

Tab 1	CS/SB 466 by CA, Bennett ; (Similar to H 0721) Coastal Barriers Infrastructure Finance Act						
Tab 2	SB 1030 by Bullard ; (Identical to H 0399) State Symbols/Barking Tree Frog						
Tab 3	SB 1178 by Hays ; (Similar to CS/H 7045) Permits for Alternative Water Supplies						
758314	D	S	RCS	EP, Detert	Delete everything after	01/30	06:51 PM
Tab 4	SB 1858 by Altman ; (Similar to CS/H 1389) Water Storage and Water Quality Improvements						
901428	D	S	RCS	EP, Detert	Delete everything after	01/30	06:51 PM
Tab 5	SB 652 by Jones ; (Similar to H 1487) Commercial Parasailing						
Tab 6	SB 1426 by Detert ; (Identical to H 4121) Comprehensive Statewide Water Conservation Program						
Tab 7	SB 1430 by Detert ; (Identical to H 4137) Basins						
Tab 8	SB 1782 by Latvala (CO-INTRODUCERS) Alexander ; (Compare to H 1383) Fish and Wildlife Conservation Commission						
507040	D	S	RCS	EP, Latvala	Delete everything after	01/30	06:51 PM
Tab 9	SB 2060 by EP ; (Identical to H 7051) Rules Establishing Numeric Nutrient Criteria						
Tab 10	CS/SB 604 by AG, Dean (CO-INTRODUCERS) Bennett, Gaetz ; (Compare to CS/CS/H 0421) Limited Certification for Urban Landscape Commercial Fertilizer Application						
152126	D	S	RS	EP, Latvala	Delete everything after	02/06	08:02 PM
665304	SD	S	FAV	EP, Latvala	Delete everything after	02/06	08:02 PM
448222	AA	S	FAV	EP, Detert	Delete L.56 - 58:	02/06	08:02 PM
189584	AA	S		EP, Detert	btw L.69 - 70:	02/06	11:20 AM
240700	A	S		EP, Dean	Delete L.35:	01/27	04:27 PM
897476	A	S		EP, Dean	btw L.45 - 46:	01/27	04:27 PM
Tab 11	CS/SB 824 by TR, Dean (CO-INTRODUCERS) Gaetz ; (Similar to CS/H 0599) Mitigation						
313270	A	S	RCS	EP, Dean	Delete L.55 - 57:	01/30	06:51 PM
631614	A	S	RCS	EP, Dean	Delete L.164 - 166:	01/30	06:51 PM
165686	A	S	RCS	EP, Dean	Delete L.239 - 246:	01/30	06:51 PM
866910	A	S	RCS	EP, Dean	Delete L.254 - 256:	01/30	06:51 PM
Tab 12	SM 1614 by Dean ; (Identical to H 0611) Kings Bay						
Tab 13	SB 1032 by Benacquisto ; (Identical to H 0747) Thermal Efficiency Standards						
483824	D	S		EP, Oelrich	Delete everything after	01/27	04:30 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
ENVIRONMENTAL PRESERVATION AND CONSERVATION
Senator Dean, Chair
Senator Oelrich, Vice Chair

MEETING DATE: Monday, January 30, 2012

TIME: 3:30 —5:30 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Dean, Chair; Senator Oelrich, Vice Chair; Senators Detert, Jones, Latvala, Rich, and Sobel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 466 Community Affairs / Bennett (Similar H 721)	Coastal Barriers Infrastructure Finance Act; Providing a procedure for petitioning for and conducting a referendum on the question of whether to establish an infrastructure-financing district; providing the powers of the governing body of a district; requiring the establishment of an infrastructure plan within a certain time; requiring the establishment of a local trust fund to hold the funds of the district; specifying the source of funding for district projects; providing exemptions; providing for dissolution of an infrastructure-financing district, etc. CA 12/05/2011 Fav/CS EP 01/30/2012 Temporarily Postponed BC	Temporarily Postponed
2	SB 1030 Bullard (Identical H 399)	State Symbols/Barking Tree Frog; Designating the Barking Tree Frog as the official state amphibian, etc. EP 01/30/2012 Temporarily Postponed	Temporarily Postponed
3	SB 1178 Hays (Similar CS/H 7045)	Permits for Alternative Water Supplies; Requiring that certain permits approved for the development of alternative water supplies by certain entities be granted for 30 years; requiring that such permit be extended under specified conditions; prohibiting a reduction in permitted water quantities during the extension of the permit; excluding from application of the act a permit for nonbrackish groundwater or nonalternative water supplies; providing an option for the duration of an alternative water supply permit to a county, special district, regional water supply authority, multijurisdictional water supply entity, or publicly or privately owned utility, etc. EP 01/30/2012 Fav/CS CA BC	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDAEnvironmental Preservation and Conservation
Monday, January 30, 2012, 3:30 —5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1858 Altman (Similar CS/H 1389)	Water Storage and Water Quality Improvements; Requiring a specified determination as a condition of an agreement for water storage and water quality improvements on private agricultural lands in the Lake Okeechobee watershed; providing a methodology for such determination; providing for regulation of such lands after expiration of the agreement, etc. EP 01/30/2012 Fav/CS AG BC	Fav/CS Yeas 7 Nays 0
5	SB 652 Jones (Similar H 1487)	Commercial Parasailing; Requiring the owner of a vessel engaged in commercial parasailing to obtain and carry an insurance policy; providing minimum coverage requirements for the insurance policy; providing requirements for proof of insurance; specifying the insurance information that must be provided to each rider; providing for the launch from and recovery of riders to a towing vessel; requiring a person engaged in operating a vessel for commercial parasailing to have certain licenses; requiring the presence of an observer; requiring certain equipment; authorizing up to three persons to be tethered to the towing vessel; prohibiting commercial parasailing in certain areas, under certain weather conditions, and during certain hours; providing requirements for a towline; requiring a safety briefing for passengers and parasail riders; providing a penalty, etc. EP 01/30/2012 Temporarily Postponed BI BC	Temporarily Postponed
6	SB 1426 Detert (Identical H 4121)	Comprehensive Statewide Water Conservation Program; Repealing an obsolete provision requiring the Department of Environmental Protection to submit a specified report to the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive committees of the Legislature, etc. EP 01/30/2012 Favorable AG BC	Favorable Yeas 7 Nays 0
7	SB 1430 Detert (Identical H 4137)	Basins; Repealing provisions relating to the formation and designation of the Manasota Basin; repealing provisions relating to the termination of the Oklawaha River Basin and the Greater St. Johns River Basin, etc. EP 01/30/2012 Favorable AG BC	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDAEnvironmental Preservation and Conservation
Monday, January 30, 2012, 3:30 —5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1782 Latvala (Compare H 1383)	Fish and Wildlife Conservation Commission; Transferring and reassigning functions and responsibilities of the Division of Law Enforcement within the Department of Environmental Protection to the Division of Law Enforcement within the Fish and Wildlife Conservation Commission; transferring and reassigning functions and responsibilities of sworn positions funded by the Conservation and Recreation Lands Program and assigned to the Florida Forest Service within the Department of Agriculture and Consumer Services and the investigator responsible for the enforcement of aquaculture violations at the Department of Agriculture and Consumer Services to the Division of Law Enforcement within the Fish and Wildlife Conservation Commission; specifying powers and duties of the commission relating to state parks and preserves and wild and scenic rivers, removal of pollutant discharges, and response to hazardous waste emergencies, etc. EP 01/30/2012 Fav/CS AG BC	Fav/CS Yeas 7 Nays 0
9	SB 2060 Environmental Preservation and Conservation (Identical H 7051)	Rules Establishing Numeric Nutrient Criteria; Exempting specified rules from legislative ratification under s. 120.541(3), F.S.; requiring the Department of Environmental Protection to publish certain notice; requiring legislative ratification of certain subsequent rules or amendments; directing the department to submit specified rules to the United States Environmental Protection Agency for review under the federal Clean Water Act, etc. EP 01/30/2012 Favorable	Favorable Yeas 6 Nays 1
10	CS/SB 604 Agriculture / Dean (Compare CS/CS/H 421)	Limited Certification for Urban Landscape Commercial Fertilizer Application; Requiring persons who hold a limited certification to follow certain best management practices; providing an exemption from certain local government ordinances; requiring the Department of Agriculture and Consumer Services to provide specified information to other local and state governmental agencies; providing the department with certain enforcement authority; providing a requirement for related penalties, fines, and administrative actions, etc. AG 12/05/2011 Fav/CS EP 01/30/2012 Temporarily Postponed BC	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation
 Monday, January 30, 2012, 3:30 —5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	CS/SB 824 Transportation / Dean (Similar CS/H 599, Compare H 1399, S 1866)	Mitigation ; Revising legislative intent to encourage the use of other mitigation options that satisfy state and federal requirements; providing the Department of Transportation or a transportation authority the option of participating in a mitigation project; requiring the Department of Transportation or a transportation authority to submit lists of its projects in the adopted work program to the water management districts; prohibiting a mitigation plan from being implemented unless the plan is submitted to and approved by the Department of Environmental Protection, etc. TR 01/19/2012 Fav/CS EP 01/30/2012 Fav/CS BC	Fav/CS Yeas 7 Nays 0
12	SM 1614 Dean (Identical HM 611)	Kings Bay; Urging Congress to direct the United States Fish and Wildlife Service to reconsider the proposed rule to designate Kings Bay as a manatee refuge and in lieu of the rule partner with the state and local governments in seeking joint long-term solutions to manatee protection, etc. EP 01/30/2012 Favorable	Favorable Yeas 4 Nays 3
13	SB 1032 Benacquisto (Identical H 747, H 987, Compare CS/CS/CS/H 503, CS/S 716)	Thermal Efficiency Standards; Requiring that the Department of Environmental Protection and the applicable water management district grant a general permit for the construction, alteration, and maintenance of certain surface water management systems; authorizing the construction of certain surface water management systems to proceed without further action by the department or the water management district; providing definitions for the terms "ballasted roof," "hardscape," "heat island effect," "low-sloped roof," "solar reflectance" or "reflectance," and "steeped-sloped roof"; providing standards for a thermal-efficient roof, etc. EP 01/30/2012 Temporarily Postponed BC	Temporarily Postponed

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
Governing Board of the Northwest Florida Water Management District			
14	Andrews, Angus "Gus" G., Jr. (DeFuniak Springs)	03/01/2015	Recommend Confirm Yeas 7 Nays 0
	Patronis, Nicholas "Nick" J. (Panama City)	03/01/2015	Recommend Confirm Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation
Monday, January 30, 2012, 3:30 —5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Other Related Committee Materials		



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Banking and Insurance
Budget - Subcommittee on Criminal and Civil Justice
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Health Regulation
Military Affairs, Space, and Domestic Security

SENATOR MICHAEL S. "MIKE" BENNETT

President Pro Tempore
21st District

January 11, 2012

The Honorable Charles S. "Charlie" Dean, Sr.
Chair, Environmental Preservation and Conservation
325 Knott Building
404 S. Monroe St.
Tallahassee, FL 32399

Dear Chairman Dean:

I am requesting that you place S466, Coastal Barriers, on your committee agenda as soon as possible.

If you have any questions, please let me know. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Bennett".

Michael S. "Mike" Bennett
/cre

Cc: Tom Yeatman, Staff Director
Kim Bonn, Administrative Assistant

REPLY TO:

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- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5078

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Environmental Preservation and Conservation Committee

BILL: CS/SB 466

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Coastal Barriers Infrastructure Finance Act

DATE: December 5, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.	Toman	Yeatman	EP	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This committee substitute (CS) creates part VII, chapter 163 of the Florida Statutes establishing the “Coastal Barriers Infrastructure Finance Act.” The CS allows registered electors of a coastal barrier region -- via petition followed by referendum -- to create a finance district to plan and pay for the construction of underground utilities. The local governing body of the designated region would serve as the infrastructure financing authority for the district. Powers of the authority include investing and borrowing money. The CS provides for the establishment of a local trust fund to receive proceeds generated through tax increment financing. Certain taxing authorities are exempted from the increment financing.

The CS creates subsections 163.71-163.79 of the Florida Statutes.

II. Present Situation:

Coastal Building Zones

Part III, chapter 161, Florida Statutes, contains the “Coastal Zone Protection Act of 1985” in which the Legislature recognizes the state’s coastal areas as some of Florida’s most valuable

resources. The Legislature further recognizes that there is a tremendous cost to the state for post-disaster redevelopment in coastal areas and that preventive measures should be continually taken to reduce the harmful consequences of natural and manmade disasters or emergencies.¹

Section 161.54, F.S., provides specific definitions for a “coastal building zone”² and “construction”³ occurring within these zones. Standards for construction in coastal building zones are outlined in s. 161.55, F.S., so as to “produce the minimum adverse impact on the beach and dune system.” The location of construction shall be a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability.⁴

Underground Utilities

Public Service Commission and Public Utility Center Reports

In its 2007 report to the Legislature on infrastructure hardening, the Florida Public Service Commission (PSC) stated that strengthening Florida’s electrical infrastructure to better withstand the impacts of severe weather events should include a wide range of hardening activities.⁵ The report further recognized that, in some situations, conversion to underground electric distribution facilities could be preferable to overhead versions.

According to current PCS engineering specialists, underground facilities are more resistant to wind-related damages, including storms and vegetation-related interference.⁶ Underground facilities are, however, subject to flood damage, which may increase the time to make repairs because repairs cannot be attempted until flood waters recede from vaults.⁷

An underground research program report coordinated by the Public Utility Research Center (PURC) at the University of Florida and prepared for Florida electric utilities outlined a number of potential benefits and disadvantages of underground facilities.⁸ Some of the benefits cited included improved aesthetics, reduced live wire contact, and fewer outages during normal weather. Some of the disadvantages were longer duration interruptions per outage, reduced life expectancy, and higher maintenance and operating costs.

¹ See s. 161.539(3)-(4), F.S.

² “Land area from the seasonal high-water line landward to a line 1,500 feet landward from the coastal construction control line as established pursuant to s. [161.053](#), and, for those coastal areas fronting on the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida and not included under s. [161.053](#), the land area seaward of the most landward velocity zone (V-zone) line as established by the Federal Emergency Management Agency and shown on flood insurance rate maps.”

³ “. . . the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land.”

⁴ Section 161.55(3), F.S.

⁵ Florida Public Service Commission, *Report to the Legislature on Enhancing the Reliability of Florida’s Distribution and Transmission Grids During Extreme Weather* (July 2007) (on file with the Senate Committee on Community Affairs).

⁶ E-mail from Melissa L’Amoreaux, Engineering Specialist I, Division of Economic Regulation, Florida Public Service Commission (Nov. 23, 2011) (on file with the Senate Committee on Community Affairs).

⁷ *Id.*

⁸ Infrasource, *Undergrounding Assessment Phase 1 Final Report: Literature Review and Analysis of Electrical Distribution Overhead to Underground Conversion* (Feb. 28, 2007) available at

<http://www.floridapsc.com/utilities/electricgas/EIProject/docs/InfraSourcePhase1FinalReport20070228.pdf#xml=http://www.psc.state.fl.us/search/pdfhi.aspx?query=underground+utilities&pr=default&prox=page&rorder=500&rprox=500&rdfreq=500&rwfreq=500&rlead=500&rdepth=0&sufs=0&order=r&mode=&opts=&cq=&id=4cb6a5ff11>.

Costs and Funding of Underground Utilities

The 2007 PSC report acknowledged that construction of underground electric distribution systems is generally more expensive than comparable overhead systems. The higher costs are due to the increased complexity of underground systems and other factors such as more expensive hardware and labor. Florida Power and Light Company estimates that, in general, the basic costs for underground service in a new subdivision versus overhead service are about a third more.⁹

There are a variety of funding options available to cover these costs. The following financing methods were most often cited in studies according to the PURC-initiated report:

- Customer funded;
- Higher electricity rates;
- Higher taxes;
- Special tax districts;
- Utility set-asides;
- Federal funding;
- Private sector funding.

Pursuant to Florida Administrative Code Rule 25-6.078, utilities must file a per-lot differential charge for underground services in new subdivisions. This average differential is based on several different subdivision designs and is reviewed by the PSC at least every three years. There are credits available if the subdivision developer performs some of the work, such as installing conduit, but the facilities belong to the utility when completed.¹⁰

The conversion of existing overhead facilities is covered by Florida Administrative Code Rule 25-6.115, which sets forth how the cost of such conversion shall be calculated. This rule specifically gives the applicant (usually a city or county government, or homeowners association) the ability to construct part or all of the facilities, in lieu of the utility, subject to meeting utility standards and safety requirements.¹¹

Local Municipal Improvements

Section 170.01, F.S., allows municipalities, by their governing authority, to provide a number of local improvements, including the placement of underground electrical, telephone, and cable services.¹² Specifically, any municipality of this state may:

Pay for the relocation of utilities, including the placement underground of electrical, telephone, and cable television services, pursuant to voluntary agreement with the utility, but nothing contained in this paragraph shall affect a utility's right to locate or relocate its facilities on its own initiative at its own expense.¹³

⁹ Florida Power and Light, *Overhead and Underground Electrical Service FAQs*, <http://www.fpl.com/faqs/underground.shtml> (last visited Nov. 30, 2011). According to FPL, these costs may be more if additional work is required.

¹⁰ See Rule 25-6.078, F.A.C.

¹¹ See Rule 25-6.115, F.A.C.

¹² Section 170.01(1)(d), F.S.

¹³ *Id.*

Special assessments may be levied for local municipal improvements with conditions. Assessments may be collected only on benefited property and only at a rate of assessment based on the special advantage accruing to the property. The benefit is to be different in type or degree from benefits provided to the community as a whole.

Municipal Service Benefit Units

Sections 125.01(q)-(r), F.S., grant counties the power to establish municipal service benefit units and municipal service taxing units in certain areas. These governmental units may levy service charges, special assessments or taxes within these units to fund services such as underground utilities.

Chapter 163, Florida Statutes: Intergovernmental Programs

Chapter 163, Florida Statutes, provides governance for the establishment, operation, and regulation of intergovernmental programs. Among the programs in Part I are technical and financial assistance initiatives and the Miami River Improvement Act.¹⁴ Part II is devoted to growth policy, county and municipal planning, and land redevelopment regulation.¹⁵ Community redevelopment agencies (CRAs), neighborhood improvement districts, and regional transportation authorities are governed by parts III, IV, and V respectively.¹⁶ Part VI addresses collaborative client information systems.¹⁷

Tax Increment Financing

Tax Increment Financing (TIF) is a financial tool utilized by local governments to generate money for development projects in a specific geographic area or district. TIF began in California in 1952 as a way of providing matching funds for federal urban renewal plans. There are now TIF laws in nearly every state and the District of Columbia.¹⁸

The TIF process works as follows:

- The value of real property in a TIF district is determined as of a fixed date. This establishes a “base” or “frozen” year of assessed value.
- Going forward, taxing authorities in the district continue to receive tax revenues based on the assessed value in this frozen year.
- The tax increment is the difference between the amount of property tax revenues generated in the frozen year and any increase in tax revenues due to rising assessed values in subsequent years.
- Tax increment monies produced are available to fund projects designated by the local government either directly or through some form of debt service.

¹⁴ See ss. 163.01-163.08, F.S.

¹⁵ See ss. 163.2511-163.3248, F.S.

¹⁶ See ss. 163.330-163.462, 163.501-163.526, and 163.565-163.572 respectively.

¹⁷ See ss. 163.61-163.65, F.S.

¹⁸ Harry M. Hipler, *Tax Increment Financing in Florida: A Tool for Local Government Revitalization, Renewal and Redevelopment*, Florida Bar Journal (July/August, 2007).

TIF is statutorily authorized in chapter 163, Florida Statutes, for community redevelopment¹⁹ and transportation deficiencies.²⁰ Chapter 259, Florida Statutes, authorizes TIF for land conservation purposes.²¹ Community redevelopment agencies and transportation deficiency authorities establish local trust funds to receive proceeds generated through TIF.²² Counties and/or municipalities utilizing TIF for conservation lands employ a separate reserve account for tax increment deposits.²³

Local governing bodies determine whether or not to implement these versions of TIF; elector referenda are not required. School districts are not defined as taxing authorities subject to TIF in any of the above situations. There are also additional public bodies or taxing authorities exempted from these TIF districts such as library and water management districts.²⁴

III. Effect of Proposed Changes:

Section 1 creates an unspecified section of law requesting the Division of Statutory Revision to create part VII, chapter 163, Florida Statutes, consisting of ss. 163.71-163.79, F.S.

Section 2 creates s. 163.71, F.S., citing part VII, chapter 163, Florida Statutes, as the “Coastal Barriers Infrastructure Finance Act (the Act).”

Section 3 creates s. 163.72, F.S., providing findings and intent for an alternative mechanism for coastal barrier communities to finance and install utility delivery systems. The section asserts the environmental and economic value of the state’s coastal barriers and recognizes that dependable and secure infrastructure is a necessary component of sustaining these communities. It further recognizes that underground utilities provide safer and more reliable utility service during and after severe weather events.

Section 4 creates s. 163.73, F.S., to define a number of terms used in the Act. These terms include:

- “coastal barrier” which means areas located within a coastal building zone as defined in s. 161.54, F.S.;
- “infrastructure” which means the construction or improvement of utility services delivered by wire or cable and any related land acquisition, design and administrative costs;
- “infrastructure-financing authority” which means the governing body of a county or municipality within an infrastructure-financing district; and
- “infrastructure-financing district” which means a coastal barrier geographic area designated by the governing body.

¹⁹ ss. 163.387(1)(a)1.-2., F.S. The increment amount for CRAs is equal to 95 percent of the difference in ad valorem taxes.

²⁰ ss. 163.3182(5)(a)-(b), F.S. The increment amount for transportation deficiencies is a minimum of 25 percent of the difference in ad valorem taxes.

²¹ Sections 259.042(1) and (5), F.S. The increment amount for conservation lands may not exceed 95 percent of the difference in ad valorem taxes.

²² Sections 163.386, 163.3182(5), F.S.

²³ Section 259.042(d), F.S.

²⁴ See s. 163.387(2)(c) F.S., for CRAs, s. 163.3182(6), F.S., for transportation deficiencies, and s. 259.042(9), F.S., for conservation lands.

- “taxing authority” which means the public body authorized to levy an ad valorem tax on real property that is located within an infrastructure-financing district other than a school district.

“Debt service millage” and “plan” are also defined.

Section 5 creates s. 163.74, F.S., outlining a referendum process to create coastal barrier infrastructure-financing districts. The steps of this creation process are:

- Ten percent of the registered electors within a coastal barrier region petition the local governing body requesting a referendum on creating a district.
- The county or municipality governing board arranges for the referendum and publishes notice of the election in an area newspaper featuring the legal description and a map of the proposed designation area.
- The referendum is held within 120 days after verification of the petition provisions.
- The referendum may be conducted by mail pursuant to s. 101.6102, F.S.²⁵
- If the referendum is approved by a simple majority of the electors voting in the election, the county or municipality governing board may create a coastal barrier infrastructure-financing district by ordinance.

Section 6 creates s. 163.75, F.S., establishing the governance of an infrastructure-financing district via an infrastructure-financing authority and demarcating the powers of this authority. These powers include:

- Planning and carrying out approved coastal barrier infrastructure projects.
- Investing infrastructure finance funds held in reserve or sinking funds or in securities in which savings banks may legally invest funds.
- Redeeming issued bonds at the redemption price or purchasing bonds at less than redemption price. All bonds redeemed or purchased are canceled.
- Borrowing money and issuing debt obligations.
- Applying for, and accepting, loans and grants from the Federal government, the state, or private sources. The authority may also enter into contracts with the Federal government.
- Contracting with any person, public or private, to make and carry out plans.
- Appropriating funds and making necessary expenditures.
- Entering into agreements with other public bodies which may extend over any period consistent with state law and rule.

Section 7 creates s. 163.76, F.S., providing a framework to formulate a coastal barrier infrastructure plan. The infrastructure-financing authority shall adopt a plan within six months after the creation of the district. The plan must include an inventory of all utility infrastructure located above ground; identify rights-of-way and property needed for construction; and include an engineering design for underground utility facilities.

²⁵ The supervisor of elections shall be responsible for the conduct of any election and the costs of a mail ballot election shall be borne by the jurisdiction initiating the calling of the election, unless otherwise provided by law.

Section 8 creates s. 163.77, F.S., which directs coastal barrier infrastructure financing authorities to establish and administer a local trust fund for the duration of any uncompleted projects or until any incurred debt is no longer outstanding.

Beginning in the first fiscal year after the creation of the district, each local trust fund shall be funded by the proceeds of an ad valorem tax increment collected within the district. The increment must be at least 75 percent of the difference between the ad valorem tax levied each year by each taxing authority, and the ad valorem taxes which would have been produced before the effective date of the ordinance funding the trust fund. These ad valorem tax amounts are exclusive of any debt service millage.

Section 9 creates s. 163.78, F.S., specifying certain public bodies exempted from the increment requirement. Among the exempted public bodies are:

- Special districts which levy ad valorem taxes in more than one county.
- Community redevelopment agencies and neighborhood improvement districts.
- Metropolitan transportation authorities and water management districts.

Section 10 creates s. 163.79 F.S., which formulates a dissolution process for coastal barrier infrastructure-financing districts. Upon completion of all projects and repayment of all debt issued to finance projects, the district shall be dissolved. Assets and liabilities are transferred to the county or municipality in which the district is located. Any remaining assets shall be used for maintenance of completed infrastructure projects.

Section 11 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Because districts would be functional and political entities of the city or county that created them, anything districts generated, such as their plans, would be public records and available to anyone who requested them. Expenditures would be identified in local government budgets and subject to the annual audits that local governments undergo.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If coastal barrier infrastructure-financing districts are established and underground utilities are installed, residents of the districts will have utilities which are more resistant to wind-related damages, including storms and vegetation-related interference. These utilities will, however, be subject to flood damage. Companies which provide underground utility conversions may realize indeterminate increases in business activity.

C. Government Sector Impact:

If registered electors successfully petition for a coastal barrier infrastructure-financing district referendum, a local government will experience indeterminate costs related to conducting the referendum. Should the referendum pass, a local government may create a district and, if so, will be charged with administering and governing the district.

Affected taxing authorities in coastal barrier infrastructure financing districts will have their revenues capped at the frozen year level while districts are in existence.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Community Affairs on December 5, 2011:**

- Exempts school districts from the TIF provisions of the bill.
- Makes the creation of an infrastructure finance district discretionary with the governing board of the local government that is considering creation.

B. Amendments:

None.

By the Committee on Community Affairs; and Senator Bennett

578-01518-12

2012466c1

1 A bill to be entitled
2 An act relating to the Coastal Barriers Infrastructure
3 Finance Act; providing a directive to the Division of
4 Statutory Revision; creating s. 163.71, F.S.;
5 providing a short title; creating s. 163.72, F.S.;
6 providing legislative intent; creating s. 163.73,
7 F.S.; providing definitions; creating s. 163.74, F.S.;
8 providing a procedure for petitioning for and
9 conducting a referendum on the question of whether to
10 establish an infrastructure-financing district;
11 creating s. 163.75, F.S.; providing the powers of the
12 governing body of a district; creating s. 163.76,
13 F.S.; requiring the establishment of an infrastructure
14 plan within a certain time; creating s. 163.77, F.S.;
15 requiring the establishment of a local trust fund to
16 hold the funds of the district; specifying the source
17 of funding for district projects; creating s. 163.78,
18 F.S.; providing exemptions; creating s. 163.79, F.S.;
19 providing for dissolution of an infrastructure-
20 financing district; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. The Division of Statutory Revision is requested
25 to create part VII of chapter 163, Florida Statutes, consisting
26 of ss. 163.71-163.79, Florida Statutes.

27 Section 2. Section 163.71, Florida Statutes, is created to
28 read:

29 163.71 Short title.—This part may be cited as the "Coastal

578-01518-12

2012466c1

30 Barriers Infrastructure Finance Act."

31 Section 3. Section 163.72, Florida Statutes, is created to
32 read:

33 163.72 Findings and intent.-

34 (1) The Legislature recognizes the enormous environmental
35 and economic value of the state's coastal barriers, including
36 barrier islands, beach and dune systems, waterways, biological
37 systems, and related coastal features, which comprise much of
38 the state's coastal zone and serve as a major attraction for
39 both residents and tourists.

40 (2) The Legislature also recognizes that dependable,
41 secure, and aesthetically attractive infrastructure is a
42 necessary component of sustaining coastal barrier communities
43 and the state's tourist-based economy while protecting the
44 environment.

45 (3) The Legislature further recognizes that underground
46 utilities provide a delivery system for utility services which
47 is safer and more reliable than overhead facilities during and
48 after severe storm and weather events to which coastal barriers
49 are often exposed.

50 (4) It is therefore the intent of the Legislature to
51 protect and preserve the state's coastal barrier resources,
52 communities, and economy by providing to local government an
53 alternative mechanism for the financing, installation, and
54 operation of utility systems serving coastal barrier
55 communities.

56 Section 4. Section 163.73, Florida Statutes, is created to
57 read:

58 163.73 Definitions.-As used in this part, the term:

578-01518-12

2012466c1

59 (1) "Coastal barrier" means a coastal barrier island or
60 other coastal feature consisting of a beach, dunes, and related
61 features located within a coastal building zone as those terms
62 are defined in s. 161.54.

63 (2) "Debt service millage" means any millage levied
64 pursuant to s. 12, Art. VII of the State Constitution.

65 (3) "Infrastructure" means the construction,
66 reconstruction, or improvement of electrical, telephone, cable,
67 and other utility services delivered to a community by wire or
68 cable, and any related land acquisition, planning, design,
69 engineering, and administrative costs.

70 (4) "Infrastructure-financing authority" means the
71 governing body of a county or municipality within which an
72 infrastructure-financing district has been designated.

73 (5) "Infrastructure-financing district" means a geographic
74 area within a coastal barrier system designated by the governing
75 body of a county or municipality for infrastructure financing
76 and construction.

77 (6) "Plan" means the infrastructure-financing plan adopted
78 by the governing body of a county or municipality which creates
79 an infrastructure-financing district.

80 (7) "Taxing authority" means the public body authorized to
81 levy an ad valorem tax on real property that is located within
82 an infrastructure-financing district other than a school
83 district.

84 Section 5. Section 163.74, Florida Statutes, is created to
85 read:

86 163.74 Referendum.—

87 (1) If 10 percent of the registered electors who are

578-01518-12

2012466c1

88 residents within a coastal barrier petition the governing body
89 of the county or municipality within which an identified coastal
90 barrier is located requesting the conducting of a referendum on
91 the question of creating an infrastructure-financing district
92 for the purpose of financing and constructing underground
93 utilities, the county or municipality governing board shall make
94 the appropriate arrangements for conducting such referendum,
95 including publishing notice of the election in a newspaper of
96 general circulation in the area proposed for the establishment
97 of the district. The petition must include the legal description
98 and a map of the coastal barrier that is proposed for
99 designation as an infrastructure-financing district.

100 (2) The referendum must be conducted within 120 days after
101 the governing body verifies that 10 percent of the electors
102 residing within the identified coastal barrier signed the
103 petition. The referendum may be conducted by mail pursuant to s.
104 101.6102. The ballot question for the referendum must be in
105 substantially the following form: "Shall the ...governing board
106 of (...County or Municipality...) create an infrastructure-
107 financing district within the following legally described area
108 for the purpose of providing a tax increment mechanism to
109 finance and construct an underground utility infrastructure?"
110 The statement must be followed by the words "yes" and "no," and
111 must be accompanied by a map of the area that is proposed for
112 designation.

113 (3) If the question submitted for referendum is approved by
114 a simple majority of the electors voting in the referendum
115 election, the county or municipality governing board may create
116 a coastal barrier infrastructure-financing district by

578-01518-12

2012466c1

117 ordinance.

118 Section 6. Section 163.75, Florida Statutes, is created to
119 read:

120 163.75 Powers.—Each district shall be governed by a coastal
121 barrier infrastructure-financing authority, which has the power
122 necessary or convenient to carry out the purposes of this part,
123 including, but not limited to:

124 (1) Making and executing contracts and other instruments
125 necessary and convenient to exercise the powers under this
126 section.

127 (2) Undertaking, planning, and carrying out approved
128 coastal barrier infrastructure projects for the benefit of the
129 residents of the designated infrastructure-financing district.
130 The projects include, but are not limited to, the plan, design,
131 engineering, survey, legal, and related administrative services
132 necessary for the construction of safe, reliable, and
133 environmentally sound infrastructure projects as well as the
134 construction of such projects. The projects may also include
135 aesthetic features such as vegetation.

136 (3) Investing coastal barrier infrastructure finance funds
137 held in reserve, sinking funds, or other such funds not required
138 for immediate disbursement in property or in securities in which
139 savings banks may legally invest funds, subject to the control
140 of the authority, and redeeming such bonds as have been issued
141 pursuant to this part at the redemption price established
142 therein, or purchasing such bonds at less than redemption price.
143 All bonds redeemed or purchased are canceled.

144 (4) Borrowing money, including, but not limited to, issuing
145 debt obligations, such as bonds, notes, certificates, and

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2012466c1

146 similar debt instruments; applying for and accepting advances,
147 loans, grants, contributions, and any other forms of financial
148 assistance from the Federal Government or the state, county, or
149 any other public body or from any source, public or private, for
150 the purposes of this part; giving such security as may be
151 required; entering into and carrying out contracts for financial
152 assistance with the Federal Government for or with respect to a
153 coastal barrier infrastructure project and related activities
154 under the conditions imposed under federal laws which the
155 coastal barrier infrastructure-financing authority consider
156 reasonable and appropriate and which are not inconsistent with
157 the purposes of this part.

158 (5) Making or having made all surveys and plans necessary
159 to carry out the purposes of this part; contracting with any
160 person, public or private, to make and carry out the plans; and
161 adopting, approving, modifying, or amending any coastal barrier
162 infrastructure finance plan.

163 (6) Appropriating funds and making expenditures as are
164 necessary to carry out the purposes of this part and to enter
165 into agreements with other public bodies, which agreements may
166 extend over any period consistent with state law and rule.

167 Section 7. Section 163.76, Florida Statutes, is created to
168 read:

169 163.76 Coastal barrier infrastructure plan.—Each coastal
170 barrier infrastructure-financing authority shall adopt a coastal
171 barrier infrastructure plan within 6 months after the creation
172 of the district. The plan must:

173 (1) Include an inventory and survey of all utility
174 infrastructure currently located above ground within the

578-01518-12

2012466c1

175 designated coastal barrier.

176 (2) Identify all necessary rights-of-way and property
177 needed for the construction of a system of underground utilities
178 within the designated coastal barrier.

179 (3) Include the engineering design for a system of
180 underground utility facilities within the coastal barrier.

181 Section 8. Section 163.77, Florida Statutes, is created to
182 read:

183 163.77 Establishment of local trust fund.—The coastal
184 barrier infrastructure-financing authority shall establish a
185 local trust fund, which shall be administered by the authority.
186 Each local trust fund must continue to be funded for as long as
187 the projects set forth in the coastal barrier infrastructure
188 plan remain to be completed or until any debt incurred to
189 finance or refinance the related projects is no longer
190 outstanding, whichever occurs later. Beginning in the first
191 fiscal year after the creation of the district, each local trust
192 fund shall be funded by the proceeds of an ad valorem tax
193 increment collected within the designated coastal barrier
194 infrastructure-financing district which must, at minimum, be 75
195 percent of the difference between:

196 (1) The amount of ad valorem tax levied each year by each
197 taxing authority, exclusive of any amount from any debt service
198 millage, on taxable real property under the jurisdiction of the
199 coastal barrier infrastructure-financing authority and within
200 the coastal barrier infrastructure-financing district; and

201 (2) The amount of ad valorem taxes which would have been
202 produced by the rate upon which the tax is levied each year by
203 or for each taxing authority, exclusive of any debt service

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2012466c1

204 millage, upon the total of assessed value of the taxable real
205 property within the infrastructure-financing district as shown
206 on the most recent assessment roll used in connection with the
207 taxation of such property of each taxing authority before the
208 effective date of the ordinance funding the trust fund.

209 Section 9. Section 163.78, Florida Statutes, is created to
210 read:

211 163.78 Exemptions.—The following public bodies or taxing
212 authorities are exempt from this part:

213 (1) A special district that levies ad valorem taxes on
214 taxable real property in more than one county.

215 (2) A special district for which the sole available source
216 of revenue is the authority to levy ad valorem taxes when an
217 ordinance is adopted under this part. However, revenues or aid
218 that may be dispensed or appropriated to a district as defined
219 in s. 388.011 at the discretion of an entity other than such
220 district is not deemed available.

221 (3) A library district.

222 (4) A neighborhood improvement district created under the
223 Safe Neighborhoods Act.

224 (5) A metropolitan transportation authority.

225 (6) A water management district created under s. 373.069.

226 (7) A community redevelopment agency.

227 Section 10. Section 163.79, Florida Statutes, is created to
228 read:

229 163.79 Dissolution.—Upon completion of all coastal barrier
230 infrastructure projects and repayment or defeasance of all debt
231 issued to finance or refinance such projects, an infrastructure-
232 financing district shall be dissolved, and its assets and

578-01518-12

2012466c1

233 liabilities transferred to the county or municipality within
234 which the district is located. Any remaining assets of the
235 district shall be used for the maintenance of the coastal
236 barrier infrastructure project or projects created under this
237 part.

238 Section 11. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Vice Chair*
Education Pre-K - 12, *Vice Chair*
Budget - Subcommittee on General Government
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Military Affairs, Space, and Domestic Security
Reapportionment
Rules
Transportation

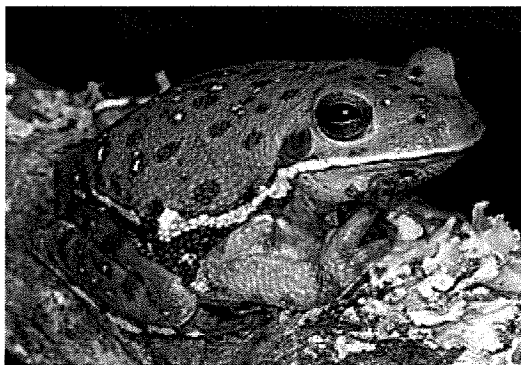
SENATOR LARCENIA J. BULLARD

39th District

January 30, 2012

Honorable Charles S. "Charlie" Dean, Sr.
Chair, Environmental Preservation & Conservation
325 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Senator Dean:



The Barking Tree Frog is the proposed State Amphibian of Senate Bill 1030. Their habitat is sandy areas in pine savannahs and in low wet woods and swamps (e.g., willow oak-blackgum, cypress swamps). When inactive during cold or dry season, it burrows under tree roots, vegetation, or in soil. Eggs and larvae develop in shallow water of ponds, swamps and bayheads. **Habitat protection and population monitoring is needed. In Florida, habitat alteration and excessive collecting for the pet trade are threats that may be responsible for declines.** To hear the barking tree frog, follow the link, scroll down and click

where indicated. http://www.wec.ufl.edu/extension/wildlife_info/frogstoads/hvla_gratiosa.php

I seek your support of Senate Bill 1030 to make Barking Tree Frogs a State Symbol.

Sincerely,

Larcenia J. Bullard
District 39

LJB/al

CC: Members of Environmental Preservation & Conservation Committee

REPLY TO:

- 8603 South Dixie Highway, Suite 304, Miami, Florida 33143 (305) 668-7344
- 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5127

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

BONN.KIM

From: YEATMAN.TOM
Sent: Monday, January 30, 2012 5:31 PM
To: BONN.KIM
Subject: FW: SB 1030 re: Barking Tree Frog

From: LANE.ANGELA.S39
Sent: Monday, January 30, 2012 3:27 PM
To: YEATMAN.TOM
Subject: SB 1030 re: Barking Tree Frog

Tom,

Senator Bullard would like to "TP" SB 1030. Please place a comment in the Chairman's notes.

Thanks!

Angela Lane

Office of Senator Bullard
218 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

850-487-5127 Phone

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 Environmental Preservation and Conservation Committee

BILL: SB 1030

INTRODUCER: Senator Bullard

SUBJECT: State Symbols/Barking Tree Frog

DATE: December 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Roam	Yeatman	EP	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill designates the Barking Tree Frog as the official state amphibian.

The bill creates section 15.03865 of the Florida Statutes.

II. Present Situation:

Currently, no amphibian is designated as the official state amphibian.

Chapter 15, F.S., designates official state emblems. To date, there are designations for a state tree, fruit, beverage, citrus archive, anthem, song, shell, stone, gem, wildflower, play, animal, freshwater fish, saltwater fish, marine mammal, saltwater mammal, butterfly, reptile, saltwater reptile, tortoise, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera program, renaissance festival, railroad museums, transportation museum, soil, fiddle contest, band, sports hall of fame, pie, maritime museum, and horse.

The Barking Tree Frog is one of the largest frogs found in the United States and is found primarily in Florida.¹ Because of their specially developed foot pads, Barking Tree Frogs spend the majority of their time climbing trees and can even climb the walls of aquariums.² However, they can also be found burrowing under tree roots.³ The color of the Barking Tree Frog varies greatly: from lime green to brown with some yellow and gold coloring on its throat, belly, and

¹ Barking Tree Frog Stats & Facts, <http://animal.discovery.com/guides/reptiles/frogs/barkingtreefrog.html> (last visited December 8, 2011).

² *Id.*

³ *Id.*

inside its hind legs.⁴ The Barking Tree Frog gets its name from the low-pitch noise it makes during the rainy season, which sounds similar to a dog's bark, or even a honking goose.⁵ This sound is only made by the males in the species.⁶

III. Effect of Proposed Changes:

Section 1 creates section 15.03865, of the Florida Statutes, to designate the Barking Tree Frog as the official state amphibian.

Section 2 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of State maintains a list on its website of all official state symbols.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* To hear the Barking Tree Frog, please visit: http://www.youtube.com/watch?v=W4vdf3B3_bY&feature=related.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial 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 Bullard

39-00877-12

20121030__

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A bill to be entitled
An act relating to state symbols; creating s.
15.03865, F.S.; designating the Barking Tree Frog as
the official state amphibian; providing an effective
date.

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

Section 1. Section 15.03865, Florida Statutes, is created
to read:

15.03865 Official state amphibian.—The Barking Tree Frog
(*Hyla gratiosa*) is designated the official state amphibian.

Section 2. This act shall take effect July 1, 2012.

3 ✓

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12

Meeting Date

Topic ALTERNATIVE PERMITS FOR ~~RESIDENTIAL~~ WATER SUPPLIES

Bill Number SB 1178
(if applicable)

Name KEYNA CORY

Amendment Barcode _____
(if applicable)

Job Title SENIOR LOBBYIST

Address 110 E. COLLEGE AVE.

Phone 850 681-1065

Street

TAMPAH ASSOCIATES FL 32301

City

State

Zip

E-mail Keynacory@paconsultants.com

Speaking: For Against Information

Representing ASSOCIATED INDUSTRIES OF 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 (10/20/11)

3

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/2012
Meeting Date

Topic Alternative Water Supply

Bill Number SB 1178
(if applicable)

Name Karen Peterson

Amendment Barcode _____
(if applicable)

Job Title _____

Address 310 West College Ave
Street
Tall, FL 32301
City State Zip

Phone 212-7485

E-mail Karen@BillPetbles.com

Speaking: For Against Information

Representing TOHO Water Authority

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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3

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Permits for Alternative Water Supply

Bill Number 1178
(if applicable)

Name Ryan Matthews

Amendment Barcode _____
(if applicable)

Job Title Leg. Advocate

Address 301 S. Bronough St. Suite 300
Street Tallahassee, FL 32302
City State Zip

Phone 850-222-9684

E-mail rmatthews@flcities.com

Speaking: For Against Information

Representing FL League of Cities

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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3

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-12

Meeting Date

Topic Alternative Water Supp. Bill Number 1178
(if applicable)

Name Diane Salz Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 2529 Goose Pond Ct Phone 850.339.8550

Street

Talla FL 32308

City

State

Zip

E-mail disalz@yahoo.com

Speaking: For Against Information

Representing Peace River Water Supply Authy

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 (10/20/11)

3

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-2012

Meeting Date

Topic 30 yr. permit

Bill Number 5B 1178
(if applicable)

Name Doug Mann

Amendment Barcode _____
(if applicable)

Job Title Littlejohn, Mann & Ass.

Address 310 W. College Ave.
Street

Phone 222-7535

Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing Am. WATER Works Ass.

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 (10/20/11)

3

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-12

Meeting Date

Topic CUPS

Bill Number SB 1178
(if applicable)

Name Stephanie Kunkel

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1830 Monador Rd.

Phone 850-320-4208

Street

Tallahassee FL 32303

E-mail Stef.Kunkel@gmail.com

City

State

Zip

Speaking: For Against Information

Representing Clean Water Action

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 (10/20/11)



THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/2012

Meeting Date

Topic _____

Bill Number 1178

(if applicable)

Name Leticia M Adams

Amendment Barcode _____

(if applicable)

Job Title Director of Infrastructure & Governance Policy

Address 136 South Bronough Street

Phone 850-521-1279

Street

Tallahassee FL 32301

E-mail ladams@flchamber.com

City

State

Zip

Speaking: For Against Information

Representing Florida Chamber of Commerce

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 (10/20/11)

3

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Alternative Water Supplies

Bill Number 1178
(if applicable)

Name Jon Steverson

Amendment Barcode _____
(if applicable)

Job Title Special Counsel on Policy and Legislative Affairs

Address 3900 Commonwealth Blvd.
Street

Phone (850) 245-2140

Tallahassee FL 32399
City State Zip

E-mail jonsteverson@DEP.state.fl.us

Speaking: For Against Information

Representing DEP

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/30/12 ³

Meeting Date

Topic Permits for Alt. Water Supply

Bill Number 1178

Name Ernie Barnett

Amendment Barcode 758314
(if applicable)

Job Title Director Everglades Recovery

Address 3301 Gun Club Rd

Phone 561 957 2840

Street
West Palm Bch FL 23404

E-mail ebarnett@sfwrmd.gov

City State Zip

Speaking: For Against Information

Representing SFWMD

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 (10/20/11)

APPEARANCE RECORD

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

3

Meeting Date

Topic ALT. WATER SUPPLIES

Bill Number 1178
(if applicable)

Name STEPHEN JAMES

Amendment Barcode _____
(if applicable)

Job Title _____

Address 100 S. MONROE

Phone 922-4300

Street

TALLAHASSEE

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing FLA. ASSOC. OF COUNTIES

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.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government
Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education
Appropriations
Children, Families, and Elder Affairs
Reapportionment

SENATOR D. ALAN HAYS
20th District

January 12, 2012

Senator Charles S. "Charlie" Dean, Sr., Chair
Environmental Preservation and Conservation Committee
302 Senate Office Building
325 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 1178 Relating to Permits for Alternative Water Supplies

Dear Chair Dean:

I respectfully request my above bill be heard before your committee. I believe the citizens of this state will benefit from this legislation.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator
District 20

CC: **Tom Yeatman**, *Staff Director*
Kim Bonn, *Committee Administrative Assistant*

REPLY TO:

☐ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Environmental Preservation and Conservation Committee

BILL: CS/SB 1178

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Hays

SUBJECT: Permits for Alternative Water Supplies

DATE: January 31, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	EP	Fav/CS
2.			CA	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The CS directs that alternative water supply (AWS) development projects are eligible for consumptive use permits (CUPs) of at least 30 years. The permits are subject to compliance reports and water management district (WMD) water shortage orders. The CS provides AWS permits may be reduced to prevent unanticipated harm to water resources or existing legal uses. The CS also specifies a CUP may not be issued for nonbrackish groundwater supplies or nonalternative water supplies. Lastly, the CS clarifies entities have the option to apply for at least 20-year permits or at least 30-year permits.

This CS substantially amends s. 373.236, of the Florida Statutes.

II. Present Situation:

Consumptive Use Permitting

Section 373.236(5), F.S., authorizes CUPs for the development of AWS projects. A WMD or the DEP may impose reasonable conditions as are necessary to assure that such use is consistent

with the overall objectives of the issuing WMD or the DEP and is not harmful to the water resources of the area.¹

A CUP establishes the duration and type of water use as well as the maximum amount that may be withdrawn. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the DEP and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as “the three-prong test.” Specifically, the proposed water use must:

- be a “reasonable-beneficial use” as defined in s. 373.019(16), F.S.;
- not interfere with any presently existing legal use of water; and
- be consistent with the public interest.

The Three-Prong Test

“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.”² The Legislature has declared water a public resource belonging to the public, therefore, wasteful uses of water are not allowed even if there are sufficient resources to meet all other users.

To that end, the DEP has promulgated the Water Resource Implementation Rule that incorporates interpretive criteria for implementing the reasonable-beneficial use standard based on common law and on water management needs.³ These criteria include consideration of the quantity of water requested; the need, purpose, and value of the use; and the suitability of the source. The criteria also consider the extent and amount of harm caused, whether that harm extends to other lands, and the practicality of mitigating that harm by adjusting the quantity or method of use. Particular consideration is given to the use or reuse of lower quality water, and the long-term ability of the source to supply water without sustaining harm to the surrounding environment and natural resources.⁴

The second element of the three-prong test protects the rights of existing legal uses of water for the duration of their permits.⁵ New CUPs cannot be issued if they would conflict with an existing legal use. This criterion is only protective of water users that actually withdraw water, not passive users of water resources.⁶

The final element of the three-prong test requires water use to be consistent with the “public interest.” While the DEP’s Water Resource Implementation Rule provides criteria for

¹ See s. 373.219, F.S.

² Section 373.019(16), F.S.

³ See generally rule 62-40, F.A.C.

⁴ *Southwest Florida Water Management District v. Charlotte County*, 774 So. 2d 903, 911 (Fla. 2d DCA 2001) (upholding the WMD’s use of criteria for implementing the reasonable-beneficial use standard).

⁵ Section 373.223(1)(b), F.S.

⁶ See *Harloff v. City of Sarasota*, 575 So. 2d 1324 (Fla. 2d DCA 1991) (holding a municipal wellfield was an existing legal user and should be afforded protection). In contrast, see *West Coast Regional Water Supply Authority v. Southwest Florida Water Management District*, 89 ER F.A.L.R. 166 (Final Order, Aug. 30, 1989) (holding a farmer who passively relied on a higher water table to grow nonirrigated crops and standing surface water bodies to water cattle was not an existing legal user).

determining the “public interest,” determination of a public interest is made on a case-by-case basis during the permitting process.⁷ However, the WMDs and the DEP have broad authority to determine which uses best serve the public interest if there are not sufficient resources to fulfill all applicants’ CUPs. In the event that two or more competing applications are deemed to be equally in the public interest, the WMDs or the DEP gives preference to renewal applications.⁸

Duration of Permits and Compliance Reviews

Pursuant to s. 373.236(1), F.S., CUPs must be granted for 20 years if requested by the applicant and there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. If either of these requirements is not met, a CUP with a shorter duration may be issued to reflect the period for which reasonable assurances can be provided. The WMDs and the DEP may determine the duration of permits based upon a reasonable system of classification according to the water source, the type of use, or both.

Pursuant to s. 373.236(4), F.S., when necessary to maintain “reasonable assurance” that initial conditions for issuance of a 20-year CUP can continue to be met, a WMD or the DEP may require a permittee to produce a compliance report every 10 years.⁹ A compliance report must contain sufficient data to maintain reasonable assurance that the initial permit conditions are met, including original demand projections. After reviewing a compliance report, a WMD or the DEP may modify the permit, including reductions or changes in the initial allocations of water, to ensure the water use comports with initial conditions for issuance of the CUP. Permit modifications made by a WMD or the DEP during a compliance review cannot be subject to competing applications for water use if the permittee is not seeking additional water allocations or changes in water sources.

Consumptive Use Permits for the Development of Alternative Water Supplies

Section 373.019(5), F.S., defines “alternative water supplies” as:

[S]alt water; brackish surface and groundwater; surface water captured predominately during wet-weather flows; sources made available through the addition of new storage capacity for surface or groundwater, water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; stormwater; and any other water supply source that is designated as nontraditional for a water supply planning region in the applicable regional water supply plan.

CUPs issued pursuant to s. 373.236(5), F.S., for the development of AWS must be issued for at least 20 years. If the permittee issues bonds to finance construction of the AWS project, the permit must be extended to expire upon retirement of the bonds if the permittee requests an extension during the term of the permit and the issuing WMD’s governing board determines the

⁷ *Supra* note 3.

⁸ *See* s. 373.233, F.S.

⁹ In limited instances, the statute authorizes more frequent “look backs”. For example, the Suwannee River WMD may require a compliance report every five years through July 1, 2015, after which the “look-back” period returns to 10 years.

use will continue to meet the CUP's conditions. Compliance reports may also be required every 10 years for CUPs issued for AWS projects. WMDs generally issue CUPS with a maximum term of 20 years for the development of AWS, although some 30-year CUPs for AWS projects have been issued.

III. Effect of Proposed Changes:

Section 1 amends s. 373.236, F.S., clarifying that AWS permits issued for at least 20 years are subject to the reasonable assurance provisions currently required by the DEP and WMDs. It directs the DEP or the WMDs to issue permits for the development of AWS projects for at least 30 years for permits issued on or after July 1, 2012, if the proper reasonable assurance is provided. If the permittee issues bonds to finance the project, completes the project and requests an extension of the CUP duration, the CUP must be extended for a maximum of seven years. This will allow the entity that develops the AWS project to operate the AWS project for 30 years after construction in order to repay 30-year bonds. The seven-year extension may be retroactively applied to any 30-year AWS permit issued between June 1, 2011, and July 1, 2012.

CUPs issued pursuant to this CS are subject to compliance reports; however, the quantity of alternative water allocated under the permit cannot be reduced during the compliance review if bonds that financed the project are outstanding. This provision does not apply to adopted districtwide water shortage orders or when an AWS permit results in unanticipated harm to water resources or existing legal uses.

The CS clarifies that CUPs cannot be issued for AWS projects for nonbrackish groundwater supplies (i.e., fresh water) or nonalternative water supplies. It also clarifies that entities may apply for an AWS permit under either s. 373.236(5)(a) or (b), F.S.

Section 2 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Most bonds issued to fund the capital construction costs of an AWS project are 30-year bonds; however, most AWS CUPs are only issued for 20 years. This discrepancy may affect the interest rate the AWS developer has to pay to launch the bonds. The impact of this is indeterminate but may be significant if the uncertainty in renewing a 20-year CUP for a 30-year bond has significant weight in the rating agencies' models. For example, an A-rated \$100 million bond may cost \$7-10 million more over the life of the bond as compared to an AAA-rated bond. Also, by allowing an up to seven-year extension under certain circumstances, AWS developers will be able to operate the AWS project without having to reapply for a CUP at the end of the initial 30-year duration. This will ensure operation of the AWS project for a full 30-year term.

C. Government Sector Impact:

The CS may have a negative but indeterminate effect on permit revenues for the DEP or the WMDs; however, any impacts are expected to be met by existing staff and resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

By the Legislature's amending this section to explicitly require reasonable assurance for a variety of CUPs, a court may find that the Legislature implicitly excluded the necessity to provide reasonable assurance for a 50-year permit for certain public or government works. It would be the only permit category left out of reasonable assurance requirements of s. 373.236, F.S. Currently the WMDs require reasonable assurance for the up to 50-year permit.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Environmental Preservation and Conservation on January 30, 2012:

- Clarifies reasonable assurance must be provided for the at least 20-year permit;
- Deletes the list of entities that may apply for an extended AWS permit;
- Applies the seven-year extension retroactively to AWS permits issued between June 1, 2011, and July 1, 2012; and
- Provides for necessary permit allotment reductions if the permit results in unanticipated harm to the resource or existing legal uses.

B. Amendments:

None.



758314

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation
(Detert) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) of section 373.236, Florida
Statutes, is amended to read:

373.236 Duration of permits; compliance reports.—

(5) (a) Permits approved for the development of alternative
water supplies shall be granted for a term of at least 20 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. However, if the permittee issues bonds for the



758314

13 construction of the project, upon request of the permittee
14 before ~~prior to~~ the expiration of the permit, the ~~that~~ permit
15 shall be extended for such additional time as is required for
16 the retirement of bonds, not including any refunding or
17 refinancing of such bonds, if ~~provided that~~ the governing board
18 determines that the use will continue to meet the conditions for
19 the issuance of the permit. Such a permit is subject to
20 compliance reports under subsection (4).

21 (b)1. Permits approved after July 1, 2012, for the
22 development of alternative water supplies shall be granted for a
23 term of at least 30 years if there is sufficient data to provide
24 reasonable assurance that the conditions for permit issuance
25 will be met for the duration of the permit. If, within 7 years
26 after a permit is granted, the permittee issues bonds to finance
27 the project, completes construction of the project, and requests
28 an extension of the permit duration, the permit shall be
29 extended to expire upon the retirement of such bonds or 30 years
30 after the date construction of the project is complete,
31 whichever occurs later. However, a permit's duration may not be
32 extended by more than 7 years beyond the permit's original
33 expiration date. A 7-year permit extension, as described in this
34 subparagraph, shall be applicable to any 30-year permit for the
35 development of alternative water supplies granted between June
36 1, 2011, and July 1, 2012.

37 2. Permits issued under this paragraph are subject to
38 compliance reports under subsection (4). However, if the
39 permittee demonstrates that bonds issued to finance the project
40 are outstanding, the quantity of alternative water allocated in
41 the permit may not be reduced during a compliance report review



758314

42 unless a reduction is needed to address unanticipated harm to
43 water resources or to existing legal uses present when the
44 permit was issued. A reduction required by an applicable water
45 shortage order shall apply to permits issued under this
46 paragraph.

47 3. Permits issued under this paragraph may not authorize
48 the use of nonbrackish groundwater supplies or nonalternative
49 water supplies.

50 (c) Entities that wish to develop alternative water
51 supplies may apply for a permit under paragraph (a) or paragraph
52 (b).

53 Section 2. This act shall take effect July 1, 2012.

54
55
56 ===== T I T L E A M E N D M E N T =====

57 And the title is amended as follows:

58 Delete everything before the enacting clause
59 and insert:

60 A bill to be entitled

61 An act relating to permits for alternative water supplies;
62 amending s. 373.236, F.S.; specifying conditions of issuance;
63 requiring that certain permits approved for the development of
64 alternative water supplies by certain entities be granted for at
65 least 30 years; requiring that such permits be extended under
66 specified conditions; providing for a reduction in permitted
67 water quantities during compliance reviews under certain
68 circumstances; excluding from application of the act a permit
69 for nonbrackish groundwater or nonalternative water supplies;
70 providing an option for the duration of an alternative water



758314

71 supply permit to a county, special district, regional water
72 supply authority, multijurisdictional water supply entity, or
73 publicly or privately owned utility; providing an effective
74 date.
75

By Senator Hays

20-00477C-12

20121178

1 A bill to be entitled
2 An act relating to permits for alternative water
3 supplies; amending s. 373.236, F.S.; requiring that
4 certain permits approved for the development of
5 alternative water supplies by certain entities be
6 granted for 30 years; requiring that such permit be
7 extended under specified conditions; prohibiting a
8 reduction in permitted water quantities during the
9 extension of the permit; excluding from application of
10 the act a permit for nonbrackish groundwater or
11 nonalternative water supplies; providing an option for
12 the duration of an alternative water supply permit to
13 a county, special district, regional water supply
14 authority, multijurisdictional water supply entity, or
15 publicly or privately owned utility; providing an
16 effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsection (5) of section 373.236, Florida
21 Statutes, is amended to read:

22 373.236 Duration of permits; compliance reports.—

23 (5) (a) Permits approved for the development of alternative
24 water supplies shall be granted for a term of at least 20 years.
25 However, if the permittee issues bonds for the construction of
26 the project, upon request of the permittee before ~~prior to~~ the
27 expiration of the permit, that permit shall be extended for such
28 additional time as is required for the retirement of bonds, not
29 including any refunding or refinancing of such bonds, provided

20-00477C-12

20121178

30 that the governing board determines that the use will continue
31 to meet the conditions for the issuance of the permit. Such a
32 permit is subject to compliance reports under subsection (4).

33 (b)1. Permits approved on or after July 1, 2011, for the
34 development of alternative water supplies by a county, special
35 district, regional water supply authority, multijurisdictional
36 water supply entity, or publicly or privately owned utility
37 shall be granted for a term of at least 30 years. If, within 7
38 years after a permit is granted, the permittee issues bonds to
39 finance the project, completes construction of the project, and
40 requests an extension of the permit duration, the permit shall
41 be extended to expire upon the retirement of such bonds or 30
42 years after the date construction of the project is complete,
43 whichever occurs later. However, the duration of the permit may
44 not be extended more than 7 years after the original expiration
45 date of the permit.

46 2. A permit issued under this paragraph is subject to
47 compliance reports under subsection (4). However, the quantity
48 of alternative water allocated under the permit may not be
49 reduced during a compliance report review if the permittee
50 demonstrates that bonds issued to finance the project are
51 outstanding. Any quantity reductions required by an adopted
52 districtwide water shortage order apply to permits issued under
53 this paragraph.

54 3. A permit issued under this paragraph may not authorize
55 the use of nonbrackish groundwater supplies or nonalternative
56 water supplies.

57 (c) A county, special district, regional water supply
58 authority, multijurisdictional water supply entity, or publicly

20-00477C-12

20121178__

59 or privately owned utility may apply for an alternative water
60 supply permit under paragraph (a) or paragraph (b).

61 Section 2. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security,
Chair
Budget - Subcommittee on Finance and Tax,
Vice Chair
Budget
Budget - Subcommittee on Higher Education
Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Higher Education
Reapportionment
Regulated Industries

SENATOR THAD ALTMAN
24th District

January 18, 2012

The Honorable Charles Dean, Chairman
Committee on Environmental Preservation and Conservation
302 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Dean:

Senate Bill 1858, relating to Water Storage and Water Quality Improvements, has been referred to your committee for the first committee of reference.

I respectfully request SB 1858 be placed on the Environmental Preservation and Conservation committee agenda at your earliest convenience. Thank you for your consideration and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Thad Altman".

Thad Altman

TA/kj

cc: Tom Yeatman, Staff Director
325 Knott Building

REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5053

Senate's Website: www.flsenate.gov

MIKE HARIDOPoulos
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

4

THE FLORIDA SENATE APPEARANCE RECORD

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

1/30/12

Meeting Date

Topic WATER STORAGE

Bill Number SB 1858
(if applicable)

Name KEYNA CORY

Amendment Barcode _____
(if applicable)

Job Title SENIOR LOBBYIST

Address 110 E. COLLEGE AVE

Phone 850 681-1065

Street

TALLAHASSEE FL 32301

City

State

Zip

E-mail keynacory@pacconsultants.com

Speaking: For Against Information

Representing ASSOCIATED INDUSTRIES OF 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 (10/20/11)

4

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-30-12

~~8-20-12~~
~~8-21-12~~
~~8-22-12~~
~~8-23-12~~

Meeting Date

Topic Water Storage

Bill Number SB 1858
(if applicable)

Name Stephanie Kunkel

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1830 Moriadoc Rd

Phone 850-320-4208

Street

Tallahassee, FL 32303

City

State

Zip

E-mail Stef.Kunkel@gmail.com

Speaking: For Against Information

Representing Clean Water Action

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 (10/20/11)

4

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/30/12

Meeting Date

Topic Ag Water Storage

Bill Number 1858
(if applicable)

Name Ernie Barnett

Amendment Barcode _____
(if applicable)

Job Title Director Water Policy

Address 3301 Gun Club Rd

Phone 561 951 2840

West Palm Bch Fl 33406
City State Zip

E-mail ebarnett@sfwmd.gov

Speaking: For Against Information

Representing SFWMD

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 (10/20/11)

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 Environmental Preservation and Conservation Committee

BILL: CS/SB 1858

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Altman

SUBJECT: Water Storage and Water Quality Improvements

DATE: January 30, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	EP	Fav/CS
2.			AG	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The CS specifies legislative intent to encourage public-private partnerships for water storage and water quality improvements on agricultural lands throughout the state. The CS specifies that any agreement must include a baseline condition to determine the extent of wetlands and other surface waters on a property. Lastly, the CS specifies that during and after expiration of any agreement the extent of the wetlands and other surface waters on the property is the original baseline condition.

This CS creates s. 373.4591 of the Florida Statutes.

II. Present Situation:

Dispersed Water Storage

Section 373.4595(1)(n), F.S., encourages and supports the development of creative public-private partnerships and programs, including opportunities for water storage and quality improvement on private lands and water quality credit trading, to facilitate or further the restoration of the surface water resources of the Lake Okeechobee watershed, the

Caloosahatchee River watershed and the St. Lucie River watershed. During periods of abnormally high rainfall, agricultural lands in normal production can provide temporary water storage that protects urban areas from flooding. In many regions of South Florida, significant areas of agricultural lands lie fallow during a large part of the wet season. In these areas, the fields alleviate flood conditions. Also, ranch areas containing both improved and unimproved pasture lands may provide flood protection to urban areas by retaining water on these lands as part of normal farming operations. The ability to hold floodwaters on agricultural lands for longer periods than water can be held in an urban setting also assists the overall hydrologic system in maintaining recharge rates over more extended periods of time and limiting runoff.

Since 2005, the South Florida Water Management District (SFWMD) has been working with a number of agencies, environmental organizations and private land holders to store excess surface water on private, public and tribal lands.¹ The Dispersed Water Management Program encourages property owners to retain water on their lands rather than drain it, accept and detain regional runoff, or do both. Management of the water reduces the amount of water delivered into Lake Okeechobee during the wet season and discharged to coastal estuaries for flood protection. The SFWMD defines “dispersed water” as shallow water distributed across parcel landscapes using simple structures.² Private landowner involvement typically includes cost-share cooperative projects, easements or payment for environmental services. However, owners of agricultural lands are hesitant to provide their lands for water storage or water quality improvements that create wetlands or other surface waters on their property due to the fear that once the agreement expires they may be required to mitigate impacts to these created wetlands or surface waters, or that they may be precluded altogether from carrying out other activities on their lands in the future that may impact these created wetlands or surface waters.

As of October 2011, 131,500 acre-feet of water retention or storage has been made available through a combination of public and private projects. There are more than 100 participating landowners providing water retention or storage ranging from 1 acre-foot to 30,000 acre-feet. An additional 230,000 acre-feet of storage has been assessed for planned dispersed water projects.³

There are many benefits to dispersed water storage. Nutrients, especially phosphorous, are polluting Lake Okeechobee and the Everglades. Dispersed storage retains more water on the land during the wet season to avoid agricultural runoff containing heavy nutrient loads from entering sensitive water bodies. In addition, it limits large volumes of water from being discharged into Lake Okeechobee and subsequent discharges to downstream estuaries. Lastly, by allowing more natural hydrology, dispersed storage enhances aquifer recharge and rehydrates former wetlands.⁴

Wetland Delineation in Florida

Wetlands are lands that are neither dry nor covered by open water but continually influenced by water. At times wetlands may be dry for months or even years, or they may be covered with

¹ South Florida Water Management District, *Dispersed Water Management Program* (Oct. 2011), available at http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/jtf_dispersed_water_mgmt.pdf (last visited Jan. 25, 2012).

² *Id.*

³ *Id.*

⁴ *Id.*

water the majority of the time, only drying out for short periods.⁵ They can be difficult to identify and delineate due to their varying nature. The delineation of wetlands is governed by s. 373.421, F.S., and rule 62-340.300 of the Florida Administrative Code (F.A.C.).

Trained professionals can identify and delineate wetlands from uplands by looking for unique traits found only in wetlands. Certain plants and plant adaptations, surface and subsurface soil characteristics and physical markings in the environment, such as water staining, are all indicators of wetlands.⁶ The methodology and vegetation list outlined in rule 62-340.300, F.A.C., are used by all state and local government entities in Florida.⁷

III. Effect of Proposed Changes:

Section 1 creates s. 373.4591, F.S., encouraging public-private partnerships to accomplish water storage and water quality improvements on private agricultural lands throughout the state. The CS directs that when agreements are entered into between the DEP or a WMD and a private entity, a baseline condition of the extent of wetlands and other surface waters prior to any constructed improvements must be included in the agreement. The baseline condition determination must be completed pursuant to s. 373.421, F.S., relating to the delineation of wetlands. During and at the expiration of an agreement, the baseline condition contained in the agreement is the extent of the wetlands or other surface waters for the purpose of regulation.

Section 2 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁵ Dep't of Environmental Protection, *Florida State of the Environment – Wetlands: A Guide to Living with Florida's Wetlands*, available at <http://www.dep.state.fl.us/water/wetlands/docs/erp/fsewet.pdf> (last visited Jan. 25, 2012).

⁶ *Id.* at 1-2.

⁷ Rule 62-340, F.A.C., was ratified by the Florida legislature in 1994 as s. 373.4211, F.S., to ensure all statewide agencies could use this method.

B. Private Sector Impact:

The CS may allow agricultural landowners by to increase water storage and enhance water quality on their lands without incurring additional wetland regulation. In addition some landowners may be paid for the environmental services they are providing to the state for the environmental benefits that come from holding more water on the land.

C. Government Sector Impact:

Environmental restoration is extremely expensive. The least costly method to achieve environmental benefits is prevention. By encouraging private land owners to store water, the CS may result in significant savings to agencies responsible for environmental protection and restoration by limiting fresh water discharges and pollutants contained in runoff. In addition, dispersed water storage results in increased shallow groundwater recharge which may minimize the need for costly alternative water supply development projects in some areas. The total impact of the CS is dependent on how many additional acre-feet of water storage are created. Therefore, the impact is indeterminate but may be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Environmental Preservation and Conservation on January 30, 2012:**

- Authorizes the program statewide instead of only in the Lake Okeechobee watershed;
- Clarifies the DEP and WMDs are the entities that may contract with private landowners; and
- Specifies the baseline condition applies during and after expiration of an agreement.

B. Amendments:

None.



901428

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation
(Detert) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 373.4591, Florida Statutes, is created
to read:

373.4591 Improvements on private agricultural lands.—The
Legislature encourages public-private partnerships to accomplish
water storage and water quality improvements on private
agricultural lands. When an agreement is entered into between a
water management district or the department and a private
landowner to establish such a partnership, a baseline condition



901428

13 determining the extent of wetlands and other surface waters on
14 the property shall be established and documented in the
15 agreement before improvements are constructed. The determination
16 for the baseline condition shall be conducted using the methods
17 set forth in the rules adopted pursuant to s. 373.421. The
18 baseline condition documented in the agreement shall be
19 considered the extent of wetlands and other surface waters on
20 the property for the purpose of regulation under this chapter
21 for the duration of the agreement and after its expiration.

22 Section 2. This act shall take effect July 1, 2012.

23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete everything before the enacting clause
27 and insert:

28 A bill to be entitled

29 An act relating to water storage and water quality
30 improvements; creating s. 373.4591, F.S.; requiring a
31 specified determination as a condition of an agreement
32 for water storage and water quality improvements on
33 private agricultural lands; providing a methodology
34 for such determination; providing for regulation of
35 such lands for the duration of the agreement and after
36 its expiration; providing an effective date.

By Senator Altman

24-00943-12

20121858

1 A bill to be entitled
2 An act relating to water storage and water quality
3 improvements; creating s. 373.4591, F.S.; requiring a
4 specified determination as a condition of an agreement
5 for water storage and water quality improvements on
6 private agricultural lands in the Lake Okeechobee
7 watershed; providing a methodology for such
8 determination; providing for regulation of such lands
9 after expiration of the agreement; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 373.4591, Florida Statutes, is created
15 to read:

16 373.4591 Improvements on private agricultural lands in the
17 Lake Okeechobee watershed.—The Legislature encourages public-
18 private partnerships to accomplish water storage and water
19 quality improvements on private agricultural lands in the Lake
20 Okeechobee watershed. When agreements are entered into to
21 establish such partnerships, a baseline condition determining
22 the extent of wetlands and other surface waters on the property
23 shall be established and documented in the agreement before
24 improvements are constructed. The determination for the baseline
25 condition shall be conducted using the methods set forth in the
26 rules adopted pursuant to s. 373.421. The baseline condition
27 documented in the agreement shall be considered the extent of
28 wetlands and other surface waters on the property for the
29 purpose of regulation under this chapter after the expiration of

24-00943-12

20121858__

30 the agreement.

31 Section 2. This act shall take effect July 1, 2012.



The Florida Senate

Committee Agenda Request

To: Senator Charles S. "Charlie" Dean, Sr., Chair
Committee on Environmental Preservation and Conservation

Subject: Committee Agenda Request

Date: December 9, 2011

I respectfully request that **Senate Bill #652**, relating to parasailing, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Senator Dennis L. Jones, D.C.
Florida Senate, District 13

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 Environmental Preservation and Conservation Committee

BILL: SB 652

INTRODUCER: Senator Jones

SUBJECT: Commercial Parasailing

DATE: January 22, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Pre-meeting
2.			BI	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill provides standards for commercial parasailing and revises definitions related to the new standards. The bill provides requirements for conducting parasailing, specifies gear requirements and outlines locations and weather conditions in which commercial parasailing is prohibited. The bill requires the owner of a vessel engaged in commercial parasailing to carry liability insurance and specifies the minimum amount of coverage required. The bill also provides for a criminal penalty for violations of the commercial parasailing provisions.

The bill amends ss. 320.08, 327.02, 327.391, 328.17, 342.07, 713.78, and 715.07, and creates s. 327.375 of the Florida Statutes.

II. Present Situation:

The Florida Fish and Wildlife Conservation Commission ¹(FWC) estimates that there are 70 to 120 active commercial parasail operators in Florida. Most parasail businesses operate along the Atlantic Ocean and Gulf of Mexico coastlines. Presently, no state law specifically regulates commercial parasailing activities. Section 327.37, F.S., references parasailing and provides general guidelines for parasailing that include:

- requiring the person operating the vessel that is towing a person involved in parasailing observe the progress of the person being towed by utilizing a designated observer;
- prohibits parasailing between the hours from one-half hour after sunset to one-half hour before sunrise;
- requires wearing a personal flotation device;

¹ Florida Fish and Wildlife Conservation Commission’s staff analysis, SB 0652, dated 12/19/11.

- prohibits operating any vessel in such a way as to cause the parasailer to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, or other similar objects specified in statute;
- prohibits operating any vessel towing a parasail or engaged in parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway; and
- other requirements outlined in statute.

A violation of section 327.37 F.S., is a noncriminal infraction specified in section 327.73, F.S., which in part states:

“Any person cited for a violation of any such provision shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the boating laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S. A written warning to this effect shall be provided at the time such uniform boating citation is issued.”

According to the FWC, the Federal Aviation Administration (FAA) currently regulates parasails as “kites,” because a parasail is a parachute held aloft by wind resulting from the movement of the boat towing it. The FAA regulates kites only to the extent that they are objects in airspace. The regulations govern the distance from ground kites can fly, acceptable operating times, cloud cover limitations, ground visibility requirements, and airspace monitoring notice requirements. If needed, parasail operators may obtain a Certificate of Authorization or a waiver from FAA that allows them to deviate from the above mentioned regulations (e.g. visibility less than 2 miles, wind speed greater than 20 mph, restricted airspace, or less than 5 miles from an airport).

If proposed parasail operations are conducted within 5 miles of an airport, the holder of a Certificate of Waiver or Authorization shall contact the Air Traffic Control tower at least one week prior to conducting parasail operations for the purposes of providing real-time notice of activities. The notice must include the proposed area of operation, duration of activity, and altitude of parasail.

The US Coast Guard (USCG) regulates vessels towing parasails as commercial passenger vessels when operated on navigable waters. Navigable waters include oceans and navigable coastal and inland waters, lakes, rivers, and streams. The USCG initiates vessel inspections of all commercial passenger vessels based upon vessel type, number of passengers, and operator licensing.

According to the FWC, a person operating a vessel used for commercial parasailing on the waters of the State is required to have a current and valid license issued by the USCG authorizing that person to engage in carrying passengers for hire. The license must be carried on the vessel and be available for inspection while commercial parasailing activities are conducted.

Parasailing accidents have the potential for severe consequences. From 2001-2011, seven parasailing accidents occurred in Florida, resulting in four fatalities. The most recent reported parasailing accident that resulted in a fatality occurred in Pinellas County in September 2010, when a towline snapped. The accident victims made a water landing, but then the parasail re-inflated and dragged them toward the beach. One subject was able to disconnect from the parasail, but the other victim was dragged onto the beach where she collided with a volleyball net post. She died as a result of her injuries.

Based on FWC reports, the majority of accidents are related to towline separations as a result of poor weather and/or equipment failures.

Florida's Sunrise Act

Section 11.62, F.S., provides guiding principles for the establishment of new regulatory programs for professions and occupations. Subsection (3) provides that in determining whether to regulate a profession or occupation, the Legislature shall consider certain factors, including: whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare; whether the practice of the profession or occupation requires specialized skill or training; whether the regulation will have an unreasonable effect on job creation or job retention in the state; and whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

Subsection (4) of s. 11.62, F.S., provides that the proponents of legislation that provides for the regulation of a profession or occupation not already subject to state regulation shall provide, *upon request*, certain information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees to which the legislation is referred. Similarly, subsection (5) provides that the agency shall provide the Legislature with information concerning the effect of proposed legislation that provides for new regulation of a profession or occupation, including the resources necessary to implement and enforce the proposed regulation.

III. Effect of Proposed Changes:

Section 1 amends s. 327.02, F.S., to define commercial parasailing as providing or offering to provide, for payment, any activity involving the towing of a person by a motorboat when:

- one or more persons are tethered to the towing vessel;
- the person or persons ascend above the water; and
- the person or persons remain suspended above the water while the vessel is underway.

It defines the term “support system” which is part of the equipment used in parasailing. It also provides a standard definition for “sustained wind speed.”

Section 2 creates s. 327.375, F.S., to provide the following guidelines for commercial parasailing:

- the owner of a vessel engaged in commercial parasailing is required to carry insurance against an accident, loss, injury, property damage, or other casualty caused by or resulting from the commercial parasailing activity;
- the policy shall provide minimum coverage of \$1 million per person and \$2 million per event;
- commercial parasail operators may only be able to launch riders from and recover riders to the vessel, and not from land or a dock;
- a person engaged in commercial parasailing must have a valid license issued by the USCG authorizing that person to engage in carrying passengers for hire;
- a person is not permitted to operate a vessel for commercial parasailing unless an observer 18 years or older, who is not a customer and has no other duties, is present in the vessel at all times to monitor the airborne parasail rider and parachute;
- a person may not operate any vessel engaged in parasailing unless all riders wear a USCG approved personal flotation device that is in serviceable condition and of the proper size;
- the vessel must be in full compliance with all USCG requirements related to crew and equipment including a functional VHF marine transceiver and a separate electronic device capable of access to National Weather Service forecasts and current weather conditions;
- no more than three persons may be permitted to be tethered to the towing vessel and ascend above the water at any time;
- prohibits commercial parasail activity on any coastal waters of the state less than 1,800 feet from the shore, including the vessel, towline, and rider;
- prohibits a person from operating a vessel towing a commercial parasailing rider so that the vessel, towline, or riders comes within 400 feet of an anchored vessel; a person in the water; or a structure, bridge, power line, wharf, pier, dock, buoy, platform, piling, marker, or other similar fixed object;
- prohibits commercial parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway;
- prohibits commercial parasailing when current sustained winds or forecasted sustained winds of 20 mph or higher are present in the area of operation;
- prohibits commercial parasailing during reduced visibility of 0.5 miles;
- prohibits commercial parasailing within 7 miles of a known lightning storm;
- requires the vessel captain to maintain a weather log and record the prevailing and forecasted weather conditions each time passengers are taken out on the water;
- towlines would have to be rated for a tensile strength that exceeds 4800 pounds;
- towlines used for commercial parasailing would not be permitted to exceed 500 feet in length.

Each passenger and parasail rider would have to be given a safety briefing before embarking or before the parasail activities commence. The bill provides for the safety briefing to include a description of the equipment, the parasail activity, inherent risks, and instruction on how to safely evacuate from the passenger support during a water landing. A person operating a vessel for commercial parasailing may not engage in parasailing activities one half hour after sunset to one half hour before sunrise.

Subsection (4) of s. 327.375, F.S., provides that a violation of any of the commercial parasailing provisions in this bill would be a second degree misdemeanor punishable as provided in

s. 775.082, F.S., or s. 775.083, F.S. Misdemeanors of the second degree are punishable by imprisonment of up to 60 days and/or a fine of up to \$500.

Section 3 amends s. 320.08, F.S., to correct a cross-reference.

Section 4 amends s. 327.391, F.S., to correct a cross-reference.

Section 5 amends s. 328.17, F.S., to correct a cross-reference.

Section 6 amends s. 342.07, F.S., to correct a cross-reference.

Section 7 amends s. 713.78, F.S., to correct a cross-reference.

Section 8 amends s. 715.07, F.S., to correct a cross-reference.

Section 9 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to insurance industry experts, commercial parasailing operators in Florida will incur additional costs for acquiring the necessary insurance coverage. It is difficult to estimate those overall costs because they will vary with each operator's claims history and current coverage amounts. The approximate cost to the operator for \$1 million per person and \$2 million per event is between \$8-11,000 annually.

Some operators may have to purchase a different towline. Towlines that meet the minimum specifications described in the bill the costs range from approximately \$500 to \$800.

Additional operating costs should be minimal because most operators are already complying on a voluntary basis with most of the regulations contained in the bill.

These additional regulations may reduce tort liability of commercial parasail operators

C. Government Sector Impact:

According to the FWC, there may be a minor fiscal impact from costs associated with providing information to current commercial parasailing operators and responding to inquires related to the new regulations and how operators may come into compliance. These costs can be absorbed by FWC's current budget. However if the bill has its intended effect, it is possible that accident investigations will decline, thus reducing FWC's law enforcement workload and costs.

There is no known fiscal impact on other state agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Jones

13-00234A-12

2012652__

1 A bill to be entitled
2 An act relating to commercial parasailing; amending s.
3 327.02, F.S.; defining terms; creating s. 327.375,
4 F.S.; requiring the owner of a vessel engaged in
5 commercial parasailing to obtain and carry an
6 insurance policy; providing minimum coverage
7 requirements for the insurance policy; providing
8 requirements for proof of insurance; specifying the
9 insurance information that must be provided to each
10 rider; providing for the launch from and recovery of
11 riders to a towing vessel; requiring a person engaged
12 in operating a vessel for commercial parasailing to
13 have certain licenses; requiring the presence of an
14 observer; requiring certain equipment; authorizing up
15 to three persons to be tethered to the towing vessel;
16 prohibiting commercial parasailing in certain areas,
17 under certain weather conditions, and during certain
18 hours; providing requirements for a towline; requiring
19 a safety briefing for passengers and parasail riders;
20 providing a penalty; amending ss. 320.08, 327.391,
21 328.17, 342.07, 713.78, and 715.07, F.S.; conforming
22 cross-references to changes made by the act; providing
23 an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 327.02, Florida Statutes, is amended to
28 read:

29 327.02 Definitions of terms used in this chapter and in

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chapter 328.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(1) "Airboat" means a vessel that is primarily designed for use in shallow waters and powered by an internal combustion engine with an airplane-type propeller mounted above the stern and used to push air across a set of rudders.

(2) "Alien" means a person who is not a citizen of the United States.

(3) "Boating accident" means a collision, accident, or casualty involving a vessel in or upon, or entering into or exiting from, the water, including capsizing, collision with another vessel or object, sinking, personal injury, death, disappearance of any person from on board under circumstances that ~~which~~ indicate the possibility of death or injury, or property damage to any vessel or dock.

(4) "Canoe" means a light, narrow vessel with curved sides and with both ends pointed. A canoe-like vessel with a transom may not be excluded from the definition of a canoe if the width of its transom is less than 45 percent of the width of its beam or it has been designated as a canoe by the United States Coast Guard.

(5) (a) "Commercial parasailing" means providing or offering to provide, for consideration, any activity involving the towing of a person by a motorboat when:

1. One or more persons are tethered to the towing vessel;
2. The person or persons ascend above the water; and
3. The person or persons remain suspended under a canopy above the water while the vessel is underway.

(b) The term does not include ultralight glider towing

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59 conducted under the Federal Aviation Administration rules
60 governing ultralight air vehicles as defined in 14 C.F.R. part
61 103.

62 (6)~~(5)~~ "Commercial vessel" means:

63 (a) Any vessel primarily engaged in the taking or landing
64 of saltwater fish or saltwater products or freshwater fish or
65 freshwater products, or any vessel licensed pursuant to s.
66 379.361 from which commercial quantities of saltwater products
67 are harvested, from within and without the waters of this state
68 for sale either to the consumer, retail dealer, or wholesale
69 dealer.

70 (b) Any other vessel, except a recreational vessel as
71 defined in this section.

72 (7)~~(6)~~ "Commission" means the Fish and Wildlife
73 Conservation Commission.

74 (8)~~(7)~~ "Dealer" means any person authorized by the
75 Department of Revenue to buy, sell, resell, or otherwise
76 distribute vessels. Such person shall have a valid sales tax
77 certificate of registration issued by the Department of Revenue
78 and a valid commercial or occupational license required by any
79 county, municipality, or political subdivision of the state in
80 which the person operates.

81 (9)~~(8)~~ "Division" means the Division of Law Enforcement of
82 the Fish and Wildlife Conservation Commission.

83 (10)~~(9)~~ "Documented vessel" means a vessel for which a
84 valid certificate of documentation is outstanding pursuant to 46
85 C.F.R. part 67.

86 (11)~~(10)~~ "Floating structure" means a floating entity, with
87 or without accommodations built thereon, which is not primarily

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88 used as a means of transportation on water but which serves
89 purposes or provides services typically associated with a
90 structure or other improvement to real property. The term
91 "floating structure" includes, but is not limited to, each
92 entity used as a residence, place of business or office with
93 public access, hotel or motel, restaurant or lounge, clubhouse,
94 meeting facility, storage or parking facility, mining platform,
95 dredge, dragline, or similar facility or entity represented as
96 such. Floating structures are expressly excluded from the
97 definition of the term "vessel" provided in this section.
98 Incidental movement upon water or resting partially or entirely
99 on the bottom shall not, in and of itself, preclude an entity
100 from classification as a floating structure.

101 (12)~~(11)~~ "Florida Intracoastal Waterway" means the Atlantic
102 Intracoastal Waterway, the Georgia state line north of
103 Fernandina to Miami; the Port Canaveral lock and canal to the
104 Atlantic Intracoastal Waterway; the Atlantic Intracoastal
105 Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to
106 Fort Myers; the St. Johns River, Jacksonville to Sanford; the
107 Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf
108 Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to
109 Anclote open bay section (using Gulf of Mexico); the Gulf
110 Intracoastal Waterway, Carrabelle to the Alabama state line west
111 of Pensacola; and the Apalachicola, Chattahoochee, and Flint
112 Rivers in Florida.

113 (13)~~(12)~~ "Homemade vessel" means any vessel built after
114 October 31, 1972, for which a federal hull identification number
115 is not required to be assigned by the manufacturer pursuant to
116 federal law, or any vessel constructed or assembled prior to

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117 November 1, 1972, by other than a licensed manufacturer for his
118 or her own use or the use of a specific person. A vessel
119 assembled from a manufacturer's kit or constructed from an
120 unfinished manufactured hull shall be considered to be a
121 homemade vessel if such a vessel is not required to have a hull
122 identification number assigned by the United States Coast Guard.
123 A rebuilt or reconstructed vessel shall in no event be construed
124 to be a homemade vessel.

125 (14)~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used
126 primarily as a residence for a minimum of 21 days during any 30-
127 day period, in a county of this state, and this residential use
128 of the vessel is to the preclusion of the use of the vessel as a
129 means of transportation.

130 (15)~~(14)~~ "Length" means the measurement from end to end
131 over the deck parallel to the centerline excluding sheer.

132 (16)~~(15)~~ "Lien" means a security interest that ~~which~~ is
133 reserved or created by a written agreement recorded with the
134 Department of Highway Safety and Motor Vehicles pursuant to s.
135 328.15 which secures payment or performance of an obligation and
136 is generally valid against third parties.

137 (17)~~(16)~~ "Lienholder" means a person holding a security
138 interest in a vessel, which interest is recorded with the
139 Department of Highway Safety and Motor Vehicles pursuant to s.
140 328.15.

141 (18)~~(17)~~ "Live-aboard vessel" means:

142 (a) Any vessel used solely as a residence and not for
143 navigation;

144 (b) Any vessel represented as a place of business or a
145 professional or other commercial enterprise; or

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146 (c) Any vessel for which a declaration of domicile has been
147 filed pursuant to s. 222.17.

148

149 A commercial fishing boat is expressly excluded from the term
150 "live-aboard vessel."

151 (19)~~(18)~~ "Livery vessel" means any vessel leased, rented,
152 or chartered to another for consideration.

153 (20)~~(19)~~ "Manufactured vessel" means any vessel built after
154 October 31, 1972, for which a federal hull identification number
155 is required pursuant to federal law, or any vessel constructed
156 or assembled prior to November 1, 1972, by a duly licensed
157 manufacturer.

158 (21)~~(20)~~ "Marina" means a licensed commercial facility that
159 ~~which~~ provides secured public moorings or dry storage for
160 vessels on a leased basis. A commercial establishment authorized
161 by a licensed vessel manufacturer as a dealership shall be
162 considered a marina for nonjudicial sale purposes.

163 (22)~~(21)~~ "Marine sanitation device" means any equipment
164 other than a toilet, for installation on board a vessel, which
165 is designed to receive, retain, treat, or discharge sewage, and
166 any process to treat such sewage. Marine sanitation device Types
167 I, II, and III shall be defined as provided in 33 C.F.R. part
168 159.

169 (23)~~(22)~~ "Marker" means any channel mark or other aid to
170 navigation, information or regulatory mark, isolated danger
171 mark, safe water mark, special mark, inland waters obstruction
172 mark, or mooring buoy in, on, or over the waters of the state or
173 the shores thereof, and includes, but is not limited to, a sign,
174 beacon, buoy, or light.

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175 (24)~~(23)~~ "Motorboat" means any vessel equipped with
176 machinery for propulsion, irrespective of whether the propulsion
177 machinery is in actual operation.

178 (25)~~(24)~~ "Muffler" means an automotive-style sound-
179 suppression device or system designed to effectively abate the
180 sound of exhaust gases emitted from an internal combustion
181 engine and prevent excessive sound when installed on such an
182 engine.

183 (26)~~(25)~~ "Navigation rules" means the International
184 Navigational Rules Act of 1977, 33 U.S.C. appendix following s.
185 1602, as amended, including the annexes thereto, for vessels on
186 waters outside of established navigational lines of demarcation
187 as specified in 33 C.F.R. part 80 or the Inland Navigational
188 Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,
189 including the annexes thereto, for vessels on all waters not
190 outside of such lines of demarcation.

191 (27)~~(26)~~ "Nonresident" means a citizen of the United States
192 who has not established residence in this state and has not
193 continuously resided in this state for 1 year and in one county
194 for the 6 months immediately preceding the initiation of a
195 vessel titling or registration action.

196 (28)~~(27)~~ "Operate" means to be in charge of or in command
197 of or in actual physical control of a vessel upon the waters of
198 this state, or to exercise control over or to have
199 responsibility for a vessel's navigation or safety while the
200 vessel is underway upon the waters of this state, or to control
201 or steer a vessel being towed by another vessel upon the waters
202 of the state.

203 (29)~~(28)~~ "Owner" means a person, other than a lienholder,

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204 having the property in or title to a vessel. The term includes a
205 person entitled to the use or possession of a vessel subject to
206 an interest in another person, reserved or created by agreement
207 and securing payment of performance of an obligation, but the
208 term excludes a lessee under a lease not intended as security.

209 (30) "Passenger support system" means a device used to
210 tether, connect, or otherwise suspend a person under a canopy.

211 (31)~~(29)~~ "Person" means an individual, partnership, firm,
212 corporation, association, or other entity.

213 (32)~~(30)~~ "Personal watercraft" means a vessel less than 16
214 feet in length which uses an inboard motor powering a water jet
215 pump, as its primary source of motive power and which is
216 designed to be operated by a person sitting, standing, or
217 kneeling on the vessel, rather than in the conventional manner
218 of sitting or standing inside the vessel.

219 (33)~~(31)~~ "Portable toilet" means a device consisting of a
220 lid, seat, containment vessel, and support structure which ~~that~~
221 is specifically designed to receive, retain, and discharge human
222 waste and which ~~that~~ is capable of being removed from a vessel
223 by hand.

224 (34)~~(32)~~ "Prohibited activity" means such activity as will
225 impede or disturb navigation or creates a safety hazard on
226 waterways of this state.

227 (35)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
228 means a manually propelled vessel that ~~which~~ is recognized by
229 national or international racing associations for use in
230 competitive racing and in which all occupants, with the
231 exception of a coxswain, if one is provided, row, scull, or
232 paddle, and that ~~which~~ is not designed to carry and does not

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233 carry any equipment not solely for competitive racing.

234 ~~(36)-(34)~~ "Recreational vessel" means any vessel:

235 (a) Manufactured and used primarily for noncommercial
236 purposes; or

237 (b) Leased, rented, or chartered to a person for the
238 person's noncommercial use.

239 ~~(37)-(35)~~ "Registration" means a state operating license on
240 a vessel which is issued with an identifying number, an annual
241 certificate of registration, and a decal designating the year
242 for which a registration fee is paid.

243 ~~(38)-(36)~~ "Resident" means a citizen of the United States
244 who has established residence in this state and has continuously
245 resided in this state for 1 year and in one county for the 6
246 months immediately preceding the initiation of a vessel titling
247 or registration action.

248 ~~(39)-(37)~~ "Sailboat" means any vessel whose sole source of
249 propulsion is the wind.

250 (40) "Sustained wind speed" means a wind speed determined
251 by averaging the observed wind speed rounded to the nearest
252 whole knot over a 2-minute period.

253 ~~(41)-(38)~~ "Unclaimed vessel" means any undocumented vessel,
254 including its machinery, rigging, and accessories, which is in
255 the physical possession of any marina, garage, or repair shop
256 for repairs, improvements, or other work with the knowledge of
257 the vessel owner and for which the costs of such services have
258 been unpaid for a period in excess of 90 days from the date
259 written notice of the completed work is given by the marina,
260 garage, or repair shop to the vessel owner.

261 ~~(42)-(39)~~ "Vessel" is synonymous with boat as referenced in

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262 s. 1(b), Art. VII of the State Constitution and includes every
263 description of watercraft, barge, and airboat, other than a
264 seaplane on the water, used or capable of being used as a means
265 of transportation on water.

266 ~~(43)~~~~(40)~~ "Waters of this state" means any navigable waters
267 of the United States within the territorial limits of this
268 state, and the marginal sea adjacent to this state and the high
269 seas when navigated as a part of a journey or ride to or from
270 the shore of this state, and all the inland lakes, rivers, and
271 canals under the jurisdiction of this state.

272 Section 2. Section 327.375, Florida Statutes, is created to
273 read:

274 327.375 Commercial parasailing.—

275 (1) The owner of a vessel engaged in commercial parasailing
276 may not offer or provide for consideration any parasailing
277 activity unless the owner first obtains and carries in full
278 force and effect an insurance policy, from an insurance carrier
279 licensed in this state or approved by the Department of
280 Insurance, insuring against any accident, loss, injury, property
281 damage, death, or other casualty caused by or resulting from any
282 commercial parasailing activity. The insurance policy must
283 provide coverage of at least \$1 million per person and \$2
284 million per event. Proof of insurance must be available for
285 inspection at the location where commercial parasailing is
286 offered or provided for consideration, and each customer who
287 requests it shall be provided with the insurance carrier's name
288 and address and the insurance policy number.

289 (2) A person engaged in commercial parasailing must meet
290 the following requirements:

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291 (a) Commercial parasail operators shall launch riders only
292 from and recover riders only to the vessel.

293 (b) A person may not operate a vessel engaged in commercial
294 parasailing on the waters of this state unless the person has a
295 current and valid license issued by the United States Coast
296 Guard authorizing that person to engage in carrying passengers
297 for hire. The license must be appropriate for the number of
298 passengers carried and the displacement of the vessel. The
299 license must be carried on the vessel and be available for
300 inspection while commercial parasailing activities are
301 conducted.

302 (c) A person may not operate a vessel for commercial
303 parasailing unless an observer 18 years of age or older is
304 present in the vessel at all times to monitor the progress of
305 any tethered parasail rider and parasail equipment. The observer
306 may not be a customer, must be attentive to the parasail rider
307 or riders and equipment, and may not have any other duties while
308 the rider or riders are in the water or suspended above the
309 water.

310 (d) A person may not operate any vessel engaged in
311 commercial parasailing unless:

312 1. All riders wear an appropriate floatation device
313 approved by the United States Coast Guard, other than an
314 inflatable device, which is in serviceable condition and of the
315 proper size;

316 2. The vessel is in full compliance with all requirements
317 of the United States Coast Guard governing crewing and equipment
318 carriage for passenger-carrying vessels as specified in the Code
319 of Federal Regulations or as otherwise specified by the United

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320 States Coast Guard in the vessel's certificate of inspection;
321 and

322 3. The vessel is equipped with a functional VHF marine
323 transceiver and a separate electronic device capable of access
324 to National Weather Service forecasts and current weather
325 conditions.

326 (e) No more than three persons may be tethered to the
327 towing vessel and ascend above the water at any time.

328 (f) A person may not operate a vessel towing a commercial
329 parasailing rider on any coastal waters of the state less than
330 1,800 feet from the shore. This restriction applies to the
331 entire commercial parasailing apparatus, including the vessel,
332 towline, and rider.

333 (g) A person may not operate a vessel towing a commercial
334 parasailing rider so that the vessel, towline, or rider comes
335 within 400 feet of:

336 1. An anchored vessel;

337 2. A person in the water; or

338 3. A structure, bridge, power line, wharf, pier, dock,
339 platform, piling, marker, or other similar fixed objects.

340 (h) A person may not operate any vessel towing a parasail
341 or engage in parasailing within 100 feet of the marked channel
342 of the Florida Intracoastal Waterway.

343 (i) Commercial parasailing is prohibited when the current
344 conditions or those forecasted by the National Weather Service
345 include a sustained wind speed of more than 20 miles per hour in
346 the area of operation, rain or heavy fog that results in reduced
347 visibility of less than 0.5 miles, or a known lightning storm
348 within 7 miles of the parasailing area.

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349 (j) The vessel captain shall use all available means to
350 determine prevailing and forecasted weather conditions and
351 record this information in a weather log each time passengers
352 are to be taken out on the water. The weather log must be
353 available for inspection at all times at the place of business.

354 (k) A towline used for commercial parasailing must be rated
355 for a tensile strength that exceeds 4,800 pounds, must be
356 braided, and must be a low-stretch type and may not exceed 500
357 feet in length.

358 (l) Each passenger and parasail rider must be given a
359 safety briefing before embarking or before the parasail activity
360 commences. This briefing must include a description of the
361 equipment, the parasailing activity, and the inherent risks and
362 instruction on how to safely evacuate from the passenger support
363 system during a water landing.

364 (m) A person operating a vessel for commercial parasailing
365 may not engage in parasailing, or any similar activity, at any
366 time between the hours of one-half hour after sunset to one-half
367 hour before sunrise.

368 (3) A person or operator who violates any provision of this
369 section commits a misdemeanor of the second degree, punishable
370 as provided in s. 775.082 or s. 775.083.

371 Section 3. Paragraph (d) of subsection (5) of section
372 320.08, Florida Statutes, is amended to read:

373 320.08 License taxes.—Except as otherwise provided herein,
374 there are hereby levied and imposed annual license taxes for the
375 operation of motor vehicles, mopeds, motorized bicycles as
376 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
377 and mobile homes, as defined in s. 320.01, which shall be paid

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378 to and collected by the department or its agent upon the
379 registration or renewal of registration of the following:

380 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
381 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

382 (d) A wrecker, as defined in s. 320.01(40), which is used
383 to tow a vessel as defined in s. 327.02(42) ~~s. 327.02(39)~~, a
384 disabled, abandoned, stolen-recovered, or impounded motor
385 vehicle as defined in s. 320.01(38), or a replacement motor
386 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11
387 shall be deposited into the General Revenue Fund.

388 Section 4. Subsection (1) of section 327.391, Florida
389 Statutes, is amended to read:

390 327.391 Airboats regulated.—

391 (1) The exhaust of every internal combustion engine used on
392 any airboat operated on the waters of this state shall be
393 provided with an automotive-style factory muffler, underwater
394 exhaust, or other manufactured device capable of adequately
395 muffling the sound of the exhaust of the engine as described in
396 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as
397 the sole source of muffling is prohibited, except as provided in
398 subsection (4). Any person who violates this subsection commits
399 a noncriminal infraction punishable as provided in s. 327.73(1).

400 Section 5. Subsection (4) of section 328.17, Florida
401 Statutes, is amended to read:

402 328.17 Nonjudicial sale of vessels.—

403 (4) A marina, as defined in s. 327.02(21) ~~s. 327.02(20)~~,
404 shall have:

405 (a) A possessory lien upon any vessel for storage fees,
406 dockage fees, repairs, improvements, or other work-related

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407 storage charges, and for expenses necessary for preservation of
408 the vessel or expenses reasonably incurred in the sale or other
409 disposition of the vessel. The possessory lien shall attach as
410 of the date the vessel is brought to the marina or as of the
411 date the vessel first occupies rental space at the marina
412 facility.

413 (b) A possessory lien upon any vessel in a wrecked, junked,
414 or substantially dismantled condition, which has been left
415 abandoned at a marina, for expenses reasonably incurred in the
416 removal and disposal of the vessel. The possessory lien shall
417 attach as of the date the vessel arrives at the marina or as of
418 the date the vessel first occupies rental space at the marina
419 facility. If the funds recovered from the sale of the vessel, or
420 from the scrap or salvage value of the vessel, are insufficient
421 to cover the expenses reasonably incurred by the marina in
422 removing and disposing of the vessel, all costs in excess of
423 recovery shall be recoverable against the owner of the vessel.
424 For a vessel damaged as a result of a named storm, the
425 provisions of this paragraph shall be suspended for 60 days
426 following the date the vessel is damaged in the named storm. The
427 operation of the provisions specified in this paragraph run
428 concurrently with, and do not extend, the 60-day notice periods
429 provided in subsections (5) and (7).

430 Section 6. Subsection (2) of section 342.07, Florida
431 Statutes, is amended to read:

432 342.07 Recreational and commercial working waterfronts;
433 legislative findings; definitions.—

434 (2) As used in this section, the term "recreational and
435 commercial working waterfront" means a parcel or parcels of real

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436 property which ~~that~~ provide access for water-dependent
437 commercial activities, including hotels and motels as defined in
438 s. 509.242(1), or provide access for the public to the navigable
439 waters of the state. Recreational and commercial working
440 waterfronts require direct access to or a location on, over, or
441 adjacent to a navigable body of water. The term includes water-
442 dependent facilities that are open to the public and offer
443 public access by vessels to the waters of the state or that are
444 support facilities for recreational, commercial, research, or
445 governmental vessels. These facilities include public lodging
446 establishments, docks, wharfs, lifts, wet and dry marinas, boat
447 ramps, boat hauling and repair facilities, commercial fishing
448 facilities, boat construction facilities, and other support
449 structures over the water. As used in this section, the term
450 "vessel" has the same meaning as in s. 327.02(42) ~~s. 327.02(39)~~.
451 Seaports are excluded from the definition.

452 Section 7. Paragraph (b) of subsection (1) of section
453 713.78, Florida Statutes, is amended to read:

454 713.78 Liens for recovering, towing, or storing vehicles
455 and vessels.—

456 (1) For the purposes of this section, the term:

457 (b) "Vessel" means every description of watercraft, barge,
458 and airboat used or capable of being used as a means of
459 transportation on water, other than a seaplane or a "documented
460 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

461 Section 8. Paragraph (b) of subsection (1) of section
462 715.07, Florida Statutes, is amended to read:

463 715.07 Vehicles or vessels parked on private property;
464 towing.—

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

466 (b) "Vessel" means every description of watercraft, barge,
467 and airboat used or capable of being used as a means of
468 transportation on water, other than a seaplane or a "documented
469 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

470 Section 9. This act shall take effect July 1, 2012.



The Florida Senate

Committee Agenda Request

To: Senator Charles S. "Charlie" Dean, Sr., Chair
Committee on Environmental Preservation and Conservation

Subject: Committee Agenda Request

Date: January 24, 2012

I respectfully request that **Senate Bill #1426**, relating to Comprehensive Statewide Water Conservation Program, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script, reading "Nancy Detert".

Senator Nancy C. Detert
Florida Senate, District 23

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 Environmental Preservation and Conservation Committee

BILL: SB 1426

INTRODUCER: Senator Detert

SUBJECT: Comprehensive Statewide Water Conservation Program

DATE: January 25, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Yeatman	EP	Favorable
2.			AG	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill repeals an obsolete provision requiring the Department of Environmental Protection to submit a report on the progress made in implementing the comprehensive statewide water conservation program to the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive committees of the Legislature.

This bill repeals Section 373.227(5) of the Florida Statutes.

II. Present Situation:

In 2004, the Florida Legislature passed a bill addressing state water supply issues. The law created s. 373.227, F.S., which mandated the development of a comprehensive statewide water conservation program for public water supplies.¹ The legislative intent of the new law included making a variety of conservation measures available for the efficient use of water in the water management districts (WMDs) in the form of a manual. The manual was to be used to aid local governments applying for water management district consumptive use permits.² Subsection (5) of the bill required submission of a progress report on the development of the conservation program by December 1, 2005.

¹ Section 373.227(2), F.S.

² Consumptive Use Permits are a type of permit that authorizes water withdrawals from surface or groundwater supplies for reasonable and beneficial uses such as public supply (drinking water), agricultural and landscape irrigation, and industry and power generation.

Legislative Intent and Elements of the Comprehensive Statewide Conservation Program

Under s. 373.227(1), F.S., the Legislature finds that the social, economic, and cultural conditions of the state relating to the use of public water supply vary by service area and that public water supply utilities must have the flexibility to tailor water conservation measures to best suit their individual circumstances. Section 373.227(1), F.S., also provides that water is provided by a public water supply utility, and the Legislature intends that a variety of conservation measures be made available and used to encourage efficient water use. To implement these findings, s. 373.227(2), F.S., directs the Department of Environmental Protection (DEP), in cooperation with the water management districts (WMDs) and other stakeholders, to develop a comprehensive statewide water conservation program for public water supply that:

- Encourages utilities to implement water conservation programs that are economically efficient, effective, affordable, and appropriate;
- Allows no reduction in, and increase where possible, utility-specific water conservation effectiveness over current programs;
- Is goal-based, accountable, measurable, and implemented collaboratively with water suppliers, water users, and water management agencies;
- Includes cost and benefit data on individual water conservation practices;
- Creates a clearinghouse or inventory for water conservation programs and practices available to public water supply utilities which will provide an integrated statewide database for the collection, evaluation, and dissemination of quantitative and qualitative information on public water supply conservation programs and practices and their effectiveness;
- Develops a standardized water conservation planning process for utilities; and
- Develop and maintain a Florida-specific water conservation guidance document containing a menu of affordable and effective water conservation practices to assist public water supply utilities in the design and implementation of goal-based, utility-specific water conservation plans.

Section 373.227(5), F.S., directs the DEP to submit a report by December 1, 2005, to the President of the Senate, the Speaker of the House of Representatives, and the appropriate subcommittees of the Senate and the House of Representatives on the progress made in implementing the water conservation program described above. The report must include any statutory changes and funding necessary for the continued development and implementation of the program. The DEP has submitted the required report.

III. Effect of Proposed Changes:

Section 1 repeals s. 373.227(5), F.S., requiring the DEP to submit a progress report concerning the implementation of the water conservation program to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees of the Senate and House of Representatives by December 1, 2005.

Section 2 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Detert

23-01321-12

20121426

1 A bill to be entitled
2 An act relating to the comprehensive statewide water
3 conservation program; amending s. 373.227, F.S.;
4 repealing an obsolete provision requiring the
5 Department of Environmental Protection to submit a
6 specified report to the President of the Senate, the
7 Speaker of the House of Representatives, and the
8 appropriate substantive committees of the Legislature;
9 providing an effective date.

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

12
13 Section 1. Subsection (6) of section 373.227, Florida
14 Statutes, is renumbered as subsection (5), and present
15 subsection (5) of that section is amended to read:

16 373.227 Water conservation; legislative findings;
17 legislative intent; objectives; comprehensive statewide water
18 conservation program requirements.—

19 ~~(5) By December 1, 2005, the department shall submit a~~
20 ~~written report to the President of the Senate, the Speaker of~~
21 ~~the House of Representatives, and the appropriate substantive~~
22 ~~committees of the Senate and the House of Representatives on the~~
23 ~~progress made in implementing the comprehensive statewide water~~
24 ~~conservation program for public water supply required by this~~
25 ~~section. The report must include any statutory changes and~~
26 ~~funding requests necessary for the continued development and~~
27 ~~implementation of the program.~~

28 Section 2. This act shall take effect July 1, 2012.



The Florida Senate

Committee Agenda Request

To: Senator Charles S. "Charlie" Dean, Sr., Chair
Committee on Environmental Preservation and Conservation

Subject: Committee Agenda Request

Date: January 24, 2012

I respectfully request that **Senate Bill #1426**, relating to Comprehensive Statewide Water Conservation Program, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script, reading "Nancy Detert".

Senator Nancy C. Detert
Florida Senate, District 23

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Basins

Bill Number 1430
(if applicable)

Name Ernie Barnett

Amendment Barcode _____
(if applicable)

Job Title Director Everglades Policy

Address 3301 Gun Club Rd

Phone 561 951-2840

West Palm Bch FL 33406
City State Zip

E-mail ebarnett@stump.gov

Speaking: For Against Information

Representing SFWMD

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.

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 Environmental Preservation and Conservation Committee

BILL: SB 1430

INTRODUCER: Senator Detert

SUBJECT: Basins

DATE: January 25, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Yeatman	EP	Favorable
2.	_____	_____	AG	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill removes statutory language establishing the Manasota Basin within the Southwest Florida Water Management District (WMD) and the Oklawaha River and Greater St. Johns River Basins situated within the St. Johns River WMD. This will abolish all three basins.

At the present time, the Oklawaha River Basin and the Greater St. Johns River Basin have been absorbed into the St. Johns River WMD and are no longer referred to as the Oklawaha River Basin or the Greater St. Johns River Basin. The basin board for the Manasota Watershed Basin has been dissolved.

This bill repeals subsections 373.0693(7) and (8) of the Florida Statutes.

II. Present Situation:

The Department of Environmental Preservation (DEP) manages the quality and quantity of water in Florida through its relationship with the state's WMDs, which are tasked with the preservation and management of Florida's water resources. The WMDs include the Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, South Florida Water Management District and the Southwest Florida Water Management District.

Chapter 373, F.S., charges the WMDs with managing regional water supplies, water quality, flood protection, and the protection of natural systems. The Legislature has directed the WMDs to engage in plan development and implementation, regulation, land acquisition, financial and technical assistance, water resource restoration, water resource development, and other activities

to achieve the statutory water management objectives. By statute, each WMD is overseen by a governing board appointed by the Governor and confirmed by the Senate.

Basin Boards

Florida has 52 large watersheds. In order to make environmental management easier, more effective and more uniform across programs, the DEP has grouped these watersheds into 29 groups of basins.

Section 373.0693, F.S., provides that any areas within a WMD may be designated by the WMD governing board as subdistricts or basins by resolution, with the exception of basins within the St. Johns River WMD, which are approved by the Legislature. Each basin has a board composed of not less than three members, but must include one representative from each of the counties included in the basin. Members serve for a period of 3 years or until a successor is appointed, but usually not more than 180 days after the end of the term. Each basin board chooses a vice chair and a secretary to serve for a period of 1 year. The basin board chair is typically a member of the WMD governing board of the district residing in the basin. If no member resides in the basin, a member of the governing board is designated as chair by the chair of the WMD board. Members of basin boards are appointed by the Governor and subject to confirmation by the Senate. Refusal or failure of the Senate to confirm an appointment creates a vacancy in the office.

Statutory duties of basin boards, pursuant to s. 373.0695, F.S., include:

- The preparation of engineering plans for development of the water resources of the basin and the conduct of public hearings on such plans.
- The development and preparation of an overall basin plan of secondary water control facilities for the guidance of subdrainage districts and private land owners in the development of their respective systems of water control, which will be connected to the primary works of the basin to complement the engineering plan of primary works for the basin.
- The preparation of the annual budget for the basin and the submission of such budget to the WMD governing board for inclusion in the WMD budget.
- The consideration and prior approval of final construction plans of the WMD for works to be constructed in the basin.
- The administration of the affairs of the basin.
- Planning for and, upon request by a county, municipality, private utility, or regional water supply authority, providing water supply and transmission facilities for the purpose of assisting such counties, municipalities, private utilities, or regional water supply authorities within or serving the basin.

Section 373.0693(7), F.S., provides that at 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast WMD, which is annexed to the Southwest Florida WMD by change of its boundaries pursuant to chapter 76-243, Laws of Florida, must be formed into a subdistrict or basin of the Southwest Florida WMD, subject to the same provisions as the other basins in the WMD. This subdistrict is designated as the Manasota Basin. Beginning on July 1, 2001, the basin board must be comprised of two members from Manatee County and two members from Sarasota County.

Section 373.0693(8)(a), F.S., provides that at 11:59 p.m. on June 30, 1988, the Oklawaha River Basin will cease to be a subdistrict or basin in the St. Johns River WMD. However, this area will continue to be part of the St. Johns River WMD.

Section 373.0693(8)(b), F.S., provides that the area of the St. Johns River Water Management District known as the Greater St. Johns River Basin and the Greater St. Johns River Basin will cease to be a subdistrict or basin of the St. Johns River WMD and this basin will cease to exist. However, this area will continue to be part of the St. Johns River WMD.

Section 373.0693(8)(c), F.S., provides that as of 11:59 p.m. on June 30, 1988, assets and liabilities of the former Oklawaha River and Greater St. Johns River Basins will be assets and liabilities of the St. Johns River WMD. Any contracts, plans, orders, or agreements will continue to be in effect, but may be modified or repealed by the St. Johns River WMD in accordance with law.

III. Effect of Proposed Changes:

Section 1 repeals subsections (7) and (8) of s. 373.0693, F.S., which includes repealing the Manasota, Oklawaha River, and Greater St. Johns River Basins, none of which have governing boards.

Section 2 provides that the act will take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

None

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Detert

23-01320-12

20121430__

1 A bill to be entitled
2 An act relating to basins; amending s. 373.0693, F.S.;
3 repealing provisions relating to the formation and
4 designation of the Manasota Basin; repealing
5 provisions relating to the termination of the Oklawaha
6 River Basin and the Greater St. Johns River Basin;
7 providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Subsections (9) and (10) of section 373.0693,
12 Florida Statutes, are renumbered as subsections (7) and (8),
13 respectively, and present subsections (7) and (8) of that
14 section are amended to read:

15 373.0693 Basins; basin boards.—

16 ~~(7) At 11:59 p.m. on December 31, 1976, the Manasota~~
17 ~~Watershed Basin of the Ridge and Lower Gulf Coast Water~~
18 ~~Management District, which is annexed to the Southwest Florida~~
19 ~~Water Management District by change of its boundaries pursuant~~
20 ~~to chapter 76-243, Laws of Florida, shall be formed into a~~
21 ~~subdistrict or basin of the Southwest Florida Water Management~~
22 ~~District, subject to the same provisions as the other basins in~~
23 ~~such district. Such subdistrict shall be designated initially as~~
24 ~~the Manasota Basin. The members of the governing board of the~~
25 ~~Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water~~
26 ~~Management District shall become members of the governing board~~
27 ~~of the Manasota Basin of the Southwest Florida Water Management~~
28 ~~District. Notwithstanding other provisions in this section,~~
29 ~~beginning on July 1, 2001, the membership of the Manasota Basin~~

23-01320-12

20121430

30 Board shall be comprised of two members from Manatee County and
31 two members from Sarasota County. Matters relating to tie votes
32 shall be resolved pursuant to subsection (6) by the chair
33 designated by the governing board to vote in case of a tie vote.

34 ~~(8)(a) At 11:59 p.m. on June 30, 1988, the area transferred~~
35 ~~from the Southwest Florida Water Management District to the St.~~
36 ~~Johns River Water Management District by change of boundaries~~
37 ~~pursuant to chapter 76-243, Laws of Florida, shall cease to be a~~
38 ~~subdistrict or basin of the St. Johns River Water Management~~
39 ~~District known as the Oklawaha River Basin and said Oklawaha~~
40 ~~River Basin shall cease to exist. However, any recognition of an~~
41 ~~Oklawaha River Basin or an Oklawaha River Hydrologic Basin for~~
42 ~~regulatory purposes shall be unaffected. The area formerly known~~
43 ~~as the Oklawaha River Basin shall continue to be part of the St.~~
44 ~~Johns River Water Management District.~~

45 ~~(b) Also, the entire area of the St. Johns River Water~~
46 ~~Management District, less those areas formerly in the Oklawaha~~
47 ~~Basin, shall cease to be a subdistrict or basin of the St. Johns~~
48 ~~River Water Management District known as the Greater St. Johns~~
49 ~~River Basin and said Greater St. Johns River Basin shall cease~~
50 ~~to exist. The area formerly known as the Greater St. Johns River~~
51 ~~Basin shall continue to be part of the St. Johns River Water~~
52 ~~Management District.~~

53 ~~(c) As of 11:59 p.m. on June 30, 1988, assets and~~
54 ~~liabilities of the former Oklawaha River and Greater St. Johns~~
55 ~~River Basins shall be assets and liabilities of the St. Johns~~
56 ~~River Water Management District. Any contracts, plans, orders,~~
57 ~~or agreements of such basins shall continue to be in effect, but~~
58 ~~may be modified or repealed by the St. Johns River Water~~

23-01320-12

20121430__

59 ~~Management District in accordance with law. For all purposes for~~
60 ~~assessing and levying the millage rate authorized under s.~~
61 ~~373.503, subsequent to December 31, 1987, including the purposes~~
62 ~~of certifying the millage rate for fiscal year 1988-1989,~~
63 ~~pursuant to chapter 200, said millage rate shall be levied~~
64 ~~retroactive to January 1, 1988.~~

65 Section 2. This act shall take effect July 1, 2012.



Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Chair*
Budget - Subcommittee on General Government
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Environmental Preservation and Conservation
Governmental Oversight and Accountability
Health Regulation
Reapportionment

SENATOR JACK LATVALA
16th District

January 20, 2011

The Honorable Senator Charlie Dean, Chair
Senate Committee on Environmental Preservation and Conservation
325 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Dean:

I respectfully request that Senate Bill 1782 regarding the Fish and Wildlife Conservation Commission be placed on the agenda of the Senate Committee on Environmental Preservation and Conservation at your earliest convenience.

The purpose of this bill is to enhance the efficiency and effectiveness of state government by consolidating law enforcement services among state entities where unnecessary duplication currently exists. I would appreciate the opportunity to present this legislation as soon as possible.

If you have any questions regarding this legislation, please contact me. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Latvala".

Jack Latvala
State Senator
District 16

cc: Tom Yeatman, Staff Director; Kim Bonn, Administrative Assistant

REPLY TO:

- 12425 28th Street North, Suite 102, St. Petersburg, Florida 33716 (727) 556-6500
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5075

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS

MICHAEL S. "MIKE" BENNETT



THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/2012
Meeting Date

Topic Fish and Wild life Conservation

Bill Number 1782
(if applicable)

Name Matt Puckett

Amendment Barcode 507040
(if applicable)

Job Title Lobbyist

Address 300 East Brevard St.

Phone 850-222-3329

Street
Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Police Benevolent Association

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.

8

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-12

Meeting Date

Topic F.W.C

Bill Number 1782
(if applicable)

Name Richard Van Munster

Amendment Barcode _____
(if applicable)

Job Title _____

Address 135 Dickson Bay Rd
Street

Phone 850-984-5580

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Fishing For Freedom

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 (10/20/11)



THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-12

Meeting Date

Topic Fish + Wildlife

Bill Number 1782
(if applicable)

Name Col. Jim Brown

Amendment Barcode _____
(if applicable)

Job Title Director of C.E.

Address 620 S. Meridian St.

Phone 488 6251

Street

City

Jacksonville FL 32399

State

Zip

E-mail jim.brown@myfla.com

Speaking: For Against Information

Representing FWC

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

11/30/12

Topic FWC

Bill Number 1782
(if applicable)

Name JERRY SANSON

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 70

Phone 321 773 0212

Cocoa Fl. 32923
City State Zip

E-mail FISHAWK@AOL.COM

Speaking: For Against Information

Representing ORGANIZED FISHERMEN of 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic ~~Consolidation~~ Consolidation of Law Enforcement Bill Number 1782
(if applicable)

Name Missy Timmins Amendment Barcode _____
(if applicable)

Job Title _____

Address 2910 Kerry Forest Pkwy D4-368 Phone 850-668-8000
Street

Tallahassee FL 32309
City State Zip

E-mail missy@timminsconsulting.com

Speaking: For Against Information

Representing MIAF

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.

8

THE FLORIDA SENATE APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Law Enforcement

Bill Number 1782
(if applicable)

Name Jon Steverson

Amendment Barcode _____
(if applicable)

Job Title Special Counsel on Policy and Legislative Affairs

Address 3900 Commonwealth Blvd
Street
Tallahassee FL 32309
City State Zip

Phone (850) 245-2140

E-mail jon.steverson@DFP.state.fl.us

Speaking: For Against Information

Representing DEP

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.

THE FLORIDA SENATE
APPEARANCE RECORD

8

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

1-30-12

Meeting Date

Topic Law Enforcement

Bill Number 1782
(if applicable)

Name Grace Lovett

Amendment Barcode _____
(if applicable)

Job Title Dir. of Leg. Affairs

Address PL 10 The Capitol
Street
Tallahassee FL 32399
City State Zip

Phone 488 3022

E-mail grace.lovett@freshfromflorida.com

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

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 Environmental Preservation and Conservation Committee

BILL: CS/SB 1782

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Latvala

SUBJECT: Fish and Wildlife Conservation Commission

DATE: January 31, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Fav/CS
2.			AG	
3.			BC	
4.				
5.				
6.				

I. Summary:

The Committee Substitute (CS) transfers and reassigns functions and responsibilities of the Division of Law Enforcement, excluding the Bureau of Emergency Response, within the Department of Environmental Protection (DEP) to the Division of Law Enforcement (DLE) within the Fish and Wildlife Conservation Commission (FWC). The CS provides for the transfer of additional positions to FWC if needed. The CS provides for a memorandum of agreement between DEP and FWC regarding the responsibilities of the FWC to DEP. The CS also transfers and reassigns functions and responsibilities of sworn positions funded by the Conservation and Recreation Lands Program (CARL) and assigned to the Florida Forest Service within the Department of Agriculture and Consumer Services (DACS) and the investigator responsible for the enforcement of aquaculture violations in DACS to the DLE within FWC.

The CS provides for transition of advisory working groups, assigning powers, duties, responsibilities, and functions for the enforcement of the laws and rules governing certain lands managed to the DEP and certain lands and aquaculture managed by DACS to FWC. The CS confers the full power to the law enforcement officers of the FWC to investigate and arrest for violations of rules of the DEP and DACS to fill positions transferred to FWC.

The CS amends ss. 20.255, 258.008, 258.501, 282.709, 316.003, 316.2397, 316.640, 375.041, 376.065, 376.071, 376.16, 376.3071, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 403.413, 784.07, 843.08, 870.04, and 932.7055, of the F.S.

The CS creates s. 258.601, F.S.

II. Present Situation:

Senate Bill 2160, passed in 2011, established the Law Enforcement Consolidation Task Force, to conduct a review of the conservation law enforcement activities and assets of DACS, DEP, and FWC, and to evaluate if any duplication of law enforcement functions exists between the agencies. This taskforce was named the Environmental Unit Sub-Team. The team determined that the patrols of state-owned and managed lands provided by the FWC, DEP, and DACS (in particular the CARL officer positions and Aquaculture positions) have elements that are duplicative and, in turn, have exacerbated a manpower shortage for the agencies. The duplication of functions is most notable in the existence of three separate management and support structures for the sole purpose of providing law enforcement patrol to all state-owned/managed lands and is most apparent when comparing FWC and DEP. The identified DACS positions, on the other hand, do not necessarily have a duplicative structure, but rather DACS provides duplicative management/support services for its officers at the expense of attending to the agency's primary duties and responsibilities. The DACS management support staff provides something that is already provided by both FWC and DEP while diminishing to some degree the provision of those services to DACS's core functions. Consolidation of these management structures and functions into the existing structure at FWC could eliminate this duplication.¹

The Environmental Unit Sub-Team has also identified inefficiency with the current dispersal of patrol responsibilities among the three agencies, which leads to the appearance or even public perception of duplication of services. The inefficiency arises from having three different agencies providing separate law enforcement services based on the pretense, for law enforcement purposes, of state-owned/managed lands being divided into different types of properties (i.e., wildlife management areas, wildlife and environmental management areas, state parks, greenways and trails, coastal and aquatic managed areas, and state forests). Due to this, there may be an FWC officer patrolling a management area adjacent to a state park that is being patrolled by a DEP officer that is also adjacent to a state forest being patrolled by a DACS CARL officer. While state lands are managed differently based on their designated use, conservation law enforcement strategies remain essentially the same, independent of the prevailing land management approach. Consolidation of these artificial distinctions between all state-owned/managed lands as it relates to law enforcement services would allow a more efficient use of rank and file officers and provide a welcome opportunity to establish law enforcement coverage in areas of the state that have historically received little or no patrol due to staffing issues. The responsibilities and activities of these three agencies are closely aligned and similar enough in scope so that significant efficiencies in the delivery of law enforcement services as well as cost savings can be realized by consolidating the functions as discussed below.²

Findings of the Task Force

- All three agencies have responsibility to provide law enforcement patrol, investigative, and forensic services on state-managed lands, which are frequently located within close proximity to each other.

¹ Recommendations for the Law Enforcement Consolidation task Force, by Colonel Jim Brown, Division Director, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, October 11, 2011.

² *Id.*

- The enforcement functions for each entity are established by the Legislature.
- Investigative activities of the three agencies are similar in scope and approach.
- The three Bureaus within the DEP Division of Law Enforcement (DLE) (Park Police, Environmental Investigations, and Emergency Response) are interdependent resulting in value-added services that are not present when separated.
- Integration of DEP officers and DACS CARL and Aquaculture officers in the FWC DLE will improve response time, increase personnel available for patrol coverage across conservation lands and state waters, and decrease the burden on local law enforcement agencies.
- Consolidation will result in a streamlined agency with approximately 10 percent of sworn supervisory positions being reassigned to field positions leading to increased response time.
- In 2008, the Office of Program Policy Analysis and Government Accountability (OPPAGA) provided the Legislature with four policy options related to environmental law enforcement. The third option was the centralization of environmental law enforcement under one state agency that currently has this function. The joint agency recommendation is a variation of the third option, capturing all of the advantages while minimizing adverse impacts.

Recommendations

The Environmental Unit Sub-Team recommends the following:

- Integration of the DEP Division of Law Enforcement, in its entirety, into the FWC Division of Law Enforcement (175.5 positions and additional support positions).
- Integration of the DACS Office of Agricultural Law Enforcement officers assigned to CARL Patrol and the investigator responsible for commercial aquaculture violations into the FWC Division of Law Enforcement (15 positions).
- Enact statutory and administrative code changes where appropriate to integrate the functions.

Conclusion

Consolidating the three agencies will result in a highly effective, more efficient state law enforcement division with complete jurisdiction over the natural and historic resources and publicly-owned and managed lands and waters of the state having enhanced patrol capability response presence.

Department of Environmental Protection (DEP) Division of Law Enforcement

The DEP's Division of Law Enforcement is Florida's oldest state law enforcement agency, dating back to 1913 when the Legislature created the shellfish commission to supervise the newly emerging commercial fishing industry. The Division oversees the following bureaus:

Emergency Response- The Division of Law Enforcement's Bureau of Emergency Response (BER) responds to environmental pollution threats in every form. Responding to incidents involving petroleum spills caused by vehicle accidents to chemical plant explosions to coastal oil spills, BER provides technical and on-site assistance to ensure threats to the environment and human safety are quickly and effectively addressed. In addition, BER works with local public safety officials and emergency response contractors to minimize threats to the environment. BER offices are located throughout the state with headquarters in Tallahassee.

Criminal Investigations- Special Agents from the Criminal Investigations Bureau are sworn state law enforcement investigators, with full powers of arrest in Florida and its jurisdictional waters. Special Agents investigate crimes and violations that generally have a negative impact on Florida's environment, including the improper storage, transport, or disposal of hazardous waste; destruction or illegal filling of wetlands; or the burying or burning of prohibited materials. Fraud, forgery, conspiracy, and organized crime are some of the traditional crimes that can be associated with environmental violations. These specialized criminal investigations are often long-term, complex and are built upon the expert assessment and testimony of the DEP regulatory and scientific professionals.

Park Police- The Division of Law Enforcement's Bureau of Park Police is comprised of state law enforcement officers with full powers of arrest and who patrol more than 800,000 acres of Florida's state-owned lands, providing law enforcement and public service within state parks, preserves, recreational areas, as well as greenways and trails. The officers also patrol more than four million acres of submerged coastal and aquatic managed areas that include 41 aquatic preserves, three national estuarine research reserves, and the Florida Keys National Marine Sanctuary. Officers are called on to respond to hurricanes, civil disorder, or other threatening conditions that may endanger life, property, Florida's natural resources and also provide assistance with search and rescue missions.

Office of Training and Professional Standards- The Division of Law Enforcement's Office of Training and Professional Standards provides training courses for DEP's 138 officers. The Office of Training and Professional Standards works closely with the Florida Department of Law Enforcement's (FDLE) Division of Law Enforcement Professionalism, the Florida Criminal Justice Standards and Training Commission and other Florida law enforcement training centers to provide consistent and current law enforcement information and training to DEP law enforcement officers.

Department of Agriculture and Consumer Services (DACS)

Florida Forest Service- The Florida Forest Service mission is to protect and manage the forest resources of Florida, ensuring that they are available for future generations. Wildfire prevention and suppression are key components in their efforts to protect homeowners from the threat of damage in a natural, fire-dependent environment.

In addition to managing over one million acres of State Forests for multiple public uses including timber, recreation and wildlife habitat, the Forest Service services to landowners throughout the state with technical information and grant programs.

The Forest Service's forestry programs are implemented by its Field Operations staff within 15 field units across the state. Field personnel and equipment provide a more responsive and comprehensive approach to land management and wildfire control statewide.

Florida Fish and Wildlife Conservation Commission (FWCC) Law Enforcement

FWCC officers provide protection to residents and visitors who enjoy Florida's natural resources, while enforcing resource protection and boating safety laws in the woods and on the waters of the state in keeping with the Division's core missions. FWCC officers have full police powers and statewide jurisdiction. They patrol rural, wilderness and inshore and offshore areas and are often the sole law enforcement presence in many remote parts of the state. The Division of Law Enforcement has cooperative agreements with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service. Officers are also cross-deputized to enforce federal marine fisheries and wildlife laws, thus ensuring state and federal consistency in resource-protection efforts. The Division of Law Enforcement is divided into the following sections:

Operations- The Operations section's six regions throughout the state are responsible for uniformed patrol and investigative law enforcement services of the FWCC's 700-plus officer workforce. The officers and investigators protect fish, wildlife and the citizens of Florida and provide boating safety patrols. Investigations are able to conduct both overt (uniform) and covert (plainclothes) investigations. They allow the FWCC to target hard-core commercial violators by conducting long-term undercover investigations. Investigators are also responsible for inspecting personal and commercial native and exotic wildlife facilities as well as investigating hunting and boating accidents. This section also provides statewide coordination of all aviation, offshore vessel, K-9 and Special Operations Group activities. Aviation assets play a vital role in the agency's effort to enforce conservation and boating laws, protect endangered and threatened species and safeguard outdoor users. The division's offshore patrol vessels concentrate on offshore fisheries and protected marine areas as well as public safety. The K-9 teams are specially trained in tracking and wildlife detection. The K-9s receive no aggression training and are very "user-friendly." In addition to their law enforcement functions, they have proved to be a great community oriented policing relations tool.

Law Enforcement Support

Boating, waterways and program coordination-This section's employees manage state waterways and their markers and signs to protect boaters and wildlife. They coordinate the removal of derelict vessels and the development of boating infrastructure. They use many methods to promote boating safety, from education and outreach to investigation and analysis of boating accident data.

Field Services- This section provides officer support with radio technology and systems engineering; fleet management; research, testing and acquisition of new computer and telecommunications technology; and arrest/warning citation and disposition data management. They maintain the Computer Aided Dispatch (CAD) system which enhances officer safety and efficiency.

Training- This section provides professional basic recruit and advanced training and career development programs to officers statewide. They train FWCC officers in the aspects of non-traditional policing as well as ensuring basic law enforcement standards are met and maintained.

Officers' Authority- Sworn personnel are fully constituted police officers as provided under s. 379.3311, F.S. This gives them the authority to enforce all laws of the state, not just those relating to resource enforcement. The officers are also cross-deputized to enforce federal fisheries and wildlife laws.

Officers' Responsibilities

Provide protection and enforce laws relating to all wild animal and aquatic resources of the state. This includes game, non-game, furbearers, threatened and endangered wildlife and fish, and marine mammals; encompassing approximately 672 species of wildlife, 208 species of freshwater fish and over 500 saltwater fish species. In doing so, officers patrol over 37 million acres of public and private land, 8,246 miles of tidal coastline, 12,000 miles of rivers and streams, 3 million acres of lakes and ponds, and 11,000 miles of canals.

Provide boating safety enforcement on the state's waters in order to ensure the safe usage of our resources. Includes enforcing boating under the influence laws, as well as laws relating to the safe and prudent operation of watercraft, investigating boating accidents, and search and rescue missions.

Provide general law enforcement protection to the human resources of the state. One aspect of this is providing general law enforcement patrol in rural, semi-wilderness, wilderness, and offshore areas where no other law enforcement agencies routinely patrol. Officers also respond to a variety of emergencies including natural disasters, civil disturbances, and search and rescue missions. These include such diverse phenomena as hurricanes, riots, wildfires, floods, and providing protection for elected officials (governors and presidents).

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as:

Type Two Transfer—A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.

(a) Any agency or department or a program, activity, or function thereof transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided by law. The transfer of segregated funds must be made in such a manner that the relation between program and revenue source as provided by law is retained.

(b) Unless otherwise provided by law, the head of the agency or department to which an existing agency or department or a program, activity, or function thereof is transferred is authorized to establish units or subunits to which the agency or department is assigned, and to assign administrative authority for identifiable programs, activities, or functions, to the extent authorized in this chapter.

(c) Unless otherwise provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

III. Effect of Proposed Changes:

Section 1 provides for a type two transfer of the Division of Law Enforcement (DLE) within DEP to the Division of Law Enforcement within FWC. This transfer includes all powers, duties, and related functions, including personnel, property and all related rules and functions and unexpended balances, appropriations, and allocations from the Division of Law Enforcement within DEP to the Division of Law Enforcement within FWC (transferred by a type two transfer as defined in s. 20.06 (2), F.S.). The section specifies the number of administrative, auditing, inspector general, attorney and operational support positions proportionate to the number of Division of Law Enforcement full-time equivalent and other personal services positions being transferred from DEP to FWC. A memorandum of agreement shall be developed between DEP and FWC detailing the responsibilities of FWC to DEP to include, at a minimum:

- support and response for oil spills and natural disasters;
- law enforcement patrol and investigative services for all state-owned lands;
- law enforcement services, including investigative services, for all criminal law violations of chapters 258, 376, and 403, F.S.;
- enforcement services for all civil violation of all department administrative rules related to the following programs:
 - Division of Recreation and Parks,
 - Office of Coastal and Aquatic Managed Areas, and
 - Office of Greenways and Trails.

Section 2 provides for a type two transfer of DACS sworn positions assigned to the Florida Forest service and funded by the Conservation and Recreation Lands Program (as of July 1, 2011) and the investigator responsible for the enforcement of aquaculture violations (as of July 1, 2011) to the DLE within FWC.

Section 3 provides for transition advisory working groups.

Section 4 confers full power to the law enforcement officers of the FWC to investigate and arrest for violation of laws and rules of the DEP, Board of Trustees of the Internal Improvement Trust Fund and DACS, including state parks, coastal and aquatic managed areas, greenways and trails, CARL lands, and aquaculture lands.

Section 5 provides for the retention and transfer of specified benefits for employees that are transferred from DEP and DACS to fill positions transferred to the FWC. The CS provides that the DLE within the FWC is authorized to use available funds to provide for general salary

increases or pay additives for positions having the same job classification or job occupations in order to bring pay parity between positions of the FWC and the positions being transferred from the DEP and DACS, and for those positions assuming significant additional duties or an increased work load as a result of this CS.

Section 6 creates part IV of chapter 258, F.S., providing specific powers and duties of the commission relating to state parks, aquatic preserves and wild and scenic rivers

Sections 7-29 amends 20.255, 258.008, 258.501, 282.709, 316.003, 316.2397, 316.640, 375.041, 376.065, 376.07, 376.071, 376.16, 376.3071, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 403.413, 784.07, 843.08, 870.04, 932.7055, F.S., to provide conforming provisions to changes made by the CS and removes references to DEP and replacing them with FWC.

Section 30 provides an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the FWC, the reduction in cost savings over 5 years will be approximately \$3.1 million dollars. This consolidation will reduce costs for administrative and support functions such as budgeting, personnel, general counsel, and inspector general activities because of a consolidation of functions and elimination of duplicated positions. The cost savings come from eliminating duplicative management positions and support staff while establishing additional patrol and first response capacity.

The bill transfers a 147.5 positions from DEP, and 15 positions from DACS to the FWC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Environmental Preservation and Conservation Committee on January 30, 2012:

The CS does not transfer the Bureau of Emergency Response from DEP and provides that the DLE within the FWC is authorized to use funds for general salary increases to bring pay parity for positions being transferred from DEP and DACS to FWC and for those positions assuming significant additional duties or an increased work load as a result of this CS.

- B. **Amendments:**

None.



507040

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation
(Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. (1) All powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the Division of Law Enforcement within the Department of Environmental Protection, excluding the Bureau of Emergency Response, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Division of Law



507040

13 Enforcement within the Florida Fish and Wildlife Conservation
14 Commission.

15 (2) The Bureau of Emergency Response within the Department
16 of Environmental Protection is reassigned to the Secretary of
17 Environmental Protection, as the Office of Emergency Response,
18 within the Department of Environmental Protection.

19 (3) The Secretary of Environmental Protection shall
20 transfer to the Fish and Wildlife Conservation Commission the
21 number of administrative, auditing, inspector general, attorney,
22 and operational support positions, including any related powers,
23 duties, functions, property, and funding, proportionate to the
24 number of Division of Law Enforcement full-time equivalent and
25 other personal services positions being transferred from the
26 department to the commission.

27 (4) A memorandum of agreement shall be developed between
28 the department and the commission detailing the responsibilities
29 of the commission to the department, to include, at a minimum,
30 the following:

31 (a) Support and response for oil spills, hazardous spills,
32 and natural disasters.

33 (b) Law enforcement patrol and investigative services for
34 all state-owned lands managed by the department.

35 (c) Law enforcement services, including investigative
36 services, for all criminal law violations of chapters 161, 258,
37 373, 376, and 403, Florida Statutes.

38 (d) Enforcement services for all civil violations of all
39 department administrative rules related to the following program
40 areas:

41 1. The Division of Recreation and Parks.



507040

42 2. The Office of Coastal and Aquatic Managed Areas.

43 3. The Office of Greenways and Trails.

44 (e) Current and future funding for positions and property
45 being transferred from the department to the commission which
46 are funded through any trust fund.

47 Section 2. (1) All powers, duties, functions, records,
48 property, pending issues and existing contracts, administrative
49 authority, administrative rules, and unexpended balances of
50 appropriations, allocations, and other funds relating to sworn
51 positions funded by the Conservation and Recreation Lands
52 Program and assigned to the Florida Forest Service within the
53 Department of Agriculture and Consumer Services as of July 1,
54 2011, and the investigator responsible for the enforcement of
55 aquaculture violations at the Department of Agriculture and
56 Consumer Services as of July 1, 2011, are transferred by a type
57 two transfer, as defined in s. 20.06(2), Florida Statutes, to
58 the Division of Law Enforcement within the Fish and Wildlife
59 Conservation Commission.

60 (2) A memorandum of agreement shall be developed between
61 the department and the commission detailing the responsibilities
62 between the commission and the department, to include, at a
63 minimum, the following:

64 (a) Law enforcement patrol and investigative services for
65 all state-owned forests managed by the department.

66 (b) Current and future funding for positions and property
67 assigned to the Conservation and Recreation Lands Program which
68 are transferred from the department to the commission.

69 Section 3. (1) The Secretary of Environmental Protection
70 and the Executive Director of the Fish and Wildlife Conservation



71 Commission shall each appoint three staff members to a
72 transition advisory working group to review and determine the
73 following:

74 (a) The appropriate proportionate number of administrative,
75 auditing, inspector general, attorney, and operational support
76 positions and their related funding levels and sources and
77 assigned property to be transferred from the Office of General
78 Counsel, the Office of Inspector General, and the Division of
79 Administrative Services, or other relevant offices or divisions
80 within the Department of Environmental Protection, to the Fish
81 and Wildlife Conservation Commission.

82 (b) The development of a recommended plan addressing the
83 transfer or shared use of buildings, regional offices, and other
84 facilities used or owned by the Department of Environmental
85 Protection.

86 (c) Any operating budget adjustments that are necessary to
87 implement the requirements of this act. Adjustments made to the
88 operating budgets of the department and the commission in the
89 implementation of this act must be made in consultation with the
90 appropriate substantive and fiscal committees of the Senate and
91 the House of Representatives. The revisions to the approved
92 operating budgets for the 2012-2013 fiscal year which are
93 necessary to reflect the organizational changes made by this act
94 shall be implemented pursuant to s. 216.292(4)(d), Florida
95 Statutes, and subject to s. 216.177, Florida Statutes.
96 Subsequent adjustments between agencies which are determined
97 necessary by the department or commission and approved by the
98 Executive Office of the Governor are authorized and subject to
99 s. 216.177, Florida Statutes. The appropriate substantive



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100 committees of the Senate and the House of Representatives shall
101 also be notified of the proposed revisions to ensure consistency
102 with legislative policy and intent.

103 (2) The Secretary of Environmental Protection, the
104 Commissioner of Agriculture, and the Executive Director of the
105 Fish and Wildlife Conservation Commission shall each appoint two
106 staff members to a transition advisory working group to identify
107 rules of the Department of Environmental Protection, the Board
108 of Trustees of the Internal Improvement Trust Fund, the
109 Department of Agriculture and Consumer Services, and the Fish
110 and Wildlife Conservation Commission which need to be amended to
111 reflect the changes made by this act.

112 Section 4. (1) The Fish and Wildlife Conservation
113 Commission is assigned all powers, duties, responsibilities,
114 functions, positions, and property necessary for enforcement of
115 the laws and rules governing:

116 (a) Management, protection, conservation, improvement, and
117 expansion of the state-owned lands managed by the Department of
118 Environmental Protection, including state parks, coastal and
119 aquatic managed areas, and greenways and trails.

120 (b) Conservation and recreation lands and commercial
121 aquaculture managed by the Department of Agriculture and
122 Consumer Services.

123 (2) Law enforcement officers of the Fish and Wildlife
124 Conservation Commission are conferred full power to investigate
125 and arrest for any violation of the rules of the Department of
126 Agriculture and Consumer Services, the Department of
127 Environmental Protection, and the Board of Trustees of the
128 Internal Improvement Trust Fund.



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129 Section 5. (1) Notwithstanding ss. 110.2035 and 216.251,
130 Florida Statutes, the Division of Law Enforcement within the
131 Fish and Wildlife Conservation Commission may use available
132 funds to provide for general salary increases or pay additives
133 for positions sharing the same job classification or job
134 occupations in order to bring pay parity between positions of
135 the Fish and Wildlife Conservation Commission and the positions
136 transferring to the commission from the Department of
137 Agriculture and Consumer Services and the Department of
138 Environmental Protection and for those positions assuming
139 significant additional duties or an increased work load as a
140 result of this act.

141 (2) Notwithstanding chapter 60K-5, Florida Administrative
142 Code, or any provision of law to the contrary, employees who are
143 transferred from the Department of Environmental Protection and
144 the Department of Agriculture and Consumer Services to fill
145 positions transferred to the Fish and Wildlife Conservation
146 Commission shall retain and transfer any accrued annual leave,
147 sick leave, and regular and special compensatory leave balances.

148 Section 6. Part IV of chapter 258, Florida Statutes,
149 consisting of section 258.601, is created to read:

150 PART IV

151 MISCELLANEOUS PROVISIONS

152 258.601 Enforcement of prohibited activities.—Prohibited
153 activities under this chapter shall be enforced by the
154 Department of Environmental Protection and the Division of Law
155 Enforcement of the Fish and Wildlife Conservation Commission and
156 its officers.

157 Section 7. Subsections (5) through (8) of section 20.255,



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158 Florida Statutes, are renumbered as subsections (4) through (7),
159 respectively, and present subsections (2), (3), and (4) of that
160 section are amended to read:

161 20.255 Department of Environmental Protection.—There is
162 created a Department of Environmental Protection.

163 (2) (a) There shall be three deputy secretaries who are to
164 be appointed by and shall serve at the pleasure of the
165 secretary. The secretary may assign any deputy secretary the
166 responsibility to supervise, coordinate, and formulate policy
167 for any division, office, or district. The following special
168 offices are established and headed by managers, each of whom is
169 to be appointed by and serve at the pleasure of the secretary:

- 170 1. Office of Chief of Staff;
- 171 2. Office of General Counsel;
- 172 3. Office of Inspector General;
- 173 4. Office of External Affairs;
- 174 5. Office of Legislative Affairs;
- 175 6. Office of Intergovernmental Programs; ~~and~~
- 176 7. Office of Greenways and Trails; ~~and~~
- 177 8. Office of Emergency Management.

178 (b) There shall be six administrative districts involved in
179 regulatory matters of waste management, water resource
180 management, wetlands, and air resources, which shall be headed
181 by managers, each of whom is to be appointed by and serve at the
182 pleasure of the secretary. Divisions of the department may have
183 one assistant or two deputy division directors, as required to
184 facilitate effective operation.

185
186 The managers of all divisions and offices specifically named in



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187 this section and the directors of the six administrative
188 districts are exempt from part II of chapter 110 and are
189 included in the Senior Management Service in accordance with s.
190 110.205(2) (j).

191 (3) The following divisions of the Department of
192 Environmental Protection are established:

193 (a) Division of Administrative Services.

194 (b) Division of Air Resource Management.

195 (c) Division of Water Resource Management.

196 ~~(d) Division of Law Enforcement.~~

197 (d)~~(e)~~ Division of Environmental Assessment and
198 Restoration.

199 (e)~~(f)~~ Division of Waste Management.

200 (f)~~(g)~~ Division of Recreation and Parks.

201 (g)~~(h)~~ Division of State Lands, the director of which is to
202 be appointed by the secretary of the department, subject to
203 confirmation by the Governor and Cabinet sitting as the Board of
204 Trustees of the Internal Improvement Trust Fund.

205
206 In order to ensure statewide and intradepartmental consistency,
207 the department's divisions shall direct the district offices and
208 bureaus on matters of interpretation and applicability of the
209 department's rules and programs.

210 ~~(4) Law enforcement officers of the Department of~~
211 ~~Environmental Protection who meet the provisions of s. 943.13~~
212 ~~are constituted law enforcement officers of this state with full~~
213 ~~power to investigate and arrest for any violation of the laws of~~
214 ~~this state, and the rules of the department and the Board of~~
215 ~~Trustees of the Internal Improvement Trust Fund. The general~~



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216 ~~laws applicable to investigations, searches, and arrests by~~
217 ~~peace officers of this state apply to such law enforcement~~
218 ~~officers.~~

219 Section 8. Subsection (1) of section 258.008, Florida
220 Statutes, is amended to read:

221 258.008 Prohibited activities; penalties.—

222 (1) Except as provided in subsection (3), any person who
223 violates or otherwise fails to comply with the rules adopted
224 under this chapter commits a noncriminal infraction for which
225 ejection from all property managed by the Division of Recreation
226 and Parks and a fine of up to \$500 may be imposed by the
227 division. Fines paid under this subsection shall be paid to the
228 Fish and Wildlife Conservation Commission ~~Department of~~
229 ~~Environmental Protection~~ and deposited in the State Game Park
230 Trust Fund as provided in ss. 379.338, 379.339, and 379.3395.

231 Section 9. Subsection (16) of section 258.501, Florida
232 Statutes, is amended to read:

233 258.501 Myakka River; wild and scenic segment.—

234 (16) ENFORCEMENT. ~~Officers of The~~ Fish and Wildlife
235 Conservation Commission and the department shall have full
236 authority to enforce any rule adopted by the department ~~under~~
237 ~~this section with the same police powers given them by law to~~
238 ~~enforce the rules of state parks and the rules pertaining to~~
239 ~~saltwater areas under the jurisdiction of the Florida Marine~~
240 ~~Patrol.~~

241 Section 10. Paragraph (a) of subsection (2) of section
242 282.709, Florida Statutes, is amended to read:

243 282.709 State agency law enforcement radio system and
244 interoperability network.—



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245 (2) The Joint Task Force on State Agency Law Enforcement
246 Communications is created adjunct to the department to advise
247 the department of member-agency needs relating to the planning,
248 designing, and establishment of the statewide communication
249 system.

250 (a) The Joint Task Force on State Agency Law Enforcement
251 Communications shall consist of the following ~~eight~~ members, ~~as~~
252 ~~follows~~:

253 1. A representative of the Division of Alcoholic Beverages
254 and Tobacco of the Department of Business and Professional
255 Regulation who shall be appointed by the secretary of the
256 department.

257 2. A representative of the Division of Florida Highway
258 Patrol of the Department of Highway Safety and Motor Vehicles
259 who shall be appointed by the executive director of the
260 department.

261 3. A representative of the Department of Law Enforcement
262 who shall be appointed by the executive director of the
263 department.

264 4. A representative of the Fish and Wildlife Conservation
265 Commission who shall be appointed by the executive director of
266 the commission.

267 ~~5. A representative of the Division of Law Enforcement of~~
268 ~~the Department of Environmental Protection who shall be~~
269 ~~appointed by the secretary of the department.~~

270 ~~5.6.~~ A representative of the Department of Corrections who
271 shall be appointed by the secretary of the department.

272 ~~6.7.~~ A representative of the Division of State Fire Marshal
273 of the Department of Financial Services who shall be appointed



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274 by the State Fire Marshal.

275 ~~7.8.~~ A representative of the Department of Transportation
276 who shall be appointed by the secretary of the department.

277 Section 11. Subsection (1) of section 316.003, Florida
278 Statutes, is amended to read:

279 316.003 Definitions.—The following words and phrases, when
280 used in this chapter, shall have the meanings respectively
281 ascribed to them in this section, except where the context
282 otherwise requires:

283 (1) AUTHORIZED EMERGENCY VEHICLES.—Vehicles of the fire
284 department (fire patrol), police vehicles, and such ambulances
285 and emergency vehicles of municipal departments, public service
286 corporations operated by private corporations, the Department of
287 Environmental Protection, the Fish and Wildlife Conservation
288 Commission, the Department of Health, the Department of
289 Transportation, and the Department of Corrections as are
290 designated or authorized by their respective department or the
291 chief of police of an incorporated city or any sheriff of any of
292 the various counties.

293 Section 12. Subsections (3) and (9) of section 316.2397,
294 Florida Statutes, are amended to read:

295 316.2397 Certain lights prohibited; exceptions.—

296 (3) Vehicles of the fire department and fire patrol,
297 including vehicles of volunteer firefighters as permitted under
298 s. 316.2398, vehicles of medical staff physicians or technicians
299 of medical facilities licensed by the state as authorized under
300 s. 316.2398, ambulances as authorized under this chapter, and
301 buses and taxicabs as authorized under s. 316.2399 may ~~are~~
302 ~~permitted to~~ show or display red lights. Vehicles of the fire



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303 department, fire patrol, police vehicles, and such ambulances
304 and emergency vehicles of municipal and county departments,
305 public service corporations operated by private corporations,
306 the Fish and Wildlife Conservation Commission, the Department of
307 Environmental Protection, the Department of Transportation, the
308 Department of Agriculture and Consumer Services, and the
309 Department of Corrections as are designated or authorized by
310 their respective department or the chief of police of an
311 incorporated city or any sheriff of any county may ~~are hereby~~
312 ~~authorized to~~ operate emergency lights and sirens in an
313 emergency. Wreckers, mosquito control fog and spray vehicles,
314 and emergency vehicles of governmental departments or public
315 service corporations may show or display amber lights when in
316 actual operation or when a hazard exists provided they are not
317 used going to and from the scene of operation or hazard without
318 specific authorization of a law enforcement officer or law
319 enforcement agency. Wreckers must use amber rotating or flashing
320 lights while performing recoveries and loading on the roadside
321 day or night, and may use such lights while towing a vehicle on
322 wheel lifts, slings, or under reach if the operator of the
323 wrecker deems such lights necessary. A flatbed, car carrier, or
324 rollback may not use amber rotating or flashing lights when
325 hauling a vehicle on the bed unless it creates a hazard to other
326 motorists because of protruding objects. Further, escort
327 vehicles may show or display amber lights when in the actual
328 process of escorting overdimensioned equipment, material, or
329 buildings as authorized by law. Vehicles owned or leased by
330 private security agencies may show or display green and amber
331 lights, with either color being no greater than 50 percent of



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332 the lights displayed, while the security personnel are engaged
333 in security duties on private or public property.

334 (9) Flashing red lights may be used by emergency response
335 vehicles of the Fish and Wildlife Conservation Commission, the
336 Department of Environmental Protection and the Department of
337 Health when responding to an emergency in the line of duty.

338 Section 13. Paragraph (a) of subsection (1) of section
339 316.640, Florida Statutes, is amended to read:

340 316.640 Enforcement.—The enforcement of the traffic laws of
341 this state is vested as follows:

342 (1) STATE.—

343 (a)1.a. The Division of Florida Highway Patrol of the
344 Department of Highway Safety and Motor Vehicles; the Division of
345 Law Enforcement of the Fish and Wildlife Conservation
346 Commission; ~~the Division of Law Enforcement of the Department of~~
347 ~~Environmental Protection;~~ and the agents, inspectors, and
348 officers of the Department of Law Enforcement each have
349 authority to enforce all of the traffic laws of this state on
350 all the streets and highways thereof and elsewhere throughout
351 the state wherever the public has a right to travel by motor
352 vehicle.

353 b. University police officers may ~~shall have authority to~~
354 enforce all of the traffic laws of this state when violations
355 occur on or within 1,000 feet of any property or facilities that
356 are under the guidance, supervision, regulation, or control of a
357 state university, a direct-support organization of such state
358 university, or any other organization controlled by the state
359 university or a direct-support organization of the state
360 university, or when such violations occur within a specified



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361 jurisdictional area as agreed upon in a mutual aid agreement
362 entered into with a law enforcement agency pursuant to s.
363 23.1225(1). Traffic laws may also be enforced off-campus when
364 hot pursuit originates on or within 1,000 feet of any such
365 property or facilities, or as agreed upon in accordance with the
366 mutual aid agreement.

367 c. Community college police officers may ~~shall have the~~
368 ~~authority to~~ enforce all the traffic laws of this state only
369 when such violations occur on any property or facilities that
370 are under the guidance, supervision, regulation, or control of
371 the community college system.

372 d. Police officers employed by an airport authority may
373 ~~shall have the authority to~~ enforce all of the traffic laws of
374 this state only when such violations occur on any property or
375 facilities that are owned or operated by an airport authority.

376 (I) An airport authority may employ as a parking
377 enforcement specialist any individual who successfully completes
378 a training program established and approved by the Criminal
379 Justice Standards and Training Commission for parking
380 enforcement specialists but who does not otherwise meet the
381 uniform minimum standards established by the commission for law
382 enforcement officers or auxiliary or part-time officers under s.
383 943.12. ~~Nothing in~~ This sub-sub-subparagraph does not ~~shall be~~
384 ~~construed to~~ permit the carrying of firearms or other weapons,
385 nor shall such parking enforcement specialist have arrest
386 authority.

387 (II) A parking enforcement specialist employed by an
388 airport authority may ~~is authorized to~~ enforce all state,
389 county, and municipal laws and ordinances governing parking only



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390 when such violations are on property or facilities owned or
391 operated by the airport authority employing the specialist, by
392 appropriate state, county, or municipal traffic citation.

393 e. The Office of Agricultural Law Enforcement of the
394 Department of Agriculture and Consumer Services may ~~shall have~~
395 ~~the authority to~~ enforce traffic laws of this state.

396 f. School safety officers may ~~shall have the authority to~~
397 enforce all of the traffic laws of this state when such
398 violations occur on or about any property or facilities which
399 are under the guidance, supervision, regulation, or control of
400 the district school board.

401 2. An agency of the state as described in subparagraph 1.
402 is prohibited from establishing a traffic citation quota. A
403 violation of this subparagraph is not subject to the penalties
404 provided in chapter 318.

405 3. Any disciplinary action taken or performance evaluation
406 conducted by an agency of the state as described in subparagraph
407 1. of a law enforcement officer's traffic enforcement activity
408 must be in accordance with written work-performance standards.
409 Such standards must be approved by the agency and any collective
410 bargaining unit representing such law enforcement officer. A
411 violation of this subparagraph is not subject to the penalties
412 provided in chapter 318.

413 4. The Division of the Florida Highway Patrol may employ as
414 a traffic accident investigation officer any individual who
415 successfully completes instruction in traffic accident
416 investigation and court presentation through the Selective
417 Traffic Enforcement Program as approved by the Criminal Justice
418 Standards and Training Commission and funded through the



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419 National Highway Traffic Safety Administration or a similar
420 program approved by the commission, but who does not necessarily
421 meet the uniform minimum standards established by the commission
422 for law enforcement officers or auxiliary law enforcement
423 officers under chapter 943. Any such traffic accident
424 investigation officer who makes an investigation at the scene of
425 a traffic accident may issue traffic citations, based upon
426 personal investigation, when he or she has reasonable and
427 probable grounds to believe that a person who was involved in
428 the accident committed an offense under this chapter, chapter
429 319, chapter 320, or chapter 322 in connection with the
430 accident. This subparagraph does not permit the officer to carry
431 firearms or other weapons, and such an officer does not have
432 authority to make arrests.

433 Section 14. Subsection (4) of section 375.041, Florida
434 Statutes, is amended to read:

435 375.041 Land Acquisition Trust Fund.—

436 (4) The department may disburse moneys in the Land
437 Acquisition Trust Fund to pay all necessary expenses to carry
438 out the purposes of this act. The department shall disburse
439 moneys from the Land Acquisition Trust Fund to the Fish and
440 Wildlife Conservation Commission for the purpose of funding law
441 enforcement services on state lands.

442 Section 15. Subsection (5) of section 376.065, Florida
443 Statutes, is amended to read:

444 376.065 Operation of terminal facility without discharge
445 prevention and response certificate prohibited; penalty.—

446 (5) (a) A ~~Any~~ person who violates this section or the terms
447 and requirements of such certification commits a noncriminal



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448 infraction. The civil penalty for any such infraction shall be
449 \$500, except as otherwise provided in this section.

450 (b) A ~~Any~~ person cited for an infraction under this section
451 may:

- 452 1. Pay the civil penalty;
- 453 2. Post a bond equal to the amount of the applicable civil
454 penalty; or
- 455 3. Sign and accept a citation indicating a promise to
456 appear before the county court.

457
458 The department employee ~~officer~~ authorized to issue these
459 citations may indicate on the citation the time and location of
460 the scheduled hearing and shall indicate the applicable civil
461 penalty.

462 (c) A ~~Any~~ person who willfully refuses to post bond or
463 accept and sign a citation commits a misdemeanor of the second
464 degree, punishable as provided in s. 775.082 or s. 775.083.

465 (d) After compliance with ~~the provisions of~~ subparagraph
466 (b)2. or subparagraph (b)3., a ~~any~~ person charged with a
467 noncriminal infraction under this section may:

- 468 1. Pay the civil penalty, either by mail or in person,
469 within 30 days after the date of receiving the citation; or
- 470 2. If the person has posted bond, forfeit the bond by not
471 appearing at the designated time and location.

472
473 A person cited for an infraction under this section who pays the
474 civil penalty or forfeits the bond has admitted the infraction
475 and waives the right to a hearing on the issue of commission of
476 the infraction. Such admission may not be used as evidence in



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477 any other proceedings.

478 (e) A ~~Any~~ person who elects to appear before the county
479 court or who is required to so appear waives the limitations of
480 the civil penalty specified in paragraph (a). The court, after a
481 hearing, shall make a determination as to whether an infraction
482 has been committed. If the commission of the infraction is
483 proved, the court shall impose a civil penalty of \$500.

484 (f) At a hearing under this subsection, the commission of a
485 charged infraction must be proved by the greater weight of the
486 evidence.

487 (g) A person who is found by the hearing official to have
488 committed an infraction may appeal that finding to the circuit
489 court.

490 (h) A ~~Any~~ person who has not posted bond and who fails
491 either to pay the fine specified in paragraph (a) within 30 days
492 after receipt of the citation or to appear before the court
493 commits a misdemeanor of the second degree, punishable as
494 provided in s. 775.082 or s. 775.083.

495 Section 16. Subsection (3) of section 376.07, Florida
496 Statutes, is amended to read:

497 376.07 Regulatory powers of department; penalties for
498 inadequate booming by terminal facilities.-

499 (3) The department shall not require vessels to maintain
500 discharge prevention gear, holding tanks, and containment gear
501 which exceed federal requirements. However, a terminal facility
502 transferring heavy oil to or from a vessel with a heavy oil
503 storage capacity greater than 10,000 gallons shall be required,
504 considering existing weather and tidal conditions, to adequately
505 boom or seal off the transfer area during a transfer, including,



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506 but not limited to, a bunkering operation, to minimize the
507 escape of such pollutants from the containment area. As used in
508 this subsection, the term "adequate booming" means booming with
509 proper containment equipment which is employed and located for
510 the purpose of preventing, for the most likely discharge, as
511 much of the pollutant as possible from escaping out of the
512 containment area.

513 (a) The owner or operator of a terminal facility involved
514 in the transfer of such pollutant to or from a vessel which is
515 not adequately boomed commits a noncriminal infraction and shall
516 be cited for such infraction. The civil penalty for such an
517 infraction shall be \$2,500, except as otherwise provided in this
518 section.

519 (b) A ~~Any~~ person cited for an infraction under this section
520 may:

- 521 1. Pay the civil penalty;
522 2. Post bond equal to the amount of the applicable civil
523 penalty; or
524 3. Sign and accept a citation indicating a promise to
525 appear before the county court.

526
527 The department employee ~~officer~~ authorized to issue these
528 citations may indicate on the citation the time and location of
529 the scheduled hearing and shall indicate the applicable civil
530 penalty.

531 (c) A ~~Any~~ person who willfully refuses to post bond or
532 accept and sign a citation commits a misdemeanor of the second
533 degree, punishable as provided in s. 775.082 or s. 775.083.

534 (d) After compliance with subparagraph (b)2. or



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535 subparagraph (b)3., a ~~any~~ person charged with a noncriminal
536 infraction under this section may:

537 1. Pay the civil penalty, either by mail or in person,
538 within 30 days after the date of receiving the citation; or

539 2. If the person has posted bond, forfeit the bond by not
540 appearing at the designated time and location.

541
542 A person cited for an infraction under this section who pays the
543 civil penalty or forfeits the bond has admitted the infraction
544 and waives the right to a hearing on the issue of commission of
545 the infraction. Such admission may not be used as evidence in
546 any other proceedings.

547 (e) A ~~Any~~ person who elects to appear before the county
548 court or who is required to appear waives the limitations of the
549 civil penalty specified in paragraph (a). The issue of whether
550 an infraction has been committed and the severity of the
551 infraction shall be determined by a hearing official at a
552 hearing. If the commission of the infraction is proved by the
553 greater weight of the evidence, the court shall impose a civil
554 penalty of \$2,500. If the court determines that the owner or
555 operator of the terminal facility failed to deploy any boom
556 equipment during such a transfer, including, but not limited to,
557 a bunkering operation, the civil penalty shall be \$5,000.

558 (f) A person who is found by the hearing official to have
559 committed an infraction may appeal that finding to the circuit
560 court.

561 (g) A ~~Any~~ person who has not posted bond and who fails
562 either to pay the civil penalty specified in paragraph (a)
563 within 30 days after receipt of the citation or to appear before



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564 the court commits a misdemeanor of the second degree, punishable
565 as provided in s. 775.082 or s. 775.083.

566 Section 17. Subsection (2) of section 376.071, Florida
567 Statutes, is amended to read:

568 376.071 Discharge contingency plan for vessels.—

569 (2) (a) A ~~Any~~ master of a vessel that ~~which~~ violates
570 subsection (1) commits a noncriminal infraction and shall be
571 cited for such infraction. The civil penalty for such an
572 infraction shall be \$5,000, except as otherwise provided in this
573 subsection.

574 (b) A ~~Any~~ person charged with a noncriminal infraction
575 under this section may:

- 576 1. Pay the civil penalty;
577 2. Post bond equal to the amount of the applicable civil
578 penalty; or
579 3. Sign and accept a citation indicating a promise to
580 appear before the county court for the county in which the
581 violation occurred or the county closest to the location at
582 which the violation occurred.

583
584 The department employee ~~officer~~ authorized to issue these
585 citations may indicate on the citation the time and location of
586 the scheduled hearing and shall indicate the applicable civil
587 penalty.

588 (c) A ~~Any~~ person who willfully refuses to post bond or
589 accept and sign a citation commits a misdemeanor of the second
590 degree, punishable as provided in s. 775.082 or s. 775.083.

591 (d) After complying with ~~the provisions of~~ subparagraph
592 (b)2. or subparagraph (b)3., a ~~any~~ person charged with a



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593 noncriminal infraction under this section may:

594 1. Pay the civil penalty, either by mail or in person,
595 within 30 days after the date of receiving the citation; or

596 2. If the person has posted bond, forfeit the bond by not
597 appearing at the designated time and location.

598

599 A person cited for an infraction under this section who pays the
600 civil penalty or forfeits the bond has admitted the infraction
601 and waives the right to a hearing on the issue of commission of
602 the infraction. Such admission may not be used as evidence in
603 any other proceedings.

604 (e) A ~~Any~~ person who elects to appear before the county
605 court or who is required to appear waives the limitations of the
606 civil penalty specified in paragraph (a). The court, after a
607 hearing, shall make a determination as to whether an infraction
608 has been committed. If the commission of the infraction is
609 proved, the court shall impose a civil penalty of \$5,000.

610 (f) At a hearing under this subsection, the commission of a
611 charged infraction must be proved by the greater weight of the
612 evidence.

613 (g) A person who is found by the hearing official to have
614 committed an infraction may appeal that finding to the circuit
615 court.

616 (h) A ~~Any~~ person who has not posted bond and who fails
617 either to pay the civil penalty specified in paragraph (a)
618 within 30 days after receipt of the citation or to appear before
619 the court commits a misdemeanor of the second degree, punishable
620 as provided in s. 775.082 or s. 775.083.

621 Section 18. Subsection (4) of section 376.16, Florida



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622 Statutes, is amended to read:

623 376.16 Enforcement and penalties.—

624 (4) A ~~Any~~ person charged with a noncriminal infraction
625 pursuant to subsection (2) or subsection (3) may:

626 (a) Pay the civil penalty;

627 (b) Post a bond equal to the amount of the applicable civil
628 penalty; or

629 (c) Sign and accept a citation indicating a promise to
630 appear before the county court.

631

632 The department employee ~~officer~~ authorized to issue these
633 citations may indicate on the citation the time and location of
634 the scheduled hearing and shall indicate the applicable civil
635 penalty.

636 Section 19. Paragraph (q) is added to subsection (4) of
637 section 376.3071, Florida Statutes, to read:

638 376.3071 Inland Protection Trust Fund; creation; purposes;
639 funding.—

640 (4) USES.—Whenever, in its determination, incidents of
641 inland contamination related to the storage of petroleum or
642 petroleum products may pose a threat to the environment or the
643 public health, safety, or welfare, the department shall obligate
644 moneys available in the fund to provide for:

645 (q) Enforcement of this section and ss. 376.30-376.317 by
646 the Fish and Wildlife Conservation Commission. The department
647 shall disburse moneys to the commission for such purpose.

648

649 The Inland Protection Trust Fund may only be used to fund the
650 activities in ss. 376.30-376.317 except ss. 376.3078 and



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651 376.3079. Amounts on deposit in the Inland Protection Trust Fund
652 in each fiscal year shall first be applied or allocated for the
653 payment of amounts payable by the department pursuant to
654 paragraph (o) under a service contract entered into by the
655 department pursuant to s. 376.3075 and appropriated in each year
656 by the Legislature prior to making or providing for other
657 disbursements from the fund. Nothing in this subsection shall
658 authorize the use of the Inland Protection Trust Fund for
659 cleanup of contamination caused primarily by a discharge of
660 solvents as defined in s. 206.9925(6), or polychlorinated
661 biphenyls when their presence causes them to be hazardous
662 wastes, except solvent contamination which is the result of
663 chemical or physical breakdown of petroleum products and is
664 otherwise eligible. Facilities used primarily for the storage of
665 motor or diesel fuels as defined in ss. 206.01 and 206.86 shall
666 be presumed not to be excluded from eligibility pursuant to this
667 section.

668 Section 20. Section 379.3311, Florida Statutes, is amended
669 to read:

670 379.3311 Police powers of commission and its agents.—

671 (1) The ~~Fish and Wildlife Conservation~~ commission, the
672 executive director and the executive director's assistants
673 designated by her or him, and each commission ~~wildlife~~ officer
674 are constituted peace officers with the power to make arrests
675 for violations of the laws of this state when committed in the
676 presence of the officer or when committed on lands under the
677 supervision and management of the commission, the department,
678 the Board of Trustees of the Internal Improvement Trust Fund, or
679 the Department of Agricultural and Consumer Services, including



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680 state parks, coastal and aquatic managed areas, and greenways
681 and trails. The general laws applicable to arrests by peace
682 officers of this state shall also be applicable to the said
683 director, assistants, and wildlife officers. Such persons may
684 enter upon any land or waters of the state for performance of
685 their lawful duties and may take with them any necessary
686 equipment, and such entry does shall not constitute a trespass.

687 (2) Such officers may shall have power and authority to
688 enforce throughout the state all laws relating to game, nongame
689 birds, fish, and fur-bearing animals and all rules and
690 regulations of the ~~Fish and Wildlife Conservation~~ commission
691 relating to wild animal life, marine life, and freshwater
692 aquatic life, and in connection with the said laws, rules, and
693 regulations, in the enforcement thereof and in the performance
694 of their duties thereunder, to:

695 (a) Go upon all premises, posted or otherwise;

696 (b) Execute warrants and search warrants for the violation
697 of the said laws;

698 (c) Serve subpoenas issued for the examination,
699 investigation, and trial of all offenses against the said laws;

700 (d) Carry firearms or other weapons, concealed or
701 otherwise, in the performance of their duties;

702 (e) Arrest upon probable cause without warrant any person
703 found in the act of violating any such of the provisions of said
704 laws or, in pursuit immediately following such violations, to
705 examine any person, boat, conveyance, vehicle, game bag, game
706 coat, or other receptacle for wild animal life, marine life, or
707 freshwater aquatic life, or any camp, tent, cabin, or roster, in
708 the presence of any person stopping at or belonging to such



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709 camp, tent, cabin, or roster, when the ~~said~~ officer has reason
710 to believe, and has exhibited her or his authority and stated to
711 the suspected person in charge the officer's reason for
712 believing, that any of the aforesaid laws have been violated at
713 such camp;

714 (f) Secure and execute search warrants and in pursuance
715 thereof to enter any building, enclosure, or car and to break
716 open, when found necessary, any apartment, chest, locker, box,
717 trunk, crate, basket, bag, package, or container and examine the
718 contents thereof;

719 (g) Seize and take possession of all wild animal life,
720 marine life, or freshwater aquatic life taken or in possession
721 or under control of, or shipped or about to be shipped by, any
722 person at any time in any manner contrary to the ~~said~~ laws.

723 (3) It is unlawful for a ~~any~~ person to resist an arrest
724 authorized by this section or in any manner to interfere, either
725 by abetting, assisting such resistance, or otherwise interfering
726 with the ~~said~~ executive director, assistants, or wildlife
727 officers while engaged in the performance of the duties imposed
728 upon them by law or regulation of the ~~Fish and Wildlife~~
729 Conservation commission, the department, the Board of Trustees
730 of the Internal Improvement Trust Fund, or the Department of
731 Agriculture and Consumer Services.

732 (4) Upon final disposition of any alleged offense for which
733 a citation for any violation of this chapter or the rules of the
734 commission has been issued, the court shall, within 10 days
735 after the final disposition of the action, certify the
736 disposition to the commission.

737 Section 21. Section 379.3312, Florida Statutes, is amended



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738 to read:

739 379.3312 Powers of arrest by agents of ~~Department of~~
740 ~~Environmental Protection or Fish and Wildlife Conservation~~
741 commission.—Any certified law enforcement officer of the
742 ~~Department of Environmental Protection or the Fish and Wildlife~~
743 ~~Conservation~~ commission, upon receiving information, relayed to
744 her or him from any law enforcement officer stationed on the
745 ground, on the water, or in the air, that a driver, operator, or
746 occupant of any vehicle, boat, or airboat has violated any
747 section of chapter 327, chapter 328, or this chapter, or s.
748 597.010 or s. 597.020, may arrest the driver, operator, or
749 occupant for violation of such ~~said~~ laws when reasonable and
750 proper identification of the vehicle, boat, or airboat and
751 reasonable and probable grounds to believe that the driver,
752 operator, or occupant has committed or is committing any such
753 offense have been communicated to the arresting officer by the
754 other officer stationed on the ground, on the water, or in the
755 air.

756 Section 22. Subsection (1) of section 379.3313, Florida
757 Statutes, is amended to read:

758 379.3313 Powers of commission law enforcement officers.—

759 (1) Law enforcement officers of the commission are
760 constituted law enforcement officers of this state with full
761 power to investigate and arrest for any violation of the laws of
762 this state and the rules of the commission, the department, the
763 Board of Trustees of the Internal Improvement Trust Fund, and
764 the Department of Agriculture and Consumer Services under their
765 jurisdiction. The general laws applicable to arrests by peace
766 officers of this state shall also be applicable to law



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767 enforcement officers of the commission. Such law enforcement
768 officers may enter upon any land or waters of the state for
769 performance of their lawful duties and may take with them any
770 necessary equipment, and such entry will not constitute a
771 trespass. It is lawful for any boat, motor vehicle, or aircraft
772 owned or chartered by the commission or its agents or employees
773 to land on and depart from any of the beaches or waters of the
774 state. Such law enforcement officers have the authority, without
775 warrant, to board, inspect, and search any boat, fishing
776 appliance, storage or processing plant, fishhouse, spongehouse,
777 oysterhouse, or other warehouse, building, or vehicle engaged in
778 transporting or storing any fish or fishery products. Such
779 authority to search and inspect without a search warrant is
780 limited to those cases in which such law enforcement officers
781 have reason to believe that fish or any saltwater products are
782 taken or kept for sale, barter, transportation, or other
783 purposes in violation of laws or rules adopted ~~promulgated~~ under
784 this law. ~~Any~~ Such law enforcement officers ~~officer~~ may at any
785 time seize or take possession of any saltwater products or
786 contraband which have been unlawfully caught, taken, or
787 processed or which are unlawfully possessed or transported in
788 violation of any of the laws of this state or any rule of the
789 commission. Such law enforcement officers may arrest any person
790 in the act of violating ~~any of the provisions of~~ this law, the
791 rules of the commission, or any of the laws of this state. It is
792 hereby declared unlawful for a ~~any~~ person to resist such arrest
793 or in any manner interfere, either by abetting or assisting such
794 resistance or otherwise interfering, with any such law
795 enforcement officer while engaged in the performance of the



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796 duties imposed upon him or her by law or rule of the commission.

797 Section 23. Subsections (1) and (2) of section 379.333,
798 Florida Statutes, are amended to read:

799 379.333 Arrest by officers of the ~~Fish and Wildlife~~
800 ~~Conservation~~ commission; recognizance; cash bond; citation.-

801 (1) In all cases of arrest by officers of the ~~Fish and~~
802 ~~Wildlife Conservation~~ commission and the ~~Department of~~
803 ~~Environmental Protection~~, the person arrested shall be delivered
804 forthwith by the ~~said~~ officer to the sheriff of the county, or
805 shall obtain from the ~~such~~ person arrested a recognizance or, if
806 deemed necessary, a cash bond or other sufficient security
807 conditioned for her or his appearance before the proper tribunal
808 of the ~~such~~ county to answer the charge for which the person has
809 been arrested.

810 (2) All officers of the commission shall and the ~~department~~
811 ~~are hereby directed to~~ deliver all bonds accepted and approved
812 by them to the sheriff of the county in which the offense is
813 alleged to have been committed.

814 Section 24. Subsection (1) of section 379.341, Florida
815 Statutes, is amended to read:

816 379.341 Disposition of illegal fishing devices; exercise of
817 police power.-

818 (1) In all cases of arrest and conviction for use of
819 illegal nets or traps or fishing devices, as provided in this
820 chapter, the ~~such~~ illegal net, trap, or fishing device is
821 declared to be a nuisance and shall be seized and carried before
822 the court having jurisdiction of the ~~such~~ offense and the ~~said~~
823 court shall order the ~~such~~ illegal trap, net, or fishing device
824 forfeited to the commission immediately after trial and



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825 conviction of the person in whose possession they were found.
826 When any illegal net, trap, or fishing device is found in the
827 fresh waters of the state, and the owner of same is ~~shall~~ not be
828 known to the officer finding the same, the ~~such~~ officer shall
829 immediately procure from the county court judge an order
830 forfeiting the ~~said~~ illegal net, trap, or fishing device to the
831 commission. The commission may destroy the ~~such~~ illegal net,
832 trap, or fishing device, if in its judgment the ~~said~~ net, trap,
833 or fishing device is ~~not~~ of no value in the work of the
834 commission ~~department~~.

835 Section 25. Subsection (2) of section 403.413, Florida
836 Statutes, is reordered and amended to read:

837 403.413 Florida Litter Law.—

838 (2) DEFINITIONS.—As used in this section:

839 (f) ~~(a)~~ "Litter" means any garbage; rubbish; trash; refuse;
840 can; bottle; box; container; paper; tobacco product; tire;
841 appliance; mechanical equipment or part; building or
842 construction material; tool; machinery; wood; motor vehicle or
843 motor vehicle part; vessel; aircraft; farm machinery or
844 equipment; sludge from a waste treatment facility, water supply
845 treatment plant, or air pollution control facility; or substance
846 in any form resulting from domestic, industrial, commercial,
847 mining, agricultural, or governmental operations.

848 (h) ~~(b)~~ "Person" means any individual, firm, sole
849 proprietorship, partnership, corporation, or unincorporated
850 association.

851 (e) ~~(c)~~ "Law enforcement officer" means any officer of the
852 Florida Highway Patrol, a county sheriff's department, a
853 municipal law enforcement department, a law enforcement



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854 department of any other political subdivision, ~~the department,~~
855 or the Fish and Wildlife Conservation Commission. In addition,
856 and solely for the purposes of this section, "law enforcement
857 officer" means any employee of a county or municipal park or
858 recreation department designated by the department head as a
859 litter enforcement officer.

860 (a) ~~(d)~~ "Aircraft" means a motor vehicle or other vehicle
861 that is used or designed to fly but does not include a parachute
862 or any other device used primarily as safety equipment.

863 (b) ~~(e)~~ "Commercial purpose" means for the purpose of
864 economic gain.

865 (c) ~~(f)~~ "Commercial vehicle" means a vehicle that is owned
866 or used by a business, corporation, association, partnership, or
867 sole proprietorship or any other entity conducting business for
868 a commercial purpose.

869 (d) ~~(g)~~ "Dump" means to dump, throw, discard, place,
870 deposit, or dispose of.

871 (g) ~~(h)~~ "Motor vehicle" means an automobile, motorcycle,
872 truck, trailer, semitrailer, truck tractor, or semitrailer
873 combination or any other vehicle that is powered by a motor.

874 (i) "Vessel" means a boat, barge, or airboat or any other
875 vehicle used for transportation on water.

876 Section 26. Paragraph (d) of subsection (1) of section
877 784.07, Florida Statutes, is amended to read:

878 784.07 Assault or battery of law enforcement officers,
879 firefighters, emergency medical care providers, public transit
880 employees or agents, or other specified officers;
881 reclassification of offenses; minimum sentences.-

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



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883 (d) "Law enforcement officer" includes a law enforcement
884 officer, a correctional officer, a correctional probation
885 officer, a part-time law enforcement officer, a part-time
886 correctional officer, an auxiliary law enforcement officer, and
887 an auxiliary correctional officer, as those terms are
888 respectively defined in s. 943.10, and any county probation
889 officer; an employee or agent of the Department of Corrections
890 who supervises or provides services to inmates; an officer of
891 the Parole Commission; a federal law enforcement officer as
892 defined in s. 901.1505; and law enforcement personnel of the
893 Fish and Wildlife Conservation Commission, ~~the Department of~~
894 ~~Environmental Protection~~, or the Department of Law Enforcement.

895 Section 27. Section 843.08, Florida Statutes, is amended to
896 read:

897 843.08 Falsely personating officer, etc.—A person who
898 falsely assumes or pretends to be a sheriff, officer of the
899 Florida Highway Patrol, officer of the Fish and Wildlife
900 Conservation Commission, ~~officer of the Department of~~
901 ~~Environmental Protection~~, officer of the Department of
902 Transportation, officer of the Department of Financial Services,
903 officer of the Department of Corrections, correctional probation
904 officer, deputy sheriff, state attorney or assistant state
905 attorney, statewide prosecutor or assistant statewide
906 prosecutor, state attorney investigator, coroner, police
907 officer, lottery special agent or lottery investigator, beverage
908 enforcement agent, or watchman, or any member of the Parole
909 Commission and any administrative aide or supervisor employed by
910 the commission, or any personnel or representative of the
911 Department of Law Enforcement, or a federal law enforcement



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912 officer as defined in s. 901.1505, and takes upon himself or
913 herself to act as such, or to require any other person to aid or
914 assist him or her in a matter pertaining to the duty of any such
915 officer, commits a felony of the third degree, punishable as
916 provided in s. 775.082, s. 775.083, or s. 775.084; however, a
917 person who falsely personates any such officer during the course
918 of the commission of a felony commits a felony of the second
919 degree, punishable as provided in s. 775.082, s. 775.083, or s.
920 775.084. ~~except that~~ If the commission of the felony results in
921 the death or personal injury of another human being, the person
922 commits a felony of the first degree, punishable as provided in
923 s. 775.082, s. 775.083, or s. 775.084.

924 Section 28. Section 870.04, Florida Statutes, is amended to
925 read:

926 870.04 Specified officers to disperse riotous assembly.—If
927 any number of persons, whether armed or not, are unlawfully,
928 riotously or tumultuously assembled in any county, city or
929 municipality, the sheriff or the sheriff's deputies, or the
930 mayor, or any commissioner, council member, alderman or police
931 officer of the ~~said~~ city or municipality, or any officer or
932 member of the Florida Highway Patrol, or any officer or agent of
933 the Fish and Wildlife Conservation Commission, a Department of
934 ~~Environmental Protection, or~~ beverage enforcement agent, any
935 personnel or representatives of the Department of Law
936 Enforcement or its successor, or any other peace officer, shall
937 go among the persons so assembled, or as near to them as may be
938 done with safety, and shall in the name of the state command all
939 the persons so assembled immediately and peaceably to disperse;
940 and if such persons do not thereupon immediately and peaceably



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941 disperse, such ~~said~~ officers shall command the assistance of all
942 such persons in seizing, arresting and securing such persons in
943 custody. ~~and~~ If a ~~any~~ person present being so commanded to aid
944 and assist in seizing and securing such rioter or persons so
945 unlawfully assembled, or in suppressing a ~~such~~ riot or unlawful
946 assembly, refuses or neglects to obey such command, or, when
947 required by the ~~such~~ officers to depart from the place, refuses
948 and neglects to do so, the person shall be deemed one of the
949 rioters or persons unlawfully assembled, and may be prosecuted
950 and punished accordingly.

951 Section 29. Paragraphs (c) through (n) of subsection (6) of
952 section 932.7055, Florida Statutes, are redesignated as
953 paragraphs (b) through (m), respectively, and present paragraph
954 (b) of that subsection is amended to read:

955 932.7055 Disposition of liens and forfeited property.—

956 (6) If the seizing agency is a state agency, all remaining
957 proceeds shall be deposited into the General Revenue Fund.
958 However, if the seizing agency is:

959 ~~(b) The Department of Environmental Protection, the~~
960 ~~proceeds accrued pursuant to the provisions of the Florida~~
961 ~~Contraband Forfeiture Act shall be deposited into the Internal~~
962 ~~Improvement Trust Fund.~~

963 Section 30. This act shall take effect July 1, 2012.

964
965 ===== T I T L E A M E N D M E N T =====

966 And the title is amended as follows:

967 Delete everything before the enacting clause
968 and insert:

969 A bill to be entitled



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970 An act relating to the Fish and Wildlife Conservation
971 Commission; transferring and reassigning functions and
972 responsibilities of the Division of Law Enforcement,
973 excluding the Bureau of Emergency Response, within the
974 Department of Environmental Protection to the Division
975 of Law Enforcement within the Fish and Wildlife
976 Conservation Commission; reassigning the Bureau of
977 Emergency Response within the Department of
978 Environmental Protection to the Secretary of
979 Environmental Protection, as the Office of Emergency
980 Response, within the Department of Environmental
981 Protection; providing for the transfer of additional
982 positions to the commission; providing for a
983 memorandum of agreement between the department and the
984 commission regarding the responsibilities of the
985 commission to the department; transferring and
986 reassigning functions and responsibilities of sworn
987 positions funded by the Conservation and Recreation
988 Lands Program and assigned to the Florida Forest
989 Service within the Department of Agriculture and
990 Consumer Services and the investigator responsible for
991 the enforcement of aquaculture violations at the
992 Department of Agriculture and Consumer Services to the
993 Division of Law Enforcement within the Fish and
994 Wildlife Conservation Commission; providing for a
995 memorandum of agreement between the department and the
996 commission regarding the responsibilities between the
997 commission and the department; providing for
998 transition advisory working groups; assigning powers,



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999 duties, responsibilities, and functions for
1000 enforcement of the laws and rules governing certain
1001 lands managed by the Department of Environmental
1002 Protection and certain lands and aquaculture managed
1003 by the Department of Agriculture and Consumer Services
1004 to the Fish and Wildlife Conservation Commission;
1005 conferring full power to the law enforcement officers
1006 of the Fish and Wildlife Conservation Commission to
1007 investigate and arrest for violations of rules of the
1008 Department of Agriculture and Consumer Services, the
1009 Department of Environmental Protection, and the Board
1010 of Trustees of the Internal Improvement Trust Fund;
1011 authorizing salary parity and other pay adjustments
1012 for positions transferred by the act; providing for
1013 the retention and transfer of specified benefits for
1014 employees who are transferred from the Department of
1015 Environmental Protection and the Department of
1016 Agriculture and Consumer Services to fill positions
1017 transferred to the Fish and Wildlife Conservation
1018 Commission; creating s. 258.601, F.S.; specifying
1019 powers and duties of the commission relating to state
1020 parks and preserves and wild and scenic rivers;
1021 amending ss. 20.255, 258.008, 258.501, 282.709,
1022 316.003, 316.2397, 316.640, 375.041, 376.065, 376.07,
1023 376.071, 376.16, 376.3071, 379.3311, 379.3312,
1024 379.3313, 379.333, 379.341, 403.413, 784.07, 843.08,
1025 870.04, and 932.7055, F.S.; conforming provisions to
1026 changes made by the act; providing an effective date.

By Senator Latvala

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1 A bill to be entitled
2 An act relating to the Fish and Wildlife Conservation
3 Commission; transferring and reassigning functions and
4 responsibilities of the Division of Law Enforcement
5 within the Department of Environmental Protection to
6 the Division of Law Enforcement within the Fish and
7 Wildlife Conservation Commission; providing for the
8 transfer of additional positions to the commission;
9 providing for a memorandum of agreement between the
10 department and the commission regarding the
11 responsibilities of the commission to the department;
12 transferring and reassigning functions and
13 responsibilities of sworn positions funded by the
14 Conservation and Recreation Lands Program and assigned
15 to the Florida Forest Service within the Department of
16 Agriculture and Consumer Services and the investigator
17 responsible for the enforcement of aquaculture
18 violations at the Department of Agriculture and
19 Consumer Services to the Division of Law Enforcement
20 within the Fish and Wildlife Conservation Commission;
21 providing for transition advisory working groups;
22 assigning powers, duties, responsibilities, and
23 functions for enforcement of the laws and rules
24 governing certain lands managed by the Department of
25 Environmental Protection and certain lands and
26 aquaculture managed by the Department of Agriculture
27 and Consumer Services to the Fish and Wildlife
28 Conservation Commission; conferring full power to the
29 law enforcement officers of the Fish and Wildlife

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30 Conservation Commission to investigate and arrest for
31 violations of rules of the Department of Environmental
32 Protection and the Board of Trustees of the Internal
33 Improvement Trust Fund; providing for the retention
34 and transfer of specified benefits for employees that
35 are transferred from the Department of Environmental
36 Protection and the Department of Agriculture and
37 Consumer Services to fill positions transferred to the
38 Fish and Wildlife Conservation Commission; amending
39 ss. 20.255, 206.9935, 258.008, 258.501, 282.709,
40 287.0595, 316.2397, 316.640, 376.021, 376.031,
41 376.051, 376.065, 376.07, 376.0705, 376.071, 376.09,
42 376.10, 376.12, 376.121, 376.123, 376.14, 376.15,
43 376.16, 376.19, 376.30, 376.301, 376.303, 376.305,
44 376.307, 376.308, 379.3311, 379.3312, 379.3313,
45 379.333, 379.341, 403.413, 403.703, 403.704, 403.727,
46 784.07, 843.08, 870.04, and 932.7055, F.S.; conforming
47 provisions to changes made by the act; amending s.
48 376.11, F.S.; deleting provisions authorizing the
49 disbursement of moneys in the Florida Coastal
50 Protection Trust Fund for the purpose of making loans
51 to the Inland Protection Trust Fund and providing a
52 temporary transfer of funds to the Minerals Trust
53 Fund; creating ss. 258.601, 376.3031, and 403.7041,
54 F.S.; specifying powers and duties of the commission
55 relating to state parks and preserves and wild and
56 scenic rivers, removal of pollutant discharges, and
57 response to hazardous waste emergencies; amending ss.
58 171.205, 316.003, 376.40, 377.709, 403.707, and

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59 487.048, F.S.; conforming cross-references; providing
60 an effective date.

61
62 Be It Enacted by the Legislature of the State of Florida:

63
64 Section 1. (1) All powers, duties, functions, records,
65 offices, personnel, property, pending issues and existing
66 contracts, administrative authority, administrative rules, and
67 unexpended balances of appropriations, allocations, and other
68 funds relating to the Division of Law Enforcement within the
69 Department of Environmental Protection are transferred by a type
70 two transfer, as defined in s. 20.06(2), Florida Statutes, to
71 the Division of Law Enforcement within the Florida Fish and
72 Wildlife Conservation Commission.

73 (2) The Secretary of Environmental Protection shall
74 transfer to the Fish and Wildlife Conservation Commission the
75 number of administrative, auditing, inspector general, attorney,
76 and operational support positions proportionate to the number of
77 Division of Law Enforcement full-time equivalent and other
78 personal services positions being transferred from the
79 department to the commission.

80 (3) A memorandum of agreement shall be developed between
81 the department and the commission detailing the responsibilities
82 of the commission to the department, to include, at a minimum,
83 the following:

84 (a) Support and response for oil spills, hazardous spills,
85 and natural disasters.

86 (b) Law enforcement patrol and investigative services for
87 all state-owned lands managed by the department.

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88 (c) Law enforcement services, including investigative
89 services, for all criminal law violations of chapters 258, 376,
90 and 403, Florida Statutes.

91 (d) Enforcement services for all civil violations of all
92 department administrative rules related to the following program
93 areas:

94 1. Division of Recreation and Parks.

95 2. Office of Coastal and Aquatic Managed Areas.

96 3. Office of Greenways and Trails.

97 Section 2. All powers, duties, functions, records,
98 property, pending issues and existing contracts, administrative
99 authority, administrative rules, and unexpended balances of
100 appropriations, allocations, and other funds relating to sworn
101 positions funded by the Conservation and Recreation Lands
102 Program and assigned to the Florida Forest Service within the
103 Department of Agriculture and Consumer Services as of July 1,
104 2011, and the investigator responsible for the enforcement of
105 aquaculture violations at the Department of Agriculture and
106 Consumer Services as of July 1, 2011, are transferred by a type
107 two transfer, as defined in s. 20.06(2), Florida Statutes, to
108 the Division of Law Enforcement within the Fish and Wildlife
109 Conservation Commission.

110 Section 3. (1) The Secretary of Environmental Protection
111 and the executive director of the Fish and Wildlife Conservation
112 Commission shall each appoint three staff members to a
113 transition advisory working group to review and determine the
114 following:

115 (a) The appropriate proportionate number of administrative,
116 auditing, inspector general, attorney, and operational support

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117 positions and their related funding levels and sources to be
118 transferred from the Office of General Counsel, Office of
119 Inspector General, and Division of Administrative Services
120 within the Department of Environmental Protection to the Fish
121 and Wildlife Conservation Commission.

122 (b) The development of a recommended plan addressing the
123 transfer or shared use of buildings, regional offices, and other
124 facilities used or owned by the Department of Environmental
125 Protection.

126 (c) Any operating budget adjustments as necessary to
127 implement the requirements of this act. Adjustments made to the
128 operating budgets of the department or the commission in the
129 implementation of this act must be made in consultation with the
130 appropriate substantive and fiscal committees of the Senate and
131 the House of Representatives. The revisions to the approved
132 operating budget for the 2012-2013 fiscal year which are
133 necessary to reflect the organizational changes made by this act
134 shall be implemented pursuant to s. 216.292(4)(d), Florida
135 Statutes, and subject to s. 216.177, Florida Statutes.
136 Subsequent adjustments between agencies which are determined
137 necessary by the department or commission and approved by the
138 Executive Office of the Governor are authorized and subject to
139 s. 216.177, Florida Statutes. The appropriate substantive
140 committees of the Senate and the House of Representatives shall
141 also be notified of the proposed revisions to ensure consistency
142 with legislative policy and intent.

143 (2) The Secretary of Environmental Protection, the
144 Commissioner of Agriculture, and the executive director of the
145 Fish and Wildlife Conservation Commission shall each appoint two

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146 staff members to a transition advisory working group to identify
147 rules of the Department of Environmental Protection, the
148 Department of Agriculture and Consumer Services, and the Fish
149 and Wildlife Conservation Commission which need to be amended to
150 reflect the changes made by this act.

151 Section 4. (1) The Fish and Wildlife Conservation
152 Commission is assigned all powers, duties, responsibilities, and
153 functions necessary for enforcement of the laws and rules
154 governing:

155 (a) Management, protection, conservation, improvement, and
156 expansion of the state-owned lands managed by the Department of
157 Environmental Protection, including state parks, coastal and
158 aquatic managed areas, and greenways and trails.

159 (b) Conservation and recreation lands and commercial
160 aquaculture managed by the Department of Agriculture and
161 Consumer Services.

162 (2) Law enforcement officers of the Fish and Wildlife
163 Conservation Commission are conferred full power to investigate
164 and arrest for any violation of the rules of the Department of
165 Environmental Protection and the Board of Trustees of the
166 Internal Improvement Trust Fund.

167 Section 5. Notwithstanding chapter 60K-5, Florida
168 Administrative Code, or any provision of law to the contrary,
169 employees who are transferred from the Department of
170 Environmental Protection and the Department of Agriculture and
171 Consumer Services to fill positions transferred to the Fish and
172 Wildlife Conservation Commission shall retain and transfer any
173 accrued annual leave, sick leave, and regular and special
174 compensatory leave balances.

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175 Section 6. Subsections (5) through (8) of section 20.255,
176 Florida Statutes, are renumbered as subsections (4) through (7),
177 respectively, and present subsections (3) and (4) of that
178 section are amended to read:

179 20.255 Department of Environmental Protection.—There is
180 created a Department of Environmental Protection.

181 (3) The following divisions of the Department of
182 Environmental Protection are established:

183 (a) Division of Administrative Services.

184 (b) Division of Air Resource Management.

185 (c) Division of Water Resource Management.

186 ~~(d) Division of Law Enforcement.~~

187 (d)~~(e)~~ Division of Environmental Assessment and
188 Restoration.

189 (e)~~(f)~~ Division of Waste Management.

190 (f)~~(g)~~ Division of Recreation and Parks.

191 (g)~~(h)~~ Division of State Lands, the director of which is to
192 be appointed by the secretary of the department, subject to
193 confirmation by the Governor and Cabinet sitting as the Board of
194 Trustees of the Internal Improvement Trust Fund.

195
196 In order to ensure statewide and intradepartmental consistency,
197 the department's divisions shall direct the district offices and
198 bureaus on matters of interpretation and applicability of the
199 department's rules and programs.

200 ~~(4) Law enforcement officers of the Department of~~
201 ~~Environmental Protection who meet the provisions of s. 943.13~~
202 ~~are constituted law enforcement officers of this state with full~~
203 ~~power to investigate and arrest for any violation of the laws of~~

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204 ~~this state, and the rules of the department and the Board of~~
205 ~~Trustees of the Internal Improvement Trust Fund. The general~~
206 ~~laws applicable to investigations, searches, and arrests by~~
207 ~~peace officers of this state apply to such law enforcement~~
208 ~~officers.~~

209 Section 7. Subsection (1) of section 206.9935, Florida
210 Statutes, is amended to read:

211 206.9935 Taxes imposed.—

212 (1) TAX FOR COASTAL PROTECTION.—

213 (a)1. There is hereby levied an excise tax for the
214 privilege of producing in, importing into, or causing to be
215 imported into this state pollutants for sale, use, or otherwise.

216 2. The tax shall be imposed only once on each barrel of
217 pollutant, other than petroleum products, when first produced in
218 or imported into this state. The tax on pollutants first
219 imported into or produced in this state shall be imposed when
220 the product is first sold or first removed from storage. The tax
221 shall be paid and remitted by any person who is licensed by the
222 department to engage in the production or importation of motor
223 fuel, diesel fuel, aviation fuel, or other pollutants.

224 3. The tax shall be imposed on petroleum products and
225 remitted to the department in the same manner as the motor fuel
226 tax imposed pursuant to s. 206.41.

227 (b) The excise tax shall be 2 cents per barrel of
228 pollutant, or equivalent measure as established by the
229 department, produced in or imported into this state until the
230 balance in the Coastal Protection Trust Fund equals or exceeds
231 \$50 million. For the fiscal year immediately following the year
232 in which the balance in the fund equals or exceeds \$50 million,

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233 no excise tax shall be levied unless:

234 1. The balance in the fund is less than or equal to \$40
235 million. For the fiscal year immediately following the year in
236 which the balance in the fund is less than or equal to \$40
237 million, the excise tax shall be and shall remain 2 cents per
238 barrel or equivalent measure until the fund again equals or
239 exceeds \$50 million. For the fiscal year immediately following
240 the year in which the fund again is equal to or exceeds \$50
241 million, the excise tax and fund shall be controlled as when the
242 fund first was equal to or exceeded \$50 million.

243 2. There is a discharge of catastrophic proportions, the
244 results of which could significantly reduce the balance in the
245 fund. In the event of such a catastrophic occurrence, the
246 executive director of the Fish and Wildlife Conservation
247 Commission ~~Secretary of Environmental Protection~~ may, by rule,
248 levy the excise tax in an amount not to exceed 10 cents per
249 barrel for a period of time sufficient to maintain the fund at a
250 balance of \$50 million, after payment of the costs and damages
251 related to the catastrophic discharge.

252 3. The fund is unable to pay any proven claims against the
253 fund at the end of the fiscal year. Notwithstanding any other
254 provision of this subsection, for the fiscal year following the
255 year in which the fund is unable to pay any proven claims
256 against the fund at the end of the fiscal year, the excise tax
257 shall be and shall remain 5 cents per barrel or equivalent
258 measure until all outstanding proven claims have been paid and
259 the fund again equals or exceeds \$20 million. For the fiscal
260 year immediately following the year in which the fund, after
261 levy of the 5-cent excise tax, again is equal to or exceeds \$20

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262 million, the excise tax and fund shall be controlled in
263 accordance with subparagraph 1., unless otherwise provided.

264 4. The fund has had appropriated to it by the Legislature,
265 but has not yet repaid, state funds from the General Revenue
266 Fund. In such event, the excise tax shall continue to be in
267 effect until all such funds are repaid to the General Revenue
268 Fund.

269 (c)1. Excluding natural gas drilling activities, if
270 offshore oil drilling activity is approved by the United States
271 Department of the Interior for the waters off the coast of this
272 state in the Atlantic Ocean, Gulf of Mexico, or Straits of
273 Florida, paragraph (b) shall not apply. Instead, the excise tax
274 shall be 2 cents per barrel of pollutant, or equivalent measure
275 as established by the department, produced in or imported into
276 this state, and the proceeds shall be deposited into the Coastal
277 Protection Trust Fund with a cap of \$100 million.

278 2. If a discharge of catastrophic proportions occurs, the
279 results of which could significantly reduce the balance in the
280 fund, the executive director of the Fish and Wildlife
281 Conservation Commission ~~Secretary of Environmental Protection~~
282 may, by rule, increase the levy of the excise tax to an amount
283 not to exceed 10 cents per barrel for a period of time
284 sufficient to pay any proven claim against the fund and restore
285 the balance in the fund until it again equals or exceeds \$50
286 million; except that for any fiscal year immediately following
287 the year in which the fund is equal to or exceeds \$50 million,
288 the excise tax and fund shall be governed by ~~the provisions of~~
289 subparagraph 1.

290 Section 8. Subsection (1) of section 258.008, Florida

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291 Statutes, is amended to read:

292 258.008 Prohibited activities; penalties.—

293 (1) Except as provided in subsection (3), any person who
 294 violates or otherwise fails to comply with the rules adopted
 295 under this chapter commits a noncriminal infraction for which
 296 ejection from all property managed by the Division of Recreation
 297 and Parks and a fine of up to \$500 may be imposed by the
 298 division. Fines paid under this subsection shall be paid to the
 299 Fish and Wildlife Conservation Commission ~~Department of~~
 300 ~~Environmental Protection~~ and deposited in the State Game Park
 301 Trust Fund as provided in ss. 379.338, 379.339, and 379.3395.

302 Section 9. Subsection (16) of section 258.501, Florida
 303 Statutes, is amended to read:

304 258.501 Myakka River; wild and scenic segment.—

305 (16) ENFORCEMENT.—Officers of the Fish and Wildlife
 306 Conservation Commission ~~department~~ shall have full authority to
 307 enforce any rule adopted by the department ~~under this section~~
 308 ~~with the same police powers given them by law to enforce the~~
 309 ~~rules of state parks and the rules pertaining to saltwater areas~~
 310 ~~under the jurisdiction of the Florida Marine Patrol.~~

311 Section 10. Part IV of chapter 258, Florida Statutes,
 312 consisting of section 258.601, is created to read:

313 PART IV

314 MISCELLANEOUS PROVISIONS

315 258.601 Enforcement of prohibited activities.—Prohibited
 316 activities under this chapter shall be enforced by the Division
 317 of Law Enforcement of the Fish and Wildlife Conservation
 318 Commission and its officers.

319 Section 11. Paragraph (a) of subsection (2) of section

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320 282.709, Florida Statutes, is amended to read:

321 282.709 State agency law enforcement radio system and
322 interoperability network.—

323 (2) The Joint Task Force on State Agency Law Enforcement
324 Communications is created adjunct to the department to advise
325 the department of member-agency needs relating to the planning,
326 designing, and establishment of the statewide communication
327 system.

328 (a) The Joint Task Force on State Agency Law Enforcement
329 Communications shall consist of the following ~~eight~~ members, ~~as~~
330 ~~follows~~:

331 1. A representative of the Division of Alcoholic Beverages
332 and Tobacco of the Department of Business and Professional
333 Regulation who shall be appointed by the secretary of the
334 department.

335 2. A representative of the Division of Florida Highway
336 Patrol of the Department of Highway Safety and Motor Vehicles
337 who shall be appointed by the executive director of the
338 department.

339 3. A representative of the Department of Law Enforcement
340 who shall be appointed by the executive director of the
341 department.

342 4. A representative of the Fish and Wildlife Conservation
343 Commission who shall be appointed by the executive director of
344 the commission.

345 ~~5. A representative of the Division of Law Enforcement of~~
346 ~~the Department of Environmental Protection who shall be~~
347 ~~appointed by the secretary of the department.~~

348 5.6. A representative of the Department of Corrections who

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349 shall be appointed by the secretary of the department.

350 ~~6.7.~~ A representative of the Division of State Fire Marshal
351 of the Department of Financial Services who shall be appointed
352 by the State Fire Marshal.

353 ~~7.8.~~ A representative of the Department of Transportation
354 who shall be appointed by the secretary of the department.

355 Section 12. Subsections (1) and (2) of section 287.0595,
356 Florida Statutes, are amended to read:

357 287.0595 Pollution response action contracts; department
358 and commission rules.-

359 (1) The Department of Environmental Protection and the Fish
360 and Wildlife Conservation Commission shall establish, by
361 adopting administrative rules as provided in chapter 120:

362 (a) Procedures for determining the qualifications of
363 responsible potential vendors prior to advertisement for and
364 receipt of bids, proposals, or replies for pollution response
365 action contracts, including procedures for the rejection of
366 unqualified vendors. Response actions are those activities
367 described in s. 376.301(40) ~~376.301(39)~~.

368 (b) Procedures for awarding such contracts to the lowest
369 responsible and responsive vendor as well as procedures to be
370 followed in cases in which the department declares a valid
371 emergency to exist which would necessitate the waiver of the
372 rules governing the awarding of such contracts to the lowest
373 responsible and responsive vendor.

374 (c) Procedures governing payment of contracts.

375 (d) Procedures to govern negotiations for contracts,
376 modifications to contract documents, and terms and conditions of
377 contracts.

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378 (2) In adopting rules under this section, the Department of
379 Environmental Protection and the Fish and Wildlife Conservation
380 Commission shall follow the criteria applicable to the
381 department's contracting to the maximum extent possible,
382 consistent with the goals and purposes of each agency pursuant
383 to ss. 376.307 and 376.3071. For the purposes of this
384 subsection, the Fish and Wildlife Conservation Commission may
385 use the rules adopted by the Department of Environmental
386 Protection.

387 Section 13. Subsections (3) and (9) of section 316.2397,
388 Florida Statutes, are amended to read:

389 316.2397 Certain lights prohibited; exceptions.—

390 (3) Vehicles of the fire department and fire patrol,
391 including vehicles of volunteer firefighters as permitted under
392 s. 316.2398, vehicles of medical staff physicians or technicians
393 of medical facilities licensed by the state as authorized under
394 s. 316.2398, ambulances as authorized under this chapter, and
395 buses and taxicabs as authorized under s. 316.2399 may are
396 ~~permitted to~~ show or display red lights. Vehicles of the fire
397 department, fire patrol, police vehicles, and such ambulances
398 and emergency vehicles of municipal and county departments,
399 public service corporations operated by private corporations,
400 the Fish and Wildlife Conservation Commission ~~Department of~~
401 ~~Environmental Protection~~, the Department of Transportation, the
402 Department of Agriculture and Consumer Services, and the
403 Department of Corrections as are designated or authorized by
404 their respective department or the chief of police of an
405 incorporated city or any sheriff of any county may are hereby
406 ~~authorized to~~ operate emergency lights and sirens in an

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407 emergency. Wreckers, mosquito control fog and spray vehicles,
408 and emergency vehicles of governmental departments or public
409 service corporations may show or display amber lights when in
410 actual operation or when a hazard exists provided they are not
411 used going to and from the scene of operation or hazard without
412 specific authorization of a law enforcement officer or law
413 enforcement agency. Wreckers must use amber rotating or flashing
414 lights while performing recoveries and loading on the roadside
415 day or night, and may use such lights while towing a vehicle on
416 wheel lifts, slings, or under reach if the operator of the
417 wrecker deems such lights necessary. A flatbed, car carrier, or
418 rollback may not use amber rotating or flashing lights when
419 hauling a vehicle on the bed unless it creates a hazard to other
420 motorists because of protruding objects. Further, escort
421 vehicles may show or display amber lights when in the actual
422 process of escorting overdimensioned equipment, material, or
423 buildings as authorized by law. Vehicles owned or leased by
424 private security agencies may show or display green and amber
425 lights, with either color being no greater than 50 percent of
426 the lights displayed, while the security personnel are engaged
427 in security duties on private or public property.

428 (9) Flashing red lights may be used by emergency response
429 vehicles of the Fish and Wildlife Conservation Commission
430 ~~Department of Environmental Protection~~ and the Department of
431 Health when responding to an emergency in the line of duty.

432 Section 14. Paragraph (a) of subsection (1) of section
433 316.640, Florida Statutes, is amended to read:

434 316.640 Enforcement.—The enforcement of the traffic laws of
435 this state is vested as follows:

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436 (1) STATE.—

437 (a)1.a. The Division of Florida Highway Patrol of the
438 Department of Highway Safety and Motor Vehicles; the Division of
439 Law Enforcement of the Fish and Wildlife Conservation
440 Commission; ~~the Division of Law Enforcement of the Department of~~
441 ~~Environmental Protection;~~ and the agents, inspectors, and
442 officers of the Department of Law Enforcement each have
443 authority to enforce all of the traffic laws of this state on
444 all the streets and highways thereof and elsewhere throughout
445 the state wherever the public has a right to travel by motor
446 vehicle.

447 b. University police officers may ~~shall have authority to~~
448 enforce all of the traffic laws of this state when violations
449 occur on or within 1,000 feet of any property or facilities that
450 are under the guidance, supervision, regulation, or control of a
451 state university, a direct-support organization of such state
452 university, or any other organization controlled by the state
453 university or a direct-support organization of the state
454 university, or when such violations occur within a specified
455 jurisdictional area as agreed upon in a mutual aid agreement
456 entered into with a law enforcement agency pursuant to s.
457 23.1225(1). Traffic laws may also be enforced off-campus when
458 hot pursuit originates on or within 1,000 feet of any such
459 property or facilities, or as agreed upon in accordance with the
460 mutual aid agreement.

461 c. Community college police officers may ~~shall have the~~
462 ~~authority to~~ enforce all the traffic laws of this state only
463 when such violations occur on any property or facilities that
464 are under the guidance, supervision, regulation, or control of

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465 the community college system.

466 d. Police officers employed by an airport authority may
467 ~~shall have the authority to~~ enforce all of the traffic laws of
468 this state only when such violations occur on any property or
469 facilities that are owned or operated by an airport authority.

470 (I) An airport authority may employ as a parking
471 enforcement specialist any individual who successfully completes
472 a training program established and approved by the Criminal
473 Justice Standards and Training Commission for parking
474 enforcement specialists but who does not otherwise meet the
475 uniform minimum standards established by the commission for law
476 enforcement officers or auxiliary or part-time officers under s.
477 943.12. ~~Nothing in~~ This sub-sub-subparagraph may not ~~shall~~ be
478 construed to permit the carrying of firearms or other weapons,
479 nor shall such parking enforcement specialist have arrest
480 authority.

481 (II) A parking enforcement specialist employed by an
482 airport authority may ~~is authorized to~~ enforce all state,
483 county, and municipal laws and ordinances governing parking only
484 when such violations are on property or facilities owned or
485 operated by the airport authority employing the specialist, by
486 appropriate state, county, or municipal traffic citation.

487 e. The Office of Agricultural Law Enforcement of the
488 Department of Agriculture and Consumer Services may ~~shall have~~
489 ~~the authority to~~ enforce traffic laws of this state.

490 f. School safety officers may ~~shall have the authority to~~
491 enforce all of the traffic laws of this state when such
492 violations occur on or about any property or facilities that
493 ~~which~~ are under the guidance, supervision, regulation, or

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494 control of the district school board.

495 2. An agency of the state as described in subparagraph 1.
496 is prohibited from establishing a traffic citation quota. A
497 violation of this subparagraph is not subject to the penalties
498 provided in chapter 318.

499 3. Any disciplinary action taken or performance evaluation
500 conducted by an agency of the state as described in subparagraph
501 1. of a law enforcement officer's traffic enforcement activity
502 must be in accordance with written work-performance standards.
503 Such standards must be approved by the agency and any collective
504 bargaining unit representing such law enforcement officer. A
505 violation of this subparagraph is not subject to the penalties
506 provided in chapter 318.

507 4. The Division of the Florida Highway Patrol may employ as
508 a traffic accident investigation officer any individual who
509 successfully completes instruction in traffic accident
510 investigation and court presentation through the Selective
511 Traffic Enforcement Program as approved by the Criminal Justice
512 Standards and Training Commission and funded through the
513 National Highway Traffic Safety Administration or a similar
514 program approved by the commission, but who does not necessarily
515 meet the uniform minimum standards established by the commission
516 for law enforcement officers or auxiliary law enforcement
517 officers under chapter 943. Any such traffic accident
518 investigation officer who makes an investigation at the scene of
519 a traffic accident may issue traffic citations, based upon
520 personal investigation, when he or she has reasonable and
521 probable grounds to believe that a person who was involved in
522 the accident committed an offense under this chapter, chapter

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523 319, chapter 320, or chapter 322 in connection with the
524 accident. This subparagraph does not permit the officer to carry
525 firearms or other weapons, and such an officer does not have
526 authority to make arrests.

527 Section 15. Subsection (4) of section 376.021, Florida
528 Statutes, is amended to read:

529 376.021 Legislative intent with respect to pollution of
530 coastal waters and lands.—

531 (4) The Legislature intends by the enactment of ss.
532 376.011-376.21 to exercise the police power of the state by
533 conferring upon the Fish and Wildlife Conservation Commission
534 ~~Department of Environmental Protection~~ power to:

535 (a) Deal with the hazards and threats of danger and damage
536 posed by such transfers and related activities;

537 (b) Require the prompt containment and removal of pollution
538 occasioned thereby; and

539 (c) Establish a fund to provide for the inspection and
540 supervision of such activities and guarantee the prompt payment
541 of reasonable damage claims resulting therefrom.

542 Section 16. Subsections (5) through (21) of section
543 376.031, Florida Statutes, are amended to read:

544 376.031 Definitions; ss. 376.011-376.21.—When used in ss.
545 376.011-376.21, unless the context clearly requires otherwise,
546 the term:

547 (5) "Commission" means the Fish and Wildlife Conservation
548 Commission.

549 (6) ~~(5)~~ "Damage" means the documented extent of any
550 destruction to or loss of any real or personal property, or the
551 documented extent, pursuant to s. 376.121, of any destruction of

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552 the environment and natural resources, including all living
553 things except human beings, as the direct result of the
554 discharge of a pollutant.

555 ~~(6) "Department" means the Department of Environmental~~
556 ~~Protection.~~

557 (7) "Director" means the executive director of the Fish and
558 Wildlife Conservation Commission.

559 (8)~~(7)~~ "Discharge" includes, but is not limited to, any
560 spilling, leaking, seeping, pouring, emitting, emptying, or
561 dumping which occurs within the territorial limits of the state
562 or outside the territorial limits of the state and affects lands
563 and waters within the territorial limits of the state.

564 (9)~~(8)~~ "Discharge cleanup organization" means any group,
565 incorporated or unincorporated, of owners or operators of
566 waterfront terminal facilities in any port or harbor of the
567 state, and any other person who may elect to join, organized for
568 the purpose of containing and cleaning up discharges of
569 pollutants through cooperative efforts and shared equipment and
570 facilities. For the purposes of ss. 376.011-376.21, any third-
571 party cleanup contractor or any local government shall be
572 recognized as a discharge cleanup organization, if provided such
573 contractor or local government is properly certified by the
574 commission ~~department~~.

575 (10)~~(9)~~ "Fund" means the Florida Coastal Protection Trust
576 Fund.

577 (11)~~(10)~~ "Marine fueling facility" means a commercial or
578 recreational coastal facility providing fuel to vessels,
579 excluding a bulk product facility.

580 (12)~~(11)~~ "Operator" means any person operating a terminal

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581 facility or vessel, whether by lease, contract, or other form of
582 agreement.

583 (13)~~(12)~~ "Other measurements" means measurements set by the
584 commission ~~department~~ for products transferred at terminals
585 which are other than fluid or which are not commonly measured by
586 the barrel.

587 (14)~~(13)~~ "Owner" means any person owning a terminal
588 facility or vessel.

589 (15)~~(14)~~ "Person" means any individual, partner, joint
590 venture, corporation; any group of the foregoing, organized or
591 united for a business purpose; or any governmental entity.

592 (16)~~(15)~~ "Person in charge" means the person on the scene
593 who is in direct, responsible charge of a terminal facility or
594 vessel from which pollutants are discharged, when the discharge
595 occurs.

596 (17)~~(16)~~ "Pollutants" includes oil of any kind and in any
597 form, gasoline, pesticides, ammonia, chlorine, and derivatives
598 thereof, excluding liquefied petroleum gas.

599 (18)~~(17)~~ "Pollution" means the presence in the outdoor
600 atmosphere or waters of the state of any one or more substances
601 or pollutants in quantities which are or may be potentially
602 harmful or injurious to human health or welfare, animal or plant
603 life, or property or which may unreasonably interfere with the
604 enjoyment of life or property, including outdoor recreation.

605 (19)~~(18)~~ "Remove" or "removal" means containment, cleanup,
606 and removal of oil or a hazardous substance from water and
607 shorelines or the taking of other actions as may be necessary to
608 minimize or mitigate damage to the public health or welfare,
609 including, but not limited to, fish, shellfish, and wildlife,

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610 and public and private property, shorelines, and beaches.

611 (20)~~(19)~~ "Removal costs" means the costs of removal that
612 are incurred after a discharge of oil has occurred or, in any
613 case in which there is a substantial threat of a discharge of
614 oil, the costs to prevent, minimize, or mitigate oil pollution
615 from such an incident.

616 (21)~~(20)~~ "Responsible party" means:

617 (a) *Vessels*.—In the case of a vessel, any person owning,
618 operating, or demise-chartering the vessel.

619 (b) *Onshore facilities*.—In the case of an onshore facility,
620 other than a pipeline, any person owning or operating the
621 facility, except a federal agency, the state or a political
622 subdivision of the state, a municipality, a commission, or any
623 interstate body, that, as the owner of the facility, transfers
624 possession and right to use the property to another person by
625 lease, assignment, or permit.

626 (c) *Offshore facilities*.—In the case of an offshore
627 facility, other than a pipeline or a deepwater port licensed
628 under the Deepwater Port Act of 1974, 33 U.S.C. ss. 1501 et
629 seq., the lessee or permittee of the area in which the facility
630 is located or the holder of a right of use and easement granted
631 under applicable state law or the Outer Continental Shelf Lands
632 Act, 43 U.S.C. ss. 1301-1356, for the area in which the facility
633 is located, if the holder is a different person than the lessee
634 or permittee, except a federal agency, the state, a
635 municipality, a commission, a political subdivision of any
636 state, or any interstate body, that, as the owner of the
637 facility, transfers possession and right to use the property to
638 another person by lease, assignment, or permit.

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639 (d) *Deepwater ports.*—In the case of a deepwater port
640 licensed under the Deepwater Port Act of 1974, 33 U.S.C. ss.
641 1501-1524, the licensee.

642 (e) *Pipelines.*—In the case of a pipeline, any person owning
643 or operating the pipeline.

644 (f) *Abandonment.*—In the case of an abandoned vessel,
645 onshore facility, deepwater port, pipeline, or offshore
646 facility, the persons who would have been responsible parties
647 immediately prior to the abandonment of the vessel or facility.

648 ~~(21) "Secretary" means the Secretary of Environmental~~
649 ~~Protection.~~

650 Section 17. Section 376.051, Florida Statutes, is amended
651 to read:

652 376.051 Powers and duties of the Fish and Wildlife
653 Conservation Commission ~~Department of Environmental Protection.~~—

654 (1) The powers and duties conferred by ss. 376.011-376.21
655 shall be exercised by the commission ~~department~~ and shall be
656 deemed to be an essential governmental function in the exercise
657 of the police power of the state. The commission ~~department~~ may
658 call upon any other state agency for consultative services and
659 technical advice and the agencies are directed to cooperate in
660 such ~~said~~ request.

661 (2) The powers and duties of the commission ~~department~~
662 under ss. 376.011-376.21 shall extend to the boundaries of the
663 state described in s. 1, Art. II of the State Constitution.

664 (3) Registration certificates and discharge prevention and
665 response certificates required under ss. 376.011-376.21 shall be
666 issued from the commission ~~department~~ subject to such terms and
667 conditions as are set forth in ss. 376.011-376.21 and as set

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668 forth in rules adopted by the commission ~~department~~ as
669 authorized herein.

670 (4) Whenever it becomes necessary for the state to protect
671 the public interest under ss. 376.011-376.21, it shall be the
672 duty of the commission ~~department~~ to keep an accurate record of
673 any sums expended from the fund to meet the goals and duties of
674 ss. 376.011-376.21 ~~costs and expenses incurred~~ and thereafter
675 diligently to pursue the recovery of any sums so expended
676 ~~incurred~~ from the person responsible or from the Government of
677 the United States under any applicable federal act.

678 (5) The commission ~~department~~ may bring an action on behalf
679 of the state to enforce the liabilities imposed by s. 376.12.
680 The Department of Legal Affairs shall represent the commission
681 ~~department~~ in any such proceeding.

682 (6) The commission may use ~~department is specifically~~
683 ~~authorized to utilize~~ risk-based cleanup criteria as described
684 in ss. 376.3071, 376.3078, and 376.81 in conducting cleanups on
685 lands owned by the state university system.

686 Section 18. Section 376.065, Florida Statutes, is amended
687 to read:

688 376.065 Operation of terminal facility without discharge
689 prevention and response certificate prohibited; penalty.-

690 (1) Every owner or operator of a terminal facility shall
691 obtain a discharge prevention and response certificate issued by
692 the commission ~~department~~. Terminal facilities which are
693 vessels, motor vehicles, rolling stock, pipelines, equipment, or
694 other related appurtenances may, at the discretion of the owner
695 or operator, be covered under the discharge prevention and
696 response certificate of the terminal facility from which they

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697 are located or dispatched. A certificate shall be valid for 12
698 months after the date of issuance, subject to such terms and
699 conditions as the commission ~~department~~ may determine are
700 necessary to carry out the purposes of ss. 376.011-376.21.

701 (2) Each applicant for a discharge prevention and response
702 certificate shall submit information, in a form satisfactory to
703 the commission ~~department~~, describing the following:

704 (a) The barrel or other measurement capacity of the
705 terminal facility and the length of the largest vessel docking
706 at or providing service from the terminal facility.

707 (b) All prevention, containment, and removal equipment,
708 including, but not limited to, vehicles, vessels, pumps,
709 skimmers, booms, chemicals, and communication devices to which
710 the facility has access, whether through direct ownership or by
711 contract or membership in an approved discharge cleanup
712 organization.

713 (c) The terms of agreement and the operation plan of any
714 discharge cleanup organization to which the owner or operator of
715 the terminal facility belongs.

716 (3) A ~~No~~ person may not ~~shall~~ operate or cause to be
717 operated a terminal facility without access to minimum
718 containment equipment measuring five times the length of the
719 largest vessel docking at or the largest vessel providing
720 service from the terminal facility, whichever is larger. The
721 containment equipment and adequate numbers of trained personnel,
722 as identified in the federal Oil Pollution Act of 1990 and
723 related guidelines adopted thereunder, to operate the
724 containment equipment shall be available to begin deployment on
725 the water within 1 hour after discovery of the discharge. Within

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726 a reasonable time period, additional cleanup equipment and
727 trained personnel shall be available, either through direct
728 ownership or by contract or membership in an approved cleanup
729 organization, to reasonably clean up 10,000 gallons of
730 pollutants, unless the terminal facility does not have the
731 capacity to store that quantity as fuel or cargo and does not
732 service vessels having the capacity to carry that quantity as
733 fuel or cargo. The commission ~~department~~ may impose less
734 stringent requirements for marine fueling facilities. Cleanup or
735 containment equipment purchased with state funds does ~~shall~~ not
736 count as required equipment under this section. The requirements
737 of this section do ~~shall~~ not apply to terminal facilities that
738 ~~which~~ store only motor fuel, ammonia, or chlorine, or service
739 only motor fuel to vessels. For purposes of this subsection,
740 "motor fuel" means gasoline, gasohol, and other mixtures of
741 gasoline. The exemptions provided by this subsection do not
742 eliminate any responsibilities arising from the discharge of a
743 pollutant and for conducting remedial action as required by this
744 chapter or chapter 403.

745 (4) Upon a showing of satisfactory containment and cleanup
746 capability required by the commission ~~department~~ under this
747 section, the applicant shall be issued a discharge prevention
748 and response certificate covering the terminal facility and
749 related appurtenances, including vessels as defined in s.
750 376.031.

751 (5) (a) A ~~Any~~ person who violates this section or the terms
752 and requirements of such certification commits a noncriminal
753 infraction. The civil penalty for any such infraction shall be
754 \$500, except as otherwise provided in this section.

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755 (b) A ~~Any~~ person cited for an infraction under this section
756 may:

757 1. Pay the civil penalty;

758 ~~2. Post a bond equal to the amount of the applicable civil~~
759 ~~penalty;~~ or

760 2.3. Sign and accept a citation indicating a promise to
761 appear before the county court.

762

763 The officer authorized to issue these citations may indicate on
764 the citation the time and location of the scheduled hearing and
765 shall indicate the applicable civil penalty.

766 (c) A ~~Any~~ person who willfully refuses to ~~post bond or~~
767 accept and sign a citation commits a misdemeanor of the second
768 degree, punishable as provided in s. 775.082 or s. 775.083.

769 (d) After compliance with ~~the provisions of~~ subparagraph
770 (b)2. ~~or subparagraph (b)3.~~, a any person charged with a
771 noncriminal infraction under this section shall ~~may~~:

772 ~~1.~~ pay the civil penalty, either by mail or in person,
773 within 30 days after the date of receiving the citation; ~~or~~

774 ~~2. If the person has posted bond, forfeit the bond by not~~
775 ~~appearing at the designated time and location.~~

776

777 A person cited for an infraction under this section who pays the
778 civil penalty ~~or forfeits the bond~~ has admitted the infraction
779 and waives the right to a hearing on the issue of commission of
780 the infraction. Such admission may not be used as evidence in
781 any other proceedings.

782 (e) A ~~Any~~ person who elects to appear before the county
783 court or who is required to so appear waives the limitations of

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784 the civil penalty specified in paragraph (a). The court, after a
785 hearing, shall make a determination as to whether an infraction
786 has been committed. If the commission of the infraction is
787 proved, the court shall impose a civil penalty of \$500.

788 (f) At a hearing under this subsection, the commission of a
789 charged infraction must be proved by the greater weight of the
790 evidence.

791 (g) A person who is found by the hearing official to have
792 committed an infraction may appeal that finding to the circuit
793 court.

794 (h) A ~~Any person who has not posted bond and who~~ fails
795 either to pay the fine specified in paragraph (a) within 30 days
796 after receipt of the citation or to appear before the court
797 commits a misdemeanor of the second degree, punishable as
798 provided in s. 775.082 or s. 775.083.

799 Section 19. Section 376.07, Florida Statutes, is amended to
800 read:

801 376.07 Regulatory powers of commission ~~department~~;
802 penalties for inadequate booming by terminal facilities.—

803 (1) The commission ~~department~~ shall adopt rules pursuant to
804 ss. 120.536(1) and 120.54 to implement ss. 376.011-376.21.

805 (2) The commission ~~department~~ shall adopt rules including,
806 but not limited to, the following matters:

807 (a) Operation and inspection requirements for discharge
808 prevention, abatement, and cleanup capabilities of terminal
809 facilities and vessels, and other matters relating to
810 certification under ss. 376.011-376.21.

811 (b) Procedures and methods of reporting discharges and
812 other occurrences prohibited by ss. 376.011-376.21.

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813 (c) Procedures, methods, means, and equipment to be used by
814 persons subject to regulation by ss. 376.011-376.21 in the
815 removal of pollutants.

816 (d) Development and implementation of criteria and plans to
817 meet pollution occurrences of various degrees and kinds.

818 (e) Creation by contract or administrative action of a
819 state response team which shall be responsible for creating and
820 maintaining a contingency plan of response, organization, and
821 equipment for handling emergency cleanup operations and wildlife
822 rescue and rehabilitation operations. The state plans shall
823 include detailed emergency operating procedures for the state as
824 a whole, and the team shall from time to time conduct practice
825 alerts. These plans shall be filed with the Governor and all
826 Coast Guard stations in the state and Coast Guard captains of
827 the port having responsibility for enforcement of federal
828 pollution laws within the state. The contingency plan shall
829 include all necessary information for the total containment and
830 cleanup of pollution, including, but not limited to, an
831 inventory of equipment and its location, a table of organization
832 with the names, addresses, and telephone numbers of all persons
833 responsible for implementing every phase of the plan, including
834 a plan for wildlife rescue and rehabilitation operations, a list
835 of available sources of supplies necessary for cleanup, and a
836 designation of priority zones to determine the sequence and
837 methods of cleanup. The state response team shall act
838 independently of agencies of the Federal Government but is
839 directed to cooperate with any federal cleanup operation.

840 (f) Requirements for minimum weather and sea conditions for
841 permitting a vessel to enter port and for the safety and

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842 operation of vessels, barges, tugs, motor vehicles, motorized
843 equipment, and other equipment relating to the use and operation
844 of terminals, facilities, and refineries, the approach and
845 departure from terminals, facilities, and refineries, and
846 requirements that containment gear approved by the commission
847 ~~department~~ be on hand and maintained by terminal facilities and
848 refineries with adequate personnel trained in its use.

849 (g) Requirements that, prior to being granted entry into
850 any port in this state, the master of a vessel shall report:

851 1. Any discharges of pollutants the vessel has had since
852 leaving the last port.

853 2. Any mechanical problem on the vessel which creates the
854 possibility of a discharge.

855 3. Any denial of entry into any port during the current
856 cruise of the vessel.

857 (h) Requirements that any terminal facility be subject to a
858 complete and thorough inspection whenever the terminal facility
859 causes or permits the discharge of a pollutant in violation of
860 ~~the provisions of~~ ss. 376.011-376.21, and at other reasonable
861 times. If the commission ~~department~~ determines there are
862 unsatisfactory preventive measures or containment and cleanup
863 capabilities, it shall, within a reasonable time after notice
864 and hearing in compliance with chapter 120, suspend the
865 registration until such time as there is compliance with the
866 commission ~~department~~ requirements.

867 (3) The commission ~~may department shall~~ not require vessels
868 to maintain discharge prevention gear, holding tanks, and
869 containment gear which exceed federal requirements. However, a
870 terminal facility transferring heavy oil to or from a vessel

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871 with a heavy oil storage capacity greater than 10,000 gallons
872 shall be required, considering existing weather and tidal
873 conditions, to adequately boom or seal off the transfer area
874 during a transfer, including, but not limited to, a bunkering
875 operation, to minimize the escape of such pollutants from the
876 containment area. As used in this subsection, the term "adequate
877 booming" means booming with proper containment equipment which
878 is employed and located for the purpose of preventing, for the
879 most likely discharge, as much of the pollutant as possible from
880 escaping out of the containment area.

881 (a) The owner or operator of a terminal facility involved
882 in the transfer of such pollutant to or from a vessel which is
883 not adequately boomed commits a noncriminal infraction and shall
884 be cited for such infraction. The civil penalty for such an
885 infraction shall be \$2,500, except as otherwise provided in this
886 section.

887 (b) A ~~Any~~ person cited for an infraction under this section
888 may:

889 1. Pay the civil penalty;

890 ~~2. Post bond equal to the amount of the applicable civil~~
891 ~~penalty; or~~

892 2.3. Sign and accept a citation indicating a promise to
893 appear before the county court.

894

895 The officer authorized to issue these citations may indicate on
896 the citation the time and location of the scheduled hearing and
897 shall indicate the applicable civil penalty.

898 (c) A ~~Any~~ person who willfully refuses to ~~post bond or~~
899 accept and sign a citation commits a misdemeanor of the second

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900 degree, punishable as provided in s. 775.082 or s. 775.083.

901 (d) After compliance with subparagraph (b)2. ~~or~~
902 ~~subparagraph (b)3.~~, a any person charged with a noncriminal
903 infraction under this section shall ~~may~~:

904 ~~1.~~ pay the civil penalty, either by mail or in person,
905 within 30 days after the date of receiving the citation; ~~or~~

906 ~~2. If the person has posted bond, forfeit the bond by not~~
907 ~~appearing at the designated time and location.~~

908
909 A person cited for an infraction under this section who pays the
910 civil penalty ~~or forfeits the bond~~ has admitted the infraction
911 and waives the right to a hearing on the issue of commission of
912 the infraction. Such admission may not be used as evidence in
913 any other proceedings.

914 (e) A ~~Any~~ person who elects to appear before the county
915 court or who is required to appear waives the limitations of the
916 civil penalty specified in paragraph (a). The issue of whether
917 an infraction has been committed and the severity of the
918 infraction shall be determined by a hearing official at a
919 hearing. If the commission of the infraction is proved by the
920 greater weight of the evidence, the court shall impose a civil
921 penalty of \$2,500. If the court determines that the owner or
922 operator of the terminal facility failed to deploy any boom
923 equipment during such a transfer, including, but not limited to,
924 a bunkering operation, the civil penalty shall be \$5,000.

925 (f) A person who is found by the hearing official to have
926 committed an infraction may appeal that finding to the circuit
927 court.

928 (g) A ~~Any~~ person who ~~has not posted bond and who fails~~

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929 either to pay the civil penalty specified in paragraph (a)
930 within 30 days after receipt of the citation or to appear before
931 the court commits a misdemeanor of the second degree, punishable
932 as provided in s. 775.082 or s. 775.083.

933 Section 20. Section 376.0705, Florida Statutes, is amended
934 to read:

935 376.0705 Development of training programs and educational
936 materials.—The commission ~~department~~ shall encourage the
937 development of training programs for personnel needed for
938 pollutant discharge prevention and cleanup activities. The
939 commission ~~department~~ shall work with accredited community
940 colleges, career centers, state universities, and private
941 institutions in developing educational materials, courses of
942 study, and other such information to be made available for
943 persons seeking to be trained for pollutant discharge prevention
944 and cleanup activities.

945 Section 21. Subsection (1) of section 376.071, Florida
946 Statutes, is amended to read:

947 376.071 Discharge contingency plan for vessels.—

948 (1) A ~~Any~~ vessel operating in state waters with a storage
949 capacity to carry 10,000 gallons or more of pollutants as fuel
950 or cargo shall maintain an adequate written ship-specific
951 discharge prevention and control contingency plan. ~~Any~~ Such
952 vessel shall have on board a "discharge officer," designated by
953 the contingency plan, who is responsible for training crew
954 members to carry out discharge response efforts required in the
955 contingency plan and coordinating all on-board response efforts
956 in case of a discharge. An adequate plan shall include
957 provisions for on-board response, including notification,

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958 verification, pollutant incident assessment, vessel
959 stabilization, discharge mitigation, and on-board discharge
960 containment, in accordance with this chapter, commission
961 ~~department~~ rules, and the Florida Coastal Pollutant Discharge
962 Contingency Plan. A plan in compliance with the federal
963 requirement for a ship-specific discharge contingency plan
964 satisfies ~~shall satisfy~~ the requirements for an adequate ship-
965 specific discharge contingency plan required by this section.

966 Section 22. Section 376.09, Florida Statutes, is amended to
967 read:

968 376.09 Removal of prohibited discharges.—

969 (1) A ~~Any~~ person discharging pollutants as prohibited by s.
970 376.041 shall immediately undertake to contain, remove, and
971 abate the discharge to the commission's ~~department's~~
972 satisfaction. Notwithstanding the above requirement, the
973 commission ~~department~~ may undertake the removal of the discharge
974 and may contract and retain agents who shall operate under the
975 direction of the commission ~~department~~.

976 (2) If the person causing a discharge, or the person in
977 charge of facilities at which a discharge has taken place, fails
978 to act, the commission ~~department~~ may arrange for the removal of
979 the pollutant, except that if the pollutant was discharged into
980 or upon the navigable waters of the United States, the
981 commission ~~department~~ shall act in accordance with the national
982 contingency plan for removal of such pollutant as established
983 pursuant to the Federal Water Pollution Control Act, as amended,
984 or other federal law, and the costs of removal incurred by the
985 commission ~~department~~ shall be paid in accordance with the
986 applicable provisions of federal law. Federal funds shall be

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987 used to the maximum extent possible prior to the expenditure of
988 state funds.

989 (3) In the event of discharge the source of which is
990 unknown, any local discharge cleanup organization shall, upon
991 the request of the commission ~~department~~ or its designee,
992 immediately contain and remove the discharge. An ~~No~~ action taken
993 by a ~~any~~ person to contain or remove a discharge, whether such
994 action is taken voluntarily or at the request of the commission
995 ~~department~~ or its designee, is not ~~shall be construed as an~~
996 admission of liability for the discharge.

997 (4) A ~~No~~ person who, voluntarily or at the request of the
998 commission ~~department~~ or its designee, renders assistance in
999 containing or removing pollutants is not ~~shall be~~ liable for any
1000 civil damages to third parties resulting solely from acts or
1001 omissions of such person in rendering such assistance, except
1002 for acts or omissions amounting to gross negligence or willful
1003 misconduct.

1004 (5) Notwithstanding ~~the provisions in~~ subsection (4), any
1005 person who is authorized by the commission ~~department~~ or the
1006 Federal Government or the person alleged to be responsible for
1007 the discharge, or by a designee thereof, to render assistance in
1008 containing or removing pollutants shall not be liable for costs,
1009 expenses, and damages, unless such costs, expenses, and damages
1010 are a proximate result of acts or omissions caused by gross
1011 negligence or willful misconduct of such authorized person.

1012 (6) Nothing in ss. 376.011-376.21 affects ~~shall affect~~ the
1013 right of any person to render assistance in containing or
1014 removing any pollutant or any rights which that person may have
1015 against any third party whose acts or omissions in any way have

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1016 caused or contributed to the discharge of the pollutant.

1017 (7) (a) A ~~Any~~ person, other than the responsible party, who
1018 renders assistance in containing or removing any pollutant may
1019 assert a claim against the fund, under s. 376.12, for
1020 reimbursement of the reasonable costs expended for containment,
1021 abatement, or removal, provided prior approval for such
1022 reimbursement is granted by the commission ~~department~~. The
1023 commission ~~department~~ may, upon petition and for good cause
1024 shown, waive the prior-approval prerequisite.

1025 (b) A responsible party may assert a claim against the fund
1026 only under the following circumstances:

1027 1. A responsible party who complies with the requests of
1028 the state and federal on-scene coordinators and later pleads and
1029 proves a valid defense under s. 376.12 may assert a claim
1030 against the fund, pursuant to s. 376.123, for reimbursement of
1031 the reasonable costs expended for containment, abatement, or
1032 removal.

1033 2. A responsible party who complies with the requests of
1034 the state and federal on-scene coordinators and later pleads and
1035 proves a valid limitation of liability under s. 376.12 may
1036 assert a claim against the fund, pursuant to s. 376.123, for
1037 reimbursement of the reasonable costs expended in excess of the
1038 applicable limitation of liability.

1039 3. If the commission ~~department~~ has determined, pursuant to
1040 s. 376.12(3)(b)2., that a particular request by a state or
1041 federal on-scene coordinator for the responsible party's
1042 cooperation or assistance was unreasonable, the responsible
1043 party may assert a claim against the fund, pursuant to s.
1044 376.123, for reimbursement of the costs expended in complying

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1045 with the particular request.

1046 (8) Notwithstanding any other provision of law, including
1047 provisions relating to discharge prohibitions or permit
1048 requirements, the federal on-scene coordinator or the commission
1049 ~~department~~ may authorize discharges in connection with
1050 activities related to removal of pollutants that have entered
1051 the waters of the state.

1052 Section 23. Section 376.10, Florida Statutes, is amended to
1053 read:

1054 376.10 Personnel and equipment.—The commission ~~department~~
1055 shall establish and maintain at such ports within the state and
1056 other places as it shall determine such employees and equipment
1057 as in its judgment may be necessary to carry out the provisions
1058 of ss. 376.011-376.21. The commission ~~department~~ may employ and
1059 prescribe the duties of such employees, subject to the rules and
1060 regulations of the Department of Management Services. The
1061 salaries of the employees and the cost of the equipment shall be
1062 paid from the Florida Coastal Protection Trust Fund established
1063 by ss. 376.011-376.21. The commission ~~department~~ shall
1064 periodically consult with other departments of the state
1065 relative to procedures for the prevention of discharges of
1066 pollutants into or affecting the coastal waters of the state
1067 from operations regulated by ss. 376.011-376.21.

1068 Section 24. Section 376.11, Florida Statutes, is amended to
1069 read:

1070 376.11 Florida Coastal Protection Trust Fund.—

1071 (1) The purpose of this section is to provide a mechanism
1072 to have financial resources immediately available for prevention
1073 of, and cleanup and rehabilitation after, a pollutant discharge,

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1074 to prevent further damage by the pollutant, and to pay for
1075 damages. It is the legislative intent that this section be
1076 liberally construed to effect the purposes set forth, such
1077 interpretation being especially imperative in light of the
1078 danger to the environment and resources.

1079 (2) The Florida Coastal Protection Trust Fund is
1080 established, to be used by the ~~department and the Fish and~~
1081 ~~Wildlife Conservation~~ commission as a nonlapsing revolving fund
1082 for carrying out the purposes of ss. 376.011-376.21. To this
1083 fund shall be credited all registration fees, penalties,
1084 judgments, damages recovered pursuant to s. 376.121, other fees
1085 and charges related to ss. 376.011-376.21, and the excise tax
1086 revenues levied, collected, and credited pursuant to ss.
1087 206.9935(1) and 206.9945(1)(a). Charges against the fund shall
1088 be in accordance with this section.

1089 (3) Moneys in the fund that are not needed currently to
1090 meet the obligations of the commission ~~department~~ in the
1091 exercise of its responsibilities under ss. 376.011-376.21 shall
1092 be deposited with the Chief Financial Officer to the credit of
1093 the fund and may be invested in such manner as is provided for
1094 by statute. Interest received on such investment shall be
1095 credited to the fund, except as otherwise specified herein.

1096 (4) Moneys in the Florida Coastal Protection Trust Fund
1097 shall be disbursed for the following purposes and no others:

1098 (a) Administrative expenses, personnel expenses, and
1099 equipment costs of the ~~department and the Fish and Wildlife~~
1100 ~~Conservation~~ commission related to the enforcement of ss.
1101 376.011-376.21.

1102 (b) All costs involved in the prevention and abatement of

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1103 pollution related to the discharge of pollutants covered by ss.
1104 376.011-376.21 and the abatement of other potential pollution
1105 hazards as authorized herein.

1106 (c) All costs and expenses of the cleanup, restoration, and
1107 rehabilitation of waterfowl, wildlife, and all other natural
1108 resources damaged by the discharge of pollutants, including the
1109 costs of assessing and recovering damages to natural resources,
1110 whether performed or authorized by the commission ~~department~~ or
1111 any other state or local agency.

1112 (d) All provable costs and damages which are the proximate
1113 results of the discharge of pollutants covered by ss. 376.011-
1114 376.21.

1115 ~~(e) Loans to the Inland Protection Trust Fund created in s.~~
1116 ~~376.3071.~~

1117 (e) ~~(f)~~ The interest earned from investments of the balance
1118 in the Florida Coastal Protection Trust Fund shall be used for
1119 funding the administrative expenses, personnel expenses, and
1120 equipment costs of the commission ~~department~~ relating to the
1121 enforcement of ss. 376.011-376.21.

1122 (f) ~~(g)~~ The funding of a grant program to local governments,
1123 pursuant to s. 376.15(2)(b) and (c), for the removal of derelict
1124 vessels from the public waters of the state.

1125 (g) ~~(h)~~ The commission ~~department~~ may spend up to \$1 million
1126 per year from the principal of the fund to acquire, design,
1127 train, and maintain emergency cleanup response teams and
1128 equipment located at appropriate ports throughout the state for
1129 the purpose of cleaning oil and other toxic materials from
1130 coastal waters. When the teams and equipment are not needed for
1131 these purposes they may be used for any other valid purpose of

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1132 the commission department.

1133 ~~(i) To provide a temporary transfer of funds in an amount~~
1134 ~~not to exceed \$10 million to the Minerals Trust Fund as set~~
1135 ~~forth in s. 376.40.~~

1136 (h)~~(j)~~ Funding for marine law enforcement.

1137 ~~(5) Any interest in lands acquired using moneys in the~~
1138 ~~Florida Coastal Protection Trust Fund shall be held by the~~
1139 ~~Trustees of the Internal Improvement Trust Fund, and such lands~~
1140 ~~shall be acquired pursuant to the procedures set forth in s.~~
1141 ~~253.025.~~

1142 (5)~~(6)~~ The commission ~~department~~ shall recover to the use
1143 of the fund from the person or persons causing the discharge or
1144 from the Federal Government, jointly and severally, all sums
1145 owed or expended from the fund, pursuant to s. 376.123(10),
1146 except that recoveries resulting from damage due to a discharge
1147 of a pollutant or other similar disaster shall be apportioned
1148 between the Florida Coastal Protection Trust Fund and the
1149 General Revenue Fund so as to repay the full costs to the
1150 General Revenue Fund of any sums disbursed therefrom as a result
1151 of such disaster. Requests for reimbursement to the fund for the
1152 above costs, if not paid within 30 days of demand, shall be
1153 turned over to the Department of Legal Affairs for collection.

1154 Section 25. Subsections (3), (6), (7), (8), (10), and (11)
1155 of section 376.12, Florida Statutes, are amended to read:

1156 376.12 Liabilities and defenses of responsible parties;
1157 liabilities of third parties; financial security requirements
1158 for vessels; liability of cargo owners; notification
1159 requirements.-

1160 (3) EXCEPTIONS TO LIMITATION OF LIABILITY.-The provisions

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1161 of subsection (2) do ~~shall~~ not apply when:

1162 (a) The commission ~~department~~ demonstrates that such
1163 discharge was the result of willful or gross negligence or
1164 willful misconduct of, or the violation of an applicable federal
1165 or state safety, construction, or operating regulation or rule
1166 by, the responsible party, an agent or employee of the
1167 responsible party, or a person acting pursuant to a contractual
1168 relationship with the responsible party, except where the sole
1169 contractual arrangement arises in connection with carriage by a
1170 common carrier by rail; or

1171 (b) The responsible party fails or refuses:

1172 1. To report the incident as required by law and the
1173 responsible party knows or has reason to know of the incident;
1174 or

1175 2. To provide reasonable cooperation and assistance
1176 requested by a state or federal on-scene coordinator in
1177 connection with cleanup activities. The responsible party must
1178 file an objection with the commission ~~department~~ if such party
1179 deems that cooperation or assistance requested by a state or
1180 federal on-scene coordinator is unreasonable. Such an objection
1181 must be filed with the commission ~~department~~ within 2 working
1182 days after the request. If such request is determined by the
1183 commission ~~department~~ to be unreasonable, the responsible party
1184 may assert a claim against the fund, pursuant to s. 376.123, for
1185 reimbursement of expenses incurred in carrying out such request.
1186 The responsible party may not file an objection to a request
1187 based solely on the premise that the requested activity did not
1188 have satisfactory results, that the responsible party has
1189 exceeded the applicable limitation of liability, or that the

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1190 responsible party has a defense to liability.

1191 (6) ADMINISTRATIVE REMEDIES OF RESPONSIBLE PARTIES.—A
1192 responsible party that disputes any claim by the commission
1193 ~~department~~ may request a hearing pursuant to s. 120.57.

1194 (7) DEFENSES TO LIABILITY.—In any proceeding determining
1195 claims of the fund or any other claims by the state pursuant to
1196 ss. 376.011-376.21, it is ~~shall~~ not ~~be~~ necessary for the
1197 commission ~~department~~ to plead or prove negligence in any form
1198 or manner. The commission ~~department~~ need only plead and prove
1199 that the prohibited discharge or other polluting condition
1200 occurred. The only defenses of a person alleged to be
1201 responsible for the discharge to an action or proceeding for
1202 damages or cleanup costs shall be to plead and prove that the
1203 occurrence was solely the result of any of the following or any
1204 combination of the following:

1205 (a) An act of war.

1206 (b) An act of government, either federal, state, county, or
1207 municipal.

1208 (c) An act of God, which means only an unforeseeable act
1209 exclusively occasioned by the violence of nature without the
1210 interference of any human agency.

1211 (d) An act or omission of a third party other than an
1212 employee or agent of the responsible party or a third party
1213 whose act or omission occurs in connection with any contractual
1214 relationship with the responsible party, except where the sole
1215 contractual arrangement arises in connection with carriage by
1216 rail,

1217
1218 provided that, to establish entitlement to any of the foregoing

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1219 defenses, the responsible party shall plead and prove that the
1220 responsible party exercised due care with respect to the
1221 pollutant concerned, taking into consideration the
1222 characteristics of the pollutant and in light of all relevant
1223 facts and circumstances, and took precautions against
1224 foreseeable acts or omissions of others and the foreseeable
1225 consequences of those acts or omissions.

1226 (8) EXCEPTIONS TO DEFENSES.—The defenses provided in
1227 subsection (7) do ~~shall~~ not apply with respect to a responsible
1228 party who fails or refuses:

1229 (a) To report the discharge as required by law, when the
1230 responsible party knows or has reason to know of the discharge;
1231 or

1232 (b) To provide reasonable cooperation and assistance
1233 requested by a state or federal on-scene coordinator in
1234 connection with cleanup activities. The responsible party must
1235 file an objection with the commission ~~department~~, pursuant to
1236 subsection (3), if such party deems that cooperation or
1237 assistance requested by a state or federal on-scene coordinator
1238 is unreasonable.

1239 (10) LIABILITY OF CARGO OWNERS.—The owner of a pollutant
1240 transported as cargo on any vessel suffering a discharge within
1241 state waters is liable for all cleanup costs within the
1242 applicable vessel liability limits established under this
1243 section, not paid for by the owner or operator of the vessel.
1244 However, the cargo owner is not liable under this subsection if
1245 the vessel owner, operator, or master is found in compliance
1246 with the financial security requirements of this section at the
1247 time of the discharge or fails to provide certified notification

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1248 of the cancellation or withdrawal of financial security to the
1249 commission ~~department~~ and the cargo owner at least 3 working
1250 days before the vessel entered state waters.

1251 (11) NOTIFICATION REQUIREMENTS FOR VESSELS AND TERMINAL
1252 FACILITIES.—In addition to any civil penalties which may apply,
1253 any person responsible who fails to give immediate notification
1254 of a discharge to the commission ~~department~~ or the nearest Coast
1255 Guard Marine Safety Office or National Response Center commits a
1256 felony of the third degree, punishable as provided in s.
1257 775.082, s. 775.083, or s. 775.084. However, a discharge of 5
1258 gallons or less of gasoline or diesel from a vessel does ~~shall~~
1259 not give rise to felony penalties for failure to comply with the
1260 state notification requirements in this subsection. After
1261 reporting a discharge, a vessel shall remain in the jurisdiction
1262 of the commission ~~department~~ until such time as the commission
1263 ~~department~~ is able to prove financial responsibility for the
1264 damages resulting from the discharge. The master of a vessel
1265 that fails to remain in the jurisdiction of the commission
1266 ~~department~~ for a reasonable time after notice of a discharge
1267 commits a felony of the third degree, punishable as provided in
1268 s. 775.082, s. 775.083, or s. 775.084. The commission ~~may~~
1269 ~~department~~ ~~shall~~ not detain the vessel longer than 12 hours
1270 after receiving proof of financial responsibility. The
1271 commission ~~department~~ shall, by rule, require that the terminal
1272 facility designate a person at the terminal facility as the
1273 person in charge of that facility for the purposes specified by
1274 this section.

1275 Section 26. Section 376.121, Florida Statutes, is amended
1276 to read:

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1277 376.121 Liability for damage to natural resources.—The
1278 Legislature finds that extensive damage to the state's natural
1279 resources is the likely result of a pollutant discharge and that
1280 it is essential that the state adequately assess and recover the
1281 cost of such damage from responsible parties. It is the state's
1282 goal to recover the costs of restoration from the responsible
1283 parties and to restore damaged natural resources to their
1284 predischarge condition. In many instances, however, restoration
1285 is not technically feasible. In such instances, the state has
1286 the responsibility to its citizens to recover the cost of all
1287 damage to natural resources. To ensure that the public does not
1288 bear a substantial loss as a result of the destruction of
1289 natural resources, the procedures set out in this section shall
1290 be used to assess the cost of damage to such resources. Natural
1291 resources include coastal waters, wetlands, estuaries, tidal
1292 flats, beaches, lands adjoining the seacoasts of the state, and
1293 all living things except human beings. The Legislature
1294 recognizes the difficulty historically encountered in
1295 calculating the value of damaged natural resources. The value of
1296 certain qualities of the state's natural resources is not
1297 readily quantifiable, yet the resources and their qualities have
1298 an intrinsic value to the residents of the state, and any damage
1299 to natural resources and their qualities should not be dismissed
1300 as nonrecoverable merely because of the difficulty in
1301 quantifying their value. In order to avoid unnecessary
1302 speculation and expenditure of limited resources to determine
1303 these values, the Legislature hereby establishes a schedule for
1304 compensation for damage to the state's natural resources and the
1305 quality of such ~~said~~ resources. As an alternative to the

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1306 compensation schedule described in subsections (4), (5), (6),
1307 and (9), the commission ~~department~~, when no responsible party is
1308 identified, when a responsible party opts out of the formula
1309 pursuant to paragraph (10)(a), or when the commission ~~department~~
1310 conducts a cooperative damage assessment with federal agencies,
1311 may use methods of calculating natural resources damages in
1312 accordance with federal rules implementing the Oil Pollution Act
1313 of 1990, as amended.

1314 (1) The commission ~~department~~ shall assess and recover from
1315 responsible parties the compensation for the injury or
1316 destruction of natural resources, including, but not limited to,
1317 the death or injury of living things and damage to or
1318 destruction of habitat, resulting from pollutant discharges
1319 prohibited by s. 376.041. The amount of compensation and any
1320 costs of assessing damage and recovering compensation received
1321 by the commission ~~department~~ shall be deposited into the Florida
1322 Coastal Protection Trust Fund pursuant to s. 376.12 and
1323 disbursed according to subsection (11). Whoever violates, or
1324 causes to be violated, s. 376.041 shall be liable to the state
1325 for damage to natural resources.

1326 (2) The compensation schedule for damage to natural
1327 resources is based upon the cost of restoration and the loss of
1328 ecological, consumptive, intrinsic, recreational, scientific,
1329 economic, aesthetic, and educational values of such injured or
1330 destroyed resources. The compensation schedule takes into
1331 account:

1332 (a) The volume of the discharge.

1333 (b) The characteristics of the pollutant discharged. The
1334 toxicity, dispersibility, solubility, and persistence

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1335 characteristics of a pollutant as affects the severity of the
1336 effects on the receiving environment, living things, and
1337 recreational and aesthetic resources. Pollutants have varying
1338 propensities to injure natural resources based upon their
1339 potential exposure and effects. Exposure to natural resources is
1340 determined by the dispersibility and degradability of the
1341 pollutant. Effects to natural resources result from mechanical
1342 injury and toxicity and include physical contamination,
1343 smothering, feeding prevention, immobilization, respiratory
1344 distress, direct mortality, lost recruitment of larvae and
1345 juveniles killed, changes in the food web, and chronic effects
1346 of sublethal levels of contaminates in tissues or the
1347 environment. For purposes of the compensation schedule,
1348 pollutants have been ranked for their propensity to cause injury
1349 to natural resources based upon a combination of their acute
1350 toxicity, mechanical injury, degradability, and dispersibility
1351 characteristics on a 1-to-3 relative scale with Category 1
1352 containing the pollutants with the greatest propensity to cause
1353 injury to natural resources. The following pollutants are
1354 categorized:

- 1355 1. Category 1: bunker and residual fuel.
- 1356 2. Category 2: waste oils, crude oil, lubricating oil,
1357 asphalt, and tars.
- 1358 3. Category 3: hydraulic fluids, numbers 1 and 2 diesel
1359 fuels, heating oil, jet aviation fuels, motor gasoline,
1360 including aviation gasoline, kerosene, stationary turbine fuels,
1361 ammonia and its derivatives, and chlorine and its derivatives.

1362
1363 The commission ~~department~~ shall adopt rules establishing the

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1364 pollutant category of pesticides and other pollutants as defined
1365 in s. 376.031 and not listed in this paragraph.

1366 (c) The type and sensitivity of natural resources affected
1367 by a discharge, determined by the following factors:

1368 1. The location of a discharge. Inshore discharges are
1369 discharges that occur within waters under the jurisdiction of
1370 the commission ~~department~~ and within an area extending seaward
1371 from the coastline of the state to a point 1 statute mile
1372 seaward of the coastline. Nearshore discharges are discharges
1373 that occur more than 1 statute mile, but within 3 statute miles,
1374 seaward of the coastline. Offshore discharges are discharges
1375 that occur more than 3 statute miles seaward of the coastline.

1376 2. The location of the discharge with respect to special
1377 management areas designated because of their unique habitats;
1378 living resources; recreational use; aesthetic importance; and
1379 other ecological, educational, consumptive, intrinsic,
1380 scientific, and economic values of the natural resources located
1381 therein. Special management areas are state parks; recreation
1382 areas; national parks, seashores, estuarine research reserves,
1383 marine sanctuaries, wildlife refuges, and national estuary
1384 program water bodies; state aquatic preserves and reserves;
1385 classified shellfish harvesting areas; areas of critical state
1386 concern; federally designated critical habitat for endangered or
1387 threatened species; and outstanding Florida waters.

1388 3. The areal or linear extent of the natural resources
1389 impacted.

1390 (3) Compensation for damage to natural resources for any
1391 discharge of less than 25 gallons of gasoline or diesel fuel
1392 shall be \$50.

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1393 (4) Compensation schedule:

1394 (a) The amount of compensation assessed under this schedule
1395 is calculated by: multiplying \$1 per gallon or its equivalent
1396 measurement of pollutant discharged, by the number of gallons or
1397 its equivalent measurement, times the location of the discharge
1398 factor, times the special management area factor.

1399 (b) Added to the amount obtained in paragraph (a) is the
1400 value of the observable natural resources damaged, which is
1401 calculated by multiplying the areal or linear coverage of
1402 impacted habitat by the corresponding habitat factor, times the
1403 special management area factor.

1404 (c) The sum of paragraphs (a) and (b) is then multiplied by
1405 the pollutant category factor.

1406 (d) The final damage assessment figure is the sum of the
1407 amount calculated in paragraph (c) plus the compensation for
1408 death of endangered or threatened species, plus the cost of
1409 conducting the damage assessment as determined by the commission
1410 ~~department~~.

1411 (5) (a) The factors used in calculating the damage
1412 assessment are:

1413 1. Location of discharge factor:

1414 a. Discharges that originate inshore have a factor of
1415 eight. Discharges that originate nearshore have a factor of
1416 five. Discharges that originate offshore have a factor of one.

1417 b. Compensation for damage to natural resources resulting
1418 from discharges that originate outside of state waters but that
1419 traverse the state's boundaries and therefore have an impact
1420 upon the state's natural resources shall be calculated using a
1421 location factor of one.

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1422 c. Compensation for damage to natural resources resulting
1423 from discharges of less than 10,000 gallons of pollutants which
1424 originate within 100 yards of an established terminal facility
1425 or point of routine pollutant transfer in a designated port
1426 authority as defined in s. 315.02 shall be assessed a location
1427 factor of one.

1428 2. Special management area factor: Discharges that
1429 originate in special management areas described in subparagraph
1430 (2)(c)2. have a factor of two. Discharges that originate outside
1431 a special management area described in subparagraph (2)(c)2.
1432 have a location factor of one. For discharges that originate
1433 outside of a special management area but impact the natural
1434 resources within a special management area, the value of the
1435 natural resources damaged within the area shall be multiplied by
1436 the special management area factor of two.

1437 3. Pollutant category factor: Discharges of category 1
1438 pollutants have a factor of eight. Discharges of category 2
1439 pollutants have a factor of four. Discharges of category 3
1440 pollutants have a factor of one.

1441 4. Habitat factor: The amount of compensation for damage to
1442 the natural resources of the state is established as follows:

- 1443 a. \$10 per square foot of coral reef impacted.
1444 b. \$1 per square foot of mangrove or seagrass impacted.
1445 c. \$1 per linear foot of sandy beach impacted.
1446 d. \$0.50 per square foot of live bottom, oyster reefs, worm
1447 rock, perennial algae, saltmarsh, or freshwater tidal marsh
1448 impacted.
1449 e. \$0.05 per square foot of sand bottom or mud flats, or
1450 combination thereof, impacted.

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1451 (b) The areal and linear coverage of habitat impacted shall
1452 be determined by the commission ~~department~~ using a combination
1453 of field measurements, aerial photogrammetry, and satellite
1454 imagery. An area is impacted when the pollutant comes in contact
1455 with the habitat.

1456 (6) It is understood that a pollutant will, by its very
1457 nature, result in damage to the flora and fauna of the waters of
1458 the state and the adjoining land. Therefore, compensation for
1459 such resources, which is difficult to calculate, is included in
1460 the compensation schedule. Not included, however, in this base
1461 figure is compensation for the death of endangered or threatened
1462 species directly attributable to the pollutant discharged.
1463 Compensation for the death of any animal designated by rule as
1464 endangered by the ~~Fish and Wildlife Conservation~~ commission is
1465 \$10,000. Compensation for the death of any animal designated by
1466 rule as threatened by the ~~Fish and Wildlife Conservation~~
1467 commission is \$5,000. These amounts are not intended to reflect
1468 the actual value of such ~~said~~ endangered or threatened species,
1469 but are included for the purposes of this section.

1470 (7) The owner or operator of the vessel or facility
1471 responsible for a discharge may designate a representative or
1472 agent to work with the commission ~~department~~ in assessing the
1473 amount of damage to natural resources resulting from the
1474 discharge.

1475 (8) When assessing the amount of damages to natural
1476 resources, the commission ~~department~~ shall be assisted, if
1477 requested by the commission ~~department~~, by representatives of
1478 other state agencies and local governments that would enhance
1479 the commission's ~~department's~~ damage assessment. The ~~Fish and~~

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1480 ~~Wildlife Conservation~~ commission shall assess ~~assist~~ the
1481 ~~department in the assessment of~~ damages to wildlife impacted by
1482 a pollutant discharge and shall recover ~~assist the department in~~
1483 ~~recovering~~ the costs of such damages.

1484 (9) Compensation for damage resulting from the discharge of
1485 two or more pollutants shall be calculated for the volume of
1486 each pollutant discharged. If the separate volume for each
1487 pollutant discharged cannot be determined, the highest
1488 multiplier for the pollutants discharged shall be applied to the
1489 entire volume of the spill. Compensation for commingled
1490 discharges that contact habitat shall be calculated on a
1491 proportional basis of discharged volumes. The highest multiplier
1492 for such commingled pollutants may only be applied if a
1493 reasonable proportionality of the commingled pollutants cannot
1494 be determined at the point of any contact with natural
1495 resources.

1496 (10) For cases in which the commission ~~department~~ is
1497 authorized to use a method of natural resources damage
1498 assessment other than the compensation schedules described in
1499 subsections (4), (5), (6), and (9), the commission ~~department~~
1500 may use the methods described in federal rules implementing the
1501 Oil Pollution Act of 1990, as amended.

1502 (a) When a responsible party is identified and the
1503 commission ~~department~~ is not conducting a cooperative damage
1504 assessment with federal agencies, the person responsible has the
1505 option to pay the amount of compensation calculated pursuant to
1506 the compensation schedule established in subsection (4) or pay
1507 the amount determined by a damage assessment performed by the
1508 commission ~~department~~. If the person responsible for the

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1509 discharge elects to have a damage assessment performed, then
1510 such person shall notify the commission ~~department~~ in writing of
1511 such decision within 30 days after identification of the
1512 discharge by the commission ~~department~~. The decision to have a
1513 damage assessment performed to determine compensation for a
1514 discharge shall be final; the person responsible for a discharge
1515 may not later elect to use the compensation schedule for
1516 computing compensation. Failure to make such notice shall result
1517 in the amount of compensation for the total damage to natural
1518 resources being calculated based on the compensation schedule.
1519 The compensation shall be paid within 90 days after receipt of a
1520 written request from the commission ~~department~~.

1521 (b) In the event the person responsible for a discharge
1522 elects to have a damage assessment performed, such ~~said~~ person
1523 shall pay to the commission ~~department~~ an amount equal to the
1524 compensation calculated pursuant to subsection (4) for the
1525 discharge using the lesser of the volume of the discharge or a
1526 volume of 30,000 gallons. The payment shall be made within 90
1527 days after receipt of a written request from the commission
1528 ~~department~~.

1529 (c) After completion of the damage assessment, the
1530 commission ~~department~~ shall advise the person responsible for
1531 the discharge of the amount of compensation due to the
1532 commission ~~state~~. A credit shall be given for the amount paid
1533 pursuant to paragraph (b). Payment shall be made within 90 days
1534 after receipt of a written request from the commission
1535 ~~department~~.

1536 (11) (a) Moneys recovered by the commission ~~department~~ as
1537 compensation for damage to natural resources shall be expended

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1538 only for the following purposes:

- 1539 1. To the maximum extent practicable, the restoration of
1540 natural resources damaged by the discharge for which
1541 compensation is paid.
- 1542 2. Restoration of damaged resources.
- 1543 3. Developing restoration and enhancement techniques for
1544 natural resources.
- 1545 4. Investigating methods for improving and refining
1546 techniques for containment, abatement, and removal of pollutants
1547 from the environment, especially from mangrove forests, corals,
1548 seagrasses, benthic communities, rookeries, nurseries, and other
1549 habitats which are unique to Florida's coastal environment.
- 1550 5. Developing and updating the "Sensitivity of Coastal
1551 Environments and Wildlife to Spilled Oil in Florida" atlas.
- 1552 6. Investigating the long-term effects of pollutant
1553 discharges on natural resources, including pelagic organisms,
1554 critical habitats, and marine ecosystems.
- 1555 7. Developing an adequate wildlife rescue and
1556 rehabilitation program.
- 1557 8. Expanding and enhancing the state's pollution prevention
1558 and control education program.
- 1559 9. Restoring natural resources previously impacted by
1560 pollutant discharges, but never completely restored.
- 1561 10. Funding alternative projects selected by the commission
1562 ~~Board of Trustees of the Internal Improvement Trust Fund~~. Any
1563 such project shall be selected on the basis of its anticipated
1564 benefits to the marine natural resources available to the
1565 residents of this state who previously benefited from the
1566 injured or destroyed nonrestorable natural resources.

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1567 (b) All interest earned from investment of moneys recovered
1568 by the commission ~~department~~ for damage to natural resources
1569 shall be expended only for the activities described in paragraph
1570 (a).

1571 (c) The person or parties responsible for a discharge for
1572 which the commission ~~department~~ has requested compensation for
1573 damage pursuant to this section shall pay the commission
1574 ~~department~~, within 90 days after receipt of the request, the
1575 entire amount due to the commission ~~state~~. In the event that
1576 payment is not made within the 90 days, the person or parties
1577 are liable for interest on the outstanding balance, which
1578 interest shall be calculated at the rate prescribed under s.
1579 55.03.

1580 (12) Any determination or assessment of damage to natural
1581 resources for the purposes of this section by the commission
1582 ~~department~~ in accordance with the compensation sections or in
1583 accordance with the rules adopted under subsection (10) shall
1584 have the force and effect of rebuttable presumption on behalf of
1585 the commission ~~department~~ in any administrative or judicial
1586 proceeding.

1587 (13) There shall be no double recovery under this law for
1588 natural resource damage resulting from a discharge, including
1589 the costs of damage assessment or restoration, rehabilitation,
1590 replacement, or acquisition for the same incident and natural
1591 resource. The commission ~~department~~ shall meet with and develop
1592 memoranda of understanding with appropriate federal trustees as
1593 defined in Pub. L. No. 101-380 (Oil Pollution Act of 1990) to
1594 provide further assurances of no double recovery.

1595 (14) The commission ~~department~~ shall adopt rules necessary

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1596 or convenient for carrying out the duties, obligations, powers,
1597 and responsibilities set forth in this section.

1598 Section 27. Subsections (2), (3), (4), (5), (8), (9), and
1599 (10) of section 376.123, Florida Statutes, are amended to read:

1600 376.123 Claims against the Florida Coastal Protection Trust
1601 Fund.—

1602 (2) (a) Whenever the commission ~~department~~ has designated a
1603 vessel or terminal facility as a source of a moderate or major
1604 discharge, all claims for cleanup costs or damages under ss.
1605 376.011-376.21 shall be presented first to the responsible party
1606 for the designated source, pursuant to paragraph (b), before
1607 they may be presented to the fund.

1608 (b) If a responsible party fails to inform the commission
1609 ~~department~~, within 5 days after receiving notification of a
1610 designation under paragraph (a), of the party's denial of the
1611 designation, such party shall advertise the designation and the
1612 procedures by which claims may be presented, in accordance with
1613 commission ~~department~~ rules. Advertisement shall begin no later
1614 than 15 days after the date the commission ~~department~~ has made
1615 the designation. If advertisement is not otherwise made in
1616 accordance with this paragraph, the commission ~~department~~ shall
1617 promptly and at the expense of the responsible party advertise
1618 the designation and the procedures by which claims may be
1619 presented to the responsible party.

1620 (c) If a claim is presented in accordance with paragraph
1621 (b) and:

1622 1. Each party who has been alleged to be the responsible
1623 party and to whom the claim has been presented denies all
1624 liability for the claim; or

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1625 2. Full and adequate payment of the claim for cleanup costs
1626 and damages is not made by the responsible party within 90 days
1627 after the claim is presented or the advertisement is begun,
1628 whichever is later,

1629
1630 the claimant may present the claim to the fund.

1631 (3) A ~~Any~~ person who is eligible under s. 376.09 may assert
1632 a claim against the Florida Coastal Protection Trust Fund for
1633 reimbursement of cleanup costs, provided that:

1634 (a) Such claim is presented within 180 days of completion
1635 of the person's assistance with cleanup. The director ~~secretary~~
1636 may, upon petition and for good cause shown, waive the
1637 prescribed time period for filing cleanup claims. The prescribed
1638 time period shall be tolled during pendency of the claimant's
1639 claim against a responsible party pursuant to subsection (2),
1640 until the time specified in paragraph (2)(c).

1641 (b) The claimant shall provide the commission ~~department~~
1642 with the required documentation concerning amounts expended for
1643 cleanup costs. The commission ~~department~~ shall prescribe
1644 appropriate forms and other requirements for such claims.

1645 (4) A ~~Any~~ person claiming to have suffered damages, as
1646 defined in s. 376.031, excluding natural resource damages, as a
1647 result of a discharge of pollutants prohibited by s. 376.041
1648 may, within 180 days after the date of such discharge, apply to
1649 the commission ~~department~~ for reimbursement from the Florida
1650 Coastal Protection Trust Fund. It shall be the responsibility of
1651 the claimant to provide the commission ~~department~~ with the
1652 required documentation concerning the damages suffered as a
1653 direct result of the discharge. The commission ~~department~~ shall

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1654 prescribe appropriate forms and requirements for such
1655 application, which application shall include a provision
1656 requiring the applicant to make a sworn verification of the
1657 damage claimed to the best of the applicant's knowledge. The
1658 director ~~secretary of the department~~ may, upon petition and for
1659 good cause shown, waive the 180-day limitation for filing damage
1660 claims. The prescribed time period shall be tolled during
1661 pendency of the claimant's claim against a responsible party
1662 pursuant to subsection (2), until the time specified in
1663 paragraph (2)(c).

1664 (5) The director ~~secretary~~ shall establish the amount to be
1665 awarded and shall certify the amount of the award and the name
1666 of the claimant to the Chief Financial Officer, who shall pay
1667 the award from the fund, subject to ~~the provisions of~~ subsection
1668 (12). If the claimant agrees with the established amount of
1669 award, the settlement shall be binding upon both parties as to
1670 all issues and cannot be further attacked, collaterally or by
1671 separate action, in the future.

1672 (8) If a person chooses to make a claim against the fund
1673 and accepts payment from, or a judgment against, the fund, then
1674 the commission ~~department~~ shall be subrogated to any cause of
1675 action that the claimant may have had, to the extent of such
1676 payment or judgment, and shall diligently pursue recovery on
1677 that cause of action pursuant to subsection (10) and s.
1678 376.11(5) ~~376.11(6)~~. In any such action, the amount of damages
1679 shall be proved by the commission ~~department~~ by submitting to
1680 the court a written report of the amounts paid or owed from the
1681 fund to claimants. Such written report shall be admissible as
1682 evidence, and the amounts paid from or owed by the fund to the

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1683 claimants stated therein shall be irrebuttably presumed to be
1684 the amount of damages.

1685 (9) The commission ~~department~~ shall be a necessary party to
1686 all administrative hearings and court proceedings under this
1687 section.

1688 (10) It shall be the duty of the commission ~~department~~ in
1689 administering the fund to pursue diligently the reimbursement to
1690 the fund of any sum expended from the fund for, and any other
1691 state moneys not budgeted for but expended for, cleanup,
1692 abatement, and damages in accordance with ~~the provisions of~~ ss.
1693 376.011-376.21.

1694 Section 28. Subsection (1) of section 376.14, Florida
1695 Statutes, is amended to read:

1696 376.14 Vessels; financial responsibility; claims against
1697 providers of financial responsibility; service of process
1698 against responsible parties.—

1699 (1) Each owner or operator of a terminal facility or
1700 vessel, including any barge, using any port in Florida shall be
1701 required to establish and maintain evidence of financial
1702 responsibility pursuant to federal laws and regulations. Such
1703 evidence of financial responsibility shall be the only evidence
1704 required by the commission ~~department~~ that such registrant or
1705 vessel has the ability to meet the liabilities which may be
1706 incurred under ss. 376.011-376.21.

1707 Section 29. Paragraph (a) of subsection (2) of section
1708 376.15, Florida Statutes, is amended to read:

1709 376.15 Derelict vessels; removal from public waters.—

1710 (2) (a) The ~~Fish and Wildlife Conservation~~ commission and
1711 its officers and all law enforcement officers as specified in s.

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1712 327.70 are authorized and empowered to remove any derelict
1713 vessel as defined in s. 823.11(1) from public waters. All costs
1714 incurred by the commission or other law enforcement agency in
1715 the removal of any abandoned or derelict vessel shall be
1716 recoverable against the owner of the vessel. The Department of
1717 Legal Affairs shall represent the commission in such actions.

1718 Section 30. Subsections (1) through (6) and subsection (11)
1719 of section 376.16, Florida Statutes, are amended to read:

1720 376.16 Enforcement and penalties.—

1721 (1) It is unlawful for a ~~any~~ person to violate any
1722 provision of ss. 376.011-376.21 or any rule or order of the
1723 commission ~~department~~ made pursuant to ss. 376.011-376.21 ~~this~~
1724 ~~act~~. Violation shall be punishable by a civil penalty of up to
1725 \$50,000 per violation per day to be assessed by the commission
1726 ~~department~~. Each day during any portion of which the violation
1727 occurs constitutes a separate offense. The penalty provisions of
1728 this subsection do ~~shall~~ not apply to any discharge promptly
1729 reported and removed by a person responsible, in accordance with
1730 the rules and orders of the commission ~~department~~, or to any
1731 discharge of pollutants equal to or less than 5 gallons.

1732 (2) In addition to the penalty provisions which may apply
1733 under subsection (1), a person responsible for two or more
1734 discharges of any pollutant reported pursuant to s. 376.12
1735 within a 12-month period at the same facility commits a
1736 noncriminal infraction and shall be cited by the commission
1737 ~~department~~ for such infraction.

1738 (a) For discharges of gasoline or diesel over 5 gallons,
1739 the civil penalty for the second discharge shall be \$500 and the
1740 civil penalty for each subsequent discharge within a 12-month

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1741 period shall be \$1,000, except as otherwise provided in this
1742 section.

1743 (b) For discharges of any pollutant other than gasoline or
1744 diesel, the civil penalty for a second discharge shall be \$2,500
1745 and the civil penalty for each subsequent discharge within a 12-
1746 month period shall be \$5,000, except as otherwise provided in
1747 this section.

1748 (3) A person responsible for two or more discharges of any
1749 pollutant reported pursuant to s. 376.12 within a 12-month
1750 period at the same facility commits a noncriminal infraction and
1751 shall be cited by the commission ~~department~~ for such infraction.

1752 (a) For discharges of gasoline or diesel equal to or less
1753 than 5 gallons, the civil penalty shall be \$50 for each
1754 discharge subsequent to the first.

1755 (b) For discharges of pollutants other than gasoline or
1756 diesel equal to or less than 5 gallons, the civil penalty shall
1757 be \$100 for each discharge subsequent to the first.

1758 (4) A ~~Any~~ person charged with a noncriminal infraction
1759 pursuant to subsection (2) or subsection (3) may:

1760 (a) Pay the civil penalty;

1761 ~~(b) Post a bond equal to the amount of the applicable civil~~
1762 ~~penalty;~~ or

1763 (b) ~~(e)~~ Sign and accept a citation indicating a promise to
1764 appear before the county court.

1765
1766 The officer authorized to issue these citations may indicate on
1767 the citation the time and location of the scheduled hearing and
1768 shall indicate the applicable civil penalty.

1769 (5) A ~~Any~~ person who willfully refuses to ~~post bond or~~

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1770 accept and sign a citation commits a misdemeanor of the second
1771 degree, punishable as provided in s. 775.082 or s. 775.083.

1772 (6) After compliance with paragraph (4) (b) ~~or paragraph~~
1773 ~~(4) (c)~~, a ~~any~~ person charged with a noncriminal infraction under
1774 subsection (2) or subsection (3) shall ~~may~~:-

1775 ~~(a)~~ pay the civil penalty, either by mail or in person,
1776 within 30 days after the date of receiving the citation; ~~or~~

1777 ~~(b) If the person has posted bond, forfeit the bond by not~~
1778 ~~appearing at the designated time and location.~~

1779
1780 A person cited for an infraction under this section who pays the
1781 civil penalty ~~or forfeits the bond~~ has admitted the infraction
1782 and waives the right to a hearing on the issue of commission of
1783 the infraction. Such admission may not be used as evidence in
1784 any other proceeding.

1785 (11) A ~~Any~~ person who has not paid ~~posted bond and who~~
1786 ~~neither pays~~ the applicable civil penalty, as specified in
1787 subsection (2) or subsection (3) within 30 days of receipt of
1788 the citation nor appears before the court commits a misdemeanor
1789 of the second degree, punishable as provided in s. 775.082 or s.
1790 775.083.

1791 Section 31. Section 376.19, Florida Statutes, is amended to
1792 read:

1793 376.19 County and municipal ordinances; powers limited.—
1794 Nothing in ss. 376.011-376.21 may ~~shall~~ be construed to deny any
1795 county or municipality authority to exercise police powers by
1796 ordinance or law under any general or special act, and laws and
1797 ordinances promulgated in furtherance of the intent of ss.
1798 376.011-376.21 to promote the general welfare, public health,

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1799 and public safety shall be valid unless in direct conflict with
1800 ~~the provisions of~~ ss. 376.011-376.21 or any rule, regulation, or
1801 order of the commission ~~department~~ adopted under authority of
1802 ss. 376.011-376.21. However, in order to avoid unnecessary
1803 duplication, no county, municipality, or other political
1804 subdivision of the state may adopt or establish a similar
1805 program of licensing and fees for the accomplishment of the
1806 purposes of ss. 376.011-376.21.

1807 Section 32. Subsection (3) of section 376.30, Florida
1808 Statutes, is amended, subsections (4) and (5) are renumbered as
1809 subsections (5) and (6), respectively, and a new subsection (4)
1810 is added to that section, to read:

1811 376.30 Legislative intent with respect to pollution of
1812 surface and ground waters.—

1813 (3) The Legislature intends by the enactment of ss. 376.30-
1814 376.317 to exercise the ~~police~~ power of the state by conferring
1815 upon the Department of Environmental Protection the power to:

1816 (a) Deal with the environmental and health hazards and
1817 threats of danger and damage posed by such storage,
1818 transportation, disposal, and related activities that are
1819 neither imminent nor immediate;

1820 (b) Require the prompt containment and removal of products
1821 occasioned thereby; and

1822 (c) Establish a program which will enable the department
1823 to:

1824 1. Provide for expeditious restoration or replacement of
1825 potable water systems or potable private wells of affected
1826 persons where health hazards exist due to contamination from
1827 pollutants (which may include provision of bottled water on a

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1828 temporary basis, after which a more stable and convenient source
1829 of potable water shall be provided) and hazardous substances,
1830 subject to the following conditions:

1831 a. For the purposes of this subparagraph, the term
1832 "restoration" means restoration of a contaminated potable water
1833 supply to a level which meets applicable water quality standards
1834 or applicable water quality criteria, as adopted by rule, for
1835 the contaminant or contaminants present in the water supply, or,
1836 where no such standards or criteria have been adopted, to a
1837 level that is determined to be a safe, potable level by the
1838 State Health Officer in the Department of Health, through the
1839 installation of a filtration system and provision of replacement
1840 filters as necessary or through employment of repairs or another
1841 treatment method or methods designed to remove or filter out
1842 contamination from the water supply; and the term "replacement"
1843 means replacement of a well or well field or connection to an
1844 alternative source of safe, potable water.

1845 b. For the purposes of the Inland Protection Trust Fund and
1846 the drycleaning facility restoration funds in the Water Quality
1847 Assurance Trust Fund as provided in s. 376.3078, such
1848 restoration or replacement shall take precedence over other uses
1849 of the unobligated moneys within the fund after payment of
1850 amounts appropriated annually from the Inland Protection Trust
1851 Fund for payments under any service contract entered into by the
1852 department pursuant to s. 376.3075.

1853 c. Funding for activities described in this subparagraph
1854 may ~~shall~~ not exceed \$10 million for any one county for any one
1855 year, other than for the provision of bottled water.

1856 d. Funding for activities described in this subparagraph

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1857 may ~~shall~~ not be used ~~available~~ to fund any increase in the
1858 capacity of a potable water system or potable private well over
1859 the capacity that ~~which~~ existed prior to such restoration or
1860 replacement, unless such increase is the result of the use of a
1861 more cost-effective alternative than other alternatives
1862 available.

1863 2. Provide for the inspection and supervision of activities
1864 described in this subsection.

1865 3. Guarantee the prompt payment of reasonable costs
1866 resulting therefrom, including those administrative costs
1867 incurred by the Department of Health in providing field and
1868 laboratory services, toxicological risk assessment, and other
1869 services to the department in the investigation of drinking
1870 water contamination complaints.

1871 (4) The Legislature intends by the enactment of ss. 376.30-
1872 376.317 to exercise the power of the state by conferring upon
1873 the Fish and Wildlife Conservation Commission the power to:

1874 (a) Deal with the environmental and health hazards and
1875 threats of danger and damage posed by such storage,
1876 transportation, and disposal of pollutants and hazardous
1877 substances and related activities that are imminent and
1878 immediate; and

1879 (b) Require the prompt containment and removal of products
1880 occasioned thereby.

1881 Section 33. Subsections (9) through (17) of section
1882 376.301, Florida Statutes, are renumbered as subsections (10)
1883 through (18), respectively, present subsection (18) is
1884 renumbered as subsection (51), present subsection (50) is
1885 renumbered as subsection (26), present subsections (26) through

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1886 (49) are renumbered as subsections (27) through (50),
1887 respectively, and a new subsection (9) is added to that section,
1888 to read:

1889 376.301 Definitions of terms used in ss. 376.30-376.317,
1890 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
1891 376.75, unless the context clearly requires otherwise, the term:

1892 (9) "Commission" means the Fish and Wildlife Conservation
1893 Commission.

1894 Section 34. Paragraph (i) of subsection (1) of section
1895 376.303, Florida Statutes, is amended to read:

1896 376.303 Powers and duties of the Department of
1897 Environmental Protection.—

1898 (1) The department has the power and the duty to:

1899 (i) Keep an accurate record of any sums expended from the
1900 Water Quality Assurance Trust Fund ~~the costs and expenses~~
1901 ~~incurred~~ for the removal of prohibited discharges and, except as
1902 otherwise provided by law, thereafter diligently pursue the
1903 recovery of any sums so expended ~~incurred~~ from the person
1904 responsible or from the United States Government under any
1905 applicable federal act, unless the department finds the amount
1906 involved too small or the likelihood of recovery too uncertain.

1907 Section 35. Section 376.3031, Florida Statutes, is created
1908 to read:

1909 376.3031 Powers and duties of the Fish and Wildlife
1910 Conservation Commission.—

1911 (1) The commission has the power to undertake the removal
1912 of a pollutant discharge prohibited by ss. 376.30-376.317 and
1913 may contract and retain agents who shall operate under the
1914 direction of the commission.

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1915 (2) The commission may expend funds from the Water Quality
1916 Assurance Trust Fund for the removal of prohibited discharges
1917 and shall keep an accurate record of any sums so expended and,
1918 except as otherwise provided by law, thereafter diligently
1919 pursue the recovery of any sums so expended from the person
1920 responsible or from the United States Government under any
1921 applicable federal act, unless the commission finds the amount
1922 involved too small or the likelihood of recovery too uncertain.

1923 (3) The powers and duties of the commission under ss.
1924 376.30-376.317 shall extend to the boundaries of the state
1925 described in s. 1, Art. II of the State Constitution.

1926 (4) The commission may require a property owner to provide
1927 site access for activities associated with contamination
1928 assessment or remedial action. This section does not prohibit an
1929 action by the property owner to compel restoration of the
1930 property or to recover damages from the person responsible for
1931 the polluting condition requiring assessment or remedial action
1932 activities.

1933 (5) The commission may use and enforce any administrative
1934 rule adopted by any agency pursuant to ss. 376.30-376.317.

1935 Section 36. Subsections (1), (2), (3), and (4) of section
1936 376.305, Florida Statutes, are amended to read:

1937 376.305 Removal of prohibited discharges.—

1938 (1) Any person discharging a pollutant as prohibited by ss.
1939 376.30-376.317 shall immediately undertake to contain, remove,
1940 and abate the discharge to the satisfaction of the department or
1941 commission. However, such an undertaking to contain, remove, or
1942 abate a discharge may ~~shall~~ not be deemed an admission of
1943 responsibility for the discharge by the person taking such

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1944 action. Notwithstanding this requirement, the department or
1945 commission may undertake the removal of the discharge and may
1946 contract and retain agents who shall operate under the direction
1947 of the department or commission.

1948 (2) If the person causing the discharge, or the person in
1949 charge of facilities at which the discharge has taken place,
1950 fails to act immediately, the department or commission may
1951 arrange for the removal of the pollutant; except that, if the
1952 pollutant was discharged into or upon the navigable waters of
1953 the United States, the department or commission shall act in
1954 accordance with the national contingency plan for removal of
1955 such pollutant as established pursuant to the Federal Water
1956 Pollution Control Act, as amended, and the costs of removal
1957 incurred by the department or the commission shall be paid in
1958 accordance with the applicable provisions of that law. Federal
1959 funds provided under that act shall be used to the maximum
1960 extent possible prior to the expenditure of state funds.

1961 (3) An ~~No~~ action taken by a ~~any~~ person to contain or remove
1962 a discharge, whether such action is taken voluntarily or at the
1963 request of the department or commission or their designees ~~its~~
1964 ~~designee, is not shall be construed as~~ an admission of liability
1965 for the discharge.

1966 (4) A ~~No~~ person who, voluntarily or at the request of the
1967 department or commission or their designees ~~its designee,~~
1968 renders assistance in containing or removing any pollutant is
1969 not shall be liable for any civil damages to third parties
1970 resulting solely from the acts or omissions of such person in
1971 rendering such assistance, except for acts or omissions
1972 amounting to gross negligence or willful misconduct.

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1973 Section 37. Paragraph (a) of subsection (4) and subsections
1974 (5) and (7) of section 376.307, Florida Statutes, are amended to
1975 read:

1976 376.307 Water Quality Assurance Trust Fund.—

1977 (4) The trust fund shall be funded as follows:

1978 (a) An annual transfer of interest funds from the Florida
1979 Coastal Protection Trust Fund pursuant to s. 376.11(4)(e)
1980 ~~376.11(4)(f)~~.

1981 (5) Except as otherwise provided by law, the department or
1982 commission shall recover to the use of the fund from a person or
1983 persons at any time causing or having caused the discharge or
1984 from the Federal Government, jointly and severally, all sums
1985 owed or expended from the fund, pursuant to s. 376.308, except
1986 that the department or commission may decline to pursue such
1987 recovery if it finds the amount involved too small or the
1988 likelihood of recovery too uncertain. A recovery of sums
1989 expended by the department from such person or persons or from
1990 the Federal Government does not preclude the commission from
1991 pursuing recovery of sums it also expended from the same party
1992 or vice versa. Sums recovered as a result of damage due to
1993 discharge of a pollutant or other similar disaster shall be
1994 apportioned between the fund and the General Revenue Fund so as
1995 to repay the full costs to the General Revenue Fund of any sums
1996 disbursed therefrom as a result of such disaster. Any request
1997 for reimbursement to the fund for such costs, if not paid within
1998 30 days of demand, shall be turned over to the department or
1999 commission, as applicable, for collection.

2000 (7) Except as otherwise provided by law, the department or
2001 commission, in administering the fund, shall diligently pursue

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2002 the reimbursement to the fund of any sum expended from the fund
2003 in accordance with this section for cleanup and abatement,
2004 unless the department or commission finds the amount involved
2005 too small or the likelihood of recovery too uncertain. For the
2006 purposes of s. 95.11, the limitation period within which to
2007 institute an action to recover such sums commences on the last
2008 date on which any such sums were expended, and not the date that
2009 the discharge occurred.

2010 Section 38. Subsection (1) of section 376.308, Florida
2011 Statutes, is amended to read:

2012 376.308 Liabilities and defenses of facilities.-

2013 (1) In any suit instituted by the department or commission
2014 under ss. 376.30-376.317, it is not necessary to plead or prove
2015 negligence in any form or matter. The department or commission
2016 need only plead and prove that the prohibited discharge or other
2017 polluting condition has occurred. The following persons shall be
2018 liable to the department or commission for any discharges or
2019 polluting condition:

2020 (a) Any person who caused a discharge or other polluting
2021 condition or who owned or operated the facility, or the
2022 stationary tanks or the nonresidential location which
2023 constituted the facility, at the time the discharge occurred.

2024 (b) In the case of a discharge of hazardous substances, all
2025 persons specified in s. 403.727(4).

2026 (c) In the case of a discharge of petroleum, petroleum
2027 products, or drycleaning solvents, the owner of the facility,
2028 the drycleaning facility, or the wholesale supply facility,
2029 unless the owner can establish that he or she acquired title to
2030 property contaminated by the activities of a previous owner or

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2031 operator or other third party, that he or she did not cause or
2032 contribute to the discharge, and that he or she did not know of
2033 the polluting condition at the time the owner acquired title. If
2034 the owner acquired title subsequent to July 1, 1992, or, in the
2035 case of a drycleaning facility or wholesale supply facility,
2036 subsequent to July 1, 1994, he or she must also establish by a
2037 preponderance of the evidence that he or she undertook, at the
2038 time of acquisition, all appropriate inquiry into the previous
2039 ownership and use of the property consistent with good
2040 commercial or customary practice in an effort to minimize
2041 liability. The court or hearing officer shall take into account
2042 any specialized knowledge or experience on the part of the
2043 defendant, the relationship of the purchase price to the value
2044 of the property if uncontaminated, commonly known or reasonably
2045 ascertainable information about the property, the obviousness of
2046 the presence or likely presence of contamination at the
2047 property, and the ability to detect such contamination by
2048 appropriate inspection. In an action relating to a discharge of
2049 petroleum, petroleum products, or drycleaning solvents under
2050 chapter 403, the defenses and definitions set forth herein shall
2051 apply.

2052 Section 39. Section 379.3311, Florida Statutes, is amended
2053 to read:

2054 379.3311 Police powers of commission and its agents.—

2055 (1) The ~~Fish and Wildlife Conservation~~ commission, the
2056 executive director and the executive director's assistants
2057 designated by her or him, and each wildlife officer are
2058 constituted peace officers with the power to make arrests for
2059 violations of the laws of this state when committed in the

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2060 presence of the officer or when committed on lands under the
2061 supervision and management of the commission, the department, or
2062 the Department of Agriculture and Consumer Services, including
2063 state parks, coastal and aquatic managed areas, and greenways
2064 and trails. The general laws applicable to arrests by peace
2065 officers of this state shall also be applicable to such ~~said~~
2066 director, assistants, and wildlife officers. Such persons may
2067 enter upon any land or waters of the state for performance of
2068 their lawful duties and may take with them any necessary
2069 equipment, and such entry does ~~shall~~ not constitute a trespass.

2070 (2) Such officers shall have power and authority to enforce
2071 throughout the state all laws relating to game, nongame birds,
2072 fish, and fur-bearing animals and all rules and regulations of
2073 the ~~Fish and Wildlife Conservation~~ commission relating to wild
2074 animal life, marine life, and freshwater aquatic life, and in
2075 connection with said laws, rules, and regulations, in the
2076 enforcement thereof and in the performance of their duties
2077 thereunder, to:

2078 (a) Go upon all premises, posted or otherwise;

2079 (b) Execute warrants and search warrants for the violation
2080 of such ~~said~~ laws;

2081 (c) Serve subpoenas issued for the examination,
2082 investigation, and trial of all offenses against such ~~said~~ laws;

2083 (d) Carry firearms or other weapons, concealed or
2084 otherwise, in the performance of their duties;

2085 (e) Arrest upon probable cause without warrant any person
2086 found in the act of violating any such ~~of the provisions of said~~
2087 laws or, in pursuit immediately following such violations, to
2088 examine any person, boat, conveyance, vehicle, game bag, game

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2089 coat, or other receptacle for wild animal life, marine life, or
2090 freshwater aquatic life, or any camp, tent, cabin, or roster, in
2091 the presence of any person stopping at or belonging to such
2092 camp, tent, cabin, or roster, when such ~~said~~ officer has reason
2093 to believe, and has exhibited her or his authority and stated to
2094 the suspected person in charge the officer's reason for
2095 believing, that any of the aforesaid laws have been violated at
2096 such camp;

2097 (f) Secure and execute search warrants and in pursuance
2098 thereof to enter any building, enclosure, or car and to break
2099 open, when found necessary, any apartment, chest, locker, box,
2100 trunk, crate, basket, bag, package, or container and examine the
2101 contents thereof; and

2102 (g) Seize and take possession of all wild animal life,
2103 marine life, or freshwater aquatic life taken or in possession
2104 or under control of, or shipped or about to be shipped by, any
2105 person at any time in any manner contrary to such ~~said~~ laws.

2106 (3) It is unlawful for any person to resist an arrest
2107 authorized by this section or in any manner to interfere, either
2108 by abetting, assisting such resistance, or otherwise interfering
2109 with such ~~said~~ executive director, assistants, or wildlife
2110 officers while engaged in the performance of the duties imposed
2111 upon them by law or regulation of the ~~Fish and Wildlife~~
2112 ~~Conservation~~ commission or the department.

2113 (4) Upon final disposition of any alleged offense for which
2114 a citation for any violation of this chapter or the rules of the
2115 commission has been issued, the court shall, within 10 days
2116 after the final disposition of the action, certify the
2117 disposition to the commission.

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2118 Section 40. Section 379.3312, Florida Statutes, is amended
2119 to read:

2120 379.3312 Powers of arrest by agents of ~~Department of~~
2121 ~~Environmental Protection or Fish and Wildlife Conservation~~
2122 commission.—Any certified law enforcement officer of the
2123 ~~Department of Environmental Protection or the Fish and Wildlife~~
2124 ~~Conservation~~ commission, upon receiving information, relayed to
2125 her or him from any law enforcement officer stationed on the
2126 ground, on the water, or in the air, that a driver, operator, or
2127 occupant of any vehicle, boat, or airboat has violated any
2128 section of chapter 327, chapter 328, or this chapter, or s.
2129 597.010 or s. 597.020, may arrest the driver, operator, or
2130 occupant for violation of such ~~said~~ laws when reasonable and
2131 proper identification of the vehicle, boat, or airboat and
2132 reasonable and probable grounds to believe that the driver,
2133 operator, or occupant has committed or is committing any such
2134 offense have been communicated to the arresting officer by the
2135 other officer stationed on the ground, on the water, or in the
2136 air.

2137 Section 41. Subsection (1) of section 379.3313, Florida
2138 Statutes, is amended to read:

2139 379.3313 Powers of commission law enforcement officers.—

2140 (1) Law enforcement officers of the commission are
2141 constituted law enforcement officers of this state with full
2142 power to investigate and arrest for any violation of the laws of
2143 this state and the rules of the commission, the department, and
2144 the Department of Agriculture and Consumer Services under their
2145 jurisdiction. The general laws applicable to arrests by peace
2146 officers of this state shall also be applicable to law

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2147 enforcement officers of the commission. Such law enforcement
2148 officers may enter upon any land or waters of the state for
2149 performance of their lawful duties and may take with them any
2150 necessary equipment, and such entry will not constitute a
2151 trespass. It is lawful for any boat, motor vehicle, or aircraft
2152 owned or chartered by the commission or its agents or employees
2153 to land on and depart from any of the beaches or waters of the
2154 state. Such law enforcement officers have the authority, without
2155 warrant, to board, inspect, and search any boat, fishing
2156 appliance, storage or processing plant, fishhouse, spongehouse,
2157 oysterhouse, or other warehouse, building, or vehicle engaged in
2158 transporting or storing any fish or fishery products. Such
2159 authority to search and inspect without a search warrant is
2160 limited to those cases in which such law enforcement officers
2161 have reason to believe that fish or any saltwater products are
2162 taken or kept for sale, barter, transportation, or other
2163 purposes in violation of laws or rules adopted ~~promulgated~~ under
2164 this law. ~~Any~~ Such law enforcement officers ~~officer~~ may at any
2165 time seize or take possession of any saltwater products or
2166 contraband which have been unlawfully caught, taken, or
2167 processed or which are unlawfully possessed or transported in
2168 violation of any of the laws of this state or any rule of the
2169 commission. Such law enforcement officers may arrest any person
2170 in the act of violating ~~any of the provisions of~~ this law, the
2171 rules of the commission, or any of the laws of this state. It is
2172 ~~hereby declared~~ unlawful for a ~~any~~ person to resist such arrest
2173 or in any manner interfere, either by abetting or assisting such
2174 resistance or otherwise interfering, with any such law
2175 enforcement officer while engaged in the performance of the

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2176 duties imposed upon him or her by law or rule of the commission.

2177 Section 42. Subsections (1) and (2) of section 379.333,
2178 Florida Statutes, are amended to read:

2179 379.333 Arrest by officers of the ~~Fish and Wildlife~~
2180 ~~Conservation~~ commission; recognizance; cash bond; citation.—

2181 (1) In all cases of arrest by officers of the ~~Fish and~~
2182 ~~Wildlife Conservation~~ commission and the ~~Department of~~
2183 ~~Environmental Protection~~, the person arrested shall be delivered
2184 forthwith by such ~~said~~ officer to the sheriff of the county, or
2185 shall obtain from such person arrested a recognizance or, if
2186 deemed necessary, a cash bond or other sufficient security
2187 conditioned for her or his appearance before the proper tribunal
2188 of such county to answer the charge for which the person has
2189 been arrested.

2190 (2) All officers of the commission shall ~~and the department~~
2191 ~~are hereby directed to~~ deliver all bonds accepted and approved
2192 by them to the sheriff of the county in which the offense is
2193 alleged to have been committed.

2194 Section 43. Subsection (1) of section 379.341, Florida
2195 Statutes, is amended to read:

2196 379.341 Disposition of illegal fishing devices; exercise of
2197 police power.—

2198 (1) In all cases of arrest and conviction for use of
2199 illegal nets or traps or fishing devices, as provided in this
2200 chapter, such illegal net, trap, or fishing device is declared
2201 to be a nuisance and shall be seized and carried before the
2202 court having jurisdiction of such offense and such ~~said~~ court
2203 shall order such illegal trap, net, or fishing device forfeited
2204 to the commission immediately after trial and conviction of the

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2205 person in whose possession they were found. When any illegal
2206 net, trap, or fishing device is found in the fresh waters of the
2207 state, and its ~~the~~ owner is ~~of same shall~~ not be known to the
2208 officer finding it ~~the same~~, such officer shall immediately
2209 procure from the county court judge an order forfeiting such
2210 ~~said~~ illegal net, trap, or fishing device to the commission. The
2211 commission may destroy such illegal net, trap, or fishing
2212 device, if in its judgment such ~~said~~ net, trap, or fishing
2213 device is not of value in the work of the commission ~~department~~.

2214 Section 44. Subsection (2) of section 403.413, Florida
2215 Statutes, is reordered and amended to read:

2216 403.413 Florida Litter Law.—

2217 (2) DEFINITIONS.—As used in this section:

2218 (f) ~~(a)~~ "Litter" means any garbage; rubbish; trash; refuse;
2219 can; bottle; box; container; paper; tobacco product; tire;
2220 appliance; mechanical equipment or part; building or
2221 construction material; tool; machinery; wood; motor vehicle or
2222 motor vehicle part; vessel; aircraft; farm machinery or
2223 equipment; sludge from a waste treatment facility, water supply
2224 treatment plant, or air pollution control facility; or substance
2225 in any form resulting from domestic, industrial, commercial,
2226 mining, agricultural, or governmental operations.

2227 (h) ~~(b)~~ "Person" means any individual, firm, sole
2228 proprietorship, partnership, corporation, or unincorporated
2229 association.

2230 (e) ~~(c)~~ "Law enforcement officer" means any officer of the
2231 Florida Highway Patrol, a county sheriff's department, a
2232 municipal law enforcement department, a law enforcement
2233 department of any other political subdivision, ~~the department,~~

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2234 or the Fish and Wildlife Conservation Commission. In addition,
 2235 and solely for the purposes of this section, "law enforcement
 2236 officer" means any employee of a county or municipal park or
 2237 recreation department designated by the department head as a
 2238 litter enforcement officer.

2239 (a)~~(d)~~ "Aircraft" means a motor vehicle or other vehicle
 2240 that is used or designed to fly but does not include a parachute
 2241 or any other device used primarily as safety equipment.

2242 (b)~~(e)~~ "Commercial purpose" means for the purpose of
 2243 economic gain.

2244 (c)~~(f)~~ "Commercial vehicle" means a vehicle that is owned
 2245 or used by a business, corporation, association, partnership, or
 2246 sole proprietorship or any other entity conducting business for
 2247 a commercial purpose.

2248 (d)~~(g)~~ "Dump" means to dump, throw, discard, place,
 2249 deposit, or dispose of.

2250 (g)~~(h)~~ "Motor vehicle" means an automobile, motorcycle,
 2251 truck, trailer, semitrailer, truck tractor, or semitrailer
 2252 combination or any other vehicle that is powered by a motor.

2253 (i) "Vessel" means a boat, barge, or airboat or any other
 2254 vehicle used for transportation on water.

2255 Section 45. Subsections (6) through (43) of section
 2256 403.703, Florida Statutes, are renumbered as subsections (7)
 2257 through (44), respectively, present subsection (32) is amended,
 2258 and a new subsection (6) is added to that section, to read:

2259 403.703 Definitions.—As used in this part, the term:

2260 (6) "Commission" means the Fish and Wildlife Conservation
 2261 Commission.

2262 (33)~~(32)~~ "Solid waste" means sludge unregulated under the

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2263 federal Clean Water Act or Clean Air Act, sludge from a waste
2264 treatment works, water supply treatment plant, or air pollution
2265 control facility, or garbage, rubbish, refuse, special waste, or
2266 other discarded material, including solid, liquid, semisolid, or
2267 contained gaseous material resulting from domestic, industrial,
2268 commercial, mining, agricultural, or governmental operations.
2269 Recovered materials as defined in subsection (25) ~~(24)~~ are not
2270 solid waste.

2271 Section 46. Subsections (21) and (22) of section 403.704,
2272 Florida Statutes, are renumbered as subsections (20) and (21),
2273 respectively, and present subsection (20) of that section is
2274 amended to read:

2275 403.704 Powers and duties of the department.—The department
2276 shall have responsibility for the implementation and enforcement
2277 of this act. In addition to other powers and duties, the
2278 department shall:

2279 ~~(20) Institute a hazardous waste emergency response program~~
2280 ~~which would include emergency telecommunication capabilities and~~
2281 ~~coordination with appropriate agencies.~~

2282 Section 47. Section 403.7041, Florida Statutes, is created
2283 to read:

2284 403.7041 Powers and duties of the commission.—The
2285 commission shall institute a hazardous waste emergency response
2286 program, which includes emergency telecommunication
2287 capabilities, and coordination with appropriate agencies. The
2288 commission may adopt rules, delegate its powers, enter into
2289 contracts, or take such other actions as may be necessary to
2290 implement this section.

2291 Section 48. Paragraph (a) of subsection (1) and subsection

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2292 (4) of section 403.727, Florida Statutes, are amended to read:

2293 403.727 Violations; defenses, penalties, and remedies.—

2294 (1) It is unlawful for any hazardous waste generator,
2295 transporter, or facility owner or operator to:

2296 (a) Fail to comply with the provisions of this act or
2297 departmental or commission rules or orders;

2298 (4) In addition to any other liability under this chapter,
2299 and subject only to the defenses set forth in subsections (5),
2300 (6), and (7):

2301 (a) The owner and operator of a facility;

2302 (b) A ~~Any~~ person who at the time of disposal of any
2303 hazardous substance owned or operated any facility at which such
2304 hazardous substance was disposed of;

2305 (c) A ~~Any~~ person who, by contract, agreement, or otherwise,
2306 arranged for disposal or treatment, or arranged with a
2307 transporter for transport for disposal or treatment, of
2308 hazardous substances owned or possessed by such person or by any
2309 other party or entity at any facility owned or operated by
2310 another party or entity and containing such hazardous
2311 substances; and

2312 (d) A ~~Any~~ person who accepts or has accepted any hazardous
2313 substances for transport to disposal or treatment facilities or
2314 sites selected by such person,

2315
2316 is liable for all costs of removal or remedial action incurred
2317 by the department or commission under this section and damages
2318 for injury to, destruction of, or loss of natural resources,
2319 including the reasonable costs of assessing such injury,
2320 destruction, or loss resulting from the release or threatened

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2321 release of a hazardous substance as defined in the Comprehensive
2322 Environmental Response, Compensation, and Liability Act of 1980,
2323 Pub. L. No. 96-510.

2324 Section 49. Paragraph (d) of subsection (1) of section
2325 784.07, Florida Statutes, is amended to read:

2326 784.07 Assault or battery of law enforcement officers,
2327 firefighters, emergency medical care providers, public transit
2328 employees or agents, or other specified officers;
2329 reclassification of offenses; minimum sentences.—

2330 (1) As used in this section, the term:

2331 (d) "Law enforcement officer" includes a law enforcement
2332 officer, a correctional officer, a correctional probation
2333 officer, a part-time law enforcement officer, a part-time
2334 correctional officer, an auxiliary law enforcement officer, and
2335 an auxiliary correctional officer, as those terms are
2336 respectively defined in s. 943.10, and any county probation
2337 officer; an employee or agent of the Department of Corrections
2338 who supervises or provides services to inmates; an officer of
2339 the Parole Commission; a federal law enforcement officer as
2340 defined in s. 901.1505; and law enforcement personnel of the
2341 Fish and Wildlife Conservation Commission, ~~the Department of~~
2342 ~~Environmental Protection,~~ or the Department of Law Enforcement.

2343 Section 50. Section 843.08, Florida Statutes, is amended to
2344 read:

2345 843.08 Falsely personating officer, etc.—A person who
2346 falsely assumes or pretends to be a sheriff, officer of the
2347 Florida Highway Patrol, officer of the Fish and Wildlife
2348 Conservation Commission, ~~officer of the Department of~~
2349 ~~Environmental Protection,~~ officer of the Department of

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2350 Transportation, officer of the Department of Financial Services,
2351 officer of the Department of Corrections, correctional probation
2352 officer, deputy sheriff, state attorney or assistant state
2353 attorney, statewide prosecutor or assistant statewide
2354 prosecutor, state attorney investigator, coroner, police
2355 officer, lottery special agent or lottery investigator, beverage
2356 enforcement agent, or watchman, or any member of the Parole
2357 Commission and any administrative aide or supervisor employed by
2358 the commission, or any personnel or representative of the
2359 Department of Law Enforcement, or a federal law enforcement
2360 officer as defined in s. 901.1505, and takes upon himself or
2361 herself to act as such, or to require any other person to aid or
2362 assist him or her in a matter pertaining to the duty of any such
2363 officer, commits a felony of the third degree, punishable as
2364 provided in s. 775.082, s. 775.083, or s. 775.084; however, a
2365 person who falsely personates any such officer during the course
2366 of the commission of a felony commits a felony of the second
2367 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2368 775.084; except that if the commission of the felony results in
2369 the death or personal injury of another human being, the person
2370 commits a felony of the first degree, punishable as provided in
2371 s. 775.082, s. 775.083, or s. 775.084.

2372 Section 51. Section 870.04, Florida Statutes, is amended to
2373 read:

2374 870.04 Specified officers to disperse riotous assembly.—If
2375 any number of persons, whether armed or not, are unlawfully,
2376 riotously or tumultuously assembled in any county, city or
2377 municipality, the sheriff or the sheriff's deputies, or the
2378 mayor, or any commissioner, council member, alderman or police

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2379 officer of the ~~said~~ city or municipality, or any officer or
2380 member of the Florida Highway Patrol, or any officer or agent of
2381 the Fish and Wildlife Conservation Commission, ~~Department of~~
2382 ~~Environmental Protection~~, or beverage enforcement agent, any
2383 personnel or representatives of the Department of Law
2384 Enforcement or its successor, or any other peace officer, shall
2385 go among the persons so assembled, or as near to them as may be
2386 with safety, and shall in the name of the state command all the
2387 persons so assembled immediately and peaceably to disperse; and
2388 if such persons do not thereupon immediately and peaceably
2389 disperse, such ~~said~~ officers shall command the assistance of all
2390 such persons in seizing, arresting and securing such persons in
2391 custody; and if any person present being so commanded to aid and
2392 assist in seizing and securing such rioter or persons so
2393 unlawfully assembled, or in suppressing such riot or unlawful
2394 assembly, refuses or neglects to obey such command, or, when
2395 required by such officers to depart from the place, refuses and
2396 neglects to do so, the person shall be deemed one of the rioters
2397 or persons unlawfully assembled, and may be prosecuted and
2398 punished accordingly.

2399 Section 52. Paragraphs (c) through (n) of subsection (6) of
2400 section 932.7055, Florida Statutes, are redesignated as
2401 paragraphs (b) through (m), respectively, and present paragraph
2402 (b) of that subsection is amended to read:

2403 932.7055 Disposition of liens and forfeited property.—

2404 (6) If the seizing agency is a state agency, all remaining
2405 proceeds shall be deposited into the General Revenue Fund.

2406 However, if the seizing agency is:

2407 ~~(b) The Department of Environmental Protection, the~~

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2408 ~~proceeds accrued pursuant to the provisions of the Florida~~
2409 ~~Contraband Forfeiture Act shall be deposited into the Internal~~
2410 ~~Improvement Trust Fund.~~

2411 Section 53. Subsection (2) of section 171.205, Florida
2412 Statutes, is amended to read:

2413 171.205 Consent requirements for annexation of land under
2414 this part.—Notwithstanding part I, an interlocal service
2415 boundary agreement may provide a process for annexation
2416 consistent with this section or with part I.

2417 (2) If the area to be annexed includes a privately owned
2418 solid waste disposal facility as defined in s. 403.703(34)
2419 ~~403.703(33)~~ which receives municipal solid waste collected
2420 within the jurisdiction of multiple local governments, the
2421 annexing municipality must set forth in its plan the effects
2422 that the annexation of the solid waste disposal facility will
2423 have on the other local governments. The plan must also indicate
2424 that the owner of the affected solid waste disposal facility has
2425 been contacted in writing concerning the annexation, that an
2426 agreement between the annexing municipality and the solid waste
2427 disposal facility to govern the operations of the solid waste
2428 disposal facility if the annexation occurs has been approved,
2429 and that the owner of the solid waste disposal facility does not
2430 object to the proposed annexation.

2431 Section 54. Subsection (69) of section 316.003, Florida
2432 Statutes, is amended to read:

2433 316.003 Definitions.—The following words and phrases, when
2434 used in this chapter, shall have the meanings respectively
2435 ascribed to them in this section, except where the context
2436 otherwise requires:

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2437 (69) HAZARDOUS MATERIAL.—Any substance or material which
2438 has been determined by the secretary of the United States
2439 Department of Transportation to be capable of imposing an
2440 unreasonable risk to health, safety, and property. This term
2441 includes hazardous waste as defined in s. 403.703(14)
2442 ~~403.703(13)~~.

2443 Section 55. Subsection (4) of section 376.40, Florida
2444 Statutes, is amended to read:

2445 376.40 Petroleum exploration and production; purposes;
2446 funding.—

2447 (4) FUNDING.—There shall be deposited in the Minerals Trust
2448 Fund:

2449 (a) All fees charged permittees under ss. 377.24(1),
2450 377.2408(1), and 377.2425(1) (b).

2451 (b) All penalties, judgments, recoveries, reimbursements,
2452 and other fees and charges related to the implementation of this
2453 section.

2454 (c) Any other funds required to be deposited in the trust
2455 fund under provisions of law.

2456
2457 ~~If moneys on deposit in the trust fund are not sufficient to~~
2458 ~~satisfy the needed remedial or corrective action, and if the~~
2459 ~~responsible party does not take remedial and corrective action~~
2460 ~~in a timely manner or if a catastrophic event occurs, a~~
2461 ~~temporary transfer of the required amount, or a maximum of \$10~~
2462 ~~million, from the Florida Coastal Protection Trust Fund pursuant~~
2463 ~~to s. 376.11(4) (i) is authorized. The Florida Coastal Protection~~
2464 ~~Trust Fund shall be reimbursed immediately upon deposit into the~~
2465 ~~Minerals Trust Fund of moneys referred to in paragraph (b).~~

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2466 Section 56. Paragraph (f) of subsection (2) of section
2467 377.709, Florida Statutes, is amended to read:

2468 377.709 Funding by electric utilities of local governmental
2469 solid waste facilities that generate electricity.—

2470 (2) DEFINITIONS.—As used in this section, the term:

2471 (f) "Solid waste facility" means a facility owned or
2472 operated by, or on behalf of, a local government for the purpose
2473 of disposing of solid waste, as that term is defined in s.
2474 403.703(33) ~~403.703(32)~~, by any process that produces heat and
2475 incorporates, as a part of the facility, the means of converting
2476 heat to electrical energy in amounts greater than actually
2477 required for the operation of the facility.

2478 Section 57. Paragraph (j) of subsection (9) of section
2479 403.707, Florida Statutes, is amended to read:

2480 403.707 Permits.—

2481 (9) The department shall establish a separate category for
2482 solid waste management facilities that accept only construction
2483 and demolition debris for disposal or recycling. The department
2484 shall establish a reasonable schedule for existing facilities to
2485 comply with this section to avoid undue hardship to such
2486 facilities. However, a permitted solid waste disposal unit that
2487 receives a significant amount of waste prior to the compliance
2488 deadline established in this schedule shall not be required to
2489 be retrofitted with liners or leachate control systems.

2490 (j) The Legislature recognizes that recycling, waste
2491 reduction, and resource recovery are important aspects of an
2492 integrated solid waste management program and as such are
2493 necessary to protect the public health and the environment. If
2494 necessary to promote such an integrated program, the county may

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2495 determine, after providing notice and an opportunity for a
2496 hearing prior to April 30, 2008, that some or all of the
2497 material described in s. 403.703(7)(b) ~~403.703(6)(b)~~ shall be
2498 excluded from the definition of "construction and demolition
2499 debris" in s. 403.703(7) ~~403.703(6)~~ within the jurisdiction of
2500 such county. The county may make such a determination only if it
2501 finds that, prior to June 1, 2007, the county has established an
2502 adequate method for the use or recycling of such wood material
2503 at an existing or proposed solid waste management facility that
2504 is permitted or authorized by the department on June 1, 2007.
2505 The county is not required to hold a hearing if the county
2506 represents that it previously has held a hearing for such
2507 purpose, or if the county represents that it previously has held
2508 a public meeting or hearing that authorized such method for the
2509 use or recycling of trash or other nonputrescible waste
2510 materials and that such materials include those materials
2511 described in s. 403.703(7)(b) ~~403.703(6)(b)~~. The county shall
2512 provide written notice of its determination to the department by
2513 no later than April 30, 2008; thereafter, the materials
2514 described in s. 403.703(7) ~~403.703(6)~~ shall be excluded from the
2515 definition of "construction and demolition debris" in s.
2516 403.703(7) ~~403.703(6)~~ within the jurisdiction of such county.
2517 The county may withdraw or revoke its determination at any time
2518 by providing written notice to the department.

2519 Section 58. Subsection (1) of section 487.048, Florida
2520 Statutes, is amended to read:

2521 487.048 Dealer's license; records.—

2522 (1) Each person holding or offering for sale, selling, or
2523 distributing restricted-use pesticides shall obtain a dealer's

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2524 license from the department. Application for the license shall
2525 be made on a form prescribed by the department. The license must
2526 be obtained before entering into business or transferring
2527 ownership of a business. The department may require examination
2528 or other proof of competency of individuals to whom licenses are
2529 issued or of individuals employed by persons to whom licenses
2530 are issued. Demonstration of continued competency may be
2531 required for license renewal, as set by rule. The license shall
2532 be renewed annually as provided by rule. An annual license fee
2533 not exceeding \$250 shall be established by rule. However, a user
2534 of a restricted-use pesticide may distribute unopened containers
2535 of a properly labeled pesticide to another user who is legally
2536 entitled to use that restricted-use pesticide without obtaining
2537 a pesticide dealer's license. The exclusive purpose of
2538 distribution of the restricted-use pesticide is to keep it from
2539 becoming a hazardous waste as defined in s. 403.703(14)
2540 ~~403.703(13)~~.

2541 Section 59. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic NUMERIC NUTRIENT EXEMPTION

Bill Number SB 2060
(if applicable)

Name NANCY STEPHENS

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 1625 SUMMIT LAKE DR, STE 300

Phone 850 445 1607

Street

TALLAHASSEE FL 32317

City

State

Zip

E-mail nancy@nstephens.com

Speaking: For Against Information

Representing MANUFACTURERS ASSOCIATION OF FLORIDA AND FLORIDA POULTRY FEDERATION

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 (10/20/11)

9

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Numeric Nutrient Criteria

Bill Number SB 2060
(if applicable)

Name Staci Braswell

Amendment Barcode _____
(if applicable)

Job Title Director Govt + Community Affairs

Address 5700 SW 34th Street

Phone 352-538-0279

Street
Gainesville FL 32608
City *State* *Zip*

E-mail staci.braswell@ffbf.org

Speaking: For Against Information

Representing Florida Farm Bureau

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 (10/20/11)

99

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12

Meeting Date

Topic NUMERIC NUTRIENT CRITERIA

Bill Number SB 2060
(if applicable)

Name KEYNA CORY

Amendment Barcode _____
(if applicable)

Job Title SENIOR LOBBYIST

Address 110 E. COLLEGE AVE

Phone 888 681-1065

Street

TAUAKHASSEE

FL

32301

City

State

Zip

E-mail keynacory@paconsultants.com

Speaking: For Against Information

Representing ASSOCIATED INDUSTRIES OF 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.

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S-001 (10/20/11)

19

THE FLORIDA SENATE APPEARANCE RECORD

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

Jan 29 2012

Meeting Date

Topic NMC

Bill Number 2060
(if applicable)

Name Phil Liery

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address _____
Street Palmetto
City _____ *State* _____ *Zip* _____

Phone _____

E-mail _____

Speaking: For Against Information

Representing North Florida Growers Exchange

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 (10/20/11)

9

THE FLORIDA SENATE
APPEARANCE RECORD

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

Jan 30, 2012
Meeting Date

Topic Numeric Nutrient Criteria

Bill Number 2060
(if applicable)

Name David Childs

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 119 S. Monroe Street
Street
Tallahassee FL 32301
City State Zip

Phone 850 222-7500

E-mail DAVIDC@HGSLSA.COM

Speaking: For Against Information

Representing Florida Electric Power Coordinating Group, EC

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 (10/20/11)

9

THE FLORIDA SENATE APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Numeric Nutrient Criteria

Bill Number 2060
(if applicable)

Name Ryan Matthews

Amendment Barcode _____
(if applicable)

Job Title Leg. Advocate

Address 301 S. Bronough St. Suite 300
Street
Tallahassee FL 32302
City State Zip

Phone 850-222-9684

E-mail rmatthews@flcities.com

Speaking: For Against Information

Representing FL League of Cities

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-12

Meeting Date

Topic NUMERIC NUTRIENT CRITERIA Bill Number 2060
(if applicable)

Name KURT SPITZER Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 719 E. PARK Phone 561-0904
Street
T 32301
City State Zip

Speaking: For Against Information

Representing FL. STORMWATER ASSOCIATION

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic NWC

Bill Number SB 2060
(if applicable)

Name Dill Hunter

Amendment Barcode _____
(if applicable)

Job Title President

Address 307 W. Park Ave Suite 214

Phone 950/601-2176

Tallahassee, FL 32301
City State Zip

E-mail afed@afed.com

Speaking: For Against Information

Representing ASSN. of Fla. Community Developers, Inc

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 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/2012

Meeting Date

Topic _____ Bill Number 2060
(if applicable)

Name Leticia M Adams Amendment Barcode _____
(if applicable)

Job Title Director of Infrastructure & Governance Policy

Address 136 South Bronough Street Phone 850-521-1279

Street

Tallahassee

FL

32301

City

State

Zip

E-mail ladams@flchamber.com

Speaking: For Against Information

Representing Florida Chamber of Commerce

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 (10/20/

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Numeric Nutrient Criteria

Bill Number SB 2060
(if applicable)

Name Suzanne Goss

Amendment Barcode _____
(if applicable)

Job Title Government Relations Specialist

Address 21 W. Church St.
Street
Jacksonville, FL 32202
City State Zip

Phone 904-665-8331

E-mail gossSE@jva.com

Speaking: For Against Information

Representing SEA

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic NNC

Bill Number 2060
(if applicable)

Name MARY C HARTNEY

Amendment Barcode _____
(if applicable)

Job Title PRESIDENT

Address 302 S Massachusetts St
Street

Phone 863 686 4827

LAKELAND FL 33801
City State Zip

E-mail MHARTNEY@

Speaking: For Against Information

Representing WAVE IN SUPPORT

FFAA ORG
FLORIDA FERTILIZER
& AGRICHEMICAL
ASSOCIATION

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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THE FLORIDA SENATE APPEARANCE RECORD

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

11/30/12

Meeting Date

Topic Numeric Nutrient Criteria

Bill Number 2060
(if applicable)

Name Jennifer Fisher

Amendment Barcode _____
(if applicable)

Job Title Energy Policy Representative

Address PO Box 277000

Phone 813-373-9731

Street

Tampa, FL 33618

City

State

Zip

E-mail jfisher@seminole-electric.com

Speaking: For Against Information

Representing WAIVE IN SUPPORT Seminoles Electric Cooperative

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 (10/20/11)

9

THE FLORIDA SENATE
APPEARANCE RECORD

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

1.30.12

Meeting Date

Topic NNC

Bill Number 2060
(if applicable)

Name DAVID CULLEN

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1674 UNIVERSITY PKWY #296
Street

Phone 941.323.2484

SARASOTA FL 34243
City State Zip

E-mail cullencs@earthlink.net
901.COM

Speaking: For Against Information

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.

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S-001 (10/20/11)

9

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic NUMERIC NUTRIENTS

Bill Number 2060
(if applicable)

Name STEPHEN JAMES

Amendment Barcode _____
(if applicable)

Job Title _____

Address 100 S. MONROE
Street

Phone 922-4300

TALLAHASSEE FL
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLA. ASSOC. OF COUNTIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

9

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12

Meeting Date

Topic Numeric Nutrient

Bill Number 2060
(if applicable)

Name Grace Lovett

Amendment Barcode _____
(if applicable)

Job Title Dir. of Legislative Affairs

Address PL 10 The Capitol

Phone 488 3022

Tallahassee FL 32399
City State Zip

E-mail grace.lovett@freshfromflorida.com

Speaking: For Against Information

Representing FL Dept. of Agriculture & Cons. Svcs.

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12

Meeting Date

Topic Numeric Nutrient Criteria

Bill Number 2060
(if applicable)

Name Frank Bernardino

Amendment Barcode _____
(if applicable)

Job Title _____

Address 324 E. Virginia St.

Phone 561/718-2345

Street
Tallahassee FL 32308
City *State* *Zip*

E-mail FrankCanfield@florida.com

Speaking: For Against Information

Representing Florida Section of American Water Works Assoc.

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 (10/20/11)

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 Environmental Preservation and Conservation Committee

BILL: SB 2060

INTRODUCER: Environmental Preservation and Conservation Committee

SUBJECT: Rules Establishing Numeric Nutrient Criteria

DATE: January 26, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	EP	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill exempts proposed rule amendments to Rules 62-302 and 62-303 of the Florida Administrative Code (F.A.C.) that were proposed for adoption by the Environmental Regulation Commission (ERC) on December 8, 2012, from legislative ratification under s. 120.541(3), F.S. It clarifies that ERC acted within its legislative authority in proposing for adoption Rule 62-302.531(9), F.A.C. Lastly, the bill directs the Department of Environmental Protection to submit the proposed rules to the U.S. Environmental Protection Agency within 30 days of this bill becoming a law.

II. Present Situation:

Legislative Ratification of Agency Rules

Section 120.541, F.S., requires agencies to prepare a statement of estimated regulatory costs (SERC) for proposed rules. Changes to the law contained in ch. 2010-279, Laws of Florida, require agencies to include an analysis of a rule's fiscal and adverse impacts over the first five years in the SERC. If the proposed rule change is estimated to cost \$1 million in the aggregate within the first five years of implementation, an agency must submit the rule to the Legislature for ratification.

In accordance with s. 120.541(3), F.S., the DEP submitted rule amendments to Rules 62-302 and 62-303, F.A.C., to the Legislature for ratification on December 9, 2011. The rule amendments are estimated to exceed the allowable thresholds for implementation costs for rule adoption without legislative ratification.

Background on Numeric Nutrient Criteria Rule Approval

The rules were proposed for adoption by the ERC on December 8, 2011. Since the ERC proposed additional amendments to the rules for adoption, the DEP submitted a Notice of Change in the Florida Administrative Weekly, published December 22, 2011.

The approved state rules plus amendments set numeric nutrient criteria on the amount of phosphorus and nitrogen allowed in state waters. The DEP based these rules on more than a decade of research and data collection. The numeric nutrient standards were designed to:

- ensure water quality,
- protect public health, and
- preserve well-balanced aquatic ecosystems throughout Florida.

They replace Florida's narrative standard, which was the subject of a lawsuit and subsequent consent decree between the EPA and several environmental groups. This lawsuit led to the development of federal numeric nutrient criteria rules.

The approved state rules are more cost effective than the federal rules, and the DEP asserts they will afford the same level of protection for Florida's water bodies. While the numbers are the same or similar for the state and federal rules, the implementation of state rules is more tailored to Florida's specific needs. The Florida State University Center for Economic Forecasting and Analysis estimated the costs of implementation for the DEP rules. The median cost estimate for the state rules is \$75 million annually.¹ While those costs are significant, they are much less than some of the median cost estimates for the federal rules, which may be as high as \$4 billion annually.²

Legal Challenge to the Proposed DEP Rules

Pursuant to s. 120.56, F.S., a petition has been filed challenging the proposed rules.³ This will prevent or delay the DEP from filing the certification packages for these rules with the Department of State. The rule challenge seeks to invalidate the DEP's proposed numeric nutrient criteria rules because "contrary to FDEP's claims, the rules are not designed to protect state waters from the adverse impacts of nutrient overenrichment. Instead, these rules go so far as to prevent a finding of impairment due to nutrients until the waterbody is covered with nutrient-fueled toxic blue-green algae (cyanobacteria)."⁴ The challenge asserts that certain provisions of the proposed rules are invalid exercises of delegated legislative authority.⁵ The hearing has been scheduled for February 27, 2012, through March 2, 2012.

¹ E-mail from Frank Nearhoof, DEP (January 18, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

² Cardno ENTRIX, *Addendum to the Economic Analysis of the Federal Numeric Nutrient Criteria for Florida* (2011) (on file with the Committee on Environmental Preservation and Conservation).

³ *Florida Wildlife Federation, et al. v. Fl. Dept. of Environmental Protection*, DOAH Case No: 11-006137RP.

⁴ *Id.* at 2.

⁵ The petition does not challenge proposed Rule 62-302.531(9), F.A.C., as proposed for approved by the ERC on December 8, 2011, as an invalid exercise of delegated legislative authority.

Until the Administrative Law Judge issues an order in the administrative rule challenge proceeding, the DEP cannot file the proposed rules for adoption as final rules. Consequently, the Legislature will not be able to get a final adopted rule from the DEP for ratification during the 2012 Regular Session. For purposes of compliance with the federal Clean Water Act, the DEP's *adopted* rules must be approved by the EPA in order to replace the EPA's numeric nutrient criteria rules for Florida. In response to the recent state activity to implement state numeric nutrient rules, the EPA has proposed to delay the implementation date of the federal rules from March 6, 2012, until June 4, 2012.

III. **Effect of Proposed Changes:**

Section 1 provides for an exemption from ratification under s. 120.541(3), F.S., of proposed Rules 62-302 and 62-303, F.A.C., as proposed for adoption by the ERC on December 8, 2011. The bill directs the DEP to publish a notice of enactment of the exemption in the Florida Administrative Weekly. It also clarifies that the ERC acted within its delegated legislative authority pursuant to s. 403.804, F.S., when it proposed for adoption Rule 62-302.531(9), F.A.C., which is a nonseverability and effective date provision. If any future rule or amendment alters the effect of the severability and effective date provision, it must be ratified by the Legislature before it becomes effective. Lastly, the bill directs the DEP to submit the current proposed rules to the EPA for review within 30 days of this bill becoming a law.

Section 2 provides the act takes effect upon becoming a law.

Other Potential Implications:

If the proposed rule amendments to Rules 62-302 and 62-303, F.A.C., are not ratified, the federal rules will become effective on March 6, 2012, or, if the proposed extension is approved, on June 4, 2012.

IV. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector would be responsible for the majority of the increases in regulatory and compliance costs. As stated above, the median fiscal impact from the state rules is estimated at \$75 million annually. To the extent possible, it is expected these costs will be passed on to end users or consumers.

C. Government Sector Impact:

The DEP estimates its costs associated with rule implementation to be between \$645,250 and \$1.95 million.

The water management districts will likely incur costs associated with rule implementation and enforcement; however, the extent of the fiscal impact and whether they can absorb the costs with existing staff and resources are unknown.

The Florida Fish and Wildlife Conservation Commission and the Florida Department of Agriculture and Consumer Services will incur minimal to no additional costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

None.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation

592-02232-12

20122060__

1 A bill to be entitled

2 An act relating to rules establishing numeric nutrient
3 criteria; exempting specified rules from legislative
4 ratification under s. 120.541(3), F.S.; requiring the
5 Department of Environmental Protection to publish
6 certain notice; requiring legislative ratification of
7 certain subsequent rules or amendments; directing the
8 department to submit specified rules to the United
9 States Environmental Protection Agency for review
10 under the federal Clean Water Act; providing an
11 effective date.

12
13 WHEREAS, the Department of Environmental Protection
14 proposed amendments to chapters 62-302 and 62-303, Florida
15 Administrative Code, addressing nutrient pollution in waters of
16 the state, and

17 WHEREAS, on December 8, 2011, the Environmental Regulation
18 Commission approved proposed amendments to chapters 62-302 and
19 62-303, Florida Administrative Code, addressing nutrient
20 pollution in waters of the state in an integrated,
21 comprehensive, and consistent manner, and

22 WHEREAS, estimates of the cost to implement the
23 department's proposed amendments to chapters 62-302 and 62-303,
24 Florida Administrative Code, are significantly less than
25 estimates of the cost to implement the numeric nutrient criteria
26 rules adopted by the United States Environmental Protection
27 Agency, and

28 WHEREAS, for purposes of compliance with the federal Clean
29 Water Act, the department's proposed amendments to chapters 62-

592-02232-12

20122060__

30 302 and 62-303, Florida Administrative Code, must be approved by
31 the United States Environmental Protection Agency in order to
32 replace the agency's adopted numeric nutrient criteria rules,
33 which are scheduled to take effect March 6, 2012, unless
34 extended to June 4, 2012, as proposed by the agency, and

35 WHEREAS, after adoption by the department, the amendments
36 to chapters 62-302 and 62-303, Florida Administrative Code,
37 require legislative ratification pursuant to s. 120.541(3),
38 Florida Statutes, and

39 WHEREAS, a recently filed rule challenge pending before the
40 Division of Administrative Hearings has delayed adoption by the
41 department, making the rules unavailable for ratification during
42 the 2012 Regular Session, and

43 WHEREAS, exempting the proposed amendments to chapters 62-
44 302 and 62-303, Florida Administrative Code, from legislative
45 ratification and directing the department to expeditiously
46 submit the proposed amendments to the United States
47 Environmental Protection Agency will facilitate the agency's
48 review of the proposed amendments under s. 303(c) of the Clean
49 Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq., NOW,
50 THEREFORE,

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. (1) The rules proposed by the Department of
55 Environmental Protection as rules 62-302.200, 62-302.530,
56 62.302.531, 62.302.532, 62-302.800, 62-303.150, 62-303.200, 62-
57 303.310, 62-303.330, 62-303.350, 62-303.351, 62-303.352, 62-
58 303.353, 62-303.354, 62-303.390, 62-303.420, 62-303.430, 62-

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59 303.450, 62-303.710, and 62-303.720, Florida Administrative
60 Code, notices of which were published on November 10, 2011, in
61 the Florida Administrative Weekly, Vol. 37, No. 45, pages 3753-
62 3775, as approved by the Environmental Regulation Commission on
63 December 8, 2011, and the subsequent changes to proposed rules
64 62-302.200, 62-302.531, 62-302.532, 62-302.800, 62-303.200, 62-
65 303.330, 62-303.350, 62-303.351, 62-303.352, 62-303.353, 62-
66 303.390, and 62-303.430, Florida Administrative Code, which were
67 published on December 22, 2011, in the Florida Administrative
68 Weekly, Vol. 37, No. 51, pages 4444-4450, are exempt from
69 ratification under s. 120.541(3), Florida Statutes. At the time
70 of filing these rules for adoption, or as soon thereafter as
71 practicable, the department shall publish a notice of the
72 enactment of this exemption in the Florida Administrative
73 Weekly.

74 (2) After adoption of proposed rule 62-302.531(9), Florida
75 Administrative Code, a nonseverability and effective date
76 provision approved by the commission on December 8, 2011, in
77 accordance with the commission's legislative authority under s.
78 403.804, Florida Statutes, notice of which was published by the
79 department on December 22, 2011, in the Florida Administrative
80 Weekly, Vol. 37, No. 51, page 4446, any subsequent rule or
81 amendment altering the effect of such rule shall be submitted to
82 the President of the Senate and the Speaker of the House of
83 Representatives no later than 30 days before the next regular
84 legislative session, and such amendment may not take effect
85 until it is ratified by the Legislature.

86 (3) Within 30 days after the effective date of this act,
87 the proposed rules specified in subsection (1) shall be

592-02232-12

20122060__

88 submitted by the department to the regional administrator of the
89 United States Environmental Protection Agency for review under
90 s. 303(c) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C.
91 ss. 1251 et seq.

92 Section 2. This act shall take effect upon becoming a law.

10

THE FLORIDA SENATE APPEARANCE RECORD

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

1.30.12
Meeting Date

Topic FERTILIZER

Bill Number SB 604
(if applicable)

Name THERESA CONNOR

Amendment Barcode ~~240700~~
(if applicable)

Job Title DIRECTOR - ENVIRONMENTAL UTILITIES

Address 1001 Sarasota Center Blvd
Street
Sarasota FL 34233
City State Zip

Phone 941.861.0661

E-mail tconnor@scgov.net

Speaking: For Against Information

Representing Sarasota County

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12

Meeting Date

Topic Fertilizer

Bill Number 604
(if applicable)

Name Michael Suchnowicz (AKA Michael J)

Amendment Barcode _____
(if applicable)

Job Title President Garden masters

Address 400 East Vine Avenue

Phone 941-729-4477

Street

Venice FL 34285

City

State

Zip

E-mail Michael J Aze
@comcast.net

Speaking: For Against Information

Representing my company Garden masters of SWFL INC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

Q 10

THE FLORIDA SENATE APPEARANCE RECORD

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

1/30/2012
Meeting Date

Topic FERT. 117E

Bill Number SB 604
(if applicable)

Name JACK MERRIAM

Amendment Barcode _____
(if applicable)

Job Title _____

Address 319 Braden Ave
Street

Phone (941) 780-3120

SARASOTA FL 34243
City State Zip

E-mail JACK.MERRIAM@GMAIL.COM

Speaking: For Against Information

Representing MERRIAM'S MUSHROOMS

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Fertilizer

Bill Number 604
(if applicable)

Name Ryan Matthews

Amendment Barcode _____
(if applicable)

Job Title Leg. Advocate

Address 301 S. Bronough St. Suite 300

Phone 950-222-9684

Tallahassee FL 32302
City State Zip

E-mail rmatthews@flcities.com

Speaking: For Against Information

Representing FL League of Cities

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 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-12

Meeting Date

Topic FERTILIZER

Bill Number 604
(if applicable)

Name KURT SPITZER

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 719 E PARK
Street
T 32301
City State Zip

Phone 561-0904

E-mail _____

Speaking: For Against Information

Representing FLA. STORMWATER ASSOCIATION

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 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-12

Meeting Date

Topic Fertilizer

Bill Number SCS/SB 604
(if applicable)

Name Stephanie Kunkel

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1830 Meriador Rd.

Phone 850-320-4208

Street

Tallahassee FL 32303

E-mail Stef.Kunkel@gmail.com

City

State

Zip

Speaking: For Against Information

Representing Clean Water Action

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 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

01-30-12

Meeting Date

Topic Fertilizer Ordinance

Bill Number 604
(if applicable)

Name Ray Judah

Amendment Barcode _____
(if applicable)

Job Title Lee County Commissioner

Address 12664 Coconut Creek Ct

Phone (239) 533-2223

Street

Ft. Myers
City

FL
State

33908
Zip

E-mail Dist3@Leegov.com

Speaking: For Against Information

Representing Lee County

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 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/2012

Meeting Date

Topic _____

Bill Number SB 604
(if applicable)

Name MICK DENHAM

Amendment Barcode _____
(if applicable)

Job Title VICE MAYOR CITY SANIBEL

Address 613 LAKEMUR ~~ER~~ CIRCLE
Street

Phone 3239-395-1848

SANIBEL, FL, 33957
City State Zip

E-mail mickdenham@Aol.com

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Jan 30, 2012
Meeting Date

Topic Fertilizer

Bill Number SB604
(if applicable)

Name Councilwoman MARTHA SIMONS

Amendment Barcode _____
(if applicable)

Job Title Council Member

Address 9101 Bonita Beach Rd.

Phone 239-949-6262

Bonita Springs FL 34135
City State Zip

E-mail MARTHA.SIMONS@CITYOFBONITASPINGS.ORG

Speaking: For Against Information

Representing City of Bonita Springs

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 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-12

Meeting Date

Topic LIMITED (FERTILIZER) CERTIFICATION

Bill Number 604
(if applicable)

Name DAVID CULLEN

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1674 UNIVERSITY PKWY #296

Phone 941.323.2404

Street

SARASOTA FL 34243

City

State

Zip

E-mail cullenasea@acf.com

Speaking: For Against Information

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.

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S-001 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-30-12

Meeting Date

Topic Urban Fertilizer

Bill Number 604
(if applicable)

Name Cris Costello

Amendment Barcode _____
(if applicable)

Job Title Regional Organizing Representative

Address 127 Van Dyck Drive

Phone 941 914 0421

Street

Nokomis FL 34275

City

State

Zip

E-mail cris.costello@sierraclub.org

Speaking: For Against Information

Representing Sierra Club

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 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30
Meeting Date

Topic FERT. EXEMPTION

Bill Number 604
(if applicable)

Name CRAIG DIAMOND

Amendment Barcode _____
(if applicable)

Job Title BOARD MBR FL SIERRA CLUB

Address 405 INGLEWOOD DR
Street

Phone _____

TALLAHASSEE FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Fertilizer

Bill Number SB 604
(if applicable)

Name Mary Jean Yan

Amendment Barcode _____
(if applicable)

Job Title _____

Address 3324 Charleston Rd

Phone (850) 519-7859

Jalalhassee FL 32309
City State Zip

E-mail maryjeanyan@comcast.net

Speaking: For Against Information

Representing Audubon 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

10
1-30-12

Meeting Date

Topic Prohibition on Local Fert. Ordinances Bill Number SB 604
(if applicable)

Name JOHN BUSS Amendment Barcode _____
(if applicable)

Job Title ~~City of Tallahassee~~ City of Tallahassee Utilities

Address 300 S Adams Phone 850-891-6860
Street

Tallahassee, FL 32301 E-mail john.buss@talgov.com
City State Zip

Speaking: For Against Information

Representing City of Tallahassee

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/2012
Meeting Date

Topic Fertilizer Application

Bill Number SB 604
(if applicable)

Name Sean Pittman

Amendment Barcode 897476
(if applicable)

Job Title _____

Address _____
Street

Phone _____

_____ *City* _____ *State* _____ *Zip*

E-mail _____

Speaking: For Against Information

Representing City of Tallahassee

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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 Environmental Preservation and Conservation Committee

BILL: CS/SB 604

INTRODUCER: Agriculture Committee and Senator Dean and others

SUBJECT: Limited Certification for Urban Landscape Commercial Fertilizer Application

DATE: January 27, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Buford</u>	<u>AG</u>	Fav/CS
2.	<u>Uchino</u>	<u>Yeatman</u>	<u>EP</u>	Unfavorable
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This committee substitute (CS) provides legislative findings that the use of best management practices (BMPs) when applying commercial fertilizer is critical to the state’s efforts in minimizing potential harmful impacts to the water quality of the state. It provides that persons who have obtained the limited certification for urban landscape commercial fertilizer application by the Department of Agriculture and Consumer Services (DACS) are required to follow BMPs, and that they are exempt from local government ordinances that address the fertilization of urban turfs, lawns, and landscapes. It requires the department to provide local and state governmental agencies with information concerning the certification status of persons that have obtained the limited certification. It also clarifies that the department is granted enforcement authority over certified professionals, including administration, enforcement, and collection of penalties, fines, and administrative actions.

This CS amends section 482.1562 of the Florida Statutes.

II. Present Situation:

Model Ordinance for Florida-Friendly Fertilizer Use

The Florida Consumer Fertilizer Task Force was created by the Florida Legislature in 2007 to review and provide recommendations on the state's policies and programs addressing consumer fertilizers. A Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes (model ordinance), was developed by the Department of Environmental Protection (DEP), in conjunction with the Florida Consumer Fertilizer Task Force, the DACS, and the University of Florida Institute of Food and Agricultural Sciences (IFAS). In 2009 the Legislature made findings that implementation of the model ordinance will assist in protecting the quality of Florida's surface water and groundwater resources.¹

Local Government Adoption of Fertilizer Ordinances

Section 403.9337, F.S., encourages local governments to adopt the model ordinance as a mechanism for protecting local surface and groundwater quality; however, it recognizes that certain local conditions may necessitate the implementation of additional or more stringent fertilizer management practices at the local government level. Many local governments have enacted a variety of ordinances through their home rule powers to regulate the commercial fertilization of urban turfs, lawns and landscapes.² These ordinances relate to composition of applied fertilizer, fertilizer application rate, fertilizer free zones, setback requirements and blackout times where no fertilizer can be applied (usually the rainy season).

Local governments are also required to limit impacts from stormwater discharges. The U.S. Army Corps of Engineers (Corps) administers the National Pollution Discharge Elimination System (NPDES) permit program under the federal Clean Water Act. The Corps has delegated the authority to Florida to implement this program for stormwater systems, including municipal systems. The DEP permits MS4 municipal separate storm sewer systems.³ An MS4 is a publicly-owned conveyance or system of conveyances (i.e., ditches, curbs, catch basins, underground pipes, etc.) that is designed or used for collecting or conveying stormwater and that discharges to surface waters of the state.⁴ Under the MS4 permit, local governments are required to undertake a number of activities to protect water bodies. Some of these activities include capital construction projects to retain stormwater, retrofitting where possible and land use decisions.

¹ Chapter 2009-199, s. 3, Laws of Fla.

² The following counties have adopted more stringent standards than the model ordinance or substantially similar ordinances to the model ordinance: Alachua, Charlotte, Duval, Hillsborough, Lee, Manatee, Marion, Martin, Orange, Pinellas, Sarasota, St. Johns and Wakulla. The following municipalities have also adopted more stringent standards than the model ordinance: City of Alachua, Bonita Springs, Cape Coral, Fort Meyers, Fort Meyers Beach, Jacksonville, Longboat Key, Monteverde, Naples, Northport, all municipalities within Pinellas County, Port St. Lucie, Sanibel, City of Sarasota, Sewall's Point and Venice.

³ DEP, *Florida's NPDES Stormwater Program*, http://www.dep.state.fl.us/water/stormwater/npdes/MS4_1.htm (last visited Jan. 26, 2012).

⁴ *Id.*

DACS-certification of Commercial Fertilizer Applicators

In order to have a means of documenting and ensuring compliance with BMPs for commercial fertilizer application to urban landscapes, the Legislature directed the DACS to establish a limited certification for urban landscape commercial fertilizer application. The DACS, in cooperation with the IFAS, was also directed to develop an educational program for people working in lawn-care and landscape maintenance to teach safe landscaping practices. After receiving a certificate demonstrating successful completion of the DACS or a DACS-approved program, and paying a certification fee, a person may apply to the DACS to receive a limited certification of urban landscape commercial fertilizer application under s. 482.1562, F.S. Starting January 1, 2014, all commercial fertilizer applicators must be certified to make any type of fertilizer application to commercial turf or ornamental trees, the turf or ornamental areas of parks or fields other than agricultural areas, or the turf or ornamental area of any residential property.⁵ Currently, certified persons are not exempt from local government ordinances that address fertilization of urban turfs, lawns, and landscapes.

Contributions of Fertilizers to Waters of the State

There have been numerous studies of the effects on urban fertilizer use in Florida. A 2008 study completed by the Tampa Bay Estuary Program concluded that a conservative estimate of fertilizer runoff in urbanized areas approaches 25 percent.⁶

In the Lower St. Johns River basin management action plan, the Florida Department of Transportation (FDOT) was required to remove 18,472 pounds of nitrogen per year from stormwater runoff. The FDOT commissioned a study that concluded of the 112,020 pounds of nitrogen applied annually to roadside areas, 18,477 pounds (16.5 percent) washed into surface waters. The study also concluded that the roadside areas did not require application of nitrogen fertilizer, saving \$150,000 annually. In addition, by not applying the fertilizer, the FDOT was able to meet its reduction goal of removing 18,472 pounds of nitrogen with no other reduction strategies.⁷

In a third study, the DEP hired MACTEC, an environmental engineering firm, to conduct a study of Wekiva River nitrate sourcing. The study was completed in two phases and a final report was issued in March 2010. Part of phase II of the study re-visited the effects of residential fertilizer in the Wekiva River Basin. The study concluded that 15 percent of the annual nitrogen loading in the Wekiva River Basin comes from residential fertilizer use. This amounts to 1,485 metric tons per year in the Wekiva Basin.⁸

⁵ University of Florida, IFAS Extension, *Licensing of Lawn and Ornamental Pesticide Applicators in Florida*, available at <http://edis.ifas.ufl.edu/pdf/files/PI/PI00600.pdf> (last visited Jan. 27, 2012).

⁶ Tampa Bay Estuary Program, *Technical Memorandum: Model-Based Estimates of Nitrogen Load Reductions Associated with Fertilizer Restriction Implementation* (Nov. 2008) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁷ FDOT Research, *Evaluation of Pollution Levels Due to the Use of Consumer Fertilizers under Florida Conditions*, available at http://www.dot.state.fl.us/research-center/Completed_Proj/Summary_RD/FDOT_BDK78%20_977-04_sum.pdf (last visited Jan. 26, 2012).

⁸ MACTEC, prepared for the St. Johns WMD and the DEP, *Final Report Wekiva River Basin Nitrate Sourcing Study* (Mar. 2010), available at <http://www.dep.state.fl.us/water/wekiva/docs/wekiva-basin-nitrate-sourcing-fr0310.pdf> (last visited Jan. 26, 2012).

III. Effect of Proposed Changes:

Section 1 amends s. 482.1562, F.S., to provide legislative findings that using BMPs in the application of commercial fertilizer to urban landscapes is a critical component of the state's efforts to minimize potential impacts to water quality. It requires persons, certified for urban landscape commercial fertilizer application, to follow BMPs established by the DEP. It exempts certified persons from local government ordinances that address the fertilization of urban turfs, lawns, and landscapes. It requires the department to provide specified information to other local and state governmental agencies. Finally, it clarifies that the department has enforcement authority over certified professionals and provides requirements for associated penalties, fines, and administrative actions taken by the department.

Section 2 provides that this act shall take effect July 1, 2012.

Other Potential Implications:

The CS will preempt local governments that have adopted urban fertilizer ordinances from regulating department-certified fertilizer applicators. Certified applicators must adhere to BMPs established by the DEP. However, the DEP has not adopted any BMPs for urban fertilizer application. It has only coordinated the development of recommended guidelines in the "Florida-Friendly Best Management Practices for Protection of Water Quality by the Green Industries," including BMPs for urban fertilizer application.⁹ Therefore, this requirement appears to be unenforceable and may exempt urban fertilizer applicators from local ordinances even if they do not follow the recommended BMPs. The DEP has existing authority to adopt BMPs by rule pursuant s. 403.067(7)(c)1., F.S., for the establishment of total maximum daily loads. If the Legislature intends to ensure the applicability of this provision, it should authorize the DEP to adopt BMPs for urban fertilizer application as well.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ DEP, *Florida-Friendly Best Management Practices for Protection of Water Quality by the Green Industries*, available at http://fyn.ifas.ufl.edu/pdf/GIBMP_Manual_WEB_2_17_11.pdf (last visited Jan. 26, 2012).

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

None.

B. Private Sector Impact:

The CS exempts department-certified fertilizer applicators from all local government ordinances that address urban fertilization. It also allows the department to assess penalties and fines against applicators who do not comply with certain provisions. The impact can only be determined on a case-by-case basis.

C. Government Sector Impact:

The CS requires the DACS to provide information concerning the certification status of persons who have obtained the limited certification for urban landscape commercial fertilizer application to other local and state governmental agencies. This may result in a potential workload increase for the DACS, which is expected to meet the costs with existing staff and resources.

Additionally, the CS may have a significant impact on local governments to provide for nutrient reductions for their NPDES permits (MS4 stormwater systems) or to comply with total maximum daily loads and basin management action plans. Several counties' representatives have expressed concerns that the CS may require them to provide for much more costly options to remove nutrients from surface waters, including capital projects and constructed wetlands. The Tampa Bay Estuary Program estimates 30.2 tons on nitrogen will be prevented from entering the Tampa Bay watershed as the result of enacting local ordinances.¹⁰ Another county has constructed a filter marsh to remove nitrogen at a cost of \$600 per pound.¹¹ While the individual costs to local governments cannot be determined, they may be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁰ E-mail from Nanette Holland, Public Outreach Coordinator, Tampa Bay Estuary Program (Jan. 26, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹¹ E-mail from Kurt Harclerode, Operations Manager, Natural Resources Division, Lee County (Jan. 26, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

VIII. Additional Information:

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

CS by the Agriculture Committee on December 5, 2011:

The CS requires that persons certified for urban landscape and commercial fertilizer application follow BMPs as established by the DEP. It also requires the department to provide specified information to other local and state governmental agencies.

- B. **Amendments:**

None.



152126

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/06/2012	.	
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The Committee on Environmental Preservation and Conservation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsection (1) through (8) of section 482.1562, Florida Statutes, are renumbered as subsections (2) through (9), respectively, a new subsection (1) is added to that section and present subsections (2), and (8) of that section are amended, to read:

482.1562 Limited certification for urban landscape commercial fertilizer application.—

(1) The Legislature finds that the implementation of best



152126

13 management practices for commercial fertilizer application to
14 urban landscapes is a critical component of the state's efforts
15 to minimize potential impacts to water quality.

16 (3)(2) Beginning January 1, 2014, any person applying
17 commercial fertilizer to an urban landscape must be certified
18 under this section. A person certified under this section must
19 follow best management practices for commercial fertilizer
20 application to urban landscapes as established by the Department
21 of Environmental Protection. A person certified under this
22 section is exempt from local government ordinances that address
23 the fertilization of urban turfs, lawns, and landscapes.

24 (9)(8) The department shall ~~may~~ provide information
25 concerning the certification status of persons certified under
26 this section to other local and state governmental agencies. The
27 department is encouraged to create an online database that lists
28 all persons certified under this section.

29 Section 2. Subsections (5) and (6) are added to section
30 403.9337, Florida Statutes, to read:

31 (5) The provisions of s. 482.1562(3) do not limit the
32 authority of the department or water management districts
33 pursuant to chapter 373 or chapter 403 to adopt rules or issue
34 orders relating to fertilizer practices that are necessary to
35 achieve compliance with applicable water quality standards or to
36 implement federally authorized or delegated programs.

37 (6) The department shall submit a report on the
38 effectiveness of seasonal or calendar-based prohibited
39 application periods for the fertilization of urban turfs, lawns
40 and landscapes on the water quality of the state to the
41 Governor, President of the Senate and the Speaker of the House



152126

42 of Representatives, by December 31, 2016.

43 Section 3. This act shall take effect July 1, 2012.

44

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

46 And the title is amended as follows:

47 Delete everything before the enacting clause
48 and insert:

49 A bill to be entitled

50 An act relating to limited certification for urban
51 landscape commercial fertilizer application; amending s.
52 482.1562, F.S.; providing legislative findings; requiring
53 persons who hold a limited certification to follow the model
54 ordinance; providing exemptions; requiring local governments to
55 establish a variance process; allowing application of fertilizer
56 during certain periods; providing for sunset of certain
57 provisions; requiring the Department of Agriculture and Consumer
58 Services to provide specified information to other local and
59 state governmental agencies; amending s. 403.9337, F.S.;
60 allowing the Department of Environmental Protection to adopt
61 certain rules; requiring a report; providing an effective date.

62



665304

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2012	.	
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The Committee on Environmental Preservation and Conservation
(Latvala) recommended the following:

1 **Senate Substitute for Amendment (152126) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Present subsections (1) through (8) of section
7 482.1562, Florida Statutes, are renumbered as subsections (2)
8 through (9), respectively, a new subsection (1) is added to that
9 section and present subsections (2), and (8) of that section are
10 amended, to read:

11 482.1562 Limited certification for urban landscape
12 commercial fertilizer application.-



665304

13 (1) The Legislature finds that the implementation of best
14 management practices for commercial fertilizer application to
15 urban landscapes is a critical component of the state's efforts
16 to minimize potential impacts to water quality.

17 (3) ~~(2)~~ Beginning January 1, 2014, any person applying
18 commercial fertilizer to an urban landscape must be certified
19 under this section. A person certified under this section must
20 follow the most recent version of the Model Ordinance for
21 Florida-Friendly Fertilizer Use on Urban Landscapes.

22 (a) A person certified under this section is exempt from
23 seasonal or calendar-based prohibited application period bans
24 within local government ordinances that address the
25 fertilization of urban turfs, lawns and landscapes; however, a
26 county or municipal government which has adopted an ordinance
27 prior to January 1, 2012, which contain a seasonal or calendar-
28 based prohibited application period, may continue to enforce the
29 ordinance within its jurisdiction.

30 (b) Notwithstanding paragraph (a), within 90 days of the
31 effective date of this act, a county or municipal government
32 with an existing seasonal or calendar-based prohibited
33 application period ban shall establish a reasonable process
34 whereby a person certified under this section may apply for a
35 variance from the prohibited application period ban to apply
36 nutrients to damaged turf and landscape plants based on industry
37 recognized tests and standards that demonstrate a need for
38 nutrients on a site-specific basis. Between July 1, 2012, and
39 the date at which a county or municipal government establishes a
40 process under the provisions of this paragraph, a certified
41 commercial fertilizer applicator may apply nutrients to damaged



665304

42 turf and landscape plants based on industry recognized tests and
43 standards that demonstrate a need for nutrients on a site-
44 specific basis.

45
46 For the limited purposes of an ordinance amended to include the
47 provisions of paragraph (b), ss. 403.9337(3), 570.07(41)(b), and
48 576.181(5)(b), do not apply.

49 (c) Paragraphs (a) and (b) shall sunset on July 1, 2017,
50 unless reauthorized by the Legislature.

51 (9)(8) The department shall may provide information
52 concerning the certification status of persons certified under
53 this section to other local and state governmental agencies. The
54 department is encouraged to create an online database that lists
55 all persons certified under this section.

56 Section 2. Subsections (5) and (6) are added to section
57 403.9337, Florida Statutes, to read:

58 (5) The provisions of s. 482.1562(3) do not limit the
59 authority of the department or water management districts
60 pursuant to chapter 373 or chapter 403 to adopt rules or issue
61 orders relating to fertilizer practices that are necessary to
62 achieve compliance with applicable water quality standards or to
63 implement federally authorized or delegated programs.

64 (6) The department shall submit a report on the
65 effectiveness of seasonal or calendar-based prohibited
66 application periods for the fertilization of urban turfs, lawns
67 and landscapes on the water quality of the state to the
68 Governor, President of the Senate and the Speaker of the House
69 of Representatives, by December 31, 2016.

70 Section 3. This act shall take effect July 1, 2012.



665304

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to limited certification for urban
landscape commercial fertilizer application; amending s.
482.1562, F.S.; providing legislative findings; requiring
persons who hold a limited certification to follow the Model
Ordinance for Florida-Friendly Fertilizer Use on Urban
Landscapes; providing exemptions; requiring local governments to
establish a variance process; allowing application of fertilizer
during certain periods; providing for sunset of certain
provisions; requiring the Department of Agriculture and Consumer
Services to provide specified information to other local and
state governmental agencies; amending s. 403.9337, F.S.;
allowing the Department of Environmental Protection to adopt
certain rules; requiring a report; providing an effective date.



448222

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2012	.	
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The Committee on Environmental Preservation and Conservation
(Detert) recommended the following:

1 **Senate Amendment to Amendment (665304) (with title**
2 **amendment)**

3
4 Delete lines 56 - 58
5 and insert:

6 Section 2. Subsection (4) of section 403.9337, Florida
7 Statutes, is amended, and subsections (5) and (6) are added to
8 that section, to read:

9 403.9337 Model Ordinance for Florida-Friendly Fertilizer
10 Use on Urban Landscapes.—

11 (4) This section does not apply to the use of fertilizer on



448222

12 farm operations as defined in s. 823.14, ~~or~~ on lands classified
13 as agricultural lands pursuant to s. 193.461, or on golf
14 courses, including all landscaped areas, that comply with the
15 Best Management Practices provisions of the Department of
16 Environmental Protection when applying fertilizer to those
17 areas.

18 (5) The provisions of s. 482.1562(3) do not limit the
19
20

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

22 And the title is amended as follows:

23 Between lines 87 and 88

24 insert:

25 exempting certain golf courses from the provisions of
26 the Model Ordinance for Florida-Friendly Fertilizer
27 Use on Urban landscapes;



189584

LEGISLATIVE ACTION

Senate

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House

The Committee on Environmental Preservation and Conservation
(Detert) recommended the following:

1 **Senate Amendment to Amendment (665304) (with title**
2 **amendment)**

3
4 Between lines 69 and 70
5 insert:

6 Section 3. If fertilizer is applied to a golf course, the
7 most current update of the Department of Environmental
8 Protection's Best Management Practices for the Enhancement of
9 Environmental Quality on Florida Golf Courses must be followed.
10 For all other applications, specialized turf managers must use
11 the department's Florida Green Industries Best Management
12 Practices for Protection of Water Resources in Florida (June



189584

13 2002).

14

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

16 And the title is amended as follows:

17 Delete line 89

18 and insert:

19 certain rules; requiring a report; providing
20 guidelines for the application of fertilizer on golf
21 courses and all other applications; providing an
22 effective date.



240700

LEGISLATIVE ACTION

Senate

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House

The Committee on Environmental Preservation and Conservation
(Dean) recommended the following:

Senate Amendment

Delete line 35
and insert:
section is exempt from seasonal or calendar-based prohibited
application period bans within local government ordinances that
address



897476

LEGISLATIVE ACTION

Senate

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House

The Committee on Environmental Preservation and Conservation
(Dean) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 45 and 46
insert:

(12) This section does not limit the authority of the
Department of Environmental Protection or a water management
district to adopt rules or issue orders requiring fertilizer
practices that are necessary to achieve compliance with
applicable water quality standards or to implement federally
authorized or delegated programs.

=====
D I R E C T O R Y C L A U S E A M E N D M E N T
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897476

13 And the directory clause is amended as follows:

14 Delete line 20

15 and insert:

16 through (11), respectively, a new subsection (1) and subsection
17 (12) are added to

18

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

20 And the title is amended as follows:

21 Delete line 13

22 and insert:

23 and administrative actions; providing that the act
24 does not limit the authority of the Department of
25 Environmental Protection or the water management
26 districts to adopt rules or issue orders requiring
27 fertilizer practices necessary to comply with
28 applicable water quality standards; providing an
29 effective

By the Committee on Agriculture; and Senator Dean

575-01522-12

2012604c1

1 A bill to be entitled
2 An act relating to limited certification for urban
3 landscape commercial fertilizer application; amending
4 s. 482.1562, F.S.; providing legislative findings;
5 requiring persons who hold a limited certification to
6 follow certain best management practices; providing an
7 exemption from certain local government ordinances;
8 requiring the Department of Agriculture and Consumer
9 Services to provide specified information to other
10 local and state governmental agencies; providing the
11 department with certain enforcement authority;
12 providing a requirement for related penalties, fines,
13 and administrative actions; providing an effective
14 date.

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

17
18 Section 1. Present subsections (1) through (10) of section
19 482.1562, Florida Statutes, are renumbered as subsections (2)
20 through (11), respectively, a new subsection (1) is added to
21 that section, and present subsections (2), (8), and (10) of that
22 section are amended, to read:

23 482.1562 Limited certification for urban landscape
24 commercial fertilizer application.—

25 (1) The Legislature finds that the implementation of best
26 management practices for commercial fertilizer application to
27 urban landscapes is a critical component of the state's efforts
28 to minimize potential impacts to water quality.

29 (3)~~(2)~~ Beginning January 1, 2014, any person applying

575-01522-12

2012604c1

30 commercial fertilizer to an urban landscape must be certified
31 under this section. A person certified under this section must
32 follow best management practices for commercial fertilizer
33 application to urban landscapes as established by the Department
34 of Environmental Protection. A person certified under this
35 section is exempt from local government ordinances that address
36 the fertilization of urban turfs, lawns, and landscapes.

37 (9)-(8) The department shall ~~may~~ provide information
38 concerning the certification status of persons certified under
39 this section to other local and state governmental agencies. The
40 department is encouraged to create an online database that lists
41 all persons certified under this section.

42 (11)-(10) The department has enforcement authority over
43 persons certified under this section and may adopt rules to
44 administer this section. All penalties, fines, and
45 administrative actions must be consistent with this chapter.

46 Section 2. This act shall take effect July 1, 2012.

11

THE FLORIDA SENATE APPEARANCE RECORD

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

1/30/12
Meeting Date

Topic Mitigation

Bill Number 824
(if applicable)

Name Missy Timmins

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2910 Kerry Forest Pkwy D4-368
Street

Phone 850-668-8000

Tallahassee FL 32309
City State Zip

E-mail missy@timminsconsulting.com

Speaking: For Against Information

Representing Marine Industries Association of F/A

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.

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 Environmental Preservation and Conservation Committee

BILL: CS/CS/SB 824

INTRODUCER: Environmental Preservation and Conservation Committee; Transportation Committee; and Senators Dean and Gaetz

SUBJECT: Mitigation

DATE: January 31, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Buford	TR	Fav/CS
2.	Uchino	Yeatman	EP	Fav/CS
3.			BC	
4.				
5.				
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Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The Committee Substitute (CS) amends s. 373.4137, F.S., to allow the Florida Department of Transportation (FDOT) more freedom in choosing between various mitigation methods when mitigation is required for transportation projects by:

- changing the legislative intent to include the use of “any other mitigation options that satisfy state and federal requirements.”
- allowing the release of funds that are identified or maintained in escrow for the Water Management Districts (WMDs) if the transportation project falls outside, in whole or in part, of the WMD mitigation plan.
- allowing FDOT to elect whether or not to incorporate its mitigation efforts into the planning structure detailed under this section.
- requiring FDOT, when making such an election, to:
 - investigate the use of credits from permitted private mitigation banks; and
 - create a written analysis of cost-effectiveness which considers certain factors.

The CS requires the Department of Environmental Protection (DEP) to approve a mitigation plan, in whole or in part, before it is submitted to the appropriate WMD for approval and implementation.

The CS amends s. 373.4135, F.S., to prohibit a governmental entity from creating or providing mitigation unless it does so for its own project, or it uses non-conservation lands and provides the same financial assurances as specified mitigation banks. The CS exempts certain mitigation banks or areas permitted or established before December 31, 2012, and other specified mitigation types from provisions in the CS.

The CS substantially amends ss. 373.4137 and 373.4135 of the Florida Statutes.

II. Present Situation:

Background, Legislative Intent and Purpose

Environmental mitigation, as it relates to wetlands regulatory programs, is generally defined as “the creation, restoration, preservation or enhancement of wetlands to compensate for permitted wetlands losses.”¹ Mitigation banking is a concept designed to increase the success of environmental mitigation efforts and reduce costs to developers of individual mitigation projects.²

Section 373.4135, F.S., as part of the Environmental Reorganization Act of 1993, directs the DEP and WMDs to participate in and encourage the establishment of private and public mitigation banks and offsite regional mitigation.³ Section 404 of the federal Clean Water Act⁴ and early Florida law attempted to regulate wetlands impacts; however, the regulations did not specifically establish a wetlands protection program. As such, the Florida Legislature responded to the lack of both a comprehensive policy and a regulatory framework to handle environmental mitigation efforts with passage of s. 373.4135, F.S.⁵ The Legislature intended that the provisions for establishing mitigation banks would apply equally to both public and private entities, except for necessary variability for the DEP and each WMD to ensure the construction and perpetual protection of mitigation banks.⁶

Mitigation Banking Process

In 1994, rules governing the establishment and use of mitigation banks were adopted.⁷ The substantive aspects of these rules, codified in s. 373.4136, F.S., address the following:⁸

¹ John J. Fumero, *Environmental Law: 1994 Survey of Florida Law – At a Crossroads in Natural Resource Protection and Management in Florida*, 19 Nova L. Rev. 77, 101 (1994).

² *Id.* at 103.

³ Chapter 93-213, s. 29, Laws of Florida.

⁴ 33 U.S.C. s. 1344.

⁵ Fumero, *supra* note 1, at 103.

⁶ Section 373.4135(1)(a), F.S.

⁷ The rules have been amended several times and are incorporated in Rule 62-342.700, F.A.C., effective May 2001.

⁸ In 1996, the Florida Legislature revised the statutes on mitigation banking and the substantive sections of the rules were placed in s. 373.4136, F.S. See the “Legal Authority” section of the DEP, *Mitigation and Mitigation Banking*,

- the establishment of mitigation banks by governmental, nonprofit or for-profit entities;
- requirements to ensure the financial responsibility of nongovernmental entities proposing to develop mitigation banks;
- the appropriateness or desirability of mitigation banking when onsite mitigation is determined not to have the comparable long-term viability and ecological value of a mitigation bank;
- a framework for determining the value of a mitigation bank through the issuance of credits;
- criteria for withdrawal of mitigation credits by projects within or outside the regional watershed where the bank is located;
- measurements to ensure the long-term management and protection of mitigation banks; and
- criteria governing the contribution of funds or land to an approved mitigation bank.⁹

A “banker” is an entity that creates, operates, manages or maintains a mitigation bank.¹⁰ A banker must apply for a mitigation bank permit before establishing and operating a mitigation bank.¹¹ Mitigation banks are permitted by the DEP or one of the WMDs that has adopted rules based on the location of the bank and activity-based considerations, such as whether the ecological benefits will preserve wetlands losses resulting from development or land use activities or will offset losses to threatened and endangered species.¹² The mitigation bank permit authorizes the establishment and operation of the mitigation bank and sets forth the rights and responsibilities, including financial responsibilities, of the banker and the DEP for its implementation, management, maintenance and operation.¹³ Specific state mitigation bank permit requirements are contained in s. 373.4136, F.S., and Rules 62-342.450 and 62-342.700, Florida Administrative Code (F.A.C.). Mitigation banks must also go through a federal permitting process administered by the United States Army Corps of Engineers (Corps).

Mitigation Requirements for Specified Transportation Projects

Mitigation for transportation projects has distinct requirements apart from other types of mitigation. In 1996, the Florida Legislature found that environmental mitigation efforts related to transportation projects proposed by the FDOT or appropriate transportation authorities could be more effectively achieved through regional, long-range mitigation planning rather than on a project-by-project basis.¹⁴ As such, s. 373.4137, F.S., requires the FDOT to fund mitigation efforts to offset the adverse impacts of transportation projects on wetlands, wildlife and other aspects of the natural environment. Mitigation efforts are required to be carried out by a combination of the WMDs and the use of mitigation banks.

<http://www.dep.state.fl.us/water/wetlands/mitigation/synopsis.htm> (last visited Jan. 26, 2012). Rule 62-342, F.A.C., was revised in May 2001, providing specific financial assurance requirements.

⁹ Fumero, *supra* note 1, at 104.

¹⁰ Rule 62-342.200(1), F.A.C.

¹¹ *Id.*

¹² DEP, *Mitigation and Mitigation Banking*, <http://www.dep.state.fl.us/water/wetlands/mitigation/synopsis.htm> (last visited Jan 26, 2012).

¹³ *Id.*

¹⁴ Chapter 96-238, s. 1, Laws of Florida

FDOT's Role in the Mitigation Process

Section 373.4137, F.S., requires the FDOT and appropriate transportation authorities to annually submit by July 1 a copy of their adopted work programs along with environmental impact inventories of affected habitats. The WMDs are responsible for ensuring compliance with federal permitting requirements. The environmental impact inventory must be submitted to the WMDs and must include the following:

- a description of habitats impacted by transportation projects, including location, acreage and type;
- a statement of the water quality classification of impacted wetlands and other surface waters;
- identification of any other state or regional designations for the habitats; and
- a survey of threatened species, endangered species and species of special concern affected by the proposed project. In practice this is only a list not an actual scientific survey.

WMDs Decision to Involve Mitigation Banks in the Mitigation Process

By March 1 of each year, each WMD must develop a mitigation plan in consultation with the DEP, Corps, FDOT, appropriate transportation authorities and various other federal, state and local governmental entities. The plans must be submitted to each WMD's governing board for review and approval.¹⁵ The plans are, in part, based on the information provided in the environmental impact inventories and compiled in coordination with mitigation bankers.¹⁶ Among other requirements, the WMDs must consider the purchase of credits from properly permitted public or private mitigation banks when developing the plan and shall include this information in the plan when the purchase would:

- offset the impact of the transportation project;
- provide equal benefits to the water resources than other mitigation options being considered; and
- provide the most cost-effective mitigation option.¹⁷

For each transportation project with a funding request for the next fiscal year, the mitigation plan must include, to the extent practicable, a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options. Currently, factors such as time saved, liability for success of the mitigation and long-term maintenance are not required.

Florida law also provides that specific projects may be excluded from mitigation plans in certain instances if the FDOT, appropriate transportation authorities and WMDs agree that the efficiency or timeliness of the planning or permitting process would be hampered were the project included. Additionally, a WMD may unilaterally exclude a project from the mitigation plan if appropriate mitigation for the project is not identifiable.¹⁸ At this time, Florida law does not allow the FDOT or an appropriate transportation authority to elect to opt-out of the WMDs' mitigation plans for certain projects.

¹⁵ Section 373.4137(4), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

Mitigation Credits

Each quarter the FDOT and appropriate transportation authorities must transfer sufficient funds into escrow accounts within the State Transportation Trust Fund to pay for mitigation of projected acreage impacts resulting from projects identified in their approved mitigation plans. By statute, the amount transferred must correspond to \$75,000 per acre of acreage projected to be impacted and must be spent down through the use of ‘mitigation credits’ throughout the fiscal year. This \$75,000 per acre statutory figure was originally based on estimates of the historical average cost per acre that the FDOT was spending on mitigation on a project-by-project basis in the early 1990s. This mitigation was usually conducted strictly onsite to restore or enhance wetlands directly linked to the impacted area. The amount is adjusted on July 1 each year based on the Consumer Price Index. For fiscal year 2011-2012, the adjusted amount is \$104,701 per acre. As defined by statute, a ‘mitigation credit’ is a unit of measure which represents the increase in ecological value resulting from mitigation efforts on a proposed project or projects.¹⁹ One mitigation credit equals the ecological value gained by successfully creating one acre of wetlands.²⁰

At the end of each quarter, the projected acreage impacts are compared to the actual acreage impacts and escrow balances are adjusted accordingly. Pursuant to the process, and with limited exceptions, WMDs may request a release of funds from the escrow accounts no sooner than 30 days prior to the date the funds are needed to pay for costs associated with the development or implementation of the mitigation efforts. Associated costs relate to, but are not limited to, the following:

- design costs,
- engineering costs,
- production costs, and
- staff support.

Mitigation Expenditures

From 2007 to 2011, the FDOT’s mitigation expenditures totaled \$169,921,562. The WMDs received \$116,456,080 (68.54 percent) of the total expenditures, while public and private mitigation banks received \$38,107,600 (22.43 percent) of the total expenditures.²¹ During this time, the FDOT also carried out its own mitigation in cases where mitigation banks were unavailable or the WMDs could not identify the appropriate amount of mitigation within the existing statutory scheme. These related expenditures amounted to \$15,357,882 (9.04 percent) of total expenditures.

From inception of the FDOT mitigation program in 1996 through the present, many acres of wetlands impacts have been or will be offset across the state. According to its “2011 FDOT Mitigation Plan,” the St. Johns River WMD had, as of September 30, 2010, provided 35,036.68 acres of mitigation to offset 1305 acres of wetlands and other surface water impacts. This total

¹⁹ Section 373.403(20), F.S.

²⁰ Rule 62-342.200(5), F.A.C.

²¹ According to the FDOT, “itemizing mitigation bank purchases by project is not readily available because of the ability to purchase advance mitigation credits and the ability to lump various projects within a single mitigation bank credit purchase.”

includes the mitigation acreage associated with 132.09 mitigation bank credits. The Southwest Florida WMD, according to its draft “2012 FDOT Mitigation Plan,” has provided for 814 acres of wetlands impacts. This total includes mitigation acreage associated with 44.01 mitigation bank credits purchased from four mitigation banks and two local government regional off-site mitigation areas.²²

Statewide Anticipated Mitigation Inventory for Fiscal Year 2012-2013

For fiscal year 2012-2013, the total anticipated mitigation inventory is \$20,068,232. It is anticipated that the WMDs will receive \$10,374,303 of the total, while public and private mitigation banks are anticipated to receive \$9,643,929 of the total. The FDOT also anticipates it will carry out its own mitigation totaling \$50,000.²³

III. Effect of Proposed Changes:

Section 1 amends s. 373.4137, F.S., providing the FDOT additional flexibility in choosing mitigation methods to offset transportation project impacts. Specifically, the CS clarifies legislative intent specifying the FDOT may use mitigation banks and other mitigation options that satisfy state and federal requirements. It allows the FDOT or a transportation authority created pursuant to ch. 348 or 349, F.S., to opt-out of the existing mitigation program with the WMDs in favor of a different mitigation method. Participating entities also are required to provide a list of threatened or endangered species, or species of special concern that may be impacted by a proposed project instead of an actual survey. This comports with existing practice. The CS also directs the release of funds that are identified or maintained in escrow for a WMD if the WMD will no longer provide mitigation, in whole or in part, for a planned transportation project.

The CS requires the DEP to approve a mitigation plan, in whole or in part, before it can be submitted and approved by a WMD. It also directs that for each transportation project with a funding request for the next fiscal year the mitigation plan include an explanation as to why or why not a mitigation bank was not chosen. The CS requires three new details:

- time saved;
- liability for success of the mitigation; and
- long-term maintenance.

The CS allows the FDOT, an appropriate transportation authority or a WMD to elect to exclude specific projects from the mitigation plan. Under current law, the entities involved must come to agreement whether or not to exclude a specific project, with the WMDs being able to unilaterally exclude projects if no mitigation options exist. When choosing to include or exclude projects from the mitigation plan, the CS requires the FDOT to first investigate using private permitted mitigation banks before the project is submitted or allowed to remain in the mitigation plan. The investigation must include a written evaluation of the cost-effectiveness of using private mitigation banks that considers:

²² This plan is projected to be approved by the Southwest Florida WMD Governing Board on January 31, 2012. See <http://www.swfwmd.state.fl.us/projects/mitigation/> (last visited Jan. 26, 2012).

²³ According to the FDOT, these figures are subject to change based on FDOT work program changes or coordination with the WMDs and Corps.

- a comparison of costs between using a mitigation bank and including the project in the mitigation plan;
- the value in complying with federal transportation policies for federal aid projects;
- the value of using private mitigation banks credits in expediting approvals by the Corps; and
- the value of transferring liability for successful mitigation from the state to the private mitigation banks when mitigation credits are purchased.

Section 2 amends s. 373.4135, F.S., requiring that a governmental entity not create or provide mitigation unless it is providing mitigation for its own project. The CS provides exceptions to this provision if the governmental entity uses non-conservation lands and provides the same financial assurances as mitigation banks permitted under s. 373.4136, F.S. The CS specifies that the prohibition on providing mitigation does not apply to:

- governmental mitigation banks permitted before December 31, 2011;
- offsite regional mitigation areas established before December 31, 2011;
- mitigation for transportation projects under ss. 373.4137 and 373.4139, F.S.;
- mitigation for impacts from mining activities under s. 373.41492, F.S.;
- mitigation provided for single-family lots or homeowners;
- mitigation provided for electric utility impacts certified under ch. 403, part II, F.S.; or
- mitigation provided on sovereignty submerged lands.

This provision restricts most governmental entities' ability to run mitigation banks and brings the requirements placed on governmental entities that provide mitigation more in line with those placed on private mitigation banks.

Section 3 provides the act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CS may have a positive but indeterminate impact on private mitigation banks as they are given a more prominent statutory position in providing mitigation for transportation projects. Private mitigation banks may also be more competitive with governmental entities that provide mitigation given the additional requirements for governmental entities.

C. Government Sector Impact:

The CS gives the FDOT additional flexibility to choose the most cost-effective mitigation option; however, the impact is indeterminate but likely positive.

The CS may also result in cost savings for the WMDs who may provide fewer mitigation services for transportation projects. Again, the impact is indeterminate.

The CS provides for additional requirements on governmental entities that provide mitigation for project impacts. Their ability to provide certain mitigation is also restricted which may negatively impact those governmental entities. Likewise the impact is indeterminate.

Finally, the CS requires the DEP to review and approve mitigation plans. The DEP has estimated that the additional costs associated with mitigation plan reviews will be met with existing staff and resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Environmental Preservation and Conservation on January 30, 2012:

- Clarifies the FDOT cannot opt out of the entire mitigation planning program;
- Allows the DEP to approve a mitigation plan in whole or in part;
- Applies the “notwithstanding” clause to all of s. 373.4135, F.S.;
- Deletes a cross-reference requiring the same financial assurance as regional offsite mitigation areas as this is not relevant to providing financial assurance; and
- Provides additional exemptions for mitigation for electric utility impacts certified under ch. 403, part II, F.S., and mitigation on sovereignty submerged lands.

CS by Transportation on January 19, 2012:

- Deletes subsection (10) of the bill.
- “Section 2” of the CS is similar to the provision in “Section 10” of the original bill, except it amends s. 373.4135, F.S. instead of s. 373.4137, F.S., and:
 - no longer restricts governmental entities from competing with private mitigation banks;
 - references financial obligations in ss. 373.4136 and 373.4135(6), F.S., which governmental entities that provide mitigation must follow, instead of listing them in the CS; and
 - lists specific types of mitigation that are exempt from the newly created paragraph.
- Requires the act to take effect upon becoming a law rather than on July 1, 2012.

B. Amendments:

None.



313270

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
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	.	

The Committee on Environmental Preservation and Conservation
(Dean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 55 - 57
and insert:
Transportation, or a transportation authority established
pursuant to chapter 348 or chapter 349 which chooses to
participate in the program, shall submit to the water management

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

And the title is amended as follows:

Delete lines 8 - 9
and insert:



313270

13
14

requiring a transportation authority that chooses to
participate in the program to submit lists of its



631614

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
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	.	

The Committee on Environmental Preservation and Conservation
(Dean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 164 - 166
and insert:
mitigation plan to any person who has requested a copy. The plan may not be implemented until it is submitted to and approved, in part or in its entirety, by the Department of Environmental Protection.

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

And the title is amended as follows:

Delete line 17



631614

13 and insert:
14 is submitted to and approved, in part or in its
15 entirety, by the Department of



165686

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
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The Committee on Environmental Preservation and Conservation
(Dean) recommended the following:

Senate Amendment

Delete lines 239 - 246
and insert:

(b) Notwithstanding the provisions of this section, a governmental entity may not create or provide mitigation for a project other than its own unless the governmental entity uses land that was not previously purchased for conservation and unless the governmental entity provides the same financial assurances as required for mitigation banks permitted under s. 373.4136. This paragraph does not apply to:



866910

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
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	.	
	.	

The Committee on Environmental Preservation and Conservation
(Dean) recommended the following:

Senate Amendment

Delete lines 254 - 256
and insert:

373.41492;

5. Mitigation provided for single-family lots or homeowners
under subsection (6);

6. Mitigation provided for electric utility impacts
certified under part II of chapter 403; or

7. Mitigation provided on sovereign submerged lands under
subsection (6).

By the Committee on Transportation; and Senators Dean and Gaetz

596-02035-12

2012824c1

1 A bill to be entitled
2 An act relating to mitigation; amending s. 373.4137,
3 F.S.; revising legislative intent to encourage the use
4 of other mitigation options that satisfy state and
5 federal requirements; providing the Department of
6 Transportation or a transportation authority the
7 option of participating in a mitigation project;
8 requiring the Department of Transportation or a
9 transportation authority to submit lists of its
10 projects in the adopted work program to the water
11 management districts; requiring a list rather than a
12 survey of threatened or endangered species and species
13 of special concern affected by a proposed project;
14 providing conditions for the release of certain
15 environmental mitigation funds; prohibiting a
16 mitigation plan from being implemented unless the plan
17 is submitted to and approved by the Department of
18 Environmental Protection; providing additional factors
19 that must be explained regarding the choice of
20 mitigation bank; removing a provision requiring an
21 explanation for excluding certain projects from the
22 mitigation plan; providing criteria that the
23 Department of Transportation must use in determining
24 which projects to include or exclude in the mitigation
25 plan; amending s. 373.4135, F.S.; limiting the
26 circumstances under which a governmental entity may
27 create or provide mitigation for a project other than
28 its own project; specifying certain exceptions;
29 providing an effective date.

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

Section 1. Subsections (1) and (2), paragraph (c) of subsection (3), and subsections (4) and (5) of section 373.4137, Florida Statutes, are amended to read:

373.4137 Mitigation requirements for specified transportation projects.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by ~~the water management districts, including~~ the use of mitigation banks and any other mitigation options that satisfy state and federal requirements established pursuant to this part.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 shall be developed as follows:

(a) By July 1 of each year, the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 which chooses to participate in the program shall submit to the water management districts a list ~~copy~~ of its projects in the adopted work

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2012824c1

59 program and an environmental impact inventory of habitats
60 addressed in the rules adopted pursuant to this part and s. 404
61 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted
62 by its plan of construction for transportation projects in the
63 next 3 years of the tentative work program. The Department of
64 Transportation or a transportation authority established
65 pursuant to chapter 348 or chapter 349 may also include in its
66 environmental impact inventory the habitat impacts of any future
67 transportation project. The Department of Transportation and
68 each transportation authority established pursuant to chapter
69 348 or chapter 349 may fund any mitigation activities for future
70 projects using current year funds.

71 (b) The environmental impact inventory shall include a
72 description of these habitat impacts, including their location,
73 acreage, and type; state water quality classification of
74 impacted wetlands and other surface waters; any other state or
75 regional designations for these habitats; and a list ~~survey~~ of
76 threatened species, endangered species, and species of special
77 concern affected by the proposed project.

78 (3)

79 (c) Except for current mitigation projects in the
80 monitoring and maintenance phase and except as allowed by
81 paragraph (d), the water management districts may request a
82 transfer of funds from an escrow account no sooner than 30 days
83 before ~~prior to~~ the date the funds are needed to pay for
84 activities associated with development or implementation of the
85 approved mitigation plan described in subsection (4) for the
86 current fiscal year, including, but not limited to, design,
87 engineering, production, and staff support. Actual conceptual

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2012824c1

88 plan preparation costs incurred before plan approval may be
89 submitted to the Department of Transportation or the appropriate
90 transportation authority each year with the plan. The conceptual
91 plan preparation costs of each water management district will be
92 paid from mitigation funds associated with the environmental
93 impact inventory for the current year. The amount transferred to
94 the escrow accounts each year by the Department of
95 Transportation and participating transportation authorities
96 established pursuant to chapter 348 or chapter 349 shall
97 correspond to a cost per acre of \$75,000 multiplied by the
98 projected acres of impact identified in the environmental impact
99 inventory described in subsection (2). However, the \$75,000 cost
100 per acre does not constitute an admission against interest by
101 the state or its subdivisions and ~~nor~~ is not ~~the cost~~ admissible
102 as evidence of full compensation for any property acquired by
103 eminent domain or through inverse condemnation. Each July 1, the
104 cost per acre shall be adjusted by the percentage change in the
105 average of the Consumer Price Index issued by the United States
106 Department of Labor for the most recent 12-month period ending
107 September 30, compared to the base year average, which is the
108 average for the 12-month period ending September 30, 1996. Each
109 quarter, the projected acreage of impact shall be reconciled
110 with the acreage of impact of projects as permitted, including
111 permit modifications, pursuant to this part and s. 404 of the
112 Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer
113 of funds shall be adjusted accordingly to reflect the acreage of
114 impacts as permitted. The Department of Transportation and
115 participating transportation authorities established pursuant to
116 chapter 348 or chapter 349 are authorized to transfer such funds

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117 from the escrow accounts to the water management districts to
118 carry out the mitigation programs. Environmental mitigation
119 funds that are identified for or maintained in an escrow account
120 for the benefit of a water management district may be released
121 if the associated transportation project is excluded in whole or
122 part from the mitigation plan. For a mitigation project that is
123 in the maintenance and monitoring phase, the water management
124 district may request and receive a one-time payment based on the
125 project's expected future maintenance and monitoring costs. Upon
126 disbursement of the final maintenance and monitoring payment,
127 the escrow account for the project established by the Department
128 of Transportation or the participating transportation authority
129 may be closed. Any interest earned on these disbursed funds
130 shall remain with the water management district and must be used
131 as authorized under this section.

132 (4) Before ~~Prior to~~ March 1 of each year, each water
133 management district, in consultation with the Department of
134 Environmental Protection, the United States Army Corps of
135 Engineers, the Department of Transportation, participating
136 transportation authorities established pursuant to chapter 348
137 or chapter 349, and other appropriate federal, state, and local
138 governments, and other interested parties, including entities
139 operating mitigation banks, shall develop a plan for the primary
140 purpose of complying with the mitigation requirements adopted
141 pursuant to this part and 33 U.S.C. s. 1344. In developing such
142 plans, the districts shall use ~~utilize~~ sound ecosystem
143 management practices to address significant water resource needs
144 and shall focus on activities of the Department of Environmental
145 Protection and the water management districts, such as surface

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146 water improvement and management (SWIM) projects and lands
147 identified for potential acquisition for preservation,
148 restoration, or enhancement, and the control of invasive and
149 exotic plants in wetlands and other surface waters, to the
150 extent that the ~~such~~ activities comply with the mitigation
151 requirements adopted under this part and 33 U.S.C. s. 1344. In
152 determining the activities to be included in the ~~such~~ plans, the
153 districts shall ~~also~~ consider the purchase of credits from
154 public or private mitigation banks permitted under s. 373.4136
155 and associated federal authorization and shall include the ~~such~~
156 purchase as a part of the mitigation plan when the ~~such~~ purchase
157 would offset the impact of the transportation project, provide
158 equal benefits to the water resources than other mitigation
159 options being considered, and provide the most cost-effective
160 mitigation option. The mitigation plan shall be submitted to the
161 water management district governing board, or its designee, for
162 review and approval. At least 14 days before ~~prior to~~ approval,
163 the water management district shall provide a copy of the draft
164 mitigation plan to any person who has requested a copy. The plan
165 may not be implemented until it is submitted to and approved by
166 the Department of Environmental Protection.

167 (a) For each transportation project with a funding request
168 for the next fiscal year, the mitigation plan must include a
169 brief explanation of why a mitigation bank was or was not chosen
170 as a mitigation option, including an estimation of identifiable
171 costs of the mitigation bank and nonbank options and other
172 factors such as time saved, liability for success of the
173 mitigation, and long-term maintenance ~~to the extent practicable.~~

174 (b) Specific projects may be excluded from the mitigation

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175 plan, in whole or in part, and are ~~shall not be~~ subject to this
176 section upon the election agreement of the Department of
177 Transportation, ~~or~~ a transportation authority if applicable, or
178 ~~and~~ the appropriate water management district ~~that the inclusion~~
179 ~~of such projects would hamper the efficiency or timeliness of~~
180 ~~the mitigation planning and permitting process. The water~~
181 ~~management district may choose to exclude a project in whole or~~
182 ~~in part if the district is unable to identify mitigation that~~
183 ~~would offset impacts of the project.~~

184 (c) When determining which projects to include or exclude
185 from the mitigation plan, the department shall investigate using
186 credits from a permitted private mitigation bank before those
187 projects are submitted to, or are allowed to remain in, the
188 plan.

189 1. The investigation shall include the cost-effectiveness
190 of private mitigation bank credits.

191 2. The cost-effectiveness analysis must be in writing and
192 consider:

193 a. How the nominal cost of the private mitigation bank
194 credits compares with the nominal cost for any given project to
195 be included in the plan;

196 b. The value of complying with federal transportation
197 policies for federal aid projects;

198 c. The value that private mitigation bank credits provide
199 as the result of the expedited approvals by the Army Corps of
200 Engineers when private mitigation banks are used; and

201 d. The value that private mitigation banks provide to the
202 state and its residents as a result of the state and federal
203 liability for the success of the mitigation transferring to the

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204 private mitigation bank when credits are purchased from the
205 private mitigation bank.

206 (5) The water management district shall ensure ~~be~~
207 ~~responsible for ensuring~~ that mitigation requirements pursuant
208 to 33 U.S.C. s. 1344 are met for the impacts identified in the
209 environmental impact inventory described in subsection (2), by
210 implementation of the approved plan described in subsection (4)
211 to the extent funding is provided by the Department of
212 Transportation, or a transportation authority established
213 pursuant to chapter 348 or chapter 349, if applicable. During
214 the federal permitting process, the water management district
215 may deviate from the approved mitigation plan in order to comply
216 with federal permitting requirements.

217 Section 2. Present paragraphs (b) through (e) of subsection
218 (1) of section 373.4135, Florida Statutes, are redesignated as
219 paragraphs (c) through (f), respectively, and a new paragraph
220 (b) is added to that subsection, to read:

221 373.4135 Mitigation banks and offsite regional mitigation.—

222 (1) The Legislature finds that the adverse impacts of
223 activities regulated under this part may be offset by the
224 creation, maintenance, and use of mitigation banks and offsite
225 regional mitigation. Mitigation banks and offsite regional
226 mitigation can enhance the certainty of mitigation and provide
227 ecological value due to the improved likelihood of environmental
228 success associated with their proper construction, maintenance,
229 and management. Therefore, the department and the water
230 management districts are directed to participate in and
231 encourage the establishment of private and public mitigation
232 banks and offsite regional mitigation. Mitigation banks and

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233 offsite regional mitigation should emphasize the restoration and
234 enhancement of degraded ecosystems and the preservation of
235 uplands and wetlands as intact ecosystems rather than alteration
236 of landscapes to create wetlands. This is best accomplished
237 through restoration of ecological communities that were
238 historically present.

239 (b) Notwithstanding subsection (5), a governmental entity
240 may not create or provide mitigation for a project other than
241 its own unless the governmental entity uses land that was not
242 previously purchased for conservation and unless the
243 governmental entity provides the same financial assurances as
244 required for mitigation banks permitted under s. 373.4136 and
245 regional offsite mitigation areas permitted under subsection
246 (6). This paragraph does not apply to:

247 1. Mitigation banks permitted before December 31, 2011,
248 under s. 373.4136;

249 2. Offsite regional mitigation areas established before
250 December 31, 2011, under subsection (6);

251 3. Mitigation for transportation projects under ss.
252 373.4137 and 373.4139;

253 4. Mitigation for impacts from mining activities under s.
254 373.41492; or

255 5. Mitigation provided for single-family lots or homeowners
256 under subsection (6).

257 Section 3. This act shall take effect upon becoming a law.

12

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Boating Safety & Manatee Protection Bill Number 1614
(if applicable)

Name Pat Rose Amendment Barcode _____
(if applicable)

Job Title Biologist Executive Director

Address 500 N. Maitland Ave Phone _____

Street
Maitland, FL 32751
City State Zip

E-mail prose@savethemanatee.org

Speaking: For Against Information

Representing Save the Manatee Club

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 (10/20/11)

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic

~~Citrus County~~ Kings Bay Memorial

Bill Number

1014

(if applicable)

Name

Steven Webster

Amendment Barcode

(if applicable)

Job Title

Address

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Merritt Island Fl

E-mail

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City

State

Zip

Speaking:

For

Against

Information

Representing

Citizens For Floridas Waterways

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 (10/20/11)

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 Environmental Preservation and Conservation Committee

BILL: SM 1614

INTRODUCER: Senator Dean

SUBJECT: Kings Bay

DATE: January 30, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Roam	Yeatman	EP	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill urges Congress to direct the U. S. Fish and Wildlife Service (FWS) to reconsider the proposed rule to designate Kings Bay a manatee refuge and requests, in lieu of the rule, that the FWS partner with state and local governments to seek long-term solutions to manatee protection.

This bill proposes a memorial to Congress on behalf of the Florida Legislature.

II. Present Situation:

Kings Bay is connected to Crystal River and is located in Citrus County.¹ Major uses of Kings Bay include: commercial fishing, manatee tours, and recreational activities such as water skiing, canoeing, kayaking, snorkeling, scuba diving, and fishing.²

In November 2010, an emergency rule promulgated by FWS declared that all portions of Kings Bay that were not already part of a manatee protection area would become a manatee refuge.³ There are two types of manatee protection areas. A manatee sanctuary is an area in which any waterborne activity would result in a taking of one or more manatees.⁴ In manatee sanctuaries,

¹ FWS, *Supplemental Information*, North Florida Ecological Services Office, available at: http://www.fws.gov/northflorida/manatee/Documents/MPARules/June11_KB_Proposed_Rule/20110621_frn_Federal_Register_Notice_for_Proposed_Kings_Bay_Manatee_Rule.html, (last visited Jan. 23, 2012).

² *Id.*

³ 50 CFR Part 17, Docket No. FWS-R4-ES-2010-0079; 92220-1113-0000-C3. RIN 1018-AX27.

⁴ 50 CFR 17.102. "Take" is defined in the Endangered Species Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct toward that animal." 16 U.S.C. 1532(19).

all waterborne activities are prohibited.⁵ A manatee refuge, on the other hand, is an area in which only certain waterborne activities would result in the taking of one or more manatees.⁶ Thus in manatee refuge areas only certain waterborne activities are restricted.⁷

The emergency rule included all of Kings Bay as well as tributaries and adjoining water bodies upstream of the confluence of Kings Bay and Crystal River.⁸ When the emergency rule was implemented, there were already seven manatee sanctuaries in Kings Bay, which were not affected by the rule.⁹

Map: Areas in Kings Bay Affected by the Emergency Rule in 2010¹⁰



FWS is authorized to create a manatee protection area (sanctuary or refuge) when substantial evidence exists that establishing it is necessary to prevent the taking of one or more manatees.¹¹

⁵ 50 CFR 17.104.

⁶ 50 CFR 17.102.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Presentation by Kipp Frohlich, Section Leader, Division of Imperiled Species Management Section of the Florida Fish and Wildlife Conservation Commission (FWC) on November 2, 2011 at The Florida Senate, Environmental Preservation and Conservation Committee Meeting.

¹¹ 50 CFR 17.103.

The term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct toward that animal.¹² Both the Marine Mammal Protection Act and the Florida statutes contain similar provisions¹³ Florida also has a history of manatee protection legislation dating back to the passage of the first manatee protection legislation in 1893.¹⁴ Thus manatees are protected under the Endangered Species Act (ESA), the Marine Mammal Protection Act and Florida statutes and regulations.¹⁵

The FWS expanded the manatee refuge zones in Kings Bay based upon evidence that the local manatee population had outgrown the space available.¹⁶ The FWS attributes this to an increase in the number of people, boats and manatees in the area. For example, in 1983, an estimated 124 manatees were found in Kings Bay and Crystal River. In 2010, researchers counted an estimated 565 manatees in the Kings Bay and Crystal River. Meanwhile, the number of boats in the region has been increasing. In 2009, there were 17,601 boats registered in Citrus County, an increase of 4,675 boats since 2000, when 12,926 vessels were registered there.¹⁷ From 1974-2009, 58 manatees died from collisions with watercraft in county waterways, including 15 manatees in Kings Bay. In 2008, the Florida Fish and Wildlife Conservation Commission (FWC) recorded the highest number of manatees, 8, ever killed by watercraft in Citrus County.¹⁸

The 2010 emergency rule later became part of an official FWS rule to make the protection area permanent.¹⁹ The permanent rule also clarifies that the following activities are prohibited in the refuge areas under manatee viewing guidelines:²⁰

- Chasing or pursuing manatee(s);
- Disturbing or touching resting or feeding manatee(s);
- Diving from the surface on to resting or feeding manatee(s);
- Cornering or surrounding or attempting to corner or surround manatee(s);
- Riding, holding, grabbing, or pinching or attempting to ride, hold, grab, or pinch manatee(s);
- Poking, prodding, or stabbing, or attempting to poke, prod, or stab manatee(s) with anything, including hands and feet;
- Standing on or attempting to stand on manatee(s);
- Separating a mother and calf or attempting to separate a mother and calf;
- Separating manatee(s) from a group or attempting to separate manatee(s) from a group;
- Giving manatee(s) anything to eat or drink or attempting to give manatee(s) anything to eat or drink;
- Actively initiating contact with belted and/or tagged manatee(s) and associated gear, including any belts, harnesses, tracking devices, and antennae;

¹² 16 U.S.C. 1532(19).

¹³ 16 U.S.C. 1371-72; 379.411, F.S.; 68A-27.003, F.A.C.

¹⁴ Florida Fish and Wildlife Conservation Program, *Florida Manatee Program*, <http://myfwc.com/manatee>, (last visited Jan. 23, 2012).

¹⁵ See *supra*, notes 12-14.

¹⁶ 50 CFR Part 17, Docket No. FWS-R4-ES-2010-0079; 92220-1113-0000-C3. RIN 1018-AX27.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ FWS, *Proposed Kings Bay Manatee Refuge Key Designation Components*, July 7, 2011, available at: <http://www.fws.gov/northflorida/manatee/manatees.htm>.

²⁰ *Id.*

- Interfering with rescue and research activities; and
- Using mooring and float lines that can entangle manatees.

In addition to the above prohibited activities, the permanent rule prohibits the following waterborne activities in Three Sisters Springs from November 15 to March 31:²¹

- Entering Three Sisters Spring between 6:00 p.m. and 7:00 a.m;
- Scuba diving; and
- Fishing, including but not limited to fishing by hook and line, by cast net, or spear.

The FWS included an additional provision in the permanent rule, which was not included in the emergency rule, that speedboats in water would be restricted to slow travel year-round.²² Slow speed is defined as the speed at which a water vehicle proceeds when it is fully off plane and completely settled in the water.²³ This speed may vary due to the size or design of the water vehicle.²⁴ It is estimated that the longest distance from the bottom tip of the refuge area to the top is about 2.5 miles and would add an additional 11-12 minutes to a trip.²⁵

Under the old guidelines, boats were restricted to slow speed for 7 months out of the year, but free to move at the federal limit of 35 mph from April – August.²⁶ The new rule proposes the slow speed designation year round.²⁷ FWS acknowledges that would create a burden upon commercial fishers in Citrus County in the form of displacement (loss of area in which to fish) or additional travel time.²⁸ Fishermen who wish to continue to use Kings Bay will be required to use manatee safe lines for float fishing or mooring. Manatee safe lines may include lines that are reinforced by wire or lines enclosed in hose or PVC so they are kept taut.²⁹

Additional concern over the permanent rule has been raised over its effect on riparian rights. Riparian rights are those rights which accrue to private property owners whose land borders navigable waters.³⁰ The owners of such land share in not only the general public use rights to navigable waters, but also specific riparian rights.³¹ General rights, shared with the general public, include the “rights of navigation, commerce, fishing, boating, etc.”³² Specific rights, belonging to those whose land borders the water, include rights such as the right to access the water, the right to an unobstructed view of the water, and a right to create wharves or docks, etc.³³ The speed zone provision may interfere with the right to make reasonable use surrounding

²¹ *Id.*

²² *Id.*

²³ 50 C.F.R., 17.102.

²⁴ *Id.*

²⁵ See Presentation by Kipp Frohlich, *supra*, note 5.

²⁶ FWS, *Proposed Kings Bay Manatee Refuge Key Designation Components*, July 7, 2011, available at: <http://www.fws.gov/northflorida/manatee/manatees.htm>.

²⁷ *Id.*

²⁸ See FWS, *Supplemental Information*, *supra*, note 1.

²⁹ *Id.*

³⁰ 253.141, F.S.

³¹ Theresa Bixler, *Erosion of Riparian Rights Along Florida's Coast*, *Journal of Land Use*, Vol. 20, 1, pg. 123 (2004).

³² *Id.*

³³ *Id.* at 124.

water bodies particularly including loss of space to engage in commercial or recreational fishing in certain areas.³⁴

The Citrus County Manatee Ecotourism Association says that the rule will be beneficial to manatee tourism, which provides over 1000 jobs in Citrus County.³⁵ Furthermore, the mandatory slow speed might have a positive effect on the health of the river system.³⁶

III. Effect of Proposed Changes:

This bill urges Congress to direct FWS to reconsider the proposed rule to designate Kings Bay as a manatee refuge and partner with the state and local governments in lieu of the rule in seeking joint long-term solutions to manatee protection.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

None.

³⁴ See FWS, *Supplemental Information*, *supra*, note 1.

³⁵ Testimony of Michael Burns, President of the Manatee Ecotourism Association of Citrus County, at Florida Senate Committee Hearing (November 2, 2011), available at: <http://www.flsenate.gov/Committees/Show/EP/>.

³⁶ Timothy R. Asplund, *The Effects of Motorized Watercraft on Aquatic Ecosystems*, Wisconsin Department of Natural Resources, Bureau of Integrated Science Services and University of Wisconsin – Madison, Water Chemistry Program, March 17, 2000. PUBL-SS-948-00

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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 Dean

3-00786-12

20121614

Senate Memorial

A memorial to the Congress of the United States, urging Congress to direct the United States Fish and Wildlife Service to reconsider the proposed rule to designate Kings Bay as a manatee refuge and in lieu of the rule partner with the state and local governments in seeking joint long-term solutions to manatee protection.

WHEREAS, the United States Fish and Wildlife Service established the Crystal River National Wildlife Refuge in 1983 to provide protection and sanctuary for the endangered West Indian manatee within portions of Kings Bay in Crystal River, and

WHEREAS, the rules currently in effect within the refuge have resulted in a significant increase in manatee population as evidenced by monitoring, sound science, and local data, and

WHEREAS, the United States Fish and Wildlife Service has proposed a rule to designate all of Kings Bay as a manatee refuge, and

WHEREAS, adoption of the proposed rule will have a significant adverse impact on the tourism industry, which is a critical part of the Crystal River economy, at a time when its local economy is already seriously weakened by challenges within the national economy, and

WHEREAS, adoption of the proposed rule will also have a significant adverse impact on the riparian rights of property owners adjacent to Kings Bay and the connecting waterways, and

WHEREAS, prohibiting the use of any portion of Kings Bay

3-00786-12

20121614

30 for recreational boating activities, such as swimming, kayaking,
31 and water skiing, will force such activities into the channel of
32 Crystal River, subjecting participants to significant risks
33 associated with sharing the channel with commercial fishing
34 boats and other large watercraft, and

35 WHEREAS, there are viable alternatives to the proposed
36 rule, such as increased enforcement of the rules currently in
37 effect, which would accomplish the desired outcome of a reduced
38 incidence rate of manatee injury or death without unduly
39 restricting public use of Kings Bay, a water body that has
40 historically served as the heart of the Crystal River community,
41 and

42 WHEREAS, the City Council of the City of Crystal River and
43 the Board of County Commissioners of Citrus County passed
44 unanimous resolutions requesting that the United States Fish and
45 Wildlife Service reconsider the proposed rule, and

46 WHEREAS, adoption of the proposed rule without a proper
47 review of the impact on the City of Crystal River and the
48 surrounding communities would be arbitrary and capricious, NOW,
49 THEREFORE,

50
51 Be It Resolved by the Legislature of the State of Florida:

52
53 That the Congress of the United States is urged to direct
54 the United States Fish and Wildlife Service to reconsider the
55 proposed rule to designate Kings Bay as a manatee refuge and in
56 lieu of the rule partner with the state and local governments in
57 seeking joint long-term solutions to manatee protection.

58 BE IT FURTHER RESOLVED that copies of this memorial be

3-00786-12

20121614__

59 dispatched to the President of the United States, to the
60 President of the United States Senate, to the Speaker of the
61 United States House of Representatives, and to each member of
62 the Florida delegation to the United States Congress.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/12

Meeting Date

Topic Thermal Efficiency Standards

Bill Number S 1032
(if applicable)

Name Brewster Bevus

Amendment Barcode _____
(if applicable)

Job Title VP External Relations

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Phone 224-7173

Street

Tallahassee FL 32301

City

State

Zip

E-mail bbevus@aif.com

Speaking: For Against Information

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 (10/20/11)

13

THE FLORIDA SENATE
APPEARANCE RECORD

1-30-12

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

Meeting Date

Topic THERMAL EFFICIENCY

Bill Number SB 1032

Name RALPH DAVIS

Amendment Barcode 483824
(if applicable)

Job Title PRESIDENT

Address 3654 W. ORANGE
Street

Phone 850-575-1168

TALL FL
City State Zip

E-mail _____

Speaking: For Against Information

Representing FRSA BOARD MEMBER, CHAIR ENV+ENERGY CMTTE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Communications, Energy, and Public Utilities, *Chair*
Budget - Subcommittee on General Government
Appropriations, *Vice Chair*
Budget
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Education Pre-K - 12
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR LIZBETH BENACQUISTO

27th District

December, 12 2011

The Honorable Charlie Dean
Senate Environmental Preservation, Chair
302 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 1032 – Thermal Efficiency Standards

Dear Mr. Chairman:

Please allow this letter to serve as my respectful request to agenda 1032, relating to Thermal Efficiency Standards, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,



Lizbeth Benacquisto
Senate District 27

Cc: Tom Yeatman

REPLY TO:

- 12165 West Forest Hill Boulevard, Suite 1B, Wellington, Florida 33414 (561) 753-2440
- 17595 South Tamiami Trail, Suite 200-9, Fort Myers, Florida 33908 (239) 433-6599
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5356

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Environmental Preservation and Conservation Committee

BILL: SB 1032

INTRODUCER: Senator Benacquisto

SUBJECT: Thermal Efficiency Standards

DATE: January 22, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The bill requires the Department of Environmental Protection (DEP) and the applicable water management district to grant a general permit in certain surface water management systems to begin construction, if certain conditions are met, without further action by DEP or the applicable water management district.

The bill provides definitions for “ballasted roof,” “hardscape,” “heat island effect,” “low-sloped roof,” “solar reflectance,” or “reflectance,” and “steep-sloped roof.” The bill establishes minimum thermal efficiency standards for roof coverage for buildings and structures. The bill adds specific minimum reflectance standards for low-sloped roofs, ballasted roofs, and steep-sloped roofs. It mandates that all roof exterior surfaces and roofing materials of a thermal-efficient roof have a minimum reflectance with certification from specified testing entities.

The bill establishes a minimum efficiency standard for hardscapes such as roofs, sidewalks, and parking lots. The bill establishes specific minimum reflectance and testing standards for paving materials.

The bill amends s. 403.814 and s. 553.902, F.S., and creates s. 553.9045 and s. 553.9046, F.S.

II. Present Situation:

A no-notice general permit can be granted for the construction or alteration of minor systems located entirely within uplands, provided that the proposed system meets certain criteria, which

include a total project area of less than 10 acres of which 2 acres are of impervious¹ surface.² The South Florida Water Management District is the only water management district that utilizes this no-notice permit option for areas that utilize a certain ratio of acres of land to impervious surfaces. This type of permit may be utilized for activities that have been determined to have minimal adverse impacts to the water resources of the district, both individually and cumulatively. Miami Dade County Department of Environmental Resource Management or its successor agency must still approve the project.³

Chapter 13 of the Energy Code of the Florida Building Code (FBC), Building Volume, provides for construction standards for energy efficiency in the thermal design and operation of all buildings statewide. The Energy Code is a performance-based code which accounts for improvement in the solar reflectance of specific roof products without imposing a minimum standard for solar reflectance on roofs. Testing to a specific standard is required for demonstrating specific reflectance performance of a roofing product.⁴

According to the Environmental Protection Agency (EPA), the term "heat island effect" describes built up areas that are hotter than nearby rural areas. The annual mean air temperature of a city with 1 million people or more can be 1.8–5.4°F (1–3°C) warmer than its surroundings. In the evening, the difference can be as high as 22°F (12°C). Heat islands can affect communities by increasing summertime peak, energy demand, air conditioning costs, air pollution and greenhouse gas emissions, heat-related illness and mortality, and water quality.⁵

According to the EPA, the extent to which urban areas can benefit from heat island reduction strategies depends on a number of factors—some within and some outside of a community's control. Although prevailing weather patterns, climate, geography, and topography are beyond the influence of local policy, decision makers can select a range of energy-saving strategies that will generate multiple benefits, including vegetation, landscaping, and land use design projects, and improvements to building and road materials.

Trees, vegetation, and green roofs can reduce heating and cooling energy use and associated air pollution and greenhouse gas emissions, remove air pollutants, sequester and store carbon, help lower the risk of heat-related illnesses and deaths, improve stormwater control and water quality, reduce noise levels, create habitats, improve aesthetic qualities, and increase property values. Cool roofs can lower cooling energy use, peak electricity demand, air pollution and greenhouse gas emissions, heat-related incidents, and solid waste generation due to less frequent re-roofing. Cool pavements can indirectly help reduce energy consumption, air pollution, and greenhouse gas emissions. Depending on the technology used, cool pavements can improve stormwater

¹ **Impervious surfaces** are mainly artificial structures--such as pavements (roads, sidewalks, driveways and [parking lots](#)) that are covered by impenetrable materials such as [asphalt](#), [concrete](#), [brick](#), and [stone](#)--and [rooftops](#). Soils compacted by urban [development](#) are also highly impervious. http://en.wikipedia.org/wiki/Impervious_surface, (last visited Jan. 22, 2012).

² 40E-400.315, Florida Administrative Code .

³ *Id.*

⁴ Florida Department of Business and Professional Regulation, Senate Bill 1032 Analysis (Dec. 9, 2011) (on file with Senate Committee on Environmental Preservation and Conservation).

⁵ United States Environmental Protection Agency, EPA Home, Heat Island Effect, <http://www.epa.gov/hiri/> (last visited Jan. 22, 2012).

management and water quality, increase surface durability, enhance nighttime illumination, and reduce noise.

According to the EPA, using these strategies in combination can enhance their effectiveness. For example, installing a permeable pavement parking lot that includes shade trees can extend the longevity of the pavement and vegetation. Widespread implementation of these strategies also provides additional benefits. For example, a single cool roof will mainly result in benefits to the building owner and occupants. Community-wide cool roof installations, though, will provide savings to the building owner and occupants and to the community at large, as a large number of cool roofs can reduce air temperatures, resulting in multiple benefits associated with cooler summertime air.⁶

III. Effect of Proposed Changes:

Section 1 amends s. 403.814, F.S., to require that the Department of Environmental Protection (DEP) and the applicable water management districts grant a general permit for the construction, alteration, and maintenance authorizing the construction of certain surface water management systems to proceed without further action by DEP or the water management district.

Section 2 amends s. 553.902, F.S., and provides definitions for the terms “ballasted roof,” “hardscape,” “heat island effect,” “low-sloped roof,” “solar reflectance,” or “reflectance,” and “steep-sloped roof.”

Section 3 creates s. 553.9045, F.S., and provides for a thermal-efficient roof; provides standards for a thermal-efficient roof; requires that roof exterior surfaces and roofing material of a thermal-efficient roof have a minimum solar reflectance; provides testing standards; and provides exceptions.

Section 4 creates s. 553.9046, F.S., defines thermal-efficient hardscapes, and provides default reflectance values for certain paving materials.

Section 5 provides an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁶ United States Environmental Protection Agency, EPA Home, Heat Island Effect, <http://www.epa.gov/hiri/> (last visited Jan. 22, 2012).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to DBPR, the proposed legislation will have a significant fiscal impact on the roofing manufacturers who would be required to retest their products and retool their manufacturing process. DBPR also notes that there is also the potential of limiting the type of roof covering capable of installation in Florida and this is likely to raise the price of roofing products and cost of construction.⁷

The bill will make it difficult for Florida roofing manufacturers to compete with other roofing manufacturers who sell their products in other states because the Florida roofing products will cost more to produce.⁸

C. Government Sector Impact:

The South Florida Water Management District would need to evaluate the proposed permit changes as the established rule is for 10 acre projects not 15 as proposed in the bill. The requirement of only 2 acres (no more than 5 acres) of impervious surface of the 15 acre project may not be a large enough ratio to grant a general permit.

DBPR will have to include the new definitions and requirements into future editions of the Florida Building Code.⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to DBPR, the bill conflicts with definitions in existence in the FBC. DPBR states that the bill redefines those terms in a manner that is inconsistent with the FBC and with national standards and model codes. The bill conflicts with the Florida Energy Code by mandating the use of particular types of roofing products, rather than allowing the use of a performance-based

⁷ Florida Department of Business and Professional Regulation, Senate Bill 1032 Analysis (Dec. 9, 2011) (on file with Senate Committee on Environmental Preservation and Conservation).

⁸ *Id.*

⁹ *Id.*

approach to energy conservation that accounts for improvement in the solar reflectance of specific roof products without imposing a minimum standard for solar reflectance on roofs.¹⁰

DBPR states that, with exception to the terms “hardscape” and “heat island effect” which fall outside the technical scope of the FBC, definitions of terms as provided in the proposed legislation are not consistent with those of the FBC or nationally recognized standards and model codes. Although highly reflective roofs may have the potential of saving energy in Florida, DBPR points out that it is questionable whether such savings can be sustained through the life of the roofs. In fact, a roof’s reflectance loses much of its beneficial impact fairly quickly because it gets dirty over time and is seldom cleaned. In addition, the proposed legislation could be perceived as a market restriction of roofing products by favoring a particular product over another.¹¹

According to DBPR, establishing minimum thermal efficiency standard hardscapes for sidewalks, courtyards and parking lots does not fall under the administrative and technical scope of the FBC as established by law. It more properly falls under the business functions of the Department of Transportation and local jurisdiction/ public works departments.¹²

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*



483824

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation (Oelrich) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (12) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(12) A general permit shall be granted for the construction, alteration, and maintenance of a stormwater management system serving a total project area of up to 15 acres. The construction of such a system may proceed without any further agency action by the department or water management



483824

13 district if:

14 (a) The total project involves less than 10 acres and less
15 than 2 acres of impervious surface; or

16 The total project involves less than 15 acres and less than
17 3 acres of impervious surface if the hardscape portion of the
18 project has a minimum initial reflectance of 0.30 as certified
19 by the American Society for Testing and Materials ASTM E903 or
20 ASTM E1918 standard or a test using a portable reflectometer at
21 near ambient conditions

22 (b) No activities will impact wetlands or other surface
23 waters;

24 (c) No activities are conducted in, on, or over wetlands or
25 other surface waters;

26 (d) Drainage facilities will not include pipes having
27 diameters greater than 24 inches, or the hydraulic equivalent,
28 and will not use pumps in any manner;

29 (e) The project is not part of a larger common plan,
30 development, or sale.

31 (f) The project does not:

32 1. Cause adverse water quantity or flooding impacts to
33 receiving water and adjacent lands;

34 2. Cause adverse impacts to existing surface water storage
35 and conveyance capabilities;

36 3. Cause a violation of state water quality standards; and

37 4. Cause an adverse impact to the maintenance of surface or
38 ground water levels or surface water flows established pursuant
39 to s. 373.042 or a work of the district established pursuant to
40 s. 373.086; and

41 (g) The surface water management system design plans must



483824

42 be signed and sealed by a Florida registered professional who
43 shall attest that the system will perform and function as
44 proposed and has been designed in accordance with appropriate,
45 generally accepted performance standards and scientific
46 principles.

47 Section 2. This act shall take effect July 1, 2012.

48
49 ===== T I T L E A M E N D M E N T =====

50 And the title is amended as follows:

51 Delete everything before the enacting clause
52 and insert:

53 A bill to be entitled
54 An act relating to environmental permits; amending s.
55 403.814, F.S.; requiring that the Department of
56 Environmental Protection and the applicable water
57 management district grant a general permit for the
58 construction, alteration, and maintenance of certain
59 surface water management systems; authorizing the
60 construction of certain surface water management
61 systems to proceed without further action by the
62 department or the water management districts;
63 providing an effective date.

By Senator Benacquisto

27-00589A-12

20121032

1 A bill to be entitled
2 An act relating to thermal efficiency standards;
3 amending s. 403.814, F.S.; requiring that the
4 Department of Environmental Protection and the
5 applicable water management district grant a general
6 permit for the construction, alteration, and
7 maintenance of certain surface water management
8 systems; authorizing the construction of certain
9 surface water management systems to proceed without
10 further action by the department or the water
11 management district; reordering and amending s.
12 553.902, F.S.; providing definitions for the terms
13 "ballasted roof," "hardscape," "heat island effect,"
14 "low-sloped roof," "solar reflectance" or
15 "reflectance," and "steeped-sloped roof"; creating s.
16 553.9045, F.S.; providing standards for a thermal-
17 efficient roof; requiring that roof exterior surfaces
18 and roofing material of a thermal-efficient roof have
19 a minimum solar reflectance; providing testing
20 standards; providing exceptions; creating s. 553.9046,
21 F.S.; defining thermal-efficient hardscapes; providing
22 default reflectance values for certain paving
23 materials; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (12) is added to section 403.814,
28 Florida Statutes, to read:

29 403.814 General permits; delegation.—

27-00589A-12

20121032

30 (12) The department and the applicable water management
31 district shall grant a general permit for the construction,
32 alteration, and maintenance of a surface water management system
33 serving a total project area of up to 10 acres. The
34 construction, alteration, and maintenance of such a system may
35 proceed without any further agency action by the department or
36 water management district if:

37 (a) The total project area is less than 15 acres;

38 (b) The total project area involves less than 2 acres of
39 impervious surface or no more than 5 acres of impervious surface
40 if that surface is a thermal-efficient hardscape as provided in
41 s. 553.9046;

42 (c) The activities do not impact wetlands or other surface
43 waters;

44 (d) The activities are not conducted in, on, or over
45 wetlands or other surface waters;

46 (e) The drainage facilities do not include pipes having
47 diameters greater than 24 inches, or the hydraulic equivalent,
48 and do not use a pump in any manner;

49 (f) The project is not part of a larger common plan,
50 development, or sale;

51 (g) The project does not cause:

52 1. Adverse water quantity impacts or flooding to receiving
53 water and adjacent lands;

54 2. Adverse impacts to existing surface water storage and
55 conveyance capabilities;

56 3. A violation of state water quality standards; or

57 4. Adverse impacts to the maintenance of surface or ground
58 water levels or surface water flows established pursuant to s.

27-00589A-12

20121032

59 373.042 or to a work of the district conducted pursuant to s.
60 373.086; and

61 (h) The design plans for the surface water management
62 system are signed and sealed by a Florida-registered
63 professional who attests that the system will perform and
64 function as proposed and that it has been designed in accordance
65 with appropriate, generally accepted performance standards and
66 scientific principles.

67 Section 2. Section 553.902, Florida Statutes, is reordered
68 and amended to read:

69 553.902 Definitions.—As used in this part, the term ~~For the~~
70 ~~purposes of this part:~~

71 (3)~~(1)~~ "Exempted building" means:

72 (a) A ~~Any~~ building or portion thereof whose peak design
73 rate of energy usage for all purposes is less than 1 watt (3.4
74 Btu per hour) per square foot of floor area for all purposes.

75 (b) A ~~Any~~ building that ~~which~~ is neither heated nor cooled
76 by a mechanical system designed to control or modify the indoor
77 temperature and powered by electricity or fossil fuels.

78 (c) A ~~Any~~ building for which federal mandatory standards
79 preempt state energy codes.

80 (d) An ~~Any~~ historical building as described in s.
81 267.021(3).

82
83 The Florida Building Commission may recommend to the Legislature
84 additional types of buildings which should be exempted from
85 compliance with the Florida Energy Efficiency Code for Building
86 Construction.

87 (7)~~(2)~~ "HVAC" means a system of heating, ventilating, and

27-00589A-12

20121032

88 air-conditioning.

89 ~~(10)-(3)~~ "Renovated building" means a residential or
90 nonresidential building undergoing alteration that varies or
91 changes insulation, HVAC systems, water heating systems, or
92 exterior envelope conditions, if provided the estimated cost of
93 renovation exceeds 30 percent of the assessed value of the
94 structure.

95 ~~(8)-(4)~~ "Local enforcement agency" means the agency of local
96 government which has the authority to make inspections of
97 buildings and to enforce the Florida Building Code. It includes
98 any agency within the definition of s. 553.71(5).

99 ~~(4)-(5)~~ "Exterior envelope physical characteristics" means
100 the physical nature of those elements of a building which
101 enclose conditioned spaces through which energy may be
102 transferred to or from the exterior.

103 ~~(2)-(6)~~ "Energy performance level" means the indicator of
104 the energy-related performance of a building, including, but not
105 limited to, the levels of insulation, the amount and type of
106 glass, and the HVAC and water heating system efficiencies.

107 (1) "Ballasted roof" means a roof having a minimum of 15
108 pounds per square foot of ballast for the purpose of weighing
109 down a roofing membrane over a substrate to resist wind uplift.
110 For purposes of this subsection, ballast includes, but is not
111 limited to, river rock aggregate and pavers.

112 (5) "Hardscape" means the impervious, nonliving portions of
113 a property's landscaping, including, but not limited to, roads,
114 sidewalks, courtyards, and parking lots.

115 (6) "Heat island effect" means an elevated temperature over
116 an urban area compared to rural areas, typically caused by the

27-00589A-12

20121032

117 increased presence of dark, heat-absorbing materials.

118 (9) "Low-sloped roof" means a roof having a slope of rise
119 of 0 units in a horizontal length, up to and including, a roof
120 having a slope of rise of 2 units in a horizontal length of 12
121 units.

122 (11) "Solar reflectance" or "reflectance" means the amount
123 of solar energy reflected by a material.

124 (12) "Steep-sloped roof" means a roof having a slope of
125 rise greater than 2 units in a horizontal length of 12 units.

126 Section 3. Section 553.9045, Florida Statutes, is created
127 to read:

128 553.9045 Thermal-efficient roofs.-

129 (1) Standards for a thermal-efficient roof:

130 (a) A low-sloped roof must have a minimum initial
131 reflectance of 0.72 or a 3-year installed reflectance of 0.5 as
132 determined by the Cool Roof Rating Council or the Energy Star
133 program of the United States Environmental Protection Agency and
134 the United States Department of Energy. If more than 50 percent
135 of the total gross area of the roof is covered with vegetation
136 associated with an extensive or intensive green roof as defined
137 by the United States Environmental Protection Agency for the
138 purpose of reducing the heat island effect, the remainder of the
139 roof must have a minimum reflectance of 0.30.

140 (b) A ballasted roof must have a minimum initial
141 reflectance of 0.30.

142 (c) A steep-sloped roof must have a minimum initial
143 reflectance of 0.15.

144 (d) A roof that has multiple slopes is subject to the
145 standards applicable to the slope that covers the largest area

27-00589A-12

20121032

146 of the building's footprint.

147 (2) All roof exterior surfaces and roofing materials of a
148 thermal-efficient roof must have a minimum reflectance as
149 certified by one of the following:

150 (a) The American Society for Testing and Materials ASTM
151 E903 or ASTM E1918 standard.

152 (b) A test using a portable reflectometer at near-ambient
153 conditions.

154 (c) The Cool Roof Rating Council.

155 (d) The Energy Star program of the United States
156 Environmental Protection Agency and the United States Department
157 of Energy.

158 (3) This section does not apply to:

159 (a) The portion of a roof acting as a substructure for and
160 covered by a rooftop deck.

161 (b) The portion of a roof covered with vegetation
162 associated with an extensive or intensive green roof as defined
163 by the United States Environmental Protection Agency for the
164 purpose of reducing the heat island effect.

165 (c) A rooftop deck covering a maximum of one-third of the
166 rooftop total gross area.

167 (d) An area of the roof covered by photovoltaic and solar
168 equipment.

169 Section 4. Section 553.9046, Florida Statutes, is created
170 to read:

171 553.9046 Thermal-efficient hardscapes.—A thermal-efficient
172 hardscape is the portion of impervious, nonliving improvements
173 of a property's landscaping, including, but not limited to,
174 roads, sidewalks, courtyards, and parking lots which has a

27-00589A-12

20121032__

175 minimum initial reflectance of 0.30 as certified by the American
176 Society for Testing and Materials ASTM E903 or ASTM E1918
177 standard or a test using a portable reflectometer at near-
178 ambient conditions. When measuring the minimum initial
179 reflectance, one of the following reflectance values for paving
180 materials may be used:

- 181 (1) Typical new gray concrete, 0.35.
182 (2) Typical weathered concrete, 0.20.
183 (3) Typical new white concrete, 0.70.
184 (4) Typical weathered white concrete, 0.40.
185 (5) New asphalt, 0.05.
186 (6) Weathered asphalt, 0.10.

187 Section 5. This act shall take effect July 1, 2012.

2405

**STATE OF FLORIDA
DEPARTMENT OF STATE**

Division of Elections

I, Kurt S. Browning, Secretary of State,
do hereby certify that

Angus G. "Gus" Andrews, Jr.

is duly appointed a member of the

**Governing Board,
Northwest Florida Water Management District**

for a term beginning on the
Twenty-Sixth day of July, A.D., 2011,
until the First day of March, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.



*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital,
this the Twenty-Sixth day of August, A.D., 2011.*

A handwritten signature in black ink, appearing to read "Kurt S. Browning".

Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
11 AUG -4 AM
DIVISION OF ELECT,
SECRETARY OF STA

STATE OF FLORIDA

County of Gadsden

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Northwest Florida Water Management District Governing Board member
(Title of Office)

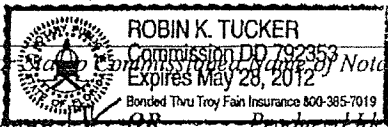
on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Angus G. Andrews Jr.
Signature

Sworn to and subscribed before me this 28th day of July

Robin K. Tucker
Signature of Officer Administering Oath or of Notary Public



Robin K. Tucker
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

3590 U.S. Hwy 331 South Suite 101
Street or Post Office Box

DeFuniak Springs, Florida 32435
City, State, Zip Code

Angus G. Andrews Jr.
Print name as you desire commission issued

Angus G. Andrews Jr.
Signature



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE

2011 JUL 27 PM 4:18

DIVISION OF ELECTIONS
TALLAHASSEE, FL

July 26, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following appointment under the provisions of Section 373.073, Florida Statutes :

Mr. Angus G. Andrews Jr.
3590 US Highway 331, Suite 101
Post Office Box 405
DeFuniak Springs, Florida 32435

as a member of the Governing Board, Northwest Florida Water Management District, succeeding M. Timothy Norris, subject to confirmation by the Senate. This appointment is effective July 26, 2011, for a term ending March 1, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/nj

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.

7/11 AUG 25 AM 3:19

Please type or print in blue or black ink.

DEPARTMENT OF STATE
DIVISION OF ELECTIONS
Date Completed 8-9-11

1. Name: Mr. Andrews Angus Graham Jr.
MR./MRS./MS. LAST FIRST MIDDLE/MAIDEN

2. Business Address: P.O. Box DeFuniak Springs
STREET OFFICE # CITY
FL 32435 850-951-1001
POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

3. Residence Address: 615 Bob Sikes Rd DeFuniak Springs Walton
STREET CITY COUNTY
FL 32435 850-892-
POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

Specify the preferred mailing address: Business Residence Fax # 850-951-1070
(optional)

4. A. List all your places of residence for the last five (5) years.

ADDRESS CITY & STATE FROM TO
615 Bob Sikes Rd DeFuniak Springs FL _____
32435

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

ADDRESS CITY & STATE FROM TO
Lum Road FT. DEPOSIT ALABAMA 2005 2011

5. Date of Birth: 1-18-1956 Place of Birth: _____

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1956

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Walton B. Current Party Affiliation: Republican

12. Education

A. High School: Walton High - DeFuniak Springs FL Year Graduated: 1974
(NAME AND LOCATION)

B. List all postsecondary educational institutions attended:

NAME & LOCATION

DATES ATTENDED

CERTIFICATES/DEGREES RECEIVED

FSU

1974-1979

BS with emphasis on Real Law

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

DATE

PLACE

NATURE

DISPOSITION

NO

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

EMPLOYER'S NAME & ADDRESS

TYPE OF BUSINESS

OCCUPATION/JOB TITLE

PERIOD OF EMPLOYMENT

SELF

REAL ESTATE

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No

If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

POSITION

EMPLOYING AGENCY

PERIOD OF EMPLOYMENT

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

As a Life Long Resident of Walton County Florida
I have an vested ~~interest~~ INTEREST IN OUR WATERWAYS
and lands adjoining. I've Also run my own business
for over 25 years.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

NONE

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

OFFICE TITLE	DATE OF ELECTION OR APPOINTMENT	TERM OF OFFICE	LEVEL OF GOVERNMENT
--------------	---------------------------------	----------------	---------------------

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

MEETINGS ATTENDED	MEETINGS MISSED	REASON FOR ABSENCE
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

DATE	NATURE OF VIOLATION	DISPOSITION
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
 B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____
 B. Term of Appointment: _____
 C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

LICENSE/CERTIFICATE TITLE & NUMBER	ORIGINAL ISSUE DATE	ISSUING AUTHORITY	DISCIPLINARY ACTION/DATE
REAL ESTATE BROKER LICENSE		DEPT OF PROFESSIONAL REGULATION	NONE
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

NAME OF BUSINESS	YOUR RELATIONSHIP TO BUSINESS	BUSINESS' RELATIONSHIP TO AGENCY
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>NAME OF BUSINESS</u>	<u>FAMILY MEMBER'S RELATIONSHIP TO YOU</u>	<u>FAMILY MEMBER'S RELATIONSHIP TO BUSINESS</u>	<u>BUSINESS RELATIONSHIP TO AGENCY</u>
-------------------------	--	---	--

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>AGENCY LOBBIED</u>	<u>PRINCIPAL REPRESENTED</u>
-----------------------	------------------------------

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>NAME</u>	<u>MAILING ADDRESS</u>	<u>ZIP CODE</u>	<u>AREA CODE/PHONE NUMBER</u>
-------------	------------------------	-----------------	-------------------------------

John Roehm
 Bill Abbott
 Frank Watson

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>NAME</u>	<u>MAILING ADDRESS</u>	<u>OFFICE(S) HELD & TERM</u>	<u>DATE(S) OF MEMBERSHIP</u>
-------------	------------------------	----------------------------------	------------------------------

Andrews & Arnsdorf Realty
 Southern Beach Management

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

RECEIVED
2011 AUG 26 AM 9:19
FLORIDA STATE
DIVISION OF ELECTIONS

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

RECEIVED
2011 AUG 26 AM 9:19
DEPARTMENT OF
DIVISION OF ELECTIONS

STATE OF FLORIDA, COUNTY OF

Before me, the undersigned Notary Public of Florida, personally appeared Cus Andrews, who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

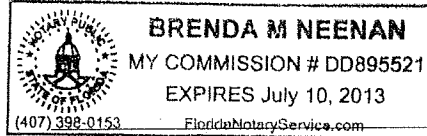
Cus Andrews

Signature of Applicant-Affiant

Sworn to and subscribed before me
this 9th day of August, 2011.

Brenda M. Neenan

Signature of Notary Public-State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

2405

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Kurt S. Browning, Secretary of State,
do hereby certify that

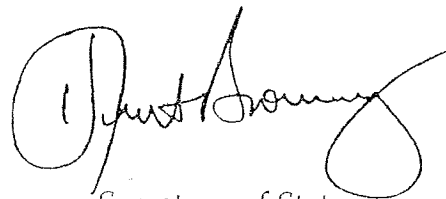
Nick Patronis

is duly appointed a member of the

**Governing Board,
Northwest Florida Water Management District**

for a term beginning on the
Twenty-Sixth day of July, A.D., 2011,
until the First day of March, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital,
this the Nineteenth day of October, A.D., 2011.*



Secretary of State



If photocopied or chemically altered, the word "VOID" will appear.

State of Florida" appears in small letters across the face of this 8 1/2" x 11" document.



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE

2011 JUL 27 PM 4:18

DIVISION OF ELECTIONS
TALLAHASSEE, FL

July 26, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following appointment under the provisions of Section 373.073, Florida Statutes :

Mr. Nicholas J. Patronis
5551 North Lagoon Drive
Panama City Beach, Florida 32408

as a member of the Governing Board, Northwest Florida Water Management District, succeeding Behzad Ghazvini, subject to confirmation by the Senate. This appointment is effective July 26, 2011, for a term ending March 1, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/nj



FLORIDA DEPARTMENT OF STATE

Kurt S. Browning

Secretary of State

DIVISION OF ELECTIONS

19 October 2011

Mr. Nick Patronis
5551 North Lagoon Drive
Panama City Beach, FL 32408

Dear Mr. Patronis,

Congratulations on your appointment as a member of the Governing Board, Northwest Florida Water Management District.

Your appointment will be considered for confirmation by the Senate during the next regular session.

If my staff or I may be of assistance to you, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt S. Browning", written in a cursive style.

Secretary of State

Enclosures

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE

2011 AUG -8 AM 10:51

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of BAY

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT GOVERNING BOARD
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

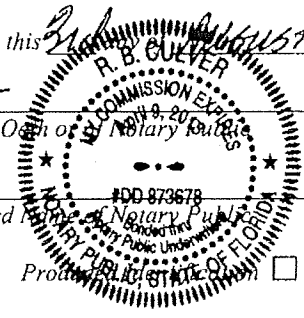
Sworn to and subscribed before me this 21st day of AUGUST, 2011

[Signature]
Signature of Officer Administering Oath of Notary Public

Print, Type, or Stamp Commissioned Notary Public

Personally Known OR Produced

Type of Identification Produced _____



ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

5551 N. LAGOON DRIVE

Street or Post Office Box

PANAMA CITY BCH, FL 32408

City, State, Zip Code

NICK PATRONIS

Print name as you desire commission issued

[Signature]

Signature

QUESTIONNAIRE FOR SENATE CONFIRMATION

RECEIVED

The information from this questionnaire will be used by the the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.

11 OCT 19 AM 10:40

Please type or print in blue or black ink.

10/27/11 DIVISION OF ELECTIONS
SECRETARY OF STATE
Date Completed

1. Name: Mr. Patronis Nicholas Jimmy
MR./MRS./MS. LAST FIRST MIDDLE/MAIDEN

2. Business Address: 5551 N. Lagoon Dr
Panama City Bch FL 32408 850-234-2225
STREET OFFICE # CITY POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

3. Residence Address: 8005 N Lagoon Dr Panama City Bch Bay
FL 32408 850-233-1967
STREET CITY COUNTY POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

Specify the preferred mailing address: Business Residence Fax # 850-235-1277
(optional)

4. A. List all your places of residence for the last five (5) years.

8005 N Lagoon Dr Panama City Bch FL 32408
2006 - 2011
ADDRESS CITY & STATE FROM TO

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

NONE I HAVE LIVED IN FLORIDA ALL MY LIFE
ADDRESS CITY & STATE FROM TO

5. Date of Birth: 11/27/66 Place of Birth: Panama City FL

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: FL

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1966

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: BAY B. Current Party Affiliation: REPUBLICAN

12. Education

A. High School: BAY HIGH SCHOOL Year Graduated: 1984
(NAME AND LOCATION)

B. List all postsecondary educational institutions attended:

NAME & LOCATION	DATES ATTENDED	CERTIFICATES/DEGREES RECEIVED
<u>GULF COAST COMM COLLEGE</u>	<u>1984-90?</u>	<u>—</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____
B. Branch or Component: _____
C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

DATE	PLACE	NATURE	DISPOSITION

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

EMPLOYER'S NAME & ADDRESS	TYPE OF BUSINESS	OCCUPATION/JOB TITLE	PERIOD OF EMPLOYMENT
<u>CAPT. ANDERSON'S RESTAURANT</u> <u>5551 N LAGUNA DR</u> <u>PC BAY, FL 32408</u>		<u>V. PRES / OWNER</u>	<u>1981 - PRESENT</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

POSITION	EMPLOYING AGENCY	PERIOD OF EMPLOYMENT

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

- WE WERE AWARDED TREE-FARMER OF THE YEAR 1986
- WE HAVE A HUNTING PRESERVE
- WE ARE UNDER A STRICT WILDLIFE MANAGEMENT PROGRAM

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

TREE FARMER OF THE YEAR 1986

D. Identify all association memberships and association offices held by you that relate to this appointment:

NRA-LIFE MEMBER
QUALITY DEER MANAGEMENT-LIFE MEMBER

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

OFFICE TITLE	DATE OF ELECTION OR APPOINTMENT	TERM OF OFFICE	LEVEL OF GOVERNMENT
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B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: NA

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

MEETINGS ATTENDED	MEETINGS MISSED	REASON FOR ABSENCE

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

DATE	NATURE OF VIOLATION	DISPOSITION

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____
B. Term of Appointment: _____
C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

LICENSE/CERTIFICATE TITLE & NUMBER	ORIGINAL ISSUE DATE	ISSUING AUTHORITY	DISCIPLINARY ACTION/DATE

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

NAME OF BUSINESS	YOUR RELATIONSHIP TO BUSINESS	BUSINESS' RELATIONSHIP TO AGENCY

- B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

NAME OF BUSINESS	FAMILY MEMBER'S RELATIONSHIP TO YOU	FAMILY MEMBER'S RELATIONSHIP TO BUSINESS	BUSINESS' RELATIONSHIP TO AGENCY
	JIMMY PATRONIS JR	BROTHER	HOUSE OF REPRESENTATIVE

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

AGENCY LOBBIED	PRINCIPAL REPRESENTED

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

NAME	MAILING ADDRESS	ZIP CODE	AREA CODE/PHONE NUMBER
GEORGE ROBERTS			
BRAD DRAKE			
JIMMY PATRONIS			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

NAME	MAILING ADDRESS	OFFICE(S) HELD & TERM	DATE(S) OF MEMBERSHIP
FL. REST. ASS.			1980-PRESENT
NAIL RESTAURANT ASS			1980-PRESENT
ODMA			LIFE
NRA			LIFE

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA, COUNTY OF

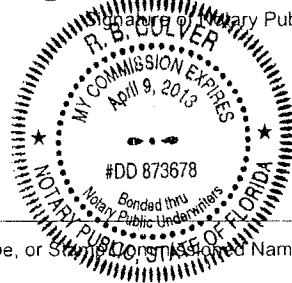
Before me, the undersigned Notary Public of Florida, personally appeared _____, who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Handwritten Signature]

Signature of Applicant-Affiant

Sworn to and subscribed before me this 14th day of SEPTEMBER, 2011.

[Handwritten Signature]



(Print, Type, or Stamp the Assigned Name of Notary Public)

My commission expires: APRIL 9, 2013

Personally Known OR Produced Identification

Type of Identification Produced _____

RECEIVED STATE DEPARTMENT OF STATE
2011 SEP 19 AM 10:03
DIVISION OF ELECTIONS
TALLAHASSEE, FL
(seal)

CourtSmart Tag Report

Room: EL 110

Case:

Type:

Caption: Senate Committee on Environmental Preservation and Conservation

Judge:

Started: 1/30/2012 3:36:54 PM

Ends: 1/30/2012 5:09:38 PM

Length: 01:32:45

3:37:02 PM Call to Order
3:37:05 PM Roll Call
3:40:24 PM Tab 3 (SB 1178)
3:40:33 PM Senator Hays presents
3:41:07 PM Amendment presented by Senator Hays
3:43:04 PM Senator Rich question
3:43:27 PM Hays responds
3:44:11 PM Follow-up
3:44:20 PM Response
3:45:23 PM On bill as amended
3:45:32 PM Keyna Corey
3:47:11 PM Doug Mann
3:50:06 PM Stephanie Kunkel
3:51:56 PM Senator Hays closes
3:52:00 PM Roll call
3:52:24 PM Tab 4
3:52:27 PM Carrie Jansen presents for Senator Altman
3:53:40 PM Senator Rich question
3:54:02 PM On bill as amended
3:54:42 PM Roll Call
3:55:09 PM Tab 6 (SB 1426)
3:55:40 PM Senator Detert presents
3:56:04 PM Roll Call
3:56:23 PM Tab 7 (SB 1430)
3:56:29 PM Senator Detert presents
3:57:20 PM Senator Latvala
3:58:57 PM Senator Jones
3:59:18 PM Follow up
4:03:24 PM Senator Latvala comment
4:03:32 PM Senator Detert closes
4:03:51 PM Roll Call
4:04:36 PM Tab 8
4:04:53 PM Senator Latvala presents
4:05:40 PM Late filed amendment
4:05:44 PM Senator Latvala presents late filed amendment
4:07:52 PM Senator Rich question
4:08:38 PM Speaker explains to Senator Rich at request of chair
4:09:15 PM Senator Dean question
4:09:49 PM Response for speaker
4:09:58 PM (Response for question from the chairman)
4:10:55 PM Richard Van Munster
4:12:49 PM Comment by chair
4:13:08 PM Senator Oelrich
4:13:43 PM Richard Van Munster returns to answer a question
4:19:34 PM Senator Latvala
4:20:47 PM Senator Detert
4:21:23 PM Senator Dean responds
4:21:36 PM Colonel Brown
4:22:27 PM Senator Sobel
4:23:18 PM Follow up by Sobel
4:24:16 PM Response
4:25:05 PM Follow up by Sobel

4:25:24 PM Senator Oelrich
4:25:55 PM Jerry Sanson
4:27:04 PM Jon Steverson
4:27:50 PM Roll Call
4:28:16 PM Senator Oelrich has the chair
4:28:21 PM Tab 9
4:29:38 PM Senator Dean presented
4:30:15 PM Keyna Cory
4:33:16 PM Senator Rich question
4:34:29 PM Senator Dean responds
4:36:08 PM Senator Dean closes
4:37:04 PM Roll Call
4:37:21 PM Tab 11
4:37:40 PM Senator Dean presents
4:37:54 PM Senator Dean presents amendment
4:39:23 PM Senator Dean presents next amendment
4:39:54 PM Senator Dean presents the next amendment
4:40:27 PM Senator Dean presents another amendment
4:40:57 PM On bill as amended
4:41:29 PM Senator Dean speaks to bill
4:42:53 PM Roll Call
4:43:08 PM Tab 12
4:43:21 PM Senator Dean presents bill
4:44:20 PM Senator Jones question
4:44:43 PM Senator Dean responds
4:45:13 PM Senator Jones
4:46:41 PM Pat Rose
4:51:04 PM Senator Oelrich question
4:52:02 PM Senator Latvala
4:52:57 PM Senator Oelrich
4:54:16 PM Steven Webster
4:56:35 PM Senator Oelrich question
4:59:57 PM Senator Detert
5:00:58 PM Senator Rich comment
5:03:23 PM Senator Dean closes
5:07:43 PM Roll Call
5:08:53 PM Tab 14
5:09:11 PM Roll Call
5:09:28 PM Meeting Closes