

Tab 1	SB 492 by McClain ; Compare to H 01175 Mitigation Banking
Tab 2	SB 736 by Truenow (CO-INTRODUCERS) Brodeur ; Similar to H 00733 Brownfields
282782	D S RCS EN, Truenow Delete everything after 03/11 05:06 PM
Tab 3	SB 796 by Bradley ; Similar to H 00645 General Permits for Distributed Wastewater Treatment Systems
Tab 4	SB 800 by McClain ; Identical to H 01201 Requirements for Battery Manufacturers
Tab 5	SB 810 by Burgess ; Stormwater Management Systems
Tab 6	SB 1162 by Leek (CO-INTRODUCERS) Brodeur ; Identical to H 00735 Water Access Facilities
Tab 7	SB 1228 by McClain ; Identical to H 00691 Spring Restoration

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ENVIRONMENT AND NATURAL RESOURCES

Senator Rodriguez, Chair
Senator Ingoglia, Vice Chair

MEETING DATE: Tuesday, March 11, 2025

TIME: 4:00—6:00 p.m.

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

MEMBERS: Senator Rodriguez, Chair; Senator Ingoglia, Vice Chair; Senators Arrington, Avila, Brodeur, DiCeglie, Harrell, Polsky, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 492 McClain (Compare H 1175)	Mitigation Banking; Revising the schedule to which the Department of Environmental Protection and water management districts are required to adhere for the release of credits awarded by a mitigation bank permit; prohibiting the release of mitigation credits for freshwater wetland creation until certain criteria are met; authorizing certain projects or activities to use credits released from a bank to offset impacts if certain requirements are met, etc. EN 03/11/2025 Favorable AEG FP	Favorable Yeas 8 Nays 1
2	SB 736 Truenow (Similar H 733)	Brownfields; Deleting a provision requiring certain property owners to provide information regarding institutional controls to the local government for mapping purposes; revising the conditions under which an applicant that has rehabilitated a contaminated site may submit and claim certain tax credits; deleting the definition of the term "monetary compensation"; revising the date by which the Department of Environmental Protection must issue annual site rehabilitation tax credit certificate awards; prohibiting the department or a delegated local pollution control program from denying a specified status or refusing to issue a specified order for certain brownfield sites that are only a portion of larger contaminated sites, etc. EN 03/11/2025 Fav/CS AEG RC	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environment and Natural Resources

Tuesday, March 11, 2025, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 796 Bradley (Similar H 645)	General Permits for Distributed Wastewater Treatment Systems; Authorizing the Secretary of Environmental Protection to grant a general permit for the replacement of an existing onsite sewage treatment and disposal system with a distributed wastewater treatment system under certain circumstances; providing for the installation of distributed wastewater treatment units to proceed without any further action by the Department of Environmental Protection if a permittee submits a notification to the department at least a specified number of days before installation, etc. EN 03/11/2025 Favorable AEG FP	Favorable Yeas 9 Nays 0
4	SB 800 McClain (Identical H 1201)	Requirements for Battery Manufacturers; Prohibiting cell manufacturers or marketers from selling consumer or nonconsumer products powered by medium-format, portable, lithium, or primary batteries, etc. EN 03/11/2025 Favorable CM RC	Favorable Yeas 9 Nays 0
5	SB 810 Burgess	Stormwater Management Systems; Requiring each political subdivision to inspect annually by a specified date the known works under its normal and customary control, etc. EN 03/11/2025 Favorable ATD FP	Favorable Yeas 9 Nays 0
6	SB 1162 Leek (Identical H 735, Compare H 1001, S 1388)	Water Access Facilities; Providing sovereignty submerged land leases for Clean Marine Manufacturer facilities; providing competitive grant programs for the construction and maintenance of publicly owned parking for boat-hauling vehicles and trailers, etc. EN 03/11/2025 Favorable AEG FP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environment and Natural Resources

Tuesday, March 11, 2025, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1228 McClain (Identical H 691)	Spring Restoration; Authorizing certain domestic wastewater treatment facilities to request the incorporation of reclaimed water projects identified in Outstanding Florida Springs recovery or prevention strategies; requiring the Department of Environmental Protection to approve such requests within a certain period of time if certain conditions are met, etc. EN 03/11/2025 Favorable RI RC	Favorable Yeas 9 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
Florida Inland Navigation District			
8	Burkett, Austin (Jupiter)	01/09/2027	Recommend Confirm Yeas 9 Nays 0
	Trabulsy, Paul (Fort Pierce)	01/09/2027	Recommend Confirm Yeas 9 Nays 0
	Stapleford, James R. (Palm Coast)	01/09/2027	Recommend Confirm Yeas 9 Nays 0
	Crowley, T. Spencer (Miami)	01/09/2027	Recommend Confirm Yeas 9 Nays 0
	Callaway, Patrick S. (Jacksonville)	01/09/2027	Recommend Confirm Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 492

INTRODUCER: Senator McClain

SUBJECT: Mitigation Banking

DATE: March 10, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2. _____	_____	<u>AEG</u>	_____
3. _____	_____	<u>FP</u>	_____

I. Summary:

SB 492 provides a standardized schedule for releasing mitigation credits and removes the requirement that the Department of Environmental Protection (DEP) and water management districts determine the credit release schedule on a case-by-case basis pursuant to statutorily enumerated factors. The bill provides that credits must be released as follows:

- 30 percent upon recording a conservation easement and establishing financial assurances (or 100 percent for preservation-only banks).
- 30 percent after completing initial construction activities.
- 20 percent upon meeting interim performance criteria.
- 20 percent upon meeting final success criteria.

Additionally, the bill allows freshwater wetland creation credits to be released earlier, after initial construction success criteria are met.

The bill also allows project applicants to use mitigation credits from outside a mitigation service area when an insufficient number or type of credits are available within the impacted area. DEP or a water management district must verify the lack of appropriate credits within the regional watershed before approving credits outside the service area. The bill provides that the following multipliers would apply to credits outside the service area:

- 1.5 multiplier if credits are from an adjacent regional watershed.
- An additional 0.5 multiplier for each watershed beyond the adjacent one.
- An additional 0.75 multiplier for use of out-of-kind mitigation which does not match the impacted wetland or surface water type.

The bill also requires mitigation banks to submit annual reports detailing the number and type of available credits for sale. DEP and water management districts must compile these reports and provide an annual assessment of the state's mitigation banking system to the Legislature.

II. Present Situation:

Environmental Resource Permits (ERP)

Part IV of chapter 373, F.S., and chapter 62-330 of the Florida Administrative Code regulate the statewide ERP program, which governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and other works such as docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters.¹ ERP applications are processed by either the Department of Environmental Protection (DEP) or one of Florida's five water management districts.²

Permit applicants must demonstrate that the regulated activity will not be harmful to the water resources or will not be inconsistent with the overall objectives of the water management district.³ Applicants must provide reasonable assurance that state water quality standards will not be violated and that the proposed activity is not contrary to the public interest.⁴ If a proposed activity significantly degrades or is within an Outstanding Florida Water,⁵ the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest.⁶ In determining whether an activity is contrary to the public interest or clearly in the public interest, the water management district or DEP must consider and balance the following criteria:

- Whether the activity will adversely affect the public health, safety, or welfare or the property of others;
- Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
- Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
- Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
- Whether the activity will be of a temporary or permanent nature;
- Whether the activity will adversely affect or will enhance significant historical and archaeological resources; and
- The current condition and relative value of functions being performed by areas affected by the proposed activity.⁷

If the applicant is unable to otherwise meet this criteria, DEP or the governing board of a water management district, in deciding to grant or deny a permit, must consider measures proposed by

¹ Fla. Admin. Code R. 62-330.010(2).

² DEP, *Environmental Resource Permitting Coordination, Assistance, Portals*, [https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/environmental-resource-permitting#:~:text=The%20Environmental%20Resource%20Permit%20\(ERP,alteration%20of%20surface%20water%20flow](https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/environmental-resource-permitting#:~:text=The%20Environmental%20Resource%20Permit%20(ERP,alteration%20of%20surface%20water%20flow) (last visited Mar. 5, 2025).

³ Section 373.414(1), F.S.

⁴ *Id.*

⁵ An Outstanding Florida Water is a water designated worthy of special protection because of its natural attributes. DEP, *Outstanding Florida Waters*, <https://floridadep.gov/dear/water-quality-standards/content/outstanding-florida-waters> (last visited Feb. 7, 2025); see Fla. Admin. Code R. 62-302.700(2) and (9).

⁶ Section 373.414(1), F.S.

⁷ Section 373.414(1)(a), F.S.

or acceptable to the applicant to mitigate adverse effects of the regulated activity.⁸ Such measures may include onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks.⁹

In deciding whether to grant or deny a permit for an activity that affects surface waters or wetlands, DEP or the water management district must consider the cumulative impacts of:

- The proposed activity;
- Other projects that already exist, are under construction, or have applied for permits or formal wetland or surface water determinations;
- Activities related to developments of regional impact¹⁰ which are under review, approved, or vested, or other activities regulated under Part IV of chapter 373, F.S., which may reasonably be expected to be located within surface waters or wetlands in the same drainage basin based upon a local government's comprehensive plans.¹¹

These cumulative impacts must be evaluated within the same drainage basin as the proposed activity.¹²

Overview of Mitigation Banking

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable wetland impacts within a defined mitigation service area.¹³ Mitigation banks are alternative to permittee-responsible mitigation.¹⁴ Permittee-responsible mitigation refers to mitigation undertaken by the permittee to provide compensatory mitigation for which the permittee retains full responsibility.¹⁵

In mitigation banking, the bank is the site itself, and the currency sold by the banker to the impact permittee is a credit, representing the wetland ecological value equivalent to the complete restoration of one acre.¹⁶ Creation of a mitigation bank in Florida typically requires both a permit from DEP or a water management district and federal approval of a mitigation bank instrument from several agencies led by the U.S. Army Corps of Engineers (USACE), in a joint state/federal interagency review team.¹⁷ Requirements for mitigation bank permits differ between mitigation

⁸ Section 373.414(1)(b), F.S.

⁹ *Id.*

¹⁰ “Development of regional impact” means any development that, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county. Section 380.06(1), F.S.

¹¹ Section 373.414(8)(a), F.S.

¹² *Id.*

¹³ DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Feb. 17, 2025). “Mitigation service area” means the geographic area within which mitigation credits from a mitigation bank may be used to offset adverse impacts of activities regulated under this part. Section 373.403(21), F.S.

¹⁴ Section 373.4135(1)(b), F.S.

¹⁵ EPA, *Mechanisms for Providing Compensatory Mitigation under CWA Section 404*, <https://www.epa.gov/cwa-404/mechanisms-providing-compensatory-mitigation-under-cwa-section-404> (last visited Feb. 17, 2025).

¹⁶ DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Feb. 17, 2025).

¹⁷ DEP, *Mitigation Banking Rule and Procedure Synopsis*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and> (last visited Feb. 17, 2025).

bank instruments issued by USACE and state permits issued by DEP or water management districts.

The Uniform Mitigation Assessment Method (UMAM) was established as a way to determine the amount of mitigation needed to offset adverse impacts to wetlands and other surface waters and to award and deduct mitigation bank credits.¹⁸ UMAM provides a standardized procedure for assessing the ecological functions provided by wetlands and other surface waters, the amount that those functions are reduced by a proposed impact, and the amount of mitigation necessary to offset that loss.¹⁹ UMAM evaluates functions through consideration of an ecological community's current condition, hydrologic connection, uniqueness, location, fish and wildlife utilization, and mitigation risk.²⁰ This standardized methodology is also used to determine the degree of improvement in ecological value of proposed mitigation bank activities.²¹

State Mitigation Banking Regulations

To obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.²²

The applicant must also provide reasonable assurances that:

- Any surface water management system that will be constructed, altered, operated, maintained, abandoned, or removed within a mitigation bank will meet ERP requirements and related rules;
- The applicant has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- The applicant can meet the financial responsibility requirements prescribed for mitigation banks.²³

¹⁸ See section 373.414(18), F.S.

¹⁹ DEP, *The Uniform Mitigation Assessment Method (UMAM)*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/uniform-mitigation-assessment> (last visited Feb. 17, 2025).

²⁰ *Id.*

²¹ *Id.*

²² Section 373.4136(1), F.S.

²³ *Id.*; Fla. Admin. Code R. 62-342.400.

Mitigation Bank Credits

After evaluating the permit application, the permitting agency awards mitigation credits to a proposed mitigation bank or phase of such mitigation bank.²⁴ The number of credits awarded is based on the degree of improvement in ecological value expected to result from the establishment and operation of the mitigation bank as determined using a functional assessment methodology.²⁵ In determining the degree of improvement in ecological value, specific factors must be evaluated, including, among other things, the ecological and hydrological relationship between wetlands and uplands in the mitigation bank and the proximity of the mitigation bank to areas with regionally significant ecological resources or habitats, and the extent to which the mitigation bank provides habitat for fish and wildlife.²⁶

After awarding mitigation credits to a mitigation bank, the permitting agency establishes a schedule for the release of those credits in the mitigation bank permit.²⁷ A mitigation credit that has been released may be sold or used to offset adverse impacts from a regulated activity.²⁸ A portion of the mitigation credits can be released for sale or use prior to meeting all the performance criteria specified in the mitigation bank permit.²⁹ However, the permitting agency will only release the full amount of awarded credits after all success criteria are met.³⁰

The permitting agency determines the number of credits and schedule for release based on the performance criteria for the mitigation bank and the success criteria for each mitigation activity.³¹ The release schedule for a specific mitigation bank or phase thereof is related to the actions required to implement the bank, such as site protection, site preparation, earthwork, removal of wastes, planting, removal or control of nuisance and exotic species, installation of structures, and annual monitoring and management requirements for success. In determining the specific release schedule for a bank, the permitting agency must consider, at a minimum, the following factors:

- Whether the mitigation consists solely of preservation or includes other types of mitigation.
- The length of time anticipated to be required before a determination of success can be achieved.
- The ecological value to be gained from each action required to implement the bank.
- The financial expenditure required for each action to implement the bank.³²

However, no credit can be released for freshwater wetland creation until the success criteria included in the mitigation bank permit are met.³³

²⁴ Section 373.4136(4), F.S., An entity establishing and operating a mitigation bank may apply to modify the mitigation bank permit to seek the award of additional mitigation credits if the mitigation bank results in an additional increase in ecological value over the value contemplated at the time of the original permit issuance, or the most recent modification thereto involving the number of credits awarded. *Id.*

²⁵ *Id.*

²⁶ Section 373.4136(4), F.S.

²⁷ Section 373.4136(5), F.S.

²⁸ *Id.*

²⁹ Section 373.4136(5)(a), F.S.

³⁰ *Id.*

³¹ Section 373.4136(5)(b), F.S.

³² Section 373.4136(5)(b), F.S.

³³ Section 373.4136(5)(c), F.S.

Mitigation Service Area

During the permitting of a mitigation bank, the permitting agency (DEP or a water management district) determines the mitigation service area, which is the geographic region within which the bank could reasonably be expected to offset impacts.³⁴ In determining the boundaries of the mitigation service area, the permitting agency must consider the characteristics, size, and location of the mitigation bank and, at a minimum, the extent to which the mitigation bank:

- Contributes to a regional integrated ecological network;
- Will significantly enhance the water quality or restoration of an offsite receiving water body that is designated as an Outstanding Florida Water, a Wild and Scenic River, an aquatic preserve, a water body designated in a plan approved pursuant to the Surface Water Improvement and Management Act, or a nationally designated estuarine preserve;
- Will provide for the long-term viability of endangered or threatened species or species of special concern;
- Is consistent with the objectives of a regional management plan adopted or endorsed by the department or water management districts; and
- Can reasonably be expected to offset specific types of wetland impacts within a specific geographic area. A mitigation bank need not offset all expected impacts within its service area.³⁵

DEP and water management districts use regional watersheds to guide the establishment of mitigation service areas.³⁶ A mitigation service area may extend beyond the regional watershed in which the bank is located into all or part of other regional watersheds when the mitigation bank has the ability to offset adverse impacts outside that regional watershed.³⁷ Similarly, a mitigation service area may be smaller than the regional watershed in which the mitigation bank is located when adverse impacts throughout the regional watershed cannot reasonably be expected to be offset by the mitigation bank because of local ecological or hydrological conditions.³⁸

In general, mitigation credits may only be used to offset adverse impacts in the mitigation service area.³⁹ However, if certain requirements are met, the following projects may be eligible to use a mitigation bank regardless of whether they are located within the mitigation service area:

- Projects with adverse impacts partially located within the mitigation service area.
- Linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or certain seaports.
- Projects with total adverse impacts of less than one acre in size.⁴⁰

³⁴ DEP, *Mitigation Banking Rule and Procedure Synopsis*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and> (last visited Feb. 13, 2025); section 373.4136(6), F.S.

³⁵ *Id.*

³⁶ Section 373.4136(6)(b), F.S. Regional watersheds within each water management district are specifically delineated in DEP rules. See Fla. Admin. Code R. 62-342.200(9).

³⁷ Section 373.4136(6)(b), F.S.

³⁸ *Id.*

³⁹ Section 373.4136(6), F.S.

⁴⁰ Section 373.4136(6)(d), F.S.

Federal Mitigation Banking Regulations

For projects requiring a federal permit, a USACE district engineer determines the mitigation to be required in a mitigation bank permit based on what is practicable and capable of compensating for the aquatic resource functions that will be lost as a result of the permitted activity.⁴¹ When evaluating options for mitigation, USACE considers the type and location options in the following order (commonly referred to as the mitigation preference hierarchy):

- Mitigation bank credits;
- In-lieu fee program credits;⁴²
- Permittee-responsible mitigation under a watershed approach;⁴³
- Permittee-responsible mitigation through on-site and in-kind⁴⁴ mitigation; or
- Permittee-responsible mitigation through off-site and/or out-of-kind⁴⁵ mitigation.⁴⁶

In general, the required mitigation should be located within the same watershed as the impact site and where it is most likely to successfully replace lost functions and services, taking into account watershed scale features as aquatic habitat diversity, habitat connectivity, relationships to hydrologic sources, trends in land use, ecological benefits, and compatibility with adjacent land uses.⁴⁷ When compensating for impacts to marine resources, the location of the mitigation site should be chosen to replace lost functions and services within the same marine ecological system (e.g., reef complex, littoral drift cell).⁴⁸ Compensation for impacts to aquatic resources in coastal watersheds should also be located in a coastal watershed where practicable.⁴⁹

Mitigation Bank Credits

When permitted impacts are located within the service area of an approved mitigation bank, and the bank has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from a mitigation bank.⁵⁰ An approved instrument (including an approved mitigation plan and appropriate real estate and financial assurances) must be in place before credits can be used to compensate for

⁴¹ 33 C.F.R. 332.3(a)(1).

⁴² An in-lieu fee program is a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for DA permits. Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor. However, the rules governing the operation and use of in-lieu fee programs are somewhat different from the rules governing operation and use of mitigation banks. 33 C.F.R. 332.2.

⁴³ Permittee-responsible mitigation means an aquatic resource restoration, establishment, enhancement, and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility. 33 C.F.R. 332.2.

⁴⁴ In-kind means a resource of a similar structural and functional type to the impacted resource. 33 C.F.R. 332.2.

⁴⁵ Out-of-kind means a resource of a different structural and functional type from the impacted resource. 33 C.F.R. 332.2.

⁴⁶ See 33 C.F.R. 332.3(b).

⁴⁷ 33 C.F.R. 332.3(b)(1).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ 33 C.F.R. 332.3(b)(1).

authorized impacts.⁵¹ Mitigation bank credits are not released until specific milestones associated with the mitigation bank site's protection and development are achieved.⁵²

If USACE determines that mitigation is necessary to offset unavoidable impacts to aquatic resources, the amount of required mitigation must be, to the extent practicable, sufficient to replace lost aquatic resource functions.⁵³ USACE requires a mitigation ratio greater than one-to-one where necessary to account for (1) the distance between the affected aquatic resource and the compensation site, (2) the method of mitigation (e.g., preservation), (3) the likelihood of success, (4) differences between the functions lost at the impact site and the functions expected to be produced by the mitigation project, (5) temporal losses of aquatic resource functions, and/or (5) the difficulty of restoring or establishing the desired aquatic resource type and functions.⁵⁴

Mitigation Service Area

Under federal law, the mitigation service area is the watershed, ecoregion,⁵⁵ physiographic province, or other geographic area within which the mitigation bank is authorized to provide compensatory mitigation required by USACE permits.⁵⁶ The service area must be appropriately sized to ensure that the aquatic resources provided will effectively compensate for adverse environmental impacts across the entire service area.⁵⁷ For example, in urban areas, a U.S. Geological Survey 8-digit hydrologic unit code (HUC)⁵⁸ watershed or a smaller watershed may be an appropriate service area.⁵⁹ In rural areas, several contiguous 8-digit HUCs or a 6-digit HUC watershed may be an appropriate service area.⁶⁰ Delineation of the service area must also consider any locally-developed standards and criteria that may be applicable.⁶¹ The economic viability of the mitigation bank may also be considered in determining the size of the service area.⁶²

⁵¹ 33 C.F.R. 332.3(b)(2).

⁵² *Id.*

⁵³ 33 C.F.R. 332.3(f)(1).

⁵⁴ 33 C.F.R. 332.3(f)(2).

⁵⁵ Ecoregions are areas where ecosystems (and the type, quality, and quantity of environmental resources) are generally similar. A Roman numeral classification scheme has been adopted for different hierarchical levels of ecoregions, ranging from general regions to more detailed: Level I - 12 ecoregions in the continental U.S.; Level II - 25 ecoregions in the continental U.S.; Level III - 105 ecoregions in the continental U.S.; Level IV - 967 ecoregions in the conterminous U.S. EPA, *Ecoregions*, <https://www.epa.gov/eco-research/ecoregions> (last visited Feb. 14, 2025).

⁵⁶ 33 C.F.R. 332.8(d)(6)(ii)(A).

⁵⁷ *Id.*

⁵⁸ "HUC" means the hydrologic cataloging unit assigned to a geographic area representing a surface watershed drainage basin. Each unit is assigned a two- to 12-digit number that uniquely identifies each of the six levels of classification within six two-digit fields. United States Geological Survey (USGS), *Hydrologic Unit Codes (HUCs) Explained*, <https://nas.er.usgs.gov/hucs.aspx> (last visited Mar. 3, 2025). Eight-digit HUCs are used for large watersheds known as subbasins; 10-digit HUCs divide the large subbasins into watersheds; and 12-digit HUCs divide watersheds into subwatersheds that capture local tributary systems. EPA, *Hydrologic Unit Codes: HUC 4, HUC 8, and HUC 12*, available at <https://enviroatlas.epa.gov/enviroatlas/datafactsheets/pdf/Supplemental/HUC.pdf>; DEP, *About the Florida National Hydrography Dataset*, <https://floridadep.gov/dear/watershed-services-program/content/about-florida-national-hydrography-dataset> (last visited Mar. 3, 2025).

⁵⁹ 33 C.F.R. 332.8(d)(6)(ii)(A).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

USACE Proximity Factor Tool

USACE developed a proximity factor tool that may be used when there are insufficient mitigation credits within the approved mitigation bank service area. The tool is used to assess the number of credits required for any compensatory mitigation proposed outside of approved mitigation bank service areas.⁶³ The proximity factor is based on ratio multipliers for multiple variables.⁶⁴ The tool is only applied when USACE has determined that mitigation outside of the approved mitigation service area is the most environmentally preferable mitigation option.⁶⁵

The proximity factor tool applies the following multipliers:

- No multiplier if the impact site is outside of a mitigation bank service area boundary, but within the same 8-digit HUC that contains the mitigation bank location.
- 1.5 multiplier if the impact site is outside of a mitigation bank service area boundary and one 8-digit HUC away from the mitigation bank service area boundary.
- 0.25 multiplier for each additional 8-digit HUC away from the mitigation bank location.
- 0.75 multiplier if mitigation entails out-kind replacement (there is no multiplier if the mitigation entails in-kind replacement).
- 0.25 multiplier if mitigation occurs within a different EPA Level IV Ecoregion.⁶⁶

The sum of the applicable multipliers provides the proximity factor.⁶⁷ The resulting proximity factor is then multiplied by the number of credits required by USACE to compensate for unavoidable adverse effects to aquatic resources (e.g., via application of an approved functional assessment such as UMAM).⁶⁸ USACE has the discretion to consider and approve use of the proximity factor tool on a case-by-case basis.⁶⁹

Mitigation should be performed within the same 6-digit HUC.⁷⁰ When assessing the location of the mitigation site relative to the impact site, the calculation starts at the 8-digit HUC that contains the mitigation bank site.⁷¹

III. Effect of Proposed Changes:

Section 1 amends s. 373.4136, F.S., regarding the establishment and operation of mitigation banks. Currently, the Department of Environmental Protection (DEP) and water management districts are authorized to set the schedule for releasing mitigation credits to each mitigation bank

⁶³ USACE, *Standard Operating Procedure—Assessing a Proximity Factor for Compensatory Mitigation Required to Offset Unavoidable Impacts to Waters of the United States*, 1 (2023), available at <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll15/id/1998>.

⁶⁴ *Id.*

⁶⁵ *Id.* at 3.

⁶⁶ *Id.*

⁶⁷ USACE, *Standard Operating Procedure—Assessing a Proximity Factor for Compensatory Mitigation Required to Offset Unavoidable Impacts to Waters of the United States* at 1, 4, available at <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll15/id/1998>.

⁶⁸ *Id.*

⁶⁹ *Id.* at 5.

⁷⁰ *Id.* at 5.

⁷¹ *Id.*

on a case-by-case basis based on the performance criteria for the mitigation bank, the success criteria for each mitigation activity, and other enumerated factors.⁷²

The bill requires DEP and water management districts to adhere to the following credit release schedule:

- 30 percent of awarded credits for the recording of the conservation easement and establishment of financial assurances required by the mitigation bank permit, or 100 percent in the case of a preservation-only bank.
- 30 percent of awarded credits following completion of initial construction activities as established by the mitigation bank permit.
- 20 percent of awarded credits upon meeting interim performance criteria established by the mitigation bank permit, in increments as monitoring indicates success.
- 20 percent of awarded credits upon meeting final success criteria established by the mitigation bank permit

Currently, credits cannot be released for freshwater wetland creation until the success criteria included in the mitigation bank permit are met. The bill allows these types of credits to be released sooner, after the success criteria for initial construction activities are met.

The bill provides that once a mitigation bank service area has been established by DEP or a water management district, such service area must be considered to have met the cumulative impact requirements of s. 373.414(8)(a), F.S.,⁷³ for impacts permitted within any regional watershed included in the mitigation bank service area.

Currently, only certain projects can use credits from a mitigation bank outside the mitigation service area.⁷⁴ The bill expands this provision to provide that any project that meets the requirements set forth in the bill may use credits from a mitigation bank outside the mitigation service area to offset impacts resulting from such projects or activities.

The bill provides that, when the requirements of s. 373.414(1)(a), F.S.,⁷⁵ are met and an insufficient number or type of credits have been released within the mitigation bank service area in which the impacts associated with a proposed project are located, the project applicant may use credits released from a mitigation bank outside such mitigation service area to offset impacts.

⁷² Section 373.4136(5)(b), F.S. The factors include (1) whether the mitigation consists solely of preservation or includes other types of mitigation; (2) the length of time anticipated to be required before a determination of success can be achieved; (3) the ecological value to be gained from each action required to implement the bank; and (4) the financial expenditure required for each action to implement the bank. *Id.*

⁷³ Section 373.414(8)(a), F.S., provides that, in deciding whether to grant a permit for an activity that affects surface waters or wetlands, the permitting agency must consider the cumulative impacts of (1) the proposed activity; (2) other projects that already exist, are under construction, or have applied for permits or formal wetland or surface water determinations; and (3) activities related to developments of regional impact which are under review, approved, or vested, or other activities regulated under Part IV of chapter 373, F.S., which may reasonably be expected to be located within surface waters or wetlands in the same drainage basin based upon a local government's comprehensive plans.

⁷⁴ This includes (1) projects with adverse impacts partially located within the mitigation service area; (2) linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or seaports; and (3) projects with total adverse impacts of less than one acre in size. Section 373.4136(6)(d), F.S.

⁷⁵ Section 373.414(1)(a), F.S., delineates the balancing test DEP or water management districts must use to determine whether an ERP activity is not contrary to the public interest or clearly in the public interest.

The project applicant may only use out-of-service area credits once DEP or a water management district verifies that mitigation banks within the regional watershed where the adverse impacts are located lack the appropriate credit type to offset impacts associated with the proposed project.

The bill provides that, if the number of released credits within a mitigation service area only partially offsets the impacts associated with a proposed project in that mitigation service area, the project applicant may use out-of-service area credits to account for the difference between the released credits available in the mitigation bank service area and the credits required to offset the impacts associated with the proposed project. The bill requires DEP and water management districts to follow the following guidelines to apply a proximity factor to determine adequate compensatory mitigation by using the following process:

- A multiplier may not be applied for use of out-of-service area credits located within the same regional watershed as the proposed impacts.
- A 1.5 multiplier must be applied for use of out-of-service area credits located within a regional watershed immediately adjacent to the regional watershed in which the proposed impacts are located.
- When credits are not available in the regional watershed immediately adjacent to the regional watershed in which the proposed impacts are located, an additional 0.50 multiplier must be applied for each additional regional watershed away from the regional watershed immediately adjacent to the regional watershed in which the proposed impacts are located.
- An additional 0.75 multiplier must be applied if the mitigation used to offset impacts entails an out-of-kind replacement which does not replace the same type of wetland or surface water impacted.

The bill provides that the use of these multipliers meets the requirements for addressing cumulative impacts.

The bill provides that, once a project applicant requests to use credits from a mitigation bank outside the mitigation service area in which the proposed impacts will occur, DEP or the water management district must contact all mitigation banks within a mitigation service area encompassing the location of the proposed impacts within three business days after the request from the project applicant and request an accounting of available credits, which may not include credits reserved for other project applicants. The mitigation banks contacted must provide such accounting within five business days after the request.

Upon receipt of the accounting from the mitigation banks, DEP or the water management district must determine if sufficient credits exist to offset impacts associated with the proposed project and notify the project applicant of such determination. The applicant may rely on the determination for a period of one year after such determination.

The bill requires each mitigation bank to submit an annual report to DEP or the applicable water management district with an accounting of the number and type of credits that the mitigation bank has available for sale, but the report may not include names of parties for which credits have been reserved, if any, or the contract price paid for such credits. DEP and each water management district must compile such annual reports and provide an annual assessment of the health of the state's mitigation banking system to the Legislature.

Section 2 reenacts s. 373.403(19), F.S., regarding mitigation and enforcement, for the purpose of incorporating the amendment the bill makes to s. 373.4136, F.S.

Section 3 reenacts several subsections of s. 373.4135, F.S., regarding mitigation banks and offsite regional mitigation, for the purpose of incorporating the amendment the bill makes to s. 373.4136, F.S.

Section 4 reenacts s. 373.41365, F.S., regarding adoption and modification of rules to ensure financial assurances for long-term management of mitigation, for the purpose of incorporating the amendment the bill makes to s. 373.4136, F.S.

Section 5 reenacts s. 373.414(1)(b), F.S., regarding additional criteria for activities in surface waters and wetlands, for the purpose of incorporating the amendment the bill makes to s. 373.4136, F.S.

Section 6 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

On line 71, the bill provides that “preservation-only” banks will receive 100 percent of awarded credits for the recording of the conservation easement and establishment of financial assurances. However, the bill does not define “preservation-only” bank, and the meaning of this term is unclear.

On lines 134-137, the bill adds language regarding compliance with project-level cumulative impact assessments in a section of law that outlines the requirements for establishing mitigation bank service areas. The language may be more appropriately placed within s. 373.414, F.S., where project-level cumulative impacts are addressed. Specifically, s. 373.474(8)(b), F.S., already has language that states, “If an applicant proposes mitigation within the same drainage basin as the adverse impacts to be mitigated, and if the mitigation offsets these adverse impacts, the governing board and department shall consider the regulated activity to meet the cumulative impact requirements of paragraph (a). However, this paragraph may not be construed to prohibit mitigation outside the drainage basin which offsets the adverse impacts within the drainage basin.” If that concept needs clarification, s. 373.414(8)(b), F.S., would be the appropriate place to make that change.

On lines 153-158, the bill provides that project applicants may use credits from a mitigation bank outside the service area “when the requirements of s. 373.414(1)(a), F.S., are met.”⁷⁶ However, if the criteria in this section of law are met, an applicant would not be required to consider mitigation measures such as a mitigation bank.⁷⁷ Moreover, it is unclear what is meant by “requirements” here and on line 151, as the cited provisions do not clearly establish “requirements” that must be satisfied.

Regarding lines 140-152, existing law in s. 373.4136(6)(d), F.S., limits the use of mitigation bank credits outside the bank’s service area to three specific types of projects. The bill amends this provision by adding a fourth category—projects that use the proximity factor multiplier established in this bill. It also removes the language specifying that the activities listed are the only types of activities that can be mitigated outside of the mitigation services area. With the changes in the bill, there is nothing linking paragraph (6)(d) with an authorization that the mitigation can occur outside the service area. Paragraph (6)(e) could be read to function independently and be the only method for credits to be offered outside of the service area. If that is the intent, then (6)(d) could be deleted.

VII. Related Issues:

The proximity factor multipliers in the bill are based on regional watersheds, whereas the federal proximity factor uses 8-digit hydrologic unit code (HUC) and EPA ecoregions. Additionally, the

⁷⁶ Section 373.414(1)(a), F.S., delineates the balancing test criteria DEP or water management districts must use to determine whether an ERP activity is not contrary to the public interest or clearly in the public interest.

⁷⁷ Section 373.414(1)(b), F.S.

federal proximity factor provides that mitigation should be performed within the same 6-digit HUC, while the bill does not include such a requirement and would allow the use of credits from a mitigation bank regardless of how far it is from the impact site. These differences may affect the consistency and effectiveness of mitigation efforts and create challenges for permittees who must obtain both state and federal permits.

Additionally, the bill's three- and five-day deadlines for contacting mitigation banks and confirming credit availability may be difficult to meet due to potential administrative constraints and the time required to verify and report accurate credit accounting.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 373.4136, 373.403, 373.4135, 373.41365, and 373.414.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

By Senator McClain

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A bill to be entitled

An act relating to mitigation banking; amending s. 373.4136, F.S.; revising the schedule to which the Department of Environmental Protection and water management districts are required to adhere for the release of credits awarded by a mitigation bank permit; prohibiting the release of mitigation credits for freshwater wetland creation until certain criteria are met; requiring that a mitigation bank service area established by the department or a water management district for a mitigation bank be considered to have met specified requirements; authorizing certain projects or activities to use credits released from a bank to offset impacts if certain requirements are met; authorizing a project applicant to use credits released from a mitigation bank outside a mitigation service area to offset impacts if an insufficient number or type of credits have been released in the proposed project area under certain circumstances; requiring the department and water management districts to apply a certain multiplier in granting the out-of-service area credits; declaring that use of the multipliers meets the requirements for addressing certain impacts; requiring the department or water management district to contact all mitigation banks within a specified area in a specified number of days after an applicant requests to use credits from a mitigation bank outside a specified area; requiring such mitigation banks to provide an accounting within

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a specified number of days; requiring the department or water management district to make a certain determination upon receipt of the accounting and notify the applicant of such determination; authorizing the applicant to rely on the determination for a specified period of time; requiring mitigation banks to submit annual reports to the department or the districts which contain specified information; requiring the department and each district to compile the reports into an annual assessment and provide it to the Legislature; reenacting ss. 373.403(19), 373.4135(1)(b), (3), (4), (5), (6)(c) and (g), and (8)(c), 373.41365, and 373.414(1)(b), F.S., relating to definitions, mitigation banks and offsite regional mitigation, adoption and modification of rules to ensure financial assurances for long-term management of mitigation under ss. 373.4136 and 373.414, F.S., and additional criteria for activities in surface waters and wetlands, respectively, to incorporate the amendment made to s. 373.4136, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (5) and paragraphs (c) and (d) of subsection (6) of section 373.4136, Florida Statutes, are amended, and paragraphs (e) through (h) are added to subsection (6) of that section, to read:

373.4136 Establishment and operation of mitigation banks.—

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(5) SCHEDULE FOR CREDIT RELEASE.—After issuing ~~awarding~~ ~~mitigation credits to~~ a mitigation bank permit, the department or the water management district shall adhere to the credit release schedule set forth in paragraph (a) ~~set forth a schedule~~ for the release of ~~these~~ credits awarded under ~~in~~ the mitigation bank permit. A mitigation credit that has been released may be sold or used to offset adverse impacts from an activity regulated under this part.

(a) Credit release schedule.—

1. Thirty percent of awarded credits for the recording of the conservation easement and establishment of financial assurances required by the mitigation bank permit, or 100 percent in the case of a preservation-only bank.

2. Thirty percent of awarded credits following completion of initial construction activities as established by the mitigation bank permit.

3. Twenty percent of awarded credits upon meeting interim performance criteria established by the mitigation bank permit, in increments as monitoring indicates success.

4. Twenty percent of awarded credits upon meeting final success criteria established by the mitigation bank permit ~~The department or the water management district shall allow a portion of the mitigation credits awarded to a mitigation bank to be released for sale or use prior to meeting all of the performance criteria specified in the mitigation bank permit. The department or the water management district shall allow release of all of a mitigation bank's awarded mitigation credits only after the bank meets the mitigation success criteria specified in the permit.~~

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(b) ~~The number of credits and schedule for release shall be determined by the department or water management district based upon the performance criteria for the mitigation bank and the success criteria for each mitigation activity. The release schedule for a specific mitigation bank or phase thereof shall be related to the actions required to implement the bank, such as site protection, site preparation, earthwork, removal of wastes, planting, removal or control of nuisance and exotic species, installation of structures, and annual monitoring and management requirements for success. In determining the specific release schedule for a bank, the department or water management district shall consider, at a minimum, the following factors:~~

1. ~~Whether the mitigation consists solely of preservation or includes other types of mitigation.~~

2. ~~The length of time anticipated to be required before a determination of success can be achieved.~~

3. ~~The ecological value to be gained from each action required to implement the bank.~~

4. ~~The financial expenditure required for each action to implement the bank.~~

~~(e)~~ Notwithstanding the provisions of this subsection, no credit shall be released for freshwater wetland creation until the success criteria established ~~included~~ in the mitigation bank permit for initial construction activities are met.

(c) ~~(d)~~ The withdrawal of mitigation credits from a mitigation bank shall be accomplished as a minor modification of the mitigation bank permit. A processing fee shall not be required by the department or water management district for this minor modification.

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(6) MITIGATION SERVICE AREA.—The department or water management district shall establish a mitigation service area for each mitigation bank permit. The department or water management district shall notify and consider comments received on the proposed mitigation service area from each local government within the proposed mitigation service area. Except as provided herein, mitigation credits may be withdrawn and used only to offset adverse impacts in the mitigation service area. The boundaries of the mitigation service area shall depend upon the geographic area where the mitigation bank could reasonably be expected to offset adverse impacts. Mitigation service areas may overlap, and mitigation service areas for two or more mitigation banks may be approved for a regional watershed.

(c) Once a mitigation bank service area has been established by the department or a water management district for a mitigation bank, such service area shall be accepted by all water management districts, local governments, and the department and shall be considered to have met the cumulative impact requirements of s. 373.414(8)(a) for impacts permitted within any regional watershed included in such mitigation bank service area.

(d) If the requirements in s. 373.414(1)(b) and (8) are met, the following projects or activities regulated under this part shall be eligible to use credits released from a mitigation bank to offset impacts resulting from such projects or activities, ~~regardless of whether they are located within the mitigation service area:~~

1. Projects with adverse impacts partially located within the mitigation service area.

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146 2. Linear projects, such as roadways, transmission lines,
147 distribution lines, pipelines, railways, or seaports listed in
148 s. 311.09(1).

149 3. Projects with total adverse impacts of less than 1 acre
150 in size.

151 4. Projects that meet the requirements of s. 373.414(1)(b)
152 and the criteria set forth in paragraphs (e), (f), and (g).

153 (e) When the requirements of s. 373.414(1)(a) are met and
154 an insufficient number or type of credits have been released
155 within the mitigation bank service area in which the impacts
156 associated with a proposed project are located, the project
157 applicant may use credits released from a mitigation bank
158 outside such mitigation service area to offset impacts pursuant
159 to s. 373.414(1)(b). The project applicant may only use out-of-
160 service area credits once the department or a water management
161 district verifies that mitigation banks within the regional
162 watershed where the adverse impacts are located lack the
163 appropriate credit type to offset impacts associated with the
164 proposed project, as established by the procedure detailed in
165 paragraph (h). If the number of released credits within a
166 mitigation service area only partially offsets the impacts
167 associated with a proposed project in that mitigation service
168 area, the project applicant may use out-of-service area credits
169 to account for the difference between the released credits
170 available in the mitigation bank service area and the credits
171 required to offset the impacts associated with the proposed
172 project. When implementing this paragraph, the department and
173 water management districts shall follow the following guidelines
174 to apply a proximity factor to determine adequate compensatory

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mitigation by using the following process:

1. A multiplier may not be applied for use of out-of-service area credits located within the same regional watershed as the proposed impacts.

2. A 1.5 multiplier shall be applied for use of out-of-service area credits located within a regional watershed immediately adjacent to the regional watershed in which the proposed impacts are located.

3. When credits are not available in the regional watershed immediately adjacent to the regional watershed in which the proposed impacts are located, an additional 0.50 multiplier shall be applied for each additional regional watershed away from the regional watershed immediately adjacent to the regional watershed in which the proposed impacts are located.

4. An additional 0.75 multiplier shall be applied if the mitigation used to offset impacts entails an out-of-kind replacement which does not replace the same type of wetland or surface water impacted.

(f) Use of the multipliers in subparagraphs (e)1., 2., 3. and 4. meets the requirements of s. 373.414(8)(a) for addressing cumulative impacts.

(g) Once a project applicant requests to use credits from a mitigation bank outside the mitigation service area in which the proposed impacts will occur, the department or the water management district must contact all mitigation banks within a mitigation service area encompassing the location of the proposed impacts within 3 business days after the request from the project applicant and request an accounting of available credits, which may not include credits reserved for other

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project applicants. The mitigation banks contacted by the department or the water management district shall provide such accounting within 5 business days after the request. Upon receipt of the accounting from the mitigation banks, the department or the water management district shall determine if sufficient credits exist to offset impacts associated with the proposed project and notify the project applicant of such determination. The applicant may rely on the determination from the department or the water management district for a period of 1 year after such determination.

(h) Each mitigation bank in this state shall submit an annual report to the department or the applicable water management district with an accounting of the number and type of credits that the mitigation bank has available for sale, but the report may not include names of parties for which credits have been reserved, if any, or the contract price paid for such credits. The department and each water management district shall compile such annual reports and provide an annual assessment of the health of the state's mitigation banking system to the President of the Senate and the Speaker of the House of Representatives.

Section 2. For the purpose of incorporating the amendment made by this act to section 373.4136, Florida Statutes, in a reference thereto, subsection (19) of section 373.403, Florida Statutes, is reenacted to read:

373.403 Definitions.—When appearing in this part or in any rule, regulation, or order adopted pursuant thereto, the following terms mean:

(19) "Mitigation bank" means a project permitted under s.

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373.4136 undertaken to provide for the withdrawal of mitigation credits to offset adverse impacts authorized by a permit under this part.

Section 3. For the purpose of incorporating the amendment made by this act to section 373.4136, Florida Statutes, in references thereto, paragraph (b) of subsection (1), subsections (3), (4), and (5), paragraphs (c) and (g) of subsection (6), and paragraph (c) of subsection (8) of section 373.4135, Florida Statutes, are reenacted to read:

373.4135 Mitigation banks and offsite regional mitigation.--

(1) The Legislature finds that the adverse impacts of activities regulated under this part may be offset by the creation, maintenance, and use of mitigation banks and offsite regional mitigation. Mitigation banks and offsite regional mitigation can enhance the certainty of mitigation and provide ecological value due to the improved likelihood of environmental success associated with their proper construction, maintenance, and management. Therefore, the department and the water management districts are directed to encourage the establishment of private mitigation banks and offsite regional mitigation on lands owned by a local government, when such lands are located in a credit-deficient basin as defined in paragraph (8) (a) and the proposed mitigation bank or offsite regional mitigation would provide one or more of the deficient habitat type credits described in subparagraph (8) (a)2. Mitigation banks and offsite regional mitigation should emphasize the restoration and enhancement of degraded ecosystems and the preservation of uplands and wetlands as intact ecosystems rather than alteration of landscapes to create wetlands. This is best accomplished

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through restoration of ecological communities that were historically present.

(b) The Legislature recognizes the importance of mitigation banks as an appropriate and allowable mitigation alternative to permittee-responsible mitigation. However, the Legislature also recognizes that certain timing and geographical constraints could result in the unavailability of mitigation bank credits for a certain project upon completion of the project's application. If state and federal mitigation credits are not available to offset the adverse impacts of a project, a local government may allow permittee-responsible mitigation consisting of the restoration or enhancement of lands purchased and owned by a local government for conservation purposes, and such mitigation must conform to the permitting requirements of s. 373.4136. Except when a local government has allowed a public or private mitigation project to be created on land it has purchased for conservation purposes pursuant to this paragraph, a governmental entity may not create or provide mitigation for a project other than its own unless the governmental entity uses land that was not previously purchased for conservation and unless the governmental entity provides the same financial assurances as required for mitigation banks permitted under s. 373.4136. This paragraph does not apply to:

1. Mitigation banks permitted before December 31, 2011, under s. 373.4136;

2. Offsite regional mitigation areas established before December 31, 2011, under subsection (6) or, when credits are not available at a mitigation bank permitted under s. 373.4136, mitigation areas created by a local government which were

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awarded mitigation credits pursuant to the uniform mitigation assessment method as provided in chapter 62-345, Florida Administrative Code, under a permit issued before December 31, 2011;

3. Mitigation for transportation projects under ss. 373.4137 and 373.4139;

4. Mitigation for impacts from mining activities under s. 373.41492;

5. Mitigation provided for single-family lots or homeowners under subsection (7);

6. Entities authorized in chapter 98-492, Laws of Florida;

7. Mitigation provided for electric utility impacts certified under part II of chapter 403; or

8. Mitigation provided on sovereign submerged lands under subsection (6).

(3) Nothing in this section or s. 373.4136 shall be construed to eliminate or diminish any of the regulatory requirements applicable to applicants seeking permits pursuant to other provisions of this part.

(4) Except as otherwise provided herein, nothing in this section or s. 373.4136 shall be construed to diminish or limit the existing authority of the department, water management districts, or local governments.

(5) Nothing in this section or s. 373.4136 shall be construed to limit the consideration of forms of mitigation other than mitigation banks and offsite regional mitigation.

(6) An environmental creation, preservation, enhancement, or restoration project, including regional offsite mitigation areas, for which money is donated or paid as mitigation, that is

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sponsored by the department, a water management district, or a local government and provides mitigation for five or more applicants for permits under this part, or for 35 or more acres of adverse impacts, shall be established and operated under a memorandum of agreement. The memorandum of agreement shall be between the governmental entity proposing the mitigation project and the department or water management district, as appropriate. Such memorandum of agreement need not be adopted by rule. For the purposes of this subsection, one creation, preservation, enhancement, or restoration project shall mean one or more parcels of land with similar ecological communities that are intended to be created, preserved, enhanced, or restored under a common scheme.

(c) At a minimum, the memorandum of agreement must address the following for each project authorized:

1. A description of the work that will be conducted on the site and a timeline for completion of such work.

2. A timeline for obtaining any required environmental resource permit.

3. The environmental success criteria that the project must achieve.

4. The monitoring and long-term management requirements that must be undertaken for the project.

5. An assessment of the project in accordance with s. 373.4136(4)(a)-(i), until the adoption of the uniform wetland mitigation assessment method pursuant to s. 373.414(18).

6. A designation of the entity responsible for the successful completion of the mitigation work.

7. A definition of the geographic area where the project

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may be used as mitigation established using the criteria of s.
373.4136(6).

8. Full cost accounting of the project, including annual
review and adjustment.

9. Provision and a timetable for the acquisition of any
lands necessary for the project.

10. Provision for preservation of the site.

11. Provision for application of all moneys received solely
to the project for which they were collected.

12. Provision for termination of the agreement and
cessation of use of the project as mitigation if any material
contingency of the agreement has failed to occur.

(g) The provisions of this subsection shall not apply when
the department, water management district, or local government
establishes, or contracts with a private entity to establish, a
mitigation bank permitted under s. 373.4136. The provisions of
this subsection shall not apply to other entities that establish
offsite regional mitigation as defined in this section and s.
373.403.

(8) It is the intent of the Legislature to allow limited
use of local government land, including lands acquired for
conservation, for private sector mitigation banks, provided that
the private mitigation banks are located in credit-deficient
basins and would produce the habitat type credits that are
unavailable or insufficient in such basins. As used in this
subsection, the term "local government" includes a county,
municipality, or special district as those terms are defined in
s. 165.031. This subsection does not apply to lands owned by the
state or a water management district.

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(c) If such a mitigation bank is to be established and operated on local government land, the local government and private applicant must enter into a use agreement that meets the requirements of this paragraph and that requires the private applicant to establish and operate the mitigation bank in conformance with the permitting requirements of s. 373.4136, and the rules adopted thereunder. The use agreement must:

1. Include a requirement that the local government landowner assume the role of long-term steward of the property, and state that the landowner will grant a conservation easement or substantially similar recordable instrument pursuant to s. 704.06, in favor of the permitting agency, if a conservation easement or substantially similar recordable instrument acceptable to the permitting agency does not already exist; and

2. Include a requirement for the private applicant to do all of the following:

a. Provide bid and performance security instruments for a minimum of 5 percent of the total bid amount, to ensure that a use agreement with the local government is executed and a mitigation bank permit is applied for by the private applicant.

b. Operate and maintain the mitigation bank until final permit success criteria are met, as permitted by the department or water management district.

c. Agree to establish financial assurance for long-term management in an amount agreeable to the local government landowner and as provided for in rules adopted pursuant to this section and s. 373.4136, for use by the local government as the long-term steward of the land, after the mitigation bank final environmental resource permit success criteria are met. The

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private sector applicant may also use an endowment to provide financial assurances.

d. Acknowledge that denial of the state mitigation bank permit application will terminate the use agreement.

e. Acknowledge that failure to obtain the mitigation bank permit within 2 years after the use agreement execution date will terminate the use agreement, unless it is extended for good cause by the local government.

Section 4. For the purpose of incorporating the amendment made by this act to section 373.4136, Florida Statutes, in a reference thereto, section 373.41365, Florida Statutes, is reenacted to read:

373.41365 Adoption and modification of rules to ensure financial assurances for long-term management of mitigation under ss. 373.4136 and 373.414.—The Department of Environmental Protection shall adopt and modify rules adopted pursuant to ss. 373.4136 and 373.414 to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation permitted under ss. 373.4136 and 373.414. The department, in consultation with the water management districts, shall include the rulemaking required by this section in existing active rulemaking, or shall complete rule development by June 30, 2023.

Section 5. For the purpose of incorporating the amendment made by this act to section 373.4136, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 373.414, Florida Statutes, is reenacted to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

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(1) As part of an applicant's demonstration that an activity regulated under this part will not be harmful to the water resources or will not be inconsistent with the overall objectives of the district, the governing board or the department shall require the applicant to provide reasonable assurance that state water quality standards applicable to waters as defined in s. 403.031 will not be violated and reasonable assurance that such activity in, on, or over surface waters or wetlands, as delineated in s. 373.421(1), is not contrary to the public interest. However, if such an activity significantly degrades or is within an Outstanding Florida Water, as provided by department rule, the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest.

(b) If the applicant is unable to otherwise meet the criteria set forth in this subsection, the governing board or the department, in deciding to grant or deny a permit, must consider measures proposed by or acceptable to the applicant to mitigate adverse effects that may be caused by the regulated activity. Such measures may include, but are not limited to, onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks permitted under s. 373.4136. It is the responsibility of the applicant to choose the form of mitigation. The mitigation must offset the adverse effects caused by the regulated activity.

1. The department or water management districts may accept the donation of money as mitigation only where the donation is specified for use in a duly noticed environmental creation,

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preservation, enhancement, or restoration project, endorsed by the department or the governing board of the water management district, which offsets the impacts of the activity permitted under this part. However, this subsection does not apply to projects undertaken pursuant to s. 373.4137 or chapter 378. Where a permit is required under this part to implement any project endorsed by the department or a water management district, all necessary permits must have been issued prior to the acceptance of any cash donation. After the effective date of this act, when money is donated to either the department or a water management district to offset impacts authorized by a permit under this part, the department or the water management district shall accept only a donation that represents the full cost to the department or water management district of undertaking the project that is intended to mitigate the adverse impacts. The full cost shall include all direct and indirect costs, as applicable, such as those for land acquisition, land restoration or enhancement, perpetual land management, and general overhead consisting of costs such as staff time, building, and vehicles. The department or the water management district may use a multiplier or percentage to add to other direct or indirect costs to estimate general overhead. Mitigation credit for such a donation may be given only to the extent that the donation covers the full cost to the agency of undertaking the project intended to mitigate the adverse impacts. However, nothing herein may be construed to prevent the department or a water management district from accepting a donation representing a portion of a larger project, provided that the donation covers the full cost of that portion and

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mitigation credit is given only for that portion. The department or water management district may deviate from the full cost requirements of this subparagraph to resolve a proceeding brought pursuant to chapter 70 or a claim for inverse condemnation. Nothing in this section may be construed to require the owner of a private mitigation bank, permitted under s. 373.4136, to include the full cost of a mitigation credit in the price of the credit to a purchaser of said credit.

2. The department and each water management district shall report by March 1 of each year, as part of the consolidated annual report required by s. 373.036(7), all cash donations accepted under subparagraph 1. during the preceding water management district fiscal year for wetland mitigation purposes. The report must exclude those contributions pursuant to s. 373.4137. The report must include a description of the endorsed mitigation projects and, except for projects governed by s. 373.4135(6), must address, as applicable, success criteria, project implementation status and timeframe, monitoring, long-term management, provisions for preservation, and full cost accounting.

3. If the applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the governing board or the department must consider mitigation measures proposed by or acceptable to the applicant that cause net improvement of the water quality in the receiving body of water for those parameters which do not meet standards.

4. If mitigation requirements imposed by a local government for surface water and wetland impacts of an activity regulated under this part cannot be reconciled with mitigation

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requirements approved under a permit for the same activity
issued under this part, including application of the uniform
wetland mitigation assessment method adopted pursuant to
subsection (18), the mitigation requirements for surface water
and wetland impacts are controlled by the permit issued under
this part.

Section 6. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Environment and Natural Resources

Subject: Committee Agenda Request

Date: March 3, 2025

I respectfully request that **Senate Bill #492**, relating to Mitigation Banking, be placed on the:

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

A handwritten signature in black ink, appearing to read "Stan McClain".

Senator Stan McClain
Florida Senate, District 9

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/11

Meeting Date

492

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Lori Killinger

Phone

850 222 5702

Address

106 E. College Ave.

Email

lkillinger@llw-law.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/11/25

Meeting Date

S Environment and Natural Resources

Committee

The Florida Senate

APPEARANCE RECORD

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SB 492

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Cameron Fink**

Phone **850-933-4665**

Address **516 N Adams St**

Email **cfink@aif.com**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Associated Industries of Florida

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 736

INTRODUCER: Environment and Natural Resources Committee and Senators Truenow and Brodeur

SUBJECT: Brownfields

DATE: March 12, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	Fav/CS
2.			AEG	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 736 provides that if the person responsible for a brownfield site rehabilitation demonstrates the applicable contamination cleanup criteria has been met, and the brownfield site is part of a larger contaminated site, the Department of Environmental Protection (DEP) or any delegated local pollution control program may not deny a “no further action” status or refuse to issue a site rehabilitation completion order for the brownfield site, regardless of whether it has engineering and institutional controls. The bill deletes provisions related to local governments’ role in mapping institutional controls.

The bill removes a provision that prohibited unpermitted sites that were operated for monetary compensation (i.e., sites that charged fees or levied assessments for the disposal of solid waste at a landfill, dump, or other area where solid waste has been disposed) from claiming tax credits for the costs of solid waste removal under the brownfield program.

The bill also allows persons organized or united with a local governmental entity for a business purpose to participate in the program, provided they did not cause or contribute to the brownfield site.

The bill also provides that, for sites subject to certain federal enforcement actions or permits that would otherwise be ineligible to participate in the brownfield program, DEP must allow participation if the U.S. Environmental Protection Agency (EPA) issues a letter stating it has no objection to a site’s participation in a brownfield program, and the person seeking to participate

in the brownfield program can reasonably demonstrate that he or she will conduct site rehabilitation pursuant the rules governing contamination cleanup criteria. The bill provides that DEP may not require as a condition of such letter that EPA forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion order.

II. Present Situation:

Brownfields Program Overview

Many areas in Florida contain sites with actual or perceived environmental contamination that may present a significant barrier to redevelopment.¹ The Florida Brownfields Redevelopment Act was adopted by the Florida Legislature in 1997 to provide incentives for local governments and individuals to voluntarily clean up and redevelop brownfield sites.² Participation in the program results in environmental cleanup, protection of public health, reuse of infrastructure, economic redevelopment and job creation.³ Since inception of the program in 1997, 235 contaminated sites have been cleaned up; approximately 89,976 confirmed and projected direct and indirect jobs have been created; and \$3.188 billion in capital investment is projected in designated brownfield areas.⁴

Local governments support the use of the tools and incentives provided by the program by designating brownfield areas for cleanup and revitalization.⁵ A brownfield area designation can also be proposed by other persons, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, and not-for-profit corporations.⁶ In such cases, the local government with jurisdiction over the proposed brownfield area must adopt a resolution to designate the brownfield area if, at a public hearing, the person proposing the designation establishes the following:

- A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
- The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing⁷ or the creation of recreational areas, conservation areas, or parks.

¹ Florida Dep't of Environmental Protection (DEP), *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24*, 4 (2024), available at

<https://floridadep.gov/sites/default/files/2024%20Brownfields%20Program%20Legislative%20Report%208.1.2024.pdf>.

² Chapter 97-277, s. 1, Laws of Fla.; ss. 376.77-376.86, F.S.

³ DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24* at 4.

⁴ *Id.* at 2.

⁵ DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24* at 5, available at

<https://floridadep.gov/sites/default/files/2024%20Brownfields%20Program%20Legislative%20Report%208.1.2024.pdf>.

⁶ Section 376.80(1)(b)2. and (2)(c), F.S.

⁷ “Affordable” means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the

- The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
- Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation.
- The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.⁸

If the local government proposes the designation, the local government must consider:

- Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
- Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
- Whether the area has potential to interest the private sector in participating in rehabilitation; and
- Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.⁹

Upon designation, properties within a brownfield area have met the first requirement for participation in the program.¹⁰ These properties may participate in economic incentives that are linked to a brownfield site rehabilitation agreement (BSRA), including the job bonus tax refund or refunds on sales and use tax paid on the purchase of building materials used in a mixed-use project or housing project. If contamination is known or suspected, the local government may designate an area and identify the person responsible for brownfield site rehabilitation. This entitles the identified person to negotiate a BSRA with DEP.¹¹

Site rehabilitation completion orders are issued for sites that have completed cleanup of property to standards protective of human health and the environment, as established by chapter 62-780 of the Florida Administrative Code, and for which “no further action” is required at that time.¹²

households of extremely-low-income persons, very-low-income persons, low-income persons, or moderate-income persons. Section 420.0004(3), F.S.

⁸ Section 376.80(2)(c), F.S. “Brownfield area” means a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Section 376.79(5), F.S.

“Brownfield sites” means real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination. Section 376.79(4), F.S.

⁹ Section 376.80(2)(a), F.S.

¹⁰ DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24* at 5, available at <https://floridadep.gov/sites/default/files/2024%20Brownfields%20Program%20Legislative%20Report%208.1.2024.pdf>.

¹¹ *Id.*

¹² *Id.* “No further action” is a term of art for a determination by DEP that no further action is necessary to address the environmental issues at the property. See generally DEP, *Brownfields Program*, <https://floridadep.gov/waste/waste-cleanup/content/brownfields-program> (last visited Mar. 7, 2025); Fla. Admin. Code R. 62-780.680.

Program Eligibility

Any person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, is eligible to participate in the brownfield program.¹³ However, certain sites are not eligible for participation unless a specific exemption is secured by a memorandum of agreement (MOA) with the U.S. Environmental Protection Agency (EPA).¹⁴ This applies to sites that (1) are subject to ongoing federal enforcement or corrective actions pursuant to the Comprehensive Environmental Response Compensation and Liability Act, the Safe Drinking Water Act, or the Clean Water Act; (2) under an order from EPA pursuant to s. 3008(h) of the Resource Conservation and Recovery Act; or (3) have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility; a postclosure permit; or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984.¹⁵ Likewise, if a brownfield site within an eligible brownfield area later becomes subject to formal federal enforcement or corrective actions, its eligibility will be revoked unless specific exemptions are secured through an EPA memorandum of agreement.¹⁶

In addition, otherwise eligible persons who, prior to DEP's approval of a BSRA, are subject to ongoing corrective action or enforcement under state authority, including those persons subject to a pending consent order with the state, are eligible for participation in a BSRA if:

- The proposed brownfield site is currently idle or underutilized as a result of the contamination, and participation in the brownfield program will immediately result in increased economic productivity at the site, including at a minimum the creation of 10 new permanent jobs, whether full-time or part-time, which are not associated with implementation of the BSRA; and
- The person is complying in good faith with the terms of an existing consent order or DEP-approved corrective action plan, or responding in good faith to an enforcement action, as evidenced by a determination issued by DEP or an approved local pollution control program.¹⁷

Liability Protection

Any person who executes and implements a BSRA to successful completion is relieved of:

- Further liability for remediation of the contaminated site or sites to the state and to third parties.
- Liability in contribution to any other party who has or may incur cleanup liability for the contaminated site or sites.
- Liability for claims of property damages, (e.g., diminished value of real property, lost or delayed rent, sale, or use of real property or improvements, or stigma to real property or

¹³ Section 376.82(1), F.S.

¹⁴ See section 376.82(1)(a), F.S. See EPA and DEP, *Memorandum of Agreement between the Florida Department of Environmental Protection and the United States Environmental Protection Agency Region 4* (2005), available at https://floridadep.gov/sites/default/files/Brownfields%20MOA%20with%20EPA%2011-28-05_0.pdf.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 376.82(1)(b), F.S.

improvements caused by contamination addressed by a brownfield site rehabilitation agreement).¹⁸

This does not limit the right of a third party other than the state to pursue an action for personal injury damages; however, such an action may not compel site rehabilitation in excess of that required in the approved brownfield site rehabilitation agreement or otherwise required by DEP or approved local pollution control program.¹⁹

Liability protection becomes effective upon execution of a BSRA.²⁰ Completion of the performance of the remediation obligations at the brownfield site must be evidenced by a site rehabilitation completion letter or a “no further action” letter issued by DEP or the approved local pollution control program.²¹

In an effort to secure federal liability protection for persons willing to undertake remediation responsibility at a brownfield site, DEP negotiated an MOA with EPA, whereby EPA agreed to forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion or “no further action” determination from DEP or the approved local pollution control program or that are in the process of implementing a BSRA.²² Through the MOA, certain sites subject to corrective action under federal Comprehensive Environmental Response Compensation and Liability Act and Resource Conservation and Recovery Act authority are eligible for state brownfields incentives.²³

Voluntary Cleanup Tax Credits (VCTC)

In 1998, the Florida Legislature established the VCTC program to provide an incentive for the voluntary cleanup of drycleaning solvent-contaminated sites and brownfield sites in designated brownfield areas.²⁴ Only those brownfield sites with an executed BSRA are eligible to apply for a VCTC incentive.²⁵ For these eligible sites, a tax credit of 50 percent is allowed for the cost of voluntary cleanup activity that is integral to site rehabilitation, with a maximum of \$500,000 allowed per site per year.²⁶ An additional 25 percent of the total site rehabilitation costs, not to exceed \$500,000, may also be claimed in the final year of cleanup as evidenced by DEP issuing a “no further action” order for that site.²⁷

¹⁸ Section 376.82(2)(a), F.S. This liability protection does not apply to a person who discharges contaminants on property subject to a brownfield site rehabilitation agreement, who commits fraud in demonstrating site conditions or completing site rehabilitation of a property subject to a brownfield site rehabilitation agreement, or who exacerbates contamination of a property subject to a brownfield site rehabilitation agreement in violation of applicable laws which causes property damages. *Id.*

¹⁹ Section 376.82(2)(b), F.S.

²⁰ Section 376.82(2)(d), F.S.

²¹ Section 376.82(2)(e), F.S.

²² Section 376.82(2)(g), F.S. See EPA and DEP, *Memorandum of Agreement between the Florida Department of Environmental Protection and the United States Environmental Protection Agency Region 4*, 4 (2005), available at https://floridadep.gov/sites/default/files/Brownfields%20MOA%20with%20EPA%2011-28-05_0.pdf.

²³ Section 376.81(1)(a), F.S.; DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24* at 9, available at <https://floridadep.gov/sites/default/files/2024%20Brownfields%20Program%20Legislative%20Report%208.1.2024.pdf>.

²⁴ *Id.* at 7.

²⁵ *Id.*

²⁶ *Id.*; section 376.30781(3)(a) and (b), F.S.

²⁷ Section 376.30781(3)(c), F.S.

Additionally, a one-time 50 percent tax credit may be claimed for costs related to solid waste removal at a brownfield site, with a maximum of \$500,000 allowed per site.²⁸ To claim the tax credit, the applicant must submit an affidavit stating that, after consultation with appropriate local government officials and DEP, to the best of the applicant's knowledge based upon such consultation and available historical records, the brownfield site was never operated as a permitted solid waste disposal area or was never operated for monetary compensation.²⁹

For site rehabilitation tax credits, a tax credit application must be received by DEP's Division of Waste Management by January 31 of the year after the calendar year for which site rehabilitation costs are being claimed.³⁰ On or before May 1, DEP must inform each tax credit applicant that is subject to the January 31 annual application deadline of the applicant's eligibility status and the amount of any tax credit due.³¹ If DEP determines that an application is incomplete, it must notify the applicant in writing and the applicant will have 30 days after receiving such notification to correct any deficiency.³² The May 1 deadline for annual site rehabilitation tax credit certificate awards does not apply to any tax credit application for which DEP has issued a notice of deficiency.³³ DEP must respond within 90 days after receiving a response from the tax credit applicant to such a notice of deficiency.³⁴

Tax credits are applied against the state corporate income tax and are eligible for a one-time transfer within a five-year period.³⁵ Tax credit certificates are awarded by DEP from an annual \$35 million authorization.³⁶ Tax credit awards in excess of \$35 million for any given fiscal year are issued from the next available tax credit authorization.³⁷ The VCTC program has approved approximately \$201.2 million in tax credits since it began more than 20 years ago.³⁸

Local Pollution Control Programs

Counties and municipalities may establish and administer a local pollution control program provided it complies with all other provisions of the Florida Air and Water Pollution Control Act (FAWPCA).³⁹ All local pollution control programs must:⁴⁰

- Be approved by DEP as adequate to meet the requirements of the FAWPCA and any applicable rules and regulations pursuant thereto;

²⁸ DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24* at 7; section 376.30781(3)(e), F.S.

²⁹ Section 376.30781(3)(e), F.S.

³⁰ Section 376.30781(5)(a), F.S.

³¹ Section 376.30781(9), F.S. Tax credit applications claiming costs for solid waste removal are not be subject to the calendar-year limitation and January 31 annual application deadline. Section 376.30781(3)(e), F.S.

³² Section 376.30781(8)(a), F.S.

³³ Section 376.30781(9), F.S.

³⁴ *Id.*

³⁵ DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24* at 7, available at <https://floridadep.gov/sites/default/files/2024%20Brownfields%20Program%20Legislative%20Report%208.1.2024.pdf>.

³⁶ DEP, *Voluntary Cleanup Tax Credit*, <https://floridadep.gov/waste/waste-cleanup/content/voluntary-cleanup-tax-credit> (last visited on Feb. 26, 2025).

³⁷ *Id.*

³⁸ DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24* at 7. This also includes incentives for the voluntary cleanup of drycleaning solvent-contaminated sites. *See id.*

³⁹ Section 403.182, F.S.; *see also* ch. 67-436, s. 2, Laws of Fla. (identifying the short title of the act).

⁴⁰ Section 403.182(1), F.S.

- Provide by ordinance, regulation, or local law for requirements compatible with, or stricter or more extensive than those imposed by the FAWPCA and regulations issued thereunder;
- Provide for the enforcement of such requirements by appropriate administrative and judicial process; and
- Provide for administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its program.

If DEP determines that a local pollution control program is inadequate to prevent and control pollution, or is being administered in a manner inconsistent with the requirements of the FAWPCA, it may require necessary corrective measures.⁴¹ If these corrective measures are not implemented, DEP may reassume implementation of the FAWPCA within the jurisdiction.⁴² Each local pollution control program must cooperate with and assist DEP in carrying out its powers, duties, and functions.⁴³

III. Effect of Proposed Changes:

Section 1 amends s. 376.303, F.S., regarding the powers and duties of the Department of Environmental Protection (DEP). The bill eliminates the requirement for brownfield property owners to provide local governments with institutional control information for mapping purposes when a contaminated site in a designated brownfield area has such controls in place. It also removes the obligation for local governments to (1) note the existence of institutional controls on land use and zoning maps, and (2) remove such notations when the local government is provided with evidence that DEP has issued a “no further action” order without institutional controls for a site currently noted on such maps.

Under current law, DEP must maintain a registry of all contaminated sites located in a brownfield area which are subject to institutional and engineering controls. Sites for which DEP has issued a “no further action” order must be removed from this registry. The bill amends this to require that sites be removed from the registry when DEP has issued a “site rehabilitation completion order,” rather than a “no further action order.”

Section 2 amends s. 376.30781, F.S., regarding tax credits for rehabilitation of brownfield sites in designated brownfield areas. The bill removes the provision that the additional 25 percent tax credit for site rehabilitation costs can be claimed in the final year of cleanup as evidenced by a “no further action” order issued by DEP. Instead, the bill provides that the credit may be claimed if DEP approves the applicant’s annual site rehabilitation application and issues a site rehabilitation completion order. The bill provides that the tax credit applicant must submit the claim for the additional 25 percent within two years after receipt of the site rehabilitation completion order for that site.

Under current law, costs related to solid waste removal are eligible for a tax credit if the applicant submits an affidavit stating that, to the best of the applicant’s knowledge based upon a consultation with appropriate local government officials and available historical records, the

⁴¹ See section 403.182(4), F.S.

⁴² See *id.*

⁴³ Section 403.182(10), F.S.

brownfield site was never operated as a permitted solid waste disposal area or was never operated for monetary compensation, and the applicant submits all other required documentation and certifications required by law.⁴⁴ The bill limits the restriction to sites that were never operated as a permitted solid waste disposal area regulated by modern DEP rules but eliminates both the affidavit requirement and the requirement that the brownfield site was never operated for monetary compensation.⁴⁵

The bill also extends the deadline for DEP to notify tax credit applicants of their eligibility status and credit amount from May 1 to June 1. It also gives DEP an additional 30 days (for a total of 120 days instead of the current 90 days) to respond after receiving a tax credit applicant's response to a notice of deficiency.

Section 3 amends s. 376.78, F.S., regarding the legislative intent for the Pollutant Discharge Prevention and Control Act. Currently, this statute provides that the reduction of public health and environmental hazards on “existing commercial and industrial” sites is vital to their use and reuse as sources of employment, housing, recreation, and open space areas. The bill changes “existing commercial and industrial sites” to “sites proposed to be rehabilitated and redeveloped.”

Section 4 amends s. 376.79, F.S., which provides definitions for the Brownfields Redevelopment Act. Currently, this statute defines “brownfield sites” as real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination. The bill changes the term “brownfield sites” to “brownfield” and adds that the term only includes real property which has not yet been entered into a brownfield site rehabilitation agreement.

The bill adds the following new definition for “brownfield site”: the real property identified in a brownfield site rehabilitation agreement executed by the person responsible for brownfield site rehabilitation of the property and DEP or a delegated local pollution control program, as applicable.

Section 5 amends s. 376.81, F.S., regarding brownfield site and brownfield areas contamination cleanup criteria. The bill includes the following legislative findings:

- Rehabilitation and redevelopment of a potential brownfield site that is a portion of a larger contaminated site is significantly complicated when multiple parties may own, lease, or operate different portions of the contaminated site.
- Delaying a person's ability to achieve a “No Further Action” status for a potential brownfield site until such time as the owners, lessees, or operators of all other portions of the larger historical contaminated site have completed site rehabilitation on their respective portions is not in the public's interest, as such delay disincentivizes rehabilitation and redevelopment of the potential brownfield site by imposing unnecessary legal burdens, technical obstacles, and financial costs.

⁴⁴ See section 376.30781(3)(e), F.S.

⁴⁵ The bill also removes the definition for “monetary compensation.” The term is not used elsewhere in this section of law.

- It is in the public interest to remove any such barriers to the rehabilitation and redevelopment of property by providing a clear path to obtaining a “No Further Action” status in cases where a potential brownfield site is only a portion of a larger contaminated site.

The bill provides that if the person responsible for a brownfield site rehabilitation demonstrates compliance with the applicable contamination cleanup criteria, and the brownfield site is only a portion of a larger contaminated site, DEP or any delegated local pollution control program may not:

- Deny a “No Further Action” status for the brownfield site; or
- Refuse to issue a site rehabilitation completion order for the brownfield site, regardless of whether it has engineering and institutional controls. This applies even where similar contamination exists elsewhere on the contaminated site which was the result of similar or related activities or operations that occurred both on the contaminated site and the brownfield site, provided that all soil and groundwater contamination emanating from the brownfield site is adequately addressed pursuant to ch. 62-780 of the Florida Administrative Code.

This applies to all brownfield sites, irrespective of the effective date of the brownfield site rehabilitation agreement.

The bill also provides that the cleanup criteria described in s. 376.81, F.S., applies only to site rehabilitation activities occurring at a “brownfield site,” rather than a “contaminated site,” as the law currently provides.⁴⁶

Section 6 amends s. 376.82, F.S., regarding eligibility criteria and liability protection for the brownfield program. Currently, any person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, is eligible to participate in the brownfield program, subject to certain conditions. The bill provides that a local governmental entity may also participate in the program, including any other person who may be organized or united with the local governmental entity for a business purpose, if such entity or person did not cause or contribute to the contamination of a brownfield site on or after July 1, 2025.

Under current law, certain sites are not eligible for participation in the brownfield program unless specific exemptions are secured by a memorandum of agreement (MOA) with the U.S. Environmental Protection Agency (EPA).⁴⁷ The bill amends this process by providing that, instead of securing an exemption through the MOA, these sites may participate in the brownfields program if EPA issues a letter stating it has no objection to the site’s participation, and DEP issues a letter of concurrence.

Currently, people who did not cause or contribute to contamination at a brownfield site after July 1, 1997 (i.e., people who are currently eligible to participate in the program) but who are subject to ongoing corrective action or enforcement under state authority may still be eligible for participation in a brownfield site rehabilitation agreement if certain conditions are met,

⁴⁶ “Contaminated site” means any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment. Section 376.79(7), F.S. The bill defines “brownfield site” as the real property identified in a brownfield site rehabilitation agreement executed by the person responsible for brownfield site rehabilitation of the property and DEP or a delegated local pollution control program, as applicable.

⁴⁷ See section 376.82(1)(a), F.S.

including, among other things, that program participation will create at least 10 new permanent jobs. The bill provides that the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will:

- Provide housing that is affordable;⁴⁸
- Create recreational areas, conservation areas, or parks; or
- Be maintained for cultural or historical preservation purposes.

Current law required DEP to attempt to negotiate an MOA or similar document with EPA whereby EPA agrees to forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion or “no further action” determination from DEP or the approved local pollution control program, or that are in the process of implementing a brownfield site rehabilitation agreement. Such a memorandum of agreement was entered into in November 2005.⁴⁹ The bill removes this provision and instead provides that, if EPA issues a letter stating it has no objection to a site’s participation and the person seeking to participate in the brownfield program can reasonably demonstrate he or she will conduct site rehabilitation pursuant to the state contamination cleanup criteria, DEP may issue a letter of no objection that states the person may participate in the brownfield program.

The bill provides that DEP may *not* require as a condition of such letter of concurrence that EPA forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion order. The bill requires the letters of concurrence from EPA and DEP to be added as attachments to the brownfield site rehabilitation agreement.

The bill provides that proposed brownfield sites that are subject to ongoing formal judicial or administrative enforcement action or corrective action pursuant to an EPA order under s. 3008(h) of the Resource Conservation and Recovery Act, or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility, a post-closure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984 are eligible for participation in the brownfield program provided that the sites:

- Obtain the necessary letters of concurrence; or
- Comply with the provisions of Section V⁵⁰ of the Memorandum of Agreement between DEP and EPA Region 4 covering Florida’s Brownfield Program, dated November 28, 2005, as may be amended.

⁴⁸ “Affordable” means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households of extremely-low-income persons, very-low-income persons, low-income persons, or moderate-income persons. Section 420.0004(3), F.S.

⁴⁹ See EPA and DEP, *Memorandum of Agreement between the Florida Department of Environmental Protection and the United States Environmental Protection Agency Region 4*, 4 (2005), available at https://floridadep.gov/sites/default/files/Brownfields%20MOA%20with%20EPA%2011-28-05_0.pdf.

⁵⁰ Section V provides the following: “Region 4’s relationship with FDEP regarding RCRA facilities eligible for the [state brownfields program] will be conducted in accordance with the RCRA MOA, under 40 C.F.R. § 271.8, and other provisions governing the authorized program under RCRA Subtitle C. Region 4 recognizes that FDEP can determine whether to take State action at RCRA facilities under its State law and consistent with the provisions governing the State’s authorized program. Region 4 also recognizes that those RCRA sites which participate in the BP may qualify for the economic and regulatory benefits specific to the Act.” DEP and EPA, *Memorandum of Agreement between the Florida Department of Environmental Protection and the United States Environmental Protection Agency Region 4*, 4-5 (2005), available at https://floridadep.gov/sites/default/files/Brownfields%20MOA%20with%20EPA%2011-28-05_0.pdf.

Section 7 through 9 make conforming changes.

Section 10 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The expanded eligibility for the voluntary cleanup tax credit will provide eligible corporate taxpayers with tax savings.

C. Government Sector Impact:

The Revenue Estimating Conference determined that HB 733 on Brownfields (which is similar to this bill) would have no fiscal impact because the \$35 million authorization cap remains unchanged under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 376.303, 376.30781, 376.78, 376.79, 376.81, 376.82, 196.1995, 288.1175, and 1004.53.

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

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

CS by Environment and Natural Resources on March 11, 2025:

- Clarifies that solid waste disposal areas are *regulated* pursuant to s. 403.704, F.S., rather than *defined by* rules adopted pursuant to s. 403.704., F.S.
- Clarifies that a person responsible for a brownfield site rehabilitation must demonstrate compliance with the applicable contamination cleanup criteria.
- Removes the provision that added trusts as an example of the type of “person” that may propose a brownfield area designation.
- Restores language providing that the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the Department of Environmental Protection (DEP) or approved local pollution control program.
- Restores the requirement that the *procedures* for public hearings, rather than just the *notices*, must follow governing county and municipality resolution adoption processes.
- Permits (rather than requires) DEP to allow certain otherwise ineligible sites to participate in the brownfield program if the U.S. Environmental Protection Agency issues a no-objection letter and other criteria are met.
- Modifies eligibility for brownfield sites subject to federal orders or hazardous waste permits, allowing them to either obtain letters of concurrence *or* comply with the memorandum of agreement, instead of requiring both.
- Corrects the date of the memorandum of agreement from 2025 to 2005.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2025	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (5) and (6) of section 376.303,
Florida Statutes, are amended to read:

376.303 Powers and duties of the Department of
Environmental Protection.—

(5) ~~MAPPING.—If an institutional control is implemented at
any contaminated site in a brownfield area designated pursuant~~



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11 ~~to s. 376.80, the property owner must provide information~~
12 ~~regarding the institutional control to the local government for~~
13 ~~mapping purposes. The local government must then note the~~
14 ~~existence of the institutional control on any relevant local~~
15 ~~land use and zoning maps with a cross-reference to the~~
16 ~~department's site registry developed pursuant to subsection (6).~~
17 ~~If the type of institutional control used requires recording~~
18 ~~with the local government, then the map notation shall also~~
19 ~~provide a cross-reference to the book and page number where~~
20 ~~recorded. When a local government is provided with evidence that~~
21 ~~the department has subsequently issued a no further action order~~
22 ~~without institutional controls for a site currently noted on~~
23 ~~such maps, the local government shall remove the notation.~~

24 ~~(6)~~ REGISTRY.—The department shall prepare and maintain a
25 registry of all contaminated sites located in a brownfield area
26 designated pursuant to s. 376.80, which are subject to
27 institutional and engineering controls, in order to provide a
28 mechanism for the public and local governments to monitor the
29 status of these controls, monitor the department's short-term
30 and long-term protection of human health and the environment in
31 relation to these sites, and evaluate economic revitalization
32 efforts in these areas. At a minimum, the registry must ~~shall~~
33 include the type of institutional or engineering controls
34 employed at a particular site, types of contaminants and
35 affected media, land use limitations, and the county in which
36 the site is located. Sites listed on the registry at which the
37 department has subsequently issued a site rehabilitation
38 completion ~~no further action~~ order without institutional
39 controls must ~~shall~~ be removed from the registry. The department



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shall make the registry available to the public and local governments within 1 year after the effective date of this act. The department shall provide local governments with actual notice when the registry becomes available. Local zoning and planning offices shall post information on how to access the registry in public view.

Section 2. Paragraphs (c), (d), and (e) of subsection (3) and subsection (9) of section 376.30781, Florida Statutes, are amended to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(3)

(c) In order to encourage completion of site rehabilitation at contaminated sites that are being voluntarily cleaned up and that are eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 percent of the total site rehabilitation costs, not to exceed \$500,000, if the Department of Environmental Protection has approved the applicant's annual site rehabilitation application and has issued a site rehabilitation completion ~~in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.~~ The tax credit applicant must submit the claim for the additional 25 percent within 2 years after receipt of the site rehabilitation completion order for that site.

(d) In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004, an



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applicant for the tax credit may claim an additional 25 percent of the total site rehabilitation costs that are eligible for tax credits under this section, not to exceed \$500,000. To receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement indicating that the construction on the brownfield site has received a certificate of occupancy and the brownfield site has a properly recorded instrument that limits the use of the property to housing. Notwithstanding that only one application may be submitted each year for each site, an application for the additional credit provided for in this paragraph must ~~shall~~ be submitted after all requirements to obtain the additional tax credit have been met.

(e) In order to encourage the redevelopment of a brownfield site, as defined in the brownfield site rehabilitation agreement, that is hindered by the presence of solid waste, as defined in s. 403.703, costs related to solid waste removal may also be claimed under this section. A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single brownfield site, may also claim costs to address the solid waste removal as defined in this paragraph in accordance with department rules. Multiple tax credit applicants shall be granted tax credits in the same proportion as each applicant's contribution to payment of solid waste removal costs. These costs are eligible for a tax credit provided that the applicant meets the eligibility requirements of s. 376.82(1) and that ~~submits an affidavit stating that, after consultation with appropriate local government officials and the department, to~~



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~~the best of the applicant's knowledge based upon such~~
~~consultation and available historical records,~~ the brownfield
site was never operated as a permitted solid waste disposal area
as regulated pursuant to s. 403.704 ~~or was never operated for~~
~~monetary compensation, and the applicant submits all other~~
~~documentation and certifications required by this section.~~ In
this section, where reference is made to "site rehabilitation,"
the department shall instead consider whether the costs claimed
are for solid waste removal. Tax credit applications claiming
costs pursuant to this paragraph are ~~shall not be~~ subject to the
calendar-year limitation and January 31 annual application
deadline, and the department shall accept a one-time application
filed subsequent to the completion by the tax credit applicant
of the applicable requirements listed in this subsection. A tax
credit applicant may claim 50 percent of the costs for solid
waste removal, not to exceed \$500,000, after the applicant has
determined solid waste removal is completed for the brownfield
site. A solid waste removal tax credit application may be filed
only once per brownfield site. For the purposes of this section,
the term:

1. "Solid waste disposal area" means a landfill, dump, or
other area where solid waste has been disposed.

~~2. "Monetary compensation" means the fees that were charged~~
~~or the assessments that were levied for the disposal of solid~~
~~waste at a solid waste disposal area.~~

~~3.~~ "Solid waste removal" means removal of solid waste from
the land surface or excavation of solid waste from below the
land surface and removal of the solid waste from the brownfield
site. The term also includes:



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a. Transportation of solid waste to a licensed or exempt solid waste management facility or to a temporary storage area.

b. Sorting or screening of solid waste prior to removal from the site.

c. Deposition of solid waste at a permitted or exempt solid waste management facility, whether the solid waste is disposed of or recycled.

(9) On or before June ~~May~~ 1, the Department of Environmental Protection shall inform each tax credit applicant ~~that is~~ subject to the January 31 annual application deadline of the applicant's eligibility status and the amount of any tax credit due. The department shall provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 220.1845(2)(g). The June ~~May~~ 1 deadline for annual site rehabilitation tax credit certificate awards does ~~shall~~ not apply to any tax credit application for which the department has issued a notice of deficiency pursuant to subsection (8). The department shall respond within 120 ~~90~~ days after receiving a response from the tax credit applicant to such a notice of deficiency. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

Section 3. Subsection (1) of section 376.78, Florida Statutes, is amended to read:

376.78 Legislative intent.—The Legislature finds and declares the following:

(1) The reduction of public health and environmental hazards on ~~existing commercial and industrial~~ sites proposed to



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be rehabilitated and redeveloped is vital to their use and reuse as sources of employment, housing, recreation, and open space areas. The reuse of such sites ~~industrial land~~ is an important component of sound land use policy for productive urban purposes which will help prevent the premature development of farmland, open space areas, and natural areas, and reduce public costs for installing new water, sewer, and highway infrastructure.

Section 4. Present subsections (6) through (21) of section 376.79, Florida Statutes, are redesignated as subsections (7) through (22), respectively, a new subsection (6) is added to that section, and subsections (4) and (5) of that section are amended, to read:

376.79 Definitions relating to Brownfields Redevelopment Act.—As used in ss. 376.77-376.85, the term:

(4) "Brownfield ~~sites~~" means any real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination and which has not yet been entered into a brownfield site rehabilitation agreement pursuant to s. 376.80(5).

(5) "Brownfield area" means a contiguous area of one or more brownfields ~~brownfield sites~~, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and United States Environmental Protection Agency-designated brownfield pilot projects.

(6) "Brownfield site" means the real property identified in a brownfield site rehabilitation agreement executed by the



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person responsible for brownfield site rehabilitation of the
property and the department or a delegated local pollution
control program, as applicable.

Section 5. Present subsection (3) of section 376.81,
Florida Statutes, is redesignated as subsection (4), a new
subsection (3) is added to that section, and present subsection
(3) of that section is amended, to read:

376.81 Brownfield site and brownfield areas contamination
cleanup criteria.—

(3)(a) The Legislature finds that rehabilitation and
redevelopment of a potential brownfield site that is a portion
of a larger contaminated site are significantly complicated when
multiple parties may own, lease, or operate different portions
of the contaminated site. The Legislature further finds that
delaying a person's ability to achieve a "No Further Action"
status for a potential brownfield site until such time as the
owners, lessees, or operators of all other portions of the
larger historical contaminated site have completed site
rehabilitation on their respective portions is not in the
public's interest, as such delay disincentivizes rehabilitation
and redevelopment of the potential brownfield site by imposing
unnecessary legal burdens, technical obstacles, and financial
costs.

(b) Therefore, the Legislature finds that it is in the
public interest to remove any such barriers to the
rehabilitation and redevelopment of property by providing a
clear path to obtaining a "No Further Action" status in cases
where a potential brownfield site is only a portion of a larger
contaminated site.



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(c) If the person responsible for a brownfield site rehabilitation demonstrates compliance with the applicable contamination cleanup criteria described in subsection (1), and the brownfield site is only a portion of a larger contaminated site, the department or any delegated local pollution control program under s. 376.80(9) may not:

1. Deny a "No Further Action" status for the brownfield site; or

2. Refuse to issue a site rehabilitation completion order for the brownfield site, regardless of whether it has engineering and institutional controls. This subparagraph applies even where similar contamination exists elsewhere on the contaminated site which was the result of similar or related activities or operations that occurred both on the contaminated site and the brownfield site, provided that all soil and groundwater contamination emanating from the brownfield site is adequately addressed pursuant to chapter 62-780, Florida Administrative Code.

(d) This subsection applies to all brownfield sites, irrespective of the effective date of the brownfield site rehabilitation agreement.

(4)(3) The cleanup criteria described in this section govern only site rehabilitation activities occurring at the brownfield ~~contaminated~~ site. Removal of contaminated media from a site for offsite relocation or treatment must be in accordance with all applicable federal, state, and local laws and regulations.

Section 6. Paragraphs (a) and (b) of subsection (1) and paragraphs (e) and (g) of subsection (2) of section 376.82,



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Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

(1) ELIGIBILITY.—

(a) All of the following persons are eligible to participate in the brownfield program established in ss. 376.77-376.85:

1. Notwithstanding subparagraph 2., a ~~any~~ person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997.

2. A local governmental entity, including any other person who may be organized or united with the local governmental entity for a business purpose, if such entity or person did not cause or contribute to the contamination of a brownfield site on or after July 1, 2025.

(b) A person eligible to participate in the brownfield program pursuant to paragraph (a) is, ~~is eligible to participate in the brownfield program established in ss. 376.77-376.85,~~ subject to the following:

1. ~~(a)~~ Potential brownfield sites that are subject to an ongoing formal judicial or administrative enforcement action or corrective action pursuant to federal authority, including, but not limited to, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as amended; or under an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended (42 U.S.C.A. s. 6928(h)); or that have obtained or are required to obtain a



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permit for the operation of a hazardous waste treatment, storage, or disposal facility; a post-closure ~~postclosure~~ permit; or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984, are not eligible for participation in the brownfield program established in ss. 376.77-376.85 unless, pursuant to paragraph (2) (g), ~~specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency issues a letter stating it has no objection to such participation and the department issues a letter of concurrence pursuant to paragraph (2) (g).~~ A brownfield site within an eligible brownfield area that subsequently becomes subject to formal judicial or administrative enforcement action or corrective action under such federal authority shall have its eligibility revoked unless, ~~specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency pursuant to paragraph (2) (g),~~ the United States Environmental Protection Agency issues a letter stating it has no objection to such participation and the department issues a letter of concurrence.

2.(b) A person who is eligible to participate in the brownfield program pursuant to paragraph (a) ~~Persons who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, and who, before prior to the department's approval of a brownfield site rehabilitation agreement, is are~~ subject to ongoing corrective action or enforcement under state authority established in this chapter or chapter 403, including those persons subject to a pending consent order with the state, is are eligible for participation in a brownfield site rehabilitation agreement if:



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a.1. The proposed brownfield site is currently idle or underutilized as a result of the contamination, and participation in the brownfield program will immediately, after cleanup or sooner, result in increased economic productivity at the site, including at a minimum the creation of 10 new permanent jobs, whether full-time or part-time, which are not associated with implementation of the brownfield site rehabilitation agreement. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide housing that is affordable as defined in s. 420.0004; create recreational areas, conservation areas, or parks; or be maintained for cultural or historical preservation purposes; and

b.2. The person is complying in good faith with the terms of an existing consent order or department-approved corrective action plan, or responding in good faith to an enforcement action, as evidenced by a determination issued by the department or an approved local pollution control program.

(2) LIABILITY PROTECTION.—

(e) Completion of the performance of the remediation obligations at the brownfield site shall be evidenced by a site rehabilitation completion order ~~letter or a "no further action"~~ ~~letter~~ issued by the department or the approved local pollution control program, which letter shall include the following statement: "Based upon the information provided by (property owner) concerning property located at (address), it is the opinion of (the Florida Department of Environmental Protection or approved local pollution control program) that (party) has successfully and satisfactorily implemented the approved



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brownfield site rehabilitation agreement schedule and, accordingly, no further action is required to assure that any land use identified in the brownfield site rehabilitation agreement is consistent with existing and proposed uses."

(g)1. The Legislature recognizes the benefits of promoting the reuse of brownfield sites, even when subject to its
~~limitations in addressing cleanup liability under~~ federal pollution control programs, including those enumerated in subparagraph (1)(b)1. In an effort to encourage such reuse
~~secure federal liability protection~~ for persons willing to undertake ~~remediation~~ responsibility for site rehabilitation at a brownfield site, the department may, upon receipt of a letter from ~~shall attempt to negotiate a memorandum of agreement or similar document with~~ the United States Environmental Protection Agency stating it has no objection to a site's participation pursuant to subparagraph (1)(b)1. and upon a reasonable demonstration by the person seeking to participate in the brownfield program that he or she will conduct site rehabilitation pursuant to s. 376.81, issue a letter of no objection that states the person may participate in the brownfield program. The department may not require, as a condition of such letter of concurrence, that, ~~whereby~~ the United States Environmental Protection Agency agree ~~agrees~~ to forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion order ~~or "No Further Action" determination~~ from the department or the approved local pollution control program or that are in the process of implementing a brownfield site rehabilitation agreement in accordance with this act. The



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letters of concurrence from the United States Environmental Protection Agency and the department must be added as attachments to the brownfield site rehabilitation agreement.

2. Proposed brownfield sites that are subject to ongoing formal judicial or administrative enforcement action or corrective action pursuant to an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended by 42 U.S.C. s. 6928(h), or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility, a post-closure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984 are eligible for participation in the brownfield program established in ss. 376.77-376.85, provided that the sites:

a. Obtain the necessary letters of concurrence pursuant to paragraph (1)(b) and subparagraph 1.; or

b. Comply with the provisions of Section V of the Memorandum of Agreement between the department and the United States Environmental Protection Agency Region 4 covering Florida's Brownfield Program, dated November 28, 2005, as may be amended.

Section 7. Subsection (3) of section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.—

(3) The board of county commissioners or the governing authority of the municipality that calls a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax



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exemptions may vote to limit the effect of the referendum to authority to grant economic development tax exemptions for new businesses and expansions of existing businesses located in an enterprise zone or a brownfield area, as defined in s. 376.79 ~~s. 376.79(5)~~. If an area nominated to be an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065, the board of county commissioners or the governing authority of the municipality may call such referendum prior to such designation; however, the authority to grant economic development ad valorem tax exemptions does not apply until such area is designated pursuant to s. 290.0065. The ballot question in such referendum shall be in substantially the following form and shall be used in lieu of the ballot question prescribed in subsection (2):

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions for new businesses and expansions of existing businesses that are located in an enterprise zone or a brownfield area and that are expected to create new, full-time jobs in the county (or municipality, or both)?

....Yes-For authority to grant exemptions.

....No-Against authority to grant exemptions.

Section 8. Paragraph (c) of subsection (5) of section 288.1175, Florida Statutes, is amended to read:

288.1175 Agriculture education and promotion facility.-

(5) The Department of Agriculture and Consumer Services



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shall competitively evaluate applications for funding of an agriculture education and promotion facility. If the number of applicants exceeds three, the Department of Agriculture and Consumer Services shall rank the applications based upon criteria developed by the Department of Agriculture and Consumer Services, with priority given in descending order to the following items:

(c) The location of the facility in a brownfield site as defined in s. 376.79 ~~s. 376.79(4)~~, a rural enterprise zone as defined in s. 290.004, an agriculturally depressed area as defined in s. 570.74, or a county that has lost its agricultural land to environmental restoration projects.

Section 9. For the purpose of incorporating the amendment made by this act to section 376.79, Florida Statutes, in a reference thereto, subsection (1) of section 1004.53, Florida Statutes, is reenacted to read:

1004.53 Interdisciplinary Center for Brownfield Rehabilitation Assistance.—The Center for Brownfield Rehabilitation Assistance in the Environmental Sciences and Policy Program is established in the College of Arts and Sciences at the University of South Florida with the collaboration of other related disciplines such as business administration, environmental science, and medicine. The center shall work in conjunction with other state universities. The Center for Brownfield Rehabilitation Assistance shall:

(1) Conduct research relating to problems and solutions associated with rehabilitation and restoration of brownfield areas as defined in s. 376.79. The research must include identifying innovative solutions to removing contamination from



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brownfield sites to reduce the threats to drinking water supplies and other potential public health threats from contaminated sites.

Section 10. This act shall take effect July 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled
An act relating to brownfields; amending s. 376.303, F.S.; deleting a provision requiring certain property owners to provide information regarding institutional controls to the local government for mapping purposes; deleting local government requirements for such mapping; requiring that sites issued a site rehabilitation completion order without institutional controls be removed from the registry of all contaminated sites located in a brownfield area; amending s. 376.30781, F.S.; revising the conditions under which an applicant that has rehabilitated a contaminated site may submit and claim certain tax credits; specifying a timeframe within which such tax credit application must be submitted; revising the criteria for determining applicants who are redeveloping brownfield sites who may be eligible for certain tax credits; deleting the definition of the term "monetary compensation"; revising the date by which the Department of Environmental Protection must



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issue annual site rehabilitation tax credit
certificate awards; revising the amount of time the
department has to respond to a tax credit applicant
regarding a certain notice; amending s. 376.78, F.S.;
conforming provisions to changes made by the act;
amending s. 376.79, F.S.; revising definitions,
defining the terms "brownfield" and "brownfield site";
amending s. 376.81, F.S.; providing legislative
findings; prohibiting the department or a delegated
local pollution control program from denying a
specified status or refusing to issue a specified
order for certain brownfield sites that are only a
portion of larger contaminated sites; providing
applicability; amending s. 376.82, F.S.; revising the
persons and sites eligible for participation in the
brownfield program; revising requirements for such
participation; requiring that completion of the
performance of remediation obligations at the
brownfield site be evidenced by a site rehabilitation
completion order; revising the information necessary
from the United States Environmental Protection Agency
and the department for a person's participation in the
program; specifying that certain brownfield sites are
eligible to participate in the brownfield program
under certain circumstances; amending ss. 196.1995 and
288.1175, F.S.; conforming cross-references;
reenacting s. 1004.53(1), F.S., relating to the Center
for Brownfield Rehabilitation Assistance, to
incorporate the amendment made to s. 376.79, F.S., in



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a reference thereto; providing an effective date.

By Senator Truenow

13-00540A-25

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A bill to be entitled
An act relating to brownfields; amending s. 376.303,
F.S.; deleting a provision requiring certain property
owners to provide information regarding institutional
controls to the local government for mapping purposes;
deleting local government requirements for such
mapping; requiring that sites issued a site
rehabilitation completion order without institutional
controls be removed from the registry of all
contaminated sites located in a brownfield area;
amending s. 376.30781, F.S.; revising the conditions
under which an applicant that has rehabilitated a
contaminated site may submit and claim certain tax
credits; specifying a timeframe within which such tax
credit application must be submitted; revising the
criteria for determining applicants who are
redeveloping brownfield sites who may be eligible for
certain tax credits; deleting the definition of the
term "monetary compensation"; revising the date by
which the Department of Environmental Protection must
issue annual site rehabilitation tax credit
certificate awards; revising the amount of time the
department has to respond to a tax credit applicant
regarding a certain notice; amending s. 376.78, F.S.;
conforming provisions to changes made by the act;
amending s. 376.79, F.S.; revising definitions;
amending s. 376.80, F.S.; revising the entities that
may propose brownfield area designations using
specified criteria; deleting the requirement that

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certain persons be identified before negotiating a brownfield site rehabilitation agreement; amending s. 376.81, F.S.; providing legislative findings; prohibiting the department or a delegated local pollution control program from denying a specified status or refusing to issue a specified order for certain brownfield sites that are only a portion of larger contaminated sites; providing applicability; amending s. 376.82, F.S.; revising the persons and sites eligible for participation in the brownfield program; revising requirements for such participation; revising the information necessary from the United States Environmental Protection Agency and the department for a person's participation in the program; authorizing that certain brownfield sites are eligible to participate in the brownfield program under certain circumstances; amending ss. 196.1995 and 288.1175, F.S.; conforming cross-references; reenacting s. 1004.53(1), F.S., relating to the Center for Brownfield Rehabilitation Assistance, to incorporate the amendment made to s. 376.79, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsections (5) and (6) of section 376.303, Florida Statutes, are amended to read:

376.303 Powers and duties of the Department of Environmental Protection.—

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59 (5) ~~MAPPING.~~ If an institutional control is implemented at
60 any contaminated site in a brownfield area designated pursuant
61 to s. 376.80, the property owner must provide information
62 regarding the institutional control to the local government for
63 mapping purposes. The local government must then note the
64 existence of the institutional control on any relevant local
65 land use and zoning maps with a cross-reference to the
66 department's site registry developed pursuant to subsection (6).
67 If the type of institutional control used requires recording
68 with the local government, then the map notation shall also
69 provide a cross-reference to the book and page number where
70 recorded. When a local government is provided with evidence that
71 the department has subsequently issued a no further action order
72 without institutional controls for a site currently noted on
73 such maps, the local government shall remove the notation.

74 ~~(6)~~ REGISTRY.—The department shall prepare and maintain a
75 registry of all contaminated sites located in a brownfield area
76 designated pursuant to s. 376.80, which are subject to
77 institutional and engineering controls, in order to provide a
78 mechanism for the public and local governments to monitor the
79 status of these controls, monitor the department's short-term
80 and long-term protection of human health and the environment in
81 relation to these sites, and evaluate economic revitalization
82 efforts in these areas. At a minimum, the registry must ~~shall~~
83 include the type of institutional or engineering controls
84 employed at a particular site, types of contaminants and
85 affected media, land use limitations, and the county in which
86 the site is located. Sites listed on the registry at which the
87 department has subsequently issued a site rehabilitation

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88 ~~completion no further action~~ order without institutional
89 controls must ~~shall~~ be removed from the registry. The department
90 shall make the registry available to the public and local
91 governments within 1 year after the effective date of this act.
92 The department shall provide local governments with actual
93 notice when the registry becomes available. Local zoning and
94 planning offices shall post information on how to access the
95 registry in public view.

96 Section 2. Paragraphs (c), (d), and (e) of subsection (3)
97 and subsection (9) of section 376.30781, Florida Statutes, are
98 amended to read:

99 376.30781 Tax credits for rehabilitation of drycleaning-
100 solvent-contaminated sites and brownfield sites in designated
101 brownfield areas; application process; rulemaking authority;
102 revocation authority.—

103 (3)

104 (c) In order to encourage completion of site rehabilitation
105 at contaminated sites that are being voluntarily cleaned up and
106 that are eligible for a tax credit under this section, the tax
107 credit applicant may claim an additional 25 percent of the total
108 site rehabilitation costs, not to exceed \$500,000, if the
109 Department of Environmental Protection has approved the
110 applicant's annual site rehabilitation application and has
111 issued a site rehabilitation completion in the final year of
112 cleanup as evidenced by the Department of Environmental
113 Protection issuing a "No Further Action" order for that site.
114 The tax credit applicant must submit the claim for the
115 additional 25 percent within 2 years after receipt of the site
116 rehabilitation completion order for that site.

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117 (d) In order to encourage the construction of housing that
118 meets the definition of affordable provided in s. 420.0004, an
119 applicant for the tax credit may claim an additional 25 percent
120 of the total site rehabilitation costs that are eligible for tax
121 credits under this section, not to exceed \$500,000. To receive
122 this additional tax credit, the applicant must provide a
123 certification letter from the Florida Housing Finance
124 Corporation, the local housing authority, or other governmental
125 agency that is a party to the use agreement indicating that the
126 construction on the brownfield site has received a certificate
127 of occupancy and the brownfield site has a properly recorded
128 instrument that limits the use of the property to housing.
129 Notwithstanding that only one application may be submitted each
130 year for each site, an application for the additional credit
131 provided for in this paragraph must ~~shall~~ be submitted after all
132 requirements to obtain the additional tax credit have been met.

133 (e) In order to encourage the redevelopment of a brownfield
134 site, as defined in the brownfield site rehabilitation
135 agreement, that is hindered by the presence of solid waste, as
136 defined in s. 403.703, costs related to solid waste removal may
137 also be claimed under this section. A tax credit applicant, or
138 multiple tax credit applicants working jointly to clean up a
139 single brownfield site, may also claim costs to address the
140 solid waste removal as defined in this paragraph in accordance
141 with department rules. Multiple tax credit applicants shall be
142 granted tax credits in the same proportion as each applicant's
143 contribution to payment of solid waste removal costs. These
144 costs are eligible for a tax credit provided that the applicant
145 meets the eligibility requirements of s. 376.82(1) and that

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146 ~~submits an affidavit stating that, after consultation with~~
147 ~~appropriate local government officials and the department, to~~
148 ~~the best of the applicant's knowledge based upon such~~
149 ~~consultation and available historical records,~~ the brownfield
150 site was never operated as a permitted solid waste disposal area
151 as defined by rules adopted pursuant to s. 403.704 ~~or was never~~
152 ~~operated for monetary compensation, and the applicant submits~~
153 ~~all other documentation and certifications required by this~~
154 ~~section.~~ In this section, where reference is made to "site
155 rehabilitation," the department shall instead consider whether
156 the costs claimed are for solid waste removal. Tax credit
157 applications claiming costs pursuant to this paragraph are ~~shall~~
158 ~~not be~~ subject to the calendar-year limitation and January 31
159 annual application deadline, and the department shall accept a
160 one-time application filed subsequent to the completion by the
161 tax credit applicant of the applicable requirements listed in
162 this subsection. A tax credit applicant may claim 50 percent of
163 the costs for solid waste removal, not to exceed \$500,000, after
164 the applicant has determined solid waste removal is completed
165 for the brownfield site. A solid waste removal tax credit
166 application may be filed only once per brownfield site. For the
167 purposes of this section, the term:

168 1. "Solid waste disposal area" means a landfill, dump, or
169 other area where solid waste has been disposed.

170 2. ~~"Monetary compensation" means the fees that were charged~~
171 ~~or the assessments that were levied for the disposal of solid~~
172 ~~waste at a solid waste disposal area.~~

173 3. "Solid waste removal" means removal of solid waste from
174 the land surface or excavation of solid waste from below the

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land surface and removal of the solid waste from the brownfield site. The term also includes:

a. Transportation of solid waste to a licensed or exempt solid waste management facility or to a temporary storage area.

b. Sorting or screening of solid waste prior to removal from the site.

c. Deposition of solid waste at a permitted or exempt solid waste management facility, whether the solid waste is disposed of or recycled.

(9) On or before June ~~May~~ 1, the Department of Environmental Protection shall inform each tax credit applicant ~~that is~~ subject to the January 31 annual application deadline of the applicant's eligibility status and the amount of any tax credit due. The department shall provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s.

220.1845(2)(g). The June ~~May~~ 1 deadline for annual site rehabilitation tax credit certificate awards does ~~shall~~ not apply to any tax credit application for which the department has issued a notice of deficiency pursuant to subsection (8). The department shall respond within 120 ~~90~~ days after receiving a response from the tax credit applicant to such a notice of deficiency. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

Section 3. Subsection (1) of section 376.78, Florida Statutes, is amended to read:

376.78 Legislative intent.—The Legislature finds and declares the following:

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(1) The reduction of public health and environmental hazards on ~~existing commercial and industrial sites~~ proposed to be rehabilitated and redeveloped is vital to their use and reuse as sources of employment, housing, recreation, and open space areas. The reuse of such sites ~~industrial land~~ is an important component of sound land use policy for productive urban purposes which will help prevent the premature development of farmland, open space areas, and natural areas, and reduce public costs for installing new water, sewer, and highway infrastructure.

Section 4. Present subsections (6) through (21) of section 376.79, Florida Statutes, are redesignated as subsections (7) through (22), respectively, a new subsection (6) is added to that section, and subsections (4) and (5) of that section are amended, to read:

376.79 Definitions relating to Brownfields Redevelopment Act.—As used in ss. 376.77-376.85, the term:

(4) "Brownfield ~~sites~~" means any real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination and which has not yet been entered into a brownfield site rehabilitation agreement pursuant to s. 376.80(5).

(5) "Brownfield area" means a contiguous area of one or more brownfields ~~brownfield sites~~, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and United States Environmental Protection Agency-designated brownfield pilot projects.

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(6) "Brownfield site" means the real property identified in a brownfield site rehabilitation agreement executed by the person responsible for brownfield site rehabilitation of the property and the department or a delegated local pollution control program, as applicable.

Section 5. Subsections (1) and (2) of section 376.80, Florida Statutes, are amended to read:

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, ~~other than a governmental entity~~, including, but not limited to, individuals, corporations, partnerships, trusts, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. 403.182, of its decision to designate a

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brownfield area for rehabilitation for the purposes of ss. 376.77-376.86. The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. 403.182, of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 166.041, except that the notices ~~procedures~~ for the public hearings on the proposed resolution must be in the form established in s. 166.041(3)(c)2. For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 125.66, except that the notices ~~procedures~~ for the public hearings on the proposed resolution must be in the form established in s. 125.66(5)(b).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government must grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following

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provisions is required before designation of a proposed brownfield area under paragraph (2) (a) or paragraph (2) (c):

a. At least one of the required public hearings must be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2) (a) *Local government-proposed brownfield area designation outside specified redevelopment areas.*—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1) (c). At a public hearing to designate the proposed area as a brownfield area as defined in s. 376.79, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;

2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;

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320 3. Whether the area has potential to interest the private
321 sector in participating in rehabilitation; and

322 4. Whether the area contains sites or parts of sites
323 suitable for limited recreational open space, cultural, or
324 historical preservation purposes.

325 (b) *Local government-proposed brownfield area designation*
326 *within specified redevelopment areas.*—Paragraph (a) does not
327 apply to a proposed brownfield area if the local government
328 proposes to designate the brownfield area inside a community
329 redevelopment area, enterprise zone, empowerment zone, closed
330 military base, or designated brownfield pilot project area and
331 the local government complies with paragraph (1)(c).

332 (c) *Brownfield area designation proposed by specified*
333 *persons ~~other than a governmental entity.~~*—For designation of a
334 brownfield area that is proposed by a person under this
335 subsection ~~other than the local government~~, the local government
336 with jurisdiction over the proposed brownfield area shall
337 provide notice and adopt a resolution to designate the
338 brownfield area pursuant to paragraph (1)(c) if, at the public
339 hearing to adopt the resolution, the person establishes all of
340 the following with respect to the proposed brownfield area:

341 1. A person who owns or controls a potential brownfield
342 site is requesting the designation and has agreed to
343 rehabilitate and redevelop the brownfield site.

344 2. The rehabilitation and redevelopment of the proposed
345 brownfield site will result in economic productivity of the
346 area, along with the creation of at least 5 new permanent jobs
347 at the brownfield site that are full-time equivalent positions
348 not associated with the implementation of the brownfield site

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349 rehabilitation agreement and that are not associated with
350 redevelopment project demolition or construction activities
351 pursuant to the redevelopment of the proposed brownfield site or
352 area. However, the job creation requirement does not apply to
353 the rehabilitation and redevelopment of a brownfield site that
354 will provide affordable housing as defined in s. 420.0004 or the
355 creation of recreational areas, conservation areas, or parks.

356 3. The redevelopment of the proposed brownfield site is
357 consistent with the local comprehensive plan and is a
358 permittable use under the applicable local land development
359 regulations.

360 4. Notice of the proposed rehabilitation of the brownfield
361 area has been provided to neighbors and nearby residents of the
362 proposed area to be designated pursuant to paragraph (1)(c), and
363 the person proposing the area for designation has afforded to
364 those receiving notice the opportunity for comments and
365 suggestions about rehabilitation. Notice pursuant to this
366 subparagraph must be posted in the affected area.

367 5. The person proposing the area for designation has
368 provided reasonable assurance that he or she has sufficient
369 financial resources to implement and complete the rehabilitation
370 agreement and redevelopment of the brownfield site.

371 (d) *Negotiation of brownfield site rehabilitation*
372 *agreement.*—The designation of a brownfield area ~~and the~~
373 ~~identification of a person responsible for brownfield site~~
374 ~~rehabilitation~~ simply entitles a ~~the identified~~ person to
375 negotiate a brownfield site rehabilitation agreement with the
376 department or approved local pollution control program.

377 Section 6. Present subsection (3) of section 376.81,

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Florida Statutes, is redesignated as subsection (4), a new subsection (3) is added to that section, and present subsection (3) of that section is amended, to read:

376.81 Brownfield site and brownfield areas contamination cleanup criteria.—

(3) (a) The Legislature finds that rehabilitation and redevelopment of a potential brownfield site that is a portion of a larger contaminated site is significantly complicated when multiple parties may own, lease, or operate different portions of the contaminated site. The Legislature further finds that delaying a person's ability to achieve a "No Further Action" status for a potential brownfield site until such time as the owners, lessees, or operators of all other portions of the larger historical contaminated site have completed site rehabilitation on their respective portions is not in the public's interest, as such delay disincentivizes rehabilitation and redevelopment of the potential brownfield site by imposing unnecessary legal burdens, technical obstacles, and financial costs.

(b) Therefore, the Legislature finds that it is in the public interest to remove any such barriers to the rehabilitation and redevelopment of property by providing a clear path to obtaining a "No Further Action" status in cases where a potential brownfield site is only a portion of a larger contaminated site.

(c) If the person responsible for a brownfield site rehabilitation demonstrates the applicable contamination cleanup criteria described in subsection (1), and the brownfield site is only a portion of a larger contaminated site, the department or

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any delegated local pollution control program under s. 376.80(9)
may not:

1. Deny a "No Further Action" status for the brownfield
site; or

2. Refuse to issue a site rehabilitation completion order
for the brownfield site, regardless of whether it has
engineering and institutional controls. This subparagraph
applies even where similar contamination exists elsewhere on the
contaminated site which was the result of similar or related
activities or operations that occurred both on the contaminated
site and the brownfield site, provided that all soil and
groundwater contamination emanating from the brownfield site is
adequately addressed pursuant to chapter 62-780, Florida
Administrative Code.

(d) This subsection applies to all brownfield sites,
irrespective of the effective date of the brownfield site
rehabilitation agreement.

(4)~~(3)~~ The cleanup criteria described in this section
govern only site rehabilitation activities occurring at the
brownfield ~~contaminated~~ site. Removal of contaminated media from
a site for offsite relocation or treatment must be in accordance
with all applicable federal, state, and local laws and
regulations.

Section 7. Paragraphs (a) and (b) of subsection (1) and
paragraphs (e) and (g) of subsection (2) of section 376.82,
Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

(1) ELIGIBILITY.—

(a) All of the following persons are eligible to

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participate in the brownfield program established in ss. 376.77-376.85:

1. Other than as allowed by subparagraph 2., a any person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997.

2. A local governmental entity, including any other person who may be organized or united with the local governmental entity for a business purpose, if such entity or person did not cause or contribute to the contamination of a brownfield site on or after July 1, 2025.

(b) A person eligible to participate in the brownfield program pursuant to paragraph (a) is, ~~is eligible to participate in the brownfield program established in ss. 376.77-376.85,~~ subject to the following:

1.(a) Potential brownfield sites that are subject to an ongoing formal judicial or administrative enforcement action or corrective action pursuant to federal authority, including, but not limited to, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as amended; or under an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended (42 U.S.C.A. s. 6928(h)); or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility; a post-closure ~~postclosure~~ permit; or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984, are not eligible for participation in

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the brownfield program established in ss. 376.77-376.85 unless, pursuant to paragraph (2) (g), ~~specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency~~ issues a letter stating it has no objection to such participation and the department issues a letter of concurrence pursuant to paragraph (2) (g). A brownfield site within an eligible brownfield area that subsequently becomes subject to formal judicial or administrative enforcement action or corrective action under such federal authority shall have its eligibility revoked unless, ~~specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency~~ pursuant to paragraph (2) (g), the United States Environmental Protection Agency issues a letter stating it has no objection to such participation and the department issues a letter of concurrence.

~~2.(b)~~ A person who is eligible to participate in the brownfield program pursuant to paragraph (a) ~~Persons who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, and who, before~~ prior to the department's approval of a brownfield site rehabilitation agreement, is ~~are~~ subject to ongoing corrective action or enforcement under state authority established in this chapter or chapter 403, including those persons subject to a pending consent order with the state, is ~~are~~ eligible for participation in a brownfield site rehabilitation agreement if:

~~a.1.~~ The proposed brownfield site is currently idle or underutilized as a result of the contamination, and participation in the brownfield program will immediately, after cleanup or sooner, result in increased economic productivity at

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the site, including at a minimum the creation of 10 new permanent jobs, whether full-time or part-time, which are not associated with implementation of the brownfield site rehabilitation agreement. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide housing that is affordable as defined in s. 420.0004; create recreational areas, conservation areas, or parks; or be maintained for cultural or historical preservation purposes; and

b.2. The person is complying in good faith with the terms of an existing consent order or department-approved corrective action plan, or responding in good faith to an enforcement action, as evidenced by a determination issued by the department or an approved local pollution control program.

(2) LIABILITY PROTECTION.—

(e) Completion of the performance of the remediation obligations at the brownfield site shall be evidenced by a site rehabilitation completion order ~~letter or a "no further action"~~ ~~letter~~ issued by the department or the approved local pollution control program, which letter shall include the following statement: "Based upon the information provided by (property owner) concerning property located at (address), it is the opinion of (the Florida Department of Environmental Protection or approved local pollution control program) that (party) has successfully and satisfactorily implemented the approved brownfield site rehabilitation agreement schedule and, accordingly, no further action is required to assure that any land use identified in the brownfield site rehabilitation agreement is consistent with existing and proposed uses."

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(g)1. The Legislature recognizes the benefits of promoting the reuse of brownfield sites, even when subject to its
~~limitations in addressing cleanup liability under~~ federal
pollution control programs, including those enumerated in
subparagraph (1)(b)1. In an effort to encourage such reuse
~~secure federal liability protection~~ for persons willing to
undertake ~~remediation~~ responsibility for site rehabilitation at
a brownfield site, the department shall, upon receipt of a
letter from attempt to negotiate a memorandum of agreement or
~~similar document with~~ the United States Environmental Protection
Agency stating it has no objection to a site's participation
pursuant to subparagraph (1)(b)1. and upon a reasonable
demonstration by the person seeking to participate in the
brownfield program that he or she will conduct site
rehabilitation pursuant to s. 376.81, issue a letter of no
objection that states the person may participate in the
brownfield program. The department may not require, as a
condition of such letter of concurrence, that, ~~whereby~~ the
United States Environmental Protection Agency agree ~~agrees~~ to
forego enforcement of federal corrective action authority at
brownfield sites that have received a site rehabilitation
completion order ~~or "No Further Action" determination~~ from the
department or the approved local pollution control program or
that are in the process of implementing a brownfield site
rehabilitation agreement in accordance with this act. The
letters of concurrence from the United States Environmental
Protection Agency and the department must be added as
attachments to the brownfield site rehabilitation agreement.

2. Proposed brownfield sites that are subject to ongoing

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552 formal judicial or administrative enforcement action or
553 corrective action pursuant to an order from the United States
554 Environmental Protection Agency pursuant to s. 3008(h) of the
555 Resource Conservation and Recovery Act, as amended by 42 U.S.C.
556 s. 6928(h), or that have obtained or are required to obtain a
557 permit for the operation of a hazardous waste treatment,
558 storage, or disposal facility, a post-closure permit, or a
559 permit pursuant to the federal Hazardous and Solid Waste
560 Amendments of 1984 are eligible for participation in the
561 brownfield program established in ss. 376.77-376.85, provided
562 that the sites:

563 a. Obtain the necessary letters of concurrence pursuant to
564 paragraph (1)(b) and subparagraph 1.; and

565 b. Comply with the provisions of Section V of the
566 Memorandum of Agreement between the department and the United
567 States Environmental Protection Agency Region 4 covering
568 Florida's Brownfield Program, dated November 28, 2025, as may be
569 amended.

570 Section 8. Subsection (3) of section 196.1995, Florida
571 Statutes, is amended to read:

572 196.1995 Economic development ad valorem tax exemption.—

573 (3) The board of county commissioners or the governing
574 authority of the municipality that calls a referendum within its
575 total jurisdiction to determine whether its respective
576 jurisdiction may grant economic development ad valorem tax
577 exemptions may vote to limit the effect of the referendum to
578 authority to grant economic development tax exemptions for new
579 businesses and expansions of existing businesses located in an
580 enterprise zone or a brownfield area, as defined in s. 376.79 ~~s.~~

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581 ~~376.79(5)~~. If an area nominated to be an enterprise zone
582 pursuant to s. 290.0055 has not yet been designated pursuant to
583 s. 290.0065, the board of county commissioners or the governing
584 authority of the municipality may call such referendum prior to
585 such designation; however, the authority to grant economic
586 development ad valorem tax exemptions does not apply until such
587 area is designated pursuant to s. 290.0065. The ballot question
588 in such referendum shall be in substantially the following form
589 and shall be used in lieu of the ballot question prescribed in
590 subsection (2):

591
592 Shall the board of county commissioners of this county (or the
593 governing authority of this municipality, or both) be authorized
594 to grant, pursuant to s. 3, Art. VII of the State Constitution,
595 property tax exemptions for new businesses and expansions of
596 existing businesses that are located in an enterprise zone or a
597 brownfield area and that are expected to create new, full-time
598 jobs in the county (or municipality, or both)?

599
600Yes-For authority to grant exemptions.

601No-Against authority to grant exemptions.

602 Section 9. Paragraph (c) of subsection (5) of section
603 288.1175, Florida Statutes, is amended to read:

604 288.1175 Agriculture education and promotion facility.—

605 (5) The Department of Agriculture and Consumer Services
606 shall competitively evaluate applications for funding of an
607 agriculture education and promotion facility. If the number of
608 applicants exceeds three, the Department of Agriculture and
609 Consumer Services shall rank the applications based upon

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criteria developed by the Department of Agriculture and Consumer Services, with priority given in descending order to the following items:

(c) The location of the facility in a brownfield site as defined in s. 376.79 ~~s. 376.79(4)~~, a rural enterprise zone as defined in s. 290.004, an agriculturally depressed area as defined in s. 570.74, or a county that has lost its agricultural land to environmental restoration projects.

Section 10. For the purpose of incorporating the amendment made by this act to section 376.79, Florida Statutes, in a reference thereto, subsection (1) of section 1004.53, Florida Statutes, is reenacted to read:

1004.53 Interdisciplinary Center for Brownfield Rehabilitation Assistance.—The Center for Brownfield Rehabilitation Assistance in the Environmental Sciences and Policy Program is established in the College of Arts and Sciences at the University of South Florida with the collaboration of other related disciplines such as business administration, environmental science, and medicine. The center shall work in conjunction with other state universities. The Center for Brownfield Rehabilitation Assistance shall:

(1) Conduct research relating to problems and solutions associated with rehabilitation and restoration of brownfield areas as defined in s. 376.79. The research must include identifying innovative solutions to removing contamination from brownfield sites to reduce the threats to drinking water supplies and other potential public health threats from contaminated sites.

Section 11. This act shall take effect July 1, 2025.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Committee on Agriculture, Environment,
and General Government
Appropriations Committee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy
Military and Veterans Affairs, Space, and
Domestic Security
Transportation

SENATOR KEITH TRUENOW

13th District

February 26, 2025

Senator Anna Maria Rodriguez
410 Senate Office Building
404 So Monroe Street
Tallahassee, FL 32399

Dear Chair Rodriguez,

I would like to request SB 736 Brownfields be placed on your next available Environment and Natural Resources Committee agenda.

This good bill creates an act relating to brownfields, deleting a provision requiring certain property owners to provide information regarding institutional controls to the local government for mapping purposes; deleting local government requirements for such mapping; requiring that sites issued a site rehabilitation completion order without institutional controls be removed from the registry of all contaminated sites located in a brownfield area; revising the conditions under which an applicant that has rehabilitated a contaminated site may submit and claim certain tax credits; specifying a timeframe within which such tax credit application must be submitted; revising the criteria for determining applicants who are redeveloping brownfield sites who may be eligible for certain tax credits; deleting the definition of the term "monetary compensation"; revising the date by which the Department of Environmental Protection must issue annual site rehabilitation tax credit certificate awards; revising the amount of time the department has to respond to a tax credit applicant regarding a certain notice; conforming provisions to changes made by the act; revising definitions; amending revising the entities that may propose brownfield area designations using specified criteria, deleting the requirement that certain people be identified before negotiating a brownfield site rehabilitation agreement; amending, providing legislative findings; prohibiting the department or a delegated local pollution control program from denying a specified status or refusing to issue a specified order for certain brownfield sites that are only a portion of larger contaminated sites; providing applicability; revising the persons and sites eligible for participation in the brownfield program; revising requirements for such participation; revising the information necessary from the United States Environmental Protection Agency and the department for a person's participation in the program.

I appreciate your favorable consideration.

Sincerely,

A handwritten signature in blue ink that reads "Keith Truenow".

Senator Keith Truenow
Senate District 13

KT/dd

REPLY TO:

- ☐ Lake County Agricultural Center, 1951 Woodlea Road, Tavares, Florida 32778 (352) 750-3133
- ☐ 16207 State Road 50, Suite 401, Clermont, Florida 34711
- ☐ 304 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Committee on Agriculture, Environment,
and General Government
Appropriations Committee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy
Military and Veterans Affairs, Space, and
Domestic Security
Transportation

SENATOR KEITH TRUENOW

13th District

March 10, 2025

Senator Ana Maria Rodriguez
410 Senate Office Building
404 So Monroe Street
Tallahassee, FL 32399

Dear Chair Rodriguez,

I have asked Senator Brodeur to present SB 736 Brownfields on my behalf tomorrow in the Environmental and Natural Resources Committee meeting due to my conflict of presenting three other bills in other committees during the same time frame.

I appreciate your favorable consideration.

Sincerely,

A handwritten signature in blue ink that reads "Keith Truenow".

Senator Keith Truenow
Senate District 13

KT/dd

cc: Ellen Rogers, Staff Director
Kim Bonn, Administrative Assistant

REPLY TO:

- ☐ Lake County Agricultural Center, 1951 Woodlea Road, Tavares, Florida 32778 (352) 750-3133
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Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

March 11, 2025

Meeting Date

Environment & Natural Resources

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 736 (as amended)

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Michael Goldstein**

Phone **305-777-1682**

Address **2100 Ponce de Leon Blvd., Ste. 710**
Street

Email **mgoldstein@goldsteinenvlaw.com**

Coral Gables
City

FL
State

33134
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD

736

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

Deliver both copies of this form to

Senate professional staff conducting the meeting

Committee

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:

Florida Chamber of Commerce

☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 796

INTRODUCER: Senator Bradley

SUBJECT: General Permits for Distributed Wastewater Treatment Systems

DATE: March 10, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	Favorable
2.			AEG	
3.			FP	

I. Summary:

SB 796 grants a general permit for the replacement of existing onsite sewage treatment and disposal systems with distributed wastewater treatment systems (DWTSS), provided that the permittee conducts monthly reporting, annual inspections, recordkeeping, and biosolids management in accordance with applicable rules. The installation of a distributed wastewater treatment unit (DWTU) may proceed without further action by the Department of Environmental Protection (DEP) if the permittee notifies DEP at least 30 days before the installation. The notification must certify that a Florida registered professional designed the DWTU in compliance with applicable rules and that the proposed DWTU meets specific design and operational requirements. To be eligible for the general permit, the DWTU and the DWTS must be commonly owned and operated by the permittee.

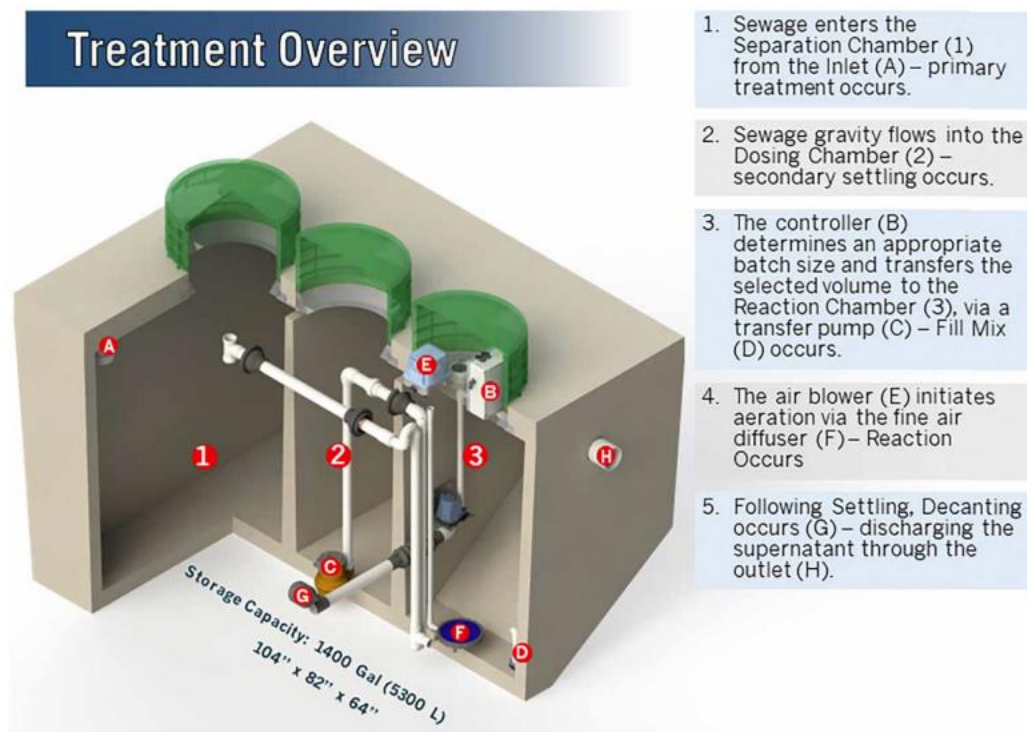
II. Present Situation:

Distributed Wastewater Treatment Systems

Distributed wastewater treatment systems consist of separate distributed wastewater treatment units (DWTUs) that are in different geographical locations but are linked to a central system either physically or by management.¹ The design of DWTUs varies based on manufacturer and setting (residential, commercial, or industrial).

¹ See EPA, Water Environment Foundation, and The Water Research Foundation, *Distributed Systems Overview*, 1 (2019), available at https://www.wef.org/globalassets/assets-wef/2-resources/topics/a-n/distributed-systems/technical-resources/wsec-2019-fs-012-wef_wrf_distributed_sytems_overview.pdf.

For residential use, one type of DWTU consists of three separate chambers.² The first chamber is used for primary sedimentation (settling) and digestion of biosolids. The wastewater flows via gravity from the first chamber into a flow equalization and dosing chamber. An onboard computer continuously monitors the liquid level in the dosing chamber and determines an appropriate treatment batch volume based on incoming flows (calculated based on the rate of change in liquid level). The computer then pumps a batch of wastewater from the dosing chamber into a reaction chamber, where biological treatment is provided in a sequential, computer-controlled aeration, mixing, and clarification process.³



Example of a residential DWTU⁴

After each batch is completed, the onboard computer selects a variable fraction of the treated batch for additional treatment via internal recycling.⁵ This fraction of fully treated effluent is pumped back to the first (settling) chamber, diluting the incoming wastewater and receiving additional treatment. The remaining fraction of each treated batch of effluent is discharged to the drainfield. Finally, the DWTU utilizes a return activated sludge process to optimize sludge volume in the reaction chamber and minimize accumulation of biosolids in the settling chamber. Activated sludge is periodically returned to the settling chamber where biosolids are broken down via anaerobic digestion. The biosolids residuals must be removed from the DWTU

² Brian E. Lapointe et al., *Distributed wastewater treatment offers an environmentally preferable alternative to conventional septic systems in Central Florida*, *Water Science & Technology*, vol. 86, 433 (2022), available at <https://iwaponline.com/wst/article/86/3/432/89867/Distributed-wastewater-treatment-offers-an>.

³ *Id.*

⁴ *Id.* at 434 (showing the graphic of the DWTU).

⁵ *Id.*

periodically (approximately every 7-10 years) by a licensed contractor for treatment and disposal.⁶

DWTU treatment processes are performed by an onboard computer and remotely monitored.⁷ The remote monitoring system communicates with each DWTU over a wireless data network to:

- Record wastewater treatment volume and flow, component run time and power consumption, and equipment deficiencies;
- Perform diagnostics; and
- Enable remote supervisory control by a licensed wastewater operator.⁸

DWTUs are currently permitted and regulated as domestic wastewater treatment facilities under ch. 403, F.S., and chs. 62-600 and 62-620 of the Florida Administrative Code.⁹

Domestic Wastewater Treatment Facilities

The majority of the state's wastewater is controlled and treated by centralized treatment facilities regulated by the Department of Environmental Protection (DEP).¹⁰ Florida has approximately 2,000 permitted domestic wastewater treatment facilities.¹¹

Wastewater treatment facilities are required to provide secondary treatment prior to reuse or disposal.¹² Such treatment requires that carbonaceous biochemical oxygen demand (CBOD5) and total suspended solids not exceed specific levels based on the method of disposal (i.e., surface water disposal, reuse, land application, or groundwater discharge).¹³ For example, for land application or groundwater discharge, the annual average of CBOD5 and total suspended solids (TSS) may not exceed 20.0 milligrams per liter (mg/L), and the maximum-permissible concentration in any single sample may not exceed 60.0 mg/L.¹⁴

Advanced waste treatment (AWT) is required before discharging into certain impaired waterbodies.¹⁵ DEP may also order AWT if deemed necessary.¹⁶ AWT provides a reclaimed water product containing no more than the following concentrations of pollutants:

- 5 mg/L of Biochemical Oxygen Demand;
- 5 mg/L of Suspended Solids;
- 3 mg/L of total nitrogen; and

⁶ *Id.* at 433-435.

⁷ *Id.* at 434.

⁸ *Id.* at 434-435.

⁹ See Email from the Department of Environmental Protection (DEP) to Senate Committee on Environment and Natural Resources on Oct. 4, 2024 (on file with committee staff).

¹⁰ DEP, *Domestic Wastewater Program*, <https://floridadep.gov/water/domestic-wastewater> (last visited Mar. 6, 2025).

¹¹ DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Mar. 6, 2025).

¹² Sections 403.086(1)(a) and (2), F.S.; Fla. Admin. Code R. 62-600.420.

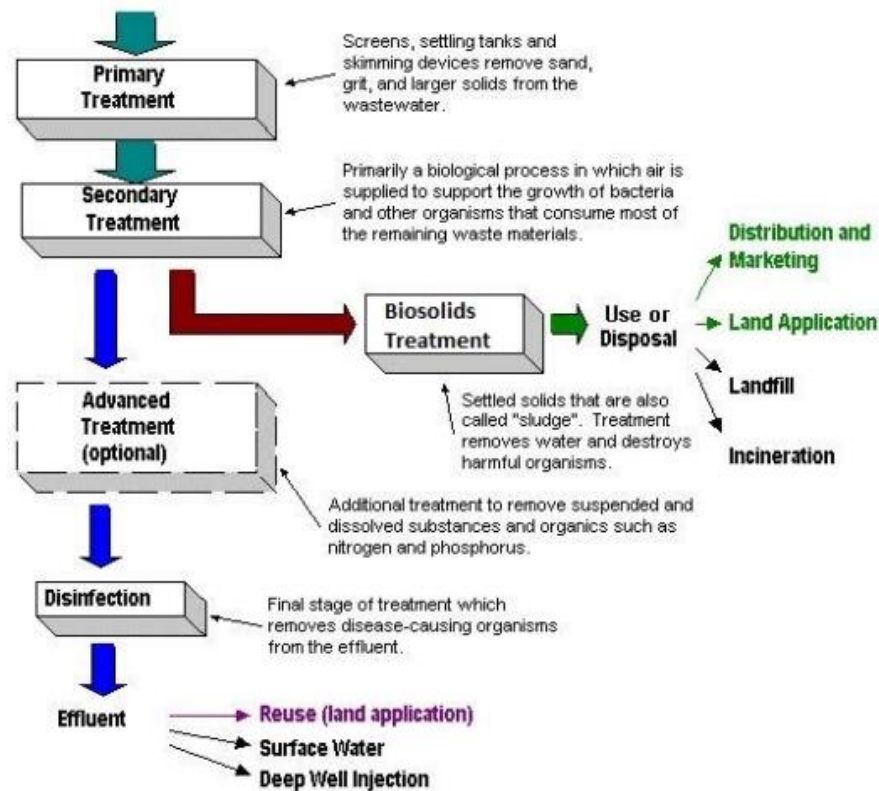
¹³ CBOD5 is the quantity of oxygen utilized in the carbonaceous biochemical oxidation of organic matter present in water or wastewater, reported as a five-day value determined using approved methods. Fla. Admin. Code R. 62-600.200(8).

¹⁴ Fla. Admin. Code R. 62-600.420(3).

¹⁵ Section 403.086(1)(c), F.S.

¹⁶ Section 403.086(1)(a), F.S.

- 1 mg/L of total phosphorous.¹⁷



Facilities may be required to provide additional treatment to satisfy water quality standards for receiving surface and ground waters.¹⁸ Systems within Monroe County are subject to different treatment requirements.¹⁹

Wastewater treatment facilities must monitor the flow, the influent for CBOD5 and TSS, and the effluent for all effluent parameters as required by the permit.²⁰ The minimum schedule for sampling is based on the facility's permitted capacity. For example, for facilities with a permitted capacity of 2,000-24,999 gallons per day, sampling must be conducted according to the following parameters:²¹

- Daily²² testing for flow, pH, and chlorine residual;²³
- Weekly testing for e. coli or enterococci;
- Monthly testing for TSS, CBOD5, nutrients, chlorine residual, and fecal coliform.

¹⁷ Section 403.086(4)(a), F.S.

¹⁸ Fla. Admin. Code R. 62-600.430. DEP, *Domestic Wastewater Treatment Process*, available at <https://floridadep.gov/water/domestic-wastewater/documents/domestic-wastewater-treatment-process> (showing flowchart of wastewater treatment process).

¹⁹ Section 403.086(11), F.S.

²⁰ Fla. Admin. Code R. 62-600.660(1).

²¹ *Id.* at Figure 1.

²² The "daily" frequency is either 2, 3, or 5 days per week consistent with the required operator attendance specified in paragraph 62-699.310(2)(a), F.A.C. *Id.* at n. 8.

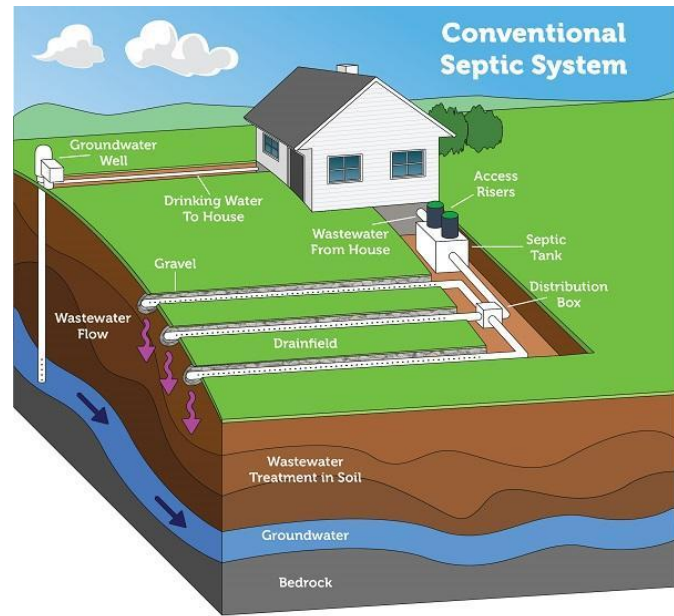
²³ Total chlorine residual measured for disinfection effectiveness. *Id.* at n. 2.

Wastewater treatment facilities which are designed so that some or all the effluent may enter groundwaters must also conduct groundwater monitoring.²⁴

Permits other than general and generic permits require the permittee to allow DEP and the U.S. Environmental Protection (EPA) to sample or monitor any substances or parameters at any location necessary to assure compliance.²⁵ Such permittees must also allow DEP and EPA to inspect the facilities, equipment, practices, or operations regulated under the permit.²⁶

Onsite Sewage Treatment and Disposal Systems (OSTDSs)

OSTDSs, commonly referred to as “septic systems,” generally consist of two basic parts: the septic tank and the drainfield.²⁷ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.²⁸ In Florida, the bottom of the drainfield must be at least 24 inches above the water table during the wettest season of the year.²⁹



Please note: Septic systems vary. Diagram is not to scale.

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state’s population.³⁰ Development in some areas is dependent on OSTDSs due to

²⁴ Fla. Admin. Code R. 62-600.670(1).

²⁵ Fla. Admin. Code R. 62-620.610(9)(d).

²⁶ Fla. Admin. Code R. 62-620.610(9)(c).

²⁷ Florida Dep’t of Health (DOH), *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Mar. 2, 2025); EPA, *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited Mar. 2, 2025) (showing the graphic provided in the analysis).

²⁸ *Id.*

²⁹ Fla. Admin. Code R. 62-6.006(2). For system repairs and alterations to add sewage flow, where the existing elevation of the bottom surface of the drainfield is less than 24 inches above the wet season high water table, the bottom of the drainfield must be maintained at the existing separation or a minimum of 12 inches above the wet season high water table, whichever is greater. Where the bottom of the drainfield is less than 12 inches above the wet season high water table, the drainfield must be brought into full compliance with all new system standards. Fla. Admin. Code R. and 62-6.001(4)(e)2. and 3. See also Fla. Admin. Code R. 62-6.015(6)(a).

³⁰ DEP, *Onsite Sewage Program*, <https://floridadep.gov/water/onsite-sewage#:~:text=Onsite%20sewage%20treatment%20and%20disposal%20systems%20%28OSTDS%29%2C%20commonly,represents%2012%25%20of%20the%20United%20States%E2%80%99%20septic%20systems> (last visited Feb. 26, 2025).

the cost and time it takes to install central sewer systems.³¹ For example, in rural areas and low-density developments, central sewer systems are not cost-effective.³²

Conventional OSTDSs do not reduce nitrogen from raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.³³ This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.³⁴

Different types of advanced OSTDSs can remove greater amounts of nitrogen than a typical septic system (often referred to as “advanced” or “nutrient-reducing” septic systems),³⁵ and may be required in certain areas. For example, enhanced nutrient-reducing OSTDSs³⁶ are required for new systems within the Indian River Lagoon³⁷ and on lots of 1 acre or less within a basin management action plan, reasonable assurance plan, or pollution reduction plan where a sewerage system is not available.³⁸ There are also special treatment requirements for the Florida Keys.³⁹ In addition, performance-based treatment systems⁴⁰ must meet specific treatment standards.⁴¹

DEP must inspect OSTDSs before placing a system into service⁴² and approve the final OSTDS installation before a building or structure may be occupied.⁴³ If certain alterations⁴⁴ are made,

³¹ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/documents/costs-implement-mandatory-statewide-inspection.pdf>.

³² *Id.*

³³ DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study, Final Report 2008-2015*, 21 (Dec. 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf>; See Fla. Admin. Code R. 64E-6.006(2).

³⁴ University of Florida Institute of Food and Agricultural Sciences, *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (2020), available at <http://edis.ifas.ufl.edu/pdf/SS/SS55000.pdf>.

³⁵ DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (updated May 2021), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/products/documents/bmap-n-reducing-tech-18-10-29.pdf>.

³⁶ “Enhanced nutrient-reducing OSTDS” means an OSTDS approved by DEP as capable of meeting or exceeding a 50 percent total nitrogen reduction before disposal of wastewater in the drainfield, or at least 65 percent total nitrogen reduction combined from onsite sewage tank or tanks and drainfield. Section 373.469(2)(b), F.S.

³⁷ See section 373.469(3)(d), F.S.

³⁸ Sections 373.811(2) and 403.067(7)(a)10., F.S.

³⁹ Section 381.0065(4)(l), F.S.

⁴⁰ “Performance-based treatment system” means a specialized OSTDS designed by a professional engineer with a background in wastewater engineering, licensed in the state of Florida, using appropriate application of sound engineering principles to achieve specified levels of CBOD5 (carbonaceous biochemical oxygen demand after five days), TSS (total suspended solids), TN (total nitrogen), TP (total phosphorus), or fecal coliform found in domestic or commercial sewage waste, to a specific and measurable established performance standard. Fla. Admin. Code R. 62-6.025(7). If a site restricts home construction because of setbacks or authorized sewage flow, a system can be designed by an engineer to meet strict levels of effluent pollutant reductions. The three levels of performance-based treatment systems are secondary treatment, advanced secondary treatment, and advanced wastewater treatment.

⁴¹ See Fla. Admin. Code R. 62-6.025(11).

⁴² Fla. Admin. Code R. 62-6.003(2).

⁴³ Section 381.0065(4), F.S.

⁴⁴ This includes alterations that change the conditions under which the system was permitted, sewage characteristics, or increase sewage flow. DEP approval is required prior to such alterations. Fla. Admin. Code R. 62-6.001(4), F.S.

system tanks must be pumped and visually inspected.⁴⁵ If an existing system was approved within the preceding five years, a new inspection is not required unless there is a record of failure of the system.⁴⁶ System repairs must be inspected by DEP or a master septic tank contractor.⁴⁷ Buildings or establishments that use an aerobic treatment unit or generate commercial waste must be inspected by DEP at least annually.⁴⁸

Biosolids

When domestic wastewater is treated, a solid, semisolid, or liquid byproduct known as biosolids⁴⁹ accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.⁵⁰ The collected residue is high in organic content and contains moderate amounts of nutrients.⁵¹ Properly treated biosolids may be used as a fertilizer supplement or soil amendment, subject to regulatory requirements that have been established to protect public health and the environment.⁵²

According to DEP's estimates in 2019, wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.⁵³ Biosolids can be disposed of in several ways: transfer to another facility, placement in a landfill, distribution and marketing as fertilizer, incineration, bioenergy, and land application to pasture or agricultural lands.⁵⁴ In 2019, about two-thirds of the total amount of biosolids produced was beneficially used and one-third was landfilled.⁵⁵

General Permits

A general permit is a permit issued by rule of DEP under s. 403.814, F.S., which authorizes a person to undertake certain activities, which when performed in accordance with the specific requirements and practices set forth in the general permit have a minimal adverse environmental effect. A person may proceed under a general permit 30 days after notifying DEP, without any further action by DEP.⁵⁶

⁴⁵ Fla. Admin. Code R. 62-6.001(4)(b).

⁴⁶ Fla. Admin. Code R. 62-6.001(4)(c).

⁴⁷ Fla. Admin. Code R. 62-6.003(3).

⁴⁸ Section 381.0065(4), F.S.

⁴⁹ Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids. Section 373.4595, F.S.

⁵⁰ DEP, *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Mar. 10, 2025).

⁵¹ DEP, *Domestic Wastewater Biosolids*.

⁵² *Id.*

⁵³ DEP, *Biosolids in Florida*, 5 (2019), available at <https://www.florida-stormwater.org/assets/MemberServices/Conference/AC19/02%20-%20Frick%20Tom.pdf#:~:text=Biosolids%20and%20Management%20in%20Florida%20Estimated%20Total%20Production,two-thirds%20are%20beneficially%20used%20and%20onethird%20is%20landfilled>.

⁵⁴ *Id.* at 4.

⁵⁵ *Id.* at 5.

⁵⁶ Section 403.814(1), F.S.

III. Effect of Proposed Changes:

Section 1 amend s. 403.814, F.S., regarding general permits. The bill grants a general permit for the replacement of an existing onsite sewage treatment and disposal system with a distributed wastewater treatment system (DWTS)⁵⁷ if the distributed wastewater treatment unit (DWTU)⁵⁸ and DWTS are commonly owned and operated by the permittee. The installation of each DWTU may proceed without further action by the Department of Environmental Protection (DEP) if the permittee submits a notification to DEP at least 30 days before installation. Such notification must certify that a Florida registered professional designed the DWTU in accordance with applicable rules and that the proposed DWTU meets all the following requirements:

- The design capacity of the DWTU does not exceed 10,000 gallons per day of domestic wastewater or 5,000 gallons per day of commercial wastewater.
- The DWTU may discharge without disinfection into a slow-rate subsurface application system designed and operated to protect public health and safety and maintain the current separation, and in no case has less than 12 inches of separation, between the bottom surface of the drainfield and the water table elevation at the wettest season of the year.
- The horizontal setback distance from the DWTU and subsurface application system to property lines, surface waterbodies, potable water wells, and utilities is consistent with rules adopted under this ch. 403, F.S., which regulates domestic wastewater treatment facilities, and s. 381.0065, F.S., which regulates onsite sewage treatment and disposal systems.
- The permittee has legal access to maintain and operate the DWTU and remove the DWTU in case of termination of service.
- The permittee has submitted a plan for conducting monthly effluent compliance sampling of a representative number of deployed DWTUs, the results of which may be aggregated to determine compliance with performance standards consistent with this subsection and the rules adopted under this chapter.
- The operation of the DWTU does not:
 - Create saturated conditions on the ground surface;
 - Adversely impact wetlands or other surface waters; or
 - Cause or contribute to a violation of state water quality standards.

The bill requires the permittee to conduct monthly reporting, annual inspections, recordkeeping, and biosolids management for the DWTU consistent with the applicable rules adopted under ch. 403, F.S., which regulates wastewater treatment facilities. Permittees are also required to schedule staffing and visitation by licensed operators for the DWTU in a manner that is consistent with the rules adopted under ch. 403, F.S., except that visitation may be accomplished using an electronic control system.

Section 2 provides an effective date of July 1, 2025.

⁵⁷ The bill defines DWTS as an integrated system approach to treating wastewater consisting of one or more distributed wastewater treatment units.

⁵⁸ The bill defines DWTU as an advanced onsite closed-tank wastewater treatment system that is remotely operated and controlled by the permittee using an electronic control system and designed to achieve secondary treatment standards and a minimum of 80 percent total nitrogen removal before discharge to a subsurface application system.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.814 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Bradley

6-01334-25

2025796__

A bill to be entitled
An act relating to general permits for distributed
wastewater treatment systems; amending s. 403.814,
F.S.; defining terms; authorizing the Secretary of
Environmental Protection to grant a general permit for
the replacement of an existing onsite sewage treatment
and disposal system with a distributed wastewater
treatment system under certain circumstances;
providing for the installation of distributed
wastewater treatment units to proceed without any
further action by the Department of Environmental
Protection if a permittee submits a notification to
the department at least a specified number of days
before installation; providing requirements for such
notification; requiring such a permittee to take
specified actions for distributed wastewater treatment
units they install; providing an effective date.

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

Section 1. Subsection (13) is added to section 403.814,
Florida Statutes, to read:

403.814 General permits; delegation.—

(13) (a) For the purposes of this subsection, the term:

1. "Distributed wastewater treatment system" or "DWTS"
means an integrated system approach to treating wastewater
consisting of one or more distributed wastewater treatment
units.

2. "Distributed wastewater treatment unit" or "DWTU" means

6-01334-25

2025796__

an advanced onsite closed-tank wastewater treatment system that is remotely operated and controlled by the permittee using an electronic control system and designed to achieve secondary treatment standards and a minimum of 80 percent total nitrogen removal before discharge to a subsurface application system.

(b) A general permit is granted for the replacement of an existing onsite sewage treatment and disposal system, otherwise subject to s. 381.0065, with a DWTU if the DWTU and DWTS are commonly owned and operated by the permittee. Pursuant to obtaining this permit, the installation of each DWTU may proceed without further action by the department if the permittee submits a notification to the department at least 30 days before installation. Such notification must certify that a Florida registered professional designed the DWTU in accordance with applicable rules adopted pursuant to this chapter and that the proposed DWTU meets all of the following requirements:

1. The design capacity of the DWTU does not exceed 10,000 gallons per day of domestic wastewater or 5,000 gallons per day of commercial wastewater.

2. The DWTU may discharge without disinfection into a slow-rate subsurface application system designed and operated to protect public health and safety and maintain the current separation, and in no case has less than 12 inches of separation, between the bottom surface of the drainfield and the water table elevation at the wettest season of the year.

3. The horizontal setback distance from the DWTU and subsurface application system to property lines, surface waterbodies, potable water wells, and utilities is consistent with rules adopted under this chapter and s. 381.0065.

6-01334-25

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59 4. The permittee has legal access to maintain and operate
60 the DWTU and remove the DWTU in case of termination of service.

61 5. The permittee has submitted a plan for conducting
62 monthly effluent compliance sampling of a representative number
63 of deployed DWTUs, the results of which may be aggregated to
64 determine compliance with performance standards consistent with
65 this subsection and the rules adopted under this chapter.

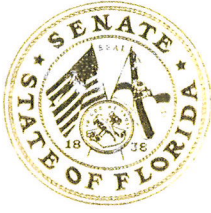
66 6. The operation of the DWTU does not:
67 a. Create saturated conditions on the ground surface;
68 b. Adversely impact wetlands or other surface waters; or
69 c. Cause or contribute to a violation of state water
70 quality standards.

71 (c) The permittee shall:

72 1. Conduct monthly reporting, annual inspections,
73 recordkeeping, and biosolids management for the DWTU consistent
74 with the rules adopted under this chapter.

75 2. Schedule staffing and visitation by licensed operators
76 for the DWTU in a manner that is consistent with the rules
77 adopted under this chapter, except that visitation may be
78 accomplished using an electronic control system.

79 Section 2. This act shall take effect July 1, 2025.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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Joint Committee on Public Counsel Oversight,
Alternating Chair

SENATOR JENNIFER BRADLEY
6th District

March 3, 2025

Senator Ana Maria Rodriguez, Chair
Senate Committee on Environment and Natural Resources
410 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Rodriguez:

I respectfully request that SB 796 be placed on the committee's agenda at your earliest convenience. This bill relates to general permits for distributed wastewater treatment systems.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Ellen Rogers, Staff Director
Kim Bonn, Committee Administrative Assistant

REPLY TO:

- ☐ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- ☐ 406 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

3/11/25

The Florida Senate
APPEARANCE RECORD

SB 796

Meeting Date

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Bill Number or Topic

Env & Nat Resources

Committee

Amendment Barcode (if applicable)

Name Brett Cyphers

Phone 850-566-4142

Address 4442 Maylor Road

Email bcyphers.arrow@Gunster.com

Street

Tallahassee FL 32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 800

INTRODUCER: Senator McClain

SUBJECT: Requirements for Battery Manufacturers

DATE: March 10, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carroll	Rogers	EN	Favorable
2. _____	_____	CM	_____
3. _____	_____	RC	_____

I. Summary:

SB 800 prohibits a battery manufacturer or marketer from selling products that are powered by a lithium battery, medium-format battery, portable battery, or primary battery, unless the battery is removable or contained in a battery pack, the battery or packaging is labeled with a recycling symbol, or the product’s instruction manual or packaging provides information on recycling or disposal.

II. Present Situation:

Batteries: Types, Dangers, and Regulation

Billions of single-use and rechargeable batteries are bought, used, and disposed of in the U.S. every year.¹ The increasing use of small, portable electronics, power tools, and “smart” products like appliances and automobiles has created an increase in the demand for batteries.² There are many different types of batteries that contain different chemical elements, including metals like mercury, lead, cadmium, nickel, and silver, as well as critical minerals³ like cobalt, lithium, and graphite.⁴

¹ Florida Department of Environmental Protection (DEP), *Battery Recycling and Disposal*, 1 (2016), available at <https://floridadep.gov/sites/default/files/Battery%20Recycling%20and%20Disposal-web.pdf>; U.S. Environmental Protection Agency (EPA), *Used Household Batteries*, <https://www.epa.gov/recycle/used-household-batteries> (last visited March 5, 2025).

² EPA, *Used Household Batteries*.

³ The U.S. Geological Survey (USGS) designates mineral commodities as “critical minerals” if the minerals have a significant role in national security, economy, renewable energy development, and infrastructure. USGS, *U.S. Geological Survey Releases 2022 List of Critical Minerals*, <https://www.usgs.gov/news/national-news-release/us-geological-survey-releases-2022-list-critical-minerals> (last visited March 5, 2025). See Congressional Research Service, *Critical Mineral Resources: The U.S. Geological Survey (USGS) Role in Research and Analysis* (Feb. 21, 2025), available at <https://crsreports.congress.gov/product/pdf/R/R48005>.

⁴ EPA, *Used Household Batteries*.

Single-use batteries include alkaline and zinc-carbon batteries, button-cell or coin batteries, and lithium batteries.⁵ Rechargeable batteries include nickel cadmium, lithium-ion, nickel metal hydride, nickel-zinc, and small, sealed lead-acid batteries. Automotive batteries include lead-acid and medium- and large-scale lithium-ion batteries.⁶

Rechargeable lithium-ion batteries are in increasing demand because they can store high amounts of energy in a smaller battery than other types of batteries.⁷ Lithium-ion batteries are being used in many consumer electronics, electric vehicles, and stationary energy storage.⁸

Battery Labeling, Collection, and Disposal

Battery disposal must be managed correctly to reduce environmental, safety, and health risks.⁹ While some batteries can be disposed of in household trash or municipal recycling, others can cause significant environmental contamination from heavy metals and other toxic substances.¹⁰ Improperly disposed batteries, especially lithium-ion batteries, can be dangerous fire hazards.¹¹ Certain lithium-ion batteries on the market today are classified as hazardous waste by the U.S. Environmental Protection Agency (EPA) due to their ignitability and reactive properties.¹²

Many stores that sell batteries, phones, or electronics, as well as local hazardous waste facilities, will take used batteries for recycling.¹³ See the Florida Department of Environmental Protection's (DEP's) graphic on the next page for the types of batteries that may be disposed of in household trash and the types of batteries that should be recycled or sent to a hazardous waste facility.¹⁴

⁵ *Id.*

⁶ *Id.*

⁷ EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions*, 1 (May 24, 2023), available at <https://rcrapublic.epa.gov/files/14957.pdf>.

⁸ *Id.*

⁹ EPA, *Used Household Batteries*.

¹⁰ *Id.*; DEP, *Battery Recycling and Disposal* at 1.

¹¹ EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions* at 6; EPA, *Used Lithium-Ion Batteries*, <https://www.epa.gov/recycle/used-lithium-ion-batteries#businesses> (last visited March 5, 2025).

¹² EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions* at 3. There is a wide variety of lithium-ion battery chemistries, which affects whether a given lithium-ion battery exhibits a hazardous waste characteristic that would place it under the purview of federal hazardous waste laws. If a lithium-ion battery has a hazardous waste characteristic, its disposal may be regulated under the federal Resource Conservation and Recovery Act (RCRA). RCRA regulates hazardous waste generators, however hazardous wastes discarded by households are generally exempt. Due to the dangers posed by lithium-ion batteries, the EPA recommends that all household lithium-ion batteries be dropped off at battery collection sites or household hazardous waste collection facilities. *Id.* at 6-7; 42 U.S.C. §6903; EPA, *Used Lithium-Ion Batteries*.

¹³ DEP, *Battery Recycling and Disposal* at 1. Information about recycling batteries can be found through local household hazardous waste program websites, at Call2Recycle, or Earth 911. DEP, *Household Hazardous Waste*, <https://floridadep.gov/waste/permitting-compliance-assistance/content/household-hazardous-waste> (last visited March 5, 2025); *Call2Recycle Homepage*, <https://www.call2recycle.org/> (last visited March 5, 2025); *Earth911 Homepage*, https://search.earth911.com/?utm_source=earth911-header (last visited March 5, 2025).

¹⁴ DEP, *Battery Recycling and Disposal* at 1.



The federal Bipartisan Infrastructure Law of 2021 directed the EPA to develop best practices for the collection of small, medium, and large format batteries for recycling.¹⁵ The best practices will:

- Be technically and economically feasible for state, Tribal, and local governments;
- Be environmentally sound and safe for waste management workers; and
- Optimize the value and use of material derived from recycling batteries.¹⁶

Also as a result of the Bipartisan Infrastructure Law of 2021, the EPA is working to compile a set of voluntary labeling guidelines for various battery chemistries and types, which will be finalized in 2026.¹⁷ Currently, lead-acid, nickel cadmium, and lithium-ion batteries are subject to national labeling requirements.¹⁸ Any button-cell and coin batteries and the products that contain them are also subject to warning labels for child safety.¹⁹

¹⁵ EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions* at 8; EPA, *Battery Collection Best Practices and Battery Labeling Guidelines*, <https://www.epa.gov/infrastructure/battery-collection-best-practices-and-battery-labeling-guidelines> (last visited March 5, 2025).

¹⁶ EPA, *Battery Collection Best Practices and Battery Labeling Guidelines*.

¹⁷ *Id.*

¹⁸ EPA, *White Paper Summarizing Existing Battery Labeling Requirements and Standards*, 6 (Jan. 2025), available at <https://www.epa.gov/system/files/documents/2025-01/battery-labeling-requirements-and-standards-white-paper.pdf>. National labeling requirements have been codified by the Mercury-Containing and Rechargeable Battery Management Act of 1996, which resulted in a partnership between the EPA and the Rechargeable Battery Recycling Corporation (now Call2Recycle) to certify a label for rechargeable batteries, and Reese's Law of 2022, which provided safety labeling requirements. *Id.* at 6-7. In addition to national labeling standards, there are also voluntary battery labeling standards, including globally recognized industry standards from organizations like SAE International, Battery Council International, and the Automotive Recyclers Association. *Id.* at 11-14.

¹⁹ *Id.* at 6.

Florida Battery Sales Regulation

Florida law prohibits a cell manufacturer²⁰ or marketer²¹ from selling any consumer or non-consumer product that is powered by a rechargeable battery unless the battery or product meets certain criteria.²² A rechargeable battery is defined as any small, nonvehicular, rechargeable nickel-cadmium or sealed lead-acid battery that weighs less than 25 pounds and is not used for memory backup.²³ The manufacturer or marketer must meet the following criteria:

- For consumer products, the battery can be easily removed by the consumer, or the battery is contained in a battery pack that is separate from the product and can be easily removed.
- For non-consumer products, the battery can be removed or is contained in a battery pack that is separate from the product.
- The product or the battery, or the packaging if the product is a consumer product, is labeled with a recycling symbol and includes the term “Cd” for nickel-cadmium batteries or “Pb” for small, sealed lead batteries to indicate the chemical composition of the battery.
- The instruction manual for the product or the packaging if the product is a consumer product clearly states that the sealed lead or nickel-cadmium battery must be recycled or disposed of properly.²⁴

If the Secretary of DEP determines that a consumer or non-consumer product’s design would result in significant danger to public health and safety if it were to be removable, the Secretary may authorize the sale of the product without compliance with that requirement.²⁵

III. Effect of Proposed Changes:

Section 1 amends s. 403.7192, F.S., concerning batteries. The bill defines “lithium battery” as a rechargeable battery that uses lithium ions as the primary component of its electrode. It defines “primary battery” as a battery that is not capable of being recharged.

The bill defines “medium-format battery” as a primary or rechargeable covered battery that is:

- A primary battery that weighs at least 4.4 pounds but not more than 25 pounds or
- A rechargeable battery that weighs at least 11 pounds, but not more than 25 pounds, and has a rating of at least 300 watt-hours, but not more than 2,000 watt-hours.

²⁰ “Cell” is defined as a galvanic or voltaic device weighing 25 pounds or less that consists of an enclosed or sealed container containing a positive and negative electrode in which one or both electrodes consist primarily of cadmium or lead and which container includes a gel or liquid starved electrolyte. Section 403.7192(1)(a), F.S. A “cell manufacturer” is an entity that manufactures cells in the U.S. or imports into the U.S. cells or units for which no unit management program has been put into effect by the actual manufacturer of the cell or unit. Section 403.7192(1)(b), F.S. A “unit” is a cell, a rechargeable battery, or a rechargeable product with nonremovable rechargeable batteries. Section 403.7192(1)(c), F.S. A “unit management program” is a program or system for the collection, recycling, or disposal of units put in place by a marketer in accordance with law. Section 403.7192(1)(f), F.S.

²¹ A “marketer” is any person who manufactures, sells, distributes, assembles, or affixes a brand name or private label or licenses the use of a brand name on a unit or rechargeable product. This does not include someone engaged in the retail sale of a unit or rechargeable product. Section 403.7192(1)(c), F.S.

²² Section 403.7192(4)(a), F.S.

²³ Section 403.7192(1)(d), F.S. This definition includes a battery pack that contains a rechargeable battery. *Id.*

²⁴ Section 403.7192(4), F.S.

²⁵ Section 403.7192(5), F.S.

The bill also defines “portable battery” as a primary or rechargeable covered battery that is:

- A primary battery that weighs no more than 4.4 pounds or
- A rechargeable battery that weighs no more than 11 pounds and has a rating of no more than 300 watt-hours.

The bill prohibits a cell²⁶ manufacturer or marketer from selling or offering any consumer product or non-consumer product that is powered by a lithium battery, medium-format battery, portable battery, or primary battery, unless the battery is removable or contained in a battery pack, the battery or packaging is labeled with a specified recycling symbol, or the product’s instruction manual or packaging provides information on recycling or disposal.²⁷ Current law only prohibits a cell manufacturer or marketer from selling or offering any consumer product or non-consumer product powered by a rechargeable battery, unless it meets the specified requirements.

Section 2 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²⁶ “Cell” is defined in footnote 20 of this analysis.

²⁷ A detailed description of these requirements can be found in the “Florida Battery Sales Regulation” section on page four of this analysis.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.7192 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator McClain

9-00581-25

2025800__

A bill to be entitled
An act relating to requirements for battery
manufacturers; amending s. 403.7192, F.S.; defining
terms; prohibiting cell manufacturers or marketers
from selling consumer or nonconsumer products powered
by medium-format, portable, lithium, or primary
batteries; providing an effective date.

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

Section 1. Present paragraphs (c), (d), (e), and (f) of
subsection (1) of section 403.7192, Florida Statutes, are
redesignated as paragraphs (d), (h), (i), and (j), respectively,
new paragraphs (c), (e), (f), and (g) are added to that
subsection, and subsection (4) of that section is amended, to
read:

403.7192 Batteries; requirements for consumer,
manufacturers, and sellers; penalties.—

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

(c) "Lithium battery" means a rechargeable battery that
uses lithium ions as the primary component of its electrode.

(e) "Medium-format battery" means a primary or rechargeable
covered battery with any of the following properties:

1. For a primary battery, a battery weighing at least 4.4
pounds but not more than 25 pounds.

2. For a rechargeable battery, a battery weighing at least
11 pounds, but not more than 25 pounds, and having a rating of
at least 300 watt-hours, but not more than 2,000 watt-hours.

(f) "Portable battery" means a primary or rechargeable

9-00581-25

2025800__

covered battery that:

1. For a primary battery, weighs no more than 4.4 pounds.

2. For a rechargeable battery, weighs no more than 11 pounds and has a rating of no more than 300 watt-hours.

(g) "Primary battery" means a battery that is not capable of being recharged.

(4) A cell manufacturer or marketer may ~~shall~~ not sell or offer for sale in this state any consumer product or nonconsumer product that is powered by a lithium battery, medium-format battery, portable battery, primary battery, or rechargeable battery unless:

(a) In the case of consumer products, the battery can be easily removed by the consumer, or the battery is contained in a battery pack that is separate from the product and can be easily removed from the product.

(b) In the case of nonconsumer products, the battery can be removed or is contained in a battery pack that is separate from the product.

(c) The product or the battery, or the package in the case of a consumer product, is labeled with a recycling symbol and includes, as an indication of the chemical composition of the battery, the term "Cd" for nickel-cadmium batteries or "Pb" for small sealed lead batteries.

(d) The instruction manual for the product or, in the case of a consumer product, the package containing the product states that the sealed lead or nickel-cadmium battery must be recycled or disposed of properly.

Section 2. This act shall take effect July 1, 2025.

3/11/2025

Meeting Date

SEN

Committee

Name

KEYNA CORY

Address

730 E. PARK AVE

Street

TALLAHASSEE FL

City

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

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SB 800

Bill Number or Topic

Amendment Barcode (if applicable)

Phone

850 566-9575

Email

keynacory@epaconsultants.com

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

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NATIONAL WASTE & RECYCLING ASSN. FL CHAPTER

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S-001 (08/10/2021)

3-11-2025

Meeting Date

Environment and Natural Resources

Committee

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Bill Number or Topic

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Phone **850-412-1115**

Address **215 S. Monroe St., Ste 310**
Street

Email **llozano@beckerlawyers.com**

Tallahassee

FL

32309

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

**Palm Beach County Solid Waste
Authority**

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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compensation or sponsorship.

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representing:

FLA RECYCLERS
ASSOC.

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S-001 (08/10/2021)

3/11/2025

Meeting Date

Environment and Natural Resources

Committee

The Florida Senate

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SB 800

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jessica Kraynak Phone 850-222-4082

Address 227 South Adams Street Email jessica@frf.org

Street

Tallahassee

City

Florida

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☒ I am a registered lobbyist,
representing:

Florida Retail Federation

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

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SB 800

Bill Number or Topic

Amendment Barcode (if applicable)

3/11
Meeting Date
Senate ENR
Committee

Name Jared Grigar

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Street

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Tallahassee FL 32309
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

FL. Assoc. of Counties

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 810

INTRODUCER: Senator Burgess

SUBJECT: Stormwater Management Systems

DATE: March 10, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2. _____	_____	<u>ATD</u>	_____
3. _____	_____	<u>FP</u>	_____

I. Summary:

SB 810 requires each political subdivision of this state to inspect known works under the normal and customary control of the political subdivision by June 1 of each year. The bill directs the Division of Emergency Management to create a standardized form for the official who completes such inspection to complete and sign, attesting that he or she completed the inspection. The form must be submitted to the Division of Emergency Management.

The bill also directs the Division of Emergency Management to adopt rules to implement this section.

II. Present Situation:

Environmental Resource Permitting (ERP)

Part IV of chapter 373, F.S., and chapter 62-330 of the Florida Administrative Code regulate the statewide ERP program, which is the primary tool used by the DEP and the WMDs for preserving natural resources and fish and wildlife, minimizing degradation of water resources caused by stormwater discharges, and providing for the management of water and related land resources. The program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and other works such as docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters.¹

The ERP regulatory framework also includes inspection requirements. For example, s. 373.423, F.S., provides that, during the construction or alteration of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, DEP or the governing board of a

¹ Fla. Admin. Code R. 62-330.010(2).

water management district must make periodic inspections to ensure conformity with the approved plans and specifications included in the permit.² Additionally, once the work is completed, the executive director of the water management district or DEP must ensure periodic inspections are conducted to protect public health, safety, and natural resources.³

Inspection requirements for stormwater management systems will be discussed in further detail below.

Stormwater Runoff

Florida averages 40-60 inches of rainfall a year, depending on the location, with about two-thirds falling between June and October.⁴ Stormwater runoff generated during these rain events flows over land or impervious surfaces, such as paved streets, parking lots, driveways, sidewalks, and rooftops, and picks up pollutants like trash, chemicals, oils, and sediment along the way. This unfiltered water ends up in streams, ponds, lakes, bays, wetlands, oceans, and groundwater. Construction sites, lawns, improperly stored hazardous wastes, and illegal dumping are all potential sources of stormwater pollutants.⁵

Polluted stormwater runoff is one of the greatest threats to clean water in the United States.⁶ Over 40 percent of waters assessed by the states are too polluted for fishing or swimming.⁷ Nonpoint sources associated with stormwater account for over 40 percent of these polluted waters.⁸ Conversely, traditional point sources (i.e., wastewater treatment plants) account for only about 10 percent of these polluted or “impaired” waters.⁹ Hundreds of impaired waters in Florida have lost their designated use due, in part, to stormwater pollution.¹⁰

Moreover, when prolonged or heavy rains saturate the ground, such as during a hurricane or other storm event, stormwater retention ponds may overflow and yards and streets may flood,

² Section 373.423(1), F.S.

³ Section 373.423(2), F.S.

⁴ University of Florida Institute of Food and Agricultural Sciences, *Florida Rainfall Data Sources and Types*, 1 (2023), available at <https://edis.ifas.ufl.edu/publication/AE517>.

⁵ U.S. Environmental Protection Agency (EPA), *Urbanization and Stormwater Runoff*, <https://www.epa.gov/sourcewaterprotection/urbanization-and-stormwater-runoff> (last visited Mar. 3, 2025).

⁶ South Florida Water Management District (SFWMD), *Your Impact on the Environment*, <https://www.sfwmd.gov/community-residents/what-can-you-do> (last visited Mar. 3, 2025); EPA, *Soak Up the Rain: What’s the Problem?*, <https://www.epa.gov/soakuptherain/soak-rain-whats-problem#:~:text=Runoff%20picks%20up%20fertilizer%2C%20oil,clean%20water%20in%20the%20U.S.> (last visited Mar. 5, 2025).

⁷ DEP, *Stormwater Support*, <https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support> (last visited Mar. 3, 2025). A recent study examining water quality across the U.S. shows Florida ranks first in the nation for total acres of lakes classified as impaired for swimming and aquatic life (873,340 acres), and second for total lake acres listed as impaired for any use (935,808 acres). Environmental Integrity Project, *The Clean Water Act at 50*, 28 (2022), available at <https://environmentalintegrity.org/wp-content/uploads/2022/03/CWA@50-report-3-17-22.pdf>. Florida also has the second most total square miles of impaired estuaries (2,533 square miles). *Id.* at 29.

⁸ DEP, *Stormwater Support*, <https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support> (last visited Mar. 3, 2025).

⁹ *Id.*

¹⁰ *Id.*

causing sanitary sewer systems to also overflow.¹¹ Some stormwater management structures may fail during severe storm events when overwhelmed by flood volumes that exceed the facility's design capacity or by defects or lack of maintenance that result in reduced storage capacity.¹²

Inadequate stormwater management can also increase stormwater flows and velocities, contribute to erosion, overtax the carrying capacity of streams and other conveyances, and reduce groundwater recharge.¹³

Stormwater Management Rules

In 2020, the Florida Legislature passed Senate Bill 712, also known as the Clean Waterways Act (the Act).¹⁴ This legislation passed with unanimous, bipartisan support and included a wide range of water-quality protection provisions aimed at minimizing the impact of known sources of nutrient pollution and strengthening regulatory requirements. Among other things, the Act directed DEP and water management districts to update stormwater rules using the latest scientific information.¹⁵ In 2024, the Legislature ratified those rules. Among other things, the revised rules:

- Create new minimum performance standards for all ERP stormwater systems;
- Require applicants to demonstrate through modeling and calculations based on local conditions and annual runoff volumes that their proposed stormwater treatment system is designed to discharge to the required treatment level; and
- Create new requirements for periodic inspections and the operation and maintenance of stormwater treatment systems.

Under the revised rules, operation and maintenance entities—other than municipal separate storm sewer system (MS4) entities—must submit a written operation and maintenance plan and conduct periodic inspections to ensure that the stormwater management system, and each component thereof, continues to function as designed and permitted.¹⁶ Below are the default inspection frequencies for common stormwater best management practices. These inspection frequencies may be altered by the permitting agency.¹⁷

¹¹ DEP, *Water Conservation Tips*, <https://floridadep.gov/comm/press-office/content/water-conservation-tips> (last visited Mar. 4, 2025).

¹² U.S. Federal Emergency Management Agency, *Hurricane and Flood Mitigation Handbook for Public Facilities: Fact Sheet 2.2: Basins*, 1 (2022), available at https://www.fema.gov/sites/default/files/documents/fema_p-2181-fact-sheet-2-2-basins.pdf?utm_source=chatgpt.com.

¹³ Fla. Admin. Code R. 62-40.431(2)(b).

¹⁴ Ch. 2020-150, Laws of Fla.

¹⁵ *Id.* at s. 5 (amending s. 373.4131, F.S., effective July 1, 2020).

¹⁶ DEP, *ERP Applicant's Handbook: Vol I*, ss. 12.4.1 and 12.5(a), (2024), available at <https://flrules.org/Gateway/reference.asp?No=Ref-15342>.

¹⁷ DEP, *ERP Applicant's Handbook: Vol I* at s. 12.5(g), table 12.1.

TYPE OF SYSTEM	INSPECTION FREQUENCY
Dry Retention basins	Once every 3 years
Exfiltration trenches	Once every 2 Years
Underground retention	Once every Year
Sand or Media Filters	Once every Year
Underdrain System	Once every 2 Years
Underground vault/chambers	Once every Year
Pump Systems	Twice every Year
Swales (treatment)	Once every 3 years
Wet Detention systems	Once every 3 years
Wet Detention systems with littoral zones	Once every 2 years
Vegetated Natural Buffers	Once every 5 years
Manufactured Devices	As manufacturer recommends in specifications, minimum once every year
Dam Systems	Once every Year
All other	Once every Year

The new inspection requirements under the revised rules do not apply to MS4 entities. An MS4 is a publicly-owned conveyance or system of conveyances (i.e., ditches, curbs, catch basins, underground pipes, etc.) for collecting or conveying stormwater and discharges to surface waters of the state.¹⁸ Examples of MS4 entities include, but are not limited to, municipalities, counties, community development districts, universities, military bases or federal correctional facilities.¹⁹ MS4 entities must conduct and report inspections in accordance with their MS4 permit requirements and any associated standard operating procedures.²⁰ MS4 entities do not need to provide a written operation and maintenance plan under the revised rules.²¹ MS4 entities must nonetheless ensure that operation and maintenance activities are sufficient to perpetually maintain the performance of the ERP stormwater management system so that it functions as designed and permitted and must conduct operation and maintenance in accordance with their MS4 permit requirements.²²

Operators of large, medium, and regulated small MS4s are required to obtain a National Pollutant Discharge Elimination System (NPDES) permit to discharge to waters of the state.²³ For large and medium MS4 discharges, the permit application must include a proposed management program, including priorities and procedures for inspections, to detect and remove illicit discharges and improper disposal into the sewer system.²⁴ Permittees may also be required

¹⁸ DEP, *Municipal Separate Storm Sewer Systems (MS4)*, <https://floridadep.gov/water/stormwater/content/municipal-separate-storm-sewer-systems-ms4#:~:text=A%20municipal%20separate%20storm%20sewer%20system%20%28MS4%29%20is,that%20discharges%20to%20surface%20waters%20of%20the%20state> (last visited Mar. 4, 2025).

¹⁹ *Id.*

²⁰ DEP, *ERP Applicant's Handbook: Vol. I* at s. 12.5(b).

²¹ *Id.* at s. 12.4.1.

²² *Id.*

²³ DEP, *Municipal Separate Storm Sewer Systems (MS4)*, <https://floridadep.gov/water/stormwater/content/municipal-separate-storm-sewer-systems-ms4#:~:text=A%20municipal%20separate%20storm%20sewer%20system%20%28MS4%29%20is,that%20discharges%20to%20surface%20waters%20of%20the%20state> (last visited Mar. 4, 2025). See also Fla. Admin. Code R. 62-624.400; 40 C.F.R. 122.26.

²⁴ 40 C.F.R. 122.26(d)(2)(iv)(B)(1).

to allow DEP personnel to inspect facilities, equipment, practices, and operations regulated under a NPDES generic permit.²⁵

III. Effect of Proposed Changes:

Section 1 amends the stormwater management system inspections in s. 373.423, F.S. The bill requires each political subdivision of this state to inspect known works under the normal and customary control of the political subdivision²⁶ by June 1 of each year. The bill directs the Division of Emergency Management to create a standardized form for the official who completes such inspection to complete and sign, attesting that he or she completed the inspection. The form must be submitted to the Division of Emergency Management.

The bill also directs the Division of Emergency Management to adopt rules to implement this section, including rules establishing a standardized form.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The municipality/county mandates provision of Art. VII, s. 18(a) of the Florida Constitution may apply to this bill. The Florida Constitution limits the ability of the State to impose unfunded mandates on local governments. This bill requires political subdivisions to expend funds to annually inspect known works under their control. However, the law would likely have an insignificant fiscal impact. Therefore, an exemption from Art. VII, s. 18(a) of the Florida Constitution likely applies.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

²⁵ Fla. Admin. Code Form 62-621.300(7)(a), available at <https://floridadep.gov/water/stormwater/forms/phase-ii-ms4-generic-permit-2021>.

²⁶ Under a separate part of chapter 373, F.S., political subdivision is defined as a city, town, county, district, or other public body created by or pursuant to state law, or any combination thereof acting cooperatively or jointly. Section 373.303(4), F.S. This term is not defined in part IV of chapter 373, F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments and other political subdivisions may be required to expend funds to conduct annual inspections of their stormwater management systems. The Division of Emergency Management may also incur costs to develop rules and create a standardized form pursuant the requirements of this bill.

VI. Technical Deficiencies:

The bill does not define “known works,” and it is therefore unclear if this bill requires political subdivisions to inspect only stormwater management systems or other structures under their control (e.g., dams, impoundments, reservoirs, appurtenant works, other infrastructure). It is also unclear if “normal and customary control” includes everything within the political subdivision’s jurisdiction or just works that the political subdivision has the responsibility to maintain.

VII. Related Issues:

It may be beneficial to define “political subdivisions.” This term is defined under a separate part of chapter 373, F.S., as a city, town, county, district, or other public body created by or pursuant to state law, or any combination thereof acting cooperatively or jointly.²⁷ However, the term is not defined in the bill or part IV of chapter 373, F.S.

VIII. Statutes Affected:

This bill substantially amends section 373.423 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

²⁷ Section 373.303(4), F.S.

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

By Senator Burgess

23-00430A-25

2025810__

A bill to be entitled
An act relating to stormwater management systems;
amending s. 373.423, F.S.; requiring each political
subdivision to inspect annually by a specified date
the known works under its normal and customary
control; requiring the Division of Emergency
Management to create a specified form to be completed
upon inspection of such works; requiring that the form
be submitted to the division; requiring the division
to adopt rules; providing an effective date.

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

Section 1. Subsection (4) is added to section 373.423,
Florida Statutes, to read:

373.423 Inspection.—

(4) Each political subdivision of this state shall inspect
known works under the normal and customary control of the
political subdivision by June 1 of each year. The Division of
Emergency Management shall create a standardized form for the
official who completes such inspection to complete and sign,
attesting that he or she completed the inspection. The form must
be submitted to the Division of Emergency Management. The
Division of Emergency Management shall adopt rules to implement
this subsection, including rules establishing a standardized
form.

Section 2. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Environment and Natural Resources

Subject: Committee Agenda Request

Date: March 3, 2025

I respectfully request that **Senate Bill #810**, relating to Stormwater Management Inspections, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Danny", is written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 23

CC: Ellen Rogers, Staff Director
CC: Kim Bonn, Committee Administrative Assistant

3/11/25

Meeting Date

The Florida Senate
APPEARANCE RECORD

810

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Environment & Natural Resources

Committee

Name Matthew Singer (Florida League of Cities)

Amendment Barcode (if applicable)
Phone 850-701-3652

Address ~~200 S. G~~ 301 S. Bronaugh #301

Email msinger@flcities.com

Tallahassee
City

FL
State

32301
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida League
of Cities

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

810

Bill Number or Topic

3/11/25

Meeting Date

ENR

Committee

Name

Kevin Coyne

Phone

805-827-5648

Address

Street

Email

Kovns.Coyne@ANNJ&Tody.com

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Stormwater
Association

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1162

INTRODUCER: Senator Leek

SUBJECT: Water Access Facilities

DATE: March 10, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carroll	Rogers	EN	Favorable
2. _____	_____	AEG	_____
3. _____	_____	FP	_____

I. Summary:

SB 1162 provides that facilities designated as Clean Marine Manufacturers will be eligible for a discount on sovereignty submerged land leases and a waiver of extended-term lease surcharges.

The bill also authorizes the use of funds from the Florida Fish and Wildlife Conservation Commission's grant programs that are funded by the Fuel Tax Collection Trust Fund to be awarded for the construction and maintenance of parking for boat-hauling vehicles and trailers.

II. Present Situation:

Lease of Sovereignty Submerged Lands by Boating Facilities

Sovereignty submerged lands are owned by the state and include, but are not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line¹ that lay beneath navigable fresh water or tidally influenced waters.² Title to sovereignty submerged lands is vested in the Board of Trustees of the Internal Improvement Trust Fund,³ which is authorized to administer all state-owned lands, including by leasing sovereignty submerged lands.⁴

¹ The mean high water line is the intersection of the local elevation of mean high water with the shore. Mean high water is calculated by taking the average height of high tides over a 19-year period. The mean high water line along the shore of land immediately bordering navigable waters is the boundary between the foreshore owned by the State of Florida and the uplands, which may be privately owned. Chapter 18-21.003(38)-(39), Fla. Admin. Code.

² Chapter 18-21.003(67), Fla. Admin. Code.

³ The Board of Trustees of the Internal Improvement Trust Fund is comprised of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. Section 352.02(1), F.S.

⁴ Section 253.03(1), (6), and (7), F.S. The Florida Constitution allows for the private use of portions of sovereignty submerged lands, but only when not contrary to the public interest. FLA. CONST. art. X, s. 11.

The Board of Trustees is authorized in statute to lease sovereignty submerged lands for marinas, boatyards, mooring fields, and marine retailers.⁵ A marina, boatyard, or marine retailer designated by the Department of Environmental Protection (DEP) as a Clean Marina, Clean Boatyard, or Clean Marine Retailer under the Clean Marina Program may be eligible for a ten percent discount on its annual fee for a sovereign submerged lands lease if the facility:

- Actively maintains designation under the program,
- Complies with the terms of the lease, and
- Does not change use during the terms of the lease.⁶

The facility may also be eligible for a waiver of its extended-term lease surcharges if the facility:

- Actively maintains designation under the program,
- Complies with the terms of the lease,
- Does not change use during the terms of the lease, and
- Is available to the public on a first-come, first-served basis.⁷

If the facility is in arrears on lease fees or does not comply with the eligibility requirements for a waiver of the extended-term lease surcharges, the facility will not be eligible for the discount or waiver until arrears have been paid and compliance with the program has been met.⁸

An extended-term lease is available for up to 25-year terms.⁹ A one-time surcharge will be added to the extended-term lease fee for most extended-term leases.¹⁰

Clean Marina Program

The Clean Marina Program is a voluntary designation program that incentivizes marinas,¹¹ boatyards,¹² and marine retailers¹³ to incorporate best management practices in their operations.¹⁴ These best management practices address issues like sensitive habitats, invasive species, waste management, stormwater control, water and air pollution, spill prevention, and emergency preparedness.¹⁵

⁵ Section 253.0346, F.S.

⁶ Section 253.0346(3), F.S.

⁷ *Id.* “First-come, first served” means that the facility operates on state-owned submerged land for which there is no club membership, stock ownership, equity interest, or other qualifying requirement and rental terms do not exceed 12 months and do not include automatic renewal rights or conditions. Section 253.0346(1), F.S.

⁸ Section 253.0346(3)(c), F.S.

⁹ Chapter 18-21.008(2), Fla. Admin. Code.

¹⁰ Chapter 18-21.011(1)(b), Fla. Admin. Code.

¹¹ A marina is a docking facility with ten or more boat slips or a docking facility that provides marine supplies or services required for boating, including but not limited to: dry storage, boat repair, gas, oil, boat sales, boat testing, shellfish or finfish harvesting or distribution, or facilities associated with certain other boating-related commercial establishments. DEP, *Clean Marina Program*, <https://floridadep.gov/rcp/clean-marina/content/clean-marina-program> (last visited March 4, 2025).

¹² A boatyard is a facility that provides a repair or refinishing site for hull, mechanical, or electrical work on vessels. *Id.*

¹³ A marine retailer sells new or used boats and provides services like onsite or offsite repairs or refinishing for hull, mechanical, or electrical work. *Id.*

¹⁴ DEP, *Florida Clean Marina Best Management Practices*, 2 (2020), available at https://floridadep.gov/sites/default/files/2020_Florida_Clean_Marina_Best_Management_Practices.pdf.

¹⁵ See DEP, *Florida Clean Marina Best Management Practices*; DEP, *Clean Marina Program*.

The program also provides compliance assistance and education on storm readiness through the Clean and Resilience Program.¹⁶ In order to obtain the designation of Clean Marina, Clean Boatyard, and Clean Marine Retailer, facilities must meet all DEP regulatory requirements and implement at least 60 percent of the best management practices.¹⁷

Fuel Tax Collection Trust Fund

The Florida Fish and Wildlife Conservation Commission (FWC) is authorized to develop and administer competitive grant programs funded with money transferred pursuant to the Fuel Tax Collection Trust Fund requirements.¹⁸ These grants may be awarded for:

- The construction and maintenance of publicly owned boat ramps, piers, and docks;
- Boater education;
- Deployment of manatee technical avoidance technology; and
- Economic development initiatives that promote boating in the state.¹⁹

The Fuel Tax Collection Trust Fund requires an annual disbursement of \$2.5 million to FWC's State Game Trust Fund for recreational boating activities and freshwater fisheries management and research.²⁰ Of those funds, a minimum of \$1.25 million must be used to fund local projects to provide recreational channel marking and other uniform waterway markers, public boat ramps, lifts and hoists, marine railways, and other public launching facilities, derelict vessel removal, and other local boating-related activities.²¹ The remaining \$1.25 million may be used for recreational boating activities and freshwater fisheries management and research.²²

III. Effect of Proposed Changes:

Section 1 amends s. 253.0346, F.S., concerning the lease of sovereignty submerged lands for marinas, boatyards, mooring fields, and marine retailers. The bill amends the section title to add marine manufacturers.

The bill provides that a facility designated as a Clean Marine Manufacturer under the Clean Marina Program will be eligible for a ten percent discount on its annual lease of sovereignty submerged lands, as well as a waiver of its extended-term lease surcharge, if it meets certain criteria. Facilities designated as Clean Marinas, Clean Boatyards, or Clean Marine Retailers are already eligible under current law.

Section 2 amends s. 327.47, F.S., which authorizes the Florida Fish and Wildlife Conservation Commission to develop and administer competitive grants programs funded by the Fuel Tax Collection Trust Fund. The bill provides that, in addition to what is currently authorized, grants may be awarded for the construction and maintenance of parking for boat-hauling vehicles and trailers.

¹⁶ DEP, *Clean Marina Program*.

¹⁷ *Id.*

¹⁸ Section 327.47, F.S.

¹⁹ *Id.*

²⁰ Section 206.606(1)(b), F.S.

²¹ *Id.*

²² *Id.*

Section 3 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 253.0346 and 327.47 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Leek

7-01036A-25

20251162__

A bill to be entitled
An act relating to water access facilities; amending
s. 253.0346, F.S.; providing sovereignty submerged
land leases for Clean Marine Manufacturer facilities;
amending s. 327.47, F.S.; providing competitive grant
programs for the construction and maintenance of
publicly owned parking for boat-hauling vehicles and
trailers; providing an effective date.

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

Section 1. Subsection (3) of section 253.0346, Florida
Statutes, is amended to read:

253.0346 Lease of sovereignty submerged lands for marinas,
boatyards, mooring fields, and marine manufacturers and
retailers.—

(3) For a facility designated by the department as a Clean
Marina, Clean Boatyard, Clean Marine Manufacturer, or Clean
Marine Retailer under the Clean Marina Program:

(a) A discount of 10 percent on the annual lease fee shall
apply if the facility:

1. Actively maintains designation under the program.
2. Complies with the terms of the lease.
3. Does not change use during the term of the lease.

(b) Extended-term lease surcharges shall be waived if the
facility:

1. Actively maintains designation under the program.
2. Complies with the terms of the lease.
3. Does not change use during the term of the lease.

7-01036A-25

20251162__

4. Is available to the public on a first-come, first-served basis.

(c) If the facility is in arrears on lease fees or fails to comply with paragraph (b), the facility is not eligible for the discount or waiver under this subsection until arrears have been paid and compliance with the program has been met.

Section 2. Section 327.47, Florida Statutes, is amended to read:

327.47 Competitive grant programs.—The commission shall develop and administer competitive grant programs funded with moneys transferred pursuant to s. 206.606(1)(d). Grants may be awarded for the construction and maintenance of publicly owned parking for boat-hauling vehicles and trailers, boat ramps, piers, and docks; boater education; deployment of manatee technical avoidance technology; and economic development initiatives that promote boating in the state. The commission may adopt rules pursuant to chapter 120 to implement this section.

Section 3. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Environment and Natural Resources

Subject: Committee Agenda Request

Date: March 3, 2025

I respectfully request that **Senate Bill #1162**, relating to Water Access Facilities, be placed on the:

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Leek", is written over a horizontal line.

Sen. Tom Leek
Florida Senator, District 7



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Appropriations Committee on Higher Education
Appropriations Committee on Transportation,
Tourism, and Economic Development
Community Affairs
Fiscal Policy
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM LEEK

7th District

March 11, 2025

The Honorable Senator Ana Maria Rodriguez
Chair of the Senate Committee on Environment and Natural Resources
325 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Honorable Chair Rodriguez:

Thank you for scheduling SB1162 (Water Access Facilities) for today's Environmental and Natural Resources meeting. I am asking if you would allow Senator Brodeur to present the bill on my behalf; I have two other bills in the Judiciary Committee at that same time and Senator Brodeur has agreed to help me with this conflict.

Thank you for understanding, if you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Leek", is written over a horizontal line.

Sen. Tom Leek
Florida Senator, District 7

CC: Ellen Rogers, Staff Director
Kim Bonn, Committee Administrative Assistant
Michael Goldstein, Aide to Senator Brodeur
Erin Alford, Legislative Analyst, Majority Office

REPLY TO:

- ☐ 4475 US 1 South, Suite 404, St. Augustine, Florida 32086 (386) 446-7610
- ☐ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1162

Bill Number or Topic

Amendment Barcode (if applicable)

March 11

Meeting Date

ENR

Committee

Name

DAVID CHILDS

Phone

8504431494

Address

119 S. Marine Street Suite 500

Email

DAVID@VOGELGROUPDL.COM

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

NATIONAL MARINE

MANUFACTURERS ASSOCIATION

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/11/25

Meeting Date

Environment and Natural Disasters

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1162

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Kyle Langan

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Boat U.S.

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1228

INTRODUCER: Senator McClain

SUBJECT: Spring Restoration

DATE: March 10, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	Favorable
2.			RI	
3.			RC	

I. Summary:

SB 1228 allows a domestic wastewater facility with an approved plan to eliminate nonbeneficial surface water discharges to request to amend the plan to incorporate a reclaimed water project identified in an Outstanding Florida Springs recovery or prevention strategy. The Department of Environmental Protection must approve the request within 60 days if the following conditions are met:

- The identified use of reclaimed water will benefit a rural area of opportunity.
- The project will provide at least 35 million gallons per day of reclaimed water to benefit an Outstanding Florida Spring.
- The project involves more than one domestic wastewater treatment facility.
- The project implementation and surface water discharge elimination schedule meets the minimum flows and minimum water levels requirements for Outstanding Florida Springs.

II. Present Situation:

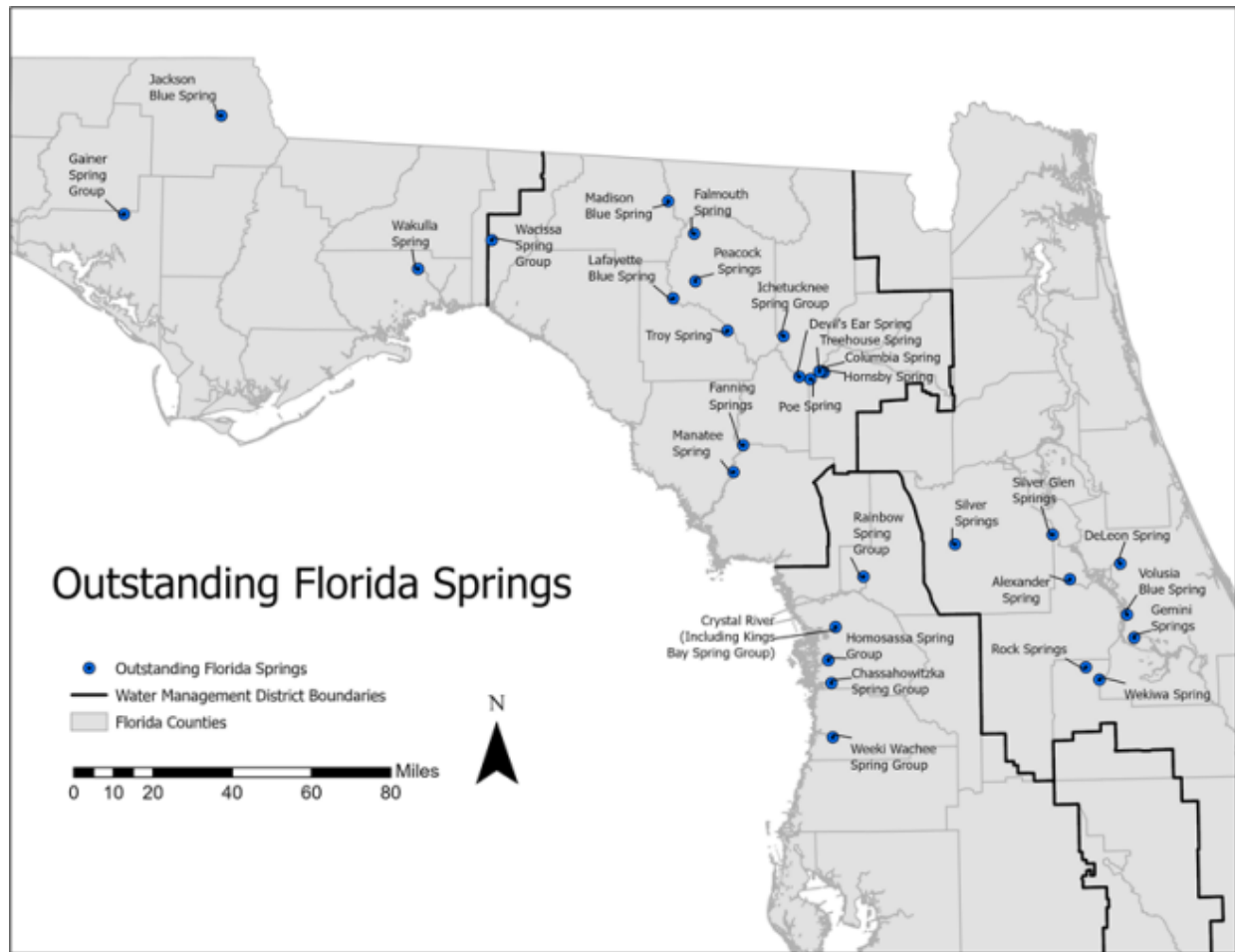
Outstanding Florida Springs

In 2016, the Florida Legislature enacted the Florida Springs and Aquifer Protection Act and identified 30 Outstanding Florida Springs (OFSs) that require additional protections to ensure their conservation and restoration for future generations.¹ These springs are a unique part of the state's scenic beauty, provide critical habitat, and have immeasurable natural, recreational, and economic value.² OFSs are defined by statute and include all historic first magnitude springs, including their associated spring runs, as determined by the Department of Environmental Protection (DEP) using the most recent Florida Geological Survey springs bulletin, and several

¹ Florida Dep't of Environmental Protection (DEP), *Springs*, <https://floridadep.gov/springs/> (last visited Mar. 3, 2025).

² DEP, *Protect and Restore Springs*, <https://floridadep.gov/springs/protect-restore> (last visited Mar. 5, 2025); Ch. 2016-1, s. 22, Laws of Fla.

additional enumerated springs.³ There are 30 OFSs, including 24 historic first magnitude springs and six named additional springs.⁴



The water quality for each OFS must be assessed and a minimum flow or minimum water level (MFL) must be established.⁵

³ Section 373.802(4), F.S.

⁴ DEP, *Outstanding Florida Springs*, <https://geodata.dep.state.fl.us/datasets/outstanding-florida-springs-ofs/about?layer=1> (last visited Mar. 7, 2025). The 30 OFSs are Alexander Spring, Chassahowitzka Springs Group, Columbia Spring, Crystal River, DeLeon Spring, Devil's Ear Spring, Falmouth Spring, Fanning Springs, Gainer Spring Group, Gemini Springs, Homasassa Spring Group, Hornsby Spring, Ichetucknee Spring Group, Jackson Blue Spring, Lafayette Blue Spring, Madison Blue Spring, Manatee Spring, Peacock Springs, Poe Spring, Rainbow Spring Group, Rock Springs, Silver Glen Springs, Silver Springs, Treehouse Spring, Troy Spring, Volusia Blue Spring, Wakulla Spring, Weeki Wachee Springs Group, and Wekiwa Spring. DEP, 62-41.400-403, *F.A.C. Outstanding Florida Springs Rule Development Workshop*, 5 (2023), available at https://floridadep.gov/sites/default/files/OFS_Workshop_Aug-28-2023_0.pdf (showing map of OFSs).

⁵ See ch. 2016-1, s. 5, Laws of Fla.; section 373.042(2)(a), F.S. See also DEP, *Protect and Restore Springs*, <https://floridadep.gov/springs/protect-restore>; DEP, *Minimum Flows and Minimum Water Levels and Reservations*, [https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations#Minimum%20Flows%20and%20Minimum%20Water%20Levels%20\(MFLs\)](https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations#Minimum%20Flows%20and%20Minimum%20Water%20Levels%20(MFLs)) (last visited Mar. 5, 2025).

Minimum Flow and Minimum Water Levels (MFLs)

MFLs are established for waterbodies to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.⁶ MFLs are typically determined based on evaluations of natural seasonal fluctuations in water flows or levels, nonconsumptive uses, and environmental values associated with coastal, estuarine, riverine, spring, aquatic, wetlands ecology, and other pertinent information associated with the water resource.⁷

While the DEP has the authority to adopt MFLs, the state's five water management districts have the primary responsibility for MFL adoption. Water management districts submit annual MFL priority lists and schedules to DEP for the establishment of MFLs for surface watercourses, aquifers, and surface waters within the district.⁸ MFLs are calculated using the best information available⁹ and are considered rules by the water management districts, which are subject to chapter 120, F.S., challenges.¹⁰ MFLs are subject to independent scientific peer review at the election of DEP, a water management district, or, if requested, by a third party.¹¹

MFLs must be established for each OFS.¹² If the water management district or DEP fails to do so, it must adopt a MFL by emergency rule.¹³ For OFSs identified on a water management district's priority list which have the potential to be affected by withdrawals in an adjacent district, the adjacent district and DEP must collaboratively develop and implement a recovery or prevention strategy for an OFS not meeting an adopted MFL.¹⁴

For OFSs that fall below the adopted MFL or are projected to fall below the MFL within 20 years, DEP or water management districts must implement a recovery or prevention strategy to ensure the MFL is maintained over the long-term.¹⁵ The recovery or prevention strategy must include:

- A listing of all specific projects identified for implementation of the plan;
- A priority listing of each project;
- The estimated cost and date of completion for each listed project;
- 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;¹⁶
- An estimate of each listed project's benefit to an OFS; and

⁶ See section 373.042, F.S.; see also DEP, *Minimum Flows and Minimum Water Levels and Reservations*.

⁷ Fla. Admin. Code R. 62-40.473(1).

⁸ Section 373.042(3), F.S.

⁹ Section 373.042(1), F.S.

¹⁰ Section 373.042(5) and (7), F.S.

¹¹ Section 373.042(6)(a), F.S.

¹² Section 373.042(2), F.S.

¹³ *Id.*

¹⁴ Section 373.042(2)(b), F.S.

¹⁵ DEP, *Minimum Flows and Minimum Water Levels and Reservations*, [https://floridadep.gov/owper/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations#Minimum%20Flows%20and%20Minimum%20Water%20Levels%20\(MFLs\)](https://floridadep.gov/owper/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations#Minimum%20Flows%20and%20Minimum%20Water%20Levels%20(MFLs)); section 373.805(1), F.S.

¹⁶ The Northwest Florida Water Management District and the Suwannee River Water Management District are not required to meet the minimum financial assistance requirement. Section 373.805(4), F.S.

- An implementation plan designed with a target to achieve the adopted MFL no more than 20 years after the adoption of the recovery or prevention strategy.¹⁷

Reuse of Reclaimed Water

Reclaimed water is water that receives at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.¹⁸ The reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use.¹⁹ Reclaimed water can be used for many purposes including:

- Irrigation of golf courses, parks, residential properties, highway medians and other landscaped areas;
- Urban uses such as toilet flushing, car washing, dust control and aesthetic purposes (i.e., decorative lakes, ponds, and fountains);
- Agricultural uses such as irrigation of edible food crops, pasture lands, grasslands, and other feed and fodder crops, and irrigation at nurseries;
- Wetlands creation, restoration, and enhancement;
- Recharging ground water with the use of rapid infiltration basins (percolation ponds), absorption fields, and direct injection to ground waters;
- Augmentation of surface waters that are used for drinking water supplies; and
- Industrial uses including plant wash down, processing water, and cooling water purposes.²⁰

A total of 380 domestic wastewater treatment facilities made reclaimed water available for reuse in 2023.²¹ Approximately 891 million gallons per day (mgd) of reclaimed water from these facilities was reused for beneficial purposes, such as irrigating 655,171 residences, 536 golf courses, 1,104 parks, and 417 schools.²² Irrigation accounted for about 60 percent of the 891 mgd of reclaimed water that was reused.²³ Below is a graph showing the percentage of reclaimed water utilization by flow for each reuse type.²⁴

¹⁷ *Id.*

¹⁸ Fla. Admin. Code R. 62-600.200(57).

¹⁹ Section 403.064(1), F.S.

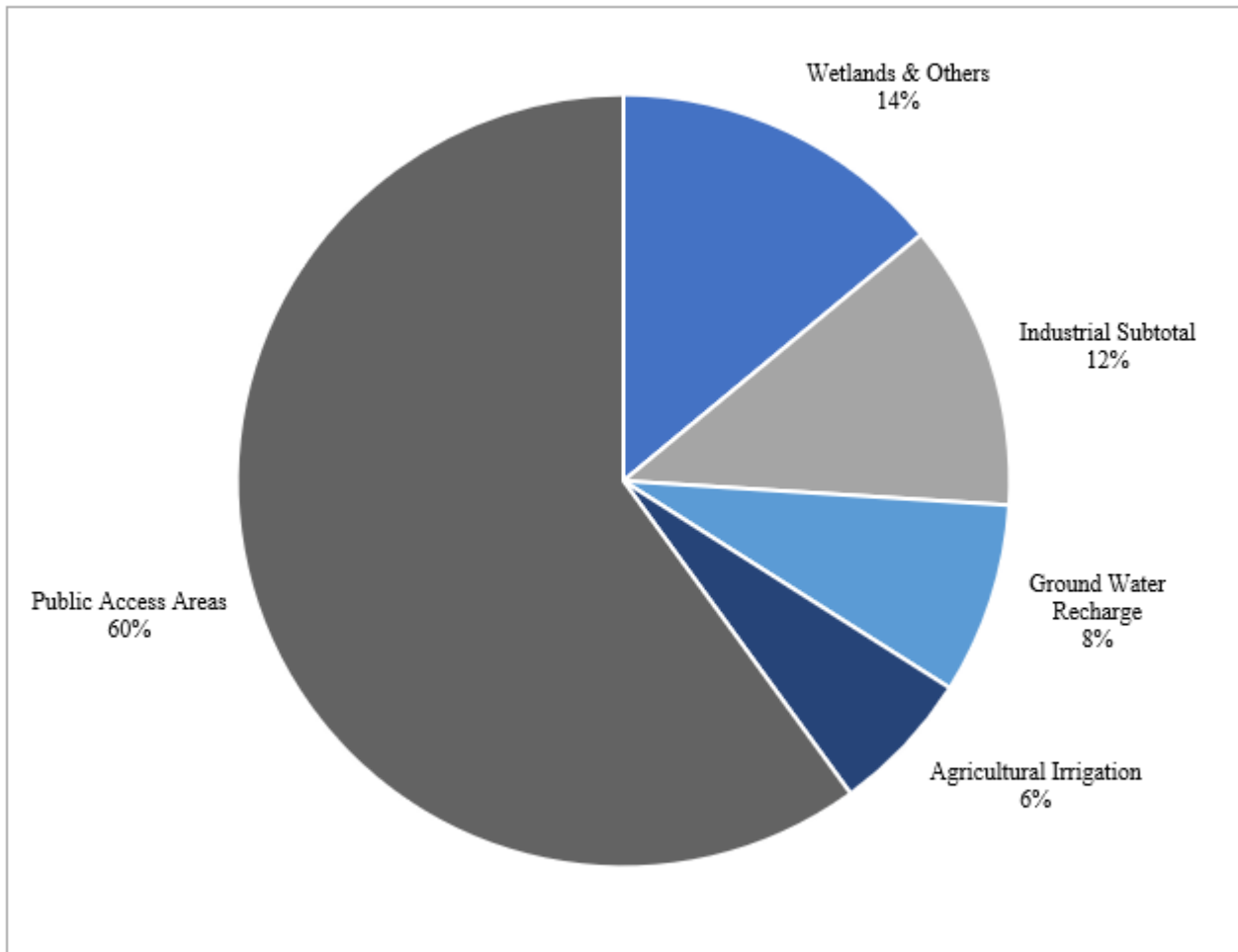
²⁰ DEP, *Uses of Reclaimed Water*, <https://floridadep.gov/water/domestic-wastewater/content/uses-reclaimed-water> (last visited Mar. 5, 2025).

²¹ DEP, *2023 Reuse Inventory Report*, 7 (2024), available at <https://floridadep.gov/water/domestic-wastewater/content/reuse-inventory-database-and-annual-report>.

²² *Id.* at 7-8; DEP, *Florida's Reuse Activities*, <https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities> (last visited Mar. 5, 2025).

²³ *Id.*

²⁴ DEP, *2023 Reuse Inventory Report* at 12 (showing graph of reclaimed water utilization).

Figure 1: Reclaimed Water Utilization by Flow.

Note: Agriculture irrigation includes edible crops as well as feed and fodder crops (e.g., spray fields).

The total reuse capacity of Florida's domestic wastewater treatment facilities has increased from 1,116 mgd in 2000 to 2,497 mgd in 2023.²⁵ The current reuse capacity represents about 55 percent of the total permitted domestic wastewater treatment capacity in Florida.²⁶

Eliminating Nonbeneficial Discharges

Domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge are required to submit to DEP a plan for eliminating nonbeneficial surface water discharge by January 1, 2032.²⁷ The plan must include the average gallons per day of effluent, reclaimed water, or reuse water that will no longer be discharged into surface waters and the date of such elimination, the average gallons per day of surface water discharge which will continue in accordance with approved alternative uses, and the level of treatment that the effluent,

²⁵ DEP, *Florida's Reuse Activities*, <https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities> (last visited Mar. 5, 2025).

²⁶ *Id.*

²⁷ Section 403.064(16), F.S.

reclaimed water, or reuse water will receive before being discharged into a surface water by each alternative.²⁸

The utility's plan must eliminate surface water discharges or meet the requirements of s. 403.086(10), F.S., which regulates the elimination of domestic wastewater through ocean outfalls.²⁹ If the plan does not provide for the complete elimination of surface water discharges, it must provide an affirmative demonstration that any of the following conditions apply to the remaining discharge:

- The discharge is associated with an indirect potable reuse project;
- The discharge is a wet weather discharge that occurs in accordance with an applicable DEP permit;
- The discharge is into a stormwater management system and is subsequently withdrawn for irrigation purposes;
- The utility operates domestic wastewater treatment facilities with reuse systems that reuse a minimum of 90 percent of the facility's annual average flow for reuse purposes; or
- The discharge provides direct ecological or public water supply benefits, such as rehydrating wetlands or implementing the requirements of MFLs or recovery or prevention strategies for a waterbody.³⁰

These requirements do not apply to domestic wastewater treatment facilities that are:

- Located in a fiscally constrained county.³¹
- Located in a municipality that is entirely within a rural area of opportunity.³²
- Located in a municipality that has less than \$10 million in total revenue.
- Operated by an operator of a mobile home park³³ and has a permitted capacity of less than 300,000 gallons per day.³⁴

A utility may modify its plan, provided it continues to meet the above requirements and the timeline to implement the plan is not extended.³⁵ If a plan is not timely submitted or approved by

²⁸ *Id.*

²⁹ Section 403.064(16)(a)1. and 2., F.S. Section 403.086(10), F.S., prohibits constructing new or expanding existing ocean outfalls beyond the capacities authorized as of July 1, 2008. By December 31, 2018, wastewater discharged through ocean outfalls must meet advanced treatment standards that reduce nitrogen and phosphorus levels, and by December 31, 2025, utilities must implement reuse systems to repurpose at least 60 percent of their baseline wastewater flow for approved beneficial uses such as irrigation, aquifer recharge, and industrial cooling. *Id.* After December 31, 2025, ocean outfall discharges are prohibited except for limited backup flows under specific conditions. *Id.*

³⁰ Section 403.064(16)(a)3., F.S.

³¹ Each county that is entirely within a rural area of opportunity or each county for which the value of a mill will raise no more than \$5 million in revenue from the previous July 1, is considered a fiscally constrained county. Section 218.67(1), F.S.

³² "Rural area of opportunity" means a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. Section 288.0656(2)(d), F.S.

³³ "Operator of a mobile home park" means either a person who establishes a mobile home park on land that is leased from another person or a person who has been delegated the authority to act as the park owner in matters relating to the administration and management of the mobile home park, including, but not limited to, authority to make decisions relating to the mobile home park. Section 723.003(16), F.S.

³⁴ Section 403.064(16)(g), F.S.

³⁵ Section 403.064(16)(b), F.S.

DEP, the utility's domestic wastewater treatment facilities may not dispose of effluent, reclaimed water, or reuse water by surface water discharge after January 1, 2028.³⁶

III. Effect of Proposed Changes:

Section 1 amends s. 403.064, F.S., which regulates the reuse of reclaimed water. The bill provides that a domestic wastewater facility with an approved plan may submit a request to the Department of Environmental Protection (DEP) to amend the plan to incorporate a reclaimed water project identified in an Outstanding Florida Springs recovery or prevention strategy. DEP must approve the request within 60 days after receipt of the request if all the following conditions are met:

- The identified use of reclaimed water will benefit a rural area of opportunity.³⁷
- The project will provide at least 35 million gallons per day of reclaimed water to benefit an Outstanding Florida Spring.
- The project involves more than one domestic wastewater treatment facility.
- The project implementation and surface water discharge elimination schedule meets the minimum flows and minimum water levels requirements for Outstanding Florida Springs.

Section 2 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

³⁶ Section 403.064(16)(d), F.S.

³⁷ "Rural area of opportunity" means a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. Section 288.0656(2)(d), F.S.

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

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.064 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator McClain

9-01395A-25

20251228__

A bill to be entitled
An act relating to spring restoration; amending s.
403.064, F.S.; authorizing certain domestic wastewater
treatment facilities to request the incorporation of
reclaimed water projects identified in Outstanding
Florida Springs recovery or prevention strategies;
requiring the Department of Environmental Protection
to approve such requests within a certain period of
time if certain conditions are met; providing an
effective date.

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

Section 1. Present paragraphs (f) through (i) of subsection
(16) of section 403.064, Florida Statutes, are redesignated as
paragraphs (g) through (j), respectively, and a new paragraph
(f) is added to that subsection, to read:

403.064 Reuse of reclaimed water.—

(16) By November 1, 2021, domestic wastewater utilities
that dispose of effluent, reclaimed water, or reuse water by
surface water discharge shall submit to the department for
review and approval a plan for eliminating nonbeneficial surface
water discharge by January 1, 2032, subject to the requirements
of this section. The plan must include the average gallons per
day of effluent, reclaimed water, or reuse water that will no
longer be discharged into surface waters and the date of such
elimination, the average gallons per day of surface water
discharge which will continue in accordance with the
alternatives provided for in subparagraphs (a)2. and 3., and the

9-01395A-25

20251228__

level of treatment that the effluent, reclaimed water, or reuse water will receive before being discharged into a surface water by each alternative.

(f) A domestic wastewater treatment facility with an approved plan may submit a request to the department to amend the plan to incorporate a reclaimed water project identified in an Outstanding Florida Springs recovery or prevention strategy adopted pursuant to s. 373.805. The department must approve the request within 60 days after receipt of the request if all of the following conditions are met:

1. The identified use of reclaimed water will benefit a rural area of opportunity as defined in s. 288.0656(2).

2. The project will provide at least 35 million gallons per day of reclaimed water to benefit an Outstanding Florida Spring.

3. The project involves more than one domestic wastewater treatment facility.

4. The project implementation and surface water discharge elimination schedule meets the requirements of s. 373.805.

Section 2. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Environment and Natural Resources

Subject: Committee Agenda Request

Date: March 3, 2025

I respectfully request that **Senate Bill #1228**, relating to Spring Restoration, be placed on the:

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

A handwritten signature in black ink, appearing to read "Stan McClain".

Senator Stan McClain
Florida Senate, District 9

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1228

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

March 11
ENR

Committee

Name

DAVID CHILDS

Phone

850 443 1494

Address

119 S. Monroe St Suite 500

Email

DAVID@VOGELGROUPDC.COM

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
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JEA

☐I am not a lobbyist, but received
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This form is part of the public record for this meeting.

S-001 (08/10/2021)

1190

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Cord Byrd, Secretary of State,
do hereby certify that

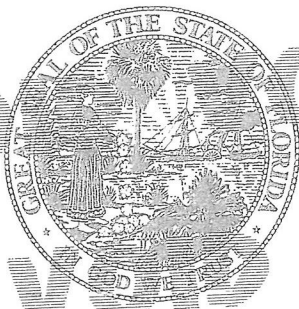
Austin Burkett

is duly appointed a member of the

Florida Inland Navigation District

for a term beginning on the First day of July, A.D., 2024, until
the Ninth day of January, A.D., 2027 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Eighth day of October, A.D., 2024.*



Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.



RON DeSANTIS
GOVERNOR

RECEIVED

2024 JUL -8 AM 10:21

DIVISION OF ELECTIONS
TALLAHASSEE, FL

July 1, 2024

Secretary Cord Byrd
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

Please be advised I have made the following appointment under the provisions of Section 374.983, Florida Statutes:

Mr. Austin Burkett
18454 Claybrook Street
Jupiter, Florida 33458

as a member of the Florida Inland Navigation District, succeeding Charles Isiminger, subject to confirmation by the Senate. This appointment is effective July 1, 2024, for a term ending January 9, 2027.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/es

(Art. II, § 5(b), Fla. Const.)

DIVISION OF ELECTIONS
TALLAHASSEE, FL

County of Palm Beach

Florida Inland Navigation District

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Signature _____

1190

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Cord Byrd, Secretary of State,
do hereby certify that

Paul Trabulsy

is duly appointed a member of the
Florida Inland Navigation District

for a term beginning on the First day of July, A.D., 2024, until
the Ninth day of January, A.D., 2027 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Eleventh day of July, A.D., 2024.



Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.



RON DeSANTIS
GOVERNOR

RECEIVED

2024 JUL -8 AM 10:21

DIVISION OF ELECTIONS
TALLAHASSEE, FL

July 1, 2024

Secretary Cord Byrd
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

Please be advised I have made the following appointment under the provisions of Section 374.983, Florida Statutes:

Mr. Paul Trabulsy
5428 Stately Oaks Street
Fort Pierce, Florida 34981

as a member of the Florida Inland Navigation District, filling a vacant seat previously occupied by Don Donaldson, subject to confirmation by the Senate. This appointment is effective July 1, 2024, for a term ending January 9, 2027.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/es

2024 JUL -8 PM 3:52

(Art. II, § 5(b), Fla. Const.)

County of St. Lucie

DIVISION OF ELECTIONS
TALLAHASSEE, FL

Florida Inland Navigation District
(Full Name of Office – Abbreviations Not Accepted)

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Signatuře

A circular notary seal for a Notary Public in the State of Florida. The seal features an eagle with spread wings perched atop a shield, which is flanked by two palm trees. The words "NOTARY PUBLIC" are arched over the top, and "STATE OF FLORIDA" is arched along the bottom. There are small stars on either side of the central emblem.

Sworn to and subscribed before me by means of X physical presence
Or online notarization this 2nd day of July, 2019.

Susan Hugel
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ or Produced Identification ☐

Type of Identification Produced

I accept the office listed in the above Oath of Office.

Mailing Address: Home ☒ Office ☐

5428 State Oak St.

Street or Post Office Box

At. Pierce, Fl 34981
City, State, Zip Code

Print Name _____

Signature _____

1190

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Cord Byrd, Secretary of State,
do hereby certify that

James R. Stapleford

is duly appointed a member of the

Florida Inland Navigation District

for a term beginning on the First day of July, A.D., 2024, until
the Ninth day of January, A.D., 2027 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Eighteenth day of July, A.D., 2024.



Secretary of State



RON DeSANTIS
GOVERNOR

RECEIVED

2024 JUL -8 AM 10:21

DIVISION OF ELECTIONS
TALLAHASSEE, FL

July 1, 2024

Secretary Cord Byrd
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

Please be advised I have made the following reappointment under the provisions of Section 374.983, Florida Statutes:

Mr. James "Randy" Stapleford
77 Comanche Court
Palm Coast, Florida 32137

as a member of the Florida Inland Navigation District, subject to confirmation by the Senate. This appointment is effective July 1, 2024, for a term ending January 9, 2027.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/es

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2024 JUL 12 AM 8:39

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of FLAGLER

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

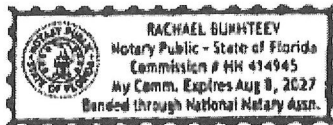
COMMISSIONER - FLORIDA INLAND NAVIGATION DISTRICT (FINI)
(Full Name of Office - Abbreviations Not Accepted)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

James R. Stapleford
Signature

(Affix Seal Below)



Sworn to and subscribed before me by means of X physical presence

Or online notarization this 8 day of July, 2024.

Rachael Bukhteev
Signature of Officer Administering Oath or of Notary Public

Rachael Bukhteev
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☐ or Produced Identification ☒

Type of Identification Produced Drivers License

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home ☒ Office ☐

77 BMANCHE COURT

Street or Post Office Box

PALM COAST, FL 32137

City, State, Zip Code

JAMES R. STAPLEFORD

Print Name

James R. Stapleford
Signature

1190

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Cord Byrd, Secretary of State,
do hereby certify that

T. Spencer Crowley, III

is duly appointed a member of the
Florida Inland Navigation District

for a term beginning on the First day of July, A.D., 2024, until
the Ninth day of January, A.D., 2027 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Second day of November, A.D., 2024.*



[Signature]
Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.



RON DESANTIS
GOVERNOR

RECEIVED

2024 JUL -8 AM 10:21

DIVISION OF ELECTIONS
TALLAHASSEE, FL

July 1, 2024

Secretary Cord Byrd
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

Please be advised I have made the following appointment under the provisions of Section 374.983, Florida Statutes:

Mr. Spencer Crowley
38 Southwest Road
Miami, Florida 33129

as a member of the Florida Inland Navigation District, subject to confirmation by the Senate. This appointment is effective July 1, 2024, for a term ending January 9, 2027.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/es

RECEIVED
DEPARTMENT OF STATE

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

2024 NOV -8 AM 10:25

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of Miami-Dade

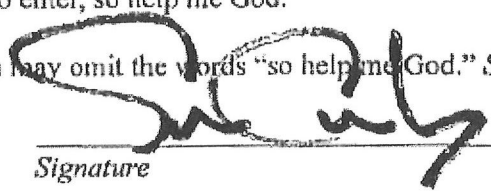
I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Florida Inland Navigation District Commissioner

(Full Name of Office – Abbreviations Not Accepted)

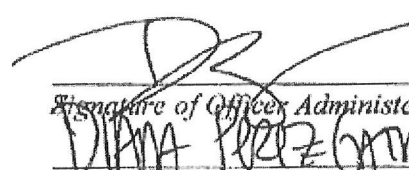
on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

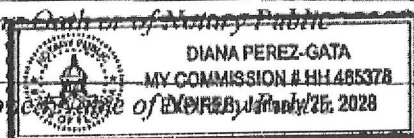

Signature

(Affix Seal Below)

Sworn to and subscribed before me by means of ☒ physical presence
Or ☐ online notarization this 20 day of Sept, 2024.


Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioner or Notary Public



Personally Known ☒ or Produced Identification ☐

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home ☒ Office ☐

38 SW 22nd Road

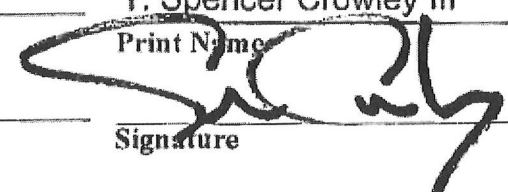
Street or Post Office Box

Miami, FL 33129

City, State, Zip Code

T. Spencer Crowley III

Print Name


Signature

1190

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Cord Byrd, Secretary of State,
do hereby certify that

Patrick S. Callaway

is duly appointed a member of the

Florida Inland Navigation District

for a term beginning on the First day of July, A.D., 2024, until
the Ninth day of January, A.D., 2027 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Eleventh day of July, A.D., 2024.



Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.



RON DeSANTIS
GOVERNOR

RECEIVED

2024 JUL -8 AM 10:21

DIVISION OF ELECTIONS
TALLAHASSEE, FL

July 1, 2024

Secretary Cord Byrd
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

Please be advised I have made the following appointment under the provisions of Section 374.983, Florida Statutes:

Mr. Patrick Callaway
8463 Stables Road
Jacksonville, Florida 32256

as a member of the Florida Inland Navigation District, filling a vacant seat previously occupied by Roger O'Steen, subject to confirmation by the Senate. This appointment is effective July 1, 2024, for a term ending January 9, 2027.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/es

RECEIVED
DEPARTMENT OF STATE

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

2024 JUL -9 PM 1:12

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of Duval

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Commissioner Florida Inland Navigation District

(Full of Office – Abbreviations Not Accepted)

on which I am now about to enter, so help me God.

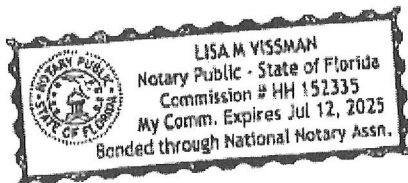
[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Signature

(Affix Seal Below)

Sworn to and subscribed before me by means of ☒ physical presence

Or ☐ online notarization this 3 day of July, 2024.



Signature of Officer Administering Oath or of Notary Public

Lisa M Vissman
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ or Produced Identification ☐

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home ☒ Office ☐

8463 Stables Rd.

Patrick S. Callaway

Street or Post Office Box

Print Name

Jacksonville, FL 32256

City, State, Zip Code

Signature

CourtSmart Tag Report

Room: SB 110
Caption: Senate Environment and Natural Resources Committee

Type:
Judge:

Started: 3/11/2025 4:01:03 PM
Ends: 3/11/2025 4:44:57 PM
Length: 00:43:55

4:01:05 PM Chair Rodriguez calls meeting to order
4:01:09 PM Roll call
4:01:23 PM Quorum present
4:01:25 PM Pledge of Allegiance
4:01:44 PM Chair Rodriguez makes opening remarks
4:01:58 PM Tab 1 - SB 492 Mitigation Banking by Senator McClain
4:02:13 PM Senator McClain explains SB 492
4:03:22 PM Questions:
4:03:26 PM Senator Smith
4:04:17 PM Senator McClain responds
4:04:37 PM Senator Smith
4:04:57 PM Back and forth in questions
4:05:50 PM Appearance forms:
4:05:53 PM Lori Killinger waiving in support
4:05:58 PM Cameron Fink Associated Industries of FL waiving in support
4:06:07 PM Debate:
4:06:10 PM Senator Brodeur
4:07:31 PM Senator Smith
4:08:39 PM Senator McClain closes on bill
4:09:32 PM Roll call
4:09:49 PM SB 492 reported favorably
4:09:55 PM Tab 4 - SB 800 Requirements for Battery Manufacturers by Senator McClain
4:10:01 PM Senator McClain explains the bill
4:11:21 PM No questions
4:11:23 PM Appearance forms:
4:11:26 PM Kenya Cory National Waste and Recycling Assoc. FL Chapter speaking for
4:13:07 PM Lance Lozano Palm Beach Co. Solid Waste Authority waiving in support
4:13:13 PM Jim Magill FL Recyclers Assoc. speaking for
4:13:53 PM Jessica Kraynak FL Retail Federation waiving in support
4:14:01 PM Jared Griger waiving in support
4:14:08 PM Debate:
4:14:11 PM Senator Smith
4:14:45 PM Senator McClain waives close
4:14:50 PM Roll call
4:15:00 PM SB 800 reported favorably
4:15:07 PM Tab 7 - SB 1228 Spring Restoration by Senator McClain
4:15:15 PM Senator McClain explains the bill
4:16:03 PM No questions
4:16:06 PM Appearance forms:
4:16:10 PM David Childs JEA waives in support
4:16:18 PM No debate
4:16:20 PM Senator McClain waives close
4:16:23 PM Roll call
4:16:34 PM SB 1228 reported favorably
4:16:40 PM Tab 5 - SB 810 Stormwater Management Systems by Senator Burgess
4:16:48 PM Senator Burgess explains the bill
4:19:06 PM Questions:
4:19:08 PM Senator Harrell
4:19:48 PM Senator Burgess
4:21:25 PM Senator Harrell
4:21:50 PM Senator Burgess
4:21:59 PM Senator Harrell

4:22:28 PM Senator Burgess
4:22:48 PM Senator Smith
4:23:44 PM Senator Burgess
4:24:49 PM Senator Smith
4:25:16 PM Senator Burgess
4:25:55 PM Appearance forms:
4:25:58 PM Matthew Singer FL League of Cities waiving against
4:26:05 PM Kevin Coyne FL Stormwater Assoc. speaking against
4:27:15 PM Debate:
4:27:32 PM Senator DiCeglie
4:27:55 PM Senator Smith
4:28:26 PM Senator Harrell
4:30:04 PM Senator Avila
4:32:20 PM Senator Burgess closes on bill
4:34:05 PM Roll call
4:34:18 PM SB 810 reported favorably
4:34:25 PM Tab 3 - SB 796 General Permits for Distributed Wastewater Treatment Systems
4:34:33 PM Senator Bradley explains the bill
4:35:07 PM No questions
4:35:10 PM Appearance forms:
4:35:12 PM Brett Cyphers Onsyte Performance waiving in support
4:35:20 PM No debate
4:35:23 PM Senator Bradley closes on bill
4:36:05 PM Roll call
4:36:17 PM SB 796 reported favorably
4:36:23 PM Tab 2 - SB 736 Brownfields by Senator Truenow
4:36:36 PM Senator Brodeur explains the bill for Senator Truenow
4:37:46 PM No questions
4:37:49 PM Take up delete all amendment 282782
4:37:56 PM Senator Brodeur explains the amendment
4:38:46 PM Questions:
4:38:49 PM Vice Chair Ingoglia
4:39:33 PM Senator Brodeur
4:40:06 PM No appearance forms
4:40:10 PM No debate
4:40:13 PM Senator Brodeur waives close
4:40:17 PM Amendment adopted
4:40:22 PM No questions on bill as amended
4:40:28 PM Appearance forms:
4:40:31 PM Michael Goldstein waiving in support
4:40:39 PM Colton M. waiving in support
4:40:45 PM No debate
4:40:47 PM Senator Brodeur closes on bill
4:41:01 PM Roll call
4:41:15 PM SB 736 reported favorably
4:41:24 PM Tab 6 - SB 1162 Water Access Facilities by Senator Leek
4:41:34 PM Senator Brodeur presents bill for Senator Leek
4:42:14 PM No questions
4:42:16 PM Appearance forms:
4:42:17 PM David Childs National Marine Manufacturers Assoc. waiving in support
4:42:28 PM Kyle Langan Boat U.S. waiving in support
4:42:35 PM Senator Brodeur closes on bill
4:42:48 PM Roll call
4:43:02 PM SB 1162 reported favorably
4:43:09 PM Tab 8 - Appointments to FL Inland Navigation District
4:43:22 PM All appointees taken up
4:43:31 PM No questions
4:43:33 PM No appearance forms
4:43:39 PM Debate:
4:43:41 PM Senator Smith
4:43:59 PM Senator Harrell motion to recommend confirmation
4:44:09 PM Roll call

4:44:15 PM Confirmations are recommended favorably
4:44:24 PM Senator DiCeglie vote after
4:44:46 PM Senator Harrell moves meeting adjourn
4:44:50 PM Meeting adjourned