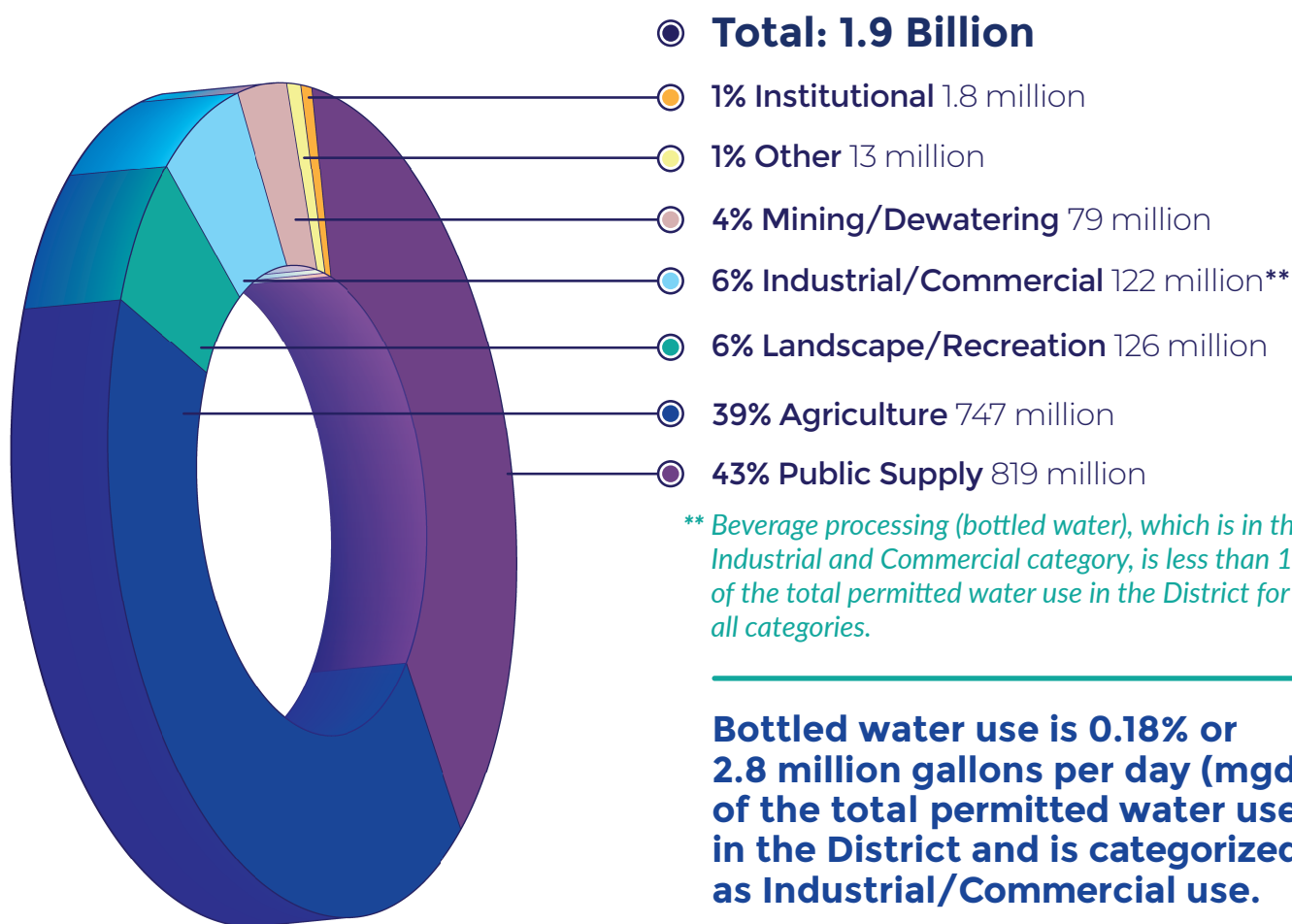
The District's responsibilities include managing water supply, water quality, flood protection and natural systems. As part of managing the region's water supply, the regulation, management and monitoring of water use is a critical part of protecting the resource. The following information provides a summary of permitted groundwater use within the District, consumptive groundwater use permit data, beverage processing information and figures for estimated groundwater use.

Table of Contents



Permitted Water Use by Category Districtwide

**Numbers based on the permitted average quantity for December 2019*



In accordance with Chapter 373.223, Florida Statutes (F.S.), the District may issue a water use permit if the following specific conditions are identified:

- It is a reasonable-beneficial use as defined in section. 373.019, F.S.
- It will not interfere with any presently existing legal use of water and
- It is consistent with the public interest

A water user shall obtain a permit if any of the following criteria are met:

- Withdrawals from wells six inches or greater in diameter
- Surface water withdrawals using a cumulative intake of four inches or greater in diameter
- Withdrawals from facilities with a cumulative withdrawal capacity of 1 million gallons per day (MGD) or more and
- Withdrawals of 0.1 MGD or more

Note: *If a permit is located within the most impacted area of the Southern Water Use Caution Area then a permit is required if the cumulative outside diameter of the withdrawal is 6 inches in diameter or greater.*

To ensure proposed uses are reasonable and beneficial, the permit application review includes, among other things, an analysis to prevent environmental harm and ensure consistency with established Minimum Flows and Minimum Water Levels (MFLs). A complete reference to water use permitting rule can be found in Rule 40D-2, Florida Administrative Code.

All new withdrawals or diversions greater than or equal to 500,000 gallons per day are approved by the District's Governing Board.

Withdrawals and diversions of water for the following uses are exempt from water use permitting:

- Water used for domestic purposes
- Certified uses defined in Chapter 62-17, Florida Administrative Code entitled Electrical Power Plant Siting

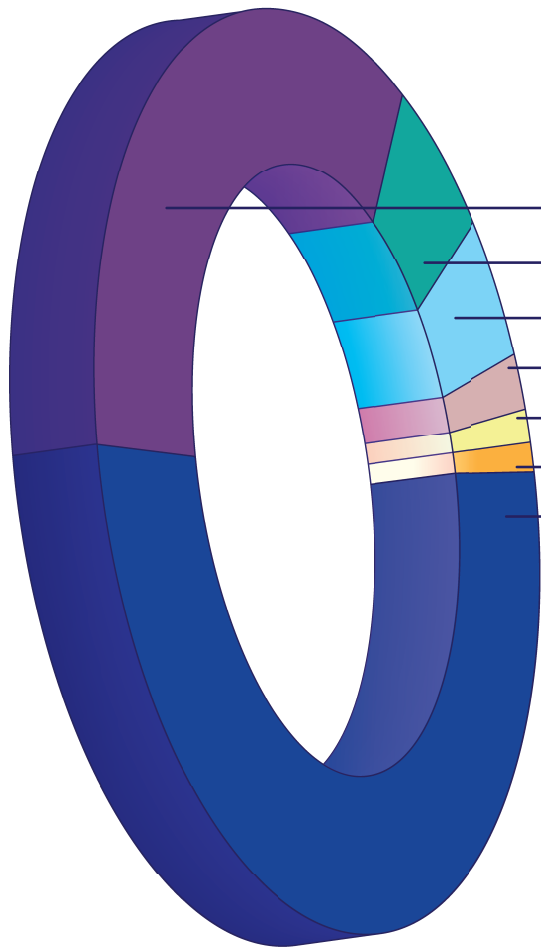
SWFWMD Current Beverage Processing (Bottle Water Permittees):

| Name | County | Expire Date | Permitted Avg. GPD | Bottled Water Allocation | Current Use (GPD) |
|-----------------------------------|------------------------|-------------|--------------------|--------------------------|-------------------|
| Sumter, LLC | Sumter | 8/14/2033 | 1,025,600 | 350,000 | 0 |
| Crystal Springs Preserve | Hillsborough, Pasco | 2/24/2029 | 756,893 | 755,893 | 551,761 |
| Safety Harbor Resort & Spa | Pinellas | 6/13/2033 | 40,000 | 30 | 30* |
| Christian Contractors Assoc, Inc. | Hernando | 11/3/2020 | 14,500 | 11,600 | 0 |
| Wildwood Spring | Sumter | 1/11/2028 | 496,000 | 496,000 | 833 |
| Mooney Family, LLC | Hardee | 4/2/2038 | 448,500 | 448,500 | 0 |
| McBath Property | Pasco | 4/10/2035 | 159,000 | 159,000 | 0 |
| Heatherwood Investments, LLC | Citrus | 7/24/2032 | 76,700 | 76,700 | 294 |
| Fern Spring | Sumter | 6/8/2036 | 496,000 | 496,000 | 0 |
| Totals: | | | 3,513,193 | 2,793,723 | 552,918 |

**Withdrawal is used for multiple purposes. Note, the annual average will fluctuate monthly.*

Districtwide Withdrawals by Predominant Use Type

Million Gallons Per Day



● Total: 1.04 Billion

● 34% Agriculture 355 million

● 6% Industrial/Commercial 64.5 million

● 5% Landscape/Recreation 57.2 million

● 2% Mining/Dewatering 19.8 million

● <1% Institutional .5 million

● <1% Other .2 million

● 52% Public Supply 547.2 million

Source: 2018 EWU Report

Other Water Management Districts' Permitted Water Use for Bottled Water:

Northwest Florida WMD

- 0.17% of total consumptive use
- 4 permits
- 0.951 mgd

Suwannee River WMD

- 0.55% of total consumptive use
- 3 permits
- 2.8922 mgd

St. Johns River WMD

- 0.002% of permitted quantities
- 6 permits
- 2.494 mgd

South Florida WMD

- 0.18% of permitted quantities
- 9 permits
- 3.5 mgd

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 1098

INTRODUCER: Senator Cruz and others

SUBJECT: Fees/Bottled Water Companies/Department of Environmental Protection

DATE: January 17, 2020

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|--------------|----------------|-----------|--------------------|
| 1. Schreiber | Rogers | EN | Pre-meeting |
| 2. _____ | _____ | AG | _____ |
| 3. _____ | _____ | AP | _____ |

I. Summary:

SB 1098 requires the Department of Environmental Protection (DEP) to assess bottled water companies a fee of five cents per gallon on water extracted for the production of bottled water, including natural water and water from an approved source. DEP must deposit the fees into the Water Protection and Sustainability Program Trust Fund. The bill does not apply to bottled water companies extracting less than 55 million gallons per calendar year.

SB 1096 creates the section of law containing the fee, and establishes requirements relating to the fee. SB 1098 only takes effect if SB 1096 or similar legislation is adopted in the same legislative session and goes into effect.

II. Present Situation:

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The U.S. Food and Drug Administration regulates the bottled water industry for safety and water quality.¹ Bottled water is water intended for human consumption that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents.² A “bottled water plant” is an establishment in which bottled water is prepared for sale.³ In Florida, the regulation of bottled water plants is preempted to the state.⁴ The Department of Agriculture and Consumer Service’s (DACS) Division of Food Safety regulates bottling, labeling, and handling at bottled water plants.⁵ DACS requires bottled water plants to obtain a food permit, which must be renewed annually.⁶

Florida law requires that bottled water come from an “approved source,” which is defined as any source of water that complies with the federal Safe Drinking Water Act.⁷ Bottled water must be processed in conformance with the applicable federal regulations.⁸ It must conform to specific federal standards for water quality, label statements, and adulteration.⁹ If the label bears a name or trademark containing terms such as “springs,” “well,” or “natural” then the label must also state the source of the water, if the correct source is not indicated in the name or trademark.¹⁰ The person operating the bottled water plant is responsible for all water sampling and analysis.¹¹

¹ 21 C.F.R. pt. 129; 21 C.F.R. s. 165.110; FDA, *FDA Regulates the Safety of Bottled Water Beverages Including Flavored Water and Nutrient-Added Water Beverages*, <https://www.fda.gov/food/buy-store-serve-safe-food/fda-regulates-safety-bottled-water-beverages-including-flavored-water-and-nutrient-added-water> (last visited Jan. 6, 2020).

² Section 500.03(1)(d), F.S. Florida law defines “bottled water” using the description provided in federal regulation; 21 C.F.R. s. 165.110(a)(1). The full description of “bottled water” in the federal regulation is: “water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents. Fluoride may be optionally added within the limitations established in § 165.110(b)(4)(ii). Bottled water may be used as an ingredient in beverages (e.g., diluted juices, flavored bottled waters). It does not include those food ingredients that are declared in ingredient labeling as “water,” “carbonated water,” “disinfected water,” “filtered water,” “seltzer water,” “soda water,” “sparkling water,” and “tonic water.” The processing and bottling of bottled water shall comply with applicable regulations in part 129 of this chapter.”

³ Section 500.03(1)(e), (n), and (p), F.S.

⁴ Section 500.511, F.S.; see s. 367.022(1), F.S. The sale, distribution, or furnishing of bottled water is not regulated by the Florida Public Service Commission as a utility.

⁵ Section 500.12, F.S.; see DACS, *Food Establishments*, <https://www.fdacs.gov/Business-Services/Food-Establishments> (last visited Jan. 6, 2020); see DEP, *Source & Drinking Water Program*, <https://floridadep.gov/water/source-drinking-water> (last visited Jan. 6, 2020).

⁶ Section 500.12(1)(b) and (c), F.S.; Fla. Admin. Code R. 5K-4.020(4)(b). The annual permitting fee for a bottled water plant is \$500.

⁷ Sections 500.03(1)(c) and 500.147(3), F.S.; see s. 500.03(1)(w), F.S. “Natural water” is defined as “bottled spring water, artesian well water, or well water that has not been altered with water from another source or that has not been modified by mineral addition or deletion, except for alteration that is necessary to treat the water through ozonation or an equivalent disinfection and filtration process.”

⁸ Section 500.147(3), F.S.; 21 C.F.R. pt. 129.

⁹ Section 500.147(3), F.S.; 21 C.F.R. s. 165.110; see DACS, Division of Food Safety, *Bottled Water Testing Requirements*, <https://www.fdacs.gov/content/download/72733/file/Bottled-Water-Testing-Requirements.pdf> (last visited Jan. 6, 2020).

¹⁰ Section 500.11(1)(o), F.S.

¹¹ Section 500.147(3), F.S.

Consumptive Use Permits

Consumptive use is any use of water which reduces the supply from which it is withdrawn or diverted.¹² A consumptive use permit (CUP), also known as a water use permit (WUP), establishes the duration and type of water use as well as the maximum quantity of water that may be withdrawn.¹³ The Department of Environmental Protection (DEP) and the water management districts are authorized to issue CUPs and impose reasonable conditions as necessary to assure such use is consistent with DEP or district goals and is not harmful to the water resources of the area.¹⁴ This authority is primarily delegated to the water management districts, which implement extensive CUP programs within their respective jurisdictions.¹⁵ To obtain a CUP, an applicant must establish that the proposed use of water:

- Is a reasonable-beneficial use;¹⁶
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.¹⁷

Each of the five water management districts publishes an applicant's handbook, incorporated by reference into their respective rules, identifying the procedures and information used by district staff for review of CUP applications.¹⁸ Generally, there are two types of CUP permits: general permits that may be granted by rule based on regulatory thresholds for factors such as withdrawal volume or pipe diameter, and individual permits requiring applications when regulatory thresholds are exceeded.¹⁹ The districts have different schedules for application processing fees, which can vary based on total requested withdrawal amounts or type of application.²⁰ DEP and the districts are authorized to grant permits for a period of up to twenty years, if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit.²¹

¹² Fla. Admin. Code R. 62-40.210(4).

¹³ Chapter 373, part II, F.S.

¹⁴ Section 373.219, F.S. No permit is required for domestic consumption of water by individual users.

¹⁵ Section 373.216, F.S.; Fla Admin. Code Chapters 40A-2, 40B-2, 40C-2, 40D-2, and 40E-2.

¹⁶ Section 373.019(16), F.S. "Reasonable-beneficial use" is defined as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest"; Fla. Admin. Code R. 62-40.410. DEP rules contain a list of factors that must be considered when determining whether a water use is a reasonable-beneficial use.

¹⁷ Section 373.223, F.S.; see s. 373.229, F.S. Permit applications must contain certain specified information.

¹⁸ South Florida WMD, *Applicant's Handbook for Water Use Permit Applications* (2015)[hereinafter *SFWMD WUP Handbook*], available at https://www.sfwmd.gov/sites/default/files/documents/wu_applicants_handbook.pdf; Southwest Florida WMD, *Water Use Permit - Applicant's Handbook Part B* (2015)[hereinafter *SWFWMD WUP Handbook*], available at https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/WUP_Applicants_Handbook_Part_B.pdf; St. John's River WMD, *Applicant's Handbook: Consumptive Uses of Water* (2018)[hereinafter *SJRWMD CUP Handbook*], available at <https://www.sjrwmd.com/static/permitting/CUP-Handbook-20180829.pdf>; Northwest Florida WMD, *Water Use Permit Applicant's Handbook* (2015)[hereinafter *NFWFMD WUP Handbook*], available at https://www.nwfwater.com/content/download/8605/71075/Applicant_Handbook_201504.pdf; Suwannee River WMD, *Water Use Permit Applicant's Handbook* (2019)[hereinafter *SRWMD WUP Handbook*], available at https://www.flrules.org/gateway/readRefFile.asp?refId=11315&filename=REFERENCE%20MATERIAL_WUP%20Applicant%27s%20Handbook%20FINAL%2010-31-2019.pdf.

¹⁹ See Michael T. Olexa et al., University of Florida, Institute of Food and Agricultural Sciences, *Handbook of Florida Water Regulation: Consumptive Use*, 2 (2017), available at <https://edis.ifas.ufl.edu/pdf/FE/FE60400.pdf>; The water management districts' respective rules contain various exemptions from CUP permitting, such as for firefighting purposes.

²⁰ See s. 373.109, F.S.

²¹ Section 373.236, F.S.

The water management districts are required to include appropriate monitoring efforts as part of their CUP programs.²² CUPs must be monitored when they authorize groundwater withdrawals of 100,000 gallons or more per day from a well with an inside diameter of 8 inches or more.²³ Such monitoring must be at intervals and must use methods determined by the applicable district.²⁴ The results of such monitoring must be reported to the applicable district at least annually.²⁵ The districts' respective CUP applicant handbooks contain various monitoring standards, which may include thresholds for required monitoring, reporting requirements, and specific standards for metering.²⁶ Generally, pursuant to the handbooks, the permittee is responsible for required monitoring of withdrawal quantities.

Minimum Flows and Minimum Water Levels

Minimum Flows and Minimum Water Levels (MFLs) are adopted standards that identify the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.²⁷ DEP and the water management districts are required to establish MFLs, based on priority lists, for surface water courses, aquifers, and surface waters.²⁸ By establishing the limit at which further withdrawals would be significantly harmful, the MFLs provide a benchmark to help establish excess quantities of water that are available from priority water bodies. A key goal of establishing an MFL is to ensure there is enough water to satisfy the consumptive use of the water resource without causing significant harm to the resource.²⁹

Water Protection and Sustainability Program

The Water Protection and Sustainability Program Trust Fund exists within DEP, and its purpose is to implement the Water Protection and Sustainability Program.³⁰ DEP is required to distribute revenues deposited into or appropriated to the trust fund for alternative water supply development or the water storage facility revolving loan fund.³¹ Revenues deposited into the trust fund must be made available to assist water management districts with alternative water supply development and conservation projects that result in quantifiable water savings pursuant to the Water Protection and Sustainability Program.³² DEP administers the water storage facility revolving loan fund, which provides funding assistance to local governments or water supply entities to develop or construct water storage facilities to increase the availability of sufficient water for existing and future reasonable-beneficial uses and natural systems.³³

²² Section 373.216, F.S.

²³ Section 373.223(6), F.S. The water management districts are authorized to adopt or enforce certain rules in lieu of these requirements, in accordance with the statute.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *SFWMD WUP Handbook*, at 93-98; *SWFWMD WUP Handbook*, at 70-71, 76-92; *SJRWMD CUP Handbook*, at 4-1-4-3; *NWFWMD WUP Handbook*, at 63-64; *SRWMD WUP Handbook*, at 43-44, 50.

²⁷ Section 373.042, F.S.

²⁸ Sections 373.042 and 373.0421, F.S.; Fla. Admin. Code R. 62-40.473.

²⁹ *see* DEP, *Minimum Flows and Minimum Water Levels and Reservations*, <https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations> (last visited Jan. 9, 2020).

³⁰ Sections 403.890 and 403.891, F.S.

³¹ Section 403.890, F.S.

³² Section 373.707(6)-(8), F.S.

³³ Section 373.475, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 500.458, F.S., as created in SB 1096, entitled “Bottled water; extraction monitoring; fee; fine.”

The bill requires the Department of Environmental Protection (DEP) to assess bottled water companies a fee of five cents per gallon on water extracted for the production of bottled water, including natural water and water from an approved source. DEP must deposit the fees into the Water Protection and Sustainability Program Trust Fund. The bill does not apply to bottled water companies extracting less than 55 million gallons per calendar year.

Section 2 states that the act shall take effect July 1, 2020, if SB 1096 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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:

Article VII, section 19 of the Florida Constitution requires any legislation imposing or authorizing a new state tax or fee, or raising an existing state tax or fee, to be approved by two-thirds of the membership of both houses of the Legislature.³⁴ A state tax or fee that is so imposed, authorized, or raised must be contained in a separate bill that contains no other subject.³⁵ The constitutional language describes “fee” as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”³⁶

SB 1098 imposes a fee of 5 cents per gallon on water extracted for the production of bottled water. The fee is added to s. 500.458, F.S., which is created by SB 1096 and includes all other provisions relating to the fee. The fee in SB 1098 is contained in a bill with no other subject, separate from SB 1096 to which it is linked, and SB 1098 must be approved by two-thirds of the membership of both houses of the Legislature.

³⁴ FLA. CONST. art. VII, s. 19.

³⁵ *Id.*

³⁶ *Id.*

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires certain bottled water companies to pay five cents per gallon on water extracted for the production of bottled water. Therefore, the bill may have a negative, indeterminate fiscal impact on private bottled water companies.

Based on data received from the water management districts, there are currently 25 CUPs for bottled water use statewide.³⁷ Based on the most recent available data for quantities of actual use of water by the permittees for the production of bottled water, it appears a large portion of the permittees would be exempt from the fee in SB 1098 due to actual annual use being below 55 million gallons per year.

C. Government Sector Impact:

The bill requires DEP to assess certain fees and deposit them into a trust fund, which may involve rulemaking. This may cause DEP to incur additional costs.

The bill may cause substantial funding to be deposited into the Water Protection and Sustainability Program Trust Fund, increasing funding for the authorized uses of that fund. Therefore, the bill may have a positive, indeterminate fiscal impact on the public sector.

VI. Technical Deficiencies:

None.

VII. Related Issues:

On lines 12 and 35 of the bill, there are blank spaces that should be filled in with “1096.”

VIII. Statutes Affected:

This bill substantially amends section 500.458 of the Florida Statutes, as created in SB 1096.

³⁷ Southwest Florida WMD, *Water Use Fact Sheet*, 3 (2020) (on file with the Environment and Natural Resources Committee); Suwanee River WMD, *Bottled Water Permitting Data Received Jan. 15, 2020* (on file with the Environment and Natural Resources Committee); South Florida WMD, *Bottled Water Permitting Data Received Jan. 10, 2020* (on file with the Environment and Natural Resources Committee); Northwest Florida WMD, *Bottled Water Permitting Data Received Jan. 10, 2020* (on file with the Environment and Natural Resources Committee); St. John’s River WMD, *Bottled Water Permitting Data Received Jan. 16, 2020* (on file with the Environment and Natural Resources Committee).

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.

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



446290

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with directory and title amendments)

Delete lines 23 - 35
and insert:
approved source as defined in s. 500.03, and shall distribute
the funds collected from such fees to the water management
districts within which the water was withdrawn, for the purposes
of aquifer replenishment, creating alternative water supplies,
and addressing water quality impacts associated with
nonagricultural sources.



446290

(3)~~(2)~~ A daily fine not to exceed \$500 shall be imposed for each day a company withholds payment of the fees imposed under this section.

(4)~~(3)~~ The department shall adopt rules under ss. 120.536(1) and 120.54 to implement and enforce this section.

(5)~~(4)~~ This section does not apply to bottled water companies extracting less than 55 million gallons per calendar year.

Section 2. This act shall take effect on July 1, 2020, if SB 1096 or similar legislation takes effect, if such legislation

=====
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:

Delete line 12
and insert:
SB 1096, is amended to read:

=====
T I T L E A M E N D M E N T
=====
And the title is amended as follows:

Delete lines 5 - 7
and insert:
gallon extracted; requiring the department to
distribute the funds collected from the fees to
certain water management districts for specified
purposes; providing a contingent effective date.

By Senator Cruz

18-00782A-20

20201098__

A bill to be entitled
An act relating to fees; amending s. 500.458, F.S.;
requiring the Department of Environmental Protection
to charge bottled water companies a specified fee per
gallon extracted; requiring the fees to be deposited
into the Water Protection and Sustainability Program
Trust Fund; providing a contingent effective date.

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

Section 1. Section 500.458, Florida Statutes, as created in
SB ____, is amended to read:

500.458 Bottled water; extraction monitoring; fee; fine.—

(1) The Department of Environmental Protection shall
monitor the consumptive use permits for all bottled water
companies to ensure compliance with the limits of allowable
water extraction for natural water and water from an approved
source as defined in s. 500.03. To ensure compliance, water
shall be measured in gallons at the bottling facility.

(2) The department shall assess bottled water companies a
fee of 5 cents per gallon on water extracted for the production
of bottled water, including natural water and water from an
approved source as defined in s. 500.03, and shall deposit the
fees into the Water Protection and Sustainability Program Trust
Fund under s. 403.890.

(3)~~(2)~~ A daily fine not to exceed \$500 shall be imposed for
each day a company withholds payment of the fees imposed under
this section.

(4)~~(3)~~ The department shall adopt rules under ss.

18-00782A-20

20201098__

120.536(1) and 120.54 to implement and enforce this section.

(5)~~(4)~~ This section does not apply to bottled water companies extracting less than 55 million gallons per calendar year.

Section 2. This act shall take effect on July 1, 2020, if SB ____ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/21/20
Meeting Date

906
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID COLLEN

Job Title _____

Address 104-2 CREST ST
Street
TEH FL 32301
City State Zip

Phone 941-323-2404

Email collen252@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing SIERRA CLUB FLORIDA

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

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

1/21/2020
Meeting Date

1042
Bill Number (if applicable)

Topic Nature Coast AP

Name STEVEN LAMB

✓
Amendment Barcode (if applicable)

Job Title President Crystal Motor Carco.

Address Box 489
Street

Phone 352 302 0876

Crystal River Fl. 34423
City State Zip

Email SLAmb@crystalauto.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing SELF and Save Crystal River

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)

1-21-20

Meeting Date

1042

Bill Number (if applicable)

Topic _____

Name DAVID BALLARD GEDDIS JR

Job Title _____

Address 802 GEORGIA AVE

Street

PALM HARBOR

City

FL

State

34683

Zip

Phone 727-483-1330

Email MyABridgePoint@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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Dub. Allg.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4130
Environ

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

1/21/20

Meeting Date

1096

Bill Number (if applicable)

Topic Bottled Water

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N. Adams St

Phone 850-224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/1

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/21/2020
Meeting Date

SB 1096
Bill Number (if applicable)
439322
Amendment Barcode (if applicable)

Topic Bottled water

Name Lindsay Cross

Job Title Gov't Relations Director

Address 1700 N Monroe 11-286

Street

Talley

City

FL

State

32303

Zip

Phone _____

Email lindsay@fcvoters.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida conservation voters

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)

1-21-20

Meeting Date

1096

Bill Number (if applicable)

439322

Amendment Barcode (if applicable)

Topic Bottled WaterName Ryan SmartJob Title Executive DirectorAddress 209 Tallwood Rd

Street

Phone 561-358-7191Jax Beach

City

FL

State

32250

Zip

Email smart@plugsinc.comSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Springs CouncilAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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)

1/21/20
Meeting Date

1098
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 104-3 CREST ST
Street
144 FL 32301
City State Zip

Phone 941-323-2404

Email cullenasea@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing SICERRA CUB FL

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)

1-21-19

Meeting Date

1098

Bill Number (if applicable)

Topic Bottled Water Tax

Amendment Barcode (if applicable)

Name Lane Stephens

Job Title Partner, SCG Govt Affairs

Address 111 N Colhoun St., Ste 6

Phone 850-513-0004

Street

Tallahassee FL 32301

City

State

Zip

Email lane@scg.gov.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against

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

Representing Nestle Waters NA

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)

11/21/2020

Meeting Date

SB 1098

Bill Number (if applicable)

46290

Amendment Barcode (if applicable)

Topic Bottled water Fees

Name Lindsay Cross

Job Title Govt Relations Director

Address 1700 N Monroe 11-286

Street

Tally

City

FL

State

32303

Zip

Phone _____

Email lindsay@fcvoters.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conservation Voters

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)

1-21-20

Meeting Date

1098

Bill Number (if applicable)

446290

Amendment Barcode (if applicable)

Topic Bottled Water Use Fee

Name Ryan Smart

Job Title Executive Director

Address 209 Tallwood Rd

Street

Jax Beach

City

FL

State

32250

Zip

Phone 561-358-7191

Email smart@flspringcouncil.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Springs Council

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

4.130
Environ

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

1/21/20

Meeting Date

1098

Bill Number (if applicable)

Topic Fees/Bottled Water Companies/Department of Environmental Protectio

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N. Adams St

Phone 850-224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

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 (10/14/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/21/20
Meeting Date

1098
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 104-2 CREST ST
Street
TLH FL 32301
City State Zip

Phone 941-323-2484

Email cullenasee@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing SIERRA CLUB FL

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)

CourtSmart Tag Report

Room: LL 37
Caption: Senate Environment and Natural Resources

Case No.:

Type:
Judge:

Started: 1/21/2020 4:32:04 PM

Ends: 1/21/2020 5:25:32 PM

Length: 00:53:29

| | |
|------------|--|
| 4:32:03 PM | Meeting called to order |
| 4:32:08 PM | Roll call |
| 4:32:13 PM | Quorum is present |
| 4:32:39 PM | Pledge of allegiance |
| 4:33:20 PM | Senator Berman moves to TP Tab 4 -SB1096 and Tab5 - SB1098 - adopted |
| 4:33:29 PM | Tab 1 |
| 4:33:58 PM | Amy Baker EDR presentation |
| 4:37:19 PM | Annual Assessment of FL Water Resources & Conservation Lands |
| 4:47:50 PM | Water quality discussed |
| 4:49:32 PM | State Revenues |
| 4:53:10 PM | TMDL Development Expenditure Forecast |
| 4:55:02 PM | Impaired Waters: BMAPS |
| 5:00:26 PM | Cost Share |
| 5:02:33 PM | Infrastructure |
| 5:06:00 PM | Develop surveys to gather data |
| 5:07:11 PM | Collect budgets |
| 5:09:38 PM | Chair Montford opens for questions |
| 5:09:48 PM | Chair Montford with question |
| 5:09:57 PM | Amy Baker responds |
| 5:10:04 PM | Chair Montford follows up |
| 5:10:13 PM | Amy Baker responds |
| 5:11:29 PM | Chair Montford |
| 5:11:35 PM | No speaker cards |
| 5:11:48 PM | Tab 2 SB 906 Prohibited Reptiles |
| 5:12:19 PM | Senator Farmer presents the bill |
| 5:13:08 PM | Questions from the members |
| 5:14:11 PM | Senator Albritton with question |
| 5:14:22 PM | Senator Farmer answers |
| 5:14:54 PM | Senator Albritton with follow up |
| 5:15:30 PM | Senator Farmer responds |
| 5:16:27 PM | Senator Albritton with question |
| 5:17:17 PM | No further questions |
| 5:17:28 PM | David Cullen in support Sierra Club Florida |
| 5:17:41 PM | No debate |
| 5:17:46 PM | Senator Farmer closes on SB906 |
| 5:17:52 PM | Roll call on SB 906 |
| 5:18:02 PM | SB 906 is reported favorably |
| 5:18:13 PM | Tab 3 Senator Albritton presents SB 1042 Aquatic Preserves |
| 5:19:30 PM | Questions from the members |
| 5:20:32 PM | No questions |
| 5:20:38 PM | Public Appearance |
| 5:20:41 PM | David Geddis Jr of Palm Harbor with information |
| 5:21:11 PM | Steven Lamb President of Crystal Motor Car Co. |
| 5:21:43 PM | Mr. Lamb speaking in support for self and Save Crystal River |
| 5:22:55 PM | Debate - none |
| 5:23:55 PM | Senator Albritton closes on the bill |
| 5:24:18 PM | Roll call on SB 1042 |
| 5:24:40 PM | SB1042 is reported favorably |
| 5:24:53 PM | Senator Albritton moves we adjourn the meeting |
| 5:25:12 PM | Meeting is adjourned |