

Tab 1	SB 132 by Joyner (CO-INTRODUCERS) Dockery, Bullard; (Compare to H 0147) Contamination Notification
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
ENVIRONMENTAL PRESERVATION AND CONSERVATION
Senator Dean, Chair
Senator Oelrich, Vice Chair

MEETING DATE: Wednesday, January 26, 2011
TIME: 8:30 —10:30 a.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	SB 132 Joyner (Compare H 147)	Contamination Notification; Revises contamination notification provisions. Requires the Department of Environmental Protection to provide notice of site rehabilitation to specified entities and certain property owners. Requires the department to verify compliance with notice requirements. Authorizes the department to pursue enforcement measures for noncompliance with notice requirements, etc. EP 01/26/2011 Favorable ED CA BC	Favorable Yeas 6 Nays 0
2	Presentation by the South Florida Water Management District on: 2010-2011 Budget 2011 Legislative Priorities Update on Everglades Restoration		Presented
3	Presentation by the Southwest Florida Water Management District on: 2010-2011 Budget 2011 Legislative Priorities		Presented
4	Presentation by the Florida Fish and Wildlife Conservation Commission on Florida's New Imperiled Management System.		Presented
5	Discussion of proposed legislation relating to onsite sewage treatment and disposal systems.		Discussed

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 132

INTRODUCER: Senator Joyner

SUBJECT: Contamination Notification

DATE: January 21, 2011 REVISED: _____

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

I. Summary:

The bill increases the requirements for public notification and the categories of contaminated sites. The bill expands the number of people and the number of elected and administrative officials who must be notified by the Department of Environmental Protection (DEP) around a contaminated site. It requires local governments to mail the notice to affected homeowners' or applicable neighborhood associations.

The bill expands school notice requirements when contamination has been discovered on the site of a public or private K-12 school or a child care facility. It also expands the requirements of notification when public and private schools and child care facilities are within a 500-foot radius of certain categories of contaminated sites and within a 250-foot radius of other categories of contaminated sites. It requires the DEP and local governments to recover the notification costs unless the site is eligible for the state-funded cleanup.

The bill substantially amends s. 376.30702, Florida Statutes.

II. Present Situation:

The DEP's Division of Waste Management (DVM) implements state and federal laws to protect the environment from the improper handling and disposal of solid and hazardous wastes. DVM also oversees and contracts for the cleanup of sites contaminated with petroleum products, dry-cleaning solvents, or other hazardous wastes. The DEP's website provides a Contamination Locator Map so residents may search for contaminated sites in their area and subscribe to receive e-mail

notifications when clean up actions take place at certain requested sites. The website also explains the process of public notification when contamination is discovered on a property¹.

The DEP requires risk-based corrective actions (RBCA) be used when cleaning up the following sites: petroleum contaminated sites subject to s. 376.3071(5), F.S., dry-cleaning solvent contaminated sites subject to s. 376.3078(4), F.S., or brownfield sites subject to s. 376.81, F.S. Each of these statutes also requires notification of affected parties when the DEP approves a cleanup plan that allows contamination to remain beyond the boundaries of the source property while cleanup is underway. These provisions are designed to facilitate early notification of the discovery of contamination. The responsible parties that fail to comply with the requirements are subject to penalties outlined in s. 376.302, and 403.161(1) (b) F.S., which may include fines and civil litigation.

The DEP also has rules and provisions in place to address businesses and property owners that regularly deal with potentially harmful pollutants. For example, there are a large number of sites eligible for petroleum and dry-cleaning solvent cleanup programs. These businesses are taxed to fund this program and are required to clean-up when contamination occurs on these sites. The DEP closely monitors this program utilizing a standard operation of procedures manual and an approved list of clean-up contractors.

The 2005 legislature established s. 376.30702, F.S., which outlines the Legislature's intent, provides the requirements for initial notice of contamination beyond property boundaries, the DEP's responsibilities for notice and provides the DEP with rule making authority to implement the law. It requires that if the property is subject to RBCA statutes and contamination is discovered beyond the property boundaries while the site is rehabilitated then the owners of the property where the contamination is discovered must be notified.

The notification process begins with a dot that represents a contaminated test well on a map. One acre equals approximately 43,560 square feet and one quarter of an acre equals approximately 10,890 square feet. If a 500-foot radius circle is drawn around the test site, potentially 72 ¼ acre lots of property owners would be notified. If a 250-foot radius circle was drawn around the test site, potentially 18 ¼ acre lots of property owners would be notified.

However, this notification is only required to be provided for specific properties from which samples are actually collected and analyzed in a laboratory. Consequently, some people who may be affected by contamination may not be notified of its presence. For example, if samples are collected only from the property of the contaminated site under investigation, or if samples are collected in a road right-of-way rather than on private property, or if not all parcels in the vicinity of a contaminated site are sampled then not all affected parties will be notified. If the property at which contamination has been discovered is a school as defined in section 1003.01, F.S., (i.e. public schools) the DEP is required to direct the local school board to notify the teachers and parents or guardians of students attending the school of the contamination.²

The contents of the notification include some of the following requirements:

¹ www.dep.state.fl.us/wast/default.htm (last visited 1/20/11)

² Department of Environmental Protection's staff analysis, 11/01/10, SB 132.

- a listing of all record owners of any real property at which the contamination has been discovered;
- separate tables for groundwater, soil, and surface water that contain sampling date, name of contaminants detected above cleanup target levels; the contaminant concentrations and whether clean up is based on health, nuisance, organoleptic, or aesthetic concerns; and
- a vicinity map.³

III. Effect of Proposed Changes:

Section 1 amends s. 376.30702(1), F.S., to clarify that current contamination notification requirements apply to site rehabilitation activities conducted pursuant to an administrative or court order.

Subsection (2) makes technical and conforming changes and also provides an option to submit a contaminant plume map to the DEP in addition to a vicinity map and data tables.

Subsection (3) expands DEP notification requirements of contamination to include:

- city mayor or chair of county commission;
- city or county manager;
- the school district superintendent representing the affected area;
- the elected state and federal officials representing the affected area;
- and all real property owners, presidents of any condominium associations or sole owners of condominiums, and lessees and tenants of record of the property at which site rehabilitation is being conducted, if different from the person responsible for site rehabilitation.

Additionally, it will require DEP notification to all real property owners, presidents of any condominium associations or sole owners of condominiums, lessees and tenants of record of any properties within a:

1. 500-foot radius of each sampling point at which contamination is discovered if it is discovered beyond the property boundaries of a property at which site rehabilitation was initiated pursuant to s. 376.30701, F.S., or an administrative or court order.
2. 250-foot radius of each sampling point at which contamination is discovered beyond the property boundaries of the site that initiated the rehabilitation for petroleum contaminated sites subject to s. 376.3071(5), F.S., dry-cleaning solvent contaminated sites subject to s. 376.3078(4), F.S., or brownfield sites subject to s. 376.81, F.S., and at, or in connection with, solid waste management facility sites subject to a groundwater monitoring plan.

Properties identified during site rehabilitation being conducted under ss. 376.3071(5), 376.3078(4), or 376.81, F.S., or at, or in connection with, a permitted solid waste management facility subject to a groundwater monitoring plan may notice based on a plume map. A plume map can narrow down the source and spread of the contamination in an area.

³ Section 376.30702, F.S.

The section also specifies how the notice must be provided to local governments, property owners, lessees and tenants. The DEP must verify within 30 days after receiving notice of the discovery of contamination that the person responsible for site rehabilitation has complied with notice requirements. The statute also authorizes the DEP to pursue enforcement under chapters 376 and 403, F.S., if notice has not been provided appropriately. It removes an outdated provision from the statute that required the DEP to use the information it possessed at the time (September 1, 2005) to provide notices to all record owners of property at which contamination had been discovered beyond property boundaries.

The bill requires that if the property at which contamination has been discovered is the site of a public school, the DEP must mail a copy of the notice to the superintendent of the appropriate school district and directs the superintendents to notice annually to the teachers and parents or guardians of students attending the school. The bill expands school notification to require that similar notification and direction be provided for private K-12 schools and child care facilities.

It specifies that if any property within a 500-foot radius of a property at which contamination has been discovered during site rehabilitation pursuant to s. 376.30701, F.S., or an administrative or court order, is the site of a public school, the DEP must mail a copy of the notice to the superintendent and direct the superintendent to provide notice annually to the principal of the school. Further, if any property within a 250-foot radius of a property at which contamination has been discovered during site rehabilitation pursuant to ss. 376.3071(5), 376.3078(4), or 376.81 F.S., or at, or in connection with, a permitted solid waste management facility subject to a groundwater monitoring plan is the site of a public school similar notification and direction must be provided to the superintendent. The notice must also direct the superintendent to provide notice annually to the principal of the school.

The bill creates s. 376.30702(4), F.S., to require local governments to send a copy of the notice to the president or comparable elected officer of each homeowners' or neighborhood association in the potentially affected area.

The bill also creates s. 376.30702(5), F.S., to direct the DEP to recover its costs for postage, materials and labor associated with notification from the responsible party, unless site rehabilitation is eligible for state-funded cleanup pursuant to ss. 376.3071(5) or 376.3078(4), F.S.

Section 2 provides that the legislation is an important state interest.

Section 3 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Since some local governments own contaminated property, they may experience indeterminate costs associated with the new notification requirements as well as increased costs for responding to resident inquiries about notices they receive from DEP, therefore, this bill falls under subsection (a) of section 18 of Article VII, Florida Constitution. Subsection (a) provides that counties and municipalities are not bound by

general laws that require them to spend funds or to take action that requires the expenditure of funds unless certain exemptions or exceptions are met.

As for applicable specified constitutional exceptions, the bill requires similar expenditures by all similarly situated persons (i.e. state and local governments); therefore, the only additional requirement necessary to remove the bill from the purview of this constitutional provision is a finding that the Legislature fulfills an important state interest. The bill contains a finding that its provisions fulfill an important state interest.

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:

Owners of contaminated property may be more vulnerable to lawsuits simply because of increased public awareness of the presence of contamination. Property owners will benefit from more information about the extent of contamination in their vicinity. However, if contamination does exist, or is presumed to exist, this may adversely affect their property's value. Private K-12 schools and child care facilities will incur increased costs to annually notify teachers and parents or guardians of students attending the school.

C. Government Sector Impact:

The DEP will incur an increase in costs to identify and notify a large number of property owners, lessees and tenants each year that fall under the state-funded cleanup programs. These costs will continue for an indeterminate time because of the large number of sites eligible for the petroleum and dry cleaning solvent cleanup programs. There will also be expenditures to pay contractors tasked with identifying parcel owners, lessees, and tenants and generating and mailing notice letters. As most local governments own contaminated property, they may experience indeterminate costs associated with responding to resident inquiries about notices they receive from the DEP. School districts will also experience increased costs for creating and mailing letters to teachers, parents, and guardians of schools of a contaminated school site. The Department of Health may experience an increase in resident requests for information on public health impacts of contamination on or near their residences and drinking water supplies.

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 Joyner

18-00186-11

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1 A bill to be entitled
2 An act relating to contamination notification;
3 amending s. 376.30702, F.S.; revising contamination
4 notification provisions; requiring individuals
5 responsible for site rehabilitation to provide notice
6 of site rehabilitation to specified entities; revising
7 provisions relating to the content of such notice;
8 requiring the Department of Environmental Protection
9 to provide notice of site rehabilitation to specified
10 entities and certain property owners; providing an
11 exemption; requiring the department to verify
12 compliance with notice requirements; authorizing the
13 department to pursue enforcement measures for
14 noncompliance with notice requirements; revising the
15 department's contamination notification requirements
16 for certain public schools; requiring the department
17 to provide specified notice to private K-12 schools
18 and child care facilities; requiring the department to
19 provide specified notice to public schools within a
20 specified area; providing notice requirements,
21 including directives to extend such notice to certain
22 other persons; requiring local governments to provide
23 specified notice of site rehabilitation; authorizing
24 the local government and the department to recover
25 notification costs from responsible parties; providing
26 a statement of important state interest; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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30
31 Section 1. Section 376.30702, Florida Statutes, is amended
32 to read:

33 376.30702 Contamination notification.—

34 (1) FINDINGS; INTENT; APPLICABILITY.—The Legislature finds
35 ~~and declares~~ that when contamination is discovered by any person
36 as a result of site rehabilitation activities conducted pursuant
37 to the risk-based corrective action provisions found in s.
38 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, or
39 pursuant to an administrative or court order, it is in the
40 public's best interest that potentially affected persons be
41 notified of the existence of such contamination. Therefore,
42 persons discovering such contamination shall notify the
43 department and those identified under this section of the ~~such~~
44 discovery in accordance with the requirements of this section,
45 ~~and the department shall be responsible for notifying the~~
46 ~~affected public~~. The Legislature intends that ~~for the provisions~~
47 ~~of~~ this section ~~to~~ govern the notice requirements for early
48 notification of the discovery of contamination.

49 (2) INITIAL NOTICE OF CONTAMINATION ~~BEYOND PROPERTY~~
50 ~~BOUNDARIES~~.—

51 (a) If at any time during site rehabilitation conducted
52 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s.
53 376.30701, or an administrative or court order the person
54 responsible for site rehabilitation, the person's authorized
55 agent, or another representative of the person discovers from
56 laboratory analytical results that comply with appropriate
57 quality assurance protocols specified in department rules that
58 contamination as defined in applicable department rules exists

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59 in any groundwater, surface water, or soil ~~medium~~ beyond the
60 boundaries of the property at which site rehabilitation was
61 initiated ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~
62 ~~or s. 376.30701~~, the person responsible for site rehabilitation
63 shall give actual notice as soon as possible, but no later than
64 10 days after the ~~from such~~ discovery, to the Division of Waste
65 Management at the department's Tallahassee office. The actual
66 notice must ~~shall~~ be provided on a form adopted by department
67 rule and mailed by certified mail, return receipt requested. The
68 person responsible for site rehabilitation shall simultaneously
69 provide ~~mail~~ a copy of the ~~such~~ notice to the appropriate
70 department district office and, ~~county health department, and~~
71 all ~~known lessees and tenants of the source property.~~

72 (b) The notice must ~~shall~~ include the following
73 information:

74 1. ~~(a)~~ The location of the property at which site
75 rehabilitation was initiated ~~pursuant to s. 376.3071(5), s.~~
76 ~~376.3078(4), s. 376.81, or s. 376.30701~~ and contact information
77 for the person responsible for site rehabilitation, the person's
78 authorized agent, or another representative of the person.

79 2. ~~(b)~~ A listing of all record owners of the ~~any~~ real
80 property, ~~other than the property at which site rehabilitation~~
81 ~~was initiated pursuant to s. 376.3071(5), s. 376.3078(4), s.~~
82 ~~376.81, or s. 376.30701~~, at which contamination has been
83 discovered; the parcel identification number for ~~any~~ such ~~real~~
84 property; the owner's address listed in the current county
85 property tax office records; and the owner's telephone number.
86 ~~The requirements of this paragraph do not apply to the notice to~~
87 ~~known tenants and lessees of the source property.~~

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88 3.(e) Separate tables for ~~by medium, such as~~ groundwater,
89 soil, and surface water which, ~~or sediment, that~~ list sampling
90 locations identified on the vicinity map described in
91 subparagraph 4.; sampling dates; names of contaminants detected
92 above cleanup target levels; their corresponding cleanup target
93 levels; the contaminant concentrations; and whether the cleanup
94 target level is based on health, nuisance, organoleptic, or
95 aesthetic concerns.

96 4.(d) A vicinity map that shows each sampling location with
97 corresponding laboratory analytical results described in
98 subparagraph 3. ~~and the date on which the sample was collected~~
99 and that identifies the property boundaries of the property at
100 which site rehabilitation was initiated ~~pursuant to s.~~
101 ~~376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701~~ and any
102 ~~the~~ other properties at which contamination has been discovered
103 during such site rehabilitation. If available, a contaminant
104 plume map signed and sealed by a state-licensed professional
105 engineer or geologist may be included with the vicinity map.

106 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

107 (a) After receiving the initial notice required under
108 subsection (2), the department shall notify the following
109 persons of the contamination:

110 1. The mayor, the chair of the county commission, or the
111 comparable senior elected official representing the affected
112 area.

113 2. The city manager, the county administrator, or the
114 comparable senior administrative official representing the
115 affected area.

116 3. The school district superintendent representing the

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117 affected area.

118 4. The state senator, state representative, and United
119 States Representative representing the affected area and both
120 United States Senators.

121 5. All real property owners, presidents of any condominium
122 associations, or sole owners of condominiums, lessees, and the
123 tenants of record for:

124 a. The property at which site rehabilitation is being
125 conducted, if different from the person responsible for site
126 rehabilitation;

127 b. Any properties within a 500-foot radius of each sampling
128 point at which contamination is discovered if site
129 rehabilitation was initiated pursuant to s. 376.30701 or an
130 administrative or court order; and

131 c. Any properties within a 250-foot radius of each sampling
132 point at which contamination is discovered or any properties
133 identified on a contaminant plume map provided pursuant to
134 subparagraph (2)(b)4. if site rehabilitation was initiated
135 pursuant to s. 376.3071(5), s. 376.3078(4), or s. 376.81, or at,
136 or in connection with, a permitted solid waste management
137 facility subject to a groundwater monitoring plan.

138 (b) The notice provided to:

139 1. Local government officials shall be mailed by certified
140 mail, return receipt requested, and must advise the local
141 government of its responsibilities under subsection (4).

142 2. Real property owners, presidents of any condominium
143 associations or sole owners of condominiums, lessees, and
144 tenants of record may be delivered by certified mail, return
145 receipt requested, first-class mail, hand delivery, or door

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146 hanger.

147 (c) Within 30 days after receiving the initial actual
148 notice required under ~~pursuant to~~ subsection (2), ~~or within 30~~
149 ~~days of the effective date of this act if the department already~~
150 ~~possesses information equivalent to that required by the notice,~~
151 the department shall verify that the person responsible for site
152 rehabilitation has complied with the notice requirements of this
153 section send a copy of such notice, or an equivalent
154 notification, to all record owners of any real property, other
155 than the property at which site rehabilitation was initiated
156 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.
157 376.30701, at which contamination has been discovered. If the
158 person responsible for site rehabilitation has not complied with
159 the notice requirements, the department may pursue enforcement
160 as provided under this chapter and chapter 403.

161 (d)1. If the property at which contamination has been
162 discovered is the site of a school as defined in s. 1003.01, the
163 department shall mail ~~also send~~ a copy of the notice to the
164 superintendent chair of the school board of the school district
165 in which the property is located and direct the superintendent
166 ~~said school board~~ to provide actual notice annually to teachers
167 and parents or guardians of students attending the school during
168 the period of site rehabilitation.

169 2. If the property at which contamination has been
170 discovered is the site of a private K-12 school or a child care
171 facility as defined in s. 402.302, the department shall mail a
172 copy of the notice to the governing board, principal, or owner
173 of the school or child care facility and direct the governing
174 board, principal, or owner to provide actual notice annually to

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175 teachers and parents or guardians of students or children
176 attending the school or child care facility during the period of
177 site rehabilitation.

178 3. After receiving the initial notice required under
179 subsection (2), if any property within a 500-foot radius of the
180 property at which contamination has been discovered during site
181 rehabilitation pursuant to s. 376.30701 or an administrative or
182 court order is the site of a school as defined in s. 1003.01,
183 the department shall mail a copy of the notice to the
184 superintendent of the school district in which the property is
185 located and direct the superintendent to provide actual notice
186 annually to the principal of the school.

187 4. After receiving the initial notice required under
188 subsection (2), if any property within a 250-foot radius of the
189 property at which contamination has been discovered during site
190 rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), or s.
191 376.81, or at, or in connection with, a permitted solid waste
192 management facility subject to a groundwater monitoring plan, is
193 the site of a school as defined in s. 1003.01, the department
194 shall mail a copy of the notice to the superintendent of the
195 school district in which the property is located and direct the
196 superintendent to provide actual notice annually to the
197 principal of the school.

198 (e) Along with the copy of the notice ~~or its equivalent,~~
199 the department shall include a letter identifying sources of
200 additional information about the contamination and a telephone
201 number to which further inquiries should be directed. The
202 department may collaborate with the Department of Health to
203 develop such sources of information and to establish procedures

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204 for responding to public inquiries about health risks associated
205 with contaminated sites.

206 (4) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—If contact
207 information is available, within 30 days after receiving notice
208 under subsection (3), the local government shall mail a copy of
209 the notice to the president or equivalent officer of each
210 homeowners' association or neighborhood association within the
211 potentially affected area described in subsection (3).

212 (5) RECOVERY OF NOTIFICATION COSTS.—The department and the
213 local government shall recover the costs of postage, materials,
214 and labor associated with providing notification from the
215 responsible party, unless site rehabilitation is eligible for
216 state-funded cleanup pursuant to the risk-based corrective
217 action provisions found in s. 376.3071(5) or s. 376.3078(4).

218 (6) ~~(4)~~ RULEMAKING AUTHORITY.—The department shall adopt
219 rules and forms ~~pursuant to ss. 120.536(1) and 120.54~~ to
220 administer ~~implement~~ the requirements of this section.

221 Section 2. The Legislature finds that this act fulfills an
222 important state interest.

223 Section 3. This act shall take effect July 1, 2011.

Senate Environmental Preservation and
Conservation Committee

Senator Charlie Dean, Chair

***South Florida Water Management District
Update
January 26, 2011***

Ernie Barnett, Legislative Affairs Director

Presentation Topics

- Budget Update
- Restoration Progress
- Legislative Priorities
- Water Shortage Update

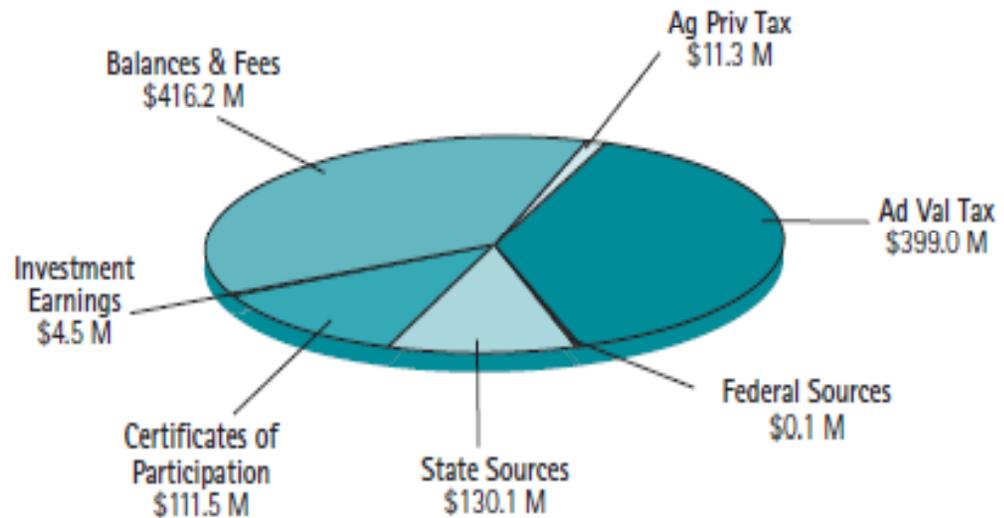
Budget Update

Budget

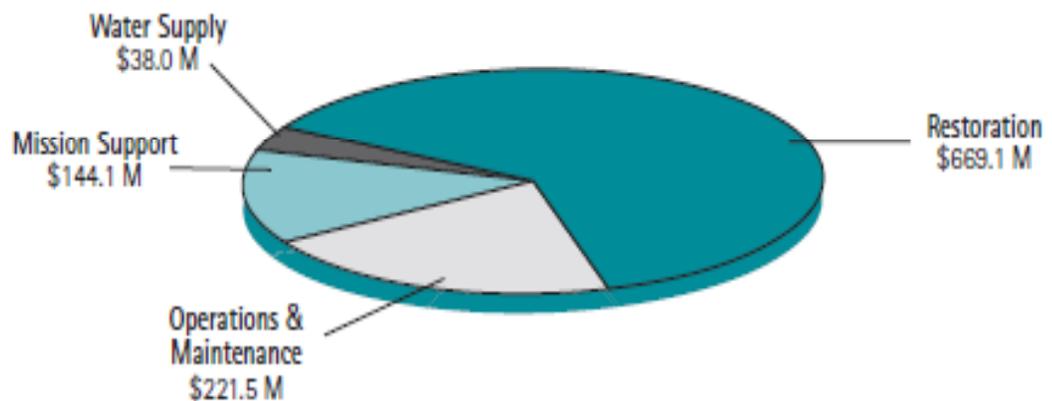
**FY2011 Budget
\$1.07 billion**

- Funds the agency's flood control and water supply missions and restoration projects
- Includes a \$60.9 million reduction in property tax revenues

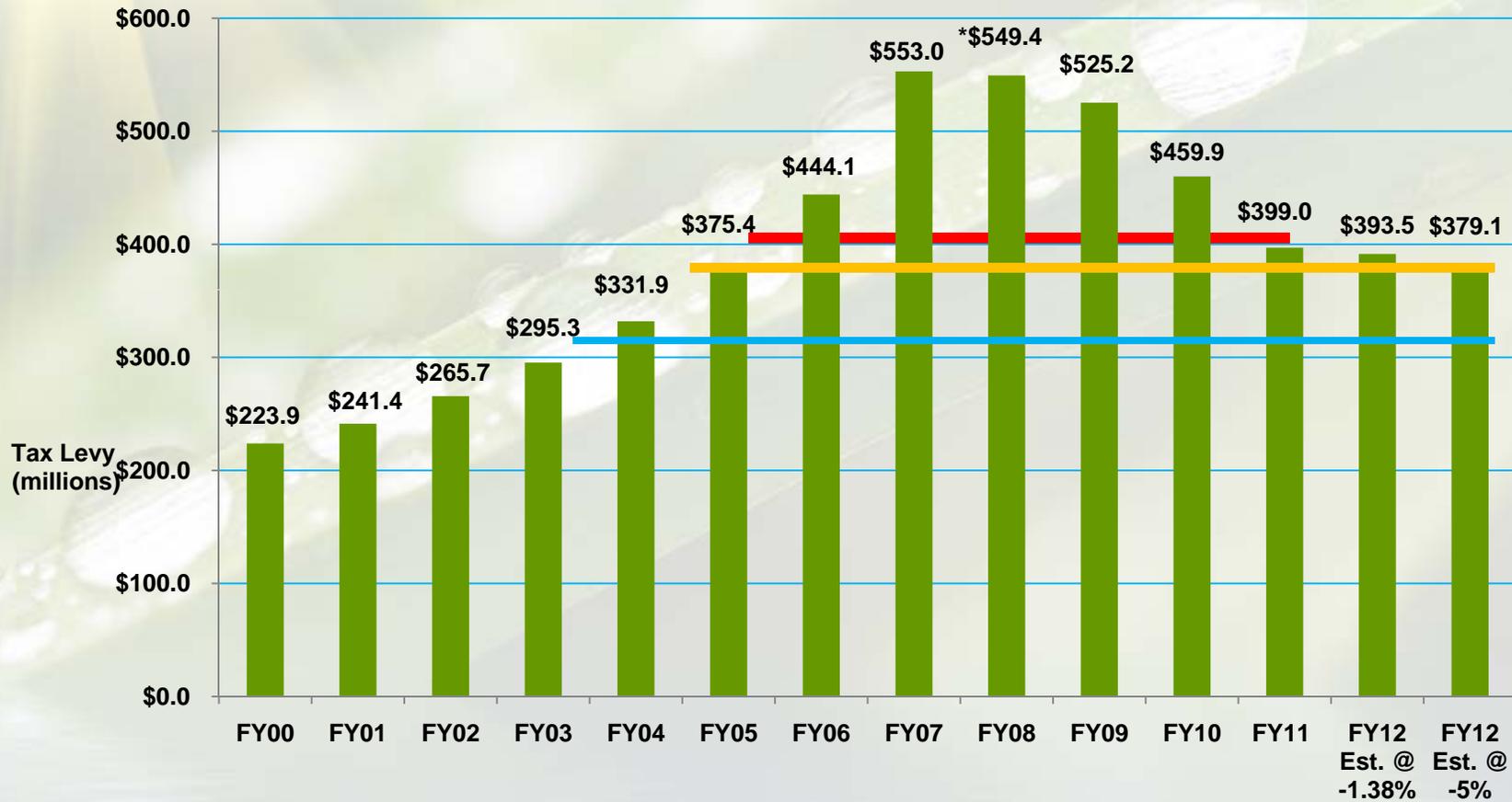
Where the money comes from



Where the money goes



SFWMD Total Tax Levies (FY00 – FY12 est.)

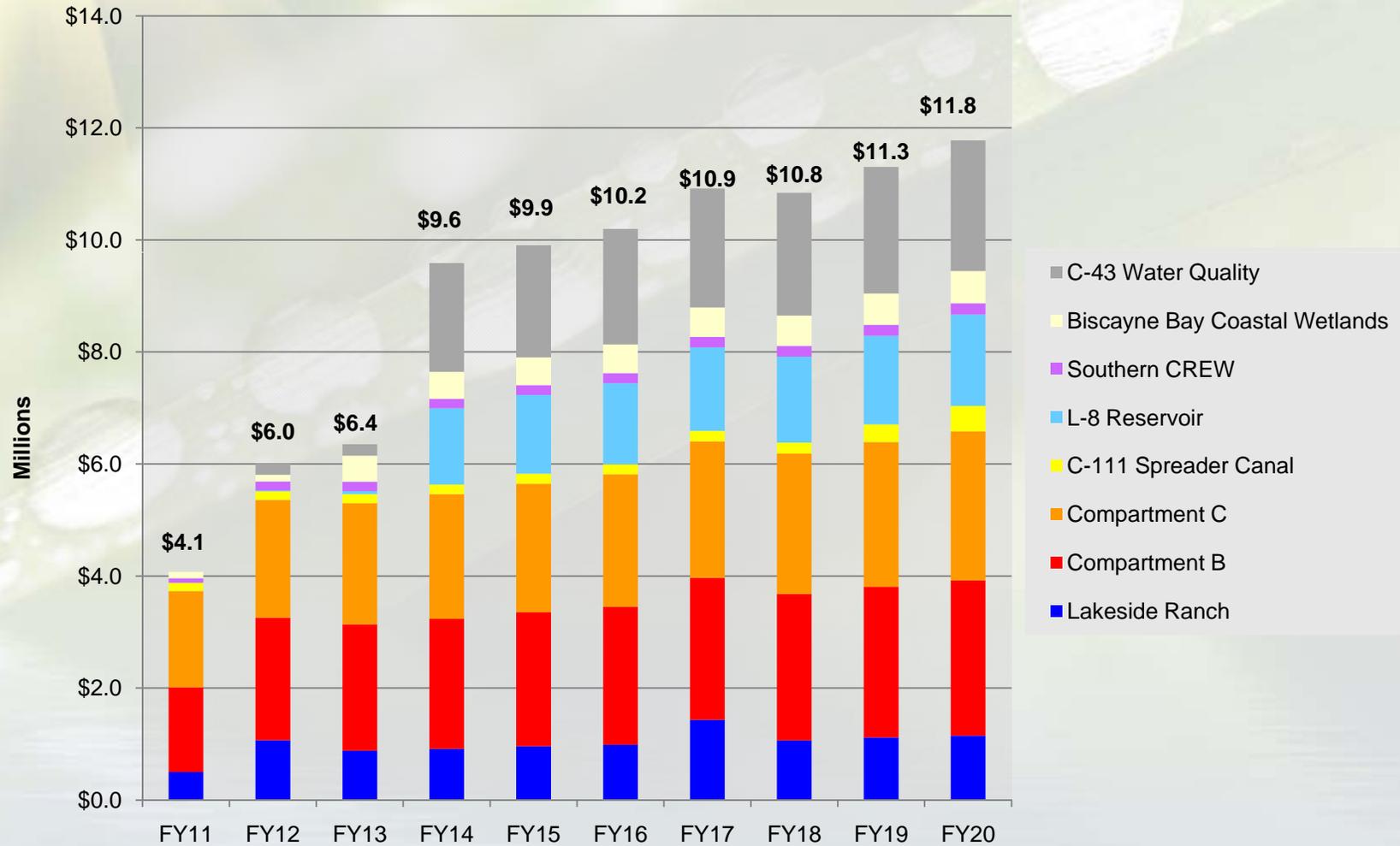


Operations & Maintenance

- 2011 Budget
 - \$188M
- 2011-2015 Capital Projects Budget
 - Approximately \$332M



Operating Impacts of New SFWMD Capital Projects





Restoration Progress

Restoration *Projects Under Construction*

- C-111 Spreader Canal Western Project
- Biscayne Bay Coastal Wetlands
- Lakeside Ranch Stormwater Treatment Area (STA)



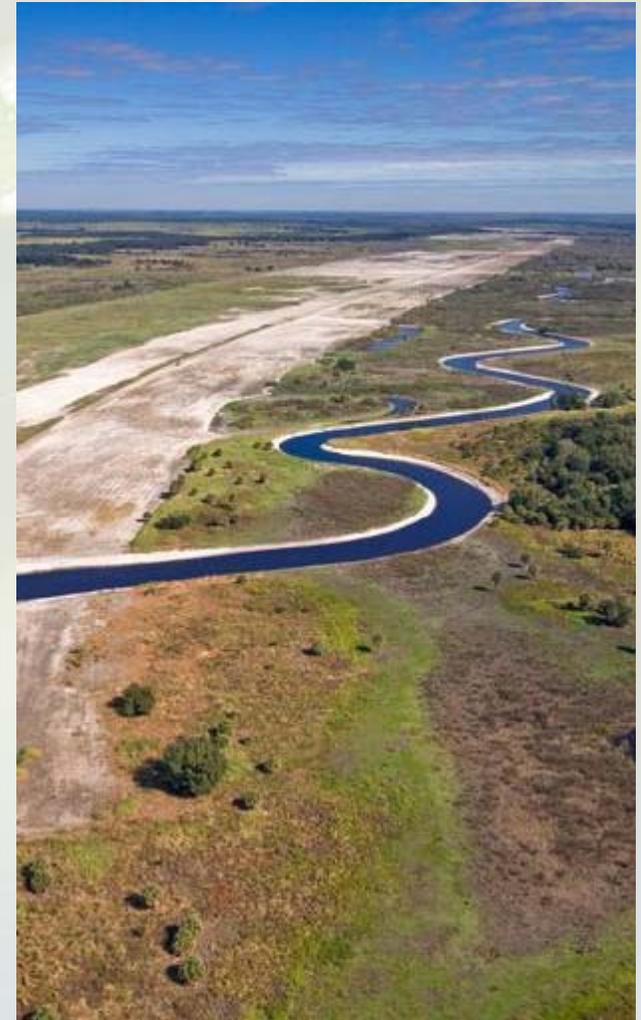
Restoration *Items in FY11 Budget*

■ Land Acquisition

- Southern CREW Imperial River Flow-way
- Purchase 26,800 acres of land from U.S. Sugar Corporation
- Kissimmee River Restoration
- Army Corps Herbert Hoover Dike Project

■ Public/Private Partnerships

- Develop and implement Dispersed Water Management program

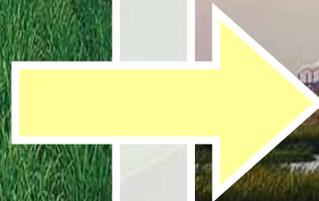


Restoration – Water Quality *Stormwater Treatment Areas*

Agricultural Land

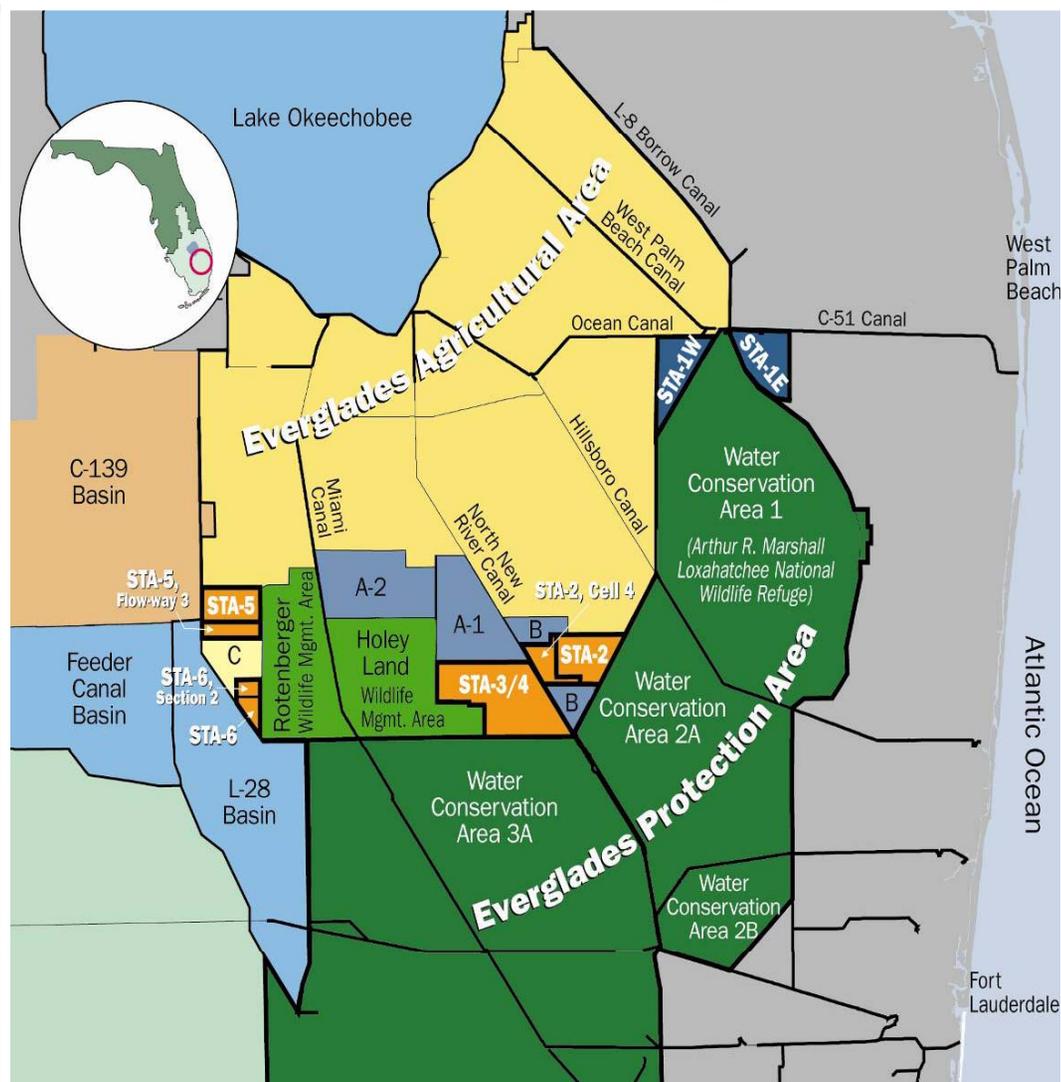


Constructed Wetland



Constructed wetlands designed to remove phosphorus through natural physical, chemical and biological processes

Restoration – Water Quality Everglades Construction Project



Restoration – Water Quality

Stormwater Treatment Areas Performance

- Since 1994, more than 45,000 acres of Stormwater Treatment Areas constructed
- An additional 11,470 acres of treatment wetlands are under construction
- Treat average annual 1.5 million acre feet of water; reduced total phosphorus loads by 75 - 80%
- Combined with BMPs, prevented more than 3,500 metric tons of phosphorus from entering the Everglades to date
 - Pre STA/BMP inflow concentrations were as high as 200 ppb
 - Reduced inflow concentrations have been as low as 15-20 ppb





Legislative Priorities

Legislative Priority

- Amendments to Chapter 373 that state that landscape irrigation restrictions set forth in water management district rules or orders may be implemented by ordinance of the applicable local governments
 - The Joint Administrative Procedure Committee raised concerns that local governments may not have the authority to regulate the consumptive use of water for lawn irrigation due to the districts' sole preemptive authority to regulation consumptive use.
 - Passed full Senate last session

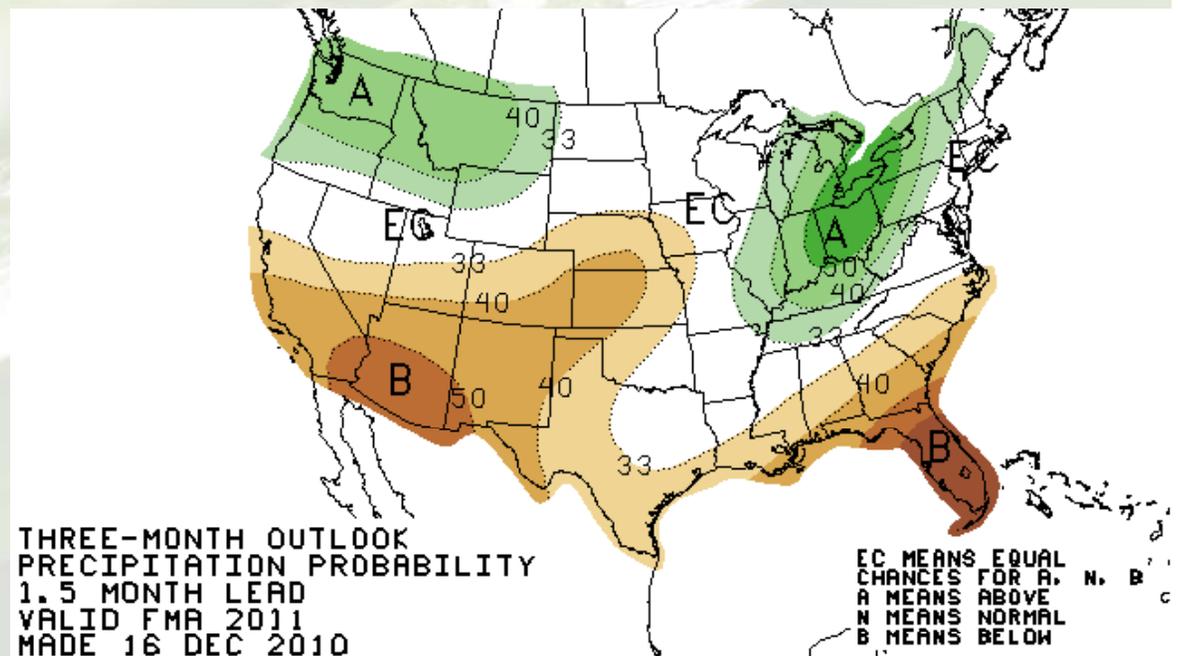




Water Shortage Update

Water Shortage Update

- Warning issued for Indian Prairie Basins, Lake Istokpoga, and Lake Okeechobee Basins
- Lake Okeechobee: 3 inches above Water Shortage Trigger Line
- Climate forecast is for very widespread and severe drought



Partial Activation - Emergency Operations Center for Water Shortage

- Water Conditions Team
- Navigation
- Agriculture
- Nurseries
- Documentation
- STAs
- Ecological
- Environmental Enhancement
- Diversion & Impoundments
- Enforcement & Compliance
- Golf Course Compliance
- Regulatory & Permitting
- Variances
- Infrastructure (Temporary Forward Pumps)
- Modeling Support & Analysis
- Water Supply Utilities
- Purchasing
- Finance
- Liaison
- Legal
- Citizen's Information Line
- Media

Temporary Forward Pumps



- Designed to deliver water from Lake Okeechobee south when level goes below 10.5 ft NGVD

- 1,400 cubic feet per second capacity

- Engineering activities complete

- Standing by to install

- Coordinate installation with growers



Water Shortage Communication

sfwmd.gov



The screenshot shows the top portion of the website. At the top is a navigation bar with links: Careers, Site Map, Glossary, Help, Locations, Contact Us, and Español. Below this is a secondary navigation bar with categories: Home, About Us, Managing & Protecting Water, Protecting & Restoring Ecosystems, News, and Library & Multimedia. A third bar lists user groups: Residents & Visitors, Businesses, Scientists & Engineers, and Educators & Students, along with a search box and a 'go' button. The main banner features a large image of cracked earth with the text 'Water Shortage Watch' and a 'LEARN MORE' button. Below the banner is a 'In the News' section with several news items, and a 'Water Shortage Watch' section with a 'LEARN MORE' button and navigation arrows.



The screenshot shows the 'Water Shortage Restrictions' page. The navigation bar is identical to the previous screenshot. The main content area has a large image of cracked earth with the text 'Water Shortage Watch'. Below this is a 'Water Shortage Restrictions' section. On the left is a 'RELATED LINKS' sidebar with items like 'NOW in EFFECT: Year-Round Landscape Irrigation Conservation Measures' and 'Rainfall Maps'. The main text area includes a 'WATER SHORTAGE WATCH' logo and a paragraph explaining the situation: 'Did you know rainfall is our region's primary source for replenishing our limited freshwater supply? Because 2010 rainfall amounts were far below average, ground (wellfields and aquifers) and surface (lakes, rivers and canals) water levels are low. Long-term weather forecasts for 2011 envision continuing below-average rainfall leading to great strains on water supplies. With at least five months of the dry season still ahead, water conservation is increasingly critical.' Below this is a paragraph about landscape irrigation limits and another about conserving water at home and business.

Quick Links to Information:

- **Rainfall maps**
- **Water conditions**
- **Conservation**
- **Water restrictions**
- **News releases**



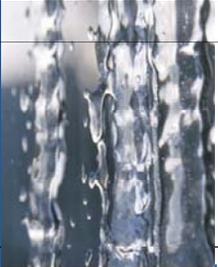
Questions

CONTACT:

Ernie Barnett

ebarnett@sfwmd.gov

(561) 951-2840



Budget Overview and District Priorities



Senate Committee on
Environmental Preservation &
Conservation

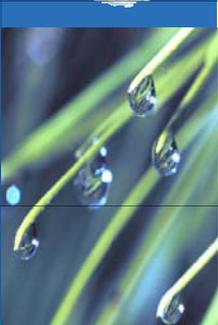
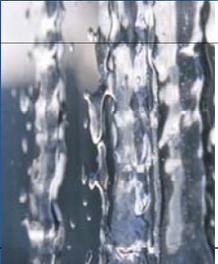
January 26, 2011

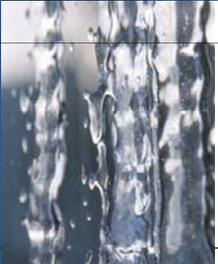
Origin of the District

- Hurricane Donna caused major damage to southwest Florida in 1960;
- Created in 1961 to be local sponsor of a major flood control project;
- Responsibilities increased in 1972 when the Florida Legislature passed the Water Resource Act.



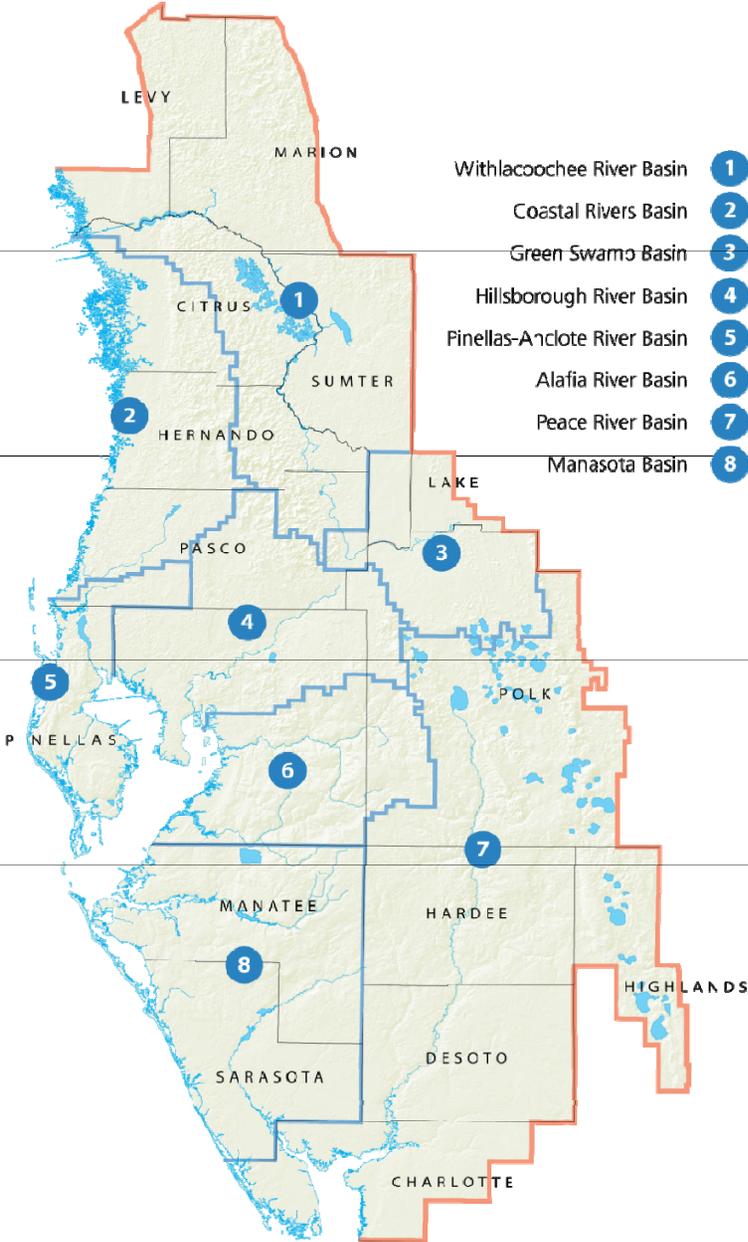
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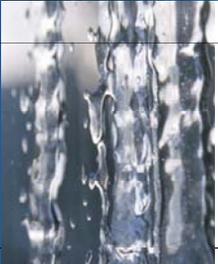


Governance

•A 13-member Governing Board oversees activities, sets policy, and administers the budget.



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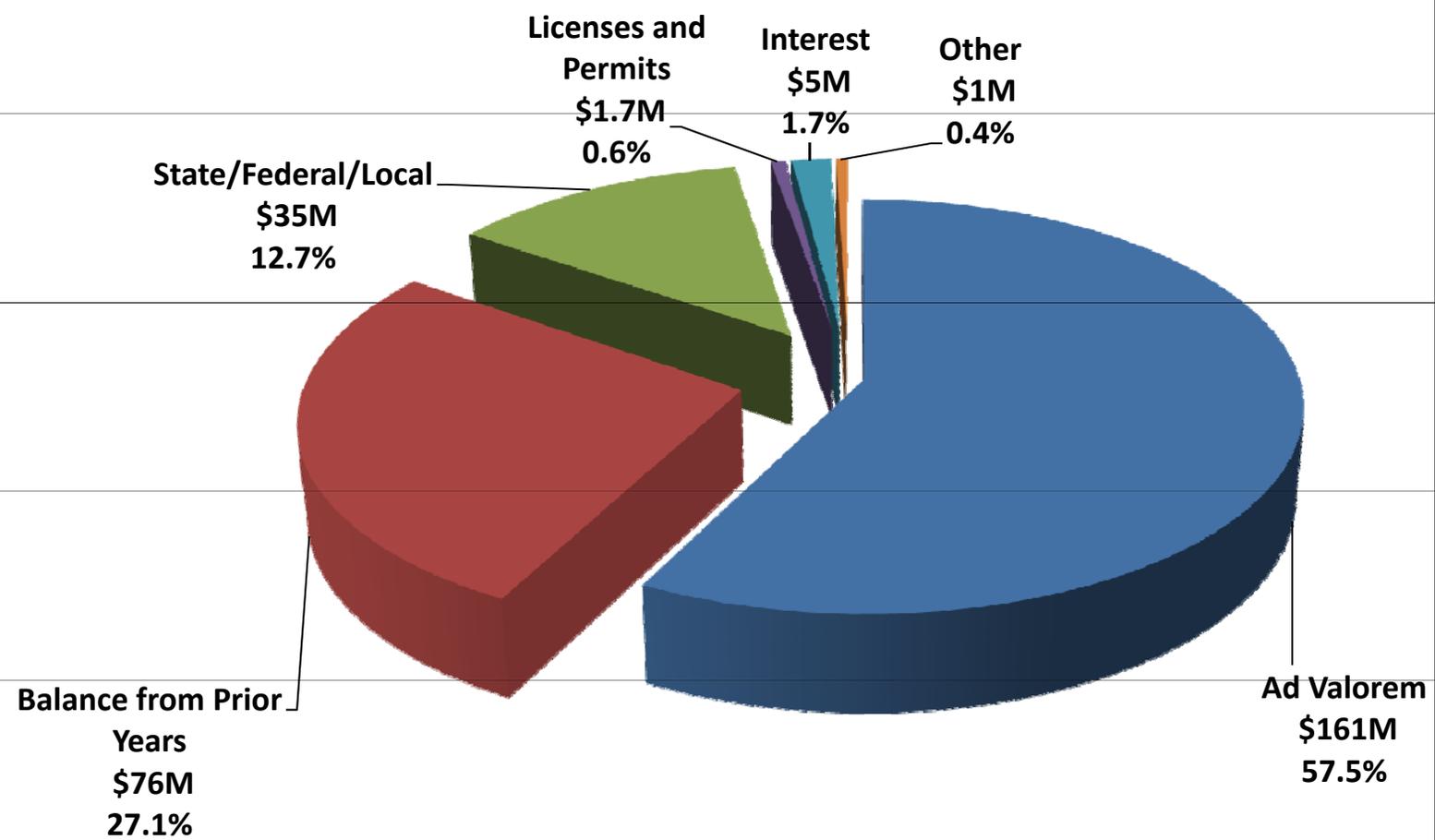


Budget Priorities

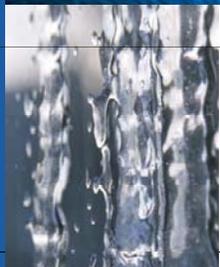
50 YEARS 50 YEARS 50 YEARS 50 YEARS 50 YEARS



How the District Is Funded (Six Statutory Program Areas)

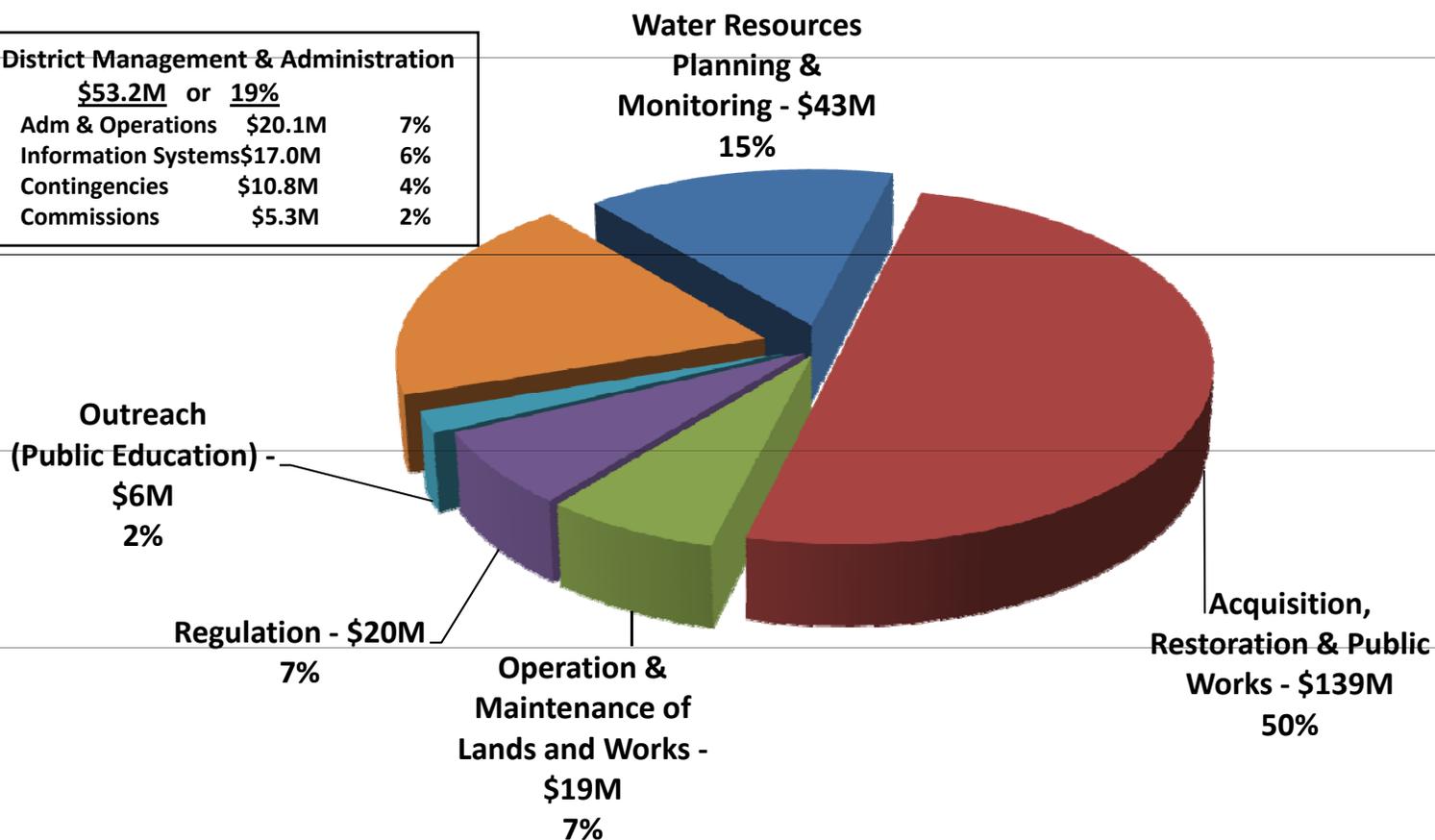


FY 2010-2011 Budget: \$280M



How the District Allocates Resources (By Expenditure Category)

District Management & Administration		
\$53.2M or 19%		
Adm & Operations	\$20.1M	7%
Information Systems	\$17.0M	6%
Contingencies	\$10.8M	4%
Commissions	\$5.3M	2%

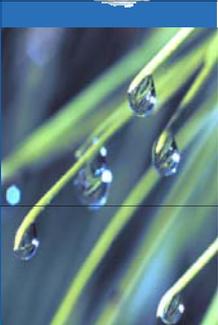
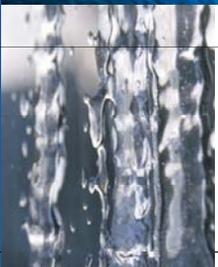


FY 2010-2011 Budget: \$280M

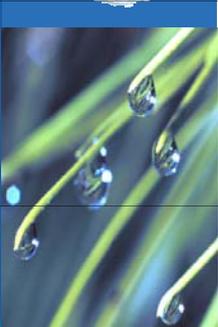
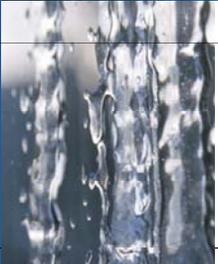
Budget Overview

		FY2007-2008	FY2008-2009	FY2009-2010	FY2010-2011	Difference (FY2008 - FY2011)	Change (FY2008 - FY2011)
District Budget		\$390,023,670	\$370,008,826	\$298,887,497	\$279,807,363	(\$110,216,307)	-28.3%
Millage Rates	Millage Cap						
Districtwide	0.5000	0.3866	0.3866	0.3866	0.3770	(0.0096)	-2.5%
Alafia River Basin	0.5000	0.2163	0.2163	0.2163	0.2163	-	0.0%
Hillsborough River Basin	0.5000	0.2547	0.2547	0.2421	0.2300	(0.0247)	-9.7%
Northwest Hillsborough Basin	0.5000	0.2421	0.2421	N/A	N/A		
Coastal Rivers Basin	0.5000	0.1885	0.1885	0.1885	0.1885	-	0.0%
Pinellas-Anclote River Basin	0.5000	0.3701	0.3600	0.3200	0.2600	(0.1101)	-29.7%
Withlacoochee River Basin	0.5000	0.2308	0.2308	0.2308	0.2308	-	0.0%
Peace River Basin	0.5000	0.1827	0.1827	0.1827	0.1827	-	0.0%
Manasota Basin	0.5000	0.1484	0.1484	0.1484	0.1484	-	0.0%

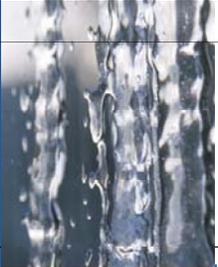
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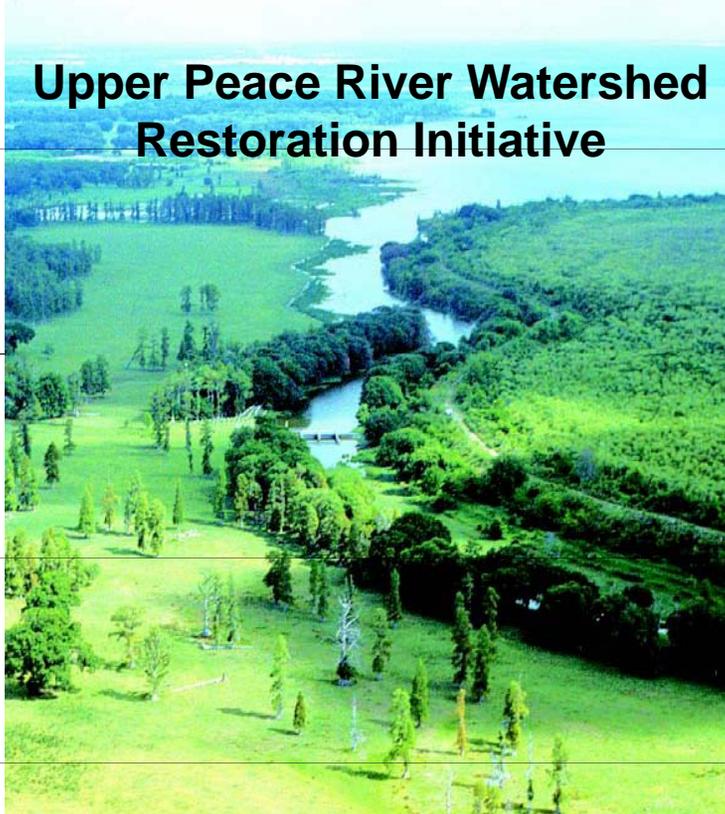


Ongoing District Priorities



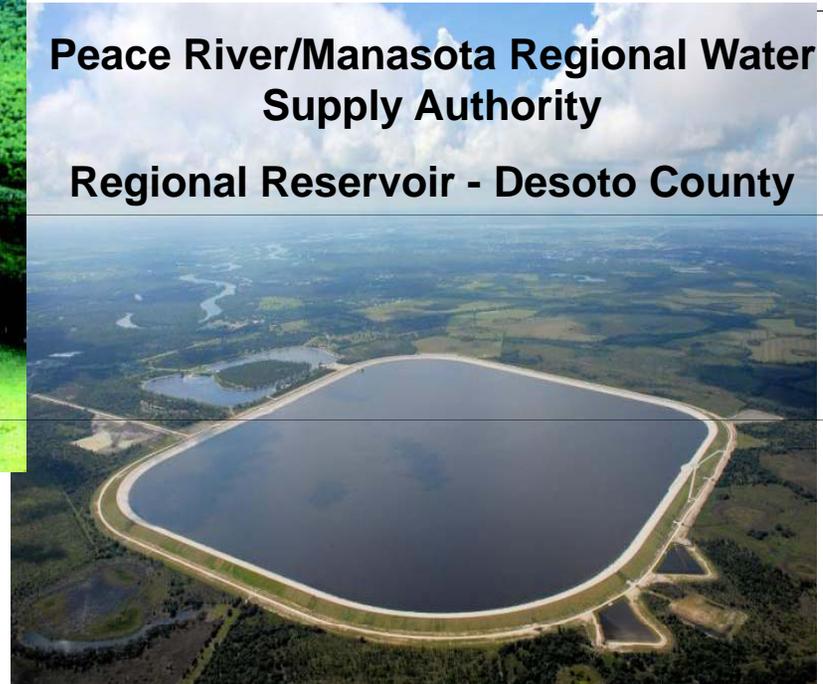
West-Central Florida Water Restoration Action Plan

Upper Peace River Watershed Restoration Initiative



- Central Florida Water Resource Development
- Ridge Lakes Restoration

Peace River/Manasota Regional Water Supply Authority Regional Reservoir - Desoto County



Water Quality/Restoration

Clam Bayou Habitat Restoration and Stormwater Treatment

- Restore natural coastal habitats
- Treat stormwater runoff to increase wildlife and improve the water quality of Clam Bayou

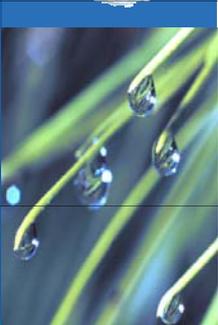
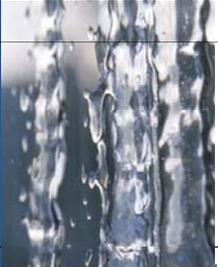


Sawgrass Lake Restoration Project

- Remove spent lead shot and contaminants from the system.
- Dredge a portion of Sawgrass Lake and remove sediments.
- Ensure ongoing flood protection and natural water treatment.

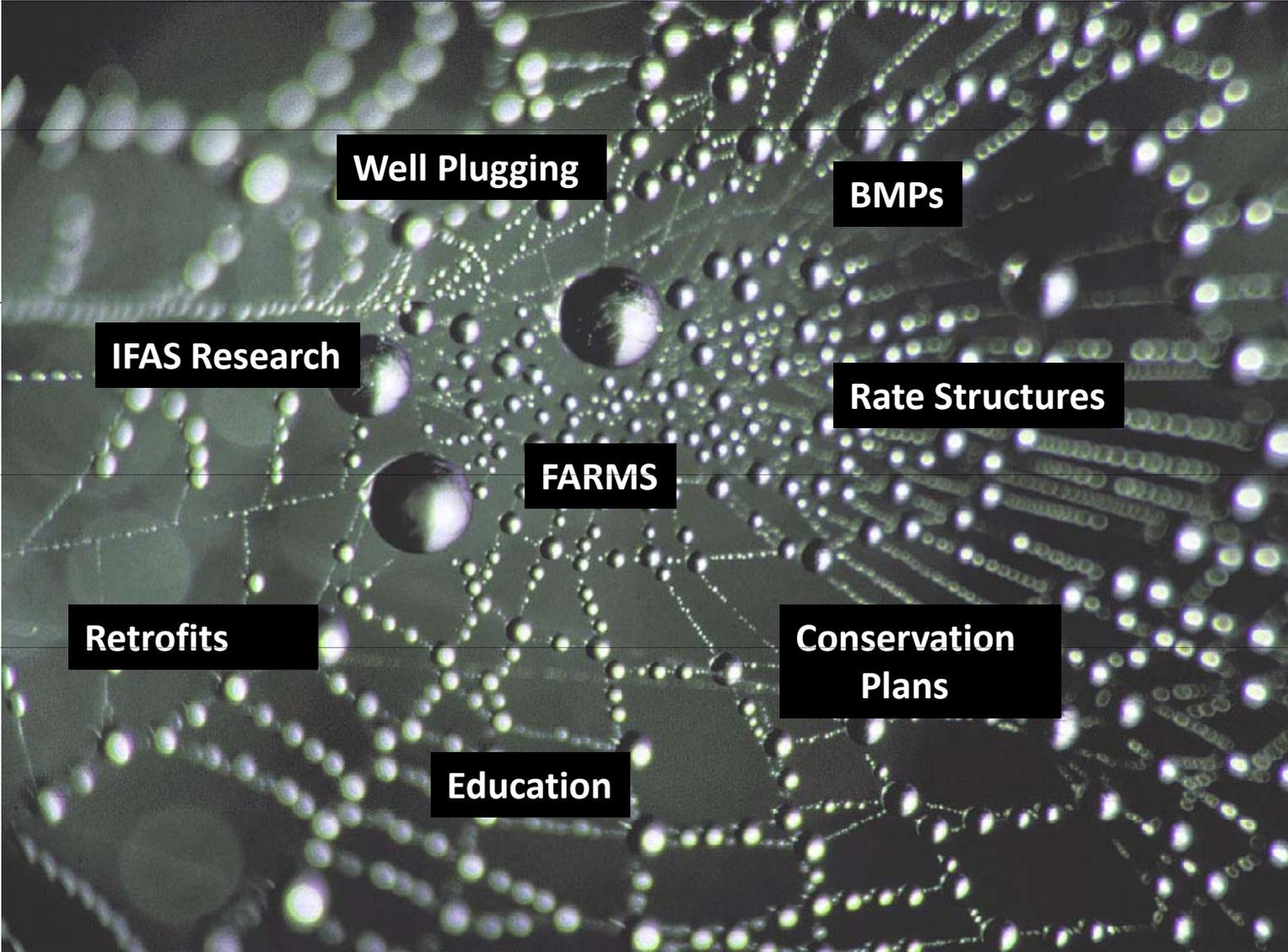
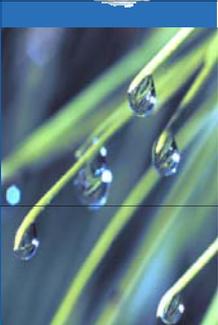
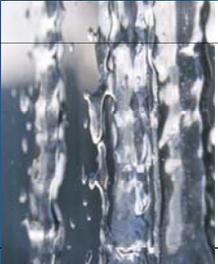


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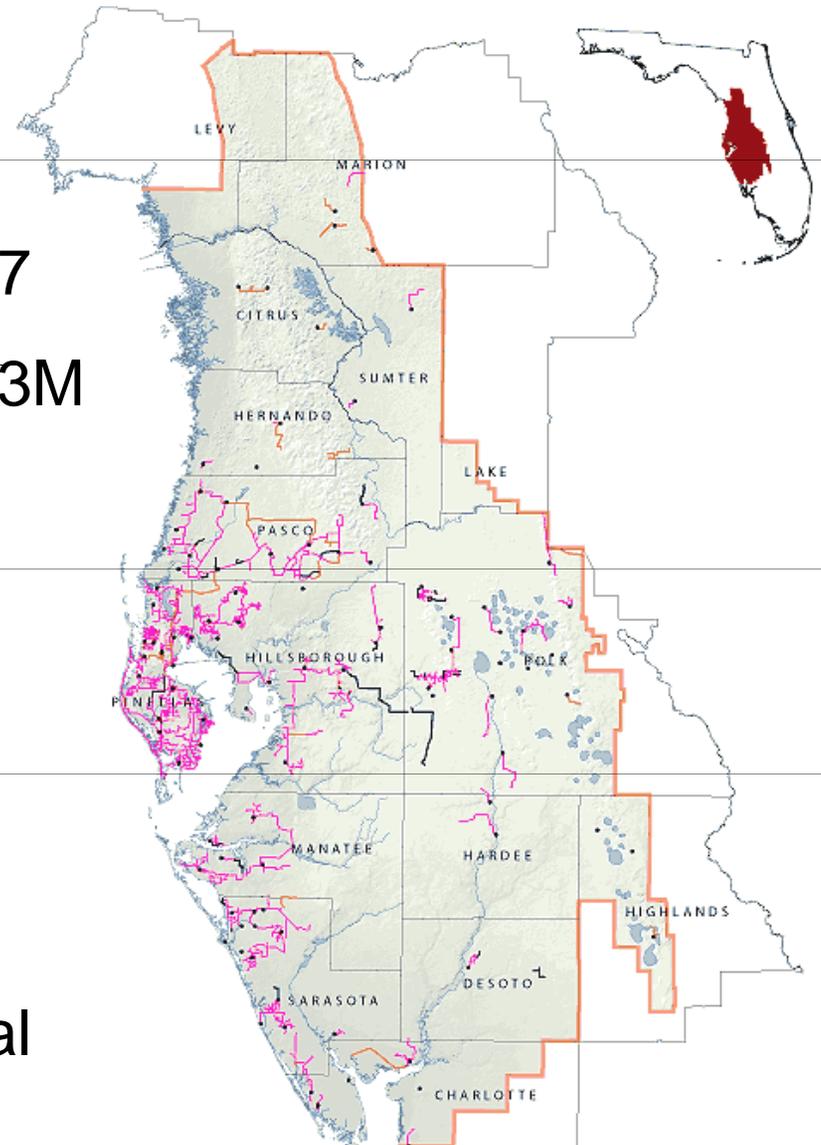
Conservation

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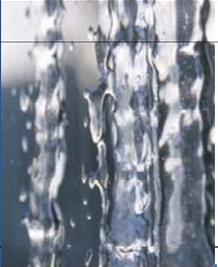


Reclaimed Water

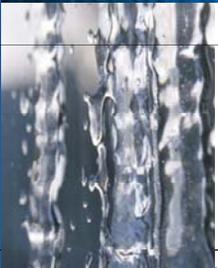
- 288 projects since 1987
- \$298M Leveraged \$863M
- 231 MGD Reused
- 154 MGD Offset
- 6 Power Plants
- 160 Golf Courses
- 95,000 Residential/Commercial



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Questions?



Florida's New Imperiled Species Management System

Senate Environmental Preservation and
Conservation Committee

Jan. 26, 2011



Tim Breault
Director, Division of Habitat and Species Conservation
Fish and Wildlife Conservation Commission

Status Review Initiated

- A comprehensive review of the relationship of Federal and State regulations for threatened and endangered species was initiated in 2007



Purpose of the Review

- Public confusion - 2 categories of federally-designated species and 3 categories of state-designated species
- Federal and state criteria used to determine eligibility for listing were different
- Federal and state listed species were co-mingled on one list
- Revise rules to eliminate duplicate state and federal permitting



Internal Evaluation Process

- First step – Discussed whether or not to have a state process to identify and manage imperiled species
 - Concluded that the answer is yes
 - Purpose is to provide a mechanism for early management intervention by Florida to preclude the need for federal regulation under the Endangered Species Act



Commission Evaluation

- In June 2008, the Commission directed staff to work with stakeholders in rule-development that included:
 - Separation of the state list from the federal list
 - Creation of a single category state list
 - Assessment of science-based options for species to be added to or removed from the state list
 - Rules should be simple and understandable
 - Include stakeholders in discussions and look for areas of agreement



Stakeholder Engagement

- Phase 1 started with 4 focal area stakeholder groups
 - Governmental
 - Recreational
 - Regulated industries and landowners
 - Conservation interests
- Phase 2 included joint meetings of all stakeholders



Status of Rule Revision

- Revisions to Florida's endangered and threatened species rules were adopted by the Commission in September 2010
- Broad stakeholder support



Benefits of Rule Revision

- Transparent science-based state listing process
- Potential to preclude federal listing actions and regulation under the Endangered Species Act by developing management plans for state-listed species
- Elimination of duplicative state and federal permits
- Potential for delegating federal permitting to Florida
- Working with the DACS to develop Best Management Practices for state-listed species in lieu of a permitting system



Questions?



Summary of Proposed Septic Tank Legislation

The draft bill:

1. Repeals all provisions of the septic tank evaluation program from SB 550, except for the ban on land spreading of septage. This activity is prohibited after January 1, 2016.
2. Directs the Department of Health to develop a model septic tank evaluation program ordinance.
3. Makes adoption of an evaluation program voluntary for municipalities and counties with Outstanding Florida Waters or nutrient impaired water bodies.
4. Allows the Department of Environmental Protection (DEP) and the municipalities and counties to cooperate to exempt geographic areas from the ordinance requirements. Directs the DEP to adopt rules to provide scientific methodologies, data or tools to assist them in this process.
5. Allows municipalities and counties to adopt stricter evaluation procedures than the model ordinance if they meet certain criteria. All documentation must become part of the public record before adoption of stricter procedures.
6. Grandfathers in any municipality or county that adopts evaluation procedures before January 1, 2012.

1 A bill to be entitled

2 An act relating to onsite sewage treatment and disposal
3 systems; amending s. 381.0065, F.S.; revising legislative
4 intent; directing the Department of Health to develop a model
5 septic tank ordinance; providing minimum requirements for the
6 model ordinance; allowing qualifying counties and municipalities
7 to adopt a septic tank evaluation program ordinance; allowing
8 adoption of more stringent procedures providing certain criteria
9 are met; exempting counties or municipalities that adopt a
10 septic tank evaluation program ordinance before January 1, 2012;
11 eliminating provisions directing the Department of Health to
12 create and administer a statewide septic tank evaluation
13 program; eliminating procedures and criteria for the evaluation
14 program; repealing s. 381.00656, F.S., to terminate the grant
15 program for repair of onsite sewage treatment disposal systems
16 identified pursuant to the evaluation program, to conform;
17 amending s. 381.0066, F.S.; eliminating provisions authorizing
18 the department to collect an evaluation report fee; eliminating
19 provisions relating to disposition of fee proceeds and a
20 revenue-neutral fee schedule; providing an effective date.

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

23 Section 1. Paragraph (a) of subsection (1) of section
24 381.0065, Florida Statutes is amended, and paragraphs (a)
25 through (i) of subsection (5), of that section, are repealed,
26 and new paragraphs (a) through (f), of that section, are added
27 to read:

28 381.0065 Onsite sewage treatment and disposal systems;
29 regulation.—

30 (1) LEGISLATIVE INTENT.—

31 (a) It is the intent of the Legislature that proper
32 management of onsite sewage treatment and disposal systems is
33 paramount to the health, safety, and welfare of the public.—~~It~~
34 ~~is further the intent of the Legislature that the department~~
35 ~~shall administer an evaluation program to ensure the operational~~
36 ~~condition of the system and identify any failure with the~~
37 ~~system.~~

38 (5) EVALUATION AND ASSESSMENT.—

39 (a) The department shall develop a model septic tank
40 evaluation program ordinance by January 1, 2012, that may be
41 adopted and enforced by counties and municipalities. The
42 ordinance must, at a minimum:

43 1. Require evaluations of all septic tanks within the
44 county's or municipality's jurisdiction every five years.

45 2. Require a licensed septic tank contractor to evaluate
46 the septic tank, mound and drainfield to ensure compliance with
47 Chapter 64E-6, Florida Administrative Code.

48 3. Require a licensed septic tank contractor to determine
49 whether the septic tank requires a pumpout. If the contractor
50 determines a pumpout is not necessary, he or she must estimate
51 the date when a pumpout will become necessary and provide that
52 date to the septic tank owner and the local health unit.

53 4. Exempt septic systems that require an operating permit.

54 5. Require 60 days notification to the septic tank owner
55 that the septic tank is due for an evaluation.

56 6. Authorize the local health units of the department to
57 assess a fee paid by the owner of the septic tank to cover the
58 costs of administering the evaluation program.

59 7. Provide penalties for licensed septic tank contractors
60 who do not comply with the requirements of the adopted
61 ordinance.

62 8. Provide penalties for septic tank owners who do not
63 comply with requirements of the adopted ordinance.

64 (b) A county or municipality located within the watershed
65 of a water body or water segment that is listed as impaired by
66 nutrients pursuant to s. 403.067, or an Outstanding Florida
67 Water as designated by the Department of Environmental
68 Protection, may adopt the model ordinance developed by the
69 department for a five-year septic tank evaluation program. A
70 county or municipality may adopt additional or more stringent
71 procedures than the model ordinance if it documents that it has
72 considered all relevant scientific information, including input
73 from the department and the Department of Environmental
74 Protection, on the need for additional or more stringent
75 evaluation procedures. The additional or more stringent
76 procedures must address septic tank use as a contributor to
77 nutrient loading to a water body. All documentation must become
78 part of the public record before adoption of the additional or
79 more stringent procedures.

80 (c) Any county or municipality that adopts its own septic
81 tank evaluation program by ordinance before January 1, 2012, is
82 exempt from this subsection. Such ordinances adopted or amended
83 on or after January 1, 2012, must substantively conform to the
84 most recent version of the model septic tank evaluation program
85 ordinance and are subject to this subsection, as applicable.

86 (d) By January 1, 2012, the Department of Environmental
87 Protection shall adopt rules that provide the minimum scientific

88 methodologies, data, or tools that shall be used by a county or
89 municipality to support the request for an exemption as provided
90 for in paragraph (e).

91 (e) A county or municipality, upon application to the
92 Department of Environmental Protection, may seek to have
93 specific geographic areas exempted from the requirements of a
94 septic tank evaluation program ordinance by demonstrating that
95 activities within such areas will not lead to new or continued
96 nutrient loading.

97 (f) Pursuant to paragraph (e), the Department of
98 Environmental Protection may approve or deny an application for
99 an exemption, or may modify the boundaries of the specific
100 geographic areas for which an exemption is sought. The ruling of
101 the Department of Environmental Protection on the applicant's
102 request shall constitute a final agency action subject to review
103 pursuant to ss. 120.569 and 120.57.

104 ~~(a) Beginning January 1, 2011, the department shall~~
105 ~~administer an onsite sewage treatment and disposal system~~
106 ~~evaluation program for the purpose of assessing the fundamental~~
107 ~~operational condition of systems and identifying any failures~~
108 ~~within the systems. The department shall adopt rules~~
109 ~~implementing the program standards, procedures, and~~
110 ~~requirements, including, but not limited to, a schedule for a 5-~~
111 ~~year evaluation cycle, requirements for the pump-out of a system~~
112 ~~or repair of a failing system, enforcement procedures for~~
113 ~~failure of a system owner to obtain an evaluation of the system,~~
114 ~~and failure of a contractor to timely submit evaluation results~~
115 ~~to the department and the system owner. The department shall~~
116 ~~ensure statewide implementation of the evaluation and assessment~~

117 ~~program by January 1, 2016.~~

118 ~~(b) Owners of an onsite sewage treatment and disposal~~
119 ~~system, excluding a system that is required to obtain an~~
120 ~~operating permit, shall have the system evaluated at least once~~
121 ~~every 5 years to assess the fundamental operational condition of~~
122 ~~the system, and identify any failure within the system.~~

123 ~~(c) All evaluation procedures must be documented and~~
124 ~~nothing in this subsection limits the amount of detail an~~
125 ~~evaluator may provide at his or her professional discretion. The~~
126 ~~evaluation must include a tank and drainfield evaluation, a~~
127 ~~written assessment of the condition of the system, and, if~~
128 ~~necessary, a disclosure statement pursuant to the department's~~
129 ~~procedure.~~

130 ~~(d)1. Systems being evaluated that were installed prior to~~
131 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~
132 ~~bottom of the drainfield to the wettest season water table~~
133 ~~elevation as defined by department rule. All drainfield repairs,~~
134 ~~replacements or modifications to systems installed prior to~~
135 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
136 ~~the bottom of the drainfield to the wettest season water table~~
137 ~~elevation as defined by department rule.~~

138 ~~2. Systems being evaluated that were installed on or after~~
139 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
140 ~~the bottom of the drainfield to the wettest season water table~~
141 ~~elevation as defined by department rule. All drainfield repairs,~~
142 ~~replacements or modification to systems developed on or after~~
143 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~
144 ~~the bottom of the drainfield to the wettest season water table~~
145 ~~elevation.~~

146 ~~(c) If documentation of a tank pump out or a permitted new~~
147 ~~installation, repair, or modification of the system within the~~
148 ~~previous 5 years is provided, and states the capacity of the~~
149 ~~tank and indicates that the condition of the tank is not a~~
150 ~~sanitary or public health nuisance pursuant to department rule,~~
151 ~~a pump out of the system is not required.~~

152 ~~(f) Owners are responsible for paying the cost of any~~
153 ~~required pump out, repair, or replacement pursuant to department~~
154 ~~rule, and may not request partial evaluation or the omission of~~
155 ~~portions of the evaluation.~~

156 ~~(g) Each evaluation or pump out required under this~~
157 ~~subsection must be performed by a septic tank contractor or~~
158 ~~master septic tank contractor registered under part III of~~
159 ~~chapter 489, a professional engineer with wastewater treatment~~
160 ~~system experience licensed pursuant to chapter 471, or an~~
161 ~~environmental health professional certified under chapter 381 in~~
162 ~~the area of onsite sewage treatment and disposal system~~
163 ~~evaluation.~~

164 ~~(h) The evaluation report fee collected pursuant to s.~~
165 ~~381.0066(2)(b) shall be remitted to the department by the~~
166 ~~evaluator at the time the report is submitted.~~

167 ~~(i) Prior to any evaluation deadline, the department must~~
168 ~~provide a minimum of 60 days' notice to owners that their~~
169 ~~systems must be evaluated by that deadline. The department may~~
170 ~~include a copy of any homeowner educational materials developed~~
171 ~~pursuant to this section which provides information on the~~
172 ~~proper maintenance of onsite sewage treatment and disposal~~
173 ~~systems.~~

174 Section 2. Section 381.00656, Florida Statutes, is

175 repealed:

176 ~~381.00656 Grant program for repair of onsite sewage~~
177 ~~treatment disposal systems. Effective January 1, 2012, the~~
178 ~~department shall administer a grant program to assist owners of~~
179 ~~onsite sewage treatment and disposal systems identified pursuant~~
180 ~~to s. 381.0065 or the rules adopted thereunder. A grant under~~
181 ~~the program may be awarded to an owner only for the purpose of~~
182 ~~inspecting, pumping, repairing, or replacing a system serving a~~
183 ~~single-family residence occupied by an owner with a family~~
184 ~~income of less than or equal to 133 percent of the federal~~
185 ~~poverty level at the time of application. The department may~~
186 ~~prioritize applications for an award of grant funds based upon~~
187 ~~the severity of a system's failure, its relative environmental~~
188 ~~impact, the income of the family, or any combination thereof.~~
189 ~~The department shall adopt rules establishing the grant~~
190 ~~application and award process, including an application form.~~
191 ~~The department shall seek to make grants in each fiscal year~~
192 ~~equal to the total amount of grant funds available, with any~~
193 ~~excess funds used for grant awards in subsequent fiscal years.~~

194 Section 3. Subsection (2) of section 381.0066, Florida
195 Statutes, is amended to read:

196 381.0066 Onsite sewage treatment and disposal systems;
197 fees.—

198 (2) The minimum fees in the following fee schedule apply
199 until changed by rule by the department within the following
200 limits:

201 (a) Application review, permit issuance, or system
202 inspection, including repair of a subsurface, mound, filled, or
203 other alternative system or permitting of an abandoned system: a

204 fee of not less than \$25, or more than \$125.

205 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
206 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
207 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
208 ~~shall be used to fund a grant program established under s.~~
209 ~~381.00656.~~

210 (b)(e) Site evaluation, site reevaluation, evaluation of a
211 system previously in use, or a per annum septage disposal site
212 evaluation: a fee of not less than \$40, or more than \$115.

213 (c)(d) Biennial Operating permit for aerobic treatment
214 units or performance-based treatment systems: a fee of not more
215 than \$100.

216 (d)(e) Annual operating permit for systems located in areas
217 zoned for industrial manufacturing or equivalent uses or where
218 the system is expected to receive wastewater which is not
219 domestic in nature: a fee of not less than \$150, or more than
220 \$300.

221 (e)(f) Innovative technology: a fee not to exceed \$25,000.

222 (f)(g) Septage disposal service, septage stabilization
223 facility, portable or temporary toilet service, tank
224 manufacturer inspection: a fee of not less than \$25, or more
225 than \$200, per year.

226 (g)(h) Application for variance: a fee of not less than
227 \$150, or more than \$300.

228 (h)(i) Annual operating permit for waterless, incinerating,
229 or organic waste composting toilets: a fee of not less than \$50,
230 or more than \$150.

231 (i)(j) Aerobic treatment unit or performance-based
232 treatment system maintenance entity permit: a fee of not less

233 than \$25, or more than \$150, per year.

234 (j)~~(k)~~ Reinspection fee per visit for site inspection after
235 system construction approval or for noncompliant system
236 installation per site visit: a fee of not less than \$25, or more
237 than \$100.

238 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
239 each new system construction permit issued to be used to fund
240 onsite sewage treatment and disposal system research,
241 demonstration, and training projects. Five dollars from any
242 repair permit fee collected under this section shall be used for
243 funding the hands-on training centers described in s.
244 381.0065(3)(j).

245 (l)~~(m)~~ Annual operating permit, including annual inspection
246 and any required sampling and laboratory analysis of effluent,
247 for an engineer-designed performance-based system: a fee of not
248 less than \$150, or more than \$300.

249
250 ~~On or before January 1, 2011, the Surgeon General, after~~
251 ~~consultation with the Revenue Estimating Conference, shall~~
252 ~~determine a revenue neutral fee schedule for services provided~~
253 ~~pursuant to s. 381.0065(5) within the parameters set in~~
254 ~~paragraph (b). Such determination is not subject to the~~
255 ~~provisions of chapter 120. The funds collected pursuant to this~~
256 ~~subsection must be deposited in a trust fund administered by the~~
257 ~~department, to be used for the purposes stated in this section~~
258 ~~and ss. 381.0065 and 381.00655.~~

259 Section 4. This act shall take effect upon becoming a law.