By the Committees on Appropriations; Agriculture; and Environmental Preservation and Conservation; and Senators Dean, Montford, Soto, Simmons, Hays, Altman, and Abruzzo

576-04556B-14 20141576c3

A bill to be entitled

An act relating to springs; amending s. 373.042, F.S.; requiring the Department of Environmental Protection or the governing board of a water management district to establish the minimum flow and water level for an Outstanding Florida Spring; specifying minimum flows and water levels for an Outstanding Florida Spring; amending s. 373.0421, F.S.; conforming a cross-reference; creating part VIII of chapter 373, F.S., entitled "Florida Springs and Aquifer Protection Act"; creating s. 373.801, F.S.; providing legislative findings and intent; creating s. 373.802, F.S.; defining terms; creating s. 373.803, F.S.; requiring the Department of Environmental Protection to delineate a spring protection and management zone for each Outstanding Florida Spring; requiring the department to adopt by rule maps that depict the delineation of each spring protection and management zone for each Outstanding Florida Spring; providing a deadline; creating s. 373.805, F.S.; requiring the water management districts to adopt minimum flows and levels for Outstanding Florida Springs; requiring a water management district to implement a recovery or prevention strategy under certain circumstances; providing minimum criteria; providing deadlines; creating s. 373.807, F.S.; requiring assessments for Outstanding Florida Springs; requiring the Department of Environmental Protection to develop basin management action plans, providing minimum criteria,

providing deadlines; requiring local governments to adopt an urban fertilizer ordinance; requiring local governments to develop onsite sewage treatment and disposal system remediation plans; creating s. 373.809, F.S.; requiring the department to adopt rules to fund pilot projects; providing minimum ranking criteria; creating s. 373.811, F.S.; specifying prohibited activities within a spring protection and management zone of an Outstanding Florida Spring; creating s. 373.813, F.S.; providing rulemaking authority; creating s. 373.815, F.S.; requiring the Department of Environmental Protection to submit annual reports; providing funding in the General Appropriations Act for fiscal year 2014-2015; providing effective dates.

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

Section 1. Subsection (1) of section 373.042, Florida Statutes, is amended to read:

373.042 Minimum flows and levels.—

(1) Within each section, or <u>within</u> the water management district as a whole, the department or the governing board shall establish the following:

(a) Minimum flow for all surface watercourses in the area. The minimum flow for a given watercourse <u>is</u> ~~shall be~~ the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

(b) Minimum water level. The minimum water level <u>is</u> ~~shall~~

~~be~~ the level of groundwater in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources of the area.

(c) Minimum flow and minimum water level for an Outstanding Florida Spring, as defined in s. 373.802. The minimum flow and minimum water level are the limit and level, respectively, at which further withdrawals would be harmful to the water resources or ecology of the area.

The minimum flow and minimum water level shall be calculated by the department and the governing board using the best information available. When appropriate, minimum flows and minimum water levels may be calculated to reflect seasonal variations. The department and the governing board shall ~~also~~ consider, and at their discretion may provide for, the protection of nonconsumptive uses in the establishment of minimum flows and minimum water levels.

Section 2. Paragraph (a) of subsection (1) of section 373.0421, Florida Statutes, is amended to read:

373.0421 Establishment and implementation of minimum flows and levels.—

(1) ESTABLISHMENT.—

(a) *Considerations.*—When establishing minimum flows and minimum water levels pursuant to s. 373.042, the department or governing board shall consider changes and structural alterations to watersheds, surface waters, and aquifers and the effects such changes or alterations have had, and the constraints such changes or alterations have placed, on the hydrology of an affected watershed, surface water, or aquifer,

provided that nothing in this paragraph shall allow significant harm as provided by s. 373.042(1)(a) and (b), or harm as provided by s. 373.042(1)(c), caused by withdrawals.

Section 3. Part VIII of chapter 373, Florida Statutes, consisting of sections 373.801, 373.802, 373.803, 373.805, 373.807, 373.809, 373.811, 373.813, and 373.815, Florida Statutes, is created and entitled the "Florida Springs and Aquifer Protection Act."

Section 4. Section 373.801, Florida Statutes, is created to read:

373.801 Legislative findings and intent.—

(1) The Legislature finds that springs are a unique part of this state's scenic beauty. Springs provide critical habitat for plants and animals, including many endangered or threatened species. Springs also provide immeasurable natural, recreational, economic, and inherent value. Flow level and water quality of springs are indicators of local conditions of the Floridan Aquifer, which is the source of drinking water for many residents of this state. Springs are of great scientific importance in understanding the diverse functions of aquatic ecosystems. In addition, springs provide recreational opportunities for swimming, canoeing, wildlife watching, fishing, cave diving, and many other activities in this state. Because of such recreational opportunities and the accompanying tourism, state and local economies benefit from many of the springs in this state.

(2) Water quantity and water quality in springs are related. For regulatory purposes, the department has primary responsibility for water quality; the water management districts

have primary responsibility for water quantity; the Department of Agriculture and Consumer Services has primary responsibility for the development and implementation of best management practices; and local governments have primary responsibility for providing wastewater and stormwater management. The foregoing responsible entities must work together in a coordinated manner to restore and maintain the water quantity and water quality for Outstanding Florida Springs.

(3) The Legislature recognizes that:

(a) Springs are only as healthy as their springsheds. The groundwater that supplies springs is derived from water that recharges the aquifer system in the form of seepage from the land surface and through direct conduits such as sinkholes. Springs may be adversely affected by polluted runoff from urban and agricultural lands; discharge resulting from inadequate wastewater and stormwater management practices; stormwater runoff; and the reduced water levels of the Floridan Aquifer. As a result, the hydrologic and environmental conditions of a spring or spring run are directly influenced by activities and land uses within a springshed and by water withdrawals from the Floridan Aquifer.

(b) Springs, whether found in urban or rural settings, or on public or private lands, are threatened by actual or potential flow reductions and declining water quality. Many of this state's springs are demonstrating signs of significant ecological imbalance, increased nutrient loading, and declining water flow. Without effective remedial actions, further declines in water quality and water quantity may occur.

(c) Springshed boundaries and areas of high vulnerability

within a springshed need to be identified and delineated using the best available data.

(d) Because springsheds cross water management district and local government jurisdictional boundaries, a coordinated statewide springs protection plan is needed.

(e) The aquifers and springs of this state are complex systems affected by many variables and influences.

(4) The Legislature recognizes that sufficient information exists to act, action is urgently needed, and action can be continually modified as additional data is acquired.

Section 5. Section 373.802, Florida Statutes, is created to read:

373.802 Definitions.—As used in this part, the term:

(1) "Department" means the Department of Environmental Protection, which includes the Florida Geological Survey or its successor agency or agencies.

(2) "Local government" means a county or municipal government the jurisdictional boundaries of which include an Outstanding Florida Spring, or any part of a delineated springshed or spring protection and management zone for an Outstanding Florida Spring.

(3) "Onsite sewage treatment and disposal system" means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on

other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. The term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

(4) "Outstanding Florida Spring" includes all historic first magnitude springs, as determined by the department using the most recent Florida Geological Survey springs bulletin, and the following springs, and their associated spring runs:

(a) DeLeon Spring;

(b) Peacock Spring;

(c) Poe Spring;

(d) Rock Springs;

(e) Wekiwa Spring; and

(f) Gemini Spring.

(5) "Spring protection and management zone" means the area or areas of a springshed where the Floridan Aquifer is vulnerable to sources of contamination or reduced levels, as determined by the department in consultation with the appropriate water management districts.

(6) "Spring run" means a body of flowing water that originates from a spring or whose primary source of water is a spring or springs under average rainfall conditions.

(7) "Springshed" means the areas within the groundwater and surface water basins which contribute, based upon all relevant facts, circumstances, and data, to the discharge of a spring as defined by potentiometric surface maps and surface watershed boundaries.

(8) "Spring vent" means a location where groundwater flows

out of a natural, discernable opening in the ground onto the land surface or into a predominantly fresh surface waterbody.

Section 6. Section 373.803, Florida Statutes, is created to read:

373.803 Delineation of spring protection and management zones for Outstanding Florida Springs.—Using the best data available from the water management districts and other credible sources, the department, in coordination with the water management districts, shall delineate one or more spring protection and management zones for each Outstanding Florida Spring. In delineating spring protection and management zones, the department shall consider groundwater travel time to the spring, hydrogeology, and nutrient load. The delineation of spring protection and management zones must be completed by July 1, 2015. In conjunction with delineating a spring protection and management zone for an Outstanding Florida Spring, the department shall adopt by rule, pursuant to ss. 120.536(1) and 120.54, maps and legal descriptions that depict the delineated spring protection and management zone or zones for that spring as soon as practicable but no later than July 1, 2016.

Section 7. Section 373.805, Florida Statutes, is created to read:

373.805 Minimum flows and minimum water levels for Outstanding Florida Springs.—

(1)(a) Each water management district shall establish a minimum flow and minimum water level for each Outstanding Florida Spring within its jurisdiction by July 1, 2015, in accordance with ss. 373.042 and 373.0421. The deadline may be extended each year until July 1, 2022, if a water management

district provides sufficient evidence to the department that an extension is in the best interest of the public.

(b) If an area contributes or has contributed to the flow of an Outstanding Florida Spring and that area is in more than one water management district or is impacted by withdrawals outside of the water management district where the Outstanding Florida Spring is located, the department, in conjunction with the affected water management districts, shall establish a minimum flow and minimum water level by July 1, 2017, in accordance with ss. 373.042 and 373.0421.

(2) At the time a minimum flow or minimum water level is adopted for an Outstanding Florida Spring, if the spring is below or is projected within 20 years to fall below the initial minimum flow or minimum water level, a water management district, pursuant to paragraph (1)(a), or the department, pursuant to paragraph (1)(b), shall simultaneously adopt a recovery or prevention strategy required by s. 373.0421.

(3) For an Outstanding Florida Spring, a minimum flow and minimum water level adopted before July 1, 2014, must be revised by July 1, 2017. When a minimum flow or minimum water level is revised, if the spring is below or is projected within 20 years to fall below the revised minimum flow or minimum water level, a water management district, pursuant to paragraph (1)(a), or the department, pursuant to paragraph (1)(b), shall simultaneously adopt a recovery or prevention strategy required by s. 373.0421(2) or modify an existing recovery or prevention strategy. A district or the department may adopt the revised minimum flow and minimum water level prior to the adoption of a recovery or prevention strategy if the revised minimum flow and

minimum water level is less constraining on existing or projected future consumptive uses.

(4) For an Outstanding Florida Spring without an adopted recovery or prevention strategy, when a district or the department determines the spring has fallen below, or is projected within 20 years to fall below the adopted minimum flow or minimum water level, a water management district, pursuant to paragraph (1)(a), or the department, pursuant to paragraph (1)(b), shall expeditiously adopt a recovery or prevention strategy.

(5) The recovery or prevention strategy for each Outstanding Florida Spring must include, at a minimum:

(a) A listing of all specific projects identified for implementation of a recovery or prevention strategy.

(b) A priority listing of each project.

(c) The estimated cost for each listed project.

(d) For each listed project, the estimated date of completion.

(e) The source and amount of financial assistance to be made available by the water management district for each listed project, which may not be less than 25 percent of the total project cost unless a specific funding source or sources are identified which will provide more than 75 percent of the total project cost. The Northwest Florida Water Management District and the Suwannee River Water Management District are not required to provide matching funds pursuant to this paragraph.

(f) An estimate of each listed project's benefit to an Outstanding Florida Spring.

(g) A map and legal descriptions depicting the spring

protection and management zones established pursuant to s. 373.803.

(h) An implementation plan to achieve the adopted minimum flow and minimum water level within 15 years after the adoption of a recovery or prevention strategy. The plan must include measureable interim milestones to be achieved within 5 and 10 years to achieve the adopted minimum flow and minimum water level.

(6) A local government may apply for an extension of up to 5 years from the department for any project in an adopted recovery or prevention strategy. The department may grant the extension if the local government provides sufficient evidence to the department that an extension is in the best interest of the public. For a local government in a rural area of critical economic concern, as defined in s. 288.0656, the department may grant an extension of up to 10 years.

Section 8. Section 373.807, Florida Statutes, is created to read:

373.807 Protection of water quality in Outstanding Florida Springs.—By July 1, 2014, the department shall initiate assessment, pursuant to 403.067(3), of each Outstanding Florida Spring for which an impairment determination has not been made under the numeric nutrient standards in effect for spring vents. Assessments must be completed by July 1, 2017.

(1)(a) Simultaneously with the adoption of a nutrient total maximum daily load for an Outstanding Florida Spring, the department, or the department in conjunction with a water management district, shall initiate development of a basin management action plan, as specified in s. 403.067. For an

Outstanding Florida Spring with a nutrient total maximum daily load adopted prior to July 1, 2014, the department, or the department in conjunction with a water management district, shall initiate development of a basin management action plan by July 1, 2014. During the development of a basin management action plan, if the department identifies onsite sewage treatment and disposal systems as nonpoint sources of nutrient pollution that need addressing within a local government jurisdiction, the department shall notify the local government within 30 days, which shall develop an onsite sewage treatment and disposal system remediation plan pursuant to subsection (3) for inclusion in the basin management action plan.

(b) A basin management action plan for an Outstanding Florida Spring shall be adopted within 3 years after its initiation and must include, at a minimum:

1. A list of all specific projects identified to implement a nutrient total maximum daily load.

2. A list of all specific projects identified in an onsite sewage treatment and disposal system remediation plan, if applicable.

3. A priority rank for each listed project.

4. The estimated cost for each listed project.

5. For each listed project, the estimated date of completion.

6. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project.

7. An estimate of each listed project’s nutrient load reduction.

8. A map and legal descriptions depicting the spring protection and management zones established pursuant to s. 373.803.

9. Identification of each point source or category of nonpoint sources, including, but not limited to, urban turf fertilizer, sports turf fertilizer, agricultural fertilizer, onsite sewage treatment and disposal systems, wastewater treatment facilities, animal wastes, and stormwater facilities. An estimated allocation of the pollutant load must be provided for each point source or category of nonpoint sources.

10. An implementation plan to achieve the adopted nutrient total maximum daily load within 15 years the adoption of a basin management action plan. The plan must include measureable interim milestones to be achieved within 5 and 10 years to achieve the adopted nutrient total maximum daily load.

(c) For a basin management action plan adopted before July 1, 2014, that addresses an Outstanding Florida Spring, the department, or the department in conjunction with a water management district, shall revise the plan by July 1, 2017, pursuant to this section.

(d) Upon approval of an onsite sewage treatment and disposal system remediation plan, the plan shall be deemed incorporated as part of the appropriate basin management action plan until such time as the basin management action plan is revised pursuant to s. 403.067(7).

(e) A local government may apply for an extension of up to 5 years from the department for any project in an adopted basin management action plan. The department may grant the extension if the local government provides sufficient evidence to the

department that an extension is in the best interest of the public. For a local government in a rural area of critical economic concern, as defined in s. 288.0656, the department may grant an extension of up to 10 years.

(2) Within 6 months of the delineation of a spring protection and management zone or zones of an Outstanding Florida Spring that is fully or partially within the jurisdiction of a local government, a local government must develop, enact, and implement an ordinance that meets or exceeds the requirements of the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. Such ordinance must require that, within a spring protection and management zone of an Outstanding Florida Spring with an adopted nutrient total maximum daily load, the nitrogen application rate of any fertilizer applied to turf or landscape plants may not exceed the lowest, basic maintenance rate of the most recent recommendations by the Institute of Food and Agricultural Sciences. The department shall adopt rules to implement this paragraph which establish reasonable minimum standards and reflect advancements or improvements regarding nutrient load reductions.

(3) By July 1, 2016, the department, in conjunction with the Department of Health and local governments, must identify onsite sewage treatment and disposal systems within each spring protection and management zone. Within 60 days after the department's completion of the identification of these systems, the department shall provide the location of these systems to the local governments in which they are located. If notified by the department pursuant to subsection (1), the local government,

in consultation with the department, shall develop an onsite sewage treatment and disposal system remediation plan within 12 months of notification by the department. For each onsite sewage treatment and disposal system or group of systems, the plan must include whether the systems require upgrading, connection to a central sewerage system, or no action. The plan must also include a priority ranking for each system or group of systems that require remediation. Each remediation plan must be submitted to the department for approval.

(a) In reviewing and approving the remediation plans, the department shall consider, at a minimum:

1. The density of onsite sewage treatment and disposal systems.

2. The number of onsite sewage treatment and disposal systems.

3. The proximity of the onsite sewage treatment and disposal system or systems to an Outstanding Florida Spring

4. The estimated nutrient loading of the onsite sewage treatment and disposal system or systems.

5. The cost of the proposed remedial action.

(b) Prior to submitting an onsite sewage treatment and disposal system remediation plan to the department, the local government shall hold at least one public meeting to provide the public an opportunity to comment on the plan. The approval of an onsite sewage treatment and disposal system remediation plan by the department constitutes a final agency action.

(c) If a local government does not substantially comply with this subsection, it may be ineligible for funding pursuant to s. 373.809.

(4) With respect to implementation of an onsite sewage treatment and disposal system remediation plan, a property owner with an onsite sewage treatment and disposal system identified by the plan may not be required to pay any of the costs of a system inspection or for upgrading a system, or connection fees for connection to a sanitary sewer system. This subsection does not apply to local government programs in existence before July 1, 2014, that are inconsistent with this subsection.

Section 9. Section 373.809, Florida Statutes, is created to read:

373.809 Funding for the restoration and preservation of Outstanding Florida Springs.—

(1) By December 31, 2014, the department shall adopt rules to fund pilot projects that test the effectiveness of innovative or existing nutrient reduction or water conservation technologies or practices designed to minimize nutrient pollution in the springs of this state. The department may approve funding for pilot projects each funding cycle if the department determines that the pilot project will not be harmful to the ecological resources in the study area.

(2) By December 31, 2014, the department shall adopt rules to evaluate, rank, and select projects eligible for funding under this part or land acquisition pursuant to s. 201.15(1)(c)3.b. In developing these rules, the department shall give preference to the projects that will result in the greatest improvement to water quality and water quantity for the dollars to be expended for the project. At a minimum, the department shall consider:

(a) The level of nutrient impairment of the Outstanding

Florida Spring in which the project is located.

(b) The quantity of pollutants, particularly total nitrogen, the project is estimated to remove from an Outstanding Florida Spring with an adopted nutrient total maximum daily load.

(c) The flow necessary to restore the Outstanding Florida Spring to its adopted minimum flow or minimum water level.

(d) The anticipated impact the project will have on restoring or increasing water flow or water level.

(e) The amount of matching funds for the project that will be provided by the entities responsible for implementing the project.

(f) Whether the project is located in a rural area of critical economic concern, as defined in s. 288.0656, with preference given to the local government responsible for implementing the project.

(g) For multiple-year projects, whether the project has funding sources that are identified and assured through the expected completion date of the project.

(h) The cost of the project and the length of time it will take to complete relative to its expected benefits.

(i) Whether the entities responsible for implementing the project, since July 1, 2009, have used their own funds for projects to improve water quality or conserve water use within a springshed or spring protection and management zone of an Outstanding Florida Spring, with preference given to those entities that have expended such funds.

Section 10. Section 373.811, Florida Statutes, is created to read:

373.811 Prohibited activities within a spring protection and management zone of an Outstanding Florida Spring.—The following activities are prohibited within a spring protection and management zone of an Outstanding Florida Spring:

(1) New municipal or industrial wastewater disposal facilities, including rapid infiltration basins, with permitted capacities of 100,000 gallons per day or more, except for those facilities that meet an advanced wastewater treatment standard of no more than 3 mg/L Total Nitrogen, expressed as N, on an annual permitted basis, or a higher treatment standard if the department determines the higher standard is necessary to prevent impairment or aid in the recovery of an Outstanding Florida Spring.

(2) New onsite sewage treatment and disposal systems on lots less than 1 acre, except for passive nitrogen removing onsite sewage treatment and disposal systems approved by the Department of Health. This subsection does not take effect until 6 months after the Department of Health has approved such a system for use.

(3) New facilities for the disposal of hazardous waste.

(4) The land application of Class A or B domestic wastewater biosolids or septage.

(5) New agriculture operations that do not implement best management practices, measures necessary to achieve pollution reduction levels established by the department, or a groundwater monitoring plan approved by a water management district or the department.

Section 11. Section 373.813, Florida Statutes, is created to read:

373.813 Rules.—

(1) The department shall adopt rules to create a program to improve water quantity and water quality pursuant to ss. 120.536(1) and 120.54 to administer this part, as applicable. In developing rules to administer s. 373.809, the department shall use the Total Maximum Daily Load Water Quality Restoration Grants rule as guidance to develop a comparable program for the restoration and protection of the water quality and water quantity for Outstanding Florida Springs.

(2) The Department of Health, the Department of Agriculture and Consumer Services, and the water management districts may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this part, as applicable.

(3)(a) The Department of Agriculture and Consumer Services is the lead agency coordinating the reduction of agricultural nonpoint sources of pollution for the protection of Outstanding Florida Springs. The Department of Agriculture and Consumer Services and the department, pursuant to s. 403.067(7)(c)4., shall study new or revised best management practices for improving and protecting Outstanding Florida Springs and, if necessary, in cooperation with applicable local governments and stakeholders, initiate rulemaking to require the implementation of such practices within a reasonable time period.

(b) The department, the Department of Agriculture and Consumer Services, and the University of Florida's Institute of Food and Agricultural Sciences shall cooperate in conducting the necessary research and demonstration projects to develop improved or additional nutrient management tools, including the use of controlled release fertilizer that can be used by

agricultural producers as part of an agricultural best management practices program. The development of such tools must reflect a balance between water quality improvement and agricultural productivity and, when applicable, must be incorporated into the revised best management practices adopted by rule of the Department of Agriculture and Consumer Services.

Section 12. Section 373.815, Florida Statutes, is created to read:

373.815 Reports.—By July 1, 2015, and annually thereafter on July 1, the department, in conjunction with the water management districts, shall submit progress reports to the Governor, President of the Senate, and Speaker of the House of Representatives on the status of each total maximum daily load, basin management action plan, minimum flow and minimum water level, and recovery or prevention strategy adopted pursuant to this part. The report must include the status of each project identified to achieve a total maximum daily load and a minimum flow and minimum water level, as applicable. If a report indicates that any of the interim 5 or 10 year milestones, or the 15 year deadline will not be met, the report must include specific corrective actions that will be taken to achieve these milestones and deadlines, and, if necessary, executive and legislative recommendations.

Section 13. For the 2014-15 fiscal year, funding for the Florida Springs and Aquifer Protection Act is provided in Specific Appropriations 1645 and 1390 in Senate Bill 2500, House Bill 5001, or similar legislation becoming law. Funding and implementation of this act for subsequent fiscal years shall be determined annually by the Legislature and provided in the

General Appropriations Act.

Section 14. This act shall take effect July 1, 2014.