

Tab 1	CS/SB 716 by CA, Bennett (CO-INTRODUCERS) Evers; (Similar to CS/CS/CS/CS/H 0503) Environmental Regulation					
737914	D	S	RCS	EP, Jones	Delete everything after	02/06 08:02 PM
817792	AA	S	RCS	EP, Latvala	Delete L.745:	02/06 08:02 PM
Tab 2	CS/SB 1254 by AG, Siplin; (Similar to CS/CS/H 7021) Department of Agriculture and Consumer Services					
568672	A	S	RCS	EP, Sobel	btw L.1097 - 1098:	02/06 08:02 PM
266358	A	S	RCS	EP, Sobel	btw L.1419 - 1420:	02/06 08:02 PM
Tab 3	SB 100 by Siplin (CO-INTRODUCERS) Lynn; (Identical to H 0229) Unclaimed Deposits Held By Utilities					
331156	D	S	RCS	EP, Dean	Delete everything after	02/06 08:02 PM
838412	A	S	RCS	EP, Sobel	Delete L.23 - 24:	02/06 08:02 PM
Tab 4	SB 1032 by Benacquisto; (Identical to H 0747) Thermal Efficiency Standards					
483824	D	S		EP, Oelrich	Delete everything after	01/27 04:30 PM
Tab 5	SB 1456 by Diaz de la Portilla; (Similar to CS/H 1117) Conservation of Wildlife					
771374	D	S	FAV	EP, Detert	Delete everything after	02/06 08:11 PM
Tab 6	CS/CS/SB 268 by CM, TR, Wise; (Similar to CS/H 0181) Sponsorship of State Greenways and Trails					
517104	D	S	FAV	EP, Latvala	Delete everything after	02/14 12:05 PM
258276	AA	S	WD	EP, Latvala	Delete L.30 - 41:	02/14 12:05 PM
403976	AA	S	FAV	EP, Latvala	Delete L.43 - 49:	02/14 12:05 PM
Tab 7	SB 1086 by Garcia; (Compare to CS/H 0639) Reclaimed Water					
112952	D	S	RCS	EP, Latvala	Delete everything after	02/06 08:02 PM
Tab 8	SB 626 by Richter; (Identical to H 0333) Collection and Disposal of Household Pharmaceuticals					
631912	A	S	FAV	EP, Detert	Delete L.37:	02/06 08:11 PM
Tab 9	SB 624 by Richter; (Identical to H 0335) Household Pharmaceuticals Collection and Disposal Trust Fund/DEP					
304776	A	S	FAV	EP, Detert	Delete L.37:	02/06 08:11 PM
Tab 10	SB 958 by Oelrich; (Identical to H 0773) Airboats					
514606	D	S	FAV	EP, Oelrich	Delete everything after	02/14 12:05 PM
Tab 11	CS/SB 604 by AG, Dean (CO-INTRODUCERS) Bennett, Gaetz; (Compare to CS/CS/H 0421) Limited Certification for Urban Landscape Commercial Fertilizer Application					
152126	D	S	RS	EP, Latvala	Delete everything after	02/06 08:02 PM
665304	SD	S	FAV	EP, Latvala	Delete everything after	02/06 08:02 PM
448222	AA	S	FAV	EP, Detert	Delete L.56 - 58:	02/06 08:02 PM
189584	AA	S		EP, Detert	btw L.69 - 70:	02/06 11:20 AM
240700	A	S		EP, Dean	Delete L.35:	01/27 04:27 PM
897476	A	S		EP, Dean	btw L.45 - 46:	01/27 04:27 PM

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

MEETING DATE: Monday, February 6, 2012

TIME: 3:00 —6:00 p.m.

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

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 716 Community Affairs / Bennett (Similar CS/CS/CS/CS/H 503, Compare CS/CS/H 373, CS/CS/H 663, H 747, H 987, H 4123, CS/CS/S 602, CS/S 738, S 994, S 1032)	Environmental Regulation; Prohibiting a county from requiring an applicant to obtain a permit or approval from any state or federal agency as a condition of processing a development permit under certain conditions; providing exceptions to criteria required for system facilities designated under the Strategic Intermodal System; exempting underground injection control wells from certain rules; specifying a permit term for a solid waste management facility that does not have a leachate control system meeting the requirements of the Department of Environmental Protection under certain conditions; providing for issuance of general permits for the construction, alteration, and maintenance of certain surface water management systems under certain circumstances, etc. CA 01/12/2012 Fav/CS EP 02/06/2012 Fav/CS BC	Fav/CS Yeas 7 Nays 0
2	CS/SB 1254 Agriculture / Siplin (Similar CS/CS/H 7021, Compare H 4187, H 4189)	Department of Agriculture and Consumer Services; Establishing the Division of Food, Nutrition, and Wellness within the department; deleting provisions for a food safety pilot program and a permitting program for persons who test milk or milk products; creating the Agricultural Feed, Seed, and Fertilizer Advisory Council; revising requirements for the assessment of penalties and enforcement of violations by manufacturers and distributors of commercial feed or feedstuff; revising the geographic jurisdiction of soil and water conservation districts to include certain territory outside of the districts' boundaries; revising requirements and procedures for the dissolution or discontinuance of soil and water conservation districts, etc. AG 01/23/2012 Fav/CS EP 02/06/2012 Fav/CS BC	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation

Monday, February 6, 2012, 3:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 100 Siplin (Identical H 229)	Unclaimed Deposits Held By Utilities; Requiring that any unclaimed deposits held by a utility be deposited annually into the Grants and Donations Trust Fund in the Department of Community Affairs, or its successor agency, to supplement the Low-Income Home Energy Assistance Program, etc. CU 01/23/2012 Favorable EP 02/06/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 1
4	SB 1032 Benacquisto (Identical H 747, H 987, Compare CS/CS/CS/CS/H 503, CS/S 716)	Thermal Efficiency Standards; Requiring that the Department of Environmental Protection and the applicable water management district grant a general permit for the construction, alteration, and maintenance of certain surface water management systems; authorizing the construction of certain surface water management systems to proceed without further action by the department or the water management district; providing definitions for the terms "ballasted roof," "hardscape," "heat island effect," "low-sloped roof," "solar reflectance" or "reflectance," and "steeped-sloped roof"; providing standards for a thermal-efficient roof, etc. EP 01/30/2012 Temporarily Postponed EP 02/06/2012 Temporarily Postponed BC	Temporarily Postponed
5	SB 1456 Díaz de la Portilla (Similar CS/H 1117)	Conservation of Wildlife; Providing for certain zoos and aquariums to apply to the Board of Trustees of the Internal Improvement Trust Fund for authorization to use state lands for the purpose of conducting enhanced research; providing information that must be provided in the application; providing criteria that the board must consider in reviewing the application; requiring the Fish and Wildlife Conservation Commission to assist the board and to adopt rules, etc. EP 02/06/2012 Fav/1 Amendment BC	Fav/1 Amendment (771374) Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation

Monday, February 6, 2012, 3:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/CS/SB 268 Commerce and Tourism / Transportation / Wise (Similar CS/H 181)	Sponsorship of State Greenways and Trails; Creating the "John Anthony Wilson Bicycle Safety Act;" providing for the Department of Environmental Protection to enter into concession agreements for naming rights of state greenway and trail facilities or property or for commercial advertising to be displayed on state greenway and trail facilities or property; providing for distribution of proceeds from such concession agreements; authorizing the department to adopt rules, etc. TR 12/07/2011 Fav/CS CM 01/19/2012 Fav/CS EP 02/06/2012 Temporarily Postponed	Temporarily Postponed
7	SB 1086 Garcia (Compare CS/H 639)	Reclaimed Water; Revising the definition of the term "water" or "waters in the state" to exclude reclaimed water; providing that reclaimed water is an alternative water supply and eligible for such funding; authorizing specified contract provisions for the development of reclaimed water as an alternative water supply; prohibiting water management districts from requiring permits for the use of reclaimed water; authorizing permit conditions for certain surface water and groundwater sources; requiring the Department of Environmental Protection and each water management district to initiate rulemaking to adopt specified revisions to the water resource implementation rule, etc. EP 02/06/2012 Fav/CS BC	Fav/CS Yeas 7 Nays 0
8	SB 626 Richter (Identical H 333, Compare H 335, Link S 624)	Collection and Disposal of Household Pharmaceuticals; Requiring the Department of Environmental Protection to establish a grant program to reimburse local law enforcement agencies for the expenses associated with the collection and disposal of household pharmaceuticals; providing eligibility requirements; requiring that the court impose an additional surcharge for specified offenses; providing for the proceeds of the surcharge to be deposited into the Household Pharmaceuticals Collection and Disposal Trust Fund; providing for the clerk of the court to retain a service charge, etc. EP 02/06/2012 Fav/1 Amendment HR BC	Fav/1 Amendment (631912) Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation

Monday, February 6, 2012, 3:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 624 Richter (Identical H 335, Compare H 333, Link S 626)	Household Pharmaceuticals Collection and Disposal Trust Fund/DEP; Creating the Household Pharmaceuticals Collection and Disposal Trust Fund within the Department of Environmental Protection; providing for sources of funds and purposes; providing for annual carryforward of funds; providing for the future review and termination or re-creation of the trust fund, etc. EP 02/06/2012 Fav/1 Amendment HR BC	Fav/1 Amendment (304776) Yeas 7 Nays 0
10	SB 958 Oelrich (Identical H 773)	Airboats; Requiring the Fish and Wildlife Conservation Commission to establish a voluntary sound-testing program for airboats; allowing airboats that test below a specified sound level to be operated on all navigable waters of the state, including waterways on which airboats are prohibited by local ordinance; requiring a fee; providing testing requirements; requiring a super majority vote to enact certain ordinances regulating airboats; amending provisions relating to muffling devices on vessels, etc. EP 02/06/2012 Pending reconsider (Unfavorable) CA BC	Unfavorable Yeas 2 Nays 5 -Pending Reconsideration
11	CS/SB 604 Agriculture / Dean (Compare CS/CS/H 421)	Limited Certification for Urban Landscape Commercial Fertilizer Application; Requiring persons who hold a limited certification to follow certain best management practices; providing an exemption from certain local government ordinances; requiring the Department of Agriculture and Consumer Services to provide specified information to other local and state governmental agencies; providing the department with certain enforcement authority; providing a requirement for related penalties, fines, and administrative actions, etc. AG 12/05/2011 Fav/CS EP 01/30/2012 Temporarily Postponed EP 02/06/2012 Unfavorable BC	Unfavorable Yeas 3 Nays 4

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Environmental Regulation Commission

12	Gelber, Adam R. (Miami Beach)	07/01/2015	Recommend Confirm Yeas 7 Nays 0
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COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation
Monday, February 6, 2012, 3:00 —6:00 p.m.

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Fish and Wildlife Conservation Commission			
13	Priddy, Aliese P. (Immokalee)	01/06/2017	Recommend Confirm Yeas 7 Nays 0

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/12

Meeting Date

Topic Environmental Permitting

Bill Number 716
(if applicable)

Name Brandon Wagner

Amendment Barcode 737914
(if applicable)

Job Title _____

Address 601 E. Kennedy Blvd.
Street

Phone 813-276-2640

Tampa FL 33601
City State Zip

E-mail wagnerb@hillsboroughcounty.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Hillsborough County Gov't.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12
Meeting Date



Topic Environmental Regulation

Bill Number SB 716
(if applicable)

Name Mary Jean Yan

Amendment Barcode 737914
(if applicable)

Job Title _____

Address 3324 Charleston Rd
Street
TLH FL
City State Zip

Phone (850) 519-7859

E-mail maryjeanyan@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

Representing Audubon Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1
2-6-12

Meeting Date



Topic Permitting

Bill Number CS/SB 714
(if applicable)

Name Stephanie Kunkel

Amendment Barcode 737914
(if applicable)

Job Title _____

Address 1830 Meriadow Rd.

Phone 850-320-4208

Street

Tallahassee

FL

32303

City

State

Zip

E-mail Stef.Kunkel@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

Representing Clean Water Action

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)



THE FLORIDA SENATE

APPEARANCE RECORD



2.6.12

Meeting Date

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

Topic ENVIRONMENTAL REG

Bill Number 716
(if applicable)

Name DAVID CULLEN

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1674 UNIVERSITY DRIVE #296 Phone 941-323-2404
Street
SAFASOTA FL 34243 E-mail cullenassco@aol.com
City State Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

1

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic ENVIRONMENTAL REGULATIONS

Bill Number SB 716
(if applicable)

Name KEYNA CORY

Amendment Barcode _____
(if applicable)

Job Title SENIOR LOBBYIST

Address 110 E. COLLEGE AVE
Street

Phone 850 681-1065

TALLAHASSEE FL 32301
City State Zip

E-mail keynacory@pacconsultants.com

Speaking: ☒ For ☐ Against ☐ Information

Representing ASSOCIATED INDUSTRIES OF FL (AIF)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 2/6/2012

Meeting Date

Topic _____ Bill Number 716
(if applicable)

Name Leticia M Adams Amendment Barcode _____
(if applicable)

Job Title Director of Infrastructure & Governance Policy

Address 136 South Bronough Street Phone 850-544-6866

Street

Tallahassee

FL

32301

City

State

Zip

E-mail ladams@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-6-12

Meeting Date

Topic Env. Reg

Bill Number 716
(if applicable)

Name Missy Timmins

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2910 Kerry Forest Pkwy
Street
TLH 32309
City State Zip

Phone _____

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Marine Industries Assoc. of FLA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic _____

Bill Number SB 716
(if applicable)

Name Manny Reyes

Amendment Barcode _____
(if applicable)

Job Title lobbyist

Address 200 West College Ave #204
Street
Tallahassee FL 32301
City State Zip

Phone 850-222-9911

E-mail mreyes@gomezbarber.com

Speaking: ☒ For ☐ Against ☐ Information

Representing City of North Bay Village

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Regulatory Streamlining Bill Number 716
(if applicable)

Name Keith Hetrick Amendment Barcode _____
(if applicable)

Job Title Of Counsel

Address 215 So. Monroe Phone 251-1838

Tall FL 32301 E-mail khhetrick@broadbandcassel.com
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Home Builders Assoc.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/CS/SB 716

INTRODUCER: Environmental Preservation and Conservation Committee; Community Affairs Committee; and Senators Bennett and Evers

SUBJECT: Environmental Regulation

DATE: February 8, 2012

REVISED: _____

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

Please see Section VIII. for Additional Information:

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

I. Summary:

The Committee Substitute (CS) creates, amends and redefines provisions relating to environmental regulation. It relates to permit administration, requirements and application for various types of permits. It also addresses contaminated site cleanup and other petroleum-related issues.. Specifically the CS:

- Prohibits a county or a municipality from conditioning the processing for a development permit on an applicant obtaining a permit or approval from any other state or federal agency;
- Authorizes the DEP to issue a coastal construction permit before an applicant receives an incidental take authorization;
- Expands eligibility for those entities entitled to reduced or waived permit processing fees;
- Exempts a municipal applicant from having to show extreme hardship when proposing a public waterfront promenade in the Biscayne Bay Aquatic Preserve;
- Expands the use of Internet-based self-certification services and general permits;
- Exempts previously authorized underground injection wells from ch. 373, part III, F.S., relating to the regulation of wells, except for Class V, Group 1 wells;
- Shortens the time frame that permits must be noticed for proposed agency action from 90 days to 60;

- Provides for an expanded state programmatic general permit;
- Raises the qualifying low-scored site initiative priority ranking score from 10 to 29, and exempts certain expenditures from counting against the low-scored site initiative cleanup program;
- Revises qualifications for fiscal assistance for innocent victim petroleum storage system restoration;
- Provides expedited permitting for intermodal logistic centers receiving or sending cargo to or from Florida ports;
- Authorizes zones of discharges to groundwater for existing installations, with certain limitations;
- Revises requirements for permit revocation;
- Revises the definition for “financially disadvantaged small community”;
- Revises the definition of industrial sludge;
- Specifies recycling credits available for counties that operate waste-to-energy facilities;
- Revises provisions related to solid waste disposal and management;
- Provides for a general permit for small surface water management systems;
- Expands the definition for “transient noncommunity water systems” to include religious institutions;
- Clarifies creation of regional permit action teams for expedited permitting for certain businesses;
- Allows for sale of unblended fuels for specified applications, and specifies that alternative fuels other than ethanol may be used as blending fuels for blending gasoline; and
- Prohibits the collection of permit renewal fees for those permits that were automatically extended by ch. 2011-139, ss. 73 and 79 of the Laws of Florida.

This CS substantially amends ss. 125.022, 161.041, 166.033, 218.075, 258.397, 373.026, 373.326, 373.4141, 373.4144, 376.3071, 376.30715, 380.0657, 403.061, 403.087, 403.1838, 403.7045, 403.706, 403.707, 403.7125, 403.814, 403.853, 403.973, and 526.203 of the Florida Statutes and creates an unnumbered section of law.

II. Present Situation:

The affected permitting and other areas addressed by this CS are diverse. Each programmatic area will be addressed in the “effect of proposed changes” of the CS to allow for greater clarity of how it is affected by the particular proposed change.

III. Effect of Proposed Changes:

Sections 1 and 3 amend ss. 125.022 and 166.033, F.S., respectively, relating to county and municipality development permit requirements.

Stakeholders in the business and regulated communities have expressed some frustration at the local permitting process. There is anecdotal evidence that local governments may condition approval of development permits on the applicant’s first securing state and federal permits. For complicated permits requiring local, state and federal permits, this process can cause delays and drive up costs.

For development permit applications filed after July 1, 2012, the CS prohibits a county or municipality from requiring that an applicant first obtain state or federal permits or approvals before processing or issuing a development permit; however, this prohibition does not apply if a state or federal agency issues a notice of intent to deny the permit before a county's or municipality's action. The CS specifies that issuance of a county or municipal development permit does not create any right for the applicant to obtain permits from other agencies. It also clarifies that a county or municipality is not liable if an applicant fails to fulfill its legal obligations or undertakes actions in violation of state or federal law. A county or municipality may attach a disclaimer in the permit that states as much. The CS allows a county or municipality to require an applicant obtain all state and federal permits before commencing development. The CS does not prohibit a county or municipality from providing information to an applicant as to what other permits may apply.

Section 2 amends s. 161.041, relating to permits for beach and shore preservation projects.

Prior to development of coastal projects, an applicant must apply to the Department of Environmental Protection (DEP) for a coastal construction permit. The federal Endangered Species Act (ESA) governs activities that impact listed species. Section 10a(1)B of the ESA regulates incidental takings of listed species. The ESA defines a "take" as, "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." The ESA prohibits takings of listed species through direct harm or habitat destruction. The U.S. Fish and Wildlife Service issues authorizations for incidental takings, which allows permit holders to engage in legal activity that results in incidental takings of listed species.¹ Currently, the DEP will not issue a coastal construction permit before an incidental take authorization is issued.

The CS authorizes the DEP to issue a coastal construction permit before an applicant secures an incidental take authorization issued pursuant to the ESA; however, the permit must contain conditions that prohibit the authorized activity from occurring until the incidental take authorization is issued. This will allow applicants to better prepare for the permitted activity and would be considered a final agency action if any party desired to initiate a ch. 120, F.S., challenge.

Section 4 amends s. 218.075, F.S., relating to reduction or waiver of permit fees.

Section 218.075, F.S., provides that the DEP or a Water Management District (WMD) may reduce or waive permit processing fees for counties with a population of 50,000 or less until that county exceeds a population of 75,000, and for municipalities with a population of 25,000 or less. Fee reductions or waivers are approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship.

¹ U.S. Fish and Wildlife Service, *Endangered Species Permits*, <http://www.fws.gov/midwest/endangered/permits/hcp/index.html> (last visited Jan. 10, 2012).

The CS expands eligibility for reductions or waivers of permit processing fees for entities created by special act, local ordinance or interlocal agreement of those local governments that would qualify under existing law.

Section 5 amends s. 258.397, F.S., relating to the Biscayne Bay Aquatic Preserve.

Florida has 41 aquatic preserves, encompassing approximately 2 million acres. Biscayne Bay Aquatic preserve is located in Southeast Florida in Miami-Dade and Monroe Counties. Its boundaries, management authorities, and rules are established in Rule 18-18, F.A.C.² The Board of Trustees of the Internal Improvement Trust Fund (Board) may not convey sovereignty submerged lands within the preserve except upon a showing of extreme hardship by the applicant and that the conveyance is in the public interest. There are no exceptions for municipal projects.

The CS exempts a municipal applicant from having to show extreme hardship for a proposed public waterfront promenade in the Biscayne Bay Aquatic Preserve.

Section 6 amends s. 373.026, F.S., relating to DEP powers and duties and Internet-based self-certification.

Self-certification of permit requirements is the process of the permitting agency allowing “applicants” to manage their own compliance for a given regulated activity. The regulating agency sets up the specific requirements of the permit, and if followed, “applicants” do not apply for permits in the traditional sense. They simply undertake the regulated activity and “self certify” that they have complied with all conditions of the permit. The DEP currently accepts certain types of permit applications online and provides an online self-certification process for private docks associated with detached individual single-family homes on the adjacent uplands. Through this electronic process, one may immediately determine whether a dock can be constructed without further notice or review by the DEP. The DEP is working on expanding its online self-certification into other permitting areas, but it is currently limited to constructing and repairing single-family docks, adding boatlifts to private docks and adding rip rap to the toe of existing seawalls.³

In addition, the WMDs allow users to access nearly all permitting documents and forms online. Their websites also allow interested third parties access to permitting applications and supplementary materials. According to the Legislative Committee on Intergovernmental Relations report,⁴ interviews with stakeholder groups indicated some local governments often do not accept self-certification for permit-exempt projects identified in statute, rule, or listed in the DEP’s website. Some local governments require a “signature” from DEP permit review staff to verify the exempt status of a project submitted under self-certification, notwithstanding the fact

² Florida Dep’t of Environmental Protection, *About the Biscayne Bay Aquatic Preserve*, <http://www.dep.state.fl.us/coastal/sites/biscayne/info.htm> (last visited Jan. 9, 2012).

³ Florida Dep’t of Environmental Protection, *FDEP’s Self-Certification Process for Single-Family Docks*, <http://appprod.dep.state.fl.us/erppa/> (last visited Jan. 9, 2012).

⁴ Florida Legislative Committee on Intergovernmental Relations, *Improving Consistency and Predictability in Dock and Marina Permitting* (Mar. 2007), available at http://www.myfmca.org/wp-content/uploads/2009/12/007_Improving_Consistency_Predictability_Dock_Marina_Permitting_2-19-07.pdf (last visited Jan. 9, 2012).

that current law neither requires nor provides for a “signature” from the DEP as an alternative or as supplemental to self-certification.

The CS requires the DEP to expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the DEP and the WMDs. The expansion of services is only required if economically feasible. In addition to expanding the use of such online services, the DEP and WMDs must identify and develop general permits for appropriate activities currently requiring individual review that could be expedited through the use of professional certifications.

Section 7 amends s. 373.326, F.S., relating to the regulation of underground injection wells.

The DEP’s Underground Injection Control (UIC) Program protects the state’s underground sources of drinking water (USDW) while disposing of appropriately treated fluids in underground injection wells.⁵ A USDW is defined as an aquifer that contains a total dissolved solids concentration of less than 10,000 milligrams per liter of water.⁶ The UIC program is charged with preventing degradation of the quality of other aquifers adjacent to the injection zone. Subsurface injection, the practice of emplacing fluids through an injection well, is one of many wastewater disposal methods used in Florida.⁷

The injection wells are required to be constructed, maintained, and operated so that the injected fluid remains in the injection zone, and the unapproved interchange of water between aquifers is prohibited. There are five classes of injection wells. Four of the well classes address the injection of hazardous and nonhazardous waste and fluids associated with the production of oil and natural gas. Class V injection wells generally inject nonhazardous fluid into or above a USDW.

Class V, Group 1 wells are closed-loop air conditioning return flow wells and qualify for a general permit from the DEP. Therefore, construction of this type of well does not have to be pre-permitted by the DEP. However, the Northwest Florida WMD does issue pre-construction permits for these types of wells.

The CS exempts all underground injection wells, except Class V, Group 1, from ch. 373, part III, F.S. It specifies that all wells must be constructed by licensed persons pursuant to s. 373.323, F.S. This will prevent any unnecessary duplication between the DEP and the WMDs for regulating underground injection wells.

Section 8 amends s. 373.4141, F.S., relating to the DEP’s permit processing procedures.

Upon receipt of an application for a license or an environmental resource permit (ERP) under ch. 373, part IV, F.S., the DEP or a WMD is required to examine the application and notify the applicant within 30 days of any apparent errors or omissions and requests for additional information (RAIs). The application is not deemed complete until the agency determines that it has all of the information it needs to approve or deny the application. An applicant may request

⁵ See Rule 62-528, F.A.C.

⁶ Rule 62-528.200, F.A.C.

⁷ Florida Dep’t of Environmental Protection, *Underground Injection Control*, www.dep.state.fl.us/water/uic/ (last visited Jan. 13, 2012).

the agency process the application if he or she believes that an RAI is not authorized by law or rule. The DEP or a WMD is required to approve or deny every application within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law. There is no time limit on when the applicant must respond to an RAI, or limit to the number of RAIs the DEP or WMD may issue.

The CS reduces the time frame for the DEP or a WMD to approve, deny or issue a notice of proposed agency action from 90 to 60 days. Additionally, the CS prohibits a state agency or an agency of the state from requiring a permit from any other local, state or federal agency as a condition to approve or submit a completed application unless statutorily authorized to do so.

Section 9 amends s. 373.4144, F.S., relating to federal environmental permitting.

One of Florida's key characteristics is its vast wetlands, including the Everglades. Wetlands are defined as being neither dry nor covered by open water but continually influenced by water. At times, wetlands may be dry for months or even years, or they may be covered with water the majority of the time only drying out for short periods.⁸

For activities occurring in "waters of the United States" in Florida, including wetlands, the federal Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) require compliance with and regulate activities under the authority of Section 404 of the federal Clean Water Act (CWA).⁹ Wetlands are also regulated under Section 10 of the federal Rivers and Harbors Act of 1899,¹⁰ although the focus of that legislation is primarily maintaining navigable waters.¹¹ When a dredge and fill permit is required in addition to permits required by the state, it is issued independently from the DEP or the WMD permits and is reviewed by the Corps. However, the Corps' issuance of the permit is dependent on the applicant first receiving state water quality certification or a waiver through the state Environmental Resource Permit (ERP)¹² program. If the permitted activity is in a coastal county, the application must also have received a finding of consistency with the Florida Coastal Zone Management Program.¹³

In addition to permits issued under the CWA and the federal Rivers and Harbors Act, the Corps also administers the National Pollution Discharge Elimination System (NPDES) permit program. The Corps has delegated the authority to Florida to implement this program for stormwater systems, including municipal systems, certain industrial activities and construction activities. The WMDs do not have delegated authorization from the EPA to implement this program. The EPA has determined that the separate WMDs do not constitute a central state authority, and

⁸ Florida Dep't of Environmental Protection, *Florida State of the Environment – Wetlands: A Guide to Living with Florida's Wetlands*, available at <http://www.dep.state.fl.us/water/wetlands/docs/erp/fsewet.pdf> (last visited Jan. 9, 2012).

⁹ 33 U.S.C. §§ 1251-1387.

¹⁰ 33 U.S.C. § 403.

¹¹ Florida Dep't of Environmental Protection, *Consolidation of State and Federal Wetland Permitting Programs, Implementation of House Bill 759 (Chapter 2005-273, Laws of Florida)* (Sep. 2005), available at http://www.dep.state.fl.us/ig/reports/files/final_report016.pdf (last visited Jan. 9, 2012).

¹² See generally ch. 373, part IV, F.S.

¹³ Florida Dep't of Environmental Protection, *Summary of the Wetland and Other Surface Water Regulatory and Proprietary Programs in Florida* (2007), available at <http://www.dep.state.fl.us/water/wetlands/docs/erp/overview.pdf> (last visited Jan. 9, 2012).

therefore, they do not have the state-wide consistency required for federal delegation of the NPDES permit program.

The Corps has also delegated to Florida the authority to issue federal dredge and fill permits under Section 404 of the CWA for certain activities. These are known as State Programmatic General Permits (SPGP). Under this delegated authority, the department may issue state authorizations for limited state exemptions and noticed general permits for shoreline stabilization, docks, boat ramps, and maintenance dredging that constitute federal authorization. Such authorization may be subject to additional specific federal conditions, however.¹⁴ The DEP has expressed interest in expanding the SPGP program for activity-specific categories, subject to acreage limitations. In addition to a closer alignment of state and federal wetland delineation methods, changes to statutes or rules must be made to address federal coordination and consultation requirements for threatened and endangered species.

The CS authorizes the DEP to obtain issuance of an expanded SPGP or a series of regional general permits from the Corps for categories of activities in waters of the United States governed by the Clean Water Act and in navigable waters governed by the Rivers and Harbors Act of 1899. An activity will only be authorized if it causes only minimal adverse environmental effects when performed separately and, when taken together, cause only minimal cumulative adverse environmental effects.

The CS directs the DEP to not seek issuance of or take any action pursuant to such permits unless the conditions are at least as protective of the environment and natural resources as existing state law and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. It deletes the requirement that the DEP develop a consolidated wetland permitting mechanism by October 1, 2005. It also deletes the requirement that dredge and fill activities impacting 10 acres or less be processed as part of an ERP program.

The CS authorizes the DEP and WMDs to implement a voluntary SPGP for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the Corps if the general permit is at least as protective of the environment and natural resources as existing state law and federal law under the Clean Water Act and Rivers and Harbors Act of 1899. It deletes an obsolete reporting requirement. The CS would not preclude the DEP from pursuing a series of regional general permits for construction activities in wetlands or surface waters.

Section 10 amends s. 376.3071, F.S., related to the low-scored site initiative for contaminated sites.

The Legislature created the Inland Protection Trust Fund (fund) with the intent that it serve as a repository for funds which will enable the DEP to respond without delay to incidents of inland contamination related to the storage of petroleum and petroleum products in order to protect public health, safety and welfare, and to minimize environmental damage.¹⁵ Section 376.3071(4), F.S., directs the DEP to obligate moneys available in the fund whenever incidents of inland

¹⁴ *Id.* at 20.

¹⁵ Section 376.3071, F.S.

contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or public health, safety or welfare. The current law provides for:

- Prompt investigation and assessment of contaminated sites;
- Expeditious restoration or replacement of potable water supplies;
- Rehabilitation of contaminated sites;
- Maintenance and monitoring of contaminated sites;
- Payment of expenses incurred by the DEP in its efforts to obtain the payment or recovery of reasonable costs resulting from the activities described in this subsection from responsible parties;
- Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health in providing field and laboratory services, toxicological risk assessment and other assistance to the DEP in the investigation of drinking water contamination complaints, and costs associated with public information and education activities;
- Establishment and implementation of a compliance verification program;
- Activities related to removal and replacement of petroleum storage systems;
- Reasonable costs of restoring property as nearly as practicable to the conditions which existed prior to activities associated with contamination assessment or remedial action;
- Repayment of loans to the fund; and
- Expenditures from the fund to cover ineligible sites or costs if the DEP deems it necessary to do so.

Section 376.3071(5), F.S., provides for the site selection and cleanup criteria that the DEP uses in determining the priority ranking for sites seeking state-funded rehabilitation. The priority ranking is based upon a scoring system for state-conducted cleanup at petroleum contamination sites based upon factors that include, but are not limited to:

- The degree to which human health, safety or welfare may be affected by exposure to the contamination;
- The size of the population or area affected by the contamination;
- The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water; and
- The effect of the contamination on the environment.

Section 376.3071(11), F.S., provides for a low-scored site initiative for sites with a priority ranking score of 10 points or less and provides conditions for voluntary participation, including:

- Upon reassessment pursuant to DEP rule, the site retains a priority ranking score of 10 points or less;
- No excessively contaminated soil, as defined by DEP rule, exists onsite as a result of a release of petroleum products;
- A minimum of six months of groundwater monitoring indicates that the plume is shrinking or stable;
- The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment;

- The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated; and
- Soils onsite that are subject to human exposure found between land surface and two feet below land surface meet the soil cleanup target levels established by DEP rule, or human exposure is limited by appropriate institutional or engineering controls.

If these conditions are met, the DEP must issue a "No Further Action" determination, which means minimal contamination exists onsite and that contamination is not a threat to human health or the environment. If no contamination is detected, the DEP may issue a site rehabilitation completion order (SRCO). Sites that are eligible must be voluntarily initiated by the source property owner or responsible party for the contamination. For sites eligible for state restoration funding, the DEP may pre-approve the costs of the site assessment, including six months of groundwater monitoring, not to exceed \$30,000 for each site. The DEP may not pay the costs associated with the establishment of institutional or engineering controls. Assessment work must be completed no later than six months after the DEP issues its approval.

There are 4,865 sites with a priority ranking score of 29 or under. A site with a score of 29 or lower indicates that there are no wells threatened by the contamination. Industry experts estimate that as many as 40 percent of these sites are eligible for either a no further action or site rehabilitation completion order.

The CS raises the priority ranking score for voluntary participation in the low-scored site initiative from 10 to 29. It also clarifies that program deductibles, copayments, and contamination assessment report requirements do not count towards expenditures under the low-scored site initiative. These changes will allow more sites to participate and be taken off the contaminated site list.

Section 11 amends s. 376.30715, F.S., relating to innocent victim petroleum storage system restoration.

In 2005, the Legislature created the Innocent Victim Petroleum Storage System Restoration Program to provide state clean-up assistance to property owners of petroleum-contaminated sites that were acquired prior to July 1, 1990. To be eligible for clean up, the site must have ceased operating as a petroleum storage or retail business prior to January 1, 1985. A conveyance of property to a spouse, a surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settlor, does not disqualify the site from participating in the Innocent Victim Petroleum Storage System Restoration Program. The current property owner of the contaminated site must have acquired the property prior to July 1, 1990.

The CS provides that the transfer of title for a petroleum contaminated site to a child, a child in trust or a corporate entity created by the owner to hold title to the site does not disqualify the site from financial assistance. The CS allows applicants who were previously denied coverage to reapply.

Section 12 amends s. 380.0657, F.S., relating to expedited permitting for economic development projects.

The DEP and WMDs are required to adopt programs to expedite the processing of wetland resource permits and ERPs when such permits are for the purpose of economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, F.S.

Pursuant to s. 288.106(2)(q), F.S., a “target industry business” is defined as a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by the Office of Tourism, Trade and Economic Development (OTTED) in consultation with Enterprise Florida, Inc.:

- Future growth in both employment and output;
- Workforce is not subject to periodic layoffs;
- High wages compared to the surrounding area;
- Market and resource independence from Florida markets;
- Expansion or diversification of the state’s or the area’s economic base; and
- Strong economic benefits to the state or regional economies.

An intermodal logistics center, or inland port, is typically a distribution complex designed to provide intermodal transfers between ship, rail and truck operations. The Port of Palm Beach has limited expansion options. Its terminal size is also limiting its growth potential. To address its limitations, Port staff developed the inland port idea to be located in western Palm Beach County.¹⁶ The project has not gotten out of the planning stage and has hit a number of delays. Two proposed sites have been scrapped due to, in large measure, environmental impacts and the potential interference with Everglades restoration. In March 2011, the Port St. Lucie Planning & Zoning Board rejected plans to annex 7,139 acres for development and to amend the comprehensive plan to change the land use from agricultural to heavy industrial.¹⁷ The most recent plans call for collaboration between the Port of Palm Beach and Florida Crystals Corporation to develop 850 acres just north of South Bay, Florida, in unincorporated Palm Beach County.¹⁸

The CS specifies that any intermodal logistics center that receives and sends cargo to and from Florida’s ports qualifies for expedited permitting review.

Section 13 amends s. 403.061, F.S., relating to zones of discharge to groundwater.

“Zone of Discharge” is defined in Rule 62-520.200(27), F.A.C. It means “a volume underlying or surrounding the site and extending to the base of a specifically designated aquifer or aquifers, within which an opportunity for the treatment, mixture or dispersion of wastes into receiving ground water is afforded.” Additionally, Rule 62-520.300(2)(c), F.A.C., provides:

¹⁶ Florida Dep’t of Transportation, *South Florida Inland Port Feasibility Study – final report* (June 2007), available at http://www.dot.state.fl.us/seaport/pdfs/SFL_Inland_Port_Final_Report_11_07.pdf (last visited Jan. 9, 2012).

¹⁷ Alexi Howk, *Planning board rejection signals dwindling support for Port St. Lucie inland port project*, TCPalm, Mar. 3, 2011, available at <http://www.tcpalm.com/news/2011/mar/03/planning-board-rejection-signals-dwindling-for/> (last visited Feb. 8, 2012).

¹⁸ Susan Salisbury, *Port of Palm Beach, Florida Crystals have plan for inland port in Glades*, The Palm Beach Post, July 1, 2011, available at <http://www.palmbeachpost.com/money/port-of-palm-beach-florida-crystals-have-plan-1632419.html> (last visited Feb. 8, 2012).

The zone of discharge and exemption provisions are designed to provide an opportunity for the future consideration of factors relating to localized situations which could not adequately be addressed in the rulemaking hearing of March 1, 1979, including economic and social consequences, attainability, irretrievable conditions, natural background and detectability.

Further, Rule 62-520.200(10), F.A.C., defines “existing installation” as:

[A]ny installation which had filed a complete application for a water discharge permit on or before January 1, 1983, or which submitted a ground water monitoring plan no later than six months after the date required for that type of installation as listed in former Rule 17-4.245, F.A.C. (1983), and a plan was subsequently approved by the Department; or which was in fact an installation reasonably expected to release contaminants into the ground water on or before July 1, 1982, and operated consistently with statutes and rules relating to ground water discharge in effect at the time of the operation.

Currently, many existing installations do not have permits or groundwater monitoring plans. It is therefore impossible in these instances for the DEP to designate a specific aquifer for discharge. The DEP has historically used the uppermost aquifer as the default and specified other aquifers if required on case-by-case basis.

The CS provides that for existing installations, as defined by rule 62-520.200(10), F.A.C., zones of discharge to groundwater are authorized horizontally to a facility’s or owner’s property boundary and extending vertically to the base of a specifically designated aquifer or aquifers. The CS specifies that the zones of discharge may be modified in accordance with DEP rules. It also clarifies that exceedance of primary and secondary groundwater standards that occurs within a zone of discharge does not create liability pursuant to chs. 376 or 403, F.S., for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup, unless it is caused by an illegal discharge.

Section 14 amends s. 403.087, F.S., relating to revocation of permits by DEP.

Currently, the DEP may revoke permits for the following reasons:

- The permit holder has submitted false or inaccurate information on the application;
- The permit holder has violated law, DEP orders, rules, or regulations, or permit conditions;
- The permit holder has failed to submit operational reports or other information required by DEP rule or regulation; or
- The permit holder has refused lawful inspection under s. 403.091, F.S.¹⁹

¹⁹ Section 403.091(c), F.S., states that no person shall refuse reasonable entry or access to any authorized representative of the DEP who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

The CS narrows those violations that the DEP may consider in revoking a permit. The CS allows the DEP to revoke permits for the following violations:

- The permit holder has violated a law, DEP order, rule or condition, which directly relate to the permit;
- The permit holder has failed to submit required operational reports or other information that directly relates to the permit and has refused to correct or cure such violations when requested to do so; and
- The permit holder has refused a lawful inspection at the facility authorized by the permit.

Section 15 amends s. 403.1838, F.S., relating to the small community sewer construction act.

Florida's Small Community Wastewater Facilities Grants Program is administered by the DEP. The DEP grants funds for the planning, design and construction of wastewater management systems for qualifying small municipalities. Highest priority is given to projects that address the most serious risks to public health, are necessary to achieve compliance, or assist systems most in need based on an affordability index. The population limit to qualify as a financially disadvantaged small community is currently 7,500 or less.

The CS increases the population size from 7,500 to 10,000 or fewer to qualify as a financially disadvantaged small community. More communities will be eligible to qualify for grants.

Section 16 amends s. 403.7045, F.S., relating to industrial waste.

Currently, solid waste is defined in statute to mean sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material. Industrial byproducts are not considered hazardous wastes.

The CS clarifies that sludge from industrial waste treatment works that meet certain exemptions contained in s. 403.7045(1)(f), F.S., is not considered solid waste.

Section 17 amends s. 403.706, F.S., relating to recycling credits for waste-to-energy facilities.

According to the DEP, as of 2011, there are 11 waste-to-energy (WTE) facilities operating in Florida. Through the mass combustion of municipal solid waste and refuse-derived fuel, Florida's WTE facilities generate 3.25 million megawatts of energy per year, enough to power 300,000 homes for one year.

Section 403.706(4)(a), F.S., provides recycling credits for the production of renewable energy from solid waste that are to be counted toward the county recycling goals. Current law requires that recycling credits for WTE facilities be applied at a rate of 1 ton of recycled material per megawatt-hour (1 ton/mwh) of renewable energy produced. Section 403.406(4)(a) also provides that a county shall count additional recycling credits for WTE facilities for the following two cases:

- If a county maintains a 50 percent recycling rate by means other than renewable energy production, it shall get an additional 1 ton credit per megawatt-hour, a total of 2 tons/mwh.

- If a county with renewable energy production from solid waste has a debt service payment related to its waste to energy facility, it shall get an additional credit of 1 ton /mwh.

Therefore, if a county has a debt service funded WTE facility and maintains a 50 percent recycling rate, it receives a 3 ton/mwh recycling credit. In addition, s. 403.406(4)(a), F.S., provides that byproducts, mostly ash, resulting from the WTE process do not count as waste. The result is several counties are expected to exceed a 100 percent recycling rate.²⁰

The CS reduces the additional recycling credit from 1 ton to 0.25 tons for each megawatt-hour produced from WTE facilities in counties that maintain a 50 percent recycling rate. It deletes the 1 ton/mwh credit for counties with outstanding debt service on their WTE facilities.

Additionally, it clarifies that byproducts, when recycled, shall count towards county recycling goals in accordance to DEP rules. Otherwise the byproducts are considered waste.

Sections 18 amends s. 403.707, F.S., relating to permitting of solid waste management facilities.

Currently, a solid waste management facility may not be operated, maintained, constructed, expanded, modified, or closed without valid permits issued by the DEP. Permits under s. 403.707, F.S., are not required for the following activities, if an activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations or orders:

- Disposal by persons of solid waste resulting from their own activities on their properties, if such waste is ordinary household waste or rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations;
- Storage in containers by persons of solid waste resulting from their own activities on their properties, if the solid waste is collected at least once a week; and
- Disposal by persons of solid waste resulting from their own activities on their properties if the environmental effects of such disposal on groundwater and surface waters are addressed or authorized by a site certification order or a permit issued by the DEP under ch. 403, F.S., or rules adopted pursuant to ch. 403, F.S., or addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the DEP.

The DEP provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state. Section 403.707, F.S., requires that a solid waste management facility must obtain a permit from DEP in order to operate. In addition, the DEP typically limits the amount of specific materials that a WTE facility may accept through air permit or certification conditions. For example, many facilities are limited by conditions in their air permits to accepting used oil filters that make up less than 5 percent of their waste streams. There is no statutory provision that requires or restricts this practice. However, current law allows the DEP to restrict certain types of waste to comply with air emission limitations.

Section 403.707(3), F.S., limits permit duration to 10 years for a potential source of water pollution, which includes most solid waste management facilities. The DEP rules currently limit

²⁰ DEP, *Waste to Energy Recycling Credits* (2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

permit duration to 5 years, except for certain long-term care permits for closed facilities, which may be approved up to 10 years. The fees for most solid waste permits are limited to \$10,000.

Leachate from a landfill varies widely in composition depending on the age of the landfill and the type of waste it contains. It can usually contain both dissolved and suspended solids. The generation of leachate is caused principally by precipitation percolating through waste deposited in a landfill. The term “leachate” refers to the fluid flowing out of waste material after coming in contact with decomposing solid waste.

The risks of leachate generation can be mitigated by properly designed and engineered landfill sites, such as sites that are constructed on geologically impermeable materials or sites that use impermeable liners made of geomembranes or engineered clay.

The CS requires the DEP to allow WTE facilities to maximize acceptance and processing of nonhazardous solid and liquid waste. This will limit the DEP’s authority to restrict certain waste types to a percentage of the total waste stream. This provision does not affect the DEP’s authority to restrict waste types to comply with air emission limitations.

The CS deletes the public nuisance and adverse impact requirements in s. 403.707(2), F.S., which provide that a permit is not required if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations or orders.

The CS provides that if a facility has a permit authorizing disposal activity for solid waste resulting from their own activities on their own property, new areas where solid waste is being disposed of which are monitored by an existing or modified groundwater monitoring plan are not required to be specifically authorized in a permit or other certification.

The CS requires the DEP to issue 20-year permits for solid waste management facilities having leachate control systems that meet DEP’s requirements. This provision applies to new applications and renewals made on or after October 1, 2012

The CS also allows a permit to be issued to a solid waste management facility that does not have a leachate control system for 10 years if the applicant meets certain criteria. The applicant seeking renewal must:

- have regularly utilized the site for at least 4 and a half months before the application;
- not be subject to a notice, at the time of applying for the renewal permit, by the DEP, or be in violation of an applicable rule;
- not have been notified to implement assessment or evaluation monitoring as a result of exceedances of applicable groundwater standards, or completing corrective actions in accordance with applicable DEP rules;
- be in compliance with the applicable financial assurance requirements.

This section also authorizes the DEP to adopt rules but does not require those rules to be submitted to the Environmental Regulation Commission for approval. The CS specifies that existing permit cap fees do not apply. The DEP is authorized to prorate existing fees for these longer permits. For example, a Class I landfill operation permit fee is currently \$10,000 for a 5-

year permit. If these provisions become law, the permit fee will increase to a maximum of \$40,000 for a 20-year permit.

Section 19 amends s. 403.7125, F.S., relating to financial assurance for solid waste management facilities.

The EPA adopted rules for solid waste management facilities in 1991. According to the DEP, if a state's program was determined to be at least equivalent to the federal program, it would be approved and the federal regulation would not apply in that state. Florida's program was approved in 1993. One of the conditions for approval was that DEP amend existing rules to require financial assurance for corrective actions at landfills. The DEP adopted Rules 62-701.630 and 62-701.730, F.A.C., to include provisions requiring permittees that have an approved corrective action plan to put up financial assurance for the costs of the corrective actions. The Joint Administrative Procedures Committee has stated that the DEP does not have the statutory authority for these rules. If the DEP had to repeal the existing rules, the EPA could determine that Florida's program is no longer equivalent and disapprove it, in which case owners of solid waste management facilities would be required to comply with all of the EPA's regulations in addition to all of Florida's rules. This would create a burden on the regulated community and could create conflict since Florida's rules are not identical to EPA's.²¹

Additionally, owners and operators of landfills are jointly and severally liable for the improper operation and resulting closure of the facility.²² To offset potential liabilities where the landfill is owned or operated by a local, state, or federal governmental entity, the owner or operator must establish and collect a fee, surcharge, or other revenue source in an amount necessary to ensure adequate funds are available in the event the landfill must be closed. The funds collected must be deposited in an interest-bearing escrow account maintained by the owner or operator.²³ Alternatively, owners or operators may provide DEP with a financial assurance of funds for the closure of the facility, in the form of a surety bond, certificates of deposit, or other specified financial instruments.²⁴

The CS directs the DEP to require, by rule, the owner or operator of a solid waste management facility receiving waste after October 9, 1993, and who is the responsible party for corrective actions for violations of water quality standards, to provide financial assurance to cover the costs of corrective actions. The CS also specifies that the financial assurance mechanisms available for closure costs shall be available for corrective actions. This change should alleviate any potential ch. 120, F.S., challenges that the DEP does not have the statutory authority for the existing rules.

Section 20 amends 403.814, F.S., relating to delegation of general permits.

Currently, the DEP is authorized to adopt rules establishing and providing for general permits for projects which have, either singularly or cumulatively, a minimal adverse environmental effect. Such rules must specify design or performance criteria that, if applied, would result in compliance with appropriate standards. Any person complying with the requirements of a

²¹ Conversation with a Florida Dep't of Environmental Protection representative (Jan. 6, 2012).

²² Section 403.7125(1), F.S.

²³ Section 403.7125(2), F.S.

²⁴ Section 403.7125(3), F.S.

general permit may use the permit 30 days after giving notice to the DEP without any agency action by the DEP.²⁵ Projects include, but are not limited to:

- Construction and modification of boat ramps of certain sizes,
- Installation and repair of riprap at the base of existing seawalls,
- Installation of culverts associated with stormwater discharge facilities, and
- Construction and modification of certain utility and public roadway construction activities.

The CS directs the DEP to create a general permit for construction, alteration and maintenance of surface water management systems for up to 10 acres. When the stormwater management system conforms to ch. 373, part IV, F.S., it creates a rebuttable presumption that discharges comply with state water quality standards. The CS specifies that construction of a system may proceed without action by the DEP or a WMD if, within 30 days after commencement of construction, an electronic self-certification is submitted to the DEP or a WMD that certifies the system was designed by a registered professional and meets the following criteria:

- The total project area is less than 10 acres and contains less than two acres of impervious surface;
- The activities will not impact wetlands or other surface waters;
- The activities are not conducted in, on or over wetlands or other surface waters;
- Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;
- The project is not part of a larger common plan of development or sale; and
- The project does not cause:
 - adverse water quantity or flooding to receiving waters or adjacent lands;
 - adverse impacts to existing surface water storage and conveyance capabilities;
 - violations of state water quality standards; or
 - adverse impacts to the maintenance of surface water or groundwater levels or surface water flows established pursuant to s. 373.042, F.S., or a work of a WMD provided for in s. 373.086, F.S.; and

Section 21 amends s. 403.853, F.S., relating to drinking water standards for religious institutions.

Under the federal Safe Drinking Water Act, the U.S. Environmental Protection Agency (EPA) has promulgated national primary drinking water regulations for contaminants that may adversely affect human health, if it is likely to occur in public water systems often and at levels of public health concern. The EPA will regulate the contaminant if the EPA's Administrator decides that regulating the contaminant will meaningfully reduce health risks for those served by public water systems. The federal act also authorizes states to assume implementation and enforcement. In 1977 Florida adopted the Florida Safe Drinking Water Act (FSDWA), which is jointly administered by the DEP, as lead-agency, and the Department of Health (DOH), which has specific duties and responsibilities of its own. The DOH and its agents have general supervision and control over all private water systems and public water systems not covered or included in the FSDWA. Every county health department in Florida has a minimum degree of mandatory participation in the FSDWA. This minimal level of participation is supportive in nature because most of the county health departments do not have sufficient staff or capability to

²⁵ Section 403.814(1), F.S.

be fully responsible for the program. In those counties where the county health department is without adequate capability, the appropriate DEP office is heavily involved in administering all aspects of the program.

Under the FSDWA, a regulated “public water system” is a system that provides water for human consumption through pipes or other constructed conveyances and has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.²⁶ The only exception is for those systems that, in addition to meeting the criteria for being a public water system, also meet all four criteria provided for in s. 403.853(2), F.S. The system:

- Consists of distribution and storage facilities only and cannot treat or collect water;
- Obtains all its water from a public water system but is not owned or operated by it;
- Does not sell water; and
- Is not a carrier of passengers in interstate commerce.

Public water systems are either community or noncommunity. A community water system serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. A noncommunity water system is either a nontransient noncommunity system or a transient noncommunity water system. A nontransient noncommunity water system serves at least 25 of the same persons over six months per year. A transient noncommunity water system has at least 15 service connections or regularly serves at least 25 persons daily at least 60 days out of the year but does not regularly serve 25 or more of the same persons for more than six months per year.²⁷

The CS provides that the DEP, or a local county health department designated by the DEP, is authorized at the request of the owner or operator of a transient noncommunity water system using groundwater as a source of supply and serving religious institutions, except those with school or day care services, to perform a sanitary survey. Upon receipt of satisfactory results, the DEP must reduce the monitoring and reporting requirements for such religious institutions.

Section 22 amends s. 403.973, F.S., relating to expedited permitting and comprehensive plan amendments.

Section 403.973, F.S., provides for an expedited permitting and comprehensive plan amendment process for certain projects that are identified to encourage and facilitate the location and expansion of economic development, offer job creation and high wages, strengthen and diversify the state's economy, and which have been thoughtfully planned to take into consideration the protection of the state's environment.

Under s. 403.973, F.S., OTTED or a Quick Permitting County may certify a business as eligible to use the process. Recommendations on which projects should use the process may come from Enterprise Florida, any county or municipality, or the Rural Economic Development Initiative (REDI). Eligibility criteria stipulate that a business must:

- Create at least 50 jobs; or

²⁶ See s. 403.852(2), F.S.

²⁷ See generally s. 403.852, F.S.

- Create 25 jobs if the project is located in an enterprise zone, in a county with a population of fewer than 75,000, or in a county with a population of fewer than 100,000 that is contiguous to a county having a population of 75,000 residing in incorporated and unincorporated areas of the county.

Regional Permit Action Teams are established by a Memorandum of Agreement (MOA) with the secretary of the DEP directing the creation of these teams. The MOA is between the secretary and the applicant with input solicited from the DCA, DOT, Florida Department of Agriculture and Consumer Services; the Florida Fish and Wildlife Conservation Commission; the Regional Planning Councils; and the WMDs. The MOA accommodates participation by federal agencies, as necessary. At a local government's option, a special MOA may be developed on a case-by-case basis to allow some or all local development permits or orders to be covered under the expedited review. Implementation of the local government MOA requires a noticed public workshop and hearing.

Presently, certified projects receive the following benefits:

- Pre-application meeting of regulatory agencies and business representatives held within 14 days after eligibility determination;
- Identification of all necessary permits and approvals needed for the project;
- Designation of a project coordinator and regional permit action team contacts;
- Identification of the need for any special studies or reviews that may affect the time schedule;
- Identification of any areas of significant concern that may affect the outcome of the project review;
- Development of a consolidated time schedule that incorporates all required deadlines, including public meetings and notices;
- Final agency action on permit applications within 90 days from the receipt of complete application(s);
- Waiver of twice-a-year limitation on local comprehensive plan amendments; and
- Waiver of interstate highway concurrency with approved mitigation.

Appeals of expedited permitting projects are subject to the summary hearing provisions of s. 120.574, F.S. The administrative law judge's (ALJ) recommended order is not the final state agency action unless the participating agencies of the state opt at the preliminary hearing conference to allow the ALJ's decision to constitute the final agency action. Where only one state agency action is challenged, the agency of the state shall issue the final order within 10 working days of receipt of the ALJ's recommended order. In those proceedings where more than one state agency action is challenged, the Governor shall issue the final order within 10 working days of receipt of the ALJ's recommended order.

Expedited permitting provides a special assistance process for REDI counties. OTTED, working with REDI and the regional permitting teams, is to provide technical assistance in preparing permit applications for rural counties. This additional assistance may include providing guidance in land development regulations and permitting processes, and working cooperatively with state, regional and local entities to identify areas within these counties that may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

Section 403.973(19), F.S., prohibits the following projects from using the expedited process:

- A project funded and operated by a local government and located within that government's jurisdiction; or
- A project, the primary purpose of which is to:
 - Affect the final disposal of solid waste, biomedical waste, or hazardous waste in the state,
 - Produce electrical power (unless the production of electricity is incidental and not the project's primary function);
 - Extract natural resources;
 - Produce oil; or
 - Construct, maintain or operate an oil, petroleum, natural gas or sewage pipeline.

The CS revises the structure and process for expedited permitting of targeted industries. The CS expands eligibility for activities qualifying for expedited review to commercial or industrial development projects that will be occupied by businesses that would individually or collectively create at least 50 jobs. The CS requires regional teams to be established through the execution of a project-specific MOA. It clarifies that the standard form of the MOA will be used only if the local government participates in the expedited review process. It also fixes several technical errors stemming from the creation of the Department of Economic Opportunity in 2011.

Section 23 amends s. 526.203, F.S., relating to the sale of unblended fuels.

The Federal Energy Independence and Security Act of 2007, signed into law on December 19, 2007, set the renewable fuels standard (RFS) minimum annual goal for renewable fuel use at 9.0 billion gallons in 2008 and 36 billion gallons by 2022. Beginning in 2016, all of the fuel increase in the RFS target must be met by advanced biofuels, defined as fuels derived from other than corn starch.²⁸ Motor gasoline and diesel fuel, both fossil fuels, make up more than 87 percent of Florida's transportation energy costs, with aviation fuel accounting for less than 10 percent.

The Legislature passed a comprehensive energy bill in 2008 that, in part, established the Florida Renewable Fuel Standard Act (Act). The act provided the following definitions:

- "Fuel ethanol" means an anhydrous denatured alcohol produced by the conversion of carbohydrates meeting the specifications as adopted by the Department of Agriculture and Consumer Services.
- "Blended gasoline" means a mixture of ninety percent gasoline and ten percent fuel ethanol meeting the specifications as adopted by the Department of Agriculture and Consumer Services. The ten percent fuel ethanol portion may be derived from any agricultural source.
- "Unblended gasoline" means gasoline that has not been blended with fuel ethanol meeting the specifications as adopted by the Department of Agriculture and Consumer Services.
- "10 percent" means 9-10 percent ethanol by volume.

The act provided that by December 31, 2010, all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender or wholesaler was to contain, at a minimum, 10 percent of agriculturally derived, denatured ethanol fuel by volume.

²⁸ U.S. Dep't of Energy, *Federal & State Incentives & Laws*, <http://www.afdc.energy.gov/afdc/laws/eisa> (last visited Jan. 13, 2012).

The following are exempt from the act:

- Fuel used in aircraft;
- Fuel sold at marinas and mooring docks for use in boats and similar watercraft;
- Fuel sold to a blender;
- Fuel sold for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, offroad vehicles, motorcycles, or small engines;
- Fuel unable to comply due to requirements of the United States Environmental Protection Agency;
- Fuel bulk transferred between terminals;
- Fuel exported from the state in accordance with s. 206.052, F.S.;
- Fuel qualifying for any exemption in accordance with ch. 206, F.S.;
- Fuel at an electric power plant that is regulated by the United States Nuclear Regulatory Commission unless such commission has approved the use of fuel meeting the requirements of the act;
- Fuel for a railroad locomotive; and
- Fuel for equipment, including vehicle or vessel, covered by a warranty that would be voided, if explicitly stated in writing by the vehicle or vessel manufacturer, if it were to be operated using fuel meeting the requirements of the act.

The CS clarifies that s. 526.203, F.S., does not prohibit the sale of unblended fuels for the uses exempted in s. 526.203(3), F.S., as listed above. It also expands the definition of “blended gasoline” to include alternative fuels other than ethanol. It specifies that the alternative fuel portion of the 9 to 10 percent for blended fuels may be derived from any agricultural source. The CS defines “alternative fuel” as fuel derived from biomass to replace or reduce fossil fuels used for transportation fuel. Within the definition of “alternative fuel,” the CS specifies that “biomass” means the definition provided in s. 366.91, F.S., and “alternative fuel” means the definition provided in s. 525.01(1)(c), F.S., which is suitable for blending with gasoline (not diesel-derived fuels).

Section 24 creates an unnumbered section of law addressing permit extensions granted by the Legislature to account for the economic downturn.

Chapter 2011-139, ss. 73 and 79 of the Laws of Florida provide that any building permit and any permit issued by the DEP or by a WMD, pursuant to ch. 373, part IV, F.S., which has an expiration date between January 1, 2012, and January 1, 2014, is extended and renewed for a period of two years after its previously scheduled date of expiration. The extension includes any local government-issued development order or building permit including certificates of levels of service.

The extension does not apply to permits:

- issued by the Army Corps of Engineers;
- held by an owner or operator determined to be in significant noncompliance with the conditions of the permit as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency; or

- that, if granted an extension, would delay or prevent compliance with a court order.

There are some local governments charging renewal fees for permits that were extended automatically by the Legislature if their expiration dates fell within the specified dates. The intent of ch. 2011-139, ss. 73 and 79 of the Laws of Florida was to automatically extend certain permits to allow for the economy to recover. It was never the intent to authorize issuing agencies to charge for permit extensions granted under these sections.

The CS specifies that the holder of a valid permit or other authorization is not required to pay a renewal fee to an authorizing agency for an extension granted under ch. 2011-139, ss. 73 or 79 of the Laws of Florida. The CS applies this provision retroactively to June 2, 2011.

Section 25 provides an effective of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Issuing agencies for permits with expiration dates between January 1, 2012 and December 31, 2012 are prohibited from collecting renewal fees. This provision is retroactive to June 2, 2012.

B. Private Sector Impact:

Reducing environmental permitting requirements, time, necessity and compliance costs will collectively save business and individuals significant amounts of money; however, the savings cannot be calculated on an individual basis. Expansion of Internet-based self-certification and additional general permits may also reduce costs for constructing qualifying projects.

Owners and operators of lined solid waste management facilities that opt for longer-term permits may benefit from the increased predictability those longer permits provide. For example, it may be easier to obtain financing for these projects and operational and design criteria are less likely to need updating and amending as frequently. After five

years, the cost savings from not having to apply for and receive permit renewals will be significant.

Solid waste management facilities will have more flexibility when preparing to apply for permits as the life of the permit will be increased by 15 years. Further, the costs associated with filing renewal applications will decrease.

Owners and operators of unlined solid waste management facilities that meet DEP's requirements may opt for longer-term permits and may benefit from the increased predictability such longer permits provide.

Owners or operators of transient noncommunity water systems using groundwater as their source of drinking water serving religious institutions may have reduced reporting and monitoring costs.

Increasing the qualifying low-scored site initiative priority ranking score from 10 to 29 may significantly benefit owners of contaminated sites who do not currently qualify. The impact, which may be significant on a cumulative and individual basis, cannot be determined because the program is voluntary.

A child of an original owner or a corporation created to hold title to a contaminated site who gained ownership of that site through the transfer of the property may qualify for financial assistance to aid cleanup of the site. Previous applicants who were denied may reapply. The DEP estimates the average cost to clean up a contaminated site is \$380,000.

Producers of alternative fuels, other than ethanol, may benefit from expanding the types of fuels that may be blended with gasoline.

Lastly, an individual who paid a permit renewal fee since June 2, 2011, will get a refund of that fee if the permit qualifies. Renewal fees for qualifying permits can be hundreds of dollars.

C. Government Sector Impact:

State Government Impact:

The DEP has estimated there will be an unknown impact to the Permit Fee Trust Fund associated with reducing or waiving permit processing fees for entities created by special acts, local ordinances, and interlocal agreements by low-population counties.

Expanding the eligibility criteria for the Innocent Victim Petroleum Storage System Restoration will likely result in more sites being eligible to participate in the state-funded cleanup program. As mentioned above, the average cost of each cleanup is \$380,000. The number of additional sites that may be eligible is unknown.

The DEP anticipates an increase in the amount of fees collected due to the extended length of certain permits. This increase will level out, as the new permits will not need to

be renewed as often. In addition, there may be some cases when the costs associated with closing a facility would exceed the face value of the insurance policy. In this instance, Solid Waste Trust Fund dollars would need to be spent and would not be reimbursed by an insurance company.

Increasing the qualifying low-scored site initiative priority ranking score may allow the DEP to clear the backlog of contaminated sites more quickly. There are 4,865 sites that scored 29 or lower. Due to the backlog, the DEP may not realize any savings in the short-term but may in the long-term if the backlog of contaminated sites can be eliminated. Given that participation in the program is voluntary for owners of contaminated sites, the impact is indeterminate.

All other impacts to the DEP can be absorbed by existing staff and resources.

WMD governing boards may have to schedule additional meetings in order to comply with taking a denial action within 60 days of receiving completed permit applications. However, some permits will fall within a normal governing board meeting schedule and will not require any additional costs for a WMD to take action. Meeting costs vary by WMD and cannot be determined at this time. Since denials are infrequent because WMD staff work with applicants to avoid such action, the impact of this provision may be negligible.

Local Government Impact:

As with the private sector, when a local government is a permit applicant, reducing environmental permitting requirements, time, necessity and compliance costs will collectively save significant amounts of money; however, the savings cannot be calculated on an individual, local government basis.

When a local government is an ERP permit applicant, shortened permitting time clocks might reduce costs to obtain a permit if overall permit times are actually reduced, and the provisions do not result in additional permit denials or the need for timeclock waivers.

Entities created by special acts, local ordinances or interlocal agreements of certain local governments will pay fewer permit fees so the savings would likely be passed on to the local government but without knowing how many of these entities exist, the actual effect is unknown.

Financially disadvantaged municipalities with a population between 7,500 and 10,000 will now be eligible for wastewater grants under the Small Community Sewer Construction Assistance Act.

There may be a negative impact to local governments for reductions to recycling credits issued for WTE facilities. The impact would be greatest if grants or other funding is tied to achieving or maintaining a specific recycling goal and the changes in the CS resulted in a local government falling below a specified goal.

The provision in the bill making retroactive the prohibition that holders of extended permits make payments on such permits could result in a negative impact on local government revenues if local governments are required to return any such payments they collected. However, this is not revenue the Legislature intended to authorize local governments to collect when it extended certain permits in ch. 2011-139, ss. 73 and 79 of the Laws of Florida.

VI. Technical Deficiencies:

On lines 932, 940, 956, 971 and 1052, “memoranda” should be changed to “memorandum.”

VII. Related Issues:

The WMD governing boards are responsible for approving or denying certain permits. While some approval functions are delegated from the governing boards to the staffs, denial actions can only be taken by the governing boards. They typically do not meet on a schedule that would allow for consistent denials of permits within 60 days. Denials are infrequent because WMD staff work with applicants to avoid such actions.

Section 403.707(2)(c), F.S., allows persons, which are statutorily defined to include corporations,²⁹ to dispose of solid waste *resulting* from their own activities on their own properties. The CS allows *facilities* to dispose of solid waste in new areas without a permit or certification if certain leachate and monitoring plans are in place. This provision, if interpreted broadly, may allow for expansion of a solid waste facility to a new area without a permit or certification even if the solid waste was not *generated* on the property where it was being disposed. This is not the intention of the CS. Clarification may be needed to ensure this provision only applies to facilities that generate and dispose of their own solid waste on their own properties.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Environmental Preservation and Conservation on February 6, 2012:

- Clarifies the act applies to development permit applications filed with a county or municipality after July 1, 2012, related to conditioning permit issuance on prior state or federal permits or approvals;
- Authorizes the DEP to issue coastal construction permits before an incidental take authorization is issued pursuant to the ESA;
- Deletes provision exempting the dredge and fill activities of a public waterfront promenade in the Biscayne Bay Aquatic Preserve;
- Deletes provisions related to an intermodal logistics center or inland logistics center (inland port) for facilities designation of the Strategic Intermodal System;
- Clarifies that the State Underground Injection Control Program does not apply to Class I, II, III, IV or V wells, except for Class V, Group 1 wells;

²⁹ Section 403.703(22), F.S.

- Deletes provisions that required counties and municipalities to apply for delegation of the ERP program or be preempted from permitting activities that affected surface water and groundwater resources;
- Raises the priority ranking score for the low-scored site initiative from 10 to 29;
- Clarifies that a facility's zone of discharge extends horizontally to the property boundary and vertically to the base of the authorized aquifer; however, it may be modified in accordance with DEP rules;
- Clarifies the DEP may revoke a permit if the permit holder has violated a law, DEP order, rule or condition, which directly relate to the permit;
- Reduces recycling credits for certain WTE facilities;
- Clarifies that recycled byproducts from WTE count towards a county's recycling goals or, if not recycled, is considered waste;
- Requires the DEP to allow WTE facilities to maximize their acceptance of nonhazardous solid and liquid waste;
- Deletes provisions that amended s. 403.709, F.S., relating to solid waste management facility closure accounts;
- Directs the DEP to require certain financial assurance from owners or operators of solid waste management facilities for corrective actions for violations of water quality standards;
- In Section 20, changes "and" to "or" for a list of four impacts that would make a surface water management system ineligible for a general permit;
- Specifies that alternative fuels other than ethanol may be used as blending fuels for blending gasoline;
- Provides a definition for "alternative fuel" with clarifications for "biomass" and "alternative fuel" as used within that definition; and
- Provides that payment of permit extension fees are not required for permit extension authorized in ch. 2011-139, ss. 73 and 79 of the Laws of Florida.

CS by Community Affairs on January 12, 2012:

- Deletes sections related to RAI requirements; permitting beach management projects and extending deadlines for upgrades to secondary containment systems for fuel tank systems;
- Moves provisions related to inland ports from s. 166.3180, F.S. to s. 339.63, F.S.;
- Exempts previously authorized underground injection wells from ch. 373, part III, F.S., relating to the regulation of wells;
- Directs the Secretary of Transportation to designate certain facilities as part of the SIS;
- Revises and expands eligibility for sites that may qualify for an inland port;
- Removes the 5-year duration for transportation impacts from an inland port that allows for up to a 150 percent increase in the adopted level of service;
- Requires a county or a municipality with a specified population by July 1, 2012, to apply for delegation of authority by certain deadlines for environmental resource permitting;
- Includes many provisions from CS/SB 938, related to solid waste disposal, management and permitting; and
- Expands the definitions used as part of the renewable fuel standards.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2012	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 125.022, Florida Statutes, is amended to
read:

125.022 Development permits.—When a county denies an
application for a development permit, the county shall give
written notice to the applicant. The notice must include a
citation to the applicable portions of an ordinance, rule,
statute, or other legal authority for the denial of the permit.
As used in this section, the term “development permit” has the



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13 same meaning as in s. 163.3164. For any development permit
14 application filed with the county after July 1, 2012, a county
15 may not require as a condition of processing or issuing a
16 development permit that an applicant obtain a permit or approval
17 from any state or federal agency unless the agency has issued a
18 final agency action that denies the federal or state permit
19 before the county action on the local development permit.
20 Issuance of a development permit by a county does not in any way
21 create any rights on the part of the applicant to obtain a
22 permit from a state or federal agency and does not create any
23 liability on the part of the county for issuance of the permit
24 if the applicant fails to obtain requisite approvals or fulfill
25 the obligations imposed by a state or federal agency or
26 undertakes actions that result in a violation of state or
27 federal law. A county may attach such a disclaimer to the
28 issuance of a development permit and may include a permit
29 condition that all other applicable state or federal permits be
30 obtained before commencement of the development. This section
31 does not prohibit a county from providing information to an
32 applicant regarding what other state or federal permits may
33 apply.

34 Section 2. Subsection (5) is added to section 161.041,
35 Florida Statutes, to read:

36 161.041 Permits required.—

37 (5) Notwithstanding any other provision of law, the
38 department may issue a permit pursuant to this part in advance
39 of the issuance of an incidental take authorization as provided
40 under the Endangered Species Act and its implementing
41 regulations if the permit and authorization include a condition



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42 requiring that authorized activities not begin until the
43 incidental take authorization is issued.

44 Section 3. Section 166.033, Florida Statutes, is amended to
45 read:

46 166.033 Development permits.—When a municipality denies an
47 application for a development permit, the municipality shall
48 give written notice to the applicant. The notice must include a
49 citation to the applicable portions of an ordinance, rule,
50 statute, or other legal authority for the denial of the permit.
51 As used in this section, the term “development permit” has the
52 same meaning as in s. 163.3164. For any development permit
53 application filed with the municipality after July 1, 2012, a
54 municipality may not require as a condition of processing or
55 issuing a development permit that an applicant obtain a permit
56 or approval from any state or federal agency unless the agency
57 has issued a final agency action that denies the federal or
58 state permit before the municipal action on the local
59 development permit. Issuance of a development permit by a
60 municipality does not in any way create any right on the part of
61 an applicant to obtain a permit from a state or federal agency
62 and does not create any liability on the part of the
63 municipality for issuance of the permit if the applicant fails
64 to obtain requisite approvals or fulfill the obligations imposed
65 by a state or federal agency or undertakes actions that result
66 in a violation of state or federal law. A municipality may
67 attach such a disclaimer to the issuance of development permits
68 and may include a permit condition that all other applicable
69 state or federal permits be obtained before commencement of the
70 development. This section does not prohibit a municipality from



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71 providing information to an applicant regarding what other state
72 or federal permits may apply.

73 Section 4. Section 218.075, Florida Statutes, is amended to
74 read:

75 218.075 Reduction or waiver of permit processing fees.—
76 Notwithstanding any other provision of law, the Department of
77 Environmental Protection and the water management districts
78 shall reduce or waive permit processing fees for counties with a
79 population of 50,000 or less on April 1, 1994, until such
80 counties exceed a population of 75,000 and municipalities with a
81 population of 25,000 or less, or for an entity created by
82 special act, local ordinance, or interlocal agreement of such
83 counties or municipalities, or for any county or municipality
84 not included within a metropolitan statistical area. Fee
85 reductions or waivers shall be approved on the basis of fiscal
86 hardship or environmental need for a particular project or
87 activity. The governing body must certify that the cost of the
88 permit processing fee is a fiscal hardship due to one of the
89 following factors:

90 (1) Per capita taxable value is less than the statewide
91 average for the current fiscal year;

92 (2) Percentage of assessed property value that is exempt
93 from ad valorem taxation is higher than the statewide average
94 for the current fiscal year;

95 (3) Any condition specified in s. 218.503(1) which results
96 in the county or municipality being in a state of financial
97 emergency;

98 (4) Ad valorem operating millage rate for the current
99 fiscal year is greater than 8 mills; or



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(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality or a third party under contract with a county or municipality or an entity created by special act, local ordinance, or interlocal agreement and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee shall not exceed \$100.

Section 5. Paragraph (a) of subsection (3) of section 258.397, Florida Statutes, is amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(a) ~~No further~~ Sale, transfer, or lease of sovereignty submerged lands in the preserve may not shall be approved or consummated by the board of trustees, except upon a showing of extreme hardship on the part of the applicant and a determination by the board of trustees that such sale, transfer, or lease is in the public interest. A municipal applicant proposing a public waterfront promenade is exempt from showing extreme hardship.

Section 6. Subsection (10) is added to section 373.026, Florida Statutes, to read:



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373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible:

(10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and the water management districts, if such expansion is economically feasible. In addition to expanding the use of Internet-based self-certification services for appropriate exemptions and general permits, the department and water management districts shall identify and develop general permits for appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.

Section 7. Subsection (3) is added to section 373.326, Florida Statutes, to read:

373.326 Exemptions.—

(3) A permit may not be required under this part for any well authorized pursuant to ss. 403.061 and 403.087 under the State Underground Injection Control Program identified in chapter 62-528, Florida Administrative Code, as Class I, Class II, Class III, Class IV, or Class V Groups 2-9. However, such



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158 wells must be constructed by persons who have obtained a license
159 pursuant to s. 373.323 as otherwise required by law.

160 Section 8. Subsection (2) of section 373.4141, Florida
161 Statutes, is amended, and subsection (4) is added to that
162 section, to read:

163 373.4141 Permits; processing.—

164 (2) A permit shall be approved, ~~or~~ denied, or subject to a
165 notice of proposed agency action within 60 ~~90~~ days after receipt
166 of the original application, the last item of timely requested
167 additional material, or the applicant's written request to begin
168 processing the permit application.

169 (4) A state agency or an agency of the state may not
170 require as a condition of approval for a permit or as an item to
171 complete a pending permit application that an applicant obtain a
172 permit or approval from any other local, state, or federal
173 agency without explicit statutory authority to require such
174 permit or approval.

175 Section 9. Section 373.4144, Florida Statutes, is amended
176 to read:

177 373.4144 Federal environmental permitting.—

178 (1) It is the intent of the Legislature to:

179 (a) Facilitate coordination and a more efficient process of
180 implementing regulatory duties and functions between the
181 Department of Environmental Protection, the water management
182 districts, the United States Army Corps of Engineers, the United
183 States Fish and Wildlife Service, the National Marine Fisheries
184 Service, the United States Environmental Protection Agency, the
185 Fish and Wildlife Conservation Commission, and other relevant
186 federal and state agencies.



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187 (b) Authorize the Department of Environmental Protection to
188 obtain issuance by the United States Army Corps of Engineers,
189 pursuant to state and federal law and as set forth in this
190 section, of an expanded state programmatic general permit, or a
191 series of regional general permits, for categories of activities
192 in waters of the United States governed by the Clean Water Act
193 and in navigable waters under the Rivers and Harbors Act of 1899
194 which are similar in nature, which will cause only minimal
195 adverse environmental effects when performed separately, and
196 which will have only minimal cumulative adverse effects on the
197 environment.

198 (c) Use the mechanism of such a state general permit or
199 such regional general permits to eliminate overlapping federal
200 regulations and state rules that seek to protect the same
201 resource and to avoid duplication of permitting between the
202 United States Army Corps of Engineers and the department for
203 minor work located in waters of the United States, including
204 navigable waters, thus eliminating, in appropriate cases, the
205 need for a separate individual approval from the United States
206 Army Corps of Engineers while ensuring the most stringent
207 protection of wetland resources.

208 (d) Direct the department not to seek issuance of or take
209 any action pursuant to any such permit or permits unless such
210 conditions are at least as protective of the environment and
211 natural resources as existing state law under this part and
212 federal law under the Clean Water Act and the Rivers and Harbors
213 Act of 1899. The department is directed to develop, on or before
214 October 1, 2005, a mechanism or plan to consolidate, to the
215 maximum extent practicable, the federal and state wetland



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~~permitting programs. It is the intent of the Legislature that all dredge and fill activities impacting 10 acres or less of wetlands or waters, including navigable waters, be processed by the state as part of the environmental resource permitting program implemented by the department and the water management districts. The resulting mechanism or plan shall analyze and propose the development of an expanded state programmatic general permit program in conjunction with the United States Army Corps of Engineers pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899. Alternatively, or in combination with an expanded state programmatic general permit, the mechanism or plan may propose the creation of a series of regional general permits issued by the United States Army Corps of Engineers pursuant to the referenced statutes. All of the regional general permits must be administered by the department or the water management districts or their designees.~~

~~(2) In order to effectuate efficient wetland permitting and avoid duplication, the department and water management districts are authorized to implement a voluntary state programmatic general permit for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the United States Army Corps of Engineers, if the general permit is at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. The department is directed to file with the Speaker of the House of Representatives and the President of the Senate a report~~



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~~proposing any required federal and state statutory changes that would be necessary to accomplish the directives listed in this section and to coordinate with the Florida Congressional Delegation on any necessary changes to federal law to implement the directives.~~

(3) ~~Nothing in~~ This section may not ~~shall~~ be construed to preclude the department from pursuing a series of regional general permits for construction activities in wetlands or surface waters or complete assumption of federal permitting programs regulating the discharge of dredged or fill material pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899, so long as the assumption encompasses all dredge and fill activities in, on, or over jurisdictional wetlands or waters, including navigable waters, within the state.

Section 10. Subsection (11) of section 376.3071, Florida Statutes, is amended to read:

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

(11) SITE CLEANUP.—

(a) *Voluntary cleanup.*—~~Nothing in~~ This section shall does ~~not be deemed to~~ prohibit a person from conducting site rehabilitation either through his or her own personnel or through responsible response action contractors or subcontractors when such person is not seeking site rehabilitation funding from the fund. Such voluntary cleanups must meet all applicable environmental standards.

(b) *Low-scored site initiative.*—Notwithstanding s.



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376.30711, any site with a priority ranking score of 29 ~~10~~ points or less may voluntarily participate in the low-scored site initiative, whether or not the site is eligible for state restoration funding.

1. To participate in the low-scored site initiative, the responsible party or property owner must affirmatively demonstrate that the following conditions are met:

a. Upon reassessment pursuant to department rule, the site retains a priority ranking score of 29 ~~10~~ points or less.

b. No excessively contaminated soil, as defined by department rule, exists onsite as a result of a release of petroleum products.

c. A minimum of 6 months of groundwater monitoring indicates that the plume is shrinking or stable.

d. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.

e. The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated.

f. Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by department rule or human exposure is limited by appropriate institutional or engineering controls.

2. Upon affirmative demonstration of the conditions under subparagraph 1., the department shall issue a determination of "No Further Action." Such determination acknowledges that



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minimal contamination exists onsite and that such contamination is not a threat to human health or the environment. If no contamination is detected, the department may issue a site rehabilitation completion order.

3. Sites that are eligible for state restoration funding may receive payment of preapproved costs for the low-scored site initiative as follows:

a. A responsible party or property owner may submit an assessment plan designed to affirmatively demonstrate that the site meets the conditions under subparagraph 1. Notwithstanding the priority ranking score of the site, the department may preapprove the cost of the assessment pursuant to s. 376.30711, including 6 months of groundwater monitoring, not to exceed \$30,000 for each site. The department may not pay the costs associated with the establishment of institutional or engineering controls.

b. The assessment work shall be completed no later than 6 months after the department issues its approval.

c. No more than \$10 million for the low-scored site initiative may ~~shall~~ be encumbered from the Inland Protection Trust Fund in any fiscal year. Funds shall be made available on a first-come, first-served basis and shall be limited to 10 sites in each fiscal year for each responsible party or property owner.

d. Program deductibles, copayments, and the limited contamination assessment report requirements under paragraph (13) (c) do not apply to expenditures under this paragraph.

Section 11. Section 376.30715, Florida Statutes, is amended to read:



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376.30715 Innocent victim petroleum storage system restoration.—A contaminated site acquired by the current owner prior to July 1, 1990, which has ceased operating as a petroleum storage or retail business prior to January 1, 1985, is eligible for financial assistance pursuant to s. 376.305(6), notwithstanding s. 376.305(6)(a). For purposes of this section, the term “acquired” means the acquisition of title to the property; however, a subsequent transfer of the property to a spouse or child of the owner, a surviving spouse or child of the owner in trust or free of trust, ~~or~~ a revocable trust created for the benefit of the settlor, or a corporate entity created by the owner to hold title to the site does not disqualify the site from financial assistance pursuant to s. 376.305(6) and applicants previously denied coverage may reapply. Eligible sites shall be ranked in accordance with s. 376.3071(5).

Section 12. Subsection (1) of section 380.0657, Florida Statutes, is amended to read:

380.0657 Expedited permitting process for economic development projects.—

(1) The Department of Environmental Protection and, as appropriate, the water management districts created under chapter 373 shall adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, or any intermodal logistics center receiving or sending cargo to or from Florida ports, with the exception of those projects requiring approval by the Board of Trustees of the Internal Improvement Trust Fund.



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Section 13. Subsection (11) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department is authorized to establish reasonable zones of mixing for discharges into waters. For existing installations as defined by rule 62-520.200(10), Florida Administrative Code, effective July 12, 2009, zones of discharge to groundwater are authorized horizontally to a facility's or owner's property boundary and extending vertically to the base of a specifically designated aquifer or aquifers. Such zones of discharge may be modified in accordance with procedures specified in department rules. Exceedance of primary and secondary groundwater standards that occur within a zone of discharge does not create liability pursuant to this chapter or chapter 376 for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup.

(a) When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge;



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2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) ~~No~~ Mixing zones ~~zone~~ for point source discharges are ~~not shall be~~ permitted in Outstanding Florida Waters except for:

1. Sources that have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act;

3. Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary; and

4. The discharge of demineralization concentrate which has been determined permittable under s. 403.0882 and which meets the specific provisions of s. 403.0882(4)(a) and (b), if the proposed discharge is clearly in the public interest.

(c) The department, by rule, shall establish water quality criteria for wetlands which criteria give appropriate recognition to the water quality of such wetlands in their natural state.

~~Nothing in~~ This act may not ~~shall~~ be construed to invalidate any existing department rule relating to mixing



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zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 14. Subsection (7) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(7) A permit issued pursuant to this section does ~~shall~~ not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder has:

(a) ~~Has~~ Submitted false or inaccurate information in the his or her application for the permit;

(b) ~~Has~~ Violated law, department orders, rules, ~~or regulations~~, or ~~permit~~ conditions which directly relate to the permit;

(c) ~~Has~~ Failed to submit operational reports or other information required by department rule which directly relate to the permit and has refused to correct or cure such violations when requested to do so ~~or regulation~~; or

(d) ~~Has~~ Refused lawful inspection under s. 403.091 at the facility authorized by the permit.

Section 15. Subsection (2) of section 403.1838, Florida Statutes, is amended to read:



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448 403.1838 Small Community Sewer Construction Assistance
449 Act.—

450 (2) The department shall use funds specifically
451 appropriated to award grants under this section to assist
452 financially disadvantaged small communities with their needs for
453 adequate sewer facilities. For purposes of this section, the
454 term "financially disadvantaged small community" means a
455 municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer
456 ~~less~~, according to the latest decennial census and a per capita
457 annual income less than the state per capita annual income as
458 determined by the United States Department of Commerce.

459 Section 16. Paragraph (f) of subsection (1) of section
460 403.7045, Florida Statutes, is amended to read:

461 403.7045 Application of act and integration with other
462 acts.—

463 (1) The following wastes or activities shall not be
464 regulated pursuant to this act:

465 (f) Industrial byproducts, if:

466 1. A majority of the industrial byproducts are demonstrated
467 to be sold, used, or reused within 1 year.

468 2. The industrial byproducts are not discharged, deposited,
469 injected, dumped, spilled, leaked, or placed upon any land or
470 water so that such industrial byproducts, or any constituent
471 thereof, may enter other lands or be emitted into the air or
472 discharged into any waters, including groundwaters, or otherwise
473 enter the environment such that a threat of contamination in
474 excess of applicable department standards and criteria or a
475 significant threat to public health is caused.

476 3. The industrial byproducts are not hazardous wastes as



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defined under s. 403.703 and rules adopted under this section.

Sludge from an industrial waste treatment works that meets the exemption requirements of this paragraph is not solid waste as defined in s. 403.703(32).

Section 17. Paragraph (a) of subsection (4) of section 403.706, Florida Statutes, is amended to read:

403.706 Local government solid waste responsibilities.—

(4) (a) In order to promote the production of renewable energy from solid waste, each megawatt-hour produced by a renewable energy facility using solid waste as a fuel shall count as 1 ton of recycled material and shall be applied toward meeting the recycling goals set forth in this section. If a county creating renewable energy from solid waste implements and maintains a program to recycle at least 50 percent of municipal solid waste by a means other than creating renewable energy, that county shall count 1.25 ~~2~~ tons of recycled material for each megawatt-hour produced. If waste originates from a county other than the county in which the renewable energy facility resides, the originating county shall receive such recycling credit. ~~Any county that has a debt service payment related to its waste-to-energy facility shall receive 1 ton of recycled materials credit for each ton of solid waste processed at the facility.~~ Any byproduct resulting from the creation of renewable energy that is recycled shall count towards the county recycling goals in accordance with the methods and criteria developed pursuant to paragraph (2) (h) ~~does not count as waste.~~

Section 18. Subsections (1), (2), and (3) of section 403.707, Florida Statutes, are amended to read:



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403.707 Permits.—

(1) A solid waste management facility may not be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the department. The department may by rule exempt specified types of facilities from the requirement for a permit under this part if it determines that construction or operation of the facility is not expected to create any significant threat to the environment or public health. For purposes of this part, and only when specified by department rule, a permit may include registrations as well as other forms of licenses as defined in s. 120.52. Solid waste construction permits issued under this section may include any permit conditions necessary to achieve compliance with the recycling requirements of this act. The department shall pursue reasonable timeframes for closure and construction requirements, considering pending federal requirements and implementation costs to the permittee. The department shall adopt a rule establishing performance standards for construction and closure of solid waste management facilities. The standards shall allow flexibility in design and consideration for site-specific characteristics. For the purpose of permitting under this chapter, the department shall allow waste-to-energy facilities to maximize acceptance and processing of nonhazardous solid and liquid waste.

(2) Except as provided in s. 403.722(6), a permit under this section is not required for the following, ~~if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations, or~~



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~~orders:~~

(a) Disposal by persons of solid waste resulting from their own activities on their own property, if such waste is ordinary household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations. Disposal of materials that could create a public nuisance or adversely affect the environment or public health, such as white goods; automotive materials, such as batteries and tires; petroleum products; pesticides; solvents; or hazardous substances, is not covered under this exemption.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners' ~~homeowners~~ or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, if the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II or a permit issued by the department under this chapter or rules adopted pursuant to this chapter; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department. If a facility has a permit authorizing disposal activity, new areas where solid waste is being disposed of which are monitored by an existing or modified groundwater monitoring plan are not required to be specifically authorized in a permit



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564 or other certification.

565 (d) Disposal by persons of solid waste resulting from their
566 own activities on their own property, if such disposal occurred
567 prior to October 1, 1988.

568 (e) Disposal of solid waste resulting from normal farming
569 operations as defined by department rule. Polyethylene
570 agricultural plastic, damaged, nonsalvageable, untreated wood
571 pallets, and packing material that cannot be feasibly recycled,
572 which are used in connection with agricultural operations
573 related to the growing, harvesting, or maintenance of crops, may
574 be disposed of by open burning if a public nuisance or any
575 condition adversely affecting the environment or the public
576 health is not created by the open burning and state or federal
577 ambient air quality standards are not violated.

578 (f) The use of clean debris as fill material in any area.
579 However, this paragraph does not exempt any person from
580 obtaining any other required permits, and does not affect a
581 person's responsibility to dispose of clean debris appropriately
582 if it is not to be used as fill material.

583 (g) Compost operations that produce less than 50 cubic
584 yards of compost per year when the compost produced is used on
585 the property where the compost operation is located.

586 (3)(a) All applicable provisions of ss. 403.087 and
587 403.088, relating to permits, apply to the control of solid
588 waste management facilities.

589 (b) A permit, including a general permit, issued to a solid
590 waste management facility that is designed with a leachate
591 control system meeting department requirements shall be issued
592 for a term of 20 years unless the applicant requests a shorter



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permit term. This paragraph applies to a qualifying solid waste management facility that applies for an operating or construction permit or renews an existing operating or construction permit on or after October 1, 2012.

(c) A permit, including a general permit, but not including a registration, issued to a solid waste management facility that does not have a leachate control system meeting department requirements shall be renewed for a term of 10 years, unless the applicant requests a shorter permit term, if the following conditions are met:

1. The applicant has conducted the regulated activity at the same site for which the renewal is sought for at least 4 years and 6 months before the date that the permit application is received by the department; and

2. At the time of applying for the renewal permit:

a. The applicant is not subject to a notice of violation, consent order, or administrative order issued by the department for violation of an applicable law or rule;

b. The department has not notified the applicant that it is required to implement assessment or evaluation monitoring as a result of exceedances of applicable groundwater standards or criteria or, if applicable, the applicant is completing corrective actions in accordance with applicable department rules; and

c. The applicant is in compliance with the applicable financial assurance requirements.

(d) The department may adopt rules to administer this subsection. However, the department is not required to submit such rules to the Environmental Regulation Commission for



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approval. Notwithstanding the limitations of s. 403.087(6)(a),
permit fee caps for solid waste management facilities shall be
prorated to reflect the extended permit term authorized by this
subsection.

Section 19. Section 403.7125, Florida Statutes, is amended
to read:

403.7125 Financial assurance ~~for closure.~~

(1) Every owner or operator of a landfill is jointly and
severally liable for the improper operation and closure of the
landfill, as provided by law. As used in this section, the term
"owner or operator" means any owner of record of any interest in
land wherein a landfill is or has been located and any person or
corporation that owns a majority interest in any other
corporation that is the owner or operator of a landfill.

(2) The owner or operator of a landfill owned or operated
by a local or state government or the Federal Government shall
establish a fee, or a surcharge on existing fees or other
appropriate revenue-producing mechanism, to ensure the
availability of financial resources for the proper closure of
the landfill. However, the disposal of solid waste by persons on
their own property, as described in s. 403.707(2), is exempt
from this section.

(a) The revenue-producing mechanism must produce revenue at
a rate sufficient to generate funds to meet state and federal
landfill closure requirements.

(b) The revenue shall be deposited in an interest-bearing
escrow account to be held and administered by the owner or
operator. The owner or operator shall file with the department
an annual audit of the account. The audit shall be conducted by



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an independent certified public accountant. Failure to collect or report such revenue, except as allowed in subsection (3), is a noncriminal violation punishable by a fine of not more than \$5,000 for each offense. The owner or operator may make expenditures from the account and its accumulated interest only for the purpose of landfill closure and, if such expenditures do not deplete the fund to the detriment of eventual closure, for planning and construction of resource recovery or landfill facilities. Any moneys remaining in the account after paying for proper and complete closure, as determined by the department, shall, if the owner or operator does not operate a landfill, be deposited by the owner or operator into the general fund or the appropriate solid waste fund of the local government of jurisdiction.

(c) The revenue generated under this subsection and any accumulated interest thereon may be applied to the payment of, or pledged as security for, the payment of revenue bonds issued in whole or in part for the purpose of complying with state and federal landfill closure requirements. Such application or pledge may be made directly in the proceedings authorizing such bonds or in an agreement with an insurer of bonds to assure such insurer of additional security therefor.

(d) The provisions of s. 212.055 which relate to raising of revenues for landfill closure or long-term maintenance do not relieve a landfill owner or operator from the obligations of this section.

(e) The owner or operator of any landfill that had established an escrow account in accordance with this section and the conditions of its permit prior to January 1, 2007, may



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continue to use that escrow account to provide financial assurance for closure of that landfill, even if that landfill is not owned or operated by a local or state government or the Federal Government.

(3) An owner or operator of a landfill owned or operated by a local or state government or by the Federal Government may provide financial assurance to the department in lieu of the requirements of subsection (2). An owner or operator of any other landfill, or any other solid waste management facility designated by department rule, shall provide financial assurance to the department for the closure of the facility. Such financial assurance may include surety bonds, certificates of deposit, securities, letters of credit, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with applicable closure requirements. The owner or operator shall estimate such costs to the satisfaction of the department.

(4) This section does not repeal, limit, or abrogate any other law authorizing local governments to fix, levy, or charge rates, fees, or charges for the purpose of complying with state and federal landfill closure requirements.

(5) The department shall by rule require that the owner or operator of a solid waste management facility that receives waste after October 9, 1993, and that is required by department rule to undertake corrective actions for violations of water quality standards provide financial assurance for the cost of completing such corrective actions. The same financial assurance mechanisms that are available for closure costs shall be available for costs associated with undertaking corrective



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actions.

~~(6)(5)~~ The department shall adopt rules to implement this section.

Section 20. Subsection (12) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(12) A general permit is granted for the construction, alteration, and maintenance of a storm water management system serving a total project area of up to 10 acres. When the storm water management system is designed, operated and maintained in accordance with applicable rules adopted pursuant to part IV of Chapter 373, there shall be a rebuttable presumption that the discharge for such systems will comply with state water quality standards. The construction of such a system may proceed without any further agency action by the department or water management district if within 30 days of commencement of construction, an electronic self-certification is submitted to the department or water management district that certifies the proposed system was designed by a Florida registered professional to meet all of the requirements listed in 12(a)-(f) below:

(a) The total project involves less than 10 acres and less than 2 acres of impervious surface;

(b) No activities will impact wetlands or other surface waters;

(c) No activities are conducted in, on, or over wetlands or other surface waters;

(d) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;



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(e) The project is not part of a larger common plan, development, or sale; and

(f) The project does not:

1. Cause adverse water quantity or flooding impacts to receiving water and adjacent lands;

2. Cause adverse impacts to existing surface water storage and conveyance capabilities;

3. Cause a violation of state water quality standards; and

4. Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086.

Section 21. Subsection (6) of section 403.853, Florida Statutes, is amended to read:

403.853 Drinking water standards.—

(6) Upon the request of the owner or operator of a transient noncommunity water system using groundwater as a source of supply and serving religious institutions or businesses, other than restaurants or other public food service establishments or religious institutions with school or day care services, ~~and using groundwater as a source of supply,~~ the department, or a local county health department designated by the department, shall perform a sanitary survey of the facility. Upon receipt of satisfactory survey results according to department criteria, the department shall reduce the requirements of such owner or operator from monitoring and reporting on a quarterly basis to performing these functions on an annual basis. Any revised monitoring and reporting schedule approved by the department under this subsection shall apply



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until such time as a violation of applicable state or federal primary drinking water standards is determined by the system owner or operator, by the department, or by an agency designated by the department, after a random or routine sanitary survey. Certified operators are not required for transient noncommunity water systems of the type and size covered by this subsection. Any reports required of such system shall be limited to the minimum as required by federal law. When not contrary to the provisions of federal law, the department may, upon request and by rule, waive additional provisions of state drinking water regulations for such systems.

Section 22. Paragraph (a) of subsection (3) and subsections (4), (5), (10), (11), (14), (15), and (18) of section 403.973, Florida Statutes, are amended to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)(a) The secretary shall direct the creation of regional permit action teams for the purpose of expediting review of permit applications and local comprehensive plan amendments submitted by:

1. Businesses creating at least 50 jobs or a commercial or industrial development project that will be occupied by businesses that would individually or collectively create at least 50 jobs; or

2. Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county having a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the



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most recent decennial census, residing in incorporated and unincorporated areas of the county.

(4) The regional teams shall be established through the execution of a project-specific memoranda of agreement developed and executed by the applicant and the secretary, with input solicited from ~~the Department of Economic Opportunity~~ and the respective heads of the Department of Transportation and its district offices, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, appropriate regional planning councils, appropriate water management districts, and voluntarily participating municipalities and counties. The memoranda of agreement should also accommodate participation in this expedited process by other local governments and federal agencies as circumstances warrant.

(5) In order to facilitate local government's option to participate in this expedited review process, the secretary shall, in cooperation with local governments and participating state agencies, create a standard form memorandum of agreement. The standard form of the memorandum of agreement shall be used only if the local government participates in the expedited review process. In the absence of local government participation, only the project-specific memorandum of agreement executed pursuant to subsection (4) applies. A local government shall hold a duly noticed public workshop to review and explain to the public the expedited permitting process and the terms and conditions of the standard form memorandum of agreement.

(10) The memoranda of agreement may provide for the waiver or modification of procedural rules prescribing forms, fees,



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procedures, or time limits for the review or processing of permit applications under the jurisdiction of those agencies that are members of the regional permit action team ~~party to the memoranda of agreement~~. Notwithstanding any other provision of law to the contrary, a memorandum of agreement must to the extent feasible provide for proceedings and hearings otherwise held separately ~~by the parties to the memorandum of agreement~~ to be combined into one proceeding or held jointly and at one location. Such waivers or modifications are not authorized ~~shall not be available~~ for permit applications governed by federally delegated or approved permitting programs, the requirements of which would prohibit, or be inconsistent with, such a waiver or modification.

(11) The ~~standard form for~~ memoranda of agreement shall include guidelines to be used in working with state, regional, and local permitting authorities. Guidelines may include, but are not limited to, the following:

(a) A central contact point for filing permit applications and local comprehensive plan amendments and for obtaining information on permit and local comprehensive plan amendment requirements. ~~+~~

(b) Identification of the individual or individuals within each respective agency who will be responsible for processing the expedited permit application or local comprehensive plan amendment for that agency. ~~+~~

(c) A mandatory preapplication review process to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and



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limitations, facility design, and steps the applicant can take to ensure expeditious permit application and local comprehensive plan amendment review. As a part of this process, the first interagency meeting to discuss a project shall be held within 14 days after the secretary's determination that the project is eligible for expedited review. Subsequent interagency meetings may be scheduled to accommodate the needs of participating local governments that are unable to meet public notice requirements for executing a memorandum of agreement within this timeframe. This accommodation may not exceed 45 days from the secretary's determination that the project is eligible for expedited review.

(d) The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies.

(e) Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application for a comprehensive plan amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184 from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph.

(f) Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

(14) (a) Challenges to state agency action in the expedited permitting process for projects processed under this section are subject to the summary hearing provisions of s. 120.574, except



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that the administrative law judge's decision, as provided in s. 120.574(2)(f), shall be in the form of a recommended order and do not constitute the final action of the state agency. In those proceedings where the action of only one agency of the state other than the Department of Environmental Protection is challenged, the agency of the state shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. In those proceedings where the actions of more than one agency of the state are challenged, the Governor shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. For This ~~paragraph does not apply to~~ the issuance of department licenses required under any federally delegated or approved permit program. ~~In such instances,~~ the department, and not the Governor, shall enter the final order. The participating agencies of the state may opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action.

(b) Projects identified in paragraph (3)(f) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s.



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288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(15) The Department of Economic Opportunity, working with the agencies providing cooperative assistance and input regarding the memoranda of agreement, shall review sites proposed for the location of facilities that the Department of Economic Opportunity has certified to be eligible for the Innovation Incentive Program under s. 288.1089. Within 20 days after the request for the review by the Department of Economic Opportunity, the agencies shall provide to the Department of Economic Opportunity a statement as to each site's necessary permits under local, state, and federal law and an identification of significant permitting issues, which if unresolved, may result in the denial of an agency permit or approval or any significant delay caused by the permitting process.

(18) The Department of Economic Opportunity, working with the Rural Economic Development Initiative ~~and the agencies participating in the memoranda of agreement~~, shall provide technical assistance in preparing permit applications and local comprehensive plan amendments for counties having a population of fewer than 75,000 residents, or counties having fewer than 125,000 residents which are contiguous to counties having fewer than 75,000 residents. Additional assistance may include, but not be limited to, guidance in land development regulations and permitting processes, working cooperatively with state,



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regional, and local entities to identify areas within these counties which may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

Section 23. Subsection (1) of section 526.203, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

526.203 Renewable fuel standard.—

(1) DEFINITIONS.—As used in this act:

(a) "Blender," "importer," "terminal supplier," and "wholesaler" are defined as provided in s. 206.01.

(b) "Blended gasoline" means a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol or other alternative fuel, by volume, that meets the specifications as adopted by the department. The fuel ethanol or other alternative fuel portion may be derived from any agricultural source.

(c) "Fuel ethanol" means an anhydrous denatured alcohol produced by the conversion of carbohydrates that meets the specifications as adopted by the department.

(d) "Alternative fuel" means a fuel produced from biomass that is used to replace or reduce the quantity of fossil fuel present in a petroleum fuel that meets the specifications as adopted by the department. "Biomass" means biomass as defined in s. 366.91 and "alternative fuel" means alternative fuel as defined in s. 525.01(1)(c) and that is suitable for blending with gasoline.

(e) ~~(d)~~ "Unblended gasoline" means gasoline that has not been blended with fuel ethanol and that meets the specifications as adopted by the department.



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(5) SALE OF UNBLENDED GASOLINE.—This section does not prohibit the sale of unblended gasoline for the uses exempted under subsection (3).

Section 24. The holder of a valid permit or other authorization is not required to make a payment to the authorizing agency for use of an extension granted under section 73 or section 79 of chapter 2011-139, Laws of Florida. This section applies retroactively and is effective as of June 2, 2011.

Section 25. This act shall take effect July 1, 2012.

===== 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 environmental regulation; amending s. 125.022, F.S.; prohibiting a county from requiring an applicant to obtain a permit or approval from any state or federal agency as a condition of processing a development permit under certain conditions; authorizing a county to attach certain disclaimers to the issuance of a development permit; amending s. 161.041, F.S.; providing conditions under which the department is authorized to issue such permits in advance of the issuance of incidental take authorizations as provided under the Endangered Species Act; amending s. 166.033, F.S.; prohibiting a municipality from requiring an applicant to obtain a permit or approval from any state or federal agency as a condition of



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999 processing a development permit under certain conditions;
1000 authorizing a municipality to attach certain disclaimers to the
1001 issuance of a development permit; amending s. 218.075, F.S.;
1002 providing for the reduction or waiver of permit processing fees
1003 relating to projects that serve a public purpose for certain
1004 entities created by special act, local ordinance, or interlocal
1005 agreement; amending s. 258.397, F.S.; providing an exemption
1006 from a showing of extreme hardship relating to the sale,
1007 transfer, or lease of sovereignty submerged lands in the
1008 Biscayne Bay Aquatic Preserve for certain municipal applicants;
1009 amending s. 373.026, F.S.; requiring the department to expand
1010 its use of Internet-based self-certification services for
1011 exemptions and permits issued by the department and water
1012 management districts; amending s. 373.326, F.S.; exempting
1013 certain underground injection control wells from permitting
1014 requirements under part III of chapter 373, F.S., relating to
1015 regulation of wells; providing a requirement for the
1016 construction of such wells; amending s. 373.4141, F.S.; reducing
1017 the time within which a permit must be approved, denied, or
1018 subject to notice of proposed agency action; prohibiting a state
1019 agency or an agency of the state from requiring additional
1020 permits or approval from a local, state, or federal agency
1021 without explicit authority; amending s. 373.4144, F.S.;
1022 providing legislative intent with respect to the coordination of
1023 regulatory duties among specified state and federal agencies;
1024 encouraging expanded use of the state programmatic general
1025 permit or regional general permits; providing for a voluntary
1026 state programmatic general permit for certain dredge and fill
1027 activities; amending s. 376.3071, F.S.; increasing the priority



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ranking score for participation in the low-scored site initiative; exempting program deductibles, copayments, and certain assessment report requirements from expenditures under the low-scored site initiative; amending s. 376.30715, F.S.; providing that the transfer of a contaminated site from an owner to a child of the owner or corporate entity does not disqualify the site from the innocent victim petroleum storage system restoration financial assistance program; authorizing certain applicants to reapply for financial assistance; amending s. 380.0657, F.S.; authorizing expedited permitting for certain inland multimodal facilities that individually or collectively will create a minimum number of jobs; amending s. 403.061, F.S.; authorizing zones of discharges to groundwater for specified installations; providing for modification of such zones of discharge; providing that exceedance of certain groundwater standards does not create liability for site cleanup; providing that exceedance of soil cleanup target levels is not a basis for enforcement or cleanup; amending s. 403.087, F.S.; revising conditions under which the department is authorized to revoke permits for sources of air and water pollution; amending s. 403.1838, F.S.; revising the definition of the term "financially disadvantaged small community" for the purposes of the Small Community Sewer Construction Assistance Act; amending s. 403.7045, F.S.; providing conditions under which sludge from an industrial waste treatment works is not solid waste; amending s. 403.706, F.S.; reducing the amount of recycled materials certain counties are required to apply toward state recycling goals; providing that certain renewable energy byproducts count toward state recycling goals; amending s. 403.707, F.S.; providing for



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waste-to-energy facilities to maximize acceptance and processing of nonhazardous solid and liquid waste; exempting the disposal of solid waste monitored by certain groundwater monitoring plans from specific authorization; specifying a permit term for solid waste management facilities designed with leachate control systems that meet department requirements; requiring permit fees to be adjusted; providing applicability; specifying a permit term for solid waste management facilities that do not have leachate control systems meeting department requirements under certain conditions; authorizing the department to adopt rules; providing that the department is not required to submit the rules to the Environmental Regulation Commission for approval; requiring permit fee caps to be prorated; amending s. 403.7125, F.S.; requiring the department to require by rule that owners or operators of solid waste management facilities receiving waste after October 9, 1993, provide financial assurance for the cost of completing certain corrective actions; amending s. 403.814, F.S.; providing for issuance of general permits for the construction, alteration, and maintenance of certain surface water management systems without the action of the department or a water management district; specifying conditions for the general permits; amending s. 403.853, F.S.; providing for the department, or a local county health department designated by the department, to perform sanitary surveys for certain transient noncommunity water systems; amending s. 403.973, F.S.; authorizing expedited permitting for certain commercial or industrial development projects that individually or collectively will create a minimum number of jobs; providing for a project-specific memorandum of agreement to apply to a project



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1086 subject to expedited permitting; clarifying the authority of the
1087 department to enter final orders for the issuance of certain
1088 licenses; revising criteria for the review of certain sites;
1089 amending s. 526.203, F.S.; revising the definitions of the terms
1090 "blended gasoline" and "unblended gasoline"; defining the term
1091 "alternative fuel"; authorizing the sale of unblended fuels for
1092 certain uses; providing that holders of valid permits or other
1093 authorizations are not required to make payments to authorizing
1094 agencies for use of certain extensions granted under chapter
1095 2011-139, Laws of Florida; providing an effective date.
1096



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2012	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (737914)

Delete line 745

and insert:

3. Cause a violation of state water quality standards; or

By the Committee on Community Affairs; and Senator Bennett

578-01887-12

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1 A bill to be entitled
2 An act relating to environmental regulation; amending
3 s. 125.022, F.S.; prohibiting a county from requiring
4 an applicant to obtain a permit or approval from any
5 state or federal agency as a condition of processing a
6 development permit under certain conditions;
7 authorizing a county to attach certain disclaimers to
8 the issuance of a development permit; amending s.
9 166.033, F.S.; prohibiting a municipality from
10 requiring an applicant to obtain a permit or approval
11 from any state or federal agency as a condition of
12 processing a development permit under certain
13 conditions; authorizing a municipality to attach
14 certain disclaimers to the issuance of a development
15 permit; amending s. 218.075, F.S.; providing for the
16 reduction or waiver of permit processing fees relating
17 to projects that serve a public purpose for certain
18 entities created by special act, local ordinance, or
19 interlocal agreement; amending s. 258.397, F.S.;
20 providing an exemption from a showing of extreme
21 hardship relating to the sale, transfer, or lease of
22 sovereignty submerged lands in the Biscayne Bay
23 Aquatic Preserve for certain municipal applicants;
24 providing for additional dredging and filling
25 activities in the preserve; amending s. 339.63, F.S.;
26 providing exceptions to criteria required for system
27 facilities designated under the Strategic Intermodal
28 System; amending s. 373.026, F.S.; requiring the
29 Department of Environmental Protection to expand its

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30 use of Internet-based self-certification services for
31 exemptions and permits issued by the department and
32 water management districts; amending s. 373.306, F.S.;
33 exempting underground injection control wells from
34 certain rules; amending s. 373.4141, F.S.; reducing
35 the time within which a permit must be approved,
36 denied, or subject to notice of proposed agency
37 action; prohibiting a state agency or an agency of the
38 state from requiring additional permits or approval
39 from a local, state, or federal agency without
40 explicit authority; amending s. 373.4144, F.S.;
41 providing legislative intent with respect to the
42 coordination of regulatory duties among specified
43 state and federal agencies; encouraging expanded use
44 of the state programmatic general permit or regional
45 general permits; providing for a voluntary state
46 programmatic general permit for certain dredge and
47 fill activities; amending s. 373.441, F.S.; requiring
48 that certain counties or municipalities apply by a
49 specified date to the department or water management
50 district for authority to require certain permits;
51 providing that following such delegation, the
52 department or district may not regulate activities
53 that are subject to the delegation; clarifying the
54 authority of local governments to adopt pollution
55 control programs under certain conditions; providing
56 applicability with respect to solid mineral mining;
57 amending s. 376.3071, F.S.; exempting program
58 deductibles, copayments, and certain assessment report

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requirements from expenditures under the low-scored site initiative; amending s. 376.30715, F.S.; providing that the transfer of a contaminated site from an owner to a child of the owner or corporate entity does not disqualify the site from the innocent victim petroleum storage system restoration financial assistance program; authorizing certain applicants to reapply for financial assistance; amending s. 380.0657, F.S.; authorizing expedited permitting for certain inland multimodal facilities; amending s. 403.061, F.S.; requiring the department to establish reasonable zones of mixing for discharges into specified waters; providing that certain groundwater standards that are exceeded do not create liability for site cleanup; providing that certain soil cleanup target levels that are exceeded are not a basis for enforcement or cleanup; amending s. 403.087, F.S.; revising conditions under which the department is authorized to revoke permits for sources of air or water pollution; amending s. 403.1838, F.S.; revising the definition of the term "financially disadvantaged small community" for purposes of the Small Community Sewer Construction Assistance Act; amending s. 403.7045, F.S.; providing conditions under which sludge from an industrial waste treatment works is not solid waste; amending s. 403.707, F.S.; exempting the disposal of solid waste monitored by certain groundwater monitoring plans from specific authorization; extending the duration of all permits

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issued to solid waste management facilities that meet specified criteria; providing an exception; providing for prorated permit fees; providing applicability; specifying a permit term for a solid waste management facility that does not have a leachate control system meeting the requirements of the department under certain conditions; authorizing the department to adopt rules; providing that the department is not required to submit the rules to the Environmental Regulation Commission for approval; requiring that permit fee caps for solid waste management facilities be prorated to reflect the extended permit term; amending s. 403.709, F.S.; creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to fund the closing and long-term care of solid waste facilities under certain circumstances; requiring that the department deposit funds that are reimbursed into the solid waste landfill closure account; amending s. 403.7125, F.S.; requiring that the department require by rule that the owner or operator of a solid waste management facility receiving waste on or after a specified date provide financial assurance for the cost of completing corrective action for violations of water quality standards; amending s. 403.814, F.S.; providing for issuance of general permits for the construction, alteration, and maintenance of certain surface water management systems under certain circumstances; specifying conditions for the construction of the

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117 system without any action by the department or water
118 management district; amending s. 403.853, F.S.;
119 providing for the department, or a local county health
120 department designated by the department, to perform
121 sanitary surveys for certain transient noncommunity
122 water systems; amending s. 403.973, F.S.; authorizing
123 expedited permitting for certain commercial or
124 industrial development projects that individually or
125 collectively will create a minimum number of jobs;
126 providing for a project-specific memorandum of
127 agreement to apply to a project subject to expedited
128 permitting; clarifying the authority of the department
129 to enter final orders for the issuance of certain
130 licenses; revising criteria for the review of certain
131 sites; amending s. 526.203, F.S.; revising the
132 definition of the term "blended gasoline"; defining
133 the term "renewable fuel"; authorizing the sale of
134 unblended fuels for certain uses; providing an
135 effective date.

136
137 Be It Enacted by the Legislature of the State of Florida:

138
139 Section 1. Section 125.022, Florida Statutes, is amended to
140 read:

141 125.022 Development permits.—If ~~When~~ a county denies an
142 application for a development permit, the county shall give
143 written notice to the applicant. The notice must include a
144 citation to the applicable portions of an ordinance, rule,
145 statute, or other legal authority for the denial of the permit.

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As used in this section, the term "development permit" has the same meaning as in s. 163.3164. A county may not require as a condition of processing a development permit that an applicant obtain a permit or approval from a state or federal agency unless that agency has issued a notice of intent to deny the federal or state permit before the county action on the local development permit. The issuance of a development permit by a county does not create a right on the part of the applicant to obtain a permit from a state or federal agency and does not create a liability on the part of the county for issuance of the permit if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency. A county may attach such a disclaimer to the issuance of a development permit and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.

Section 2. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—~~If~~ When a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term "development permit" has the same meaning as in s. 163.3164. A municipality may not require as a condition of processing a development permit that an

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175 applicant obtain a permit or approval from a state or federal
176 agency unless that agency has issued a notice of intent to deny
177 the federal or state permit before the municipal action on the
178 local development permit. The issuance of a development permit
179 by a municipality does not create a right on the part of an
180 applicant to obtain a permit from a state or federal agency and
181 does not create any liability on the part of the municipality
182 for issuance of the permit if the applicant fails to fulfill its
183 legal obligations to obtain requisite approvals or fulfill the
184 obligations imposed by a state or federal agency. A municipality
185 may attach such a disclaimer to the issuance of a development
186 permit and may include a permit condition that all other
187 applicable state or federal permits be obtained before
188 commencement of the development. This section does not prohibit
189 a municipality from providing information to an applicant
190 regarding what other state or federal permits may apply.

191 Section 3. Section 218.075, Florida Statutes, is amended to
192 read:

193 218.075 Reduction or waiver of permit processing fees.—
194 Notwithstanding any other provision of law, the Department of
195 Environmental Protection and the water management districts
196 shall reduce or waive permit processing fees for a county that
197 has ~~counties with~~ a population of 50,000 or fewer ~~less~~ on April
198 1, 1994, until such county exceeds ~~counties exceed~~ a population
199 of 75,000; for a municipality that has ~~and municipalities with~~ a
200 population of 25,000 or fewer; for an entity created by special
201 act, local ordinance, or interlocal agreement of such county or
202 municipality; less, ~~or for a~~ any county or municipality not
203 included within a metropolitan statistical area. Fee reductions

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or waivers shall be approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

(1) Per capita taxable value is less than the statewide average for the current fiscal year;

(2) Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;

(3) Any condition specified in s. 218.503(1) which results in the county or municipality being in a state of financial emergency;

(4) Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or

(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality, ~~or~~ a third party under contract with a county or municipality, or an entity created by special act, local ordinance, or interlocal agreement, and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee may ~~shall~~ not exceed \$100.

Section 4. Paragraphs (a) and (b) of subsection (3) of section 258.397, Florida Statutes, are amended to read:

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233 258.397 Biscayne Bay Aquatic Preserve.—

234 (3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the
235 Internal Improvement Trust Fund is authorized and directed to
236 maintain the aquatic preserve hereby created pursuant and
237 subject to the following provisions:

238 (a) A ~~No further~~ sale, transfer, or lease of sovereignty
239 submerged lands in the preserve may not ~~shall~~ be approved or
240 consummated by the board of trustees, except upon a showing of
241 extreme hardship on the part of the applicant and a
242 determination by the board of trustees that such sale, transfer,
243 or lease is in the public interest. A municipal applicant
244 proposing a project under paragraph (b) is exempt from showing
245 extreme hardship.

246 (b) A ~~No further~~ dredging or filling of submerged lands of
247 the preserve may not ~~shall~~ be approved or tolerated by the board
248 of trustees except:

249 1. Such minimum dredging and spoiling as may be authorized
250 for public navigation projects or for such minimum dredging and
251 spoiling as may be constituted as a public necessity or for
252 preservation of the bay according to the expressed intent of
253 this section.

254 2. Such other alteration of physical conditions, including
255 the placement of riprap, as may be necessary to enhance the
256 quality and utility of the preserve.

257 3. Such minimum dredging and filling as may be authorized
258 for the creation and maintenance of marinas, piers, and docks
259 and their attendant navigation channels and access roads. Such
260 projects may ~~only~~ be authorized only upon a specific finding by
261 the board of trustees that there is assurance that the project

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will be constructed and operated in a manner that will not adversely affect the water quality and utility of the preserve. This subparagraph does ~~shall~~ not authorize the connection of upland canals to the waters of the preserve.

4. Such dredging as ~~is~~ necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, islands, and spoil banks, the dredging of which would enhance the aesthetic and environmental quality and utility of the preserve and be clearly in the public interest as determined by the board of trustees.

5. Such dredging and filling as necessary for the creation of public waterfront promenades.

Any dredging or filling under this subsection or improvements under subsection (5) may ~~shall~~ be approved only after public notice as provided by s. 253.115.

Section 5. Subsection (4) of section 339.63, Florida Statutes, is amended, and subsections (5) and (6) are added to that section, to read:

339.63 System facilities designated; additions and deletions.—

(4) After the initial designation of the Strategic Intermodal System under subsection (1), the department shall, in coordination with the metropolitan planning organizations, local governments, regional planning councils, transportation providers, and affected public agencies, add facilities to or delete facilities from the Strategic Intermodal System described in paragraph (2)(a) based upon criteria adopted by the department with the exceptions provided in subsections (5) and

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291 (6).

292 (5) ~~However,~~ An airport that is designated as a reliever
293 airport to a Strategic Intermodal System airport which has at
294 least 75,000 itinerant operations per year, has a runway length
295 of at least 5,500 linear feet, is capable of handling aircraft
296 weighing at least 60,000 pounds with a dual wheel configuration
297 which is served by at least one precision instrument approach,
298 and serves a cluster of aviation-dependent industries, shall be
299 designated as part of the Strategic Intermodal System by the
300 Secretary of Transportation upon the request of a reliever
301 airport meeting this criteria.

302 (6) A planned facility that is projected to create at least
303 50 full-time jobs and is designated in the local comprehensive
304 plan as an intermodal logistics center or inland logistics
305 center, or the local equivalent, and meets the following
306 criteria shall be designated as part of the Strategic Intermodal
307 System by the Secretary of Transportation upon the request of a
308 planned intermodal logistics center facility. The planned
309 facility must:

310 (a) Serve the purpose of receiving or sending cargo for
311 distribution and providing cargo storage, consolidation, and
312 repackaging and transfer of goods, and may, if developed as
313 proposed, include other intermodal terminals, related
314 transportation facility, warehousing and distribution, and
315 associated office space, light industrial, manufacturing, and
316 assembly uses;

317 (b) Be proximate to one or more Strategic Intermodal
318 System-designated highway facility for the purpose of
319 facilitating regional freight traffic movements within the

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state;

(c) Be located within 30 miles to an existing Strategic Intermodal System- or Emerging Strategic Intermodal System- designated rail line;

(d) Be located within 100 miles of a Strategic Intermodal System-designated seaport, for the purpose of providing additional relief for expansion of cargo storage and seaport movement capacity, and have a collaborative agreement, letter of interest, or memorandum of understanding with the seaport; and

(e) Be consistent with market feasibility studies for location and size of a intermodal logistics center or an inland port facility as published by the Department of Transportation or other sources.

If a planned facility is designated as an intermodal logistics center or inland logistics center, or the local equivalent, a local government must adopt a waiver of transportation concurrency or a limited exemption that allows up to 150 percent increase in the adopted level of service capacity standard for the project's impact to roadway facilities on the Strategic Intermodal System.

Section 6. Subsection (10) is added to section 373.026, Florida Statutes, to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water

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management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible:

(10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and the water management districts, if the expansion is economically feasible. In addition to expanding the use of Internet-based, self-certification services for appropriate exemptions and general permits, the department and the water management districts shall identify and develop general permits for appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.

Section 7. Section 373.306, Florida Statutes, is amended to read:

373.306 Scope.—~~A No person may not shall~~ construct, repair, abandon, or cause to be constructed, repaired, or abandoned, any water well contrary to the provisions of this part and applicable rules ~~and regulations~~. This part does ~~shall~~ not apply to equipment used temporarily for dewatering purposes or to the process used in dewatering or to wells that have been authorized under the state's underground injection control program pursuant to department rules.

Section 8. Subsection (2) of section 373.4141, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

373.4141 Permits; processing.—

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(2) A permit shall be approved, ~~or~~ or subject to a notice of proposed agency action within 60 ~~90~~ days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

(4) A state agency or an agency of the state may not require as a condition of approval for a permit or as an item to complete a pending permit application that an applicant obtain a permit or approval from any other local, state, or federal agency without explicit statutory authority to require such permit or approval.

Section 9. Section 373.4144, Florida Statutes, is amended to read:

373.4144 Federal environmental permitting.—

(1) It is the intent of the Legislature to facilitate the coordination of a more efficient process for implementing regulatory duties and functions between the Department of Environmental Protection, the water management districts, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, the Fish and Wildlife Conservation Commission, and other relevant federal and state agencies.

(2) The Department of Environmental Protection may obtain issuance by the United States Army Corps of Engineers, pursuant to state and federal law and as set forth in this section, of an expanded state programmatic general permit, or a series of regional general permits, for categories of activities in waters of the United States governed by the Clean Water Act and in

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407 navigable waters under the Rivers and Harbors Act of 1899 which
408 are similar in nature, which will cause only minimal adverse
409 environmental effects when performed separately, and which will
410 have only minimal cumulative adverse effects on the environment.

411 (3) The Department of Environmental Protection may use a
412 state general permit or a regional general permit to eliminate
413 overlapping federal regulations and state rules that protect the
414 same resource and to avoid duplication of permitting between the
415 United States Army Corps of Engineers and the department for
416 minor work located in waters of the United States, including
417 navigable waters, and to eliminate, in appropriate cases, the
418 need for a separate individual approval from the United States
419 Army Corps of Engineers while ensuring the most stringent
420 protection of wetland resources.

421 (4) The department may not seek issuance of or take any
422 action pursuant to a permit unless the conditions of that permit
423 are at least as protective of the environment and natural
424 resources as existing state law under this part and federal law
425 under the Clean Water Act and the Rivers and Harbors Act of
426 1899.

427 (5) The department and the water management districts may
428 implement a voluntary state programmatic general permit for all
429 dredge and fill activities impacting 3 acres or less of wetlands
430 or other surface waters, including navigable waters, subject to
431 agreement with the United States Army Corps of Engineers, if the
432 general permit is at least as protective of the environment and
433 natural resources as existing state law under this part and
434 federal law under the Clean Water Act and the Rivers and Harbors
435 Act of 1899.

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~~(1) The department is directed to develop, on or before October 1, 2005, a mechanism or plan to consolidate, to the maximum extent practicable, the federal and state wetland permitting programs. It is the intent of the Legislature that all dredge and fill activities impacting 10 acres or less of wetlands or waters, including navigable waters, be processed by the state as part of the environmental resource permitting program implemented by the department and the water management districts. The resulting mechanism or plan shall analyze and propose the development of an expanded state programmatic general permit program in conjunction with the United States Army Corps of Engineers pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899. Alternatively, or in combination with an expanded state programmatic general permit, the mechanism or plan may propose the creation of a series of regional general permits issued by the United States Army Corps of Engineers pursuant to the referenced statutes. All of the regional general permits must be administered by the department or the water management districts or their designees.~~

~~(2) The department is directed to file with the Speaker of the House of Representatives and the President of the Senate a report proposing any required federal and state statutory changes that would be necessary to accomplish the directives listed in this section and to coordinate with the Florida Congressional Delegation on any necessary changes to federal law to implement the directives.~~

~~(6)-(3) Nothing in This section does not shall be construed to preclude the department from pursuing a series of regional~~

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465 general permits for construction activities in wetlands or
466 surface waters or from pursuing complete assumption of federal
467 permitting programs regulating the discharge of dredged or fill
468 material pursuant to s. 404 of the Clean Water Act, Pub. L. No.
469 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the
470 Rivers and Harbors Act of 1899, so long as the assumption
471 encompasses all dredge and fill activities in, on, or over
472 jurisdictional wetlands or waters, including navigable waters,
473 within the state.

474 Section 10. Present subsections (3), (4), and (5) of
475 section 373.441, Florida Statutes, are renumbered as subsections
476 (7), (8), and (9), respectively, and new subsections (3), (4),
477 and (5) and subsection (6) are added to that section, to read:

478 373.441 Role of counties, municipalities, and local
479 pollution control programs in permit processing; delegation.—

480 (3) A county or municipality that has a population of
481 400,000 or more as of July 1, 2012, and that implements a local
482 pollution control program regulating all or a portion of the
483 wetlands or surface waters throughout its geographic boundary
484 must apply for delegation of state environmental resource
485 permitting authority before January 1, 2014. If the county or
486 municipality fails to receive delegation of all or a portion of
487 state environmental resource permitting authority within 2 years
488 after submitting its application for delegation or by January 1,
489 2016, at the latest, it may not require permits that in part or
490 in full are substantially similar to the requirements needed to
491 obtain an environmental resource permit. A county or
492 municipality that has received delegation before January 1,
493 2014, does not need to reapply.

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494 (4) The department may delegate state environmental
495 resource permitting authority to local governments. The
496 department must grant or deny an application for delegation of
497 authority submitted by a county or municipality that meets the
498 criteria in subsection (3) within 2 years after receipt of the
499 application. If an application for delegation of authority is
500 denied, any available legal challenge to the denial tolls the
501 preemption deadline until resolution of the legal challenge.
502 Upon delegation of authority to a qualified local government,
503 the department and water management district may not regulate
504 the activities delegated to the qualified local government
505 within that jurisdiction.

506 (5) This section does not prohibit or limit a local
507 government that meets the criteria in subsection (3) from
508 regulating wetlands or surface waters on or after January 1,
509 2014, if the local government receives delegation of all or a
510 portion of state environmental resource permitting authority
511 within 2 years after submitting its application for the
512 delegation.

513 (6) Notwithstanding subsections (3), (4), and (5), this
514 section does not apply to environmental resource permitting or
515 reclamation applications for solid mineral mining and does not
516 prohibit the application of local government regulations to any
517 new solid mineral mine or any proposed addition to, change to,
518 or expansion of an existing solid mineral mine.

519 Section 11. Paragraph (b) of subsection (11) of section
520 376.3071, Florida Statutes, is amended to read:

521 376.3071 Inland Protection Trust Fund; creation; purposes;
522 funding.—

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(11)

(b) *Low-scored site initiative.*—Notwithstanding s. 376.30711, any site with a priority ranking score of 10 points or less may voluntarily participate in the low-scored site initiative, whether or not the site is eligible for state restoration funding.

1. To participate in the low-scored site initiative, the responsible party or property owner must affirmatively demonstrate that the following conditions are met:

a. Upon reassessment pursuant to department rule, the site retains a priority ranking score of 10 points or less.

b. No excessively contaminated soil, as defined by department rule, exists onsite as a result of a release of petroleum products.

c. A minimum of 6 months of groundwater monitoring indicates that the plume is shrinking or stable.

d. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.

e. The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated.

f. Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by department rule or human exposure is limited by appropriate institutional or engineering controls.

2. Upon affirmative demonstration of the conditions under

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552 subparagraph 1., the department shall issue a determination of
553 "No Further Action." Such determination acknowledges that
554 minimal contamination exists onsite and that such contamination
555 is not a threat to human health or the environment. If no
556 contamination is detected, the department may issue a site
557 rehabilitation completion order.

558 3. Sites that are eligible for state restoration funding
559 may receive payment of preapproved costs for the low-scored site
560 initiative as follows:

561 a. A responsible party or property owner may submit an
562 assessment plan designed to affirmatively demonstrate that the
563 site meets the conditions under subparagraph 1. Notwithstanding
564 the priority ranking score of the site, the department may
565 preapprove the cost of the assessment pursuant to s. 376.30711,
566 including 6 months of groundwater monitoring, not to exceed
567 \$30,000 for each site. The department may not pay the costs
568 associated with the establishment of institutional or
569 engineering controls.

570 b. The assessment work shall be completed no later than 6
571 months after the department issues its approval.

572 c. No more than \$10 million for the low-scored site
573 initiative may ~~shall~~ be encumbered from the Inland Protection
574 Trust Fund in any fiscal year. Funds shall be made available on
575 a first-come, first-served basis and shall be limited to 10
576 sites in each fiscal year for each responsible party or property
577 owner.

578 d. Program deductibles, copayments, and the limited
579 contamination assessment report requirements under paragraph
580 (13) (c) do not apply to expenditures under this paragraph.

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581 Section 12. Section 376.30715, Florida Statutes, is amended
582 to read:

583 376.30715 Innocent victim petroleum storage system
584 restoration.—A contaminated site acquired by the current owner
585 before ~~prior to~~ July 1, 1990, which has ceased operating as a
586 petroleum storage or retail business before ~~prior to~~ January 1,
587 1985, is eligible for financial assistance pursuant to s.
588 376.305(6), notwithstanding s. 376.305(6)(a). For purposes of
589 this section, the term “acquired” means the acquisition of title
590 to the property; however, a subsequent transfer of the property
591 to a spouse or a child of the owner, a surviving spouse or a
592 child of the owner in trust or free of trust, ~~or~~ a revocable
593 trust created for the benefit of the settlor, or a corporate
594 entity created by the owner to hold title to the site does not
595 disqualify the site from financial assistance pursuant to s.
596 376.305(6). Applicants previously denied coverage may reapply.
597 Eligible sites shall be ranked in accordance with s.
598 376.3071(5).

599 Section 13. Subsection (1) of section 380.0657, Florida
600 Statutes, is amended to read:

601 380.0657 Expedited permitting process for economic
602 development projects.—

603 (1) The Department of Environmental Protection and, as
604 appropriate, the water management districts created under
605 chapter 373 shall adopt programs to expedite the processing of
606 wetland resource and environmental resource permits for economic
607 development projects that have been identified by a municipality
608 or county as meeting the definition of target industry
609 businesses under s. 288.106, or any inland multimodal facility

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610 receiving or sending cargo to or from state ports, with the
611 exception of those projects requiring approval by the Board of
612 Trustees of the Internal Improvement Trust Fund.

613 Section 14. Subsection (11) of section 403.061, Florida
614 Statutes, is amended to read:

615 403.061 Department; powers and duties.—The department shall
616 have the power and the duty to control and prohibit pollution of
617 air and water in accordance with the law and rules adopted and
618 promulgated by it and, for this purpose, to:

619 (11) Establish ambient air quality and water quality
620 standards for the state as a whole or for any part thereof, and
621 also standards for the abatement of excessive and unnecessary
622 noise. The department may ~~is authorized to~~ establish reasonable
623 zones of mixing for discharges into waters. For existing
624 installations as defined by department rule, zones of discharge
625 to groundwater are authorized to a facility's or owner's
626 property boundary and extending to the base of a specifically
627 designated aquifer or aquifers. Primary and secondary
628 groundwater standards that are exceeded and that occur within a
629 zone of discharge do not create a liability pursuant to this
630 chapter or chapter 376 for site cleanup, and soil cleanup target
631 levels that are exceeded are not a basis for enforcement or site
632 cleanup.

633 (a) ~~If When~~ a receiving body of water fails to meet a water
634 quality standard for pollutants set forth in department rules, a
635 steam electric generating plant discharge of pollutants that is
636 existing or licensed under this chapter on July 1, 1984, may
637 nevertheless be granted a mixing zone, provided that:

638 1. The standard would not be met in the water body in the

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639 absence of the discharge;

640 2. The discharge is in compliance with all applicable
641 technology-based effluent limitations;

642 3. The discharge does not cause a measurable increase in
643 the degree of noncompliance with the standard at the boundary of
644 the mixing zone; and

645 4. The discharge otherwise complies with the mixing zone
646 provisions specified in department rules.

647 (b) A ~~No~~ mixing zone for point source discharges may not
648 ~~shall~~ be permitted in Outstanding Florida Waters except for:

649 1. Sources that have received permits from the department
650 prior to April 1, 1982, or the date of designation, whichever is
651 later;

652 2. Blowdown from new power plants certified pursuant to the
653 Florida Electrical Power Plant Siting Act;

654 3. Discharges of water necessary for water management
655 purposes which have been approved by the governing board of a
656 water management district and, if required by law, by the
657 secretary; and

658 4. The discharge of demineralization concentrate which has
659 been determined permittable under s. 403.0882 and which meets
660 the specific provisions of s. 403.0882(4)(a) and (b), if the
661 proposed discharge is clearly in the public interest.

662 (c) The department, by rule, shall establish water quality
663 criteria for wetlands which criteria give appropriate
664 recognition to the water quality of such wetlands in their
665 natural state.

666
667 ~~Nothing in This act~~ does not ~~shall be construed to~~ invalidate

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any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 15. Subsection (7) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(7) A permit issued pursuant to this section does ~~shall~~ not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permit holder has:

(a) ~~Has~~ Submitted false or inaccurate information in the ~~his or her~~ application for the permit;

(b) ~~Has~~ Violated law, department orders, rules, ~~or~~ ~~regulations~~, or ~~permit~~ conditions;

(c) ~~Has~~ Failed to submit operational reports or other information required by department rule which directly relates to the permit and has refused to correct or cure such violation when requested to do so ~~or regulation~~; or

(d) ~~Has~~ Refused lawful inspection under s. 403.091 at the facility authorized by the permit.

Section 16. Subsection (2) of section 403.1838, Florida Statutes, is amended to read:

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403.1838 Small Community Sewer Construction Assistance
Act.—

(2) The department shall use funds specifically appropriated to award grants under this section to assist financially disadvantaged small communities with their needs for adequate sewer facilities. For purposes of this section, the term "financially disadvantaged small community" means a municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer ~~less~~, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce.

Section 17. Paragraph (f) of subsection (1) of section 403.7045, Florida Statutes, is amended to read:

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities shall not be regulated pursuant to this act:

(f) Industrial byproducts, if:

1. A majority of the industrial byproducts are demonstrated to be sold, used, or reused within 1 year.

2. The industrial byproducts are not discharged, deposited, injected, dumped, spilled, leaked, or placed upon any land or water so that such industrial byproducts, or any constituent thereof, may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria or a significant threat to public health is caused.

3. The industrial byproducts are not hazardous wastes as

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defined under s. 403.703 and rules adopted under this section.

Sludge from an industrial waste treatment works which meets the exemption requirements of this paragraph is not solid waste as defined in s. 403.703(32).

Section 18. Subsections (2) and (3) of section 403.707, Florida Statutes, are amended to read:

403.707 Permits.—

(2) Except as provided in s. 403.722(6), a permit under this section is not required for the following, ~~if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations, or orders:~~

(a) Disposal by persons of solid waste resulting from their own activities on their own property, if such waste is ordinary household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations. Disposal of materials that could create a public nuisance or adversely affect the environment or public health, such as white goods; automotive materials, such as batteries and tires; petroleum products; pesticides; solvents; or hazardous substances, is not covered under this exemption.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners' ~~homeowners~~ or maintenance association for which the person contributes association assessments, if the solid waste in such containers

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is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, if the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II or a permit issued by the department under this chapter or rules adopted pursuant to this chapter; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department. If a facility has a permit authorizing disposal activity, a new area where solid waste is being disposed of which is monitored by an existing or modified groundwater monitoring plan is not required to be specifically authorized in a permit or other certification.

(d) Disposal by persons of solid waste resulting from their own activities on their own property, if such disposal occurred prior to October 1, 1988.

(e) Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning if a public nuisance or any condition adversely affecting the environment or the public health is not created by the open burning and state or federal ambient air quality standards are not violated.

(f) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from

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obtaining any other required permits, and does not affect a person's responsibility to dispose of clean debris appropriately if it is not to be used as fill material.

(g) Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3)(a) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(b) A permit, including a general permit, issued to a solid waste management facility that is designed with a leachate control system meeting department requirements shall be issued for a term of 20 years unless the applicant requests a shorter permit term. Notwithstanding the limitations of s. 403.087(6)(a), existing permit fees for a qualifying solid waste management facility shall be adjusted to the permit term authorized by this section. This paragraph applies to a qualifying solid waste management facility that applies for an operating or construction permit or renews an existing operating or construction permit on or after October 1, 2012.

(c) A permit, including a general permit, but not including a registration, issued to a solid waste management facility that does not have a leachate control system meeting department requirements shall be renewed for a term of 10 years, unless the applicant requests a shorter term, if the following conditions are met:

1. The applicant has conducted the regulated activity at the same site for which the renewal is sought for at least 4 years and 6 months before the date that the permit application

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is received by the department; and

2. At the time of applying for the renewal permit:

a. The applicant is not subject to a notice of violation, consent order, or administrative order issued by the department for violation of an applicable law or rule;

b. The department has not notified the applicant that the applicant is required to implement assessment or evaluation monitoring as a result of applicable groundwater standards or criteria being exceeded, or, if applicable, the applicant is completing corrective actions in accordance with applicable department rules; and

c. The applicant is in compliance with the applicable financial assurance requirements.

(d) The department may adopt rules to administer this subsection; however, the provisions of chapter 120 which require a statement of estimated regulatory cost and legislative ratification do not apply to such rulemaking, and the department is not required to submit the rules to the Environmental Regulation Commission for approval. Notwithstanding the limitations of s. 403.087(6)(a), permit fee caps for solid waste management facilities shall be prorated to reflect the extended permit term authorized by this subsection.

Section 19. Subsection (5) is added to section 403.709, Florida Statutes, to read:

403.709 Solid Waste Management Trust Fund; use of waste tire fees.—There is created the Solid Waste Management Trust Fund, to be administered by the department.

(5) A solid waste landfill closure account is created within the Solid Waste Management Trust Fund to provide funding

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for the closing and long-term care of solid waste management facilities, if:

- (a) The facility has or had a department permit to operate;
- (b) The permittee provided proof of financial assurance for closure in the form of an insurance certificate;
- (c) The facility has been deemed to be abandoned or has been ordered to close by the department; and
- (d) Closure will be accomplished in substantial accordance with a closure plan approved by the department.

The department has a reasonable expectation that the insurance company issuing the closure insurance policy will provide or reimburse most or all of the funds required to complete the closing and long-term care of the facility. If the insurance company reimburses the department for the costs of the closing or long-term care of the facility, the department shall deposit the funds into the solid waste landfill closure account.

Section 20. Section 403.7125, Florida Statutes, is amended to read:

403.7125 Financial assurance ~~for closure.~~

(1) Each ~~Every~~ owner or operator of a landfill is jointly and severally liable for the improper operation and closure of the landfill, as provided by law. As used in this section, the term "owner or operator" means any owner of record of any interest in land wherein a landfill is or has been located and any person or corporation that owns a majority interest in any other corporation that is the owner or operator of a landfill.

(2) The owner or operator of a landfill owned or operated by a local or state government or the Federal Government shall

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871 establish a fee, or a surcharge on existing fees or other
872 appropriate revenue-producing mechanism, to ensure the
873 availability of financial resources for the proper closure of
874 the landfill. However, the disposal of solid waste by persons on
875 their own property, as described in s. 403.707(2), is exempt
876 from this section.

877 (a) The revenue-producing mechanism must produce revenue at
878 a rate sufficient to generate funds to meet state and federal
879 landfill closure requirements.

880 (b) The revenue shall be deposited in an interest-bearing
881 escrow account to be held and administered by the owner or
882 operator. The owner or operator shall file with the department
883 an annual audit of the account. The audit shall be conducted by
884 an independent certified public accountant. Failure to collect
885 or report such revenue, except as allowed in subsection (3), is
886 a noncriminal violation punishable by a fine of not more than
887 \$5,000 for each offense. The owner or operator may make
888 expenditures from the account and its accumulated interest only
889 for the purpose of landfill closure and, if such expenditures do
890 not deplete the fund to the detriment of eventual closure, for
891 planning and construction of resource recovery or landfill
892 facilities. Any moneys remaining in the account after paying for
893 proper and complete closure, as determined by the department,
894 shall, if the owner or operator does not operate a landfill, be
895 deposited by the owner or operator into the general fund or the
896 appropriate solid waste fund of the local government of
897 jurisdiction.

898 (c) The revenue generated under this subsection and any
899 accumulated interest thereon may be applied to the payment of,

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or pledged as security for, the payment of revenue bonds issued in whole or in part for the purpose of complying with state and federal landfill closure requirements. Such application or pledge may be made directly in the proceedings authorizing such bonds or in an agreement with an insurer of bonds to assure such insurer of additional security therefor.

(d) The provisions of s. 212.055 which relate to raising of revenues for landfill closure or long-term maintenance do not relieve a landfill owner or operator from the obligations of this section.

(e) The owner or operator of any landfill that had established an escrow account in accordance with this section and the conditions of its permit before ~~prior to~~ January 1, 2007, may continue to use that escrow account to provide financial assurance for closure of that landfill, even if that landfill is not owned or operated by a local or state government or the Federal Government.

(3) An owner or operator of a landfill owned or operated by a local or state government or by the Federal Government may provide financial assurance to the department in lieu of the requirements of subsection (2). An owner or operator of any other landfill, or any other solid waste management facility designated by department rule, shall provide financial assurance to the department for the closure of the facility. Such financial assurance may include surety bonds, certificates of deposit, securities, letters of credit, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with applicable closure requirements. The owner or operator shall

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estimate such costs to the satisfaction of the department.

(4) This section does not repeal, limit, or abrogate any other law authorizing local governments to fix, levy, or charge rates, fees, or charges for the purpose of complying with state and federal landfill closure requirements.

(5) The department shall by rule require that the owner or operator of a solid waste management facility that receives waste on or after October 9, 1993, and that is required by department rule to undertake corrective actions for violations of water quality standards provide financial assurance for the cost of completing such corrective actions. The same financial assurance mechanisms that are available for closure costs shall be available for costs associated with undertaking corrective actions.

(6)~~(5)~~ The department shall adopt rules to implement this section.

Section 21. Subsection (12) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(12) A general permit shall be granted for the construction, alteration, and maintenance of a surface water management system serving a total project area of up to 10 acres. The construction of the system may proceed without any agency action by the department or water management district if:

(a) The total project area is less than 10 acres;

(b) The total project area involves less than 2 acres of impervious surface;

(c) The activities will not impact wetlands or other surface waters;

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958 (d) The activities are not conducted in, on, or over
959 wetlands or other surface waters;

960 (e) Drainage facilities will not include pipes having
961 diameters greater than 24 inches, or the hydraulic equivalent,
962 and will not use pumps in any manner;

963 (f) The project is not part of a larger common plan,
964 development, or sale;

965 (g) The project does not cause:

966 1. Adverse water quantity or flooding impacts to receiving
967 water and adjacent lands;

968 2. Adverse impacts to existing surface water storage and
969 conveyance capabilities;

970 3. A violation of state water quality standards; or

971 4. An adverse impact to the maintenance of surface or
972 ground water levels or surface water flows established pursuant
973 to s. 373.042 or a work of the district established pursuant to
974 s. 373.086; and

975 (h) The surface water management system design plans are
976 signed and sealed by a Florida-registered professional who
977 attests that the system will perform and function as proposed
978 and has been designed in accordance with appropriate, generally
979 accepted performance standards and scientific principles.

980 Section 22. Subsection (6) of section 403.853, Florida
981 Statutes, is amended to read:

982 403.853 Drinking water standards.—

983 (6) Upon the request of the owner or operator of a
984 transient noncommunity water system using groundwater as a
985 source of supply and serving religious institutions or
986 businesses, other than restaurants or other public food service

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987 establishments or religious institutions with school or day care
988 services, ~~and using groundwater as a source of supply,~~ the
989 department, or a local county health department designated by
990 the department, shall perform a sanitary survey of the facility.
991 Upon receipt of satisfactory survey results according to
992 department criteria, the department shall reduce the
993 requirements of such owner or operator from monitoring and
994 reporting on a quarterly basis to performing these functions on
995 an annual basis. Any revised monitoring and reporting schedule
996 approved by the department under this subsection shall apply
997 until such time as a violation of applicable state or federal
998 primary drinking water standards is determined by the system
999 owner or operator, by the department, or by an agency designated
1000 by the department, after a random or routine sanitary survey.
1001 Certified operators are not required for transient noncommunity
1002 water systems of the type and size covered by this subsection.
1003 Any reports required of such system shall be limited to the
1004 minimum as required by federal law. When not contrary to the
1005 provisions of federal law, the department may, upon request and
1006 by rule, waive additional provisions of state drinking water
1007 regulations for such systems.

1008 Section 23. Paragraph (a) of subsection (3) and subsections
1009 (4), (5), (10), (11), (14), (15), and (18) of section 403.973,
1010 Florida Statutes, are amended to read:

1011 403.973 Expedited permitting; amendments to comprehensive
1012 plans.—

1013 (3)(a) The secretary shall direct the creation of regional
1014 permit action teams for the purpose of expediting review of
1015 permit applications and local comprehensive plan amendments

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submitted by:

1. Businesses creating at least 50 jobs or a commercial or industrial development project that will be occupied by businesses that would individually or collectively create at least 50 jobs; or

2. Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county having a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.

(4) The regional teams shall be established through the execution of a project-specific memorandum ~~memoranda~~ of agreement developed and executed by the applicant and the secretary, with input solicited from ~~the Department of Economic Opportunity~~ and the respective heads of the Department of Transportation and its district offices, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, appropriate regional planning councils, appropriate water management districts, and voluntarily participating municipalities and counties. The memorandum ~~memoranda~~ of agreement should also accommodate participation in this expedited process by other local governments and federal agencies as circumstances warrant.

(5) In order to facilitate local government's option to participate in this expedited review process, the secretary shall, in cooperation with local governments and participating state agencies, create a standard form memorandum of agreement.

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1045 The standard form of the memorandum of agreement shall be used
1046 only if the local government participates in the expedited
1047 review process. In the absence of local government
1048 participation, only the project-specific memorandum of agreement
1049 executed pursuant to subsection (4) applies. A local government
1050 shall hold a duly noticed public workshop to review and explain
1051 to the public the expedited permitting process and the terms and
1052 conditions of the standard form memorandum of agreement.

1053 (10) The memorandum ~~memoranda~~ of agreement may provide for
1054 the waiver or modification of procedural rules prescribing
1055 forms, fees, procedures, or time limits for the review or
1056 processing of permit applications under the jurisdiction of
1057 those agencies that are members of the regional permit action
1058 team ~~party to the memoranda of agreement~~. Notwithstanding any
1059 other provision of law to the contrary, a memorandum of
1060 agreement must to the extent feasible provide for proceedings
1061 and hearings otherwise held separately ~~by the parties to the~~
1062 ~~memorandum of agreement~~ to be combined into one proceeding or
1063 held jointly and at one location. Such waivers or modifications
1064 are not authorized ~~shall not be available~~ for permit
1065 applications governed by federally delegated or approved
1066 permitting programs, the requirements of which would prohibit,
1067 or be inconsistent with, such a waiver or modification.

1068 (11) The memorandum ~~standard form for memoranda~~ of
1069 agreement must ~~shall~~ include guidelines to be used in working
1070 with state, regional, and local permitting authorities.
1071 Guidelines may include, but are not limited to, the following:

1072 (a) A central contact point for filing permit applications
1073 and local comprehensive plan amendments and for obtaining

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1074 information on permit and local comprehensive plan amendment
1075 requirements.+

1076 (b) Identification of the individual or individuals within
1077 each respective agency who will be responsible for processing
1078 the expedited permit application or local comprehensive plan
1079 amendment for that agency.+

1080 (c) A mandatory preapplication review process to reduce
1081 permitting conflicts by providing guidance to applicants
1082 regarding the permits needed from each agency and governmental
1083 entity, site planning and development, site suitability and
1084 limitations, facility design, and steps the applicant can take
1085 to ensure expeditious permit application and local comprehensive
1086 plan amendment review. As a part of this process, the first
1087 interagency meeting to discuss a project shall be held within 14
1088 days after the secretary's determination that the project is
1089 eligible for expedited review. Subsequent interagency meetings
1090 may be scheduled to accommodate the needs of participating local
1091 governments that are unable to meet public notice requirements
1092 for executing a memorandum of agreement within this timeframe.
1093 This accommodation may not exceed 45 days from the secretary's
1094 determination that the project is eligible for expedited
1095 review.+

1096 (d) The preparation of a single coordinated project
1097 description form and checklist and an agreement by state and
1098 regional agencies to reduce the burden on an applicant to
1099 provide duplicate information to multiple agencies.+

1100 (e) Establishment of a process for the adoption and review
1101 of any comprehensive plan amendment needed by any certified
1102 project within 90 days after the submission of an application

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1103 for a comprehensive plan amendment. However, the memorandum of
1104 agreement may not prevent affected persons as defined in s.
1105 163.3184 from appealing or participating in this expedited plan
1106 amendment process and any review or appeals of decisions made
1107 under this paragraph. ~~and~~

1108 (f) Additional incentives for an applicant who proposes a
1109 project that provides a net ecosystem benefit.

1110 (14) (a) Challenges to state agency action in the expedited
1111 permitting process for projects processed under this section are
1112 subject to the summary hearing provisions of s. 120.574, except
1113 that the administrative law judge's decision, as provided in s.
1114 120.574(2) (f), shall be in the form of a recommended order and
1115 do not constitute the final action of the state agency. In those
1116 proceedings where the action of only one agency of the state
1117 other than the Department of Environmental Protection is
1118 challenged, the agency of the state shall issue the final order
1119 within 45 working days after receipt of the administrative law
1120 judge's recommended order, and the recommended order shall
1121 inform the parties of their right to file exceptions or
1122 responses to the recommended order in accordance with the
1123 uniform rules of procedure pursuant to s. 120.54. In those
1124 proceedings where the actions of more than one agency of the
1125 state are challenged, the Governor shall issue the final order
1126 within 45 working days after receipt of the administrative law
1127 judge's recommended order, and the recommended order shall
1128 inform the parties of their right to file exceptions or
1129 responses to the recommended order in accordance with the
1130 uniform rules of procedure pursuant to s. 120.54. For This
1131 ~~paragraph does not apply to~~ the issuance of department licenses

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1132 required under any federally delegated or approved permit
1133 program. ~~In such instances,~~ the department, and not the
1134 Governor, shall enter the final order. The participating
1135 agencies of the state may opt at the preliminary hearing
1136 conference to allow the administrative law judge's decision to
1137 constitute the final agency action.

1138 (b) Projects identified in paragraph (3)(f) or challenges
1139 to state agency action in the expedited permitting process for
1140 establishment of a state-of-the-art biomedical research
1141 institution and campus in this state by the grantee under s.
1142 288.955 are subject to the same requirements as challenges
1143 brought under paragraph (a), except that, notwithstanding s.
1144 120.574, summary proceedings must be conducted within 30 days
1145 after a party files the motion for summary hearing, regardless
1146 of whether the parties agree to the summary proceeding.

1147 (15) The Department of Economic Opportunity, working with
1148 the agencies providing cooperative assistance and input
1149 regarding the memorandum ~~memoranda~~ of agreement, shall review
1150 sites proposed for the location of facilities that the
1151 Department of Economic Opportunity has certified to be eligible
1152 for the Innovation Incentive Program under s. 288.1089. Within
1153 20 days after the request for the review by the Department of
1154 Economic Opportunity, the agencies shall provide to the
1155 Department of Economic Opportunity a statement as to each site's
1156 necessary permits under local, state, and federal law and an
1157 identification of significant permitting issues, which if
1158 unresolved, may result in the denial of an agency permit or
1159 approval or any significant delay caused by the permitting
1160 process.

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1161 (18) The Department of Economic Opportunity, working with
1162 the Rural Economic Development Initiative ~~and the agencies~~
1163 ~~participating in the memoranda of agreement~~, shall provide
1164 technical assistance in preparing permit applications and local
1165 comprehensive plan amendments for counties having a population
1166 of fewer than 75,000 residents, or counties having fewer than
1167 125,000 residents which are contiguous to counties having fewer
1168 than 75,000 residents. Additional assistance may include, but
1169 not be limited to, guidance in land development regulations and
1170 permitting processes, working cooperatively with state,
1171 regional, and local entities to identify areas within these
1172 counties which may be suitable or adaptable for preclearance
1173 review of specified types of land uses and other activities
1174 requiring permits.

1175 Section 24. Subsection (1) of section 526.203, Florida
1176 Statutes, is amended, and subsection (5) is added to that
1177 section, to read:

1178 526.203 Renewable fuel standard.—

1179 (1) DEFINITIONS.—As used in this act:

1180 (a) "Blender," "importer," "terminal supplier," and
1181 "wholesaler" are defined as provided in s. 206.01.

1182 (b) "Blended gasoline" means a mixture of 90 to 91 percent
1183 gasoline and 9 to 10 percent fuel ethanol or other renewable
1184 fuel, by volume, which ~~that~~ meets the specifications as adopted
1185 by the department. The fuel ethanol portion may be derived from
1186 any agricultural source.

1187 (c) "Fuel ethanol" means an anhydrous denatured alcohol
1188 produced by the conversion of carbohydrates that meets the
1189 specifications as adopted by the department.

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1190 (d) "Renewable fuel" means a fuel produced from renewable
1191 biomass which is used to replace or reduce the quantity of
1192 fossil fuel present in a transportation fuel.

1193 (e)~~(d)~~ "Unblended gasoline" means gasoline that has not
1194 been blended with fuel ethanol and that meets the specifications
1195 as adopted by the department.

1196 (5) SALE OF UNBLENDED FUELS.-This section does not prohibit
1197 the sale of unblended fuels for the uses exempted under
1198 subsection (3).

1199 Section 25. This act shall take effect July 1, 2012.



Soil & Water Conservation District

6285 Dogwood Drive
Milton, FL 32570-3569

(850) 623-3229 ext. 3
Fax (850) 626-3524

February 2, 2012

Committee on Environmental Preservation and Conservation
325 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Senators:

Re: Senate Bill 2012- 1254 (SB 1254)

I am writing you this letter, on behalf of the Board of Supervisors for Blackwater Soil and Water Conservation District (SWCD), to ask that you do everything in your power to make sure that Senate Bill 1254 **DOES NOT** pass. This bill, among other things, would revise existing state legislation (Florida Statute 582) governing soil and water conservation districts. This bill will allow the Commissioner of Agriculture to dissolve districts.

Florida Statute 582 was created following former President Roosevelt's request that states pass legislation allowing **local** landowners to form soil and water conservation districts and have a direct role in conservation work. Districts were established in this way, for it was understood that locally led conservation is what would work best.

Recently there has been pressure from the Governor, on down, to restrict Florida's special taxing districts. Unfortunately, soil and water conservation districts have been lumped into this category even though none of the districts have taxing authority.

Blackwater SWCD was established in 1942, as the district responsible for protecting the natural resources of Santa Rosa County, Florida. We are a non-regulatory, technical agency that serves as the link between private landowners and the USDA. Rural areas make up a large portion of our county, with nearly 550,000 acres of privately owned agricultural land. With all this resource use comes an increased need for conservation and one of the district's goals is to promote this conservation by voluntary means. Local farmers utilize the technical assistance that Blackwater SWCD provides to meet these resource challenges.

Blackwater SWCD receives no direct funds from the State and the supervisors that serve on the board receive no compensation.

Protecting Santa Rosa County's Natural Resources

B L A C K W A T E R

Committee on Environmental Preservation and Conservation
February 2, 2012
Page 2

For almost 70 years, Blackwater SWCD has been providing technical assistance to individuals throughout Santa Rosa County on a day to day basis. We have formed strong relationships with many of our local landowners and have worked together with them putting conservation on the ground. Over the years, there have been a great many successes directly linked to the ventures of this district.

Last year, a more direct attempt was made to eliminate districts with Senate Bill 628, which was later withdrawn. This year, changes to the statute are being attached, almost like a rider, to a number of other Department of Agriculture and Consumer Services provisions under Senate Bill 1254, in the hopes that it will get little attention and pass.

Please do what you can to stop this bill. The proposed changes will open the door for the future elimination of **all** districts, regardless of whether or not they have any taxing authority. There is no better group than soil and water conservation districts at safeguarding natural resources within the state. They have an intimate connection with the people and places they serve and that unique quality can not be found elsewhere.

In closing, I ask that you please **NOT** support Senate Bill 1254. I ask that you instead support the continued work of districts, like ours, and keep the long standing SWCD tradition alive and well in Florida.

Sincerely,



John C. Salter
Blackwater SWCD Chairman

cc: Association of Florida Conservation Districts

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/CS/SB 1254

INTRODUCER: Environmental Preservation and Conservation Committee; Agriculture Committee; and Senator Siplin

SUBJECT: Department of Agriculture and Consumer Services

DATE: February 7, 2012

REVISED: _____

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

Please see Section VIII. for Additional Information:

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

I. Summary:

This committee substitute (CS) addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (DACS). It:

- Establishes the Division of Food, Nutrition and Wellness;
- Designates DACS, rather than the Department of Environmental Protection (DEP), as the staff responsible for acquiring and administering conservation easements on land that is acquired under the Rural and Family Lands Protection Program;
- Extends the date from September 15 to September 30 for mosquito control districts to provide their certified budgets to DACS;
- Revises the products that mosquito control districts are authorized to use to control mosquito breeding;
- Repeals statutory language relating to the John A. Mulrennan, Sr., Arthropod Research Laboratory;
- Eliminates travel and per diem reimbursements for several councils;
- Allows DACS to adopt the most current federal regulations to address the safety and protection of food offered at retail and wholesale;

- Eliminates the Food Safety Pilot Program, relating to inspection of food establishments and vehicles;
- Updates milk, milk products and frozen dessert laws;
- Updates the name of the Office of Energy and Water to the Office of Agricultural Water Policy;
- Repeals the statute relating to the Florida Agricultural Exposition which was closed in 2008;
- Eliminates three technical councils and replaces them with a new Agricultural Feed, Seed and Fertilizer Advisory Council;
- Requires a review of marketing orders when requested by an advisory council rather than an annual audit by a certified public accountant;
- Extends the expiration dates for the fertilizer tonnage fee program to December 31, 2022, and December 31, 2027;
- Requires commercial feed distributors to report quarterly on the amount of feed distributed in Florida and provides penalties for failure to comply;
- Authorizes DACS to impose and recover monetary penalties for commercial feed found to be deficient or excessive in nutrients;
- Provides that consumers who purchase commercial feed that is in violation of DACS standards may seek legal or administrative action to recover penalties;
- Provides the ability for soil and water conservation districts to work across district lines to utilize water conservation devices, systems, and techniques;
- Provides that the proceeds of the sale of soil and water conservation district property be credited to the district rather than DACS;
- Repeals provisions relating to cattle vaccination for brucellosis;
- Renames the “Wounded Warrior Special Hunt Area” as the “Operation Outdoor Freedom Special Hunt Area”;
- Allows DACS to deposit funds from private sources, as well as federal funds, into the Florida Forest Service Incidental Trust Fund for reforestation projects;
- Gives the Florida Forest Service the sole authority to enforce silviculture and agricultural open burning and eliminates duplicative permitting by other entities of the state;
- Provides an education fee waiver for elementary, middle, high school, and vocational schools that participate in the aquaculture certification program;
- Eliminates the Aquaculture Interagency Coordinating Council; and
- Deletes the Aquaculture Interagency Coordinating Council from the membership of the Aquaculture Review Council.

This CS amends sections 20.14, 253.002, 379.2523, 379.2524, 388.161, 388.201, 388.323, 388.46, 493.6104, 500.09, 500.147, 502.014, 502.053, 570.0705, 570.074, 570.18, 570.53, 570.54, 573.112, 573.118, 576.045, 576.071, 580.041, 580.131, 581.011, 581.145, 582.06, 582.20, 582.29, 582.30, 582.31, 582.32, 589.19, 589.277, 590.02, 597.0021, 597.003, 597.004, 597.005, 604.21 and 616.252 of the Florida Statutes.

This CS creates section 570.451 of the Florida Statutes.

This CS repeals sections 388.42, 570.071, 570.29, 570.34, 576.091, 578.30, 580.151, 585.155, 589.03, and 597.006 of the Florida Statutes.

II. Present Situation:

Division of Food, Nutrition and Wellness

The 2011 Legislature created the Healthy Schools for Healthy Lives Act, which provides for a type two transfer of administration of school food and nutrition programs from the Department of Education to DACS, pending a waiver from the United States Department of Agriculture. That waiver was granted in October 2011; therefore, on January 1, 2012, DACS assumed administration of the state's school food and nutrition programs. The Commissioner of Agriculture states that DACS is the most experienced and best positioned to manage Florida's school food and nutrition programs. Furthermore it is the commissioner's position that the transfer will foster increased coordination between Florida farmers and the school programs that provide food for Florida's children.¹

Board of Trustees Lands

The Board of Trustees of the Internal Improvement Trust Fund consists of the Governor and Cabinet. The Division of State Lands within DEP currently serves as staff to the board for the acquisition, administration, and disposition of state lands, with certain exceptions. This CS removes DEP as the intermediary for acquisition of conservation easements that are acquired under the Rural and Family Lands Protection Program (RFLPP). The RFLPP was created by the 2001 Legislature to protect agricultural lands from development through permanent easement acquisitions from qualified and willing agricultural land owners. Landowners protecting their land under this program are free to undertake any agricultural practice as long as they are willing to follow established best management practices.

DACS has entered into a Memorandum of Understanding (MOU) with DEP which allows DACS to carry out the responsibilities of acquiring conservation easements. In accordance with the MOU, DACS negotiates, contracts, and performs all due diligence with regard to the real estate transactions, prepares the Board of Trustees agenda item and presents the item at a regular scheduled meeting. All information for the real estate transaction must be submitted to DEP for review prior to the Board of Trustees meeting, and it also must be given to DEP for a final review prior to closing. This CS eliminates steps that DACS considers redundant by removing DEP as the intermediary and allowing DACS to act as an agent of the Board of Trustees.

Per Diem and Travel Expenses for Advisory Committees

Section 112.061, F.S., establishes standard travel reimbursement rates, procedures, and limitations applicable to all public officers, employees, and authorized persons whose travel is authorized and paid by a public agency. This allows members of select statutorily created advisory councils to receive compensation for per diem and travel expenses. The members organize and host the meetings of the councils, and have in the past been provided with per diem and travel expenses in accordance with these provisions.

¹ Analysis, Senate Bill 1312, 2011 Legislative Session.

In order to reduce costs, several advisory committees and councils were stripped of the ability to receive travel expenses and per diem by the 2011 Legislature. This CS includes some committees and councils that were overlooked in 2011 and also reinstates travel expenses and per diem for some advisory committees that do not fall under DACS purview.²

Mosquito Control

Mosquito control is Florida's first line of defense against mosquito-borne diseases such as West Nile encephalitis, St. Louis encephalitis, eastern encephalitis, dengue and many others.³ Chapter 388, F.S., addresses mosquito control efforts in the state. It allows any city, town or county, or any other area in the state to create a special taxing district for the control of arthropods. There are currently 62 mosquito control programs in Florida.

The fiscal year for districts is the 12-month period extending from October 1 of one year through September 30 of the following year. Prior to July 15 of each year, the district governing board must complete the preparation of a tentative detailed work plan budget. The tentative budget must include proposed operations and requirements for arthropod control measures during the ensuing fiscal year. For the purpose of determining eligibility for state aid, the governing board must submit copies to DACS for review and approval. The board must adopt and execute a certified budget and submit it to DACS for approval by September 15, which prevents current revenue and expense information from being included and is inconsistent with county budgetary schedules.

Disposal of Surplus Property

Mosquito control districts are currently required to offer surplus property (such as application equipment, spray trucks, aircraft, aircraft parts, etc.) to all other counties or districts engaged in arthropod control at a price established by the board of commissioners that owns the equipment. This equipment is typically highly specialized and only of use to other mosquito control programs, if it has any residual value at all. If no acceptable offer is received within a reasonable time, the equipment can be offered to other governmental units or private nonprofit agencies. The mosquito program that disposes of the surplus property retains the funds for use in the control program. Eliminating this requirement will allow the equipment to be offered to other mosquito control programs, and, if not taken by them, disposed of by auction or scrap disposal without the additional step of offering it to all local governments. This will eliminate an unnecessary step in the equipment disposal process for mosquito control programs.

John A. Mulrennan, Sr., Arthropod Research Laboratory

The John A. Mulrennan, Sr., Arthropod Research Laboratory is a research laboratory in Panama City, Florida, under the administration of the Florida Agricultural and Mechanical University

² CS/CS/HB 7215, 2011 Legislative Session.

³ University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, <http://fmel.ifas.ufl.edu/> (last visited Feb. 1, 2012).

(FAMU). FAMU closed the laboratory on June 30, 2011.⁴ The laboratory performed basic and applied research to develop and test formulations, application techniques, and procedures of pesticides and biological control agents for the control of arthropods and, in particular, biting arthropods of public health or nuisance importance. Each quarter, the laboratory provided DACS with such information as it needed to assist in the performance of its duties with respect to arthropod control under ch. 388, F.S. The laboratory also served as a center for training of students and state and local government personnel in the safe and effective control of biting arthropods.

FAMU was represented on the Florida Coordinating Council on Mosquito Control in order to coordinate the activities of the laboratory with the needs and interests of mosquito control stakeholders in Florida. With the close of the laboratory, there is no reason for continued representation on the council or for mention of the laboratory in statute.

U.S. Food and Drug Administration Food Code

The United States Food Code is a model created by the Food and Drug Administration (FDA) to assist federal, state, local and tribal control jurisdictions in regulating any entity that sells, manufactures, or provides food as part of their services. This law was instituted because some food manufacturers were producing and selling impure products for consumption. The FDA Food Code was adopted to protect the citizens of this country from bodily harm that could arise from consuming contaminated food and to provide various entities a uniform standard, and a final authority, regarding any questionable practices in the preparation or sales of food. The FDA Food Code is currently updated every four years.⁵

The Division of Food Safety (division) is responsible for assuring the public of a safe, wholesome and properly represented food supply through permitting and inspection of food establishments, inspection of food products, and performance of specialized laboratory analyses on a variety of food products sold or produced in the state. The division monitors food from farm gate through processing and distribution to the retail point of purchase. Section 500.09(3), F.S., requires the division to adopt the rules necessary to enforce the provisions of ch. 500, F.S., and provides that DACS is authorized to adopt by reference the rules adopted by the Food and Drug Administration with regard to food safety. DACS has indicated that the authority to adopt all current changes to the FDA Food Code and Federal Code of Regulations as they are released and implemented by the federal government will best protect the health and safety of Florida citizens.

Food Safety Pilot Program

The 1997 Legislature created a food safety pilot program for the inspection of food establishments and vehicles to increase efficiency and reduce costs by allowing certain food establishments to start self-inspection. To be eligible for this program, a food establishment must have a good inspection record, certified food managers, active food training programs, thorough

⁴ Florida Agricultural and Mechanical University, College of Engineering, Sciences, Technology & Agriculture, Public Health Entomology Research and Education Center, <http://www.famu.edu/cesta/main/index.cfm/research/public-health-entomology-research-and-education-center/#my-menu> (last visited Feb. 1, 2012).

⁵ United States Food and Drug Administration, *Introduction to FDA Food Code*, <http://www.fda.gov/food/foodsafety/retailfoodprotection/foodcode/default.htm> (last visited Feb. 1, 2012).

records, and written Sanitation Standard Operation Procedures in place. Seventeen food establishments participated in the program, and DACS audited the participants periodically to ensure compliance with the federal and state food laws.⁶ By 2004, due to the difficulty of compliance, there were no establishments remaining in the program. As an alternative to the pilot program, the Division of Food Safety has implemented a variable inspection frequency, which rewards food establishments with good sanitary history by reducing the frequency of inspections. The variable inspection frequency has proven to be less burdensome on the industry than the pilot program.

Milkfat Testing

Currently, DACS is required to maintain a program to issue permits to persons who test milk or milk products for fat content if the tests will be used as a basis for payment to a dairy farmer. Approximately 65 permitted analysts currently pay \$125 for a two-year permit that involves certain steps to obtain. First, a person seeking to be licensed as a Milk Fat Tester/Analyst must be employed by and work in an industry milk laboratory. Next, the applicant must also have a satisfactory onsite evaluation by the State Milk Laboratory Evaluation Officer and participate in the state's Split Sample Milk Fat Program twice a year with satisfactory results. In this program, samples are prepared and shipped to industry labs for analysts to test and report back their results to the Central Dairy Laboratory. Since this program was implemented in 1973, the USDA Milk Marketing Administration has started a program that provides the same function of making sure the dairy farmer is fairly paid, making the state program redundant.

Florida Agricultural Exposition

In a joint venture, DACS and the Department of Corrections constructed and equipped an agricultural exposition center in 1969 known as the Florida Agricultural Exposition in Indiantown, Florida. The purpose of the facility was to:

- Demonstrate and sell Florida agricultural and agriculture business products;
- Attract and inform buyers;
- Conduct agricultural short courses and conferences;
- Organize tours in the aid of marketing Florida agricultural products to the domestic, Latin American, and other foreign markets; and
- Train prisoners of the correctional institutions of the state in agricultural labor and management.

A local rancher who was involved with the facility said that the facility had an emphasis on cows and used inmates at the Martin Correctional Institution to gentle the livestock or help show the different breeds.⁷ To support the facility, DACS and the Department of Corrections were authorized to accept monetary donations from growers and dealers of agricultural products and their associated entities, the federal government, and other sources. DACS was also authorized to expend up to \$25,000 of its own funds, if available. As a result of decreased use, significantly increased costs, and a profile change in inmates of the Martin Correctional Institute, the facility was closed in 2008 by budget cuts of the Legislature and Governor.

⁶ Analysis, Senate Bill 2044, 1997 Legislative Session.

⁷ Telephone interview with Michael Duane by librarian of Elisabeth Lahti Library, Indiantown, Florida.

Office of Energy and Water

In 1995, the Legislature authorized the Commissioner of Agriculture to create an Office of Water Coordination and to designate the bureaus and positions that report to that office regarding water policy and water issues that affect agriculture and are within DACS' jurisdiction. That year, DACS established the Office of Agricultural Water Policy (OAWP). It facilitated communication and coordination among federal, state, and local governmental agencies, environmental representatives, and the agriculture industry on agricultural water resource issues. A primary function of the OAWP was to develop and assist with the implementation of best management practices in order for agricultural producers to meet their obligation under the Florida Watershed Restoration Act. The producers were required to reduce agricultural pollutant loadings to impaired waters within a basin for which DEP had adopted a Basin Management Action Plan. The OAWP also facilitated and assisted in the development of other watershed protection plans throughout the state, including the Lake Okeechobee, St. Lucie Watershed, and Caloosahatchee Watershed protection plans, among others. The OAWP was also very involved in Everglades restoration efforts and in other federal matters, such as the discussion/debate over U.S. Environmental Protection Agency (EPA) numeric nutrient criteria for Florida.⁸

The State Energy Office, within the Governor's Office, was originally created and organized on July 1, 1975, by the Florida Legislature. Since 1975, the Energy Office has been housed in several state agencies, including the Department of Administration, the Department of Community Affairs, DEP and the Executive Office of the Governor. In the mid 2000s, the state began to focus more on energy issues and on how to increase the state's energy independence, decrease dependence on foreign oil and create a clean energy economy. To do this, the Legislature and the Governor's office created two separate bodies to advise them on these issues and to develop a plan to implement any recommended policy actions. In 2006, the Florida Energy Commission was created by the Florida Energy Act, and the following year, the Governor created the Governor's Action Team on Energy and Climate Change. As a result of the Florida Energy Commission and Governor's Action Team recommendations, the 2008 Legislature created the Florida Energy and Climate Commission and consolidated staff from three different agencies to create the Governor's Energy Office housed in the Executive Office of the Governor.⁹

The 2011 Legislature moved the state's energy office from the Executive Office of the Governor to DACS and created the Office of Energy and Water. To facilitate an expanded energy focus within DACS, a separate Office of Energy will be established and this CS will change the name of the Office of Energy and Water to the Office of Agricultural Water Policy.

Plant Industry Technical Council

The Plant Industry Technical Council is an advisory committee that was created by the Legislature in 1959. Appointed by the Commissioner of Agriculture, the council is composed of

⁸ Analysis, Senate Bill 2076, 2011 Legislative Session.

⁹ DACS, *Agency Summary, Governor's Energy Office & Florida Energy & Climate Commission*, available at http://www.freshfromflorida.com/offices/energy/docs/meetings/01142011_FECC_GEO_Agency_Summary.pdf (last visited Feb. 1, 2012).

industry representatives who consult with and advise the Commission and the director of the Division of Plant Industry (division) about policies and issues related to their respective industries.¹⁰ According to DACS, the council has met sporadically over the last decade and in the past few years has not been as effective at addressing plant industry-related issues. The division has had better success in dealing with issues by using working groups or task forces that are commodity based or specific to a given issue. Recently, the division has been working with the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection Quarantine Program and with the United States Department of Homeland Security's Customs and Border Protection Modernization Program through a recently established Florida Partnership Council. The new council meets quarterly, and once annually it brings in industry stakeholders for a "State of the State" meeting to seek input and review of overall plant protection programs in Florida. DACS is therefore recommending that the Plant Industry Technical Council be eliminated.

Aquatic Plant Nursery Registration

The water hyacinth is a floating plant that often jams rivers and lakes with uncounted thousands of tons of floating plant matter.¹¹ Section 581.145, F.S., authorizes DACS to issue, when requested, a permit to an aquaculture producer to export water hyacinths to countries other than the United States and only when the hyacinths are cultivated in a nursery for the sole purpose of exportation and the aquaculture activity has been certified by the department. An aquaculture producer is forbidden from shipping water hyacinths to another country under the permit for the purpose of importing the hyacinths back into the United States. Drop shipments cannot be made to any destination within the United States. This provision does not restrict or interfere with the DEP's efforts, or those of any other agency or local government responsible for the management of noxious aquatic plants, to control or eradicate noxious non-nursery aquatic plants, including water hyacinths. It is also not a consideration in the approval or the release of biological control agents for water hyacinths or any other noxious aquatic plants.

Even though the water hyacinth is not on the United States Department of Agriculture's Noxious Plant List, Florida aquatic plant producers have been prohibited from distributing these products through interstate commerce. This puts Florida aquatic plant producers at a competitive disadvantage in the United States marketplace.

Division of Agricultural Environmental Services Technical Councils

Currently, within DACS there are three separate advisory councils that mitigate issues regarding fertilizer, seeds, and commercial feed. While each council addresses issues unique to its particular area, overlap occurs due to the nature of the three topics. All of the various industry groups have agreed to combine the three separate councils into one all-encompassing council. This CS creates the Agricultural Feed, Seed and Fertilizer Advisory Council, which will replace the following three councils:

- **Commercial Feed Technical Council** – This council considers and studies all issues involving commercial feed in Florida and reviews and makes recommendations to DACS on

¹⁰ University of Florida, *Division of Plant Industry, 39th Biennial Report* (1990-1992), available at <http://ufdc.ufl.edu/UF00075925/00003> (last visited Feb. 1, 2012).

¹¹ University of Florida, Center for Aquatic and Invasive Plants, *Home*, <http://plants.ifas.ufl.edu/> (last visited Feb. 1, 2012).

related matters. The council is composed of 13 members representing various interests of the feed industry.

- **Seed Technical Council** - This council considers and studies all issues involving seed, seedlings, vegetative propagating materials and plants and reviews and makes recommendations to DACS on related matters. The council is composed of 11 members representing various interest of the seed industry.
- **Commercial Fertilizer Technical Council** - This council considers and studies all issues involving commercial fertilizer in Florida and reviews and makes recommendations to DACS on related matters. The council is composed of 13 members of the fertilizer industry.

Commercial Feed Master Registration

The Division of Agricultural Environmental Services regulates animal feeds, including pet foods, through the inspection of production and distribution establishments and laboratory analysis of samples. Section 580.041, F.S., requires distributors of commercial feed in the state to obtain a master registration each year before distributing their brand. Distributors must consent to comply with provisions of ch. 580, F.S., as well as applicable rules. Registration forms must be accompanied by a fee based on tons of feed distributed in the state during the previous year. The terms of compliance for registration include:

- Submitting samples of manufactured feed for testing by laboratories certified by DACS or obtaining an exemption from testing, as provided by ch. 580, F.S.
- Maintaining a bookkeeping system and records that allow DACS to verify the accuracy of the reported tonnage of feed distributed in the state.
- Allowing DACS to examine pertinent records.

DACS has statutory authority to assess penalties for violations of ch. 580, F.S., as well as to refuse, suspend, or cancel the master registration of a distributor who violates or fails to comply with the provisions of ch. 580, F.S.

DACS has indicated that because the reporting of the tonnage of feed distributed in the state is provided on a voluntary basis, many registrants defer or refuse to provide the information, while other registrants incur the costs of providing this information. Because the registration cost is based on the tons of feed distributed in the state, the failure to report the tonnage presents a problem when assessing the registration fee.

Additionally, current law requires registrants to have feed samples and ingredients testing at a frequency determined by rule.¹² The rule states that testing is based on the quantity and type of feed distributed. Without proper reporting, it is impossible for DACS to determine if registrants are in compliance with statutory requirements.

Commercial Feed Penalties Payable to Consumers

When ch. 580, F.S., was revised in 1995, the changes failed to include the authority for DACS to impose and recover monetary penalties for commercial feed found to be deficient or excessive in nutrients by the department's Certified Feed Laboratories program. Current statutory language

¹² Rule 5E-3.003, F.A.C.

provides only for recovery of deficiency penalty payments by the end-use consumer and only through formal legal action. No provision has been made for assessment or recovery of penalties by the state in instances where no consumer is associated with the deficient feed product.

Agricultural Marketing Orders

There are thousands of small agricultural producers in Florida who depend on scientific research and marketing campaigns to grow and market their crops. Most cannot afford to own and operate their own laboratories and marketing firms, or maintain the staff it would take to run them. However, these small producers sometimes formally organize to establish a marketing order and vote to contribute small, set amounts into a “pot” for such activities. Then they use the pot of money to contract with professional firms that specialize in research and marketing.¹³

Marketing orders are instrumentalities issued by DACS and designed to regulate the distribution and handling of agricultural products in intrastate commerce. Section 573.118, F.S., provides for marketing orders to become effective when consented to by a majority of producers or handlers of such commodities in the state. To establish a marketing order, at least 10 percent of the affected producers must petition DACS to give notice of a public hearing regarding a proposed marketing order. Once the notice has been filed and the hearing has been conducted, DACS may issue the marketing order if it determines the order will accomplish certain objectives prescribed by statute.¹⁴ Prior to a marketing order being issued, the petitioners must deposit such monies with DACS to defray the cost of implementing the marketing order. Thereafter, persons directly affected by the marketing order shall pay such amounts as DACS deems necessary to cover the administration and enforcement of the marketing order. On an annual basis, DACS must arrange for an audit of the books and accounts of the marketing order by a certified public accountant (CPA). The CPA must notify DACS and all parties covered by the marketing order of the results no later than 30 days following the audit.

Fertilizer Tonnage Fee

Between 1985 and 1992, DACS and DEP jointly conducted surveys of drinking water wells in predominantly agricultural regions of Florida. Survey results from limited sampling in 38 Florida counties showed elevated levels of nitrate in drinking water wells in 36 of the 38 counties tested. Of those 36 counties, 13 had at least one site with nitrate levels above the federal drinking water standard of 10 parts per million (ppm) set by the EPA.

Based on these findings, DACS initiated development of a comprehensive program to protect Florida’s water resources while maintaining the state’s large agricultural industry. DACS, in partnership with DEP, the Florida Farm Bureau, the Florida Fruit and Vegetable Association, the Florida Fertilizer and Agrichemical Association, and other groups, developed a voluntary, incentive-based program to develop individual practices or combinations of practices to specify how nitrogen-based fertilizers are to be used. Two categories of practices were created:

- Interim Measures (IMs) – Based on currently available knowledge, IMs were intended to provide a reasonable expectation of reducing nitrate levels entering ground water.

¹³ DACS, *State Agricultural Marketing Orders*, <http://www.florida-agriculture.com/marketingorders.htm> (last visited Feb. 1, 2012).

¹⁴ Section 573.108, F.S.

- Best Management Practices (BMPs) – BMPs are determined by research or field testing at representative sites to be the most effective and practicable methods of fertilization that meets crop needs and nitrate groundwater quality standards.

To fund the development of research-based BMPs and IMs, the Legislature authorized DACS to impose supplemental fees on users of all fertilizer materials containing nitrogen to be deposited into the General Inspection Trust Fund. The authorization was granted through adoption of s. 576.045, F.S. Subsection (2) of s. 576.045, F.S., imposes the following fees which expire on December 31, 2012:

- \$100 for each license to distribute fertilizer.
- \$100 for each of the first five specialty fertilizer registrations and \$25 for each registration after the first five.
- 50 cents per ton for bulk fertilizer sold in Florida which contains nitrogen or phosphorus.¹⁵

The revenue from the collection of the tonnage fee on fertilizers containing nitrogen or phosphorus is used for the development and implementation of agricultural BMPs and nutrient abatement and research efforts. The provisions of this program are set to expire on December 31, 2012, and December 31, 2017, respectively. Failing to extend these expiration dates would create a shortfall of approximately \$1 million annually and would impair efforts to protect and restore water quality.

Soil and Water Conservation Districts

Soil and water conservation districts (districts) are governmental subdivisions of the state that coordinate with federal, state, regional, and other local partners to develop and implement soil and water conservation practices on private lands. In 1935, the United States Department of Agriculture, Natural Resources Conservation Service was established by Congress to assist individuals, groups, and units of government with natural resources conservation. Florida's 62 districts were established in 1937 under ch. 582, F.S., based on that federal legislation. Soil and water conservation districts were originally organized, for the most part, within county boundaries by landowner petition based on a need for soil and water conservation and in the interest of public health, safety, and welfare. The governing body of a district consists of five elected supervisors.

Section 582.29, F.S., provides for agencies of the state that have jurisdiction over the administration of any state-owned lands, and any county, or other governmental subdivision of the state that has jurisdiction over any county-owned or other publicly owned land, lying within the boundaries of any district must cooperate to the fullest extent with the supervisors of the district in effecting the programs and operations undertaken by the supervisors under the provisions of ch. 582, F.S.

The supervisors of the districts are given free access to enter and perform work upon such publicly-owned lands. The provisions of land use regulations adopted must be in all respects observed by the agencies administering such publicly-owned lands. DACS' Office of Agricultural Water Policy has field staff located around the state who work directly with the

¹⁵ Analysis, Senate Bill 1644, 2003 Legislative Session.

districts as their DACS liaisons. DACS coordinates with the districts on programs concerning best management practices implementation, cost share programs, mobile irrigation labs, and public land management.

Currently, districts do not have the authority to work across district lines to assist landowners whose property falls outside a district boundary or in an area that doesn't have an active district. DACS has indicated that the legislative changes in this bill will enable the districts to work across district lines, work with landowners whose property falls outside of a district boundary or in areas that don't have an active a district in order to maximize the utilization of water conservation devices, systems and techniques.¹⁶

Section 582.30, F.S., provides that any time after five years from the organization of a district under ch. 582, F.S., any 10 percent of owners of land lying within the boundaries of such district may file a petition with DACS asking that the operations of the district be terminated and the existence of the district discontinued. Upon petition, DACS may conduct public meetings and hearings as necessary to assist in the consideration of termination of the district. Within 60 days after receiving the petition, DACS must give due notice of holding a referendum, as well as supervising and issuing regulations to govern the referendum. The ballot must be clearly marked with the propositions "For terminating the existence of the district" and "Against terminating the existence of the district" and provide a square before each proposition with a direction to insert an "x" mark in the square before one or the other of the propositions as the voter so chooses. All owners of land lying within the boundaries of the district are eligible to vote in such a referendum. If the referendum has been duly noticed and fairly conducted, no informalities relating to the conduct of the referendum can invalidate the referendum or its results. If two-thirds or more of the qualified voters in the referendum have voted for the discontinuance of the district, DACS must certify to the supervisors of the district the result of the referendum and that the continued operation of the district is not administratively practicable or feasible.

Alternatively, upon review and recommendation of the Soil and Water Conservation Council regarding the continued viability of the district, the Commissioner of Agriculture may dissolve or discontinue a district if the commissioner certifies that the continued operation of the district is not administratively practicable or feasible. If a district has failed to comply with any of the audit and financial reporting requirements of ch. 189, F.S., the commissioner, after review and confirmation by DACS' inspector general, may certify dissolution or discontinuance of the district without prior review and recommendation of the Soil and Water Conservation Council. Notice of the proposed certification of dissolution or discontinuance must be published once a week for two weeks in a newspaper of general circulation within the county or counties where the district is located. The notice must state the district's name, a general description of the territory included in the district, and requires that objections to the proposed dissolution or any claims against assets of the district must be filed with DACS no later than 60 days following the date of last publication.

Section 582.31, F.S., provides for a district to terminate the affairs of the district, upon receipt from the department of a certification that the department has found that the continued operation

¹⁶ DACS, Office of Agricultural Water Policy, *Florida Soil and Water Conservation Districts*, <http://www.floridaagwaterpolicy.com/Fswcd.html> (last visited Feb. 1, 2012).

of the district is not administratively practicable and feasible. The supervisors of the district must dispose of all district property at a public auction and pay over the proceeds of the sale to the State Treasury, which is placed to the credit of the department to be used to liquidate any legal obligations of the district at the time of its termination. The supervisors must file an application with the Department of State for the discontinuance of the district, and must include with the application the DACS certificate setting forth the determination the continued operation of the district is not administratively practicable and feasible. The application must reiterate that the property has been disposed of and the proceeds paid over to the State Treasury. A full accounting of the properties and the proceeds of the sale must be included in the application. The Department of State must then issue to the supervisors of the district a certificate of dissolution and record the certificate in the appropriate book of record.

Section 582.32, F.S., provides that once a certificate of dissolution has been issued, all land use regulations adopted and in force within the district are no longer valid. Contracts entered into by the district or supervisors of the district remain in effect for the period provided for in the contract, with DACS being substituted for the district or supervisors of the district as party to the contract. DACS shall be entitled to all benefits and subject to all liabilities under such contracts and have the same right and liability to perform, to require performance, and to modify or terminate such contracts by mutual consent as the district or supervisors of the district would have had. The dissolution of the district does not affect the lien of any judgment entered under the provisions of ch. 582, F.S., nor the pendency of any action instituted under the provisions of ch. 582, F.S. DACS can succeed to all the rights and obligations of the district or the supervisors of the district as to such liens and actions. DACS is not required to entertain petitions for the discontinuance of any district or conduct referenda upon such petitions in accordance with the provisions of ch. 582, F.S., more often than once in 5 years. If no statutory provisions control the dissolution of a special district, s. 189.4045(2), F.S., provides that the local general-purpose government assumes all assets and liabilities of the dissolved district.

Soil and Water Conservation Council

Section 582.06, F.S., creates the Soil and Water Conservation Council (council) within DACS, which is composed of 23 members. Eleven of the members are persons who have been involved in the practice of soil or water conservation, or in the development or implementation of interim measures or best management practices related to soil or water conservation. These eleven members must also be engaged in agriculture or an occupation related to the agricultural industry for at least five years at the time of their appointment. The remaining twelve members must include one representative each from DEP, the five water management districts (WMDs), the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida, the United States Department of Agriculture Natural Resources Conservation Service, the Florida Association of Counties, and the Florida League of Cities and two representatives of environmental interests.

The CS reduces the membership of the council from 23 members to 7 members, all of whom must be familiar with agricultural production and the challenges landowners face. DACS believes this change will enable members to more narrowly focus their efforts and to communicate more specifically with the Commissioner of Agriculture.

Brucellosis Vaccinations

Bovine brucellosis is a cattle disease that is near eradication in the United States after more than 50 years of efforts by state departments of agriculture, the U.S. Department of Agriculture, and the cattle industry. The Cooperative State-Federal Brucellosis Eradication Program is administered under a Memorandum of Understanding between the appropriate agency in each of the states and the U.S. Department of Agriculture. This program includes all of the activities associated with detecting, controlling, and eliminating brucellosis from domestic livestock in the U.S. One of the long term responsibilities of DACS' Division of Animal Industry has been the administration of Florida's Brucellosis Eradication Program. Each owner of a herd of cattle in the state must enroll the herd in the program to determine whether the herd is infected with brucellosis.

Florida was declared "Brucellosis Class Free" in 2001 and, except for specific geographic regions surrounding Yellowstone National Park, the remainder of the United States is also "Brucellosis Class Free." Although calfhood vaccination continues on a voluntary basis by some Florida producers, vaccine is no longer provided at state expense. Whole-herd vaccination is no longer needed or available to producers.¹⁷

Forest Protection

The Florida Forest Service (FFS) has the primary responsibility for prevention, detection, and suppression of wildfires wherever they may occur. It controls and authorizes open burning for the maintenance and continuous clearing of agricultural land. In 2005 and 2006, the FFS in cooperation with the University of Florida Institute for Food and Agricultural Sciences developed a certification program for Florida Pile Burners to raise the overall quality of the open burning program in Florida. In 2009, DACS amended the open burning rules and regulations to include the pile burner certification program. Rule 5I-2, Florida Administrative Code, outlines the steps necessary to become certified and the requirements to keep that certification. A burn permit must be obtained for burns relating to agriculture, silviculture and rural land clearing. Currently, there is some confusion regarding where persons wishing to burn for agricultural and silvicultural reasons need to acquire a burning authorization. The FFS does not charge a fee for these authorizations, but other governmental agencies do. Authorizing the FFS to have sole authority to authorize silviculture and agriculture open burning would eliminate double permitting by any other entity of the state and eliminate that cost to the public.

Tree Planting Programs

Section 589.277, F.S., authorizes the FFS to administer federal state and privately sponsored tree-planting programs to assist private rural landowners and urban communities. Contributions from governmental and private sources may be deposited into the Federal Grants Trust Fund. The FFS has the authority to develop and implement guidelines and procedures to utilize the financial resources of the fund for urban and rural reforestation. Grants to municipalities, counties, nonprofit organizations, and qualifying private landowners may be made from allocated monies for the purpose of purchasing, planting, and maintaining native tree species.

¹⁷ Analysis, Senate Bill 22-C, 2008 Legislative Session.

The FFS must work with the Department of Education to develop programs to teach the importance of trees in the urban, rural and global environment.

While current statutory language states that both governmental and private contributions may be deposited into the Federal Grants Trust Fund, the federal government does not allow private funds to be deposited into this trust fund. Therefore, the FFS cannot accept funds from a non-federal source.

Creation of Certain State Forests

The 2011 Legislature directed the Florida Forest Service to designate areas of state forests as “Wounded Warrior Special Hunt Areas” to honor wounded veterans and service members, and to provide outdoor recreational opportunities for eligible veterans and service members.¹⁸ Admittance to these areas is limited to:

- persons who are active duty members of any branch of the United States Armed Forces and who have a combat-related injury; or
- veterans who served during a period of wartime service or peacetime service and have a service-connected disability or were discharged from military service because of a disability acquired or aggravated while serving on active duty.

This bill renames the “Wounded Warrior Special Hunt Area” as the “Operation Outdoor Freedom Special Hunt Area” because it has come to the attention of DACS that another organization is using the term “Wounded Warrior.”

Aquaculture Certificate of Registration

Any person engaging in aquaculture must be certified by DACS and pay an annual registration fee of \$100. This would include all schools with aquaculture education programs. DACS believes that exposure to its aquaculture certification program helps to educate the next generation of Floridians on the benefits of aquaculture. This includes potential career paths, proper handling of non-native aquatic species and showing hands-on practical educational opportunities. Increasing outreach and educational efforts to schools has been a priority of the Aquaculture Review Council. There are approximately 15 programs in schools that are currently certified.

Aquaculture Interagency Coordinating Council

The Aquaculture Interagency Coordinating Council was created in 1984 to facilitate and coordinate much needed interagency communication during the time that aquaculture regulations were divided among many different state agencies. With the consolidation of regulations via the Aquaculture Certification program and development of Aquaculture Best Management Practices, there is no longer the compelling need for an annual meeting and associated annual report of various state agencies to discuss issues of concern. Regular communication between the respective state agencies, usually between DACS and the Fish and Wildlife Conservation Commission, readily takes place now. In addition, several of the agencies originally designated

¹⁸ CS/HB 663, 2011 Legislative Session.

as members of the council either no longer exist or no longer have the statutory responsibilities they had when the council was created including the Office of Tourism, Trade and Economic Development, the Department of Community Affairs, and the Department of Labor and Employment Security.

Federal Packers and Stockyard Act

The federal Packers and Stockyards Act (PSA) requires certain regulated entities to obtain a bond before the U.S. Department of Agriculture will allow them to do business. The PSA bond is a financial instrument a packer obtains from a private bond company stating the bond company will meet the packer's financial obligations to pay sellers of livestock if the packer is unable to do so.

In order to meet the bonding requirements of PSA, a dealer may:

- purchase a surety bond from an insurance company or other financial institution that issues surety bonds. The issuing company will act as trustee on the surety bond;
- receive an irrevocable letter of credit from a bank that would be held in trust for the benefit of sellers that might need to file a claim against the dealer for failure to pay; or
- purchase a certificate of deposit from a financial institution to be held in trust for the benefit of sellers that might need to file a claim against the dealer for failure to pay.

In the instance of a surety bond purchased from an insurance company, generally the insurance company would act as trustee in the event a claim was filed against the bond. When an irrevocable letter of credit or certificate of deposit is issued to meet the bonding requirements of the PSA, a trust agreement must be executed placing the irrevocable letter of credit or certificate of deposit in trust for the benefit of sellers that might need to file a claim against the dealer for failure to pay. A trustee must be named to administer the settlement of claims.¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 20.14, F.S., to establish the Division of Food, Nutrition and Wellness within the Department of Agriculture and Consumer Services (DACS). This new division will administer the school food and nutrition programs that were transferred to DACS during the 2011 Legislative Session.

Section 2 amends s. 253.002, F.S., to authorize DACS to act as agent to the Board of Trustees for the Internal Improvement Trust Fund for all matters concerning conservation easements that are acquired under the Rural and Family Lands Protection Program.

Section 3 amends s. 379.2523, F.S., to delete obsolete references to the Aquaculture Interagency Coordinating Council which is abolished in section 49 of this CS.

¹⁹ Email from Grace Lovett, Director of the Office of Legislative Affairs, DACS (Feb. 6, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

Section 4 amends s. 379.2524, F.S., to delete provisions that prohibit compensation and authorize members of the Sturgeon Production Working Group to be reimbursed for per diem and travel expenses incurred while participating in business involving the group.

Section 5 amends s. 388.161, F.S., to remove obsolete language that refers to pesticidal practices that are no longer legal. It revises the products that mosquito control districts are authorized to use to control mosquito breeding.

Section 6 amends s. 388.201, F.S., to change the date from September 15 to September 30 for mosquito districts to submit their certified budgets to DACS.

Section 7 amends s. 388.323, F.S., to eliminate the requirement that mosquito control programs offer surplus property to all local governments or private nonprofit agencies before disposing of the property.

Section 8 repeals s. 388.42, F.S., relating to the John A. Mulrennan, Sr., Arthropod Research Laboratory, which has been closed by the Florida Agricultural and Mechanical University.

Section 9 amends s. 388.46, F.S., to remove the Florida Agricultural and Mechanical University from membership of the Florida Coordinating Council on Mosquito Control. It also removes references of reporting requirements to the Florida Coastal Management Program Interagency Management Committees. This section specifies that the Subcommittee on Managed Marshes take into account the mosquito control source reduction implications and natural resource interests when providing technical assistance and guidance on saltmarsh management plans and research proposals.

Section 10 amends s. 493.6104, F.S., to delete provisions that prohibit compensation and authorize members of the Private Investigation, Recovery, and Security Advisory Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 11 amends s. 500.09, F.S., to authorize DACS to adopt rules to incorporate by reference the current federal model Food Code issued by the Food and Drug Administration and Public Health Service of the United States Department of Health and Human Services.

Section 12 amends s. 500.147, F.S., to eliminate a food safety pilot program for the inspection of food establishments and vehicles which was implemented by DACS in 1997. There has been no recorded participation in this program since 2004.

Section 13 amends s. 502.014, F.S., to delete provisions relating to a permitting program for persons who test milk or milk products for fat content.

Section 14 amends s. 502.053, F.S., to delete duplicative permitting requirements for milkfat testers. The USDA Milk Marketing Administration provides these same functions. It also deletes DACS' authority to charge applicants a fee not to exceed \$125 for a milkfat tester's license.

Section 15 amends s. 570.0705, F.S., to prohibit members of advisory bodies from receiving per diem and reimbursement for travel expenses under certain circumstances. It deletes a provision that prohibits members from receiving compensation for their services.

Section 16 repeals s. 570.071, F.S., relating to the Florida Agricultural Exposition in Indiantown, Florida, which was closed in 2008.

Section 17 amends s. 570.074, F.S., to update the name of the Office of Energy and Water to the Office of Agricultural Water Policy and to revise the jurisdiction of the office.

Section 18 amends s. 570.18, F.S., to correct a cross-reference.

Section 19 repeals s. 570.29, F.S., relating to a duplicative divisions list included in the Department of Agriculture and Consumer Services. The list is contained in s. 20.14, F.S.

Section 20 repeals s. 570.34, F.S., to abolish the Plant Industry Technical Council.

Section 21 creates s. 570.451, F.S., to establish the Agricultural Feed, Seed, and Fertilizer Advisory Council within DACS. The council will be composed of 15 members who represent DACS, IFAS, and representatives of specified industries. Members will be appointed by the Commissioner of Agriculture for a term of up to four years. The CS specifies the powers and duties of the council, which include organization, frequency of meetings, procedures and recordkeeping. The council must also review relevant documents and provide DACS with advice and recommendations on issues concerning the regulation of agricultural feed, seed, and fertilizer.

Section 22 amends s. 570.53, F.S., to remove a cross-reference.

Section 23 amends s. 570.54, F.S., to remove a cross-reference.

Section 24 amends s. 573.112, F.S., to provide for members of the Citrus Research and Development Foundation, Inc. (Foundation), to be reimbursed by the foundation for per diem and travel expenses incurred while serving in an advisory capacity to DACS. In the 2011 Session, payment of travel expenses and per diem was eliminated for the Foundation, as well as other councils and working groups, to reduce government expenses. The Foundation exists as a Florida not-for-profit corporation, organized as a Direct Support Organization certified by the University of Florida's board of trustees, and operating for the benefit of the citrus industry and the state of Florida.²⁰ DACS has indicated that since the Foundation is supported by private sources, its members should have kept the authority to be reimbursed for per diem and travel expenses incurred while participating in business involving the Foundation.

Section 25 amends s. 573.118, F.S., to delete a requirement for DACS to cause an annual audit, by a certified public accountant, of collections and expenditures from agricultural commodity marketing order assessments. The CS would require specific procedures to maintain marketing

²⁰ Florida Citrus Mutual, *Florida Citrus Research and Development Foundation Inc.*, available at <http://www.flcitrusmutual.com/files/9979ddcb-1713-47bb-8.pdf> (last visited Feb. 1, 2012).

order records within the state's accounting system. The CS would also require a review of accounts, if requested by an advisory council, which will reduce the administrative burden that mostly affects citrus, peanut, and tobacco marketing orders.

Section 26 amends s. 576.045, F.S., to extend the expiration date for subsections (1), (2), (3), (4), and (6) of s. 576.045, F.S. from December 31, 2012, to December 31, 2022. It also extends the expiration date for subsections (5) and (7) of s. 576.045, F.S., from December 31, 2017, to December 31, 2027. This change continues current revenue from the collection of a tonnage fee on fertilizers containing nitrogen or phosphorus that is sold in this state.

Section 27 amends s. 576.071, F.S., to remove a reference to the Fertilizer Technical Council.

Section 28 repeals s. 576.091, F.S., to eliminate the Fertilizer Technical Council.

Section 29 repeals s. 578.30, F.S., to eliminate the Seed Technical Council.

Section 30 amends s. 580.041, F.S., to clarify that commercial feed distributors must maintain records and a bookkeeping system that will allow DACS to track the type and tonnage of commercial feed sold in Florida. It requires quarterly reporting of the number of tons of feed distributed on forms furnished by DACS. It also provides penalties for violations by distributors of commercial feed.

Section 31 amends s. 580.131, F.S., to revise requirements for the assessment of penalties and enforcement of violations by manufacturers and distributors of commercial feed or feedstuff. It authorizes DACS to assess penalties. It requires registered distributors of commercial feed to pay penalties to consumers within sixty days after DACS notifies a registrant in writing of any penalty. It imposes additional penalties for nonpayment. It provides for the deposit and use of proceeds from any penalties paid to DACS if the consumer cannot be identified.

Section 32 repeals s. 580.151, F.S., to eliminate the Commercial Feed Technical Council.

Section 33 amends s. 581.011, F.S., to remove a definition for "technical council," referring to the Plant Industry Technical Council, to conform to the repeal of the council in Section 21 of the bill.

Section 34 amends s. 581.145, F.S., to revise requirements for the issuance of permits to aquaculture producers for the transport and sale of water hyacinths to other states and countries.

Section 35 amends s. 582.06, F.S., to revise requirements for the composition and appointment of members of the Soil and Water Conservation Council. It reduces the number of council members from 23 to 7, who are all appointed by the Commissioner of Agriculture. Included in this reduction are members from DEP, the five WMDs, IFAS, the U.S. Department of Agriculture Natural Resources Conservation Service, the Florida Association of Counties, the Florida League of Cities and two members representing environmental interests. It deletes provisions that authorize members of the council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 36 amends s. 582.20, F.S., to authorize Soil and Water Conservation Districts (districts) to work across district boundaries, or on lands where no district exists, or on lands within another district with the concurrence of such district in order to maximize the utilization of water conservation devices, systems and techniques.

Section 37 amends s. 582.29, F.S., to revise the jurisdiction of districts to include territory contiguous to a district's boundaries.

Section 38 amends s. 582.30, F.S., to revise requirements and procedures for the dissolution or discontinuance of a district.

Section 39 amends s. 582.31, F.S., to revise requirements for payment of the proceeds from the sale of property of a dissolving district to the State Treasury. It clarifies that proceeds from public auction be placed to the credit of the district to provide for any legal obligations.

Section 40 amends s. 582.32, F.S., to remove DACS as the agency responsible for contracts, assets and liabilities of a dissolved soil and water conservation district. The CS transfers responsibility from DACS to local general-purpose governments, pursuant to s. 189.4045(2), F.S.

Section 41 repeals s. 585.155, F.S., relating to the inspection and vaccination of cattle for brucellosis, since Florida was declared free of bovine brucellosis in 2001.

Section 42 repeals s. 589.03, F.S., to delete provisions that authorize members of the Florida Forestry Council to be reimbursed for per diem and travel expenses incurred while participating in business involving the council.

Section 43 amends s. 589.19, F.S., to rename the "Wounded Warrior Special Hunt Area" of the state forests as an "Operation Outdoor Freedom Special Hunt Area." It also conforms obsolete references to the former Division of Forestry, now the Florida Forest Service.

Section 44 amends s. 589.277, F.S., to allow contributions from governmental and private sources for tree planting programs to be deposited into the Incidental Trust Fund as well as the Federal Grants Trust Fund. It also conforms obsolete references to the former Division of Forestry.

Section 45 amends s. 590.02, F.S., to preempt state and local government agencies, other than the Florida Forest Service, from enforcing regulations concerning broadcast burning or agricultural or silvicultural pile burning except under certain circumstances. It also conforms obsolete references to the former Division of Forestry.

Section 46 amends s. 597.0021, F.S., to remove a reference to the obsolete Aquaculture Interagency Coordinating Council.

Section 47 amends s. 597.003, F.S., to remove references to the obsolete Aquaculture Interagency Coordinating Council.

Section 48 amends s. 597.004, F.S., to provide an annual registration fee waiver to all elementary, middle, high school, and vocational schools that participate in the aquaculture certification program.

Section 49 amends s. 597.005, F.S., to remove references to the obsolete Aquaculture Interagency Coordinating Council. It also decreases the membership of the Aquaculture Review Council, since there will no longer be a member of the Aquaculture Interagency Coordinating Council to serve on the council.

Section 50 repeals s. 597.006, F.S., to eliminate the Aquaculture Interagency Coordinating Council.

Section 51 amends s. 604.21, F.S., to authorize the Commissioner of Agriculture, or the Commissioner's designee, to act as a trustee for a bond or security in compliance with the PSA. The CS also authorizes the Commissioner of Agriculture to enter into agreements with the U.S. Department of Agriculture to implement the PSA.

Section 52 amends s. 616.252, F.S., to provide members of the Florida State Fair Authority with reimbursement for per diem and travel expenses incurred while participating in business involving the authority.

Section 53 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

See Government Sector Impact section.

B. Private Sector Impact:

DACS estimates that:

- Amending s. 253.002, F.S., to authorize DACS to perform all staff duties and functions in regards to the Rural and Family Lands Protection Program, will result in

a decrease in the time it take landowners to enter into an easement agreement with the state.

- Amending s. 580.131, F.S., will allow persons who have purchased commercial feed that has been distributed in violation of ch. 580, F.S., to seek administrative action, as well as legal action, to recover penalties.

C. Government Sector Impact:

Revenues

DACS estimates that there will be:

- A reduction of approximately \$1,500-\$2,000 annually in non-recurring revenues from the waiver of the aquaculture certification fee for schools.
- An increase of approximately \$3,600 annually in recurring revenues as a result of feed distributors being required to report the tons of feed distributed in the state.
- A reduction of approximately \$4,700 annually in recurring revenues as a result of the elimination of the milkfat tester permits.

Expenditures

DACS estimates that there will be a reduction of approximately \$11,300 annually in recurring expenditures if it is not required to pay per diem and travel expenses for the Private Investigation, Recovery and Security Advisory Council.

Other Fiscal Comments

- Amending s. 388.201, F.S., will allow local governments additional time to prepare budget information regarding arthropod control before it must be submitted to DACS for review.
- Amending s. 388.323, F.S., will delete a requirement for local governments to offer mosquito control equipment to governmental units or private non-profit agencies that most likely would have no use for it.
- Amending s. 573.118, F.S., will delete a requirement that audits of marketing order accounts to be performed by a certified public accountant, resulting in a reduced administrative burden and saving the cost of an expensive audit.
- Amending s. 576.045, F.S., will extend the expiration dates for the fertilizer tonnage fee, allowing DACS to continue to collect approximately \$1 million annually that is used towards the development of best management practices and nutrient pollution abatement efforts.
- Amending s. 582.31, F.S., will remove DACS from responsibility for any outstanding contracts upon dissolution of a soil and water conservation district.
- Amending s. 590.02, F.S., will allow DACS to receive private funds to administer tree-planting programs.
- Amending s. 597.004, F.S., may cause DACS to lose approximately \$2,000 annually in aquaculture registration fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Environmental Preservation and Conservation on February 6, 2012:

- Clarifies when a soil and water conservation district is dissolved all assets and liabilities transfer to the local general-purpose government pursuant to s. 189.4045(2), F.S.;
- Authorizes the Commissioner of Agriculture, or the Commissioner's designee, to act as a trustee for a bond or security in compliance with the PSA; and
- Authorizes the Commissioner of Agriculture to enter into agreements with the U.S. Department of Agriculture to implement the PSA.

CS by Agriculture Committee on January 23, 2012:

CS for Senate Bill 1254 is different from Senate Bill 1254 in that it:

- Deletes Section 15 of Senate Bill 1254 which provides direct statutory authority to the Department of Agriculture and Consumer Services to distribute grants funds to farmers.

B. Amendments:

None.



568672

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 1097 and 1098
insert:

Section 40. Subsection (1) of section 582.32, Florida
Statutes, is amended to read:

582.32 Continuance of existing contracts, etc.—

(1) Upon issuance of a certificate of dissolution, s.
189.4045(2) applies, and all land use regulations theretofore
adopted and in force within such districts shall be of no
further force and effect. ~~All contracts theretofore entered~~
~~into, to which the district or supervisors are parties, shall~~



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~~remain in force and effect for the period provided in such
contracts. The Department of Agriculture and Consumer Services
shall be substituted for the district or supervisors as party to
such contracts. The department shall be entitled to all benefits
and subject to all liabilities under such contracts and shall
have the same right and liability to perform, to require
performance, and to modify or terminate such contracts by mutual
consent or otherwise, as the supervisors of the district would
have had. Such dissolution shall not affect the lien of any
judgment entered under the provisions of this chapter, nor the
pendency of any action instituted under the provisions of this
chapter, and the department shall succeed to all the rights and
obligations of the district or supervisors as to such liens and
actions.~~

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

And the title is amended as follows:

Delete line 109

and insert:

Treasury; amending s. 582.32, F.S.; revising the
procedures on continuing existing contracts; repealing
s. 585.155, F.S., relating to the



266358

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2012	.	
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	.	
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The Committee on Environmental Preservation and Conservation
(Sobel) recommended the following:

Senate Amendment (with title amendment)

Between lines 1419 and 1420
insert:

Section 50. Subsection (12) is added to section 604.21,
Florida Statutes, to read:

604.21 Complaint; investigation; hearing.—

(12) Notwithstanding any other law to the contrary, the
Commissioner of Agriculture or the commissioner's authorized
designee may act as trustee on any bond or other form of
security posted with the United States Department of Agriculture
in compliance with the Packers and Stockyards Act. The



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Commissioner of Agriculture may enter into agreements with the
United States Department of Agriculture as necessary to
implement the Packers and Stockyards Act.

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

And the title is amended as follows:

Between lines 140 and 141

insert:

s. 604.21, F.S.; authorizing the Commissioner of
Agriculture to act as trustee on bonds posted by the
United States Department of Agriculture under certain
circumstances; authorizing the Commissioner of
Agriculture to enter into agreements with the United
States Department of Agriculture; amending

By the Committee on Agriculture; and Senator Siplin

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1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 20.14, F.S.;
4 establishing the Division of Food, Nutrition, and
5 Wellness within the department; amending s. 253.002,
6 F.S.; requiring the department to perform certain
7 staff duties and functions for the Board of Trustees
8 of the Internal Improvement Trust Fund related to
9 conservation easements; amending s. 379.2523, F.S.;
10 deleting references to the Aquaculture Interagency
11 Coordinating Council to conform to the repeal by the
12 act of provisions creating the council; amending s.
13 379.2524, F.S.; deleting provisions that prohibit
14 compensation and authorize per diem and travel
15 expenses for members of the Sturgeon Production
16 Working Group; amending s. 388.161, F.S.; revising the
17 substances that mosquito control districts are
18 authorized to use for controlling mosquito breeding;
19 amending s. 388.201, F.S.; revising the date by which
20 mosquito control districts must submit their certified
21 budgets for approval by the department; amending s.
22 388.323, F.S.; revising procedures for a county's or
23 mosquito control district's disposal of certain
24 surplus equipment; repealing s. 388.42, F.S., relating
25 to the John A. Mulrennan, Sr., Arthropod Research
26 Laboratory; amending s. 388.46, F.S.; revising the
27 membership and responsibilities of the Florida
28 Coordinating Council on Mosquito Control; revising the
29 duties of the council's Subcommittee on Managed

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30 Marshes; amending s. 493.6104, F.S.; deleting
31 provisions that prohibit compensation and authorize
32 per diem and travel expenses for members of the
33 Private Investigation, Recovery, and Security Advisory
34 Council; amending s. 500.09, F.S.; authorizing the
35 department to adopt rules incorporating by reference
36 the federal model Food Code; amending ss. 500.147 and
37 502.014, F.S.; deleting provisions for a food safety
38 pilot program and a permitting program for persons who
39 test milk or milk products; amending s. 502.053, F.S.;
40 deleting requirements for milkfat tester licenses;
41 amending s. 570.0705, F.S.; prohibiting members of
42 certain advisory bodies from receiving per diem or
43 travel expenses except under certain circumstances;
44 deleting a provision that prohibits members from
45 receiving compensation for their services; repealing
46 s. 570.071, F.S., relating to the Florida Agricultural
47 Exposition and the receipt and expenditure of funds
48 for the exposition; amending s. 570.074, F.S.;
49 renaming and revising the policy jurisdiction of the
50 department's Office of Energy and Water; amending s.
51 570.18, F.S.; conforming cross-references; repealing
52 s. 570.29, F.S., relating to divisions of the
53 Department of Agriculture and Consumer Services;
54 repealing s. 570.34, F.S., relating to the Plant
55 Industry Technical Council; creating s. 570.451, F.S.;
56 creating the Agricultural Feed, Seed, and Fertilizer
57 Advisory Council; providing for the council's powers
58 and duties and the appointment of council members;

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amending ss. 570.53 and 570.54, F.S.; conforming cross-references; amending s. 573.112, F.S.; providing that members of the Citrus Research and Development Foundation's board of directors are entitled to reimbursement for per diem and travel expenses; amending s. 573.118, F.S.; revising requirements for the accounting and review of collections and expenditures from agricultural commodity marketing order assessments; deleting requirements for the audit of such accounts; amending s. 576.045, F.S.; revising the expiration dates of certain provisions regulating fertilizers containing nitrogen or phosphorous; amending s. 576.071, F.S.; deleting a reference to the Fertilizer Technical Council to conform to the repeal by the act of provisions creating the council; repealing ss. 576.091 and 578.30, F.S., relating to the Fertilizer Technical Council and Seed Technical Council; amending s. 580.041, F.S.; revising the reporting requirements and penalties for violations by distributors of commercial feed; amending s. 580.131, F.S.; revising requirements for the assessment of penalties and enforcement of violations by manufacturers and distributors of commercial feed or feedstuff; authorizing the department to assess penalties; requiring registered distributors of commercial feed to pay such penalties to consumers within a specified period; imposing additional penalties for nonpayment; providing for the deposit and use of certain funds paid to the department;

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88 repealing s. 580.151, F.S., relating to the Commercial
89 Feed Technical Council; amending s. 581.011, F.S.;
90 conforming provisions; amending s. 581.145, F.S.;
91 revising requirements for the issuance of permits to
92 aquaculture producers for the transport and sale of
93 water hyacinths to other states and countries;
94 amending s. 582.06, F.S.; revising requirements for
95 the composition and appointment of members of the Soil
96 and Water Conservation Council and the reimbursement
97 of members for per diem and travel expenses; amending
98 ss. 582.20 and 582.29, F.S.; revising the geographic
99 jurisdiction of soil and water conservation districts
100 to include certain territory outside of the districts'
101 boundaries; amending s. 582.30, F.S.; revising
102 requirements and procedures for the dissolution or
103 discontinuance of soil and water conservation
104 districts; revising notice requirements for such
105 proposed dissolution or discontinuance; amending s.
106 582.31, F.S.; revising requirements for payment of the
107 proceeds from the sale of property of a dissolving
108 soil and water conservation district to the State
109 Treasury; repealing s. 585.155, F.S., relating to the
110 inspection and vaccination of cattle for brucellosis;
111 repealing s. 589.03, F.S., relating to the
112 compensation and reimbursement for per diem and travel
113 expenses of members of the Florida Forestry Council;
114 amending s. 589.19, F.S.; renaming the "Wounded
115 Warrior Special Hunt Areas" of the state forests;
116 conforming obsolete references to the former Division

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of Forestry; amending s. 589.277, F.S.; revising requirements for the deposit of contributions for tree planting programs; conforming obsolete references to the former Division of Forestry; amending s. 590.02, F.S.; specifying that state and local government agencies other than the Florida Forest Service may not enforce regulations of broadcast burning or agricultural and silvicultural pile burning except under certain circumstances; conforming obsolete references to the former Division of Forestry; amending ss. 597.0021 and 597.003, F.S.; deleting references to the Aquaculture Interagency Coordinating Council to conform to the repeal by the act of provisions creating the council; amending s. 597.004, F.S.; authorizing the waiver of aquaculture registration fees for certain schools; amending s. 597.005, F.S.; revising the composition of the Aquaculture Review Council to conform to the repeal by the act of provisions creating the Aquaculture Interagency Coordinating Council; revising the legislative committees to whom the Aquaculture Review Council must provide analyses of unresolved industry issues; repealing s. 597.006, F.S., relating to the Aquaculture Interagency Coordinating Council; amending s. 616.252, F.S.; providing for the reimbursement of members of the Florida State Fair Authority for per diem and travel expenses; providing an effective date.

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

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Section 1. Paragraph (m) is added to subsection (2) of section 20.14, Florida Statutes, to read:

20.14 Department of Agriculture and Consumer Services.—
There is created a Department of Agriculture and Consumer Services.

(2) The following divisions of the Department of Agriculture and Consumer Services are established:

(m) Food, Nutrition, and Wellness.

Section 2. Subsection (1) of section 253.002, Florida Statutes, is amended to read:

253.002 Department of Environmental Protection, water management districts, Fish and Wildlife Conservation Commission, and Department of Agriculture and Consumer Services; duties with respect to state lands.—

(1) The Department of Environmental Protection shall perform all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees of the Internal Improvement Trust Fund. However, upon the effective date of rules adopted pursuant to s. 373.427, a water management district created under s. 373.069 shall perform the staff duties and functions related to the review of any application for authorization to use board of trustees-owned submerged lands necessary for an activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4). ~~and~~ The Department of Agriculture and Consumer Services shall perform the staff duties and

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functions related to the review of applications and compliance with conditions for use of board of trustees-owned submerged lands under authorizations or leases issued pursuant to ss. 253.67-253.75 and 597.010 and the acquisition, administration, and disposition of conservation easements pursuant to s. 570.71. Unless expressly prohibited by law, the board of trustees may delegate to the department any statutory duty or obligation relating to the acquisition, administration, or disposition of lands, title to which is or will be vested in the board of trustees. The board of trustees may also delegate to any water management district created under s. 373.069 the authority to take final agency action, without any action on behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4). This water management district responsibility under this subsection shall be subject to the department's general supervisory authority pursuant to s. 373.026(7). The board of trustees may also delegate to the Department of Agriculture and Consumer Services the authority to take final agency action on behalf of the board on applications to use board of trustees-owned submerged lands for any activity for which that department has responsibility pursuant to ss. 253.67-253.75, 369.25, 369.251, and 597.010. However, the board of trustees shall retain the authority to take final agency action on establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases. Upon issuance of an

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204 aquaculture lease or other real property transaction relating to
205 aquaculture, the Department of Agriculture and Consumer Services
206 must send a copy of the document and the accompanying survey to
207 the Department of Environmental Protection. The board of
208 trustees may also delegate to the Fish and Wildlife Conservation
209 Commission the authority to take final agency action, without
210 any action on behalf of the board, on applications for
211 authorization to use board of trustees-owned submerged lands for
212 any activity regulated under ss. 369.20 and 369.22.

213 Section 3. Paragraph (a) of subsection (5) and paragraph
214 (b) of subsection (6) of section 379.2523, Florida Statutes, are
215 amended to read:

216 379.2523 Aquaculture definitions; marine aquaculture
217 products, producers, and facilities.—

218 (5) The department shall:

219 (a) Coordinate with the Aquaculture Review Council, ~~the~~
220 ~~Aquaculture Interagency Coordinating Council,~~ and the Department
221 of Agriculture and Consumer Services when developing criteria
222 for aquaculture general permits.

223 (6) The Fish and Wildlife Conservation Commission shall
224 encourage the development of aquaculture in the state through
225 the following:

226 (b) Facilitating aquaculture research on life histories,
227 stock enhancement, and alternative species, and providing
228 research results that would assist in the evaluation,
229 development, and commercial production of candidate species for
230 aquaculture, including:

231 1. Providing eggs, larvae, fry, and fingerlings to
232 aquaculturists when excess cultured stocks are available from

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the commission's facilities and the culture activities are consistent with the commission's stock enhancement projects. Such stocks may be obtained by reimbursing the commission for the cost of production on a per-unit basis. Revenues resulting from the sale of stocks shall be deposited into the trust fund used to support the production of such stocks.

2. Conducting research programs to evaluate candidate species when funding and staff are available.

3. Encouraging the private production of marine fish and shellfish stocks for the purpose of providing such stocks for statewide stock enhancement programs. When such stocks become available, the commission shall reduce or eliminate duplicative production practices that would result in direct competition with private commercial producers.

4. Developing a working group, in cooperation with the Department of Agriculture and Consumer Services and, the Aquaculture Review Council, ~~and the Aquaculture Interagency Coordinating Council~~, to plan and facilitate the development of private marine fish and nonfish hatcheries and to encourage private/public partnerships to promote the production of marine aquaculture products.

Section 4. Paragraph (c) of subsection (3) of section 379.2524, Florida Statutes, is amended to read:

379.2524 Commercial production of sturgeon.—

(3) MEETINGS; PROCEDURES; RECORDS.—The working group shall meet at least twice a year and elect, by a quorum, a chair and vice chair.

(c) A quorum shall consist of a majority of the group members. ~~Members of the group shall not receive compensation,~~

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but shall be entitled to per diem and travel expenses, including attendance at meetings, as allowed public officers and employees pursuant to s. 112.061.

Section 5. Subsection (1) of section 388.161, Florida Statutes, is amended to read:

388.161 District boards of commissioners; powers and duties.—

(1) The board of commissioners may do any and all things necessary for the control and elimination of all species of mosquitoes and other arthropods of public health importance and the board of commissioners is specifically authorized to provide for the construction and maintenance of canals, ditches, drains, dikes, fills, and other necessary works and to install and maintain pumps, excavators, and other machinery and equipment, to use pesticides registered ~~oil, larvicide paris green, or any other chemicals approved~~ by the department but only in such quantities as may be necessary to control mosquito breeding and not be detrimental to fish life.

Section 6. Subsection (4) of section 388.201, Florida Statutes, is amended to read:

388.201 District budgets; hearing.—

(4) The governing board:

(a) Shall consider ~~give consideration to~~ objections filed against adoption of the tentative detailed work plan budget and in its discretion may amend, modify, or change such budget; and

(b) Shall by September 30 ~~15 following~~ adopt and execute on a form furnished by the department a certified budget for the district which shall be the operating and fiscal guide for the district. Certified copies of this budget shall be submitted by

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September 30 ~~15~~ to the department for approval.

Section 7. Subsections (1) and (2) of section 388.323, Florida Statutes, are amended to read:

388.323 Disposal of surplus property.—Surplus property shall be disposed of according to the provisions set forth in s. 274.05 with the following exceptions:

(1) Serviceable equipment no longer needed by a county or district shall first be offered to any or all other counties or districts engaged in arthropod control at a price established by the board of commissioners owning the equipment. ~~If no acceptable offer is received within a reasonable time, the equipment shall be offered to such other governmental units or private nonprofit agencies as provided in s. 274.05.~~

(2) The alternative procedure for disposal of surplus property, as prescribed in s. 274.06, shall be followed if it is ~~has been~~ determined that no other county or, district engaged in arthropod control, ~~governmental unit, or private nonprofit agency~~ has need for the equipment.

Section 8. Section 388.42, Florida Statutes, is repealed.

Section 9. Subsection (2) of section 388.46, Florida Statutes, is amended to read:

388.46 Florida Coordinating Council on Mosquito Control; establishment; membership; organization; responsibilities.—

(2) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.—

(a) *Membership*.—The Florida Coordinating Council on Mosquito Control shall be comprised of the following representatives or their authorized designees:

1. The Secretary of Environmental Protection. and

2. The State Surgeon General. ~~+~~

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320 ~~3.2.~~ The executive director of the Fish and Wildlife
321 Conservation Commission.~~†~~

322 ~~4.3.~~ The state epidemiologist.;

323 ~~5.4.~~ The Commissioner of Agriculture.~~†~~~~and~~

324 6. The Board of Trustees of the Internal Improvement Trust
325 Fund.

326 ~~7.5.~~ Representatives from:

327 a. The University of Florida, Institute of Food and
328 Agricultural Sciences, Florida Medical Entomological Research
329 Laboratory.~~†~~

330 ~~b. Florida Agricultural and Mechanical University;~~

331 ~~b.e.~~ The United States Environmental Protection Agency.~~†~~

332 ~~c.d.~~ The United States Department of Agriculture, Insects
333 Affecting Man Laboratory.~~†~~

334 ~~d.e.~~ The United States Fish and Wildlife Service.~~†~~

335 ~~8.f.~~ Two mosquito control directors to be nominated by the
336 Florida Mosquito Control Association, two representatives of
337 Florida environmental groups, and two private citizens who are
338 property owners whose lands are regularly subject to mosquito
339 control operations, to be appointed to 4-year terms by the
340 Commissioner of Agriculture;~~†~~~~and~~

341 ~~g. The Board of Trustees of the Internal Improvement Trust~~
342 ~~Fund.~~

343 (b) *Organization.*—The council shall be chaired by the
344 Commissioner of Agriculture or the commissioner's authorized
345 designee. A majority of the membership of the council shall
346 constitute a quorum for the conduct of business. The chair shall
347 be responsible for recording and distributing to the members a
348 summary of the proceedings of all council meetings. The council

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shall meet at least three times each year, or as needed. The council may designate subcommittees from time to time to assist in carrying out its responsibilities, provided that the Subcommittee on Managed Marshes shall be the first subcommittee appointed by the council. The subcommittee shall continue to provide technical assistance and guidance on saltmarsh ~~mosquito impoundment~~ management plans and ~~develop and review~~ research proposals, taking into account the mosquito control source reduction implications and natural resource interests in these habitats ~~for mosquito source reduction techniques~~.

(c) *Responsibilities.*—The council shall:

1. Develop and implement guidelines to assist the department in resolving disputes arising over the control of arthropods on publicly owned lands.

~~2. Identify and recommend to Florida Agricultural and Mechanical University research priorities for arthropod control practices and technologies.~~

~~2.3.~~ Develop and recommend to the department a request for proposal process for arthropod control research.

~~3.4.~~ Identify potential funding sources for research or implementation projects and evaluate and prioritize proposals upon request by the funding source.

~~4.5.~~ Prepare and present reports, as needed, on arthropod control activities in the state to the Pesticide Review Council, ~~the Florida Coastal Management Program Interagency Management Committee,~~ and other governmental organizations, as appropriate.

Section 10. Subsections (7) and (8) of section 493.6104, Florida Statutes, are renumbered as subsections (6) and (7), respectively, and present subsection (6) of that section is

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amended to read:

493.6104 Advisory council.—

~~(6) Council members shall serve without pay; however, state per diem and travel allowances may be claimed for attendance at officially called meetings as provided by s. 112.061.~~

Section 11. Subsection (3) of section 500.09, Florida Statutes, is amended to read:

500.09 Rulemaking; analytical work.—

(3) The department may adopt rules necessary for the efficient enforcement of this chapter. Such rules must be consistent with those adopted under the federal act in regard to food and, to this end, may adopt by reference those rules and the current edition of the model Food Code issued by the Food and Drug Administration and Public Health Service of the United States Department of Health and Human Services, when applicable and practicable.

Section 12. Subsection (6) of section 500.147, Florida Statutes, is amended to read:

500.147 Inspection of food establishments and vehicles, ~~food safety pilot program.~~

~~(6) The department is authorized to initiate a food safety pilot program establishing a special, documented food inspection program based on sound science principles of the Hazard Analysis Critical Control Point (HACCP) system and involving cooperative compliance efforts of both the department and the food establishment to assure consumers a safe, wholesome, and properly labeled food supply. A food establishment shall be eligible for such a pilot program only if program criteria are met. Criteria used to establish this special program include,~~

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but are not limited to, the following:

~~(a) A good inspection history over a specified time period.~~

~~(b) Certified food manager activities demonstrated to be effective in assessing food safety practices and correcting deficiencies at the food establishment.~~

~~(c) An active food training program in place for employees.~~

~~(d) "Self inspection" records of the food establishment made available for review by the department.~~

~~(e) Written sanitation standard operation procedures in place and the food establishment's verification records made available for review by the department.~~

~~(f) Freezer/refrigeration units and hot-cold temperature logs or recording charts made available for review by the department.~~

~~(g) Records of corrective action to resolve food safety deficiencies made available for review by the department.~~

Section 13. Subsections (4) through (7) of section 502.014, Florida Statutes, are renumbered as subsections (3) through (6), respectively, and present subsection (3) of that section is amended to read:

502.014 Powers and duties.—

~~(3) The department shall manage a program to issue permits to persons who test milk or milk products for milkfat content by weight, volume, chemical, electronic, or other means when the result of such test is used as a basis for payment for the milk or milk products.~~

Section 14. Subsections (1) and (2) and paragraphs (a) and (e) of subsection (3) of section 502.053, Florida Statutes, are amended to read:

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436 502.053 Permits and ~~licenses~~; fees; requirements;
437 exemptions; temporary permits.—

438 (1) ~~PERMITS AND LICENSES.—~~

439 (a) Each Grade "A" milk plant, whether located in the state
440 or outside the state, and each manufacturing milk plant, milk
441 producer, milk hauler, milk hauling service, washing station
442 operator, milk plant operator, milk distributor, single-service-
443 container manufacturer, receiving station, and transfer station
444 in the state shall apply to the department for a permit to
445 operate. The application shall be on forms developed by the
446 department.

447 (b) Each frozen dessert plant, whether located in the state
448 or outside the state, that manufactures frozen desserts or other
449 products defined in this chapter and offers these products for
450 sale in this state must apply to the department for a permit to
451 operate. The application must be submitted on forms prescribed
452 by the department. All frozen dessert permits expire on June 30
453 of each year.

454 ~~(c) Any person who tests milk or milk products for milkfat~~
455 ~~content by weight, volume, chemical, electronic, or other method~~
456 ~~when the result of such test is used as a basis for payment for~~
457 ~~the milk or milk products must apply to the department for a~~
458 ~~license. To qualify for a license, the applicant must~~
459 ~~demonstrate a sufficiency of knowledge, ability, and equipment~~
460 ~~to adequately perform milkfat tests. The license shall be issued~~
461 ~~for a period of 2 years after the date of first issuance upon~~
462 ~~application to the department on forms prescribed by the~~
463 ~~department.~~

464 (c) ~~(d)~~ Permits and ~~licenses~~ are nontransferable between

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persons or locations and are subject to suspension or revocation as provided in this chapter.

(2) FEES.—

~~(a)~~ The initial application for a frozen dessert plant permit must be accompanied by a permit fee of \$200. The annual permit renewal fee is \$100.

~~(b) The department shall charge each applicant for a milkfat tester's license a fee not to exceed \$125.~~

(3) REQUIREMENTS.—

~~(a)~~ To obtain a ~~frozen dessert plant permit or milkfat tester's license~~, an applicant must satisfy all requirements that are defined by the department in rule and must agree to comply with the applicable provisions of this chapter and rules adopted under this chapter. The department shall mail a copy of the permit ~~or license~~ to the applicant to signify that administrative requirements have been met.

~~(c) Each licensed milkfat tester shall keep records of milkfat tests conducted by him or her for a period of 1 year, and such records must be available for inspection by the department at all reasonable hours.~~

Section 15. Subsection (9) of section 570.0705, Florida Statutes, is amended to read:

570.0705 Advisory committees.—From time to time the commissioner may appoint any advisory committee to assist the department with its duties and responsibilities.

(9) Notwithstanding s. 20.052(4)(d), members of each advisory committee, council, board, working group, task force, or other advisory body created by law within the department or created by the department under this section may not be

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reimbursed for per diem or travel expenses as provided in s.
112.061 ~~shall receive no compensation for their services.~~

Section 16. Section 570.071, Florida Statutes, is repealed.

Section 17. Section 570.074, Florida Statutes, is amended
to read:

570.074 Department of Agriculture and Consumer Services;
~~energy and water policy.~~—The commissioner may create an Office
of Agricultural Energy and Water Policy under the supervision of
a senior manager exempt under s. 110.205 in the Senior
Management Service. The commissioner may designate the bureaus
and positions in the various organizational divisions of the
department that report to this office relating to any matter
over which the department has jurisdiction in matters relating
to ~~energy and water policy~~ affecting agriculture, application of
such policies, and coordination of such matters with state and
federal agencies.

Section 18. Section 570.18, Florida Statutes, is amended to
read:

570.18 Organization of departmental work.—In the assignment
of functions to the divisions of the department created in s.
20.14 ~~570.29~~, the department shall retain within the Division of
Administration, in addition to executive functions, those powers
and duties enumerated in s. 570.30. The department shall
organize the work of the other divisions in such a way as to
secure maximum efficiency in the conduct of the department. The
divisions created in s. 20.14 ~~570.29~~ are solely to make possible
the definite placing of responsibility. The department shall be
conducted as a unit in which every employee, including each
division director, is assigned a definite workload, and there

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shall exist between division directors a spirit of cooperative effort to accomplish the work of the department.

Section 19. Section 570.29, Florida Statutes, is repealed.

Section 20. Section 570.34, Florida Statutes, is repealed.

Section 21. Section 570.451, Florida Statutes, is created to read:

570.451 Agricultural Feed, Seed, and Fertilizer Advisory Council.—

(1) The Agricultural Feed, Seed, and Fertilizer Advisory Council is created within the department.

(2) The council is composed of the following 15 members appointed by the commissioner:

(a) One representative of the department.

(b) One representative of the dean for extension of the Institute of Food and Agricultural Sciences at the University of Florida.

(c) One representative each from the state's beef cattle, poultry, aquaculture, field crops, citrus, vegetable, and dairy production industries.

(d) Two representatives each from the state's fertilizer, seed, and commercial feed industries.

Each member shall be appointed for a term of not to exceed 4 years and shall serve until his or her successor is appointed.

(3) (a) A majority of the council members constitutes a quorum for all purposes, and an act by a majority of such quorum at any meeting constitutes an official act of the council. The secretary shall keep a complete record of each meeting, which must show the names of members present and the actions taken.

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552 Such records must be kept on file with the department.

553 (b) Members of the council shall meet and organize by
554 electing a chair, a vice chair, and a secretary whose terms
555 shall be for 2 years each. Council officers may not serve
556 consecutive terms.

557 (c) The council shall meet at the call of its chair, at the
558 request of a majority of its members, at the request of the
559 department, or at such time as an agricultural or environmental
560 emergency arises, but not less than twice per year.

561 (d) The meetings, powers and duties, procedures, and
562 recordkeeping of the council shall be in accordance with the
563 provisions of s. 570.0705 relating to advisory committees
564 established within the department.

565 (4) The council shall:

566 (a) Receive reports of relevant enforcement activity
567 conducted by the Division of Agricultural Environmental
568 Services, including the number of inspections, the number of
569 administrative actions, the number of complaints received and
570 investigated, and the dispositions of complaints.

571 (b) Provide advice to the department on the conduct of
572 relevant enforcement activities.

573 (c) Receive reports on disciplinary actions.

574 (d) Make recommendations to the commissioner for actions to
575 be taken with respect to the regulation of agricultural feed,
576 seed, and fertilizer.

577 Section 22. Paragraph (e) of subsection (6) of section
578 570.53, Florida Statutes, is amended to read:

579 570.53 Division of Marketing and Development; powers and
580 duties.—The powers and duties of the Division of Marketing and

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Development include, but are not limited to:

(6)

(e) Extending in every practicable way the distribution and sale of Florida agricultural products throughout the markets of the world as required of the department by s. ss. 570.07(7), (8), (10), and (11) ~~and 570.071~~ and chapters 571, 573, and 574.

Section 23. Subsection (2) of section 570.54, Florida Statutes, is amended to read:

570.54 Director; duties.—

(2) It shall be the duty of the director of this division to supervise, direct, and coordinate the activities authorized by ss. 570.07(4), (7), (8), (10), (11), (12), (17), (18), and (20), ~~570.071~~, 570.21, 534.47-534.53, and 604.15-604.34 and chapters 504, 571, 573, and 574 and to exercise other powers and authority as authorized by the department.

Section 24. Subsection (7) of section 573.112, Florida Statutes, is amended to read:

573.112 Advisory council.—

(7) Notwithstanding any provision of this section, the Citrus Research and Development Foundation, Inc., a direct-support organization of the University of Florida established pursuant to s. 1004.28, shall serve as the advisory council for a citrus research marketing order, provide the department with advice on administering the order, and, in accordance with the order, conduct citrus research and perform other duties assigned by the department. Notwithstanding s. 1004.28(3) or any provision of this section, the foundation's board of directors shall be composed of 13 members, including 10 citrus growers, 2 representatives of the university's Institute of Food and

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Agricultural Sciences, and 1 member appointed by the Commissioner of Agriculture, who are each entitled to reimbursement from the foundation for per diem and travel expenses as provided in s. 112.061.

Section 25. Subsection (4) of section 573.118, Florida Statutes, is amended to read:

573.118 Assessment; funds; review of accounts ~~audit~~; loans.—

(4) In the event of levying and collecting of assessments, for each fiscal year in which assessment funds are received by the department, the department shall maintain records of collections and expenditures for each marketing order separately within the state's accounting system. If requested by an advisory council, department staff shall cause to be made a thorough review ~~annual audit~~ of the ~~books and accounts by a certified public accountant~~, such review ~~audit~~ to be completed within 60 days after the request is received ~~end of the fiscal year~~. The department and all producers and handlers covered by the marketing order shall be properly advised of the details of the review ~~annual official audit~~ of the account ~~accounts as shown by the certified public accountant~~ within 30 days after ~~of~~ the review ~~audit~~.

Section 26. Subsection (8) of section 576.045, Florida Statutes, is amended to read:

576.045 Nitrogen and phosphorus; findings and intent; fees; purpose; best management practices; waiver of liability; compliance; rules; exclusions; expiration.—

(8) EXPIRATION OF PROVISIONS.—Subsections (1), (2), (3), (4), and (6) expire on December 31, 2022 ~~2012~~. Subsections (5)

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and (7) expire on December 31, 2027 ~~2017~~.

Section 27. Section 576.071, Florida Statutes, is amended to read:

576.071 Commercial value.—The commercial value used in assessing penalties for any deficiency shall be determined by using annualized plant nutrient values contained in one or more generally recognized journals ~~recommended by the Fertilizer Technical Council~~.

Section 28. Section 576.091, Florida Statutes, is repealed.

Section 29. Section 578.30, Florida Statutes, is repealed.

Section 30. Paragraph (c) of subsection (1) and subsection (3) of section 580.041, Florida Statutes, are amended to read:

580.041 Master registration; fee; refusal or cancellation of registration; reporting.—

(1)

(c) Registration shall be conditioned on the distributor's compliance with all provisions of this chapter and rules adopted under this chapter ~~thereof~~, including:

1. Submitting samples of manufactured feed for testing by laboratories that have been certified by the department or obtaining an exemption from the certified laboratory testing requirement, as provided by this chapter and rules thereof.

2. Maintaining a bookkeeping system and records necessary to indicate accurately the type and tonnage of commercial feeds sold in this state ~~that will allow the department to verify the accuracy of the reported tonnage~~.

3. Reporting within 30 days after the end of each quarter, in the format prescribed by the department, the number of tons of feed distributed in the state during each of the following

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668 reporting periods: July through September, October through
669 December, January through March, and April through June.

670 4.3- Allowing the department to verify the accuracy of
671 reported type and tonnage and to otherwise examine pertinent
672 records at reasonable times.

673 (3) The department may refuse, suspend, or cancel the
674 master registration of, or impose one or more of the penalties
675 provided in s. 580.121, against any distributor or registrant
676 who violates or fails to comply with the provisions of this
677 chapter.

678 Section 31. Section 580.131, Florida Statutes, is amended
679 to read:

680 580.131 Penalty payable to consumer.—

681 (1) Any consumer who purchases without notice a commercial
682 feed or feedstuff that is ~~has been~~ distributed in violation of
683 this chapter or rules adopted under this chapter shall, in any
684 legal or administrative action that may be instituted, recover
685 penalties as follows:

686 (a)(1) If a certified laboratory analysis shows that any
687 feed bearing a guarantee of 20 percent protein, or less, falls
688 more than 1 percent protein below the guarantee, or if the
689 analysis shows that any feed bearing a guarantee of more than 20
690 percent protein falls more than 2 percent protein below the
691 guarantee, \$4 per ton for each percent protein deficiency shall
692 be assessed against the manufacturer or distributor.

693 (b)(2) If a certified laboratory analysis shows that any
694 feed is deficient in fat by more than 0.5 ~~five-tenths~~ percent
695 fat, \$4 per ton for each percent fat deficiency shall be
696 assessed against the manufacturer or distributor.

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697 (c)~~(3)~~ If a certified laboratory analysis shows that any
698 feed bearing a maximum guarantee of not more than 20 percent
699 fiber exceeds this guarantee by more than 1 percent fiber, or if
700 the analysis shows that any feed bearing a maximum guarantee of
701 more than 20 percent fiber exceeds this guarantee by more than 2
702 percent fiber, \$4 per ton for each percent fiber excess shall be
703 assessed against the manufacturer or distributor.

704 (d)~~(4)~~ If a certified laboratory analysis shows that any
705 commercial feed is deficient or excessive in the required drug,
706 mineral, or nutritive guarantees other than protein, fat, or
707 fiber, a penalty of \$4 per ton shall be assessed against the
708 manufacturer or distributor for each deficiency or excessive
709 level found.

710 (e)~~(5)~~ If a certified laboratory analysis shows that any
711 commercial feed or feedstuff is found to be adulterated as
712 provided in s. 580.071, a penalty of \$4 per ton shall be
713 assessed against the manufacturer or distributor for each
714 violation found.

715 (f)~~(6)~~ If any feed is found by the department to be short
716 in weight, 4 times the invoice value of the actual shortage
717 shall be assessed against the manufacturer or distributor, but
718 in no instance shall the penalty be less than \$25. The
719 department by rule may establish variations for short weight.

720 (g)~~(7)~~ ~~In no case shall~~ Any penalty assessed under as
721 ~~specified in this section be less than \$10~~, regardless of the
722 monetary value of the violation, must be at least \$10.

723 (2) (a) Within 60 days after the department notifies a
724 registrant in writing of any penalty assessed under this
725 section, the registrant shall pay the penalty to the consumer.

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If the consumer's identity cannot be determined, the registrant shall, within the 60-day period, pay the assessed penalty to the department.

(b) A registrant who, within the 60-day period, fails to pay the full amount of the assessed penalty to the consumer or the department, as applicable, in addition to the penalty assessed under this section, is also subject to the penalties provided in s. 580.121.

(c) The proceeds from any penalties paid to the department under this section shall be deposited into the department's General Inspection Trust Fund and be used by the department for the exclusive purpose of administering this chapter.

Section 32. Section 580.151, Florida Statutes, is repealed.

Section 33. Subsection (30) of section 581.011, Florida Statutes, is amended to read:

581.011 Definitions.—As used in this chapter:

~~(30) "Technical council" means the Plant Industry Technical Council.~~

Section 34. Subsection (3) of section 581.145, Florida Statutes, is amended to read:

581.145 Aquatic plant nursery registration; special permit requirements.—

(3) Notwithstanding any other provision of state or federal law, the Department of Agriculture and Consumer Services shall issue, by request, a permit to the aquaculture producer to engage in the business of transporting and selling ~~exporting~~ water hyacinths (*Eichhornia spp.*) only to other states or countries that permit such transportation and sale ~~other than the United States and only when such water hyacinths are~~

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755 ~~cultivated in a nursery for the sole purpose of exportation and~~
756 ~~the aquaculture activities have activity has~~ been certified by
757 the Department of Agriculture and Consumer Services. In
758 accordance with any appropriate state or federal law or United
759 States treaty, ~~a ne~~ Florida aquaculture producer may not ~~shall~~
760 ship water hyacinths to other states or countries ~~other than the~~
761 ~~United States~~ under such a permit for the purpose of importing
762 water hyacinths back into Florida ~~the United States, nor shall~~
763 ~~drop shipments be made to any other destination within the~~
764 ~~United States. This subsection does not provision shall in no~~
765 ~~way~~ restrict or interfere with the ~~Department of Environmental~~
766 ~~Protection's~~ efforts of the Fish and Wildlife Conservation
767 Commission, or the efforts ~~those~~ of any other agency or local
768 government with responsibilities for the management of noxious
769 aquatic plants, to control or eradicate noxious nonnursery
770 aquatic plants, including water hyacinths. This subsection may
771 ~~provision shall~~ not be considered ~~a consideration~~ in the
772 approval or the release of biological control agents for water
773 hyacinths or any other noxious aquatic plants.

774 Section 35. Section 582.06, Florida Statutes, is amended to
775 read:

776 582.06 Soil and Water Conservation Council; powers and
777 duties.—

778 (1) COMPOSITION.—

779 (a) The Soil and Water Conservation Council is created in
780 the Department of Agriculture and Consumer Services and shall be
781 composed of 7 ~~23~~ members ~~as follows:~~

782 ~~(a) Eleven members shall be persons~~ who have been involved
783 in the practice of soil or water conservation, or in the

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development or implementation of interim measures or best management practices related thereto, and who have been engaged in agriculture or an occupation related to the agricultural industry for at least 5 years at the time of their appointment.

~~(b) Twelve members shall include one representative each from the Department of Environmental Protection, the five water management districts, the Institute of Food and Agricultural Sciences at the University of Florida, the United States Department of Agriculture Natural Resources Conservation Service, the Florida Association of Counties, and the Florida League of Cities and two representatives of environmental interests.~~

(b)~~(e)~~ All members shall be appointed by the commissioner. ~~Members appointed pursuant to paragraph (b) shall be appointed by the commissioner from recommendations provided by the organization or interest represented.~~

(c)~~(d)~~ Members shall serve 4-year terms or until their successors are duly qualified and appointed. If a vacancy occurs, it shall be filled for the remainder of the term in the manner of an initial appointment.

(2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS~~+~~ ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and recordkeeping of the Soil and Water Conservation Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 36. Section 582.20, Florida Statutes, is amended to read:

582.20 Powers of districts and supervisors.—A soil and

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water conservation district organized under the provisions of this chapter shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this chapter:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and floodwater and sediment damages, to the conservation, development and utilization of soil and water resources and the disposal of water, and to the preventive and control measures and works of improvement needed; to publish the results of such surveys, investigations, or research; and to disseminate information concerning such preventive and control measures and works of improvement; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies.~~+~~

(2) To conduct demonstrational projects within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries ~~district~~ on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries

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~~district~~ upon obtaining the consent of the owner and occupiers of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled, and works of improvement for flood prevention or the conservation, development and utilization of soil and water resources, and the disposal of water may be carried out.†

(3) To carry out preventive and control measures and works of improvement for flood prevention or the conservation, development and utilization of soil and water resources, and the disposal of water within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries ~~district~~, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in s. 582.04 on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries ~~district~~ upon obtaining the consent of the owner and the occupiers of such lands or the necessary rights or interests in such lands.†

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law,

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to furnish financial or other aid to, any agency, governmental or otherwise, or any owner or occupier of lands within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries ~~district~~, in the carrying on of erosion control or prevention operations and works of improvement for flood prevention or the conservation, development and utilization, of soil and water resources and the disposal of water within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries ~~district~~, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter.†

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this chapter.†

(6) To make available, on such terms as it shall prescribe, to landowners and occupiers within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries ~~district~~, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and

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such other material or equipment, as will assist such landowners and occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention or control of soil erosion and for flood prevention or the conservation, development and utilization, of soil and water resources and the disposal of water.~~†~~

(7) To construct, improve, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this chapter.~~†~~

(8) To develop comprehensive plans for the conservation of soil and water resources and for the control and prevention of soil erosion and for flood prevention or the conservation, development and utilization of soil and water resources, and the disposal of water within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries ~~district~~, which plans shall specify in such detail as may be possible the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; control of artesian wells; and to publish such plans and information and bring them to the attention of owners and occupiers of lands within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries. ~~district;~~

(9) To take over, by purchase, lease, or otherwise, and to

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administer any soil-conservation, erosion-control, erosion-prevention project, or any project for flood-prevention or for the conservation, development and utilization of soil and water resources, and the disposal of water, located within the district's ~~its~~ boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries, undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage as agent of the United States or any of its agencies, or of the state or any of its agencies, any soil-conservation, erosion-control, erosion-prevention, or any project for flood-prevention or for the conservation, development, and utilization of soil and water resources, and the disposal of water within the district's ~~its~~ boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries; to act as agent for the United States, or any of its agencies, or for the state or any of its agencies, in connection with the acquisition, construction, operation or administration of any soil-conservation, erosion-control, erosion-prevention, or any project for flood-prevention or for the conservation, development and utilization of soil and water resources, and the disposal of water within the district's ~~its~~ boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or

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any of its agencies, or from others, and to use or expend such moneys, services, materials or other contributions in carrying on its operations.+

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as provided in this chapter; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; upon a majority vote of the supervisors of the district, to borrow money and to execute promissory notes and other evidences of indebtedness in connection therewith, and to pledge, mortgage, and assign the income of the district and its personal property as security therefor, the notes and other evidences of indebtedness to be general obligations only of the district and in no event to constitute an indebtedness for which the faith and credit of the state or any of its revenues are pledged; to make, amend, and repeal rules and regulations not inconsistent with this chapter to carry into effect its purposes and powers.

(11) As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require landowners and occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion and prevent floodwater and sediment damages thereon.+

(12) No provisions with respect to the acquisition, operation, or disposition of property by public bodies of this

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state shall be applicable to a district organized hereunder unless the Legislature shall specifically so state. The property and property rights of every kind and nature acquired by any district organized under the provisions of this chapter shall be exempt from state, county, and other taxation.

Section 37. Section 582.29, Florida Statutes, is amended to read:

582.29 State agencies to cooperate.—Agencies of this state which shall have jurisdiction over, or be charged with, the administration of any state-owned lands, and of any county, or other governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized under this chapter, the boundaries of another district subject to that district's approval, or territory not contained within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land use regulations adopted shall be in all respects observed by the agencies administering such publicly owned lands.

Section 38. Subsection (3) of section 582.30, Florida Statutes, is amended, and subsections (4) and (5) are added to that section, to read:

582.30 Discontinuance of districts; referendum;

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commissioner's authority.—

(3) ~~In the alternative, upon review and recommendation of the Soil and Water Conservation Council regarding the continued viability of a district,~~ the Commissioner of Agriculture may dissolve or discontinue a such district if: ~~the commissioner certifies that the continued operation of the district is not administratively practicable and feasible.~~

(a) Upon review and recommendation of the Soil and Water Conservation Council, the council determines that the continued operation of the district is not administratively practicable and feasible under the provisions of this chapter;

(b) The ~~If A~~ district fails ~~has failed~~ to comply with any ~~of the audit or and financial reporting requirement~~ requirements of chapter 189, or fails to comply with any requirement of s. 582.20(1)-(9), and the commissioner, after review and ~~confirmation by the department's inspector general~~ reviews and confirms in writing that the district has failed to comply with such requirement; or, ~~may certify dissolution or discontinuance of such district without prior review and recommendation of the Soil and Water Conservation Council.~~

(c) The department receives a resolution adopted by the supervisors of the district requesting that the commissioner issue a certificate determining that the continued operation of the district is not administratively practicable and feasible under the provisions of this chapter.

(4) If the requirements for dissolution or discontinuance of a district are satisfied under subsection (1), subsection (2), or subsection (3), the department shall publish notice of a ~~such~~ proposed certification determining that the continued

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operation of the district is not administratively practicable and feasible under the provisions of this chapter. The notice of ~~dissolution or discontinuance~~ shall be published once a week for 2 weeks in a newspaper of general circulation within the county or counties in which ~~wherein~~ the district is located, stating the name of the district and a general description of the territory included in the district, and requiring that any comments or objections to the proposed certification, ~~dissolution~~ or any claims against the assets of the district, must be filed with the department clerk not later than 60 days after ~~following~~ the date of last publication.

(5) (a) Upon expiration of the 60-day period after the date of last publication, the commissioner, upon review of any comments or objections received under subsection (4), may issue a certificate determining that the continued operation of the district is not administratively practicable and feasible under the provisions of this chapter.

(b) If the commissioner issues a certificate determining that the continued operation of a district is not administratively practicable and feasible under the provisions of this chapter, the department shall file the original certificate with the Department of State and shall provide a copy of the certificate to the supervisors of the district at the district's principal office designated under s. 582.15(1)(c).

Section 39. Section 582.31, Florida Statutes, is amended to read:

582.31 Certification of results of referendum;
dissolution.—Upon receipt from the Department of Agriculture and

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Consumer Services of a certification that the department has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this chapter, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be converted into the State Treasury, which amount shall be placed to the credit of the district ~~department~~ for the purpose of liquidating any legal obligations the ~~said~~ district may have at the time of its discontinuance. The supervisors shall thereupon file an application, duly verified, with the Department of State for the discontinuance of the ~~such~~ district, and shall transmit with such application the certificate of the Department of Agriculture and Consumer Services setting forth the determination of the department that the continued operation of the ~~such~~ district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The Department of State shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in its office.

Section 40. Section 585.155, Florida Statutes, is repealed.

Section 41. Section 589.03, Florida Statutes, is repealed.

Section 42. Section 589.19, Florida Statutes, is amended to read:

589.19 Creation of certain state forests; naming of certain

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state forests.—

(1) When the Board of Trustees of the Internal Improvement Trust Fund, any state agency, or any agency created by state law, authorized to accept reforestation lands in the name of the state, approves the recommendations of the Florida Forest Service ~~Division of Forestry~~ in reference to the acquisition of land and acquires ~~acquire~~ such land, the ~~said~~ board, state agency, or agency created by state law, may formally designate and dedicate any area as a reforestation project, or state forest, and where so designated and dedicated such area shall be under the administration of the Florida Forest Service, ~~division~~ which is ~~shall be~~ authorized to manage and administer such ~~said~~ area according to the purpose for which it was designated and dedicated.

(2) The first state forest acquired by the Board of Trustees of the Internal Improvement Trust Fund in Baker County is to be named the John M. Bethea State Forest. This is to honor Mr. John M. Bethea who was Florida's fourth state forester and whose distinguished career in state government spanned 46 years and who is a native of Baker County.

(3) The state forest managed by the Florida Forest Service ~~Division of Forestry~~ in Seminole County is to be named the Charles H. Bronson State Forest to honor Charles H. Bronson, the tenth Commissioner of Agriculture, for his distinguished contribution to this state's agriculture and natural resources.

(4) (a) The Florida Forest Service ~~Division of Forestry~~ shall designate one or more areas of state forests as an "Operation Outdoor Freedom ~~a "Wounded Warrior~~ Special Hunt Area" to honor wounded veterans and servicemembers. The purpose of

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such designated areas is to provide special outdoor recreational opportunities for eligible veterans and servicemembers.

(b) The Florida Forest Service ~~division~~ shall limit guest admittance to such designated areas to any person who:

1. Is an active duty member of any branch of the United States Armed Forces and has a combat-related injury as determined by his or her branch of the United States Armed Forces; or

2. Is a veteran who served during a period of wartime service as defined in s. 1.01(14) or peacetime service as defined in s. 296.02 and:

a. Has a service-connected disability as determined by the United States Department of Veterans Affairs; or

b. Was discharged or released from military service because of a disability acquired or aggravated while serving on active duty.

(c) The Florida Forest Service ~~division~~ may grant admittance to such designated areas to a person who is not an eligible veteran or servicemember for purposes of accompanying an eligible veteran or servicemember who requires the person's assistance to use such designated areas.

(d) Funding required for specialized accommodations shall be provided through the Friends of Florida State Forests Program created under s. 589.012.

(e) The Florida Forest Service ~~division~~ may adopt rules to administer this subsection.

Section 43. Section 589.277, Florida Statutes, is amended to read:

589.277 Tree planting programs.—

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(1) The ~~Division of Forestry of the~~ Florida Forest Service ~~Department of Agriculture and Consumer Services~~ shall administer federal, state, and privately sponsored tree planting programs designed to assist private rural landowners and urban communities.

(2) Contributions from governmental and private sources for tree planting programs may be accepted into the Federal Grants Trust Fund or the Incidental Trust Fund of the Florida Forest Service.

(3) The Florida Forest Service shall ~~Division of Forestry~~ ~~is authorized and directed to~~ develop and implement guidelines and procedures under which the financial resources of the fund allocated for tree planting programs may be utilized for urban and rural reforestation.

(4) Grants to municipalities, counties, nonprofit organizations, and qualifying private landowners may be made from allocated moneys in the fund for the purpose of purchasing, planting, and maintaining native tree species.

(5) The Florida Forest Service ~~Division of Forestry~~ shall assist the Department of Education in developing programs that teach the importance of trees in the urban, rural, and global environment.

Section 44. Section 590.02, Florida Statutes, is amended to read:

590.02 Florida Forest Service; ~~Division~~ powers, authority, and duties; liability; building structures; Florida Center for Wildfire and Forest Resources Management Training.—

(1) The Florida Forest Service ~~division~~ has the following powers, authority, and duties:

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(a) To enforce the provisions of this chapter;

(b) To prevent, detect, suppress, and extinguish wildfires wherever they may occur on public or private land in this state and to do all things necessary in the exercise of such powers, authority, and duties;

(c) To provide firefighting crews, who shall be under the control and direction of the Florida Forest Service ~~division~~ and its designated agents;

(d) To appoint center managers, forest area supervisors, forestry program administrators, a forest protection bureau chief, a forest protection assistant bureau chief, a field operations bureau chief, deputy chiefs of field operations, district managers, forest operations administrators, senior forest rangers, investigators, forest rangers, firefighter rotorcraft pilots, and other employees who may, at the Florida Forest Service's ~~division's~~ discretion, be certified as forestry firefighters pursuant to s. 633.35(4). Other provisions of law notwithstanding, center managers, district managers, forest protection assistant bureau chief, and deputy chiefs of field operations shall have Selected Exempt Service status in the state personnel designation;

(e) To develop a training curriculum for forestry firefighters which must contain the basic volunteer structural fire training course approved by the Florida State Fire College of the Division of State Fire Marshal and a minimum of 250 hours of wildfire training;

(f) To make rules to accomplish the purposes of this chapter;

(g) To provide fire management services and emergency

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1219 response assistance and to set and charge reasonable fees for
1220 performance of those services. Moneys collected from such fees
1221 shall be deposited into the Incidental Trust Fund of the Florida
1222 Forest Service ~~division~~; and

1223 (h) To require all state, regional, and local government
1224 agencies operating aircraft in the vicinity of an ongoing
1225 wildfire to operate in compliance with the applicable state
1226 Wildfire Aviation Plan.

1227 (2) The Florida Forest Service's ~~Division~~ employees, and
1228 the firefighting crews under their control and direction, may
1229 enter upon any lands for the purpose of preventing and
1230 suppressing wildfires and investigating smoke complaints or open
1231 burning not in compliance with authorization and to enforce the
1232 provisions of this chapter.

1233 (3) Employees of the Florida Forest Service ~~division~~ and of
1234 federal, state, and local agencies, and all other persons and
1235 entities that are under contract or agreement with the Florida
1236 Forest Service ~~division~~ to assist in firefighting operations as
1237 well as those entities, called upon by the Florida Forest
1238 Service ~~division~~ to assist in firefighting may, in the
1239 performance of their duties, set counterfires, remove fences and
1240 other obstacles, dig trenches, cut firelines, use water from
1241 public and private sources, and carry on all other customary
1242 activities in the fighting of wildfires without incurring
1243 liability to any person or entity.

1244 (4) (a) The department may build structures, notwithstanding
1245 chapters 216 and 255, not to exceed a cost of \$50,000 per
1246 structure from existing resources on forest lands, federal
1247 excess property, and unneeded existing structures. These

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structures must meet all applicable building codes.

(b) Notwithstanding s. 553.80(1), the department shall exclusively enforce the Florida Building Code as it pertains to wildfire and law enforcement facilities under the jurisdiction of the department.

(5) The Florida Forest Service ~~division~~ shall organize its operational units to most effectively prevent, detect, and suppress wildfires, and to that end, may employ the necessary personnel to manage its activities in each unit. The Florida Forest Service ~~division~~ may construct lookout towers, roads, bridges, firelines, and other facilities and may purchase or fabricate tools, supplies, and equipment for firefighting. The Florida Forest Service ~~division~~ may reimburse the public and private entities that it engages to assist in the suppression of wildfires for their personnel and equipment, including aircraft.

(6) The Florida Forest Service ~~division~~ shall undertake privatization alternatives for fire prevention activities including constructing fire lines and conducting prescribed burns and, where appropriate, entering into agreements or contracts with the private sector to perform such activities.

(7) The Florida Forest Service ~~division~~ may organize, staff, equip, and operate the Florida Center for Wildfire and Forest Resources Management Training. The center shall serve as a site where fire and forest resource managers can obtain current knowledge, techniques, skills, and theory as they relate to their respective disciplines.

(a) The center may establish cooperative efforts involving federal, state, and local entities; hire appropriate personnel; and engage others by contract or agreement with or without

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1277 compensation to assist in carrying out the training and
1278 operations of the center.

1279 (b) The center shall provide wildfire suppression training
1280 opportunities for rural fire departments, volunteer fire
1281 departments, and other local fire response units.

1282 (c) The center will focus on curriculum related to, but not
1283 limited to, fuel reduction, an incident management system,
1284 prescribed burning certification, multiple-use land management,
1285 water quality, forest health, environmental education, and
1286 wildfire suppression training for structural firefighters.

1287 (d) The center may assess appropriate fees for food,
1288 lodging, travel, course materials, and supplies in order to meet
1289 its operational costs and may grant free meals, room, and
1290 scholarships to persons and other entities in exchange for
1291 instructional assistance.

1292 (e) An advisory committee consisting of the following
1293 individuals or their designees must review program curriculum,
1294 course content, and scheduling: the director of the Florida
1295 Forest Service ~~Division of Forestry~~; the assistant director of
1296 the Florida Forest Service ~~Division of Forestry~~; the director of
1297 the School of Forest Resources and Conservation of the
1298 University of Florida; the director of the Division of
1299 Recreation and Parks of the Department of Environmental
1300 Protection; the director of the Division of the State Fire
1301 Marshal; the director of the Florida Chapter of The Nature
1302 Conservancy; the executive vice president of the Florida
1303 Forestry Association; the president of the Florida Farm Bureau
1304 Federation; the executive director of the Fish and Wildlife
1305 Conservation Commission; the executive director of a water

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management district as appointed by the Commissioner of Agriculture; the supervisor of the National Forests in Florida; the president of the Florida Fire Chief's Association; and the executive director of the Tall Timbers Research Station.

(8) The Cross City Work Center shall be named the L. Earl Peterson Forestry Station. This is to honor Mr. L. Earl Peterson, Florida's sixth state forester, whose distinguished career in state government has spanned 44 years, and who is a native of Dixie County.

(9) (a) Notwithstanding ss. 273.055 and 287.16, the department may retain, transfer, warehouse, bid, destroy, scrap, or otherwise dispose of surplus equipment and vehicles that are used for wildland firefighting.

(b) All money received from the disposition of state-owned equipment and vehicles that are used for wildland firefighting shall be retained by the department. Money received pursuant to this section is appropriated for and may be disbursed for the acquisition of exchange and surplus equipment used for wildland firefighting, and for all necessary operating expenditures related to such equipment, in the same fiscal year and the fiscal year following the disposition. The department shall maintain records of the accounts into which the money is deposited.

(10) (a) The Florida Forest Service ~~division~~ has exclusive authority to require and issue authorizations for broadcast burning and agricultural and silvicultural pile burning. An agency, commission, department, county, municipality, or other political subdivision of the state may not adopt or enforce laws, regulations, rules, or policies pertaining to broadcast

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burning or agricultural and silvicultural pile burning unless an emergency order is declared in accordance with s. 252.38(3).

(b) The Florida Forest Service ~~division~~ may delegate to a county or municipality its authority, as delegated by the Department of Environmental Protection pursuant to ss. 403.061(28) and 403.081, to require and issue authorizations for the burning of yard trash and debris from land clearing operations in accordance with s. 590.125(6).

Section 45. Subsection (3) of section 597.0021, Florida Statutes, is amended to read:

597.0021 Legislative intent.—

(3) It is the intent of the Legislature that the Aquaculture Review Council is ~~and the Aquaculture Interagency Coordinating Council~~ are established to provide a means of communication between the aquaculture industry and the regulatory agencies.

Section 46. Paragraphs (b) and (d) of subsection (1) of section 597.003, Florida Statutes, are amended to read:

597.003 Powers and duties of Department of Agriculture and Consumer Services.—

(1) The department is hereby designated as the lead agency in encouraging the development of aquaculture in the state and shall have and exercise the following functions, powers, and duties with regard to aquaculture:

(b) Coordinate the development, annual revision, and implementation of a state aquaculture plan. The plan shall include prioritized recommendations for research and development as suggested by the Aquaculture Review Council, ~~the Aquaculture Interagency Coordinating Council~~, and public and private

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institutional research, extension, and service programs.

(d) Provide staff for the Aquaculture Review Council ~~and the Aquaculture Interagency Coordinating Council.~~

Section 47. Paragraph (h) of subsection (1) of section 597.004, Florida Statutes, is amended to read:

597.004 Aquaculture certificate of registration.—

(1) CERTIFICATION.—Any person engaging in aquaculture must be certified by the department. The applicant for a certificate of registration shall submit the following to the department:

(h) An ~~One-hundred-dollar~~ annual registration fee of \$100.
The annual registration fee is waived for each elementary,
middle, or high school and each vocational school that
participates in the aquaculture certification program.

Section 48. Subsection (1), paragraphs (a) and (b) of subsection (2), and paragraph (h) of subsection (3) of section 597.005, Florida Statutes, are amended to read:

597.005 Aquaculture Review Council.—

(1) COMPOSITION.—There is created within the department the Aquaculture Review Council to consist of eight ~~nine~~ members as follows: the chair of the State Agricultural Advisory Council or designee; ~~the chair of the Aquaculture Interagency Coordinating Council;~~ and seven additional members to be appointed by the commissioner, including an alligator farmer, a food fish farmer, a shellfish farmer, a tropical fish farmer, an aquatic plant farmer, a representative of the commercial fishing industry, and a representative of the aquaculture industry at large. Members shall be appointed for 4-year terms. Each member shall be selected from no fewer than two or more than three nominees submitted by recognized statewide organizations representing

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each industry segment or the aquaculture industry at large. In the absence of nominees, the commissioner shall appoint persons who otherwise meet the qualifications for appointment to the council. Members shall serve until their successors are duly qualified and appointed. An appointment to fill a vacancy shall be for the unexpired portion of the term.

(2) MEETINGS; PROCEDURES; RECORDS.—

(a) The members of the council shall meet at least quarterly; shall elect a chair, a vice chair, and a secretary, ~~and an industry representative to the Aquaculture Interagency Coordinating Council~~; and shall use accepted rules of procedure. The terms of such officers shall be for 1 year.

(b) The council shall meet at the call of its chair, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules of procedure. ~~However, the council shall hold a joint annual meeting with the Aquaculture Interagency Coordinating Council.~~

(3) RESPONSIBILITIES.—The primary responsibilities of the Aquaculture Review Council are to:

(h) For any problem that cannot be solved through simple cooperation or negotiation, provide an issue analysis ~~to the Aquaculture Interagency Coordinating Council~~ and to the chairs of the legislative agriculture appropriations committees. The analysis shall include, but not be limited to, specific facts and industry hardships, regulatory provisions, questions relative to the issue, and suggestions for solving the problem.

Section 49. Section 597.006, Florida Statutes, is repealed.

Section 50. Subsection (3) of section 616.252, Florida Statutes, is amended to read:

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1422 616.252 Florida State Fair Authority; membership; number,
1423 terms, compensation.—

1424 (3) Members of the authority are not entitled to
1425 compensation for their services as members but shall be
1426 reimbursed by the authority for per diem and travel expenses as
1427 provided in s. 112.061 ~~and may not be reimbursed for travel~~
1428 ~~expenses~~. Except for the nonvoting youth member, each member may
1429 be compensated for any special or full-time service performed in
1430 the authority's behalf as officers or agents of the authority.

1431 Section 51. This act shall take effect July 1, 2012.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 100

INTRODUCER: Environmental Preservation and Conservation Committee; and Senators Siplin and Lynn

SUBJECT: Unclaimed Deposits Held By Utilities

DATE: February 7, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	Favorable
2.	Hinton	Yeatman	EP	Fav/CS
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

The CS requires unclaimed deposits held by utilities be deposited annually into the Grants and Donations Trust Fund within the Department of Economic Opportunity to supplement funds of the Low-Income Home Energy Assistance Program, which are used to assist low-income households in meeting the costs of home heating and cooling bills. These funds are to be administered through the local provider agencies that administer the Low-Income Home Energy Assistance Program.

The CS appropriates \$500,000 to the Department of Environmental Protection (DEP) Ecosystem Management and Restoration Trust Fund for the purpose of improving water quality in Silver Springs via remediation actions that reduce the spring's nitrogen loading.

The CS substantially amends section 717.108 of the Florida Statutes.

II. Present Situation:

Chapter 717 of the Florida Statutes provides for disposition of unclaimed property. In general, all intangible property, including any income less any lawful charges, which is held in the ordinary

course of the holder's business, is presumed to be unclaimed when the owner fails to claim the property for more than 5 years after the property becomes payable or distributable, unless otherwise provided in the chapter. The time period for utility deposits is different. Any deposit made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, including any interest less any lawful charges, that remains unclaimed by the owner for more than 1 year after termination of the services for which the deposit or advance payment was made is presumed unclaimed. Certain types of unclaimed property, including security deposits, having a value of less than \$10 are not to be presumed unclaimed.

Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as unclaimed property must file an annual report with the Department of Financial Services (DFS or department) that includes information on the identity and last known address of the apparent owner of the property, a description of the property, and the date the property became payable or returnable. At the same time the report is filed, the holder must deliver to the department all unclaimed property required to be reported.

Upon the payment or delivery of property to the department, the state assumes custody and responsibility for the safekeeping of the property. The department is required to use cost-effective means to make at least one active attempt to notify owners of unclaimed property accounts valued at more than \$250 with a reported address or taxpayer identification number. All other apparent owners get indirect or passive notice such as publication of the names of owners in the newspaper, on television, on the Internet, or through other promotional efforts.

Speaking generally, after the receipt of unclaimed property the department sells all non-cash property to the highest bidder at public sale on the Internet or at a specified physical location wherever in the judgment of the department the most favorable market for the property involved exists. The department may decline the highest bid and reoffer the property for sale if in the judgment of the department the bid is insufficient. The department also has the discretion to withhold from sale any unclaimed property that the department deems to be of benefit to the people of the state. Finally, if in the judgment of the department the probable cost of sale exceeds the value of the property, it need not be offered for sale and may be disposed of as the department determines appropriate.

All funds received, including the proceeds from sales, are deposited into the Unclaimed Property Trust Fund. The department is allowed to retain an amount not exceeding \$15 million from which it must make prompt payment of claims it allows and must pay the costs it incurred in administering and enforcing the chapter. All remaining funds received must be deposited into the State School Fund.

The department must record the name and last known address of each person appearing from the holder's reports to be entitled to the unclaimed property in the total amounts of \$5 or greater; the name and the last known address of each insured person or annuitant; and with respect to each policy or contract listed in the report of an insurance corporation, its number, the name of the corporation, and the amount due. Any person claiming an interest in any property delivered to the department may file a claim for the property. The department is required to make a determination on the claim within 90 days. If a claim is determined in favor of the claimant, the

department is to deliver or pay over to the claimant the property or the amount the department actually received or the proceeds if it has been sold by the department.

In January, 2009, the Florida Department of Community Affairs (DCA), in collaboration with the Florida Energy Affordability Coalition, filed a report with the Legislature on affordability of energy in Florida. The report made ten proposals on how to address affordability issues. Among them were a proposal to consider earmarking unclaimed utility deposits to supplement energy affordability assistance and energy efficiency programs rather than escheating the money to the state's general treasury and a proposal to create a state Energy Affordability Trust Fund, to be administered by DCA, charged with receiving and distributing funds such as these for use in low-income energy assistance, weatherization, and energy conservation education initiatives.

In the 2011 Regular Session, the Legislature amended s. 409.508, F.S., to provide that the newly created Department of Economic Opportunity (DEO) is to administer the Low Income Home Energy Assistance Program (LIHEAP).¹ This program provides federal money to non-profit agencies and local governments so they can assist low-income families with home heating and cooling costs. DEO applies for funding from the federal government and distributes it directly to local agency providers and non-profit agencies who then determine who will receive assistance. DEO monitors the local agency providers to ensure that they administer the funding in compliance with state and federal laws and rules and provides them technical assistance to help them comply with these requirements.

Silver Springs Water Quality

Silver Springs is located about 6 miles northeast of downtown Ocala and forms the headwaters of the Silver River. Silver Springs is a 1st magnitude spring, meaning it discharges at least 100 cubic feet of water per second, or about 64.6 million gallons per day.² Silver Springs has become an internationally known tourist attraction due to its naturally clear water, healthy submerged aquatic vegetation, abundant fish and other wildlife, and its famous glass bottom boats. In the past several decades, changes have been observed and measured in the Silver Springs hydrological system.³

In 2004, the U.S. Department of the Interior and the U.S. Geological Survey, in cooperation with the St. Johns River Water Management District, Marion County and DEP, published a study of the chemistry of the ground water in the Silver Springs basin. The study concluded that nitrate concentration in the water from the Main Spring has increased with time. Nitrate enrichment of the surface water results in the growth of nuisance vegetation and in oxygen depletion in the water.⁴ Between 2000-2001, 56 wells in the Silver Springs ground-water basin were sampled. The study concluded that the sources of nitrogen in ground water in the Silver Springs basin

¹ Section 302, ch. 2011-142, Laws of Florida.

² <http://apalacheehills.com/springs/Springbook/FirstMagnitude.htm> (last visited February 7, 2012).

³ <http://www.sjrwmd.com/springs/marion/silver.html> (last visited February 7, 2012).

⁴ *Chemistry of Ground Water in the Silver Springs Basin, Florida, with an Emphasis on Nitrate*, G.G. Phelps, Scientific Investigations Report 2004-5144, U.S. Department of the Interior, U.S. Geological Survey, <http://pubs.usgs.gov/sir/2004/5144/pdf/sir20045144.pdf> (last visited February 7, 2012).

include atmospheric deposition, fertilizers used in agricultural and urban areas, and human and animal wastes.⁵

The Silver Springs Basin Working Group, established in 1999 to restore the water quality of Silver Springs, has also monitored the changes to Silver Springs. The group reported that nitrates have risen from .04 mg/l in the early part of the 20th century to more than 1.2 mg/l today; more than a 20 fold increase. Increased nutrients create an overabundance of aquatic plants and algae which threaten the remarkable clarity of water at Silver Springs. Also, flow records indicate that the spring flow has declined. Reduced flow enhances the negative impacts of increased nitrates. Less water means higher concentration which will increase algal growth and cause further decline in the health of the spring. Due to the area's continued population growth and land development, the nitrate levels and deterioration of Silver Springs' water quality is predicted to worsen without concentrated efforts to rehabilitate the spring. Further, Silver Springs is a draw for tourists to the area and Marion County's economy would benefit from the health and recovery of the spring.

III. Effect of Proposed Changes:

Section 1 of the CS amends s. 717.108, F.S., to require that deposits held by utilities that are classified as unclaimed be transferred to the Department of Economic Opportunity.

Section 2 of the CS appropriates \$500,000 from the unclaimed utility deposits and funds and transfers it from the Department of Economic Opportunity to the Ecosystem Management and Restoration Trust Fund within the Department of Environmental Protection. The funds are to be used to improve water quality in Silver Springs.

Section 2 further directs that the balance of the unclaimed deposits and funds be transferred from the DEO to the Grants and Donations Trust Fund (within DEO) for the purpose of assisting low-income households in meeting the costs of home heating and cooling bills.

Section 3 provides that this act will take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁵ *Id.*

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

None.

B. Private Sector Impact:

Unclaimed utility deposits would no longer be available for the owners to reclaim.

There would be additional funding for the LIHEAP program.

C. Government Sector Impact:

According to the Department of Financial Services (DFS), rulemaking likely will be required to implement how and when utilities would report and remit the funds to DEO, and, perhaps, how DFS would handle inquiries from owners no longer entitled to recover unclaimed utility deposits. Rulemaking will likely be required of DEO and the local provider agencies on how the program will be implemented.

DFS also states that administrative changes will be required of business and local governmental entities to separate unclaimed utility deposit accounts from other types of unclaimed property, and report and remit separate annual reports to DFS and to DEO. Both DFS and DEO would be required to change and develop procedures for informing utilities and governmental entities of the changes and how to administer them.

According to DFS, over the last ten fiscal years, the Department of Education State School Trust Fund has received an average of \$4.77 million per year from unclaimed utility deposits. Also, during that same time, 235,683 Florida citizens have received claims payments totaling \$10.7 million in recovered utility deposits. The CS will result in the loss of this revenue to the State School Trust Fund and citizens being unable to recover their utility deposits. The table below sets forth DFS' data on claims paid over this ten-year period.

Deposits Fiscal Year	Accounts Received	Amount Received	Number of Claims Paid	Amount Paid In Claims
2001-02	14,901	\$2,450,596.56	7,498	\$629,436.09
2002-03	29,390	\$4,217,230.50	22,411	\$1,231,556.72
2003-04	31,026	\$4,112,642.04	21,607	\$1,157,871.66
2004-05	158,730	\$11,885,838.64	62,449	\$1,941,476.89
2005-06	111,697	\$4,981,489.76	31,696	\$1,045,581.88
2006-07	20,181	\$2,326,479.99	12,188	\$651,698.90
2007-08	48,084	\$4,005,122.16	23,918	\$971,275.79
2008-09	55,653	\$4,601,439.16	23,849	\$1,246,702.96
2009-10	37,502	\$4,477,642.88	10,430	\$881,162.85
2010-11	44,230	\$4,723,950.69	19,637	\$944,453.47
Totals:	551,394	\$47,782,432.38	235,683	\$10,701,217.21

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Environmental Preservation and Conservation on February 6, 2012:

- Directs \$500,000 from the unclaimed utility deposits and funds to be transferred from DEO to the Ecosystems Management and Restoration Trust Fund of the DEP to be used for improving water quality in Silver Springs.
- Directs the balance of funds from the unclaimed utility deposits and funds to be transferred to the Grants and Donations Trust Fund within the DOE.

B. Amendments:

None.



331156

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2012	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 717.108, Florida Statutes, is amended to
read:

717.108 Deposits held by utilities.—

(1) Any deposit, including any interest thereon, made by a
subscriber with a utility to secure payment or any sum paid in
advance for utility services to be furnished, less any lawful
charges, that remains unclaimed by the owner for more than 1
year after termination of the services for which the deposit or



331156

advance payment was made is presumed unclaimed.

(2) The unclaimed utility deposits and funds presumed unclaimed shall be transferred to the Department of Economic Opportunity.

Section 2. (1) The sum of \$500,000 from the unclaimed utility deposits and funds presumed unclaimed pursuant to s. 717.108, Florida Statutes, shall be transferred from the Department of Economic Opportunity to the Ecosystem Management and Restoration Trust Fund of the Department of Environmental Protection and shall be used for the purpose of improving water quality in Silver Springs. These funds shall be directed to the implementation of remediation actions that have the effect of reducing nitrate loads to the spring. The department shall coordinate with Marion County in identifying and selecting which project has the greatest benefit based on estimated nitrate reductions and consistency with the long-term plans of Marion County.

(2) The remaining balance of the unclaimed deposits and funds presumed unclaimed in the Department of Economic Opportunity shall be transferred to the Grants and Donations Trust Fund within the department and used to supplement the Low-Income Home Energy Assistance Program for the purpose of assisting low-income households in meeting the costs of home heating and cooling bills. These funds shall be administered through the same local provider agencies that presently administer the Low-Income Home Energy Assistance Program.

Section 3. This act shall take effect July 1, 2012.

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



331156

42 And the title is amended as follows:

43
44 Delete everything before the enacting clause
45 and insert:

46 A bill to be entitled
47 An act relating to unclaimed deposits held by
48 utilities; amending s. 717.108, F.S.; requiring that
49 any unclaimed deposits held by a utility be
50 transferred to the Department of Economic Opportunity;
51 requiring that a specified portion of unclaimed
52 deposits be transferred to the Ecosystem Management
53 and Restoration Trust Fund in the Department of
54 Environmental Protection and used to improve the water
55 quality in Silver Springs; requiring that the
56 remaining balance of unclaimed deposits be transferred
57 to the Grants and Donations Trust Fund within the
58 Department of Economic Opportunity and used to assist
59 low-income households in meeting the costs of home
60 heating and cooling bills; providing an effective
61 date.



838412

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2012	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 23 - 24
and insert:
Economic Opportunity to supplement funds of the Low-Income Home

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

And the title is amended as follows:

Delete lines 6 - 7
and insert:
the Department of Economic Opportunity to supplement
the Low-Income Home Energy

By Senator Siplin

19-00014-12

2012100__

1 A bill to be entitled
2 An act relating to unclaimed deposits held by
3 utilities; amending s. 717.108, F.S.; requiring that
4 any unclaimed deposits held by a utility be deposited
5 annually into the Grants and Donations Trust Fund in
6 the Department of Community Affairs, or its successor
7 agency, to supplement the Low-Income Home Energy
8 Assistance Program; providing an effective date.

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

11
12 Section 1. Section 717.108, Florida Statutes, is amended to
13 read:

14 717.108 Deposits held by utilities.—

15 (1) Any deposit, including any interest thereon, made by a
16 subscriber with a utility to secure payment or any sum paid in
17 advance for utility services to be furnished, less any lawful
18 charges, which ~~that~~ remains unclaimed by the owner for more than
19 1 year after termination of the services for which the deposit
20 or advance payment was made is presumed unclaimed.

21 (2) The unclaimed deposits shall be deposited annually into
22 the Grants and Donations Trust Fund within the Department of
23 Community Affairs, or the Department of Community Affairs'
24 successor agency, to supplement funds of the Low-Income Home
25 Energy Assistance Program which are used to assist low-income
26 households in meeting the costs of home heating and cooling
27 bills. These funds shall be administered through the local
28 provider agencies that administer the Low-Income Home Energy
29 Assistance Program.

19-00014-12

2012100__

30

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

(4)

T.P.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.6.12
Meeting Date

Topic THERMAL EFFICIENCY STAS. Bill Number 1032
(if applicable)

Name DAVID COLLEN Amendment Barcode _____
(if applicable)

Job Title _____

Address 1674 UNIVERSITY PKWY, 296 Phone 941.323.2404
Street
SARASOTA FL 34243 E-mail COLLEN@SARASOTAFLGOV.COM
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SB 1032

INTRODUCER: Senator Benacquisto

SUBJECT: Thermal Efficiency Standards

DATE: January 22, 2012

REVISED: _____

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

I. Summary:

The bill requires the Department of Environmental Protection (DEP) and the applicable water management district to grant a general permit in certain surface water management systems to begin construction, if certain conditions are met, without further action by DEP or the applicable water management district.

The bill provides definitions for “ballasted roof,” “hardscape,” “heat island effect,” “low-sloped roof,” “solar reflectance,” or “reflectance,” and “steep-sloped roof.” The bill establishes minimum thermal efficiency standards for roof coverage for buildings and structures. The bill adds specific minimum reflectance standards for low-sloped roofs, ballasted roofs, and steep-sloped roofs. It mandates that all roof exterior surfaces and roofing materials of a thermal-efficient roof have a minimum reflectance with certification from specified testing entities.

The bill establishes a minimum efficiency standard for hardscapes such as roofs, sidewalks, and parking lots. The bill establishes specific minimum reflectance and testing standards for paving materials.

The bill amends s. 403.814 and s. 553.902, F.S., and creates s. 553.9045 and s. 553.9046, F.S.

II. Present Situation:

A no-notice general permit can be granted for the construction or alteration of minor systems located entirely within uplands, provided that the proposed system meets certain criteria, which

include a total project area of less than 10 acres of which 2 acres are of impervious¹ surface.² The South Florida Water Management District is the only water management district that utilizes this no-notice permit option for areas that utilize a certain ratio of acres of land to impervious surfaces. This type of permit may be utilized for activities that have been determined to have minimal adverse impacts to the water resources of the district, both individually and cumulatively. Miami Dade County Department of Environmental Resource Management or its successor agency must still approve the project.³

Chapter 13 of the Energy Code of the Florida Building Code (FBC), Building Volume, provides for construction standards for energy efficiency in the thermal design and operation of all buildings statewide. The Energy Code is a performance-based code which accounts for improvement in the solar reflectance of specific roof products without imposing a minimum standard for solar reflectance on roofs. Testing to a specific standard is required for demonstrating specific reflectance performance of a roofing product.⁴

According to the Environmental Protection Agency (EPA), the term "heat island effect" describes built up areas that are hotter than nearby rural areas. The annual mean air temperature of a city with 1 million people or more can be 1.8–5.4°F (1–3°C) warmer than its surroundings. In the evening, the difference can be as high as 22°F (12°C). Heat islands can affect communities by increasing summertime peak, energy demand, air conditioning costs, air pollution and greenhouse gas emissions, heat-related illness and mortality, and water quality.⁵

According to the EPA, the extent to which urban areas can benefit from heat island reduction strategies depends on a number of factors—some within and some outside of a community's control. Although prevailing weather patterns, climate, geography, and topography are beyond the influence of local policy, decision makers can select a range of energy-saving strategies that will generate multiple benefits, including vegetation, landscaping, and land use design projects, and improvements to building and road materials.

Trees, vegetation, and green roofs can reduce heating and cooling energy use and associated air pollution and greenhouse gas emissions, remove air pollutants, sequester and store carbon, help lower the risk of heat-related illnesses and deaths, improve stormwater control and water quality, reduce noise levels, create habitats, improve aesthetic qualities, and increase property values. Cool roofs can lower cooling energy use, peak electricity demand, air pollution and greenhouse gas emissions, heat-related incidents, and solid waste generation due to less frequent re-roofing. Cool pavements can indirectly help reduce energy consumption, air pollution, and greenhouse gas emissions. Depending on the technology used, cool pavements can improve stormwater

¹ **Impervious surfaces** are mainly artificial structures--such as pavements (roads, sidewalks, driveways and [parking lots](#)) that are covered by impenetrable materials such as [asphalt](#), [concrete](#), [brick](#), and [stone](#)--and [rooftops](#). Soils compacted by urban [development](#) are also highly impervious. http://en.wikipedia.org/wiki/Impervious_surface, (last visited Jan. 22, 2012).

² 40E-400.315, Florida Administrative Code .

³ *Id.*

⁴ Florida Department of Business and Professional Regulation, Senate Bill 1032 Analysis (Dec. 9, 2011) (on file with Senate Committee on Environmental Preservation and Conservation).

⁵ United States Environmental Protection Agency, EPA Home, Heat Island Effect, <http://www.epa.gov/hiri/> (last visited Jan. 22, 2012).

management and water quality, increase surface durability, enhance nighttime illumination, and reduce noise.

According to the EPA, using these strategies in combination can enhance their effectiveness. For example, installing a permeable pavement parking lot that includes shade trees can extend the longevity of the pavement and vegetation. Widespread implementation of these strategies also provides additional benefits. For example, a single cool roof will mainly result in benefits to the building owner and occupants. Community-wide cool roof installations, though, will provide savings to the building owner and occupants and to the community at large, as a large number of cool roofs can reduce air temperatures, resulting in multiple benefits associated with cooler summertime air.⁶

III. Effect of Proposed Changes:

Section 1 amends s. 403.814, F.S., to require that the Department of Environmental Protection (DEP) and the applicable water management districts grant a general permit for the construction, alteration, and maintenance authorizing the construction of certain surface water management systems to proceed without further action by DEP or the water management district.

Section 2 amends s. 553.902, F.S., and provides definitions for the terms “ballasted roof,” “hardscape,” “heat island effect,” “low-sloped roof,” “solar reflectance,” or “reflectance,” and “steep-sloped roof.”

Section 3 creates s. 553.9045, F.S., and provides for a thermal-efficient roof; provides standards for a thermal-efficient roof; requires that roof exterior surfaces and roofing material of a thermal-efficient roof have a minimum solar reflectance; provides testing standards; and provides exceptions.

Section 4 creates s. 553.9046, F.S., defines thermal-efficient hardscapes, and provides default reflectance values for certain paving materials.

Section 5 provides an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁶ United States Environmental Protection Agency, EPA Home, Heat Island Effect, <http://www.epa.gov/hiri/> (last visited Jan. 22, 2012).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to DBPR, the proposed legislation will have a significant fiscal impact on the roofing manufacturers who would be required to retest their products and retool their manufacturing process. DBPR also notes that there is also the potential of limiting the type of roof covering capable of installation in Florida and this is likely to raise the price of roofing products and cost of construction.⁷

The bill will make it difficult for Florida roofing manufacturers to compete with other roofing manufacturers who sell their products in other states because the Florida roofing products will cost more to produce.⁸

C. Government Sector Impact:

The South Florida Water Management District would need to evaluate the proposed permit changes as the established rule is for 10 acre projects not 15 as proposed in the bill. The requirement of only 2 acres (no more than 5 acres) of impervious surface of the 15 acre project may not be a large enough ratio to grant a general permit.

DBPR will have to include the new definitions and requirements into future editions of the Florida Building Code.⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to DBPR, the bill conflicts with definitions in existence in the FBC. DPBR states that the bill redefines those terms in a manner that is inconsistent with the FBC and with national standards and model codes. The bill conflicts with the Florida Energy Code by mandating the use of particular types of roofing products, rather than allowing the use of a performance-based

⁷ Florida Department of Business and Professional Regulation, Senate Bill 1032 Analysis (Dec. 9, 2011) (on file with Senate Committee on Environmental Preservation and Conservation).

⁸ *Id.*

⁹ *Id.*

approach to energy conservation that accounts for improvement in the solar reflectance of specific roof products without imposing a minimum standard for solar reflectance on roofs.¹⁰

DBPR states that, with exception to the terms “hardscape” and “heat island effect” which fall outside the technical scope of the FBC, definitions of terms as provided in the proposed legislation are not consistent with those of the FBC or nationally recognized standards and model codes. Although highly reflective roofs may have the potential of saving energy in Florida, DBPR points out that it is questionable whether such savings can be sustained through the life of the roofs. In fact, a roof’s reflectance loses much of its beneficial impact fairly quickly because it gets dirty over time and is seldom cleaned. In addition, the proposed legislation could be perceived as a market restriction of roofing products by favoring a particular product over another.¹¹

According to DBPR, establishing minimum thermal efficiency standard hardscapes for sidewalks, courtyards and parking lots does not fall under the administrative and technical scope of the FBC as established by law. It more properly falls under the business functions of the Department of Transportation and local jurisdiction/ public works departments.¹²

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*



483824

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (12) is added to section 403.814,
Florida Statutes, to read:

403.814 General permits; delegation.—

(12) A general permit shall be granted for the
construction, alteration, and maintenance of a stormwater
management system serving a total project area of up to 15
acres. The construction of such a system may proceed without any
further agency action by the department or water management



483824

district if:

(a) The total project involves less than 10 acres and less than 2 acres of impervious surface; or

The total project involves less than 15 acres and less than 3 acres of impervious surface if the hardscape portion of the project has a minimum initial reflectance of 0.30 as certified by the American Society for Testing and Materials ASTM E903 or ASTM E1918 standard or a test using a portable reflectometer at near ambient conditions

(b) No activities will impact wetlands or other surface waters;

(c) No activities are conducted in, on, or over wetlands or other surface waters;

(d) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;

(e) The project is not part of a larger common plan, development, or sale.

(f) The project does not:

1. Cause adverse water quantity or flooding impacts to receiving water and adjacent lands;

2. Cause adverse impacts to existing surface water storage and conveyance capabilities;

3. Cause a violation of state water quality standards; and

4. Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086; and

(g) The surface water management system design plans must



483824

be signed and sealed by a Florida registered professional who shall attest that the system will perform and function as proposed and has been designed in accordance with appropriate, generally accepted performance standards and scientific principles.

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

===== 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 environmental permits; amending s.
403.814, F.S.; requiring that the Department of
Environmental Protection and the applicable water
management district grant a general permit for the
construction, alteration, and maintenance of certain
surface water management systems; authorizing the
construction of certain surface water management
systems to proceed without further action by the
department or the water management districts;
providing an effective date.

By Senator Benacquisto

27-00589A-12

20121032__

1 A bill to be entitled
2 An act relating to thermal efficiency standards;
3 amending s. 403.814, F.S.; requiring that the
4 Department of Environmental Protection and the
5 applicable water management district grant a general
6 permit for the construction, alteration, and
7 maintenance of certain surface water management
8 systems; authorizing the construction of certain
9 surface water management systems to proceed without
10 further action by the department or the water
11 management district; reordering and amending s.
12 553.902, F.S.; providing definitions for the terms
13 "ballasted roof," "hardscape," "heat island effect,"
14 "low-sloped roof," "solar reflectance" or
15 "reflectance," and "steeped-sloped roof"; creating s.
16 553.9045, F.S.; providing standards for a thermal-
17 efficient roof; requiring that roof exterior surfaces
18 and roofing material of a thermal-efficient roof have
19 a minimum solar reflectance; providing testing
20 standards; providing exceptions; creating s. 553.9046,
21 F.S.; defining thermal-efficient hardscapes; providing
22 default reflectance values for certain paving
23 materials; providing an effective date.

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

26
27 Section 1. Subsection (12) is added to section 403.814,
28 Florida Statutes, to read:
29 403.814 General permits; delegation.—

27-00589A-12

20121032__

(12) The department and the applicable water management district shall grant a general permit for the construction, alteration, and maintenance of a surface water management system serving a total project area of up to 10 acres. The construction, alteration, and maintenance of such a system may proceed without any further agency action by the department or water management district if:

(a) The total project area is less than 15 acres;

(b) The total project area involves less than 2 acres of impervious surface or no more than 5 acres of impervious surface if that surface is a thermal-efficient hardscape as provided in s. 553.9046;

(c) The activities do not impact wetlands or other surface waters;

(d) The activities are not conducted in, on, or over wetlands or other surface waters;

(e) The drainage facilities do not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and do not use a pump in any manner;

(f) The project is not part of a larger common plan, development, or sale;

(g) The project does not cause:

1. Adverse water quantity impacts or flooding to receiving water and adjacent lands;

2. Adverse impacts to existing surface water storage and conveyance capabilities;

3. A violation of state water quality standards; or

4. Adverse impacts to the maintenance of surface or ground water levels or surface water flows established pursuant to s.

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20121032__

373.042 or to a work of the district conducted pursuant to s.
373.086; and

(h) The design plans for the surface water management
system are signed and sealed by a Florida-registered
professional who attests that the system will perform and
function as proposed and that it has been designed in accordance
with appropriate, generally accepted performance standards and
scientific principles.

Section 2. Section 553.902, Florida Statutes, is reordered
and amended to read:

553.902 Definitions. As used in this part, the term ~~For the
purposes of this part:~~

(3) ~~(1)~~ "Exempted building" means:

(a) A ~~Any~~ building or portion thereof whose peak design
rate of energy usage for all purposes is less than 1 watt (3.4
Btu per hour) per square foot of floor area for all purposes.

(b) A ~~Any~~ building that ~~which~~ is neither heated nor cooled
by a mechanical system designed to control or modify the indoor
temperature and powered by electricity or fossil fuels.

(c) A ~~Any~~ building for which federal mandatory standards
preempt state energy codes.

(d) An ~~Any~~ historical building as described in s.
267.021(3).

The Florida Building Commission may recommend to the Legislature
additional types of buildings which should be exempted from
compliance with the Florida Energy Efficiency Code for Building
Construction.

(7) ~~(2)~~ "HVAC" means a system of heating, ventilating, and

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20121032__

air-conditioning.

~~(10)-(3)~~ "Renovated building" means a residential or nonresidential building undergoing alteration that varies or changes insulation, HVAC systems, water heating systems, or exterior envelope conditions, if provided the estimated cost of renovation exceeds 30 percent of the assessed value of the structure.

~~(8)-(4)~~ "Local enforcement agency" means the agency of local government which has the authority to make inspections of buildings and to enforce the Florida Building Code. It includes any agency within the definition of s. 553.71(5).

~~(4)-(5)~~ "Exterior envelope physical characteristics" means the physical nature of those elements of a building which enclose conditioned spaces through which energy may be transferred to or from the exterior.

~~(2)-(6)~~ "Energy performance level" means the indicator of the energy-related performance of a building, including, but not limited to, the levels of insulation, the amount and type of glass, and the HVAC and water heating system efficiencies.

(1) "Ballasted roof" means a roof having a minimum of 15 pounds per square foot of ballast for the purpose of weighing down a roofing membrane over a substrate to resist wind uplift. For purposes of this subsection, ballast includes, but is not limited to, river rock aggregate and pavers.

(5) "Hardscape" means the impervious, nonliving portions of a property's landscaping, including, but not limited to, roads, sidewalks, courtyards, and parking lots.

(6) "Heat island effect" means an elevated temperature over an urban area compared to rural areas, typically caused by the

27-00589A-12

20121032__

117 increased presence of dark, heat-absorbing materials.

118 (9) "Low-sloped roof" means a roof having a slope of rise
119 of 0 units in a horizontal length, up to and including, a roof
120 having a slope of rise of 2 units in a horizontal length of 12
121 units.

122 (11) "Solar reflectance" or "reflectance" means the amount
123 of solar energy reflected by a material.

124 (12) "Steep-sloped roof" means a roof having a slope of
125 rise greater than 2 units in a horizontal length of 12 units.

126 Section 3. Section 553.9045, Florida Statutes, is created
127 to read:

128 553.9045 Thermal-efficient roofs.—

129 (1) Standards for a thermal-efficient roof:

130 (a) A low-sloped roof must have a minimum initial
131 reflectance of 0.72 or a 3-year installed reflectance of 0.5 as
132 determined by the Cool Roof Rating Council or the Energy Star
133 program of the United States Environmental Protection Agency and
134 the United States Department of Energy. If more than 50 percent
135 of the total gross area of the roof is covered with vegetation
136 associated with an extensive or intensive green roof as defined
137 by the United States Environmental Protection Agency for the
138 purpose of reducing the heat island effect, the remainder of the
139 roof must have a minimum reflectance of 0.30.

140 (b) A ballasted roof must have a minimum initial
141 reflectance of 0.30.

142 (c) A steep-sloped roof must have a minimum initial
143 reflectance of 0.15.

144 (d) A roof that has multiple slopes is subject to the
145 standards applicable to the slope that covers the largest area

27-00589A-12

20121032__

146 of the building's footprint.

147 (2) All roof exterior surfaces and roofing materials of a
148 thermal-efficient roof must have a minimum reflectance as
149 certified by one of the following:

150 (a) The American Society for Testing and Materials ASTM
151 E903 or ASTM E1918 standard.

152 (b) A test using a portable reflectometer at near-ambient
153 conditions.

154 (c) The Cool Roof Rating Council.

155 (d) The Energy Star program of the United States
156 Environmental Protection Agency and the United States Department
157 of Energy.

158 (3) This section does not apply to:

159 (a) The portion of a roof acting as a substructure for and
160 covered by a rooftop deck.

161 (b) The portion of a roof covered with vegetation
162 associated with an extensive or intensive green roof as defined
163 by the United States Environmental Protection Agency for the
164 purpose of reducing the heat island effect.

165 (c) A rooftop deck covering a maximum of one-third of the
166 rooftop total gross area.

167 (d) An area of the roof covered by photovoltaic and solar
168 equipment.

169 Section 4. Section 553.9046, Florida Statutes, is created
170 to read:

171 553.9046 Thermal-efficient hardscapes.—A thermal-efficient
172 hardscape is the portion of impervious, nonliving improvements
173 of a property's landscaping, including, but not limited to,
174 roads, sidewalks, courtyards, and parking lots which has a

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20121032__

175 minimum initial reflectance of 0.30 as certified by the American
176 Society for Testing and Materials ASTM E903 or ASTM E1918
177 standard or a test using a portable reflectometer at near-
178 ambient conditions. When measuring the minimum initial
179 reflectance, one of the following reflectance values for paving
180 materials may be used:

181 (1) Typical new gray concrete, 0.35.

182 (2) Typical weathered concrete, 0.20.

183 (3) Typical new white concrete, 0.70.

184 (4) Typical weathered white concrete, 0.40.

185 (5) New asphalt, 0.05.

186 (6) Weathered asphalt, 0.10.

187 Section 5. This act shall take effect July 1, 2012.

5
2/6/12

Meeting Date

THE FLORIDA SENATE
APPEARANCE RECORD

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

#1

Topic Conservation of Wildlife Bill Number SB 1456
(if applicable)
Name D. LARRY KILLIANE Amendment Barcode _____
(if applicable)
Job Title President of Florida Association of Zoos & Aquariums
Address 1101 W. Shook Ave Phone 813-935-8552
Street
City Tampa State FL Zip 33604
E-mail Larry.Killiane@
LOWRYPARKZOO.COM
Speaking: ☒ For ☐ Against ☐ Information
Representing FAZA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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#2

5
2/6/12
Meeting Date

Topic SB 1456 CONSERVATION OF WILDLIFE Bill Number SB1456
(if applicable)
Name CRAIG PUGH Amendment Barcode _____
(if applicable)
Job Title EXECUTIVE DIRECTOR/CEO TAMPA'S LOWRY PARK ZOO
Address 1101 W. SLIGH AVE. Phone 813 244 0141
Street City State Zip
TAMPA FL 33604
E-mail CRAIG.PUGH@lowryparkzoo.com
Speaking: ☒ For ☐ Against ☐ Information
Representing LOWRY PARK ZOO
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SB 1456

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: The Conservation of Wildlife

DATE: February 2, 2012

REVISED: 02/07/12

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

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill would allow 16 zoos and aquaria that are accredited by the Association of Zoos and Aquaria (AZA) and that operate in Florida to seek authorization from the Board of Trustees of the Internal Improvement Trust Fund (Trustees) to use state lands to conduct enhanced research in the husbandry, reproductive biology, endocrinology, nutrition, genetics, behavior, health and ecology of native and non-native species of animals and birds. Projects involving mammalian species that are carnivores or primates would be prohibited.

The Fish and Wildlife Conservation Commission (FWC) will provide technical assistance to the Trustees in reviewing applications and will adopt rules to administer the new provisions. The Trustees may approve projects that they find are in the best interest of the state.

This bill creates an unnumbered section of law.

II. Present Situation:

Section 253.034(1), F.S., (state owned land; uses) provides that state owned lands shall be managed to "ensure the survival of plant and animal species," among numerous other purposes.

That section further states that “it is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust” the state lands “not designated for single-use purposes ... [should] be managed for multiple-use purposes.”

Multiple-use purposes is defined in s. 253.034(2)(a), F.S., as:

the harmonious and coordinated management of timber, recreation, conservation of fish and wildlife, forage, archaeological and historic sites, habitat and other biological resources, or water resources so that they are utilized in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of these resources and giving consideration to the relative values of the various resources. Where necessary and appropriate for all state-owned lands that are larger than 1,000 acres in project size and are managed for multiple uses, buffers may be formed around any areas that require special protection or have special management needs. Such buffers shall not exceed more than one-half of the total acreage. Multiple uses within a buffer area may be restricted to provide the necessary buffering effect desired. Multiple use in this context includes both uses of land or resources by more than one management entity, which may include private sector land managers. In any case, lands identified as multiple-use lands in the land management plan shall be managed to enhance and conserve the lands and resources for the enjoyment of the people of the state.¹

Section 253.034(5), F.S., specifies that a manager of state conservation lands must submit to the Division of State Lands a land management plan every 10 years. Whenever the manager of conservation lands intends to make “substantive land use or management changes that were not addressed in the approved plan,” the land manager must update the land management plan.

Section 253.034(10), F.S., provides for “additional” uses of conservation lands that include water resource development projects, water development supply projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. When state lands are used for these purposes, they must meet the following conditions:

- The use must not be inconsistent with the management plan for the lands;
- The use must be compatible with the natural ecosystem and resource values of such lands;
- The proposed use must be appropriately located on such lands where due consideration is given to the use of other available lands;
- The using entity must reasonably compensate the titleholder for the use based on an appropriate measure of value; and
- The use must be consistent with the public interest.

According to FWC, AZA-accredited institutions do not use any state lands for research of the animals in their collections.

¹ Section 253.034(2)(a), F.S.

The Lowry Park Zoo (an AZA-accredited zoo) leased 450 acres from the Southwest Florida Water Management District for a red wolf breeding program for several years, but that project was terminated in 2012.²

III. Effect of Proposed Changes:

Section 1 allows AZA-accredited zoos and aquaria that operate in Florida to apply to the Trustees to use state lands for the purpose of enhanced research in the husbandry, reproductive biology, endocrinology, nutrition, genetics, behavior, health, and ecology of native and non-native species of animals and birds. Projects involving mammalian species that are carnivores or primates would be prohibited.

A zoo or aquarium would apply to the Trustees and the application would be required to include the following information:

- The principals and sponsors of the project;
- A description of the funding and sources of funding that will be used to support the project;
- The size, location, and type of land sought;
- A detailed description of the proposed project; and
- A description of the infrastructure (including buildings, utilities, and roadways) that will be necessary to conduct the project.

The Trustees may approve applications they determine are in the best interest of the state, after considering the following factors:

- Whether the project is consistent with the state's goals for the lands that will be used for the project and whether the project will cause harm to the land or surrounding lands; and
- Whether the project will have a positive economic impact on the state or the communities surrounding the project location.

FWC will provide technical assistance to the Trustees in reviewing the applications, including impacts to native habitats by both animals and infrastructure, carrying capacities of lands, impacts on water quality, and other biological impacts. The FWC will also adopt rules to administer the new provisions of statute.

There are only 16 Florida AZA-accredited institutions, two of which are public aquaria; therefore, a significant volume of applications for projects is unlikely.

All animals in captivity are subject to FWC regulations concerning captive wildlife, as would be those included in these projects. FWC investigators would regularly inspect the locations of the projects to ensure compliance with all captive wildlife laws for the safety of humans and the welfare of the animals.

Section 2 establishes an effective date.

² Florida Fish and Wildlife Conservation Commission, *Senate Bill 1456*, (Jan. 24, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

According to FWC, the bill could be a large benefit to conservation organizations with a mission to protect species through captive breeding and repatriation programs.

C. Government Sector Impact:

The FWC may experience an increase in workload in order to assist with the review of project applications as well as monitoring sites for compliance. According to FWC, the cost is currently unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the FWC, existing rules and procedures for use of state lands generally address the uses contemplated in this bill. Specifically, where similar activities (e.g., cattle leases) are referenced in conceptual management plans, leases are executed with the lead management agency and approved by the Division of State Lands. The primary difference contemplated in this bill would be the involvement of significant numbers of non-native species. In this regard, the bill could be amended to reference the conservation goals of accredited Florida zoos and aquaria and provide stipulations as to the need to adhere to FWC regulations governing the captive wildlife species in question.³

³ Florida Fish and Wildlife Conservation Commission, *Senate Bill 1456*, (Jan. 24, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

According to the FWC, applications to use state conservation lands titled to the FWC could be deemed incompatible with requirements of federal grant-in-aid laws, which would require either providing replacement lands or funds equal to the value of the lands. To take these few lands out of consideration, an amendment could be offered to clarify that only Trustees-titled land would be considered.

According to the FWC, the bill stipulates that the Board of Trustees shall consider whether the project “is consistent with the state’s goals for the lands” and that there will not be off-site impacts. The former consideration would likely have to be reviewed for consistency in the Conceptual Management Plans for the subject parcels, and, should the Board approve, it may result in the designation of land as surplus. Secondly, impacts to state conservation lands, or surrounding lands, will be related to the size and scope of the activities. Presumably, these details would be included in rules or policy, or in leases or agreements with Division of State Lands. We recommend that any lease include information on (1) the species and numbers of animals to be used; (2) responsibility for recovery of escaped wildlife to prevent harm to humans, damage to the environment and other species, and the establishment of exotic species in Florida; (3) responsibility for removing any structures, facilities, etc., upon the conclusion of specific projects; (4) responsibility for habitat restoration upon the completion of specific projects; (5) requirements to mitigate unanticipated off-site impacts (e.g., erosion, reduced water quality); and (6) compensation to the land manager for the use of the land.⁴

The bill requires the FWC to provide technical assistance to the Trustees in their review of applications for projects. There are other state agencies, however, that manage state conservation lands with goals beyond FWC authority (e.g., water management, botanical conservation, and DACS forestry). In this regard, an amendment might be preferable to have the lead management agency for the lands requested to be used in a project provide technical assistance, with input from all cooperating agencies. Along the same lines, the bill requires the FWC to adopt rules to administer the section, but it may be desirable to have other agencies adopt additional rules for issues not directly related to fish and wildlife.

The bill could impact current uses of the State’s public conservation lands. Specifically, this could reduce public hunting, wildlife viewing, and other recreational opportunities on the FWCs wildlife management areas (as well as impacting planned uses on lands with other lead management agencies), depending on the size and location of any proposed such research facilities. If a project is approved on state conservation lands, there is a strong possibility that the land management plan for the land involved will have to be updated, pursuant to section 253.034(5).⁵

⁴ Florida Fish and Wildlife Conservation Commission, *Senate Bill 1456*, (Jan. 24, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁵ *Id.*

VIII. Additional Information:

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

None.

- B. **Amendments:**

Barcode 771374 by Environmental Preservation and Conservation on February 6, 2012:

The amendment specifies that zoos must get authorization from the water management districts to use district lands for research. The amendment specifies that a detailed description of the proposed project include containment facilities. The amendment specifies that a plan must include:

- a plan to ensure timely recovery of animals that have escaped due to natural disasters or other unforeseen events; and
- specifies that the governing board of the water management district in conjunction with the Board of Trustees(Trustees) must approve an application.

The Trustees and the water management district must consider whether the project is consistent with the state's goals for the lands that will be used for the projects as described in the approved land management plans. The Trustees must also determine if the project will have a positive economic impact on the state and the communities surrounding the project location. The amendment also specifies that FWC shall provide technical assistance to the Trustees or to the to the water management districts in reviewing each application. (WITH TITLE AMENDMENT)



771374

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2012	.	
Floor: 1/AD/2R	.	
03/09/2012 09:51 AM	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. (1) A zoo or aquarium having current
accreditation with the Association of Zoos and Aquariums and
operating a facility in the state may apply to the Board of
Trustees of the Internal Improvement Trust Fund for
authorization to use state lands, or to the governing board of a
water management district for authorization to use district
lands, for the purpose of conducting enhanced research in
husbandry, reproductive biology, endocrinology, nutrition,



771374

genetics, behavior, health, and ecology of selected populations of ungulate and avian species.

(2) The application must:

(a) Provide information relating to the principals and sponsors of the project.

(b) Provide a description of the funding and sources of funding that will be used to support the project.

(c) Identify the size, proximate location, and type of land sought.

(d) Provide a detailed description of the proposed project, including a description of the research to be conducted and the animals that will be used in the research. A project involving mammalian species that are carnivores or primates is prohibited.

(e) Provide a description of the infrastructure necessary to conduct the research project, including buildings, utilities, roadways, and containment facilities.

(f) Provide a description of a plan to ensure timely recovery of animals that have escaped due to natural disasters or other unforeseen events.

(3) The Board of Trustees of the Internal Improvement Trust Fund or the governing board of the water management district may approve the application if it determines that the proposed project is in the best interest of the state. In making its determination, the board of trustees or governing board shall consider:

(a) Whether the project is consistent with the state's goals for the lands that will be used for the project, as described in the approved land management plan for those lands, and will not cause harm to the land or the surrounding land.



771374

(b) Whether the project, through alliances and relationships with organizations, universities, federal and state agencies, or other members of the Association of Zoos and Aquariums, or otherwise, will have a positive economic impact on the state and the communities surrounding the project location.

(4) The Fish and Wildlife Conservation Commission shall provide technical assistance to the Board of Trustees of the Internal Improvement Trust Fund or to the governing board of the water management district in reviewing each application.

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

===== 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 conservation of wildlife;
authorizing certain zoos and aquariums to apply to the
Board of Trustees of the Internal Improvement Trust
Fund or the governing board of a water management
district to use state lands or water management
district lands for specified purposes; providing
application requirements; providing criteria for the
approval of such uses; requiring the Fish and Wildlife
Conservation Commission to provide technical
assistance in reviewing such applications; providing
an effective date.

By Senator Diaz de la Portilla

36-01291-12

20121456__

1 A bill to be entitled
2 An act relating to the conservation of wildlife;
3 providing for certain zoos and aquariums to apply to
4 the Board of Trustees of the Internal Improvement
5 Trust Fund for authorization to use state lands for
6 the purpose of conducting enhanced research; providing
7 information that must be provided in the application;
8 providing criteria that the board must consider in
9 reviewing the application; requiring the Fish and
10 Wildlife Conservation Commission to assist the board
11 and to adopt rules; providing an effective date.
12

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

15 Section 1. (1) A zoo or aquarium having current
16 accreditation with the Association of Zoos and Aquariums and
17 operating a facility in the state may apply to the Board of
18 Trustees of the Internal Improvement Trust Fund for
19 authorization to use state lands for the purpose of conducting
20 enhanced research in husbandry, reproductive biology,
21 endocrinology, nutrition, genetics, behavior, health, and
22 ecology which will ensure healthy wildlife populations for
23 native and foreign species of animals and birds.

24 (2) The application shall:

25 (a) Provide information relating to the principals and
26 sponsors of the project.

27 (b) Provide a description of the funding and the funding
28 sources that will be used to support the project.

29 (c) Identify the size, proximate location, and type of land

36-01291-12

20121456__

30 sought.

31 (d) Provide a detailed description of the proposed project,
32 including a description of the research to be conducted and the
33 animals that will be used in the research. However, a project
34 involving animal species that are carnivores or primates is
35 prohibited.

36 (e) Provide a description of the infrastructure that will
37 be necessary in order to conduct the research project, including
38 buildings, utilities, and roadways.

39 (3) The board of trustees may approve the application if it
40 determines that the proposed project is in the best interest of
41 the state. In making its determination, the board of trustees
42 shall consider:

43 (a) Whether the project is consistent with the state's
44 goals for the lands that will be used for the project and will
45 not cause harm to the land or the surrounding land.

46 (b) Whether the project, through alliances and
47 relationships with organizations, universities, federal and
48 state agencies, or other members of the Association of Zoos and
49 Aquariums, or otherwise, creates a positive economic impact for
50 the state or the communities surrounding the project location.

51 (4) The Fish and Wildlife Conservation Commission shall
52 provide technical assistance to the Board of Trustees of the
53 Internal Improvement Trust Fund in reviewing each application.

54 (5) The commission shall adopt rules to administer this
55 section.

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

✓

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12
Meeting Date

Topic Sponsorship of Greenways & Trails Bill Number 268
(if applicable)

Name Jim Wood Amendment Barcode _____
(if applicable)

Job Title Chief, Greenways & Trails

Address 3900 Commonwealth Blvd. Phone 950-245-2052
Street

Tall FL 32399 E-mail jim.w.wood@dep.state.fl.us
City State Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing FORD

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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2/6/12

Meeting Date

Topic Greenways & Trails

Bill Number SB 0268
(if applicable)

Name John B. Outland

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1562 TUNG Hill Drive
Street
Tallahassee FL 32317
City State Zip

Phone 850-878-6828

E-mail outlandjb@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)



THE FLORIDA SENATE
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February 6, 2012

Meeting Date

Topic Sponsorship of State Greenways and Trails

Bill Number CS/CS/SB 268
(if applicable)

Name Kent L. Wimmer

Amendment Barcode _____
(if applicable)

Job Title Director of Programs and Policy

Address 5415 SW 13th Street
Street
Gainesville FL 32608
City State Zip

Phone 850-528-5261

E-mail kwimmer@floridatrail.org

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Trail Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

6

THE FLORIDA SENATE
APPEARANCE RECORD



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

2.15.12

Meeting Date

Topic GREENWAYS & TRAILS Bill Number 268
(if applicable)
Name DAVID CULLEN Amendment Barcode _____
(if applicable)

Job Title _____
Address 1674 UNIVERSITY PKWY SW Phone 941.323.2406
Street
SARASOTA FL 34243 E-mail cullenasea@
City State Zip 201.com
Speaking: ☐ For ☒ Against ☐ Information

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2-6-12
Meeting Date

Topic Advertising on Greenways/Trails

Bill Number SB 268
(if applicable)

Name Reynold Caleen

Amendment Barcode _____
(if applicable)

Job Title Board Member

Address 3048 Godfrey Pl.
Street
Tallahassee, FL 32309
City State Zip

Phone 850-593-7733

E-mail ripcaleen@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Citizens for Scenic Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

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6
2/6/12
Meeting Date

Topic Signs / A.D.S. / Naming Greenway or track Bill Number CS/CS/5B 268
(if applicable)
Name Howard Pandue Amendment Barcode _____
(if applicable)
Job Title _____
Address 809 maderia Circle Phone 850 386-1494
Street
Tallahassee, FL 32312
City State Zip
Speaking: ☐ For ☒ Against ☐ Information
Representing Self
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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APPEARANCE RECORD

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2/6/12

Meeting Date

Topic Greenways and Trails

Bill Number 268
(if applicable)

Name Jon Stevenson

Amendment Barcode _____
(if applicable)

Job Title Special Counsel on Policy and Legislative Affairs

Address 3900 Commonwealth Blvd.
Street

Phone (950) 245-2140

Tallahassee FL 32399
City State Zip

E-mail: jon.stevenson@DEP.state.fl.us

Speaking: ☐ For ☐ Against ☒ Information

Representing DEP

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/CS/CS/SB 268

INTRODUCER: Environmental Preservation and Conservation Committee; Commerce and Tourism Committee; Transportation Committee; and Senator Wise

SUBJECT: Sponsorship of State Greenways and Trails

DATE: February 14, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Buford	TR	Fav/CS
2.	Juliachs	Hrdlicka	CM	Fav/CS
3.	Roam	Yeatman	EP	Fav/CS
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 268 creates the “John Anthony Wilson Bicycle Safety Act of 2011,” which authorizes the Department of Environmental Protection to enter into agreements with not-for-profit or private-sector entities allowing those entities to sponsor signage on state-owned greenway and trail facilities in the form of commercial displays.

The CS contains restrictions on placement, size, terms, materials, and construction. It also describes how proceeds from the agreements are to be distributed: 85 percent to the appropriate department trust fund to manage and operate state trails and greenways, and 15 percent to the State Transportation Trust Fund for use in the Florida Traffic and Bicycle Safety Education program and the Florida Safe Routes to School program. Furthermore, the CS lists those trails and greenways where sponsorship is authorized.

The Department of Environmental Protection is authorized to adopt rules to implement the provisions of the CS.

This CS creates s. 260.0144, F.S.

II. Present Situation:

Florida Greenways and Trails

The 1979 Legislature enacted ch. 79-110, L.O.F., entitled the Florida Recreational Trails Act (act) of 1979. The purpose of the act was to provide for a network of recreational and scenic trails to be used for hiking, biking, horseback riding, canoeing, and jogging, which were to be designated as the “Florida Recreational Trails System.” The Department of Environmental Protection (department) was encouraged to use areas within and connecting to state parks and forests, national parks and forests, local parks, public rights-of-way, and existing trails.

In 1983, the Florida Trail was designated as the Florida National Scenic Trail. Today, it is a 1,500 mile-long trail, including both National Scenic Trail certified and non-certified miles, which stretches from the Panhandle of Florida to the Big Cypress National Preserve.¹ Portions of the trail are components of the Florida Greenways and Trails program, the successor to the Recreational Trails System.

In 1987, the Florida Rails-to-Trails program was created to provide an emphasis on the acquisition and development of abandoned railroad corridors for use as public recreational trails, as well as to contribute to the preservation of wildlife habitat. Many railroad lines run along river corridors and coastal plains, areas with the most scenic views and productive habitat. Until 1990, the program depended on annual legislative appropriations, but the creation of the Preservation 2000 (P2000) program changed that. The P2000 program was created as a 10-year, \$3 billion bond program to acquire environmentally sensitive lands for conservation, protection, restoration and preservation purposes. The Rails-to-Trails program was provided with \$3.9 million a year in funding under P2000 through 1996.

In 1996, the Florida Legislature enacted ch. 96-389, L.O.F., which renamed the Recreational Trails System Act as the “Florida Greenways and Trails Act,” and provided for a statewide system of greenways and trails for recreational and conservation purposes and uses. A greenway was defined to be a “linear open space established along either a natural corridor, such as a riverfront, stream valley, or ridgeline, or over land along a railroad right-of-way converted to recreational use...” and trails were defined to mean “linear corridors and any adjacent support parcels on land or water providing public access for recreation or authorized alternative modes of transportation.” P2000 funding for Rails-to-Trails was extended through 2000 and was succeeded by funding from the Florida Forever program, as well as other state and federal funding programs.

In 2005, the Florida Legislature enacted ch. 2005-87, L.O.F., to recognize the Florida National Scenic Trail (trail) as Florida’s official statewide non-motorized trail from the Florida Panhandle to the Everglades and the Florida Keys. It further recognized the federal government’s major contributions and the efforts of private landowners, state government and non-profit entities in establishing the trail. Private landowners were encouraged to continue to allow the use of private property for trail purposes, through incentives and liability protection.

¹Florida Trail Association, Hike Florida on Florida’s Own National Scenic Trail, available at <http://www.floridatrail.org> (last visited January 13, 2012).

Presently, s. 260.016, F.S., sets forth general powers that the department may use in managing and overseeing the Florida Greenways and Trails System. These powers include charging user fees or rentals.

The Office of Greenways & Trails (OGT)

OGT provides statewide coordination to establish, expand, and promote Florida's Statewide System of Greenways and Trails. The office manages trails and other lands as key components of the Florida greenways and trails system, and partners with nearly 30 communities that manage state acquired greenways and trails through sublease agreements. It also manages a multi-million dollar capital budget consisting of federal Transportation Enhancement grants and fixed capital funds for the development of trails and facilities on state managed properties.²

Additionally, OGT coordinates with, and provides assistance to, local governments, developers, state and federal agencies, private landowners, and other interested citizens or advocates regarding the acquisition, designation, establishment, and management of greenways and trails projects. OGT works to expand the statewide network through a 1.5-percent annual allocation of Florida Forever funding, about \$4.5 million annually, for acquisition of trails. OGT administers the Recreational Trails Program (RTP), a federally funded competitive grant program providing financial assistance to local communities for the development of trails. Since inception, RTP has assisted communities in 42 Florida counties to establish and expand trails.

Florida's state trails and the Cross Florida Greenway had the highest annual visitation ever in 2009 with more than 4 million visitors, generating an estimated economic impact of \$95 million.³

Florida Trail Association

The Florida Trail Association is a private, non-profit volunteer organization founded in 1966, whose mission is to develop, maintain, promote, and protect a continuous hiking trail that runs the length of the state, as well as the loop and side trails throughout the state.⁴

Outdoor Advertising

With respect to outdoor advertising, ss. 337.407 and 479.11(8), F.S., prohibit advertisement signs from being placed in the right-of-way of any road on the interstate highway system, the federal-aid primary highway system, the State Highway System, or the State Park Road System. Based on these provisions, it appears that greenways and trails are excluded from such regulations, unless otherwise provided.

²Greenways and Trails, Florida Department of Environmental Protection, available at <http://www.dep.state.fl.us/gwt> (last visited January 13, 2012).

³ See <http://www.dep.state.fl.us/gwt/PDF/OfficeOverview.pdf> (last visited January 13, 2012).

⁴Florida Trail Association, Hike Florida on Florida's Own National Scenic Trail, available at <http://www.floridatrail.org> (last visited January 13, 2012).

III. Effect of Proposed Changes:

Section 1 names this legislation as the “John Anthony Wilson Bicycle Safety Act.” Mr. Wilson⁵ was a veteran firefighter for the city of Boca Raton and a cycling enthusiast who was struck and killed by a motor vehicle in February of 2011 while riding his bike.

Section 2 creates s. 260.0144, F.S., to authorize the department to enter into concession agreements⁶ for naming rights or the display of commercial sponsorship on certain state-owned greenway and trail facilities or property. Specifically, the CS provides the following:

- Authorizes the department to establish a cost for entering into a concession agreement.
- Placement of signage or displays shall conform to the provisions of s. 337.407, F.S., and ch. 479, F.S., and shall be limited to only trailheads or parking areas and designated public access points.
- The size of the signage or display is limited to 16 square feet at trailheads and parking areas and 4 square feet at designated public access points.
- The commercial displays contemplated by the concession agreements are for public relations or advertising purposes for the concessionaires, and therefore, are not to be construed as having any relationship with the department other than as set forth in the terms of the concession agreements.
- Any name or display must be approved by the department before installation.
- The department must ensure that:
 - The size, color, materials, construction, and location of all signs are consistent with the management plan for the property and the standards of the department;
 - Signs do not intrude on natural and historic settings; and
 - Signs contain only a logo selected by the sponsor and the following sponsorship wording: “(Name of the sponsor)...proudly sponsors the costs of maintaining the ...(Name of the greenway or trail).”
- Sponsorships are limited to the following trails and greenways: Florida Keys Overseas Heritage Trail, Blackwater Heritage Trail, Tallahassee-St. Marks Historic Railroad State Trail, Nature Coast State Trail, Withlacoochee State Trail, General James A. Van Fleet State Trail, and Palatka-Lake Butler State Trail.
- All costs associated with the signage, including its development, construction, installation, operation, maintenance, and removal, must be borne by the concessionaire.
- A concession agreement must be for a minimum 1-year term unless extended by a multiyear agreement and may be terminated by the department for just cause with 60 days notice to the concessionaire. Just cause for termination shall include, but not be limited to, violation of the terms of the concession agreement or any provision found within this section.
- A concession agreement is not to be construed to grant a proprietary or compensable interest in any sign or display site or location.
- All proceeds from the concession agreements are to be distributed as follows:

⁵ More information about the life of Mr. Wilson is available at <http://www.ci.boca-raton.fl.us/fire/pdf/PressReleases/2011/wilson.pdf> and at <http://www.palmbeachpost.com/news/hundreds-from-across-florida-gather-to-mourn-boca-1247122.html> (last visited January 13, 2012).

⁶ A concession agreement grants a specific privilege by the government to the other party in the agreement. *See* Black’s Law Dictionary (9th ed. 2009).

- 85 percent to the appropriate department trust fund used for the management and operation of state greenway or trail facilities and properties; and
- 15 percent to the State Transportation Trust Fund for use in the Florida Traffic and Bicycle Safety Education program and the Florida Safe Routes to School program.
- The department is authorized to adopt rules to administer the act.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

A strict separation of powers doctrine is found in Article II, Section 3 of the Florida Constitution. Accordingly, two tenets encompassing separation of powers are that no branch of government may encroach on another branch's power and that no branch may delegate its constitutionally assigned powers to another branch.⁷ For these reasons, the doctrine of separation of powers is inextricably linked to agency operations and may potentially raise constitutional issues when dealing with statutes that authorize agency action.

⁷ *Fla. Dept. of State v. Martin*, 916 So. 2d 763, 770 (Fla. 2005).

Therefore, “the Legislature may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law, but is required to delineate “some minimal standards and guidelines” when authorizing agency actions.⁸ The rationale for this limitation is guided by the belief that “fundamental and primary policy decisions ... [should] be made by members of the Legislature who are elected to perform those tasks ...”⁹ As amended, the agency action authorized by the Legislature in CS/CS/SB 268 will likely satisfy constitutional requirements.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

At this time, the Revenue Estimating Conference has not considered this CS. Therefore, the amount of revenue that might be realized due to this CS cannot be determined.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Environmental Preservation and Conservation Committee on February 14, 2012 – The CS:

- Removes the option in section two to give the naming rights of the trail to commercial sponsors;
- Limits the occurrence of displays to one large sign (16 sq. ft.) at trailheads and parking areas and one small sign (4 sq. ft.) at each designated public access point;
- Adds the requirements that signs do not intrude on natural and historic settings and contain only a logo selected by the sponsor along with specified sponsorship language; and

⁸ *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 26, 29 (Fla. 1st DCA 2008) (quoting *Chiles v. Children A, B, C, D, E, & F*, 589 So. 2d 260, 264 (Fla. 1991).

⁹ *Martin*, 916 So. 2d at 770.

- Enumerates the seven trails to which the bill applies.

CS by Commerce Committee on January 19, 2012 – The CS:

- Authorized the department to establish a cost for entering into a concession agreement.
- Removed the term “as appropriate” from language that authorizes the department to approve each name and sponsorship display prior to installation.
- Qualified “just cause” by specifying that it shall include, but not be limited to, violation of the terms of the concession agreement or any provision found within this section.
- Made stylistic changes with respect to organization.

CS by Transportation Committee on December 7, 2011 – The CS:

- Changed the word “advertising” to the word “sponsorship” throughout the bill.
- Added mandated compliance with s. 337.407, F.S, and Ch. 479, F.S.
- Added a sixty day notice period should the department choose to end a concession agreement for just cause.
- Added paragraph (5) which clarifies that concession agreements under this section do not create proprietary or compensable interests in any sign or display site or location.
- Changed the allocation of revenue from this section from 90 percent to 85 percent allocated to the appropriate department trust fund; and from 10 percent allocated to district school boards, which must be used to enhance funds for the school district’s bicycle education program or Safe Route to Schools Program prorated by population, to 15 percent allocated to the State Transportation Trust Fund for use in Florida Traffic and Bicycle Safety Education program and the Florida Safe Routes to School program.

B. Amendments:

None.



517104

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/14/2012	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "John Anthony
Wilson Bicycle Safety Act."

Section 2. Section 260.0144, Florida Statutes, is created
to read:

260.0144 Sponsorship of state greenways and trails.—The
department may enter into a concession agreement with a not-for-
profit entity or private sector business or entity for
commercial sponsorship to be displayed on state greenway and



517104

13 trail facilities or property specified in this section. The
14 department may establish the cost for entering into a concession
15 agreement.

16 (1) A concession agreement shall be administered by the
17 department and must include the requirements found in this
18 section.

19 (2) (a) Space for a commercial sponsorship display may be
20 provided through a concession agreement on certain state-owned
21 greenway or trail facilities or property.

22 (b) Signage or displays erected under this section shall
23 comply with the provisions of s. 337.407 and chapter 479, and
24 shall be limited as follows:

25 1. One large sign or display, not to exceed 16 square feet
26 in area, may be located at each trailhead or parking area.

27 2. One small sign or display, not to exceed 4 square feet
28 in area, may be located at each designated trail public access
29 point.

30 (c) Before installation, each name or sponsorship display
31 must be approved by the department.

32 (d) The department shall ensure that the size, color,
33 materials, construction, and location of all signs are
34 consistent with the management plan for the property and the
35 standards of the department, do not intrude on natural and
36 historic settings, and contain only a logo selected by the
37 sponsor and the following sponsorship wording:

38
39 ...(Name of the sponsor)...proudly sponsors the costs
40 of maintaining the...(Name of the greenway or
41 trail)....



517104

(e) Sponsored trails and greenways are authorized only at:

1. Blackwater Heritage Trail.

2. Tallahassee-St. Marks Historic Railroad State Trail.

3. Nature Coast State Trail.

4. Withlacoochee State Trail.

5. General James A. Van Fleet State Trail.

6. Palatka-Lake Butler State Trail.

(f) All costs of a display, including development, construction, installation, operation, maintenance, and removal costs, shall be paid by the concessionaire.

(3) A concession agreement shall be for a minimum of 1 year, but may be for a longer period under a multiyear agreement, and may be terminated for just cause by the department upon 60 days' advance notice. Just cause for termination of a concession agreement includes, but is not limited to, violation of the terms of the concession agreement or any provision of this section.

(4) Commercial sponsorship pursuant to a concession agreement is for public relations or advertising purposes of the not-for-profit entity or private sector business or entity, and may not be construed by that not-for-profit entity or private sector business or entity as having a relationship to any other actions of the department.

(5) This section does not create a proprietary or compensable interest in any sign, display site, or location.

(6) Proceeds from concession agreements shall be distributed as follows:

(a) Eighty-five percent shall be deposited into the



517104

appropriate department trust fund that is the source of funding
for management and operation of state greenway and trail
facilities and properties.

(b) Fifteen percent shall be deposited into the State
Transportation Trust Fund for use in the Traffic and Bicycle
Safety Education Program and the Safe Paths to School Program
administered by the Department of Transportation.

(7) The department may adopt rules to administer this
section.

Section 3. This act shall take effect July 1, 2012.

===== 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 the sponsorship of state greenways
and trails; creating the "John Anthony Wilson Bicycle
Safety Act"; creating s. 260.0144, F.S.; providing for
the Department of Environmental Protection to enter
into concession agreements for commercial sponsorship
displays to be displayed certain on state greenway and
trail facilities or property; providing requirements
for concession agreements; specifying which greenways
and trails may be included in the sponsorship program;
providing for distribution of proceeds from the
concession agreements; authorizing the department to
adopt rules; providing an effective date.



258276

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/14/2012	.	
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	.	
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The Committee on Environmental Preservation and Conservation
(Latvala) recommended the following:

**Senate Amendment to Amendment (517104) (with title
amendment)**

Delete lines 30 - 41
and insert:

3. Small signs or displays for the safety enhancement of
the greenway and trail user community, upon which the commercial
display may not exceed 4 feet in area, may be located on the
greenway or trail facility or property. Such signs or displays
must be spaced at least one-half mile apart and be equipped with
mile markers and geo-tags and may be equipped with first aid
kits, 911 call boxes, bicycle air pumps, or other safety



258276

enhancements approved by the department.

(c) Before installation, each sign or display must be approved by the department.

(d) The department shall ensure that the size, color, materials, construction, and location of all signs are consistent with the management plan for the property and the standards of the department, and do not intrude on natural and historic settings.

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

And the title is amended as follows:

Delete line 92

and insert:

displays to be displayed on certain state greenway and



403976

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/14/2012	.	
	.	
	.	
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The Committee on Environmental Preservation and Conservation
(Latvala) recommended the following:

**Senate Amendment to Amendment (517104) (with title
amendment)**

Delete lines 43 - 49

and insert:

(e) Sponsored trails and greenways are authorized only at:

1. Florida Keys Overseas Heritage Trail.

2. Blackwater Heritage Trail.

3. Tallahassee-St. Marks Historic Railroad State Trail.

4. Nature Coast State Trail.

5. Withlacoochee State Trail.

6. General James A. Van Fleet State Trail.



403976

7. Palatka-Lake Butler State Trail.

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

And the title is amended as follows:

Delete line 92

and insert:

displays to be displayed on certain state greenway and

By the Committees on Commerce and Tourism; and Transportation;
and Senator Wise

577-02066-12

2012268c2

A bill to be entitled
An act relating to the sponsorship of state greenways
and trails; creating the "John Anthony Wilson Bicycle
Safety Act"; creating s. 260.0144, F.S.; providing for
the Department of Environmental Protection to enter
into concession agreements for naming rights of state
greenway and trail facilities or property or for
commercial advertising to be displayed on state
greenway and trail facilities or property; providing
for distribution of proceeds from such concession
agreements; authorizing the department to adopt rules;
providing an effective date.

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

Section 1. This act may be cited as the "John Anthony
Wilson Bicycle Safety Act."

Section 2. Section 260.0144, Florida Statutes, is created
to read:

260.0144 Sponsorship of state greenways and trails.—The
department may enter into a concession agreement with a not-for-
profit entity or private sector business or entity for naming
rights of state greenway and trail facilities or property or for
commercial sponsorship to be displayed on state greenway and
trail facilities or property. The department is authorized to
establish the cost for entering into a concession agreement.

(1) A concession agreement under this section shall be
administered by the department and must include the requirements
found in this section.

577-02066-12

2012268c2

30 (2) (a) Naming rights or space for a commercial sponsorship
31 display may be provided through a concession agreement on
32 certain state-owned greenway or trail facilities or property.

33 (b) Signage or displays erected under this section shall
34 comply with the provisions of s. 337.407 and chapter 479, and
35 shall be limited to trailheads, trail intersections, directional
36 or distance markers, interpretive exhibits, and parking areas.

37 (c) The size of any sign or display shall be limited as
38 follows:

39 1. A sign or display located at a trailhead or parking area
40 may not exceed 16 square feet.

41 2. All other signs or displays may not exceed 4 square
42 feet.

43 (d) Before installation, each name or sponsorship display
44 must be approved by the department.

45 (e) The department shall set materials and construction
46 standards for all signage displayed.

47 (f) All costs of a display, including its development,
48 construction, installation, operation, maintenance, and removal,
49 shall be paid by the concessionaire.

50 (3) A concession agreement under this section shall be for
51 a minimum of 1 year but may be for a longer period under a
52 multiyear agreement, and may be terminated for just cause by the
53 department with 60 days' advance notice. Just cause for
54 termination of a concession agreement under this section shall
55 include, but is not limited to, violation of the terms of the
56 concession agreement or any provision found within this section.

57 (4) Naming rights of a facility and commercial sponsorship
58 pursuant to a concession agreement under this section are for

577-02066-12

2012268c2

59 public relations or advertising purposes of the not-for-profit
60 entity or private sector business or entity, and shall not be
61 construed by that not-for-profit entity or private sector
62 business or entity as having a relationship to any other actions
63 of the department.

64 (5) This section does not create a proprietary or
65 compensable interest in any sign or display site or location.

66 (6) Proceeds from concession agreements under this section
67 shall be distributed as follows:

68 (a) Eighty-five percent shall be deposited into the
69 appropriate department trust fund that is the source of funding
70 for management and operation of state greenway and trail
71 facilities and properties.

72 (b) Fifteen percent shall be deposited into the State
73 Transportation Trust Fund for use in the Traffic and Bicycle
74 Safety Education Program and the Safe Paths to School Program
75 administered by the Department of Transportation.

76 (7) The department may adopt rules to administer this
77 section.

78 Section 3. This act shall take effect July 1, 2012.

7

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/2012

Meeting Date

Topic RECLAIMED WATERName JAN MCLEANJob Title ASST. CITY ATTORNEYAddress 315 E. KENNEDY BLVD.

Street

TAMPA

City

FL

State

33602

Zip

Bill Number 1086
(if applicable)Amendment Barcode 112952
(if applicable)Phone 813-274-8449E-mail JAN.MCLEAN@TAMPAGOV.NETSpeaking: ☒ For ☐ Against ☐ InformationRepresenting CITY OF TAMPAAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

1

THE FLORIDA SENATE
APPEARANCE RECORD

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

FEB 6 2012
Meeting Date

Topic Reclaimed Water

Bill Number (1086)
(if applicable)

Name Janet Browner

Amendment Barcode 112952
(if applicable)

Job Title Dir. of Legislative Policy & Strategies

Address 625 N. Adams Street
Street

Phone 850-251-9406

Tall FL 32301
City State Zip

E-mail Janet-Browner@TNC.org

Speaking: ☒ For ☐ Against ☐ Information

Representing The Nature Conservancy

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

Waive in Support

S-001 (10/20/11)

1

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-6-12

Meeting Date

Topic Reclaimed Water

Name Stephanie Kunkel

Job Title _____

Address 1830 Meriadow Rd.
Street
Tallahassee FL 32303
City State Zip

Bill Number SB 1086
(if applicable)

Amendment Barcode 112952
(if applicable)

Phone 850-320-4208

E-mail stef.kunkel@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

Representing Clean Water Action

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

7

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/6/12
Meeting Date

Topic Reclaimed Water

Bill Number SB 1086
(if applicable)

Name Mary Jean Yan

Amendment Barcode 112952
(if applicable)

Job Title _____

Address 3324 Charleston Rd
Street
Tallahassee FL 32309
City State Zip

Phone (850) 519-7859

E-mail maryjeanyan@comcast.net

Speaking: ☐ For ☐ Against ☒ Information

Representing Audubon Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

7
2/6/12

Meeting Date

Topic RECLAIMED WATER

Bill Number SB 1086
(if applicable)

Name KEYNA CORY

Amendment Barcode _____
(if applicable)

Job Title SENIOR LOBBYIST

Address 110 E. COLLEGE AVE

Phone 850 681-1065

Street

TALLAHASSEE FL 32301

City

State

Zip

E-mail kegnacory@pacconsultants.com

Speaking: ☒ For ☐ Against ☐ Information

Representing ASSOCIATED INDUSTRIES OF FL (AIF)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

7

2-6-12

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

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

Topic Reclaimed water

Bill Number 1086
(if applicable)

Name LEE KILLINGER

Amendment Barcode _____
(if applicable)

Job Title _____

Address 324 E. Virginia St.
Street

Phone 851-322-8407

Tallahassee FL 32308
City State Zip

E-mail lee@anfieldflorida.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Polk County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

7

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12
Meeting Date

Topic Reclaimed Water Bill Number 1086
(if applicable)
Name Suzanne Goss Amendment Barcode _____
(if applicable)
Job Title Governmental Relations Specialist
Address 21 W. Church St. Phone 904-665-8331
Street
Jacksonville FL 32202 E-mail gossSE@jea.com
City State Zip
Speaking: ☒ For ☐ Against ☐ Information
Representing JEA (electric, water & sewer)
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

9

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12
Meeting Date

Topic Reclaimed Water Bill Number 1086
(if applicable)

Name Jon Stevenson Amendment Barcode _____
(if applicable)

Job Title Special Counsel on Policy and Legislative Affairs

Address 3900 Commonwealth Blvd. Phone (850) 245-2140
Street
Tallahassee FL 32399
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Department of Environmental Protection

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

1

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.5.12

Meeting Date

Topic

RECLAIMED WATER

Bill Number

1086

(if applicable)

Name

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Amendment Barcode

(if applicable)

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Speaking:

☐ For☐ Against☒ Information

Representing

SIERRA CLUB FLORIDA

Appearing at request of Chair:

☐ Yes☒ No

Lobbyist registered with Legislature:

☒ Yes☐ No

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

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

S-001 (10/20/11)

1

THE FLORIDA SENATE
APPEARANCE RECORD

Feb 6 2012

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

Meeting Date

Topic

Reclaimed Water

Bill Number

1086

(if applicable)

Name

David Childs

Amendment Barcode

(if applicable)

Job Title

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Speaking:

☒

For

☐

Against

☐

Information

Representing

FWFA Utility Council

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/20/11)

7

THE FLORIDA SENATE
APPEARANCE RECORD

2/6/12

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

Meeting DateTopic Reclaimed WaterBill Number 1006
(if applicable)Name Ryan MatthewsAmendment Barcode _____
(if applicable)Job Title Leg. AdvocateAddress PO Box 1757
Tallahassee FL 32302
City State ZipPhone 850-222-9684E-mail rmatthews@flcities.comSpeaking: ☒ For ☐ Against ☐ InformationRepresenting FL League of CitiesAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)



THE FLORIDA SENATE
APPEARANCE RECORD

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

6 Feb 2012

Meeting Date

Topic Reclaimed Water

Bill Number 1086
(if applicable)

Name Edgar Fernandez

Amendment Barcode _____
(if applicable)

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Speaking: ☒ For ☐ Against ☐ Information

WATER

Representing MIAMI DAVE WATER + SEWER DEPT

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic RECLAIMED WATER

Bill Number 1086
(if applicable)

Name STEPHEN JAMES

Amendment Barcode
(if applicable)

Job Title

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Phone 922-4300

E-mail

Speaking: ☒ For ☐ Against ☐ Information

Representing FLA. ASSOC OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

7

2/6/12

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

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

Topic Reclaimed WaterBill Number 1086
(if applicable)Name Frank BernardinoAmendment Barcode _____
(if applicable)

Job Title _____

Address 324 Virginia St.
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Tallahassee FL 32301
City State ZipPhone 561/718-2345E-mail Frankcantfield@florida.comSpeaking: ☒ For ☐ Against ☐ InformationRepresenting Fla. Section of American Water Works AssociationAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/2012

Meeting Date

Topic _____ Bill Number 1086
(if applicable)

Name Leticia M Adams Amendment Barcode _____
(if applicable)

Job Title Director of Infrastructure & Governance Policy

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Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12
Meeting Date

Topic

Sponsorship of Greenways & Trails

Bill Number

268

(if applicable)

Name

Jim Wood

Amendment Barcode

(if applicable)

Job Title

Chief, Greenways & Trails

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Zip

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Speaking:

☐ For

☐ Against

☒ Information

Representing

FDOED

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☐ Yes

☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic Greenways & Trails

Bill Number SB 0268
(if applicable)

Name John B. Outland

Amendment Barcode _____
(if applicable)

Job Title _____

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E-mail outlandjb@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 1086

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Garcia

SUBJECT: Reclaimed Water

DATE: February 7, 2012

REVISED: _____

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

Please see Section VIII. for Additional Information:

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

I. Summary:

The Committee Substitute (CS) addresses the regulation and use of reclaimed water:
Specifically, the CS:

- defines “reclaimed water” and “reclaimed water distribution system”;
- provides legislative findings related to the use of reclaimed water;
- provides that reclaimed water is an alternative water supply (AWS) and eligible for such funding;
- authorizes specified contract provisions for the development of reclaimed water as an alternative water supply;
- deletes a definition for the term “uncommitted”;
- provides for the determination of uncommitted reclaimed water capacity by certain utilities;
- prohibits water management districts from requiring permits for the use of reclaimed water;
- authorizes permit conditions for certain surface water and groundwater sources in relation to using reclaimed water;
- authorizes water management districts (WMDs) to require the use of reclaimed water under certain conditions;

- prohibits water management districts from requiring or restricting services provided by reuse utilities;
- excludes reuse utilities from providing written reclaimed water feasibility evaluations;
- requires the Department of Environmental Protection (DEP) and each WMD to initiate rulemaking to adopt specified revisions to the water resource implementation rule;
- authorizes the DEP to regulate the use of surface water or groundwater to supplement a reclaimed water system;
- expands application of s. 373.250, F.S., to modification of existing consumptive use permits (CUPs); and
- clarifies limitations of the act.

This bill substantially amends ss. 373.019 and 373.250 of the Florida Statutes, and creates an unnumbered section of law.

II. Present Situation:

“Water” and “Waters in the State”

Under current Florida law, “waters in the state” are considered basic public resources benefiting the entire state.¹ The statutes define “water” or “waters in the state” as “all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as coastal waters within the jurisdiction of the state.”²

In the “Declaration of Policy” for ch. 373, F.S., the Legislature acknowledges that, in the past, Florida’s water resources were not adequately conserved or otherwise realized for their full beneficial use. In response, the Legislature delegated authority to the DEP and WMDs to sustainably manage water resources.³ To that end, the DEP and WMDs have the authority to allocate water resources throughout the state to meet all reasonable-beneficial uses.⁴ The DEP and the WMDs regulate use of water resources through issuance of consumptive use permits (CUPs) based upon statutory authority contained in ch. 373, F.S., commonly known as the Florida Water Resources Act of 1972.

The DEP defines reclaimed water by rule as water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater (i.e., sewage) treatment facility.⁵ An attempt by St. Johns River WMD in 2008 to adopt rules to regulate reclaimed water through the CUP process illustrates the unresolved question regarding the extent of the DEP’s and the WMDs’ regulatory authority over reclaimed water. The St. Johns River WMD proposed rulemaking that, if adopted, would have included reclaimed water among water regulated by the WMD by general permit for purposes of landscape and agricultural irrigation,

³ Section 373.016(2), F.S.

³ Section 373.016(2), F.S.

³ Section 373.016(2), F.S.

⁴ Section 373.016(4)(a), F.S.

⁵ Rule 62-610.200(48), F.A.C.

by address, time of day, and day of the week.⁶ The Florida League of Cities contested the St. Johns River WMD's delegated legislative authority to promulgate these rules, and, two months after proposing the rulemaking, it decided not to pursue adoption of the regulations.⁷ Nevertheless, the DEP asserts that, although they have not historically done so, the WMDs may require a CUP solely for the use of reclaimed water.⁸

Consumptive Use Permitting

Section 373.236(5), F.S., authorizes CUPs for the development of AWS projects. A WMD or the DEP may impose reasonable conditions as are necessary to assure that such use is consistent with the overall objectives of the issuing WMD or the DEP and is not harmful to the water resources of the area.⁹

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

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

The Three-Prong Test

"Reasonable-beneficial use" is defined as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest."¹⁰ The Legislature has declared water a public resource belonging to the public, therefore, wasteful uses of water are not allowed even if there are sufficient resources to meet all other users.

To that end, the DEP has promulgated the Water Resource Implementation Rule that incorporates interpretive criteria for implementing the reasonable-beneficial use standard based on common law and on water management needs.¹¹ These criteria include consideration of the quantity of water requested; the need, purpose, and value of the use; and the suitability of the source. The criteria also consider the extent and amount of harm caused, whether that harm extends to other lands, and the practicality of mitigating that harm by adjusting the quantity or method of use. Particular consideration is given to the use or reuse of lower quality water, and

⁶ See Letter from Suzanne G. Printy, Chief Staff Attorney, The Florida Legislature Joint Administrative Procedures Committee to Thomas M. Beason, General Counsel, Florida Department of Environmental Protection (Dec. 9, 2008).

⁷ Letter from Rebecca A. O'Hara, Legislative Director, Florida League of Cities, Inc. to Suzanne Printy, Chief Staff Attorney, The Florida Legislature Joint Administrative Procedures Committee (Dec. 5, 2009).

⁸ DEP, *House Bill 639 Draft Analysis* (Dec. 1, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁹ See s. 373.219, F.S.

¹⁰ Section 373.019(16), F.S.

¹¹ See generally Rule 62-40, F.A.C.

the long-term ability of the source to supply water without sustaining harm to the surrounding environment and natural resources.¹²

The second element of the three-prong test protects the rights of existing legal uses of water for the duration of their permits.¹³ New CUPs cannot be issued if they would conflict with an existing legal use. This criterion is only protective of water users that actually withdraw water, not passive users of water resources.¹⁴

The final element of the three-prong test requires water use to be consistent with the “public interest.” While the DEP’s Water Resource Implementation Rule provides criteria for determining the “public interest,” determination of a public interest is made on a case-by-case basis during the permitting process.¹⁵ However, the WMDs and the DEP have broad authority to determine which uses best serve the public interest if there are not sufficient resources to fulfill all applicants’ CUPs. In the event that two or more competing applications are deemed to be equally in the public interest, the WMDs or the DEP gives preference to renewal applications.¹⁶

Reclaimed Water

In an effort to conserve the state’s potable surface and groundwater resources, the statutes authorize the WMDs to restrict water use to the lowest quality water source appropriate for the specific use and to adopt rules that identify preferred water supply sources for consumptive uses.¹⁷ The WMD may consider all economically and technically feasible alternatives to the proposed water source, including alternative water sources – desalination, aquifer storage and recovery, and reuse of nonpotable reclaimed water.¹⁸ Of these enumerated alternative water sources, the Legislature expressly encourages the use of reclaimed water as an alternative water source “whenever practicable.”¹⁹

The DEP defines “reclaimed water” as water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.²⁰ In essence, water reuse involves taking domestic wastewater (i.e., sewage), giving it a high degree of treatment, and using the resulting high-quality reclaimed water for a new, beneficial purpose. Extensive treatment and disinfection during this process ensure that public health and environmental quality are protected.²¹

¹² *Southwest Florida Water Management District v. Charlotte County*, 774 So. 2d 903, 911 (Fla. 2d DCA 2001) (upholding the WMD’s use of criteria for implementing the reasonable-beneficial use standard).

¹³ Section 373.223(1)(b), F.S.

¹⁴ *See Harloff v. City of Sarasota*, 575 So. 2d 1324 (Fla. 2d DCA 1991) (holding a municipal wellfield was an existing legal user and should be afforded protection). In contrast, *see West Coast Regional Water Supply Authority v. Southwest Florida Water Management District*, 89 ER F.A.L.R. 166 (Final Order, Aug. 30, 1989) (holding a farmer who passively relied on a higher water table to grow nonirrigated crops and standing surface water bodies to water cattle was not an existing legal user).

¹⁵ *See generally* Rule 62-40, F.A.C.

¹⁶ *See* s. 373.233, F.S.

¹⁷ *See* s. 373.2234, F.S.

¹⁸ Section 373.223(3)(c), F.S.

¹⁹ Section 373.016(4)(a), F.S.

²⁰ Rule 62-610.200(48), F.A.C.

²¹ DEP, *Water Reuse*, <http://www.dep.state.fl.us/water/reuse/index.htm> (last visited Feb. 3, 2012).

Reclaimed water is an important alternative water source in Florida in light of mounting pressures on the state's fresh water resources, principally surface water and groundwater. The use of reclaimed water saves water that would otherwise need to be withdrawn from surface water and groundwater sources to meet nonpotable supply needs such as agricultural or residential irrigation,²² power generation, or recreation (e.g., golf courses or waterparks). Additionally, reclaiming waste water reduces reliance on traditional wastewater disposal methods such as surface water discharges, ocean outfalls, or deep well injection wells. The DEP asserts that, "Florida is leading the nation – reusing 660 million gallons of reclaimed water each day to conserve freshwater supplies and replenish our rivers, streams, lakes and the aquifer."²³

Section 373.250(2)(c), F.S., authorizes a WMD to require the use of reclaimed water in lieu of surface water or groundwater when the use of uncommitted reclaimed water is available; is environmentally, economically, and technically feasible; and is of such quality and reliability as is necessary to the user. Reclaimed water is presumed to be available to a CUP applicant when a reclaimed water provider has "uncommitted" reclaimed water capacity and there are distribution facilities provided by the utility to the site of the proposed use. Uncommitted reclaimed water is defined as the average amount of reclaimed water produced during the lowest-flow months, less the amount of reclaimed water that a reclaimed water provider is contractually obligated to provide a customer or user. However, by its express terms, this provision does not authorize a WMD to require a provider of reclaimed water to redirect reclaimed water from one user to another or to provide uncommitted water to a specific user if such water is anticipated to be used by the provider, or a different user selected by the provider, within a reasonable amount of time.²⁴

As required in statute and implemented in the DEP's Water Resource Implementation Rule,²⁵ the WMDs must designate water resource caution areas²⁶ within which CUP permit holders are required to use a "reasonable" amount of reclaimed water, unless using it is not "economically, environmentally or technically feasible." For example, the entire St. Johns River WMD has been designated a water resource conservation area, and WMD rules require reclaimed water to be used throughout the district if it is readily available and feasible.²⁷ In contrast, the Northwest Florida WMD has designated only two water resource caution areas – the coastal areas of Santa Rosa, Okaloosa, and Walton Counties and the Upper Telogia Creek Drainage Basin of Gadsden County. Applicants in those two areas who propose to withdraw water from the Floridan aquifer are required to use reclaimed water unless its use is not economically, environmentally, or technically feasible as determined by the WMD.²⁸

Currently, WMD year-round irrigation restrictions do not apply to irrigation with reclaimed water. In recent years, discussions have been held in some WMDs regarding the possibility of

²² In central Florida, for instance, studies have shown that irrigation accounted for 64% of the residential use volume for all monitored homes. (Florida Section of the American Water Works Association, *Florida's Water Survival Handbook for the Future* 60 (2009) (citing Journal of Irrigation and Drainage Engineering, Vol. 133, Issue 5, pp. 427-94 (2007)).)

²³ *Supra* note 24.

²⁴ Section 373.250(2)(a)-(b), F.S.

²⁵ *See generally* Rule 62-40, F.A.C.

²⁶ Water resource caution areas are designated where water supply problems currently exist or are expected to exist within the next 20 years. Section 373.0363, F.S., and Rule 62-40.416, F.A.C.

²⁷ Rule 40C-23.001, F.A.C.

²⁸ Rule 40A-2.802, F.A.C.

imposing restrictions on the use of reclaimed water for irrigation purposes. However, reclaimed water utilities expressed concerns that such restrictions would create operational problems for the utilities, because wastewater flows do not vary according to weather conditions while the need for irrigation does vary. As a result, irrigation restrictions may cause a reuse utility to increase discharges of reclaimed water to surface waters, possibly in violation of the utility's National Pollutant Discharge Elimination System (NPDES) permit, or require the construction of expensive storage capacity for the utility's reclaimed water supply.²⁹

For areas outside of designated water resource caution areas, the DEP encourages local governments to implement programs for the use of reclaimed water. Specifically, the WMDs are encouraged to establish incentives, such as longer permit duration and cost-sharing, for local governments and other interested parties to implement programs for reclaimed water use.³⁰ With respect to Florida's "Home Rule Power,"³¹ the provisions of the Water Resource Implementation Rule provide that the rule itself may not preempt any local water reuse programs.³²

Additionally, mandatory reuse zones established by local government ordinance may require a person living within the area to connect when available with any alternative water supply system, including reclaimed water.³³ Mandatory reuse zones have been established in three WMDs – South Florida, Suwannee River and St. Johns River – mostly for irrigation. In the St. Johns River WMD, the conflict between the WMD's authority and the "Home Rule Power" of the local government was resolved by including language in local ordinances requiring reclaimed water use, unless the WMD required otherwise. This allowed the utility to use the most logical, lowest quality source, which sometimes may be another source, such as stormwater.³⁴

Impact Offsets and Substitution Credits

The WMDs are already regulating water use in areas around the state that have experienced the harmful effects of overuse of both surface water and groundwater resources. They use a variety of planning and recovery strategies to manage healthy systems and restore impacted systems. The use of reclaimed water to supplement existing water resources is one tool that can help to sustain and recover water resources. Two concepts surrounding reclaimed water use are "impact offsets" and "substitution credits." Impact offsets are generally considered the use of reclaimed

²⁹ DEP, *House Bill 639 Draft Analysis* (Dec. 1, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁰ Rule 62-40.416(2), F.A.C.

³¹ In Florida, "Home Rule Power" language was proposed in the 1968 Constitutional revision and was adopted by the people. After several legal challenges, the Florida Legislature adopted the Home Rule Powers Act in 1973, which ended challenges related to city and county powers. The Florida Constitution states in Art. VIII, § 2(b) for municipalities: "Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise power for municipal purposes except as otherwise provided by law."

³² Rule 62-40.416(2), F.A.C.

³³ Section 125.01(k)1., F.S., authorizes counties to: "[p]rovide and regulate waste and sewage collection and disposal, water and alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems, and conservation programs."; Section 180.02, F.S., provides that cities that may "create a zone or area by ordinance and to prescribe reasonable regulations requiring all persons or corporations living or doing business within said area to connect, when available, with any ... alternative water supply system, including, ... reclaimed water[.]"

³⁴ DEP, *Connecting Reuse and Water Use: A Report of the Reuse Stakeholders Meetings* (2009), available at http://www.dep.state.fl.us/water/reuse/docs/reuse-stake-rpt_0209.pdf (last visited Feb. 3, 2012).

water as an alternative water supply that reduces or eliminates a harmful impact that has or will occur as the result of a surface water or groundwater withdrawal. Substitution credit is the use of reclaimed water that replaces all or part of an existing permitted use of surface water or groundwater within a resource-limited area. Substitution credits may be transferred to a different user or use.³⁵ The South Florida and Southwest Florida WMDs have already adopted rules similar to impact offsets and substitution credits.

The working group that evaluated the use of impact offsets and substitution credits recommended seven key attributes:³⁶

- The terms should have consistent definitions across WMDs.
- Substitution credits must be limited to particular geographic areas for which the water management districts have adopted rules that limit withdrawals from a specified water resource, and that address the applicability and use of substitution credits.
- The substitution credit or impact offset is part of a water use permit; therefore, to obtain and use the credit or offset, all water management district permitting requirements must be met. In addition, the duration of the credit or offset is limited to the duration of the water use permit in which it is incorporated.
- The entity providing the reclaimed water to substitute for an existing withdrawal will receive the substitution credit if it has a demonstrated need for the water.
- Substitution credits recognized in a water use permit cannot be “transferred” to other users, except in the same limited manner as the permit itself.
- There should be a consistent approach in determining the amount of the substitution credit.
- There should be a consistent approach in identifying acceptable impact offsets.

When taken together, these recommendations form the framework of how these additional regulatory tools may function to reduce impacts to surface water and groundwater resources.

Examples of resource-limited areas in which the concept of substitution credits has already been implemented are the Southern Water Use Caution Area in Southwest Florida WMD, the Lower East Coast Everglades and Northern Palm Beach/Loxahatchee River Watershed regions, and the Lake Okeechobee Service Area in South Florida WMD.³⁷ According to the DEP, these WMDs have “formalized mechanisms to allow reclaimed water to be provided as a substitution for groundwater withdrawals, thus allowing another entity to use new or additional groundwater without increasing the overall water withdrawals in a region.”³⁸

Alternative Water Supply Funding

Between fiscal years 2005-2006 and 2007-2008, the Legislature authorized the allocation of over \$217 million among the five WMDs to develop alternative water supply projects. Reclaimed water development projects made up the bulk of project types that were funded over these four years, comprising 202 of the 324 funded projects. Over this period, the funding waned

³⁵ DEP et al., *Purple Paper: Reclaimed Water, Credits, and Offsets* (undated) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁶ *Id.*

³⁷ *Id.*, at 2.

³⁸ DEP, *House Bill 639 Draft Analysis* (Dec. 1, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

significantly. In fiscal year 2005-2006, \$100 million was allocated among the five WMDs, but by fiscal year 2007-2008, that figure dropped to \$5.54 million. The Legislature has not provided any alternative water supply funding at the state level since fiscal year 2008-09.³⁹

Environmental Considerations

The adverse environmental impacts of consumptive water use are essential considerations in the permitting process. Indeed, the Legislature expressly provided that the policy of the State Water Resource Plan is “to preserve natural resources, fish, and wildlife.”⁴⁰ This statute is consistent with Article II, Section 7(a) of the Florida Constitution, which states that “[i]t shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and excessive and unnecessary noise and for the conservation and protection of natural resources.”

Water Needs of Natural Systems

Excessive use of surface water or groundwater may trigger a cascade of adverse environmental impacts including: salt water intrusion that can degrade water quality; changes in salinity levels in estuaries that can kill off oyster and grass beds; “drying out” of wetlands and lakes that can lead to habitat loss; and reduced spring and river flows that can diminish recreational values like fishing or ecotourism, which rely on a robust and biologically diverse ecology. To avoid adverse environmental impacts, the DEP and WMDs are statutorily mandated to establish minimum flow levels (MFLs) for surface and groundwaters which set the threshold at which further withdrawals could significantly harm the water resources or ecology of the area.⁴¹ To date, the five WMDs have collectively adopted over 300 MFLs for water bodies across the state.⁴²

A WMD may deny a CUP because the desired uses are “undesirable because of the nature of the activity or the amount of water required.”⁴³ For example, in *Osceola County v. St. Johns River Water Management District*,⁴⁴ the WMD denied a wellfield permit because of the potential adverse effects of a drawdown of the aquifer on wetlands. The hearing officer found that the predicted drawdown of 0.14 feet could significantly harm herbaceous wetlands, and the applicant was denied a permit because he failed to sufficiently assess those impacts or propose adequate mitigation efforts.⁴⁵

Water Quality Standards

Water quality and pollution is primarily regulated through Florida’s implementation of the federal Clean Water Act (CWA).⁴⁶ The CWA requires states or the U.S. Environmental Protection Agency (EPA) to establish water quality standards for surface waters and prohibits the

³⁹ DEP, *Water Project Funding in Florida*, <http://www.dep.state.fl.us/water/waterprojectfunding/> (last visited Feb. 3, 2012).

⁴⁰ Section 373.016(3)(g), F.S.

⁴¹ Section 373.042(1)(a)-(b), F.S.

⁴² Since 1992, the five WMDs have adopted 322 minimum flow levels or reservations.

⁴³ Section 373.036(4), F.S.

⁴⁴ *Osceola County v. St. Johns River Water Management District*, 92 ER F.A.L.R. 109 (Final Order, June 10, 1992).

⁴⁵ See Richard Hamman, *Consumptive Use Permitting Criteria*, Florida Environmental and Land Use Law. 14.2, 14.2-7 (August 2001).

⁴⁶ 33 U.S.C. s. 1251 et seq.

discharge of any pollutant into navigable waters from a point source, such as a pipe, man-made ditch, or large animal feeding operation, without an NPDES permit. Non-point sources, such as fertilizer and pesticide runoff, are not required to obtain an NPDES permit and are not directly regulated under the CWA. The DEP sought and received authority from the EPA to implement water quality programs in Florida under state laws. Therefore, the DEP now adopts water quality standards subject to EPA approval and administers the NPDES permit program.

Specifically, the CWA requires states to establish water quality standards and review those standards every three years. States must also identify impaired waters that are not meeting established water quality standards and establish total maximum daily loads (TMDLs) of pollutants for those waters. A TMDL is a value of the maximum amount of a pollutant that a body of water can receive and still meet water quality standards. To enforce TMDLs, the DEP establishes water quality-based effluent limitations (WQBELs) and incorporates these limitations into NPDES permits.

TMDLs and WQBELs can be established for a broad range of pollutants. In Florida, particular attention is paid to nutrient levels, principally the levels of nitrogen and phosphorus. While nitrogen and phosphorus are essential for aquatic organisms to live and grow, excessive levels of these nutrients may result in harmful algal blooms, nuisance aquatic weed proliferation, or an imbalance in the natural community of flora and fauna. Unnatural sources of nitrogen and phosphorus include sewage disposal systems (treatment works or septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and runoff from urban and agricultural areas.

In 2008 environmental advocacy groups filed suit against the EPA alleging that excessive nutrient levels were impairing Florida's surface waterbodies and that EPA was failing to comply with the CWA by not requiring Florida to adopt more stringent numeric nutrient criteria in lieu of the state's current EPA-approved narrative criteria. Following a determination by the EPA that numeric nutrient criteria were necessary to protect waters in the state and entry of a court-approved settlement agreement, in November, 2010, EPA issued a final rule adopting numeric nutrient criteria for Florida's lakes, springs, and inland flowing waters with the exception of south Florida canals (mostly south of Lake Okeechobee). These rules are scheduled to take effect in March 2012. In response to EPA's final rule, the DEP recently proposed a rule containing numeric nutrient criteria and is proceeding through the rule adoption process. If adopted by the DEP, ratified by the Legislature, and approved by the EPA, DEP's adopted numeric nutrient criteria will replace the criteria in the EPA's final rule.

Unless reclaimed water is extensively treated, it invariably contains nutrients (i.e., nitrogen and phosphorus). When reclaimed water is used for irrigation or discharged into other surface waters, it may eventually flow or seep into an impaired surface waterbody. Therefore, the DEP's authority to regulate the effluent and nutrient levels in reclaimed water is an important component in maintaining chemical, physical, and biological integrity of surface waters. In light of this fact, wastewater treatment facilities that produce reclaimed water for land application must obtain wastewater permits and are subject to treatment standards (e.g., effluent limitations and pH standards), monitoring, and reporting requirements.⁴⁷ Specifically, the DEP may require

⁴⁷ Rule 62-600.530, F.A.C.

additional levels of treatment depending on the ultimate use (beyond the minimum) to protect the potential receiving surface waters from exceeding their established TMDLs.⁴⁸

Reclaimed Water Working Group

The Reclaimed Water Working Group is a collective of several interested parties⁴⁹ that, over the past several years, has convened to discuss the role of reclaimed water in meeting Florida's projected water demands. The working group's express objective was "to optimize the use and continued development of reclaimed water as an alternative water supply to the extent environmentally, technically, and economically feasible in order to meet water supply demands." According to the DEP, portions of the bill reflect the recommendations of the working group.

III. Effect of Proposed Changes:

Section 1 amends s. 373.019, to define "reclaimed water" as "water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility." It is the same as the current DEP definition. However, included in this definition is a new prohibition against regulating reclaimed water under s. 373.175, F.S., or ch. 373, part II, F.S., until it has been discharged into "waters" as defined in s. 403.031(13), F.S. The CS also defines "reclaimed water distribution system" as "a network of pipes, pumping facilities, storage facilities, and appurtenances designed to convey and distribute reclaimed water from one or more domestic water treatment facilities to one or more users of reclaimed water."

Section 2 amends s. 373.250, F.S., to limit the DEP's and WMDs' regulation and use of reclaimed water. The bill provides legislative recognition that the state must balance the use of reclaimed water to sustain water resources into the future with the need of reuse utilities to operate and maintain reclaimed water systems in accordance with a variety of circumstances. It clarifies that reclaimed water is an AWS and is eligible for AWS funding. If a reclaimed water project is contracted for by the state or a WMD, it may include any of the four conditions listed under 373.707(9), F.S.:

- metering of reclaimed water for certain uses;
- implementation of certain rate structures;
- implementation of educational programs on water use; and
- development of location data for key reuse facilities.

The bill deletes the definition for "uncommitted," which meant the excess water during the three lowest-flow months after all contractually obligated water was provided to users. Instead, the bill specifies that a reuse utility may determine when it has uncommitted reclaimed water capacity. The bill prohibits the WMDs from requiring a permit for use of reclaimed water. However, a CUP for surface water or groundwater may include conditions that govern the use of those sources in relation to the feasibility or use of reclaimed water.

⁴⁸ Rule 62-600.530(3)(b), F.A.C.

⁴⁹ The Reclaimed Water Working Group consisted of the DEP, the WMDs, Florida Water Environment Association- Utility Council, American Water Works Association, Florida League of Cities, Florida Association of Counties, and individual utilities.

The bill authorizes a WMD to require the use of reclaimed water to replace all or a portion of surface water or groundwater use when reclaimed water is available and meets other existing criteria. In addition, the bill prohibits a WMD from directing to whom a reuse utility must provide reclaimed water, or restricting the use of reclaimed water in a CUP, water shortage order, or water shortage emergency unless a reuse utility requests such action.

The bill exempts reuse utilities from having to provide, as part of a reclaimed water use feasibility evaluation for nonpotable use, written documentation addressing the availability of reclaimed water.

The bill directs the DEP to initiate rulemaking to adopt revisions to the water resource implementation rule by October 1, 2012. Within 60 days after the DEP adopts revisions to the rule, the WMDs are directed to initiate rulemaking to incorporate those rule revisions by reference. The revisions must include:

- criteria for the use of a proposed impact offset derived from the use of reclaimed water when a WMD evaluates a CUP application; and
- criteria for the use of substitution credits where a WMD has limited surface water and groundwater withdrawals from a specified resource in a specific geographic area.

As used for the creation of criteria, “impact offset” means, “the use of reclaimed water to reduce or eliminate a harmful impact that has occurred or would otherwise occur as a result of other surface water or groundwater withdrawals.” The bill also defines “substitution credit” as:

the use of reclaimed water to all or a portion of an existing permitted use of resource-limited surface water or groundwater, allowing a different user or use to initiate a withdrawal or increase its withdrawal from the same resource-limited surface water or groundwater source provided that the withdrawal creates no net adverse impact on the limited water resource or creates a net positive impact if required by water management district rule as part of a strategy to protect or recover a water resource.

The bill specifies that s. 373.250, F.S., does not impair a WMD’s ability to regulate the use of surface water or groundwater to supplement a reclaimed water system. Lastly, the bill expands application of this section to all modifications of CUPs. Currently, the section only applies to applications for new CUPs or renewals of existing CUPs.

Section 3 creates an unnumbered section of law that limits application of the act. Specifically, the CS clarifies that the act does not:

- Impair or limit the DEP’s or WMDs’ authority to regulate water quality, including reclaimed water;
- Impair or limit the DEP’s or WMDs’ authority to require a reuse feasibility study;
- Impair or limit the WMD’s authority to conduct regional water supply planning;
- Affect any requirement that may be applicable to AWS funding;
- Affect or limit any applicable provisions related to setting of rates by public and private water utilities; or
- Affect or impair the powers of the Governor to take certain actions.

Sections 4, 5, 6 and 7 amend ss. 373.036, 373.421, 403.813 and 556.102, F.S., respectively, to conform cross-references to the added definitions contained in this CS.

Section 8 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires the DEP and WMDs to initiate rulemaking to adopt rules. They have estimated they can meet any additional costs with existing staff and resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Environmental Preservation and Conservation on February 6, 2012:

- deletes the definitional change to “water” and “waters in the state” that excluded reclaimed water;
- defines “reclaimed water” and “reclaimed water distribution system”;
- clarifies limitations of the act; and
- conforms cross-references.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (17) through (26) of section
373.019, Florida Statutes, are renumbered as subsections (19)
through (28), respectively, and new subsections (17) and (18)
are added to that section to read:

373.019 Definitions.—When appearing in this chapter or in
any rule, regulation, or order adopted pursuant thereto, the
term:

(17) "Reclaimed water" means water that has received at



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13 least secondary treatment and basic disinfection and is reused
14 after flowing out of a domestic wastewater treatment facility.
15 Reclaimed water is not subject to regulation pursuant to s.
16 373.175 or part II of this chapter until it has been discharged
17 into waters as defined in s. 403.031(13).

18 (18) "Reclaimed water distribution system" means a network
19 of pipes, pumping facilities, storage facilities, and
20 appurtenances designed to convey and distribute reclaimed water
21 from one or more domestic wastewater treatment facilities to one
22 or more users of reclaimed water.

23 Section 2. Section 373.250, Florida Statutes, is amended to
24 read:

25 373.250 Reuse of reclaimed water.—

26 (1)(a) The encouragement and promotion of water
27 conservation and reuse of reclaimed water, as defined by the
28 department and used in this chapter, are state objectives and
29 considered to be in the public interest. The Legislature finds
30 that the use of reclaimed water provided by domestic wastewater
31 treatment plants permitted and operated under a reuse program
32 approved by the department is environmentally acceptable and not
33 a threat to public health and safety.

34 (b) The Legislature recognizes that the interest of the
35 state to sustain water resources for the future through the use
36 of reclaimed water must be balanced with the need of reuse
37 utilities to operate and manage reclaimed water systems in
38 accordance with a variety and range of circumstances, including
39 regulatory and financial considerations, which influence the
40 development and operation of reclaimed water systems across the
41 state.



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(2) Reclaimed water is an alternative water supply as defined in s. 373.019(1) and is eligible for alternative water supply funding. A contract for state or district funding assistance for the development of reclaimed water as an alternative water supply may include provisions listed under s. 373.707(9). The use of reclaimed water may not be excluded from regional water supply planning under s. 373.709.

~~(3)-(2)(a) For purposes of this section, "uncommitted" means the average amount of reclaimed water produced during the three lowest flow months minus the amount of reclaimed water that a reclaimed water provider is contractually obligated to provide to a customer or user.~~

~~(b)~~ Reclaimed water may be presumed available to a consumptive use permit applicant when a utility exists which provides reclaimed water, which has determined that it has uncommitted reclaimed water capacity, and which has distribution facilities, which are initially provided by the utility at its cost, to the site of the affected applicant's proposed use.

(b) A water management district may not require a permit for the use of reclaimed water. However, when a use includes surface water or groundwater, the permit for such sources may include conditions that govern the use of the permitted sources in relation to the feasibility or use of reclaimed water.

(c) A water management district may require the use of reclaimed water in lieu of all or a portion of a proposed use of surface water or groundwater by an applicant when the use of ~~uncommitted~~ reclaimed water is available; is environmentally, economically, and technically feasible; and is of such quality and reliability as is necessary to the user. However, a water



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management district may neither specify any user to whom the reuse utility must provide reclaimed water nor restrict the use of reclaimed water provided by a reuse utility to a customer in a permit or, unless requested by the reuse utility, in a water shortage order or water shortage emergency order ~~this paragraph does not authorize a water management district to require a provider of reclaimed water to redirect reclaimed water from one user to another or to provide uncommitted water to a specific user if such water is anticipated to be used by the provider, or a different user selected by the provider, within a reasonable amount of time.~~

(d) The South Florida Water Management District shall require the use of reclaimed water made available by the elimination of wastewater ocean outfall discharges as provided for in s. 403.086(9) in lieu of surface water or groundwater when the use of ~~uncommitted~~ reclaimed water is available; is environmentally, economically, and technically feasible; and is of such quality and reliability as is necessary to the user. Such reclaimed water may also be required in lieu of other alternative sources. In determining whether ~~or not~~ to require such reclaimed water in lieu of other alternative sources, the water management district shall consider existing infrastructure investments in place or obligated to be constructed by an executed contract or similar binding agreement as of July 1, 2011, for the development of other alternative sources.

(4)~~(3)~~ The water management district shall, in consultation with the department, adopt rules to implement this section. Such rules shall include, but not be limited to:

(a) Provisions to permit use of water from other sources in



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100 emergency situations or if reclaimed water becomes unavailable,
101 for the duration of the emergency or the unavailability of
102 reclaimed water. These provisions shall also specify the method
103 for establishing the quantity of water to be set aside for use
104 in emergencies or when reclaimed water becomes unavailable. The
105 amount set aside is subject to periodic review and revision. The
106 methodology shall take into account the risk that reclaimed
107 water may not be available in the future, the risk that other
108 sources may be fully allocated to other uses in the future, the
109 nature of the uses served with reclaimed water, the extent to
110 which the applicant intends to rely upon reclaimed water, and
111 the extent of economic harm which may result if other sources
112 are not available to replace the reclaimed water. It is the
113 intent of this paragraph to ensure that users of reclaimed water
114 have the same access to ground or surface water and will
115 otherwise be treated in the same manner as other users of the
116 same class not relying on reclaimed water.

117 ~~(b) A water management district shall not adopt any rule~~
118 ~~which gives preference to users within any class of use~~
119 ~~established under s. 373.246 who do not use reclaimed water over~~
120 ~~users within the same class who use reclaimed water.~~

121 (b)(e) Provisions to require permit applicants that are not
122 reuse utilities to provide, as part of their reclaimed water
123 feasibility evaluation for a nonpotable use, written
124 documentation from a reuse utility addressing the availability
125 of reclaimed water. This requirement shall apply when the
126 applicant's proposed use is within an area that is or may be
127 served with reclaimed water by a reuse utility within a 5-year
128 horizon, as established by the reuse utility and provided to the



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district. If the applicable reuse utility fails to respond or does not provide the information required under paragraph (c) ~~(d)~~ within 30 days after receipt of the request, the applicant shall provide to the district a copy of the written request and a statement that the utility failed to provide the requested information. The district is not required to adopt, by rule, the area where written documentation from a reuse utility is required, but the district shall publish the area, and any updates thereto, on the district's website. This paragraph may not be construed to limit the ability of a district to require the use of reclaimed water or to limit a utility's ability to plan reclaimed water infrastructure.

(c) ~~(d)~~ Provisions specifying the content of the documentation required in paragraph (b) ~~(e)~~, including sufficient information regarding the availability and costs associated with the connection to and the use of reclaimed water, to facilitate the permit applicant's reclaimed water feasibility evaluation.

A water management district may not adopt any rule that gives preference to users within any class of use established under s. 373.246 who do not use reclaimed water over users within the same class who use reclaimed water.

(5) (a) No later than October 1, 2012, the department shall initiate rulemaking to adopt revisions to the water resource implementation rule, as defined in s. 373.019(23), which shall include:

1. Criteria for the use of a proposed impact offset derived from the use of reclaimed water when a water management district evaluates an application for a consumptive use permit. As used



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in this subparagraph, the term "impact offset" means the use of reclaimed water to reduce or eliminate a harmful impact that has occurred or would otherwise occur as a result of other surface water or groundwater withdrawals.

2. Criteria for the use of substitution credits where a water management district has adopted rules establishing withdrawal limits from a specified water resource within a defined geographic area. As used in this subparagraph, the term "substitution credit" means the use of reclaimed water to replace all or a portion of an existing permitted use of resource-limited surface water or groundwater, allowing a different user or use to initiate a withdrawal or increase its withdrawal from the same resource-limited surface water or groundwater source provided that the withdrawal creates no net adverse impact on the limited water resource or creates a net positive impact if required by water management district rule as part of a strategy to protect or recover a water resource.

(b) Within 60 days after the final adoption by the department of the revisions to the water resource implementation rule required under paragraph (a), each water management district shall initiate rulemaking to incorporate those revisions by reference into the rules of the district.

~~(6)~~ ~~(4)~~ Reuse utilities and the applicable water management district or districts are encouraged to periodically coordinate and share information concerning the status of reclaimed water distribution system construction, the availability of reclaimed water supplies, and existing consumptive use permits in areas served by the reuse utility.

~~(7)~~ ~~(5)~~ ~~Nothing in~~ This section does not impair or limit the



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187 authority of ~~shall impair~~ a water management ~~district~~ ~~district's~~
188 ~~authority~~ to plan for and regulate consumptive uses of water
189 under this chapter ~~or regulate the use of surface water or~~
190 ~~groundwater to supplement a reclaimed water system.~~

191 (8) ~~(6)~~ This section applies to applications for new
192 consumptive use permits and renewals ~~and modifications~~ of
193 existing consumptive use permits.

194 Section 3. This act does not:

195 (1) Impair or limit the authority of the Department of
196 Environmental Protection to regulate water quality, including
197 reclaimed water, pursuant to chapter 403, Florida Statutes, or
198 to require a reuse feasibility study pursuant to s. 403.064,
199 Florida Statutes.

200 (2) Impair or limit the authority of a water management
201 district to conduct regional water supply planning pursuant to
202 chapter 373, Florida Statutes.

203 (3) Affect any requirement that may be applicable to
204 funding of alternative water supply development, including
205 reclaimed water, pursuant to s. 373.707, Florida Statutes.

206 (4) Affect or limit any applicable provisions regarding the
207 setting of rates by public and private water utilities pursuant
208 to chapter 153, Florida Statutes, chapter 180, Florida Statutes,
209 or s. 367.081, Florida Statutes.

210 (5) Affect or impair the powers of the Governor under
211 the constitution, statutory laws, including but not limited to
212 chapter 14, Florida Statutes and police powers to promulgate and
213 enforce emergency rules, regulations, and orders.

214 Section 4. Paragraph (d) of subsection (1) of section
215 373.036, Florida Statutes, is amended to read:



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373.036 Florida water plan; district water management plans.—

(1) FLORIDA WATER PLAN.—In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:

(d) Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule pursuant to s. 373.019(25)(~~23~~), shall serve as this part of the plan. Amendments or additions to this part of the Florida water plan shall be adopted by the department as part of the water resource implementation rule. In accordance with s. 373.114, the department shall review rules of the water management districts for consistency with this rule. Amendments to the water resource implementation rule must be adopted by the secretary of the department and be submitted to the President of the Senate and the Speaker of the House of Representatives within 7 days after publication in the Florida Administrative Weekly. Amendments shall not become effective until the conclusion of the next regular session of the Legislature following their adoption.

Section 5. Subsection (1) of section 373.421, Florida Statutes, is amended to read:

373.421 Delineation methods; formal determinations.—

(1) The Environmental Regulation Commission shall adopt a unified statewide methodology for the delineation of the extent of wetlands as defined in s. 373.019(25). This methodology shall



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consider regional differences in the types of soils and vegetation that may serve as indicators of the extent of wetlands. This methodology shall also include provisions for determining the extent of surface waters other than wetlands for the purposes of regulation under s. 373.414. This methodology shall not become effective until ratified by the Legislature. Subsequent to legislative ratification, the wetland definition in s. 373.019 (27) ~~(25)~~ and the adopted wetland methodology shall be binding on the department, the water management districts, local governments, and any other governmental entities. Upon ratification of such wetland methodology, the Legislature preempts the authority of any water management district, state or regional agency, or local government to define wetlands or develop a delineation methodology to implement the definition and determines that the exclusive definition and delineation methodology for wetlands shall be that established pursuant to s. 373.019 (27) ~~(25)~~ and this section. Upon such legislative ratification, any existing wetlands definition or wetland delineation methodology shall be superseded by the wetland definition and delineation methodology established pursuant to this chapter. Subsequent to legislative ratification, a delineation of the extent of a surface water or wetland by the department or a water management district, pursuant to a formal determination under subsection (2), or pursuant to a permit issued under this part in which the delineation was field-verified by the permitting agency and specifically approved in the permit, shall be binding on all other governmental entities for the duration of the formal determination or permit. All existing rules and methodologies of the department, the water



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management districts, and local governments, regarding surface water or wetland definition and delineation shall remain in full force and effect until the common methodology rule becomes effective. However, this shall not be construed to limit any power of the department, the water management districts, and local governments to amend or adopt a surface water or wetland definition or delineation methodology until the common methodology rule becomes effective.

Section 6. Paragraph (r) of subsection (1) of section 403.813, Florida Statutes, is amended to read:

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(r) The removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, and the associated removal from lakes of organic detrital material when such planting or removal is performed and authorized by permit or exemption granted under s. 369.20 or s. 369.25, provided that:



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1. Organic detrital material that exists on the surface of natural mineral substrate shall be allowed to be removed to a depth of 3 feet or to the natural mineral substrate, whichever is less;

2. All material removed pursuant to this paragraph shall be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state except when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to s. 369.20 to create such islands as a part of a restoration or enhancement project;

3. All activities are performed in a manner consistent with state water quality standards; and

4. No activities under this exemption are conducted in wetland areas, as defined by s. 373.019(27)~~(25)~~, which are supported by a natural soil as shown in applicable United States Department of Agriculture county soil surveys, except when a governmental entity is permitted pursuant to s. 369.20 to conduct such activities as a part of a restoration or enhancement project.

The department may not adopt implementing rules for this paragraph, notwithstanding any other provision of law.

Section 7. Subsection (6) of section 556.102, Florida Statutes, is amended to read:

556.102 Definitions.—As used in this act:

(6) "Excavate" or "excavation" means any manmade cut, cavity, trench, or depression in the earth's surface, formed by removal of earth, intended to change the grade or level of land,



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or intended to penetrate or disturb the surface of the earth,
including land beneath the waters of the state, as defined in s.
373.019(22)(20), and the term includes pipe bursting and
directional drilling or boring from one point to another point
beneath the surface of the earth, or other trenchless
technologies.

Section 8. This act shall take effect July 1, 2012.

===== 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 reclaimed water; amending s. 373.019,
F.S.; defining the terms "reclaimed water" and "reclaimed water
distribution system"; amending s. 373.250, F.S.; providing
legislative findings relating to the use of reclaimed water;
providing that reclaimed water is an alternative water supply
and eligible for such funding; authorizing specified contract
provisions for the development of reclaimed water as an
alternative water supply; prohibiting the exclusion of reclaimed
water for consideration in regional water supply planning;
deleting a definition for the term "uncommitted"; providing for
the determination of uncommitted reclaimed water capacity by
certain utilities; prohibiting water management districts from
requiring permits for the use of reclaimed water; authorizing
permit conditions for certain surface water and groundwater
sources; authorizing water management districts to require the



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use of reclaimed water under certain conditions; prohibiting
water management districts from requiring or restricting
services provided by reuse utilities; providing an exception;
clarifying which permit applicants are required to submit
certain information; requiring the Department of Environmental
Protection and each water management district to initiate
rulemaking to adopt specified revisions to the water resource
implementation rule; revising applicability; providing for
construction of the act; amending ss. 373.036, 373.421, 403.813,
and 556.102, F.S.; conforming cross-references to changes made
by the act; providing an effective date.

By Senator Garcia

40-00718A-12

20121086__

1 A bill to be entitled
2 An act relating to reclaimed water; amending s.
3 373.019, F.S.; revising the definition of the term
4 "water" or "waters in the state" to exclude reclaimed
5 water; amending s. 373.250, F.S.; providing
6 legislative findings relating to the use of reclaimed
7 water; providing that reclaimed water is an
8 alternative water supply and eligible for such
9 funding; authorizing specified contract provisions for
10 the development of reclaimed water as an alternative
11 water supply; deleting a definition for the term
12 "uncommitted"; providing for the determination of
13 uncommitted reclaimed water capacity by certain
14 utilities; prohibiting water management districts from
15 requiring permits for the use of reclaimed water;
16 authorizing permit conditions for certain surface
17 water and groundwater sources; authorizing water
18 management districts to require the use of reclaimed
19 water under certain conditions; prohibiting water
20 management districts from requiring or restricting
21 services provided by reuse utilities; providing an
22 exception; clarifying which permit applicants are
23 required to submit certain information; requiring the
24 Department of Environmental Protection and each water
25 management district to initiate rulemaking to adopt
26 specified revisions to the water resource
27 implementation rule; revising applicability; providing
28 an effective date.
29

40-00718A-12

20121086__

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

Section 1. Subsection (20) of section 373.019, Florida Statutes, is amended to read:

373.019 Definitions.—When appearing in this chapter or in any rule, regulation, or order adopted pursuant thereto, the term:

(20) "Water" or "waters in the state" means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state. Reclaimed water, as defined by the department, is not water or waters in the state until it has been discharged into waters as defined in s. 403.031(13).

Section 2. Section 373.250, Florida Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(1) (a) The encouragement and promotion of water conservation and reuse of reclaimed water, as defined by the department and used in this chapter, are state objectives and considered to be in the public interest. The Legislature finds that the use of reclaimed water provided by domestic wastewater treatment plants permitted and operated under a reuse program approved by the department is environmentally acceptable and not a threat to public health and safety.

(b) The Legislature recognizes that the interest of the state to sustain water resources for the future through the use

40-00718A-12

20121086__

of reclaimed water must be balanced with the need of reuse utilities to operate and manage reclaimed water systems in accordance with a variety and range of circumstances, including regulatory and financial considerations, which influence the development and operation of reclaimed water systems across the state.

(2) Reclaimed water is an alternative water supply as defined in s. 373.019(1) and is eligible for alternative water supply funding. A contract for state or district funding assistance for the development of reclaimed water as an alternative water supply may include provisions listed under s. 373.707(9).

~~(3)(2)(a) For purposes of this section, "uncommitted" means the average amount of reclaimed water produced during the three lowest-flow months minus the amount of reclaimed water that a reclaimed water provider is contractually obligated to provide to a customer or user.~~

~~(b)~~ Reclaimed water may be presumed available to a consumptive use permit applicant when a utility exists which provides reclaimed water, which has determined that it has uncommitted reclaimed water capacity, and which has distribution facilities, which are initially provided by the utility at its cost, to the site of the affected applicant's proposed use.

(b) A water management district may not require a permit for the use of reclaimed water. However, when a use includes surface water or groundwater, the permit for such sources may include conditions that govern the use of the permitted sources in relation to the feasibility or use of reclaimed water.

(c) A water management district may require the use of

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88 reclaimed water in lieu of all or a portion of a proposed use of
89 surface water or groundwater by an applicant when the use of
90 ~~uncommitted~~ reclaimed water is available; is environmentally,
91 economically, and technically feasible; and is of such quality
92 and reliability as is necessary to the user. However, a water
93 management district may neither specify any user to whom the
94 reuse utility must provide reclaimed water nor restrict the use
95 of reclaimed water provided by a reuse utility to a customer in
96 a permit, water shortage order, or water shortage emergency
97 order unless requested by the reuse utility ~~this paragraph does~~
98 ~~not authorize a water management district to require a provider~~
99 ~~of reclaimed water to redirect reclaimed water from one user to~~
100 ~~another or to provide uncommitted water to a specific user if~~
101 ~~such water is anticipated to be used by the provider, or a~~
102 ~~different user selected by the provider, within a reasonable~~
103 ~~amount of time.~~

104 (d) The South Florida Water Management District shall
105 require the use of reclaimed water made available by the
106 elimination of wastewater ocean outfall discharges as provided
107 for in s. 403.086(9) in lieu of surface water or groundwater
108 when the use of ~~uncommitted~~ reclaimed water is available; is
109 environmentally, economically, and technically feasible; and is
110 of such quality and reliability as is necessary to the user.
111 Such reclaimed water may also be required in lieu of other
112 alternative sources. In determining whether ~~or not~~ to require
113 such reclaimed water in lieu of other alternative sources, the
114 water management district shall consider existing infrastructure
115 investments in place or obligated to be constructed by an
116 executed contract or similar binding agreement as of July 1,

40-00718A-12

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2011, for the development of other alternative sources.

(4)~~(3)~~ The water management district shall, in consultation with the department, adopt rules to implement this section. Such rules shall include, but not be limited to:

(a) Provisions to permit use of water from other sources in emergency situations or if reclaimed water becomes unavailable, for the duration of the emergency or the unavailability of reclaimed water. These provisions shall also specify the method for establishing the quantity of water to be set aside for use in emergencies or when reclaimed water becomes unavailable. The amount set aside is subject to periodic review and revision. The methodology shall take into account the risk that reclaimed water may not be available in the future, the risk that other sources may be fully allocated to other uses in the future, the nature of the uses served with reclaimed water, the extent to which the applicant intends to rely upon reclaimed water, and the extent of economic harm which may result if other sources are not available to replace the reclaimed water. It is the intent of this paragraph to ensure that users of reclaimed water have the same access to ground or surface water and will otherwise be treated in the same manner as other users of the same class not relying on reclaimed water.

~~(b) A water management district shall not adopt any rule which gives preference to users within any class of use established under s. 373.246 who do not use reclaimed water over users within the same class who use reclaimed water.~~

(b)(c) Provisions to require permit applicants that are not reuse utilities to provide, as part of their reclaimed water feasibility evaluation for a nonpotable use, written

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146 documentation from a reuse utility addressing the availability
147 of reclaimed water. This requirement shall apply when the
148 applicant's proposed use is within an area that is or may be
149 served with reclaimed water by a reuse utility within a 5-year
150 horizon, as established by the reuse utility and provided to the
151 district. If the applicable reuse utility fails to respond or
152 does not provide the information required under paragraph (c)
153 ~~(d)~~ within 30 days after receipt of the request, the applicant
154 shall provide to the district a copy of the written request and
155 a statement that the utility failed to provide the requested
156 information. The district is not required to adopt, by rule, the
157 area where written documentation from a reuse utility is
158 required, but the district shall publish the area, and any
159 updates thereto, on the district's website. This paragraph may
160 not be construed to limit the ability of a district to require
161 the use of reclaimed water or to limit a utility's ability to
162 plan reclaimed water infrastructure.

163 (c) ~~(d)~~ Provisions specifying the content of the
164 documentation required in paragraph (b) ~~(e)~~, including
165 sufficient information regarding the availability and costs
166 associated with the connection to and the use of reclaimed
167 water, to facilitate the permit applicant's reclaimed water
168 feasibility evaluation.

169
170 A water management district may not adopt any rule that gives
171 preference to users within any class of use established under s.
172 373.246 who do not use reclaimed water over users within the
173 same class who use reclaimed water.

174 (5) (a) No later than October 1, 2012, the department shall

40-00718A-12

20121086__

175 initiate rulemaking to adopt revisions to the water resource
176 implementation rule, as defined in s. 373.019(23), which shall
177 include:

178 1. Criteria for the use of a proposed impact offset derived
179 from the use of reclaimed water when a water management district
180 evaluates an application for a consumptive use permit. As used
181 in this subparagraph, the term "impact offset" means the use of
182 reclaimed water to reduce or eliminate a harmful impact that has
183 occurred or would otherwise occur as a result of other surface
184 water or groundwater withdrawals.

185 2. Criteria for the use of substitution credits where a
186 water management district has adopted rules establishing
187 withdrawal limits from a specified water resource within a
188 defined geographic area. As used in this subparagraph, the term
189 "substitution credit" means the use of reclaimed water to
190 replace all or a portion of an existing permitted use of
191 resource-limited surface water or groundwater, allowing a
192 different user or use to initiate a withdrawal or increase its
193 withdrawal from the same resource-limited surface water or
194 groundwater source provided that the withdrawal creates no net
195 adverse impact on the limited water resource or creates a net
196 positive impact if required by water management district rule as
197 part of a strategy to protect or recover a water resource.

198 (b) Within 60 days after the final adoption by the
199 department of the revisions to the water resource implementation
200 rule required under paragraph (a), each water management
201 district shall initiate rulemaking to incorporate those
202 revisions by reference into the rules of the district.

203 (6) ~~(4)~~ Reuse utilities and the applicable water management

40-00718A-12

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204 district or districts are encouraged to periodically coordinate
205 and share information concerning the status of reclaimed water
206 distribution system construction, the availability of reclaimed
207 water supplies, and existing consumptive use permits in areas
208 served by the reuse utility.

209 (7)(5) Nothing in This section does not impair or limit the
210 authority of ~~shall impair~~ a water management district ~~district's~~
211 ~~authority~~ to plan for and regulate consumptive uses of water
212 under this chapter or regulate the use of surface water or
213 groundwater to supplement a reclaimed water system.

214 (8)(6) This section applies to applications for new
215 consumptive use permits and renewals and modifications of
216 existing consumptive use permits.

217 Section 3. This act shall take effect July 1, 2012.



Collier County Sheriff's Office
SHERIFF KEVIN J. RAMBOSK

3319 Tamiami Trail East Bldg. J. Naples, FL 34112
239.774.4434
www.colliersheriff.org

January 23, 2012

The Honorable Charlie Dean, Chairman
Senate Committee on Environmental Preservation
and Conservation
325 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399

RE: S.B. 624/S.B. 626 Household Pharmaceuticals Collection and Disposal Trust Fund

Dear Senator Dean:

The Collier County Sheriff's Office has been collecting unwanted pharmaceuticals from residents since 1993. In 2006, we partnered with Drug Free Collier to expand Operation Medicine Cabinet to educate the public on the need to lock up medications and dispose of them properly. Disposing of these medications prevents children from ingesting these dangerous drugs and from entering wastewater treatment centers and landfills where they are extremely harmful to the environment and wildlife.

While law enforcement has thus far assumed the financial responsibility for supervising collection, storage, transportation and destruction of these pharmaceuticals, the increasing costs of this environmental prevention program should be funded from a grant program through the Department of Environmental Protection to agencies like ours who are preventing these chemicals from polluting the environment. Environmental damage prevention is much more cost efficient than clean up, one important reason why Illinois Bill P2D2 was passed into law in August, 2011. And more importantly, expanding the destruction of these unwanted pharmaceuticals will help prevent some of the 2,500 children of the average age of 12 in Collier County from using prescription drugs for the first time, seventy percent of which are taken from family medicine cabinets.

I am writing to express my strong support for SB 624 and SB 626 to require the Department of Environmental Protection to establish grant program funding comprised of surcharges from specified drug offenses to reimburse collection and destruction efforts such as ours. Thank you for consideration of this important public service legislation.

Sincerely,

A handwritten signature in black ink, appearing to be "KJR", with a long horizontal line extending to the right.

Kevin J. Rambosk, Sheriff
Collier County, Florida

KJR:/dv
Cc: Sen. Garrett Richter

Service to Others Before Self

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SB 626

INTRODUCER: Senator Richter

SUBJECT: Collection and Disposal of Household Pharmaceuticals

DATE: February 2, 2012

REVISED: 02/07/12

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

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill requires the Department of Environmental Protection (DEP) to establish a grant program to reimburse local law enforcement agencies for the expenses associated with the collection and proper disposal of household pharmaceuticals. Monies collected from a \$21 surcharge against persons in violation of certain controlled substances statutes will be deposited into the Household Pharmaceuticals Collection and Disposal Trust Fund.

This bill creates ss. 403.745, and 938.16, F.S.

II. Present Situation:

Many people toss expired or unused household pharmaceuticals in the trash or flush them down the toilet. According to DEP, as part of a national study, testing of some Florida water bodies found 12-15 substances of concern, including pharmaceuticals, at parts per million concentrations, consistent with other findings around the country. Other research has shown effects on wildlife in areas of the United States where it has been examined. The sources of pharmaceuticals in the water are harder to determine. For example, the majority of antibiotics used in the United States is for animal husbandry and would enter water bodies by different

routes and in different quantities than human use antibiotics. Also, how the human body metabolizes pharmaceuticals varies significantly according to the drug. In some cases, 90 percent of a pharmaceutical passes out of the body unchanged. In other cases, half or more of the pharmaceutical is absorbed and metabolized by the body.¹

There is no standard ongoing household pharmaceuticals collection program in Florida. Law enforcement agencies periodically collaborate with a retail store to host a community event to collect and safely dispose of these items. According to DEP, at an October 2011 collection event in Tallahassee sponsored by the DEP and the Southern Waste Information Exchange (SWIX), citizens reported that they threw pharmaceuticals in the trash (26 percent), flushed them down the toilet (18 percent), or just stored them when a collection event was not available (54 percent).

Chapter 893, F.S. – “Drug Abuse Prevention and Control”

Controlled substances are drugs with the potential for abuse. Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act, and classifies controlled substances into five categories, known as schedules. The distinguishing factor between the schedules is the potential for abuse² of the substance and whether there is a currently accepted medical use. These schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances.³

A **Schedule I** substance has a high potential for abuse and no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards. Examples: heroin and methaqualone.

A **Schedule II** substance has a high potential for abuse, a currently accepted but severely restricted medical use in treatment in the United States, and abuse may lead to severe psychological or physical dependence. Examples: cocaine and morphine.

A **Schedule III** substance has a potential for abuse less than the substances contained in Schedules I and II, a currently accepted medical use in treatment in the United States, and abuse may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. Examples: lysergic acid; ketamine; and some anabolic steroids.

A **Schedule IV** substance has a low potential for abuse relative to the substances in Schedule III, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule III. Examples: alprazolam; diazepam; and phenobarbital.

A **Schedule V** substance has a low potential for abuse relative to the substances in Schedule IV, a currently accepted medical use in treatment in the United States, and abuse may lead to limited

¹ Florida Department of Environmental Protection, *Senate Bill 626* (Jan. 20, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

² S. 893.02(20), F.S.

³ See, s. 893.03, F.S.

physical or psychological dependence relative to the substances in Schedule IV. Examples: low dosage levels of codeine; certain stimulants; and certain narcotic compounds.

Except as authorized by Chapter 893 and Chapter 499, s. 893.13, F.S., makes it unlawful for any person to sell, manufacture, deliver, or possess with intent to sell, manufacture, or deliver a controlled substance. Section 893.135, F.S., relates to trafficking in controlled substances and s. 893.1351, F.S., provides that a person may not own or lease a place with the knowledge that the place or structure will be used for the purpose of trafficking in a controlled substance. A person who violates Chapter 893 can face sanctions ranging from a First Degree Misdemeanor up to and including a Felony of the First Degree (punishable by up to 30 years in Florida State Prison).

III. Effect of Proposed Changes:

Section 1 creates s. 403.745, F.S., to establish a grant program to reimburse local law enforcement agencies for the expenses associated with the collection and disposal of household pharmaceuticals. To be eligible for a grant, a law enforcement agency must conduct the collection and disposal of household pharmaceuticals in a manner consistent with DEP rules and state and federal requirements.

Section 2 creates s. 938.16, F.S., to fund the household pharmaceuticals collection and disposal grant program. In addition to any sanction imposed for a violation of s. 893.13, s. 893.135, or s. 893.1351, the court shall impose a surcharge of \$21. Payment of the surcharge shall be a condition of probation, community control, or any other court-ordered supervision. Twenty dollars of the surcharge shall be deposited into the Household Pharmaceuticals Collection and Disposal Trust Fund established in s. 403.7451, F.S. The clerk of the court shall retain \$1 of each surcharge that the clerk of the court collects as a service charge.

Section 3 establishes an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill may provide new business opportunities for businesses that provide collection and disposal services of these prescription drugs.

C. Government Sector Impact:

The bill will create a grant program within DEP. DEP has indicated that they can administer this program with existing resources but would need budget authority to administer the revenues generated by the surcharge. If local law enforcement agencies chose to hold a collection event, the cost would be reimbursed through the grant program. It is anticipated that there would be no additional costs to local governments other than the costs associated with managing the grant receipts and processing requests for reimbursement under the grants.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:**Barcode 631912 by Environmental Preservation and Conservation on February 6, 2012:**

The amendment clarifies that twenty dollars of the surcharge shall be remitted to the Department of Revenue for deposit into the Household Pharmaceuticals Collection and Disposal Trust Fund.
(WITH TITLE AMENDMENT)



631912

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 37
and insert:
supervision. Twenty dollars of the surcharge shall be remitted
to the Department of Revenue for deposit

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

And the title is amended as follows:

Delete line 12
and insert:
remitted to the Department of Revenue for deposit into



631912

13

the Household Pharmaceuticals

By Senator Richter

37-00684-12

2012626__

1 A bill to be entitled
2 An act relating to the collection and disposal of
3 household pharmaceuticals; creating s. 403.745, F.S.;
4 requiring the Department of Environmental Protection
5 to establish a grant program to reimburse local law
6 enforcement agencies for the expenses associated with
7 the collection and disposal of household
8 pharmaceuticals; providing eligibility requirements;
9 creating s. 938.16, F.S.; requiring that the court
10 impose an additional surcharge for specified offenses;
11 providing for the proceeds of the surcharge to be
12 deposited into the Household Pharmaceuticals
13 Collection and Disposal Trust Fund; providing for the
14 clerk of the court to retain a service charge;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 403.745, Florida Statutes, is created to
20 read:

21 403.745 Household pharmaceuticals collection and disposal
22 grant program.—The department shall establish a grant program to
23 reimburse local law enforcement agencies for the expenses
24 associated with the collection and disposal of household
25 pharmaceuticals. To be eligible for a grant, a law enforcement
26 agency must conduct the collection and disposal of household
27 pharmaceuticals in a manner consistent with applicable rules of
28 the department and applicable state and federal requirements.

29 Section 2. Section 938.16, Florida Statutes, is created to

37-00684-12

2012626__

30 read:

31 938.16 Additional cost to fund the household
32 pharmaceuticals collection and disposal grant program.—In
33 addition to any sanction imposed for a violation of s. 893.13,
34 s. 893.135, or s. 893.1351, the court shall impose a surcharge
35 of \$21. Payment of the surcharge shall be a condition of
36 probation, community control, or any other court-ordered
37 supervision. Twenty dollars of the surcharge shall be deposited
38 into the Household Pharmaceuticals Collection and Disposal Trust
39 Fund established in s. 403.7451. The clerk of the court shall
40 retain \$1 of each surcharge that the clerk of the court collects
41 as a service charge of the clerk's office.

42 Section 3. This act shall take effect July 1, 2012.



Collier County Sheriff's Office
SHERIFF KEVIN J. RAMBOSK

3319 Tamiami Trail East Bldg. J. Naples, FL 34112
239.774.4434
www.colliersheriff.org

January 23, 2012

The Honorable Charlie Dean, Chairman
Senate Committee on Environmental Preservation
and Conservation
325 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399

RE: S.B. 624/S.B. 626 Household Pharmaceuticals Collection and Disposal Trust Fund


Dear Senator Dean:

The Collier County Sheriff's Office has been collecting unwanted pharmaceuticals from residents since 1993. In 2006, we partnered with Drug Free Collier to expand Operation Medicine Cabinet to educate the public on the need to lock up medications and dispose of them properly. Disposing of these medications prevents children from ingesting these dangerous drugs and from entering wastewater treatment centers and landfills where they are extremely harmful to the environment and wildlife.

While law enforcement has thus far assumed the financial responsibility for supervising collection, storage, transportation and destruction of these pharmaceuticals, the increasing costs of this environmental prevention program should be funded from a grant program through the Department of Environmental Protection to agencies like ours who are preventing these chemicals from polluting the environment. Environmental damage prevention is much more cost efficient than clean up, one important reason why Illinois Bill P2D2 was passed into law in August, 2011. And more importantly, expanding the destruction of these unwanted pharmaceuticals will help prevent some of the 2,500 children of the average age of 12 in Collier County from using prescription drugs for the first time, seventy percent of which are taken from family medicine cabinets.

I am writing to express my strong support for SB 624 and SB 626 to require the Department of Environmental Protection to establish grant program funding comprised of surcharges from specified drug offenses to reimburse collection and destruction efforts such as ours. Thank you for consideration of this important public service legislation.

Sincerely,


Kevin J. Rambosk, Sheriff
Collier County, Florida

KJR:/dv
Cc: Sen. Garrett Richter

Service to Others Before Self

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SB 624

INTRODUCER: Senator Richter

SUBJECT: Household Pharmaceuticals Collection and Disposal Trust Fund/DEP

DATE: February 2, 2012

REVISED: 02/07/12

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

Please see Section VIII. for Additional Information:

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

I. Summary:

The bill creates the Household Pharmaceuticals Collection and Disposal Trust Fund within the Department of Environmental Protection (DEP) and provides for sources, purposes and management of funds. This bill is related to SB 626, which creates a grant program for pharmaceutical collection and disposal.

As required by the constitution, the trust fund is terminated on July 1, 2016, and takes effect July 1, 2012, but only if enacted by a three-fifths vote of the membership of each house of the Legislature.

The bill creates an un-numbered section of the Florida Statutes.

II. Present Situation:

Section 19(f), Art. III of the State Constitution, requires that every trust fund be created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating that trust fund. The Constitution also provides that all newly created trust funds terminate not more than four years after the initial creation unless recreated.

III. Effect of Proposed Changes:

Section 1 creates the Household Pharmaceuticals Collection and Disposal Trust Fund within DEP. The funds will be used for the grant program established in s. 403.745, F.S., by SB 626 to reimburse local law enforcement agencies for the expenses associated with the collection and disposal of household pharmaceuticals. The trust fund sunsets on July 1, 2016, unless terminated sooner. The trust fund must be reviewed prior to its scheduled termination as provided in ss. 215.3206 (1) and (2), F.S.

Section 2 provides the effective date of July 1, 2012, if SB 626 or similar legislation is adopted and becomes law.

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, section 19(f)(1), of the Florida Constitution, provides no trust fund of the state or other public body may be created without three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Additional Information:

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

None.

- B. **Amendments:**

Barcode 304776 by Environmental Preservation and Conservation on February 6, 2012:

The amendment clarifies that the Household Pharmaceuticals Collection and Disposal Trust Fund is tied to SB 626.



304776

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2012	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 37
and insert:
Senate Bill 626 or similar legislation is adopted in the same

By Senator Richter

37-00685-12

2012624__

1 A bill to be entitled
2 An act relating to trust funds; creating s. 403.7451,
3 F.S.; creating the Household Pharmaceuticals
4 Collection and Disposal Trust Fund within the
5 Department of Environmental Protection; providing for
6 sources of funds and purposes; providing for annual
7 carryforward of funds; providing for the future review
8 and termination or re-creation of the trust fund;
9 providing a contingent effective date.

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

12
13 Section 1. Section 403.7451, Florida Statutes, is created
14 to read:

15 403.7451 Household Pharmaceuticals Collection and Disposal
16 Trust Fund.—

17 (1) The Household Pharmaceuticals Collection and Disposal
18 Trust Fund is created within the Department of Environmental
19 Protection and shall be administered by the Secretary of
20 Environmental Protection or his or her designee. Funds credited
21 to the trust fund shall consist of funds received from fees
22 imposed pursuant to s. 938.16.

23 (2) The trust fund is established for use as a depository
24 for funds to be used for the purposes of the household
25 pharmaceuticals collection and disposal grant program
26 established in s. 403.745.

27 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
28 any balance in the trust fund at the end of any fiscal year
29 shall remain in the trust fund at the end of the year and shall

37-00685-12

2012624__

30 be available for carrying out the purpose of the trust fund.

31 (4) In accordance with s. 19(f)(2), Art. III of the State
32 Constitution, the trust fund shall, unless terminated sooner, be
33 terminated on July 1, 2016. Before its scheduled termination,
34 the trust fund shall be reviewed as provided in s. 215.3206(1)
35 and (2).

36 Section 2. This act shall take effect July 1, 2012, if
37 Senate Bill ____ or similar legislation is adopted in the same
38 legislative session or an extension thereof and becomes law.

10

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic AIRPORT SOUND

Name TERENCE CAKE

Job Title ENGINEER

Address 8415 SW 28TH PL
Street
GAINESVILLE, FL 32608
City State Zip

Bill Number SB 958
(if applicable)

Amendment Barcode 514606
(if applicable)

Phone 352-538-1556

E-mail TC@ATT.NET

Speaking: ☒ For ☐ Against ☐ Information

Representing PRIVATE CITIZEN

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

10

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic Airboat noise

Bill Number 958
(if applicable)

Name TERRY HALBACK

Amendment Barcode ?
(if applicable)

Job Title RN

Address P.O. Box 1097

Phone 352-466-0066

Street

Micanopy

FL

32667

City

State

Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

10

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 6, 2012
Meeting Date

Topic Airboat Noise

Bill Number S 958
(if applicable)

Name Bill Halback

Amendment Barcode ?
(if applicable)

Job Title Retired

Address PO Box 1097
Street

Phone 352 466 0066

Micanopy FL 32667
City State Zip

E-mail quietlakes@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Quiet Lakes of Alachua County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12
Meeting Date

Topic 958

Bill Number 958
(if applicable)

Name Casey Cook

Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address PO Box 1757
Street
Tallahassee FL 32302
City State Zip

Phone 701 3701

E-mail ccook@flcities.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2.5.17

Meeting Date

Topic

AIRBOATS

Bill Number

259

(if applicable)

Name

DAVID CULLEN

Amendment Barcode

(if applicable)

Job Title

Address

1674 UNIVERSITY PKWY

Street

Phone

941-323-2404

TAMPA

City

FL

State

34243

Zip

E-mail

cullen@searoads.com

Speaking:

☐ For☒ Against☐ Information

Representing

SIERRA CLUB FLORIDA

Appearing at request of Chair:

☐ Yes☒ No

Lobbyist registered with Legislature:

☒ Yes☐ No

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S-001 (10/20/11)

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic APPROATS

Bill Number 958
(if applicable)

Name STEPHEN JAMES

Amendment Barcode _____
(if applicable)

Job Title _____

Address 100 S. MONROE ST

Phone 922-4360

Street

City

TALLAHASSEE, FL

State

Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing FLA. ASSOC. OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic

Arbores

Bill Number

SB 958

(if applicable)

Name

Bonnie RASHAM

Amendment Barcode

(if applicable)

Job Title _____

Address

133 Oak St, #15

Street

TLH, FL

City

State

Zip

Phone

850 933-7277

E-mail

Capital.Ideas@stt.net

Speaking:

☒

For

☐

Against

☐

Information

Representing

Fla Arbores Association

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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THE FLORIDA SENATE

APPEARANCE RECORD

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2/6/12
Meeting Date

10

Topic Airboats

Bill Number SB958
(if applicable)

Name Jerry Wetherington

Amendment Barcode _____
(if applicable)

Job Title _____

Address 18031 S. Cr 325

Phone 352 4660489

Hawthorne FL 32640
City State Zip

E-mail jerryw1@bellsouth.net

Speaking: ☒ For ☐ Against ☐ Information

Representing United Sportsmen Airboaters Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)



THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic AIRBOAT

Bill Number SB 958 H233
(if applicable)

Name FRANK FINLIN

Amendment Barcode _____
(if applicable)

Job Title RETIRED

Address 3495 N.E. 132nd PL
Street

Phone 352-867-5599

ANTHONY FL 32617
City State Zip

E-mail F M FINLIN

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-6-12

Meeting Date

Topic Airboat Sound

Bill Number SB 958
(if applicable)

Name Capt. Bob Hoover

Amendment Barcode _____
(if applicable)

Job Title FWC Fish Creel studies

Address 1645 N. Oakhaven Terr.
Street

Phone 352-601-0087

Inverness FL 34453
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Airboat Assn.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Airports Noise

Bill Number _____
(if applicable)

Name Calvin Perry

Amendment Barcode _____
(if applicable)

Job Title Guide

Address 855 W Hwy 318

Phone 1-352-339-3012

CITRA FL 32113
City State Zip

E-mail CALVIN@WINDSTREAM.

Speaking: ☒ For ☐ Against ☐ Information

Representing ~~Senator Ortiz~~ FLA Air Port ASS Calvin Guide Service

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SB 958

INTRODUCER: Senator Oelrich

SUBJECT: Airboats

DATE: February 2, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Unfavorable
2.			CA	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill requires the Florida Fish and Wildlife Conservation Commission (FWC) to establish a voluntary sound testing program for airboats. It provides that persons submitting to the voluntary testing program, whose airboat registers below a certain sound level, will be permitted to operate their airboat on all navigable waterways of the state, even if local ordinances or other laws otherwise prohibit the airboat's operation. The bill provides that those passing the voluntary test will be provided a certificate and decal by the FWC. The bill also sets testing requirements and provides that airboat operators opting to have the test must pay a fee (the amount to be determined by the FWC) to the testing facility. All testing facilities would have to be certified by the FWC.

The bill amends ss. 327.60 and 327.65, F.S.

II. Present Situation:

According to the FWC, during the calendar year 2010, there were 6,851 registered airboats in the State. The 5 counties with the highest number of airboat registrations in 2010 were:

County	Number of Airboat Registrations
Polk	720
Brevard	548
Citrus	359
Marion	319
Palm Beach	305 ¹

Florida law requires that the exhaust of every airboat engine must be adequately muffled by use of automotive-style mufflers, underwater exhaust, or another device capable of adequately muffling exhaust sound.²

Section 327.60(2)(e), F.S., prohibits local governments from discriminating against airboats with any ordinances adopted after July 1, 2006, unless the ordinance is adopted by a two-thirds vote of the governing body.

Section 327.65(1), F.S., requires that the exhaust of every internal combustion engine used on any vessel must be effectively muffled, and further prohibits the use of exhaust cut-out devices (which would allow the operator to mechanically divert the exhaust gases in order to bypass a muffling device). Section 327.65(2)(a), F.S., provides that counties wishing to impose additional noise pollution and exhaust regulations on vessels may adopt (by ordinance) the following language:

No person shall operate or give permission for the operation of any vessel on the waters of any county or on a specified portion of the waters of any county, including the Florida Intracoastal Waterway, which has adopted the provisions of this section in such a manner as to exceed the following sound levels at a distance of 50 feet from the vessel: for all vessels, a maximum sound level of 90 dB A.

“Sound level” is defined as:

A-weighted³ sound pressure level measured with fast response using an instrument complying with the specification for sound level meters of the American National Standards Institute, Inc., or its successor bodies, except that only a weighting and fast dynamic response need be provided.

“dB A” is defined as “the composite abbreviation for the A-weighted sound level and the unit of sound level, the decibel.”

¹ Florida Fish and Wildlife Conservation Commission, Senate Bill 958 Analysis (Dec. 21, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

² Section 327.391(1), F.S.

³ A-Weighted Sound Level - A measure of sound pressure level designed to reflect the acuity of the human ear, which does not respond equally to all frequencies. The ear is less efficient at low and high frequencies than at medium or speech-range frequencies. Therefore, to describe a sound containing a wide range of frequencies in a manner representative of the ear's response, it is necessary to reduce the effects of the low and high frequencies with respect to the medium frequencies. The resultant sound level is said to be A-weighted, and the units are dB A. The A-weighted sound level is also called the noise level. Sound level meters have an A-weighting network for measuring A-weighted sound level.

According to the FWC, in 2005, a research team from Florida Atlantic University (FAU) was contracted by the Commission to perform research concerning airboat noise. The research revealed that, during airboat drive-by tests, the peak sound level measured at 50-feet from the path of the vessel always exceeded 90 dB A at maximum operating conditions and speed, and, in many cases, exceeded 100 dB A. It was also found that most airboats can operate with a peak sound level of 90 dB A or less, measured at 50-feet during drive-by tests, at the minimum speed required to maintain planing conditions.⁴ The research also revealed that airboat sound levels vary greatly from one boat to the next and depend upon a host of variables. Vessel load, type, design of propeller, and the use of either a gear or belt-drive to reduce propeller speed are just a few.⁵

The FWC served as a co-host (together with the Florida Airboat Association) of a quiet airboat demonstration held in central Florida in May of 2006 which was intended to offer an opportunity for airboat owners to learn about the sound levels generated by their personal boats. The FAU research team was on-hand to take sound level readings as volunteers drove their airboats through a prescribed course at either maximum throttle or minimum planing speed. Of the ten airboats participating, the maximum throttle sound level readings taken at 50-feet from the vessel during drive-by testing ranged from 88.9 dB A to 106.8 dB A for boats equipped with mufflers. Minimum planing speed sound levels ranged from 77.4 dB A to 91.15 dB A for muffled boats.⁶

According to s. 327.60, F.S., local ordinances relating to the operation of a vessel on the water by airboats may not be “discriminated” against by local ordinances unless they are adopted after July 1, 2006, by a two thirds vote by the governing body. To address excessive noise on the water many counties have passed local ordinances imposing noise curfews.

III. Effect of Proposed Changes:

Section 1 amends s. 327.391, F.S., and requires FWC to establish a voluntary sound testing program for airboats. Tests would be required to meet minimum requirements, including that a test would have to be conducted while an airboat is travelling on plane in water that is 1 foot deep or less and at a distance of 100 feet perpendicular to the fixed-in-place testing equipment (measured from the closest edge of the airboat). Additionally, all testing equipment would have to be calibrated to allow for ambient noise, weather, and other factors that could interfere with an accurate reading. The test would cost the airboat owner an unspecified fee, not to exceed administrative costs of the FWC, which would be paid to the testing facility. All testing facilities would have to be certified by the FWC.

⁴ Airboat hulls, like many boat hulls, are designed to be capable of skimming across the water once they reach an appropriate speed. This “skimming” on the water, as contrasted with plowing through the water, is called being on a “plane.” The research looked at the sound levels that were generated by boats when they got up on a plane (which takes more engine effort and generates more noise) then reduced their speed so they were going just fast enough to maintain a planing attitude. This is often the most efficient speed at which to run a boat and, for airboats, was the quietest the boat would be able to run at any appreciable speed.

⁵ Florida Fish and Wildlife Conservation Commission, Senate Bill 958 Analysis (Dec. 21, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁶ *Id.*

The bill provides that persons submitting to the voluntary testing program and whose airboat tests at or below 107 dB A under the above specified conditions will be provided a certificate and numbered decal by the FWC. The certificate and decal will permit that specific airboat to be operated on all navigable waterways of the state, even on waterways otherwise prohibited for airboat operation by local ordinance or other law.

Section 2 amends s. 327.60, F.S., to allow airboats bearing a decal to operate above sound levels that have been prohibited by local ordinances. Section 327.65(2)(a), F.S., currently allows local governments to adopt an ordinance preventing sound levels over a certain dB A. While this bill does not propose to strike that provision, the proposed changes to section 327.65(2)(a), F.S., create an exception to the provision that effectively eliminates it as it pertains to airboats which would have a decal.

The bill would also modify the prohibition of local government “discrimination” against airboats for ordinances adopted on or before July 1, 2006. According to FWC, it appears that the proposed change to section 327.60, F.S., would still allow local governments to discriminate against airboats that have received a decal pursuant to the new section 327.391(5) F.S., but would no longer allow ordinances discriminating against airboats not bearing such a decal.⁷

Section 3 amends s. 327.65, F.S., to clarify that any person who refuses to submit to a sound level test when requested by a law enforcement officer commits a misdemeanor in the second degree.

Section 4 establishes an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁷ Florida Fish and Wildlife Conservation Commission, Senate Bill 958 Analysis (Dec. 21, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

B. Private Sector Impact:

If private testing companies are permitted to perform the sound tests on airboats, then those companies may see an increase in the demand for the tests on airboats.

C. Government Sector Impact:

FWC is unclear if the Commission or private entities are anticipated to be tasked with performing the actual sound testing as well as who will ultimately receive the testing fees paid by the airboat owner.

According to the FWC, the proposed language could be interpreted to eliminate the obligation of an airboat operator who has a certificate and decal, acquired as a result of voluntary sound level testing, to submit to a sound level test when requested to do so by a law enforcement officer.

VI. Technical Deficiencies:

According to the FWC, the proposed language could be interpreted to eliminate the obligation of an airboat operator who has a certificate and decal, acquired as a result of voluntary sound level testing, to submit to a sound level test when requested to do so by a law enforcement officer.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.



514606

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/14/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 327.391, Florida Statutes, is amended to
read:

327.391 Airboats regulated.—

(1) The exhaust of every internal combustion engine used on
any airboat operated on the waters of this state shall be
provided with an automotive-style factory muffler, underwater
exhaust, or other manufactured device capable of adequately
muffling the sound of the exhaust of the engine as described in



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s. 327.02(24). The use of cutouts or flex pipe as the sole source of muffling is prohibited, except as provided in subsection (4). Any person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).

(2) An airboat operator cited for an infraction of subsection (1) may not operate the airboat until a muffler as defined in s. 327.02 is installed.

(3) An airboat may not operate on the waters of the state unless it is equipped with a mast or flagpole bearing a flag at a height of at least 10 feet above the lowest portion of the vessel. The flag must be square or rectangular, at least 10 inches by 12 inches in size, international orange in color, and displayed so that the visibility of the flag is not obscured in any direction. Any person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).

(4) This section does not apply to a person participating in an event for which a permit is required, or of which notice must be given, under s. 327.48.

(5)(a) Airboat testing facilities may implement a voluntary testing program to conduct sound level tests on airboats. The testing program shall meet all requirements of this subsection, including having at least 50 percent of their revenues generated by the airboat manufacturing or airboat servicing industries. Any testing facility shall maintain a record of each airboat tested, including the date, registration number, and decal number issued, if applicable. Failure to perform the testing in accordance with this subsection or maintain records of each test and decals issued may result in a suspension of the right of the facility to perform testing.



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(b) An airboat that is tested through a testing program established pursuant to this subsection and that tests at a sound level of 92 dB A or less while traveling on plane from a distance of 100 feet shall be issued a certificate and numbered decal by the testing facility conducting the test. The decal shall have on it the name of the testing facility that conducted the test, the date of the test, and a sequential number unique to the decal. The decal shall be posted on the left side of the vessel within 6 inches of the Florida registration decal or on the left-hand side of the operator's seat. Such decal shall authorize the airboat to be operated on all navigable waterways of this state, including waterways on which airboats are prohibited by a local ordinance or other provision of law, but not in places designated by the Division of Recreation and Parks of the Department of Environmental Protection as closed to combustible engine watercraft, for a period of 12 months following the date of issuance.

(c) The testing facility may charge a fee for conducting the airboat sound level test to the party requesting such test. Tests must meet the following requirements:

1. Each test shall be conducted while the airboat is traveling on plane in water 1 foot deep or less, from a distance of 100 feet perpendicular to the fixed-in-place testing equipment, as measured from the closest edge of the airboat; and

2. The sound level meter used in the test shall be calibrated to allow for ambient noise, weather, and other factors that may interfere with an accurate and reliable reading and must comply with the standards set forth in S1.4-1983 (R2006) of the American National Standards Institute,



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Specifications for Sound Level Meters, as those standards
existed on February 1, 2012.

(d) A law enforcement agency may require retesting of any
decaled boat if there is probable cause to believe that the boat
violates the standards established for obtaining a decal and if
the boat is operating at a time or location authorized only by a
decal obtained pursuant to this subsection. Such retest shall
comply with the conditions outlined in this subsection in all
respects. A vessel operator who fails to submit to a retest upon
probable cause to believe that the vessel is being operated in
violation of this subsection commits a misdemeanor of the second
degree, punishable as provided in s. 775.082 or s. 775.083. A
vessel that fails a retest forfeits the right to operate during
any "decal only" time or location. An operator who operates a
vessel in violation of this subsection is subject to a fine that
may not exceed \$150.

Section 2. Subsection (2) of section 327.60, Florida
Statutes, is amended to read:

327.60 Local regulations; limitations.—

(2) Nothing in this chapter or chapter 328 shall be
construed to prevent the adoption of any ordinance or local
regulation relating to operation of vessels, except that a
county or municipality may ~~shall~~ not enact, continue in effect,
or enforce any ordinance or local regulation:

(a) Establishing a vessel or associated equipment
performance or other safety standard, imposing a requirement for
associated equipment, or regulating the carrying or use of
marine safety articles;

(b) Relating to the design, manufacture, installation, or



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use of any marine sanitation device on any vessel;

(c) Regulating any vessel upon the Florida Intracoastal Waterway;

(d) Discriminating against personal watercraft;

(e) Discriminating against airboats that possess a valid decal obtained in compliance with s. 327.391(5), for ordinances adopted after July 1, 2006, unless adopted by a two-thirds vote of the governing body enacting such ordinance;

(f) Regulating the anchoring of vessels other than live-aboard vessels outside the marked boundaries of mooring fields permitted as provided in s. 327.40;

(g) Regulating engine or exhaust sound ~~noise~~, except as provided in s. 327.65; or

(h) That conflicts with any provisions of this chapter or any amendments thereto or rules adopted thereunder.

Section 3. Subsection (2) of section 327.65, Florida Statutes, is amended to read:

327.65 Muffling devices.—

(2) (a) Any county wishing to impose additional noise pollution and exhaust regulations on vessels may, pursuant to s. 327.60(2), adopt by county ordinance the following regulations:

1. Except as provided in s. 327.391(5), a ~~no~~ person may not ~~shall~~ operate or give permission for the operation of any vessel on the waters of any county or on a specified portion of the waters of any county, including the Florida Intracoastal Waterway, which has adopted the provisions of this section in such a manner as to exceed the following sound levels at a distance of 50 feet from the vessel: for all vessels, a maximum sound level of 90 dB A.



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2. Except as provided in s. 327.391(5), any person who refuses to submit to a sound level test when requested to do so by a law enforcement officer commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) The following words and phrases, when used in this section, shall have the meanings respectively assigned to them in this subsection.

1. "dB A" means the composite abbreviation for the A-weighted sound level and the unit of sound level, the decibel.

2. "Sound level" means the A-weighted sound pressure level measured with fast response using an instrument complying with the specification for sound level meters of the American National Standards Institute, Inc., or its successor bodies, except that only a weighting and fast dynamic response need be provided.

Section 4. This act shall take effect July 1, 2012.

===== 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 airboats; amending s. 327.391, F.S.; providing for airboat testing facilities to establish a voluntary sound level testing program for airboats; providing qualification requirements and recordkeeping requirements for such facilities; allowing airboats that test below a specified sound



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level to be operated on all navigable waters of the state, including waterways on which airboats are prohibited by local ordinance or other provision of law for a specified time; providing an exception; requiring a fee; providing testing requirements; authorizing law enforcement agencies to require retesting in certain situations; providing penalties; amending s. 327.60, F.S.; requiring a super majority vote to enact certain ordinances regulating airboats; amending s. 327.65, F.S., relating to muffling devices on vessels; conforming provisions to changes made by the act; providing an effective date.

By Senator Oelrich

14-00655B-12

2012958__

1 A bill to be entitled
2 An act relating to airboats; amending s. 327.391,
3 F.S.; requiring the Fish and Wildlife Conservation
4 Commission to establish a voluntary sound-testing
5 program for airboats; allowing airboats that test
6 below a specified sound level to be operated on all
7 navigable waters of the state, including waterways on
8 which airboats are prohibited by local ordinance;
9 requiring a fee; providing testing requirements;
10 amending s. 327.60, F.S.; requiring a super majority
11 vote to enact certain ordinances regulating airboats;
12 amending s. 327.65, F.S., relating to muffling devices
13 on vessels; conforming provisions to changes made by
14 the act; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Section 327.391, Florida Statutes, is amended to
19 read:

20 327.391 Airboats regulated.—

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

14-00655B-12

2012958__

(2) An airboat operator cited for an infraction of subsection (1) may not operate the airboat until a muffler as defined in s. 327.02 is installed.

(3) An airboat may not operate on the waters of the state unless it is equipped with a mast or flagpole bearing a flag at a height of at least 10 feet above the lowest portion of the vessel. The flag must be square or rectangular, at least 10 inches by 12 inches in size, international orange in color, and displayed so that the visibility of the flag is not obscured in any direction. Any person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).

(4) This section does not apply to a person participating in an event for which a permit is required, or of which notice must be given, under s. 327.48.

(5) (a) The commission shall establish a voluntary testing program to conduct sound level tests on airboats.

(b) An airboat that tests at a sound level of 107 dB A or less while traveling on plane from a distance of 100 feet shall be issued a certificate and numbered decal by the commission which authorizes the airboat to be operated on all navigable waterways of this state, including waterways on which airboats are prohibited by a local ordinance or other provision of law.

(c) A person must pay a fee, not to exceed the administration costs of the commission, established by the commission after consultation with experts in the industry, to a testing facility that has been certified by the commission to use sound test equipment and testing methods pursuant to this paragraph. Tests must meet the following requirements:

1. Each test shall be conducted while the airboat is

14-00655B-12

2012958

traveling on plane in water 1 foot deep or less from a distance
of 100 feet perpendicular to the fixed-in-place testing
equipment, as measured from the closest edge of the airboat; and

2. Test equipment shall be calibrated to allow for ambient
noise, weather, and other factors that may interfere with an
accurate and reliable reading.

Section 2. Subsection (2) of section 327.60, Florida
Statutes, is amended to read:

327.60 Local regulations; limitations.—

(2) Nothing in this chapter or chapter 328 shall be
construed to prevent the adoption of any ordinance or local
regulation relating to operation of vessels, except that a
county or municipality may ~~shall~~ not enact, continue in effect,
or enforce any ordinance or local regulation:

(a) Establishing a vessel or associated equipment
performance or other safety standard, imposing a requirement for
associated equipment, or regulating the carrying or use of
marine safety articles;

(b) Relating to the design, manufacture, installation, or
use of any marine sanitation device on any vessel;

(c) Regulating any vessel upon the Florida Intracoastal
Waterway;

(d) Discriminating against personal watercraft;

(e) Discriminating against airboats that do not bear a
decal issued pursuant to s. 327.391(5), ~~for ordinances adopted
after July 1, 2006,~~ unless adopted by a two-thirds vote of the
governing body enacting such ordinance;

(f) Regulating the anchoring of vessels other than live-
aboard vessels outside the marked boundaries of mooring fields

14-00655B-12

2012958__

permitted as provided in s. 327.40;

(g) Regulating engine or exhaust sound ~~noise~~, except as provided in s. 327.65; or

(h) That conflicts with any provisions of this chapter or any amendments thereto or rules adopted thereunder.

Section 3. Subsection (2) of section 327.65, Florida Statutes, is amended to read:

327.65 Muffling devices.—

(2)(a) Any county wishing to impose additional noise pollution and exhaust regulations on vessels may, pursuant to s. 327.60(2), adopt by county ordinance the following regulations:

1. Except as provided in s. 327.391(5), a ~~no~~ person may not ~~shall~~ operate or give permission for the operation of any vessel on the waters of any county or on a specified portion of the waters of any county, including the Florida Intracoastal Waterway, which has adopted the provisions of this section in such a manner as to exceed the following sound levels at a distance of 50 feet from the vessel: for all vessels, a maximum sound level of 90 dB A.

2. Except as provided in s. 327.391(5), any person who refuses to submit to a sound level test when requested to do so by a law enforcement officer commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) The following words and phrases, when used in this section, shall have the meanings respectively assigned to them in this subsection.

1. "dB A" means the composite abbreviation for the A-weighted sound level and the unit of sound level, the decibel.

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2012958__

117 2. "Sound level" means the A-weighted sound pressure level
118 measured with fast response using an instrument complying with
119 the specification for sound level meters of the American
120 National Standards Institute, Inc., or its successor bodies,
121 except that only a weighting and fast dynamic response need be
122 provided.

123 Section 4. This act shall take effect July 1, 2012.

11

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-6-12
Meeting Date

Topic LIMITED CERTIFICATION Bill Number 604
Name DAVID CULLEN Amendment Barcode _____
(if applicable) (if applicable)

Job Title _____

Address 1674 UNIVERSITY AVE #296 Phone 941-323-2404
Street
SARASOTA FL 34243 E-mail cullen@seaguard.com
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing FERRY CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic Fertilizer

Bill Number SB 604
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title VP - External Relations

Address 516 N. Adams St
Street
Tallahassee FL 32301
City State Zip

Phone 850-224-7173

E-mail bbevis@aif.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/06/12

Meeting Date

Topic URBAN LANDSCAPE

Bill Number SB 604
(if applicable)

Name DOUGLAS BUCK

Amendment Barcode _____
(if applicable)

Job Title _____

Address 201 E PARK AVE
Street

Phone 224-4316

32301
City State Zip

E-mail dbuck@fhba.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA HOME BUILDERS ASSN

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic _____

Bill Number 604
(if applicable)

Name JAMES SPRATT

Amendment Barcode _____
(if applicable)

Job Title Director of Government Affairs

Address 310 W. College Ave
Street
TALCAHASSEE FL 32301
City State Zip

Phone 407-383-7204

E-mail JSpratt@flsen.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Nursery, Growers & LANDSCAPE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic Fertilizer

Bill Number SB604
(if applicable)

Name MAC CARRAWAY

Amendment Barcode _____
(if applicable)

Job Title PRESIDENT - SMR FARMS

Address 4715 LORRAINE ROAD
Street
BRADENTON FL 34211
City State Zip

Phone 941-708-3322
E-mail mac.carraway@smrfarms.com

Speaking: ☒ For ☐ Against ☐ Information

Representing ~~SELF / FLA TURFGRASS ASSOCIATION~~ SMR Farms

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

LAST

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic Urban Fertilizer

Bill Number 604
(if applicable)

Name DR. TERRIL NELL

Amendment Barcode _____
(if applicable)

Job Title Professor EMERITUS

Address _____

Phone 352-318-1607

Street

BREVARD

City

NC

State

Zip

E-mail terrilwelle@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

Representing _____

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-6-12

Meeting Date

Topic Senate Bill 604

Bill Number 604
(if applicable)

Name Missy Timmins

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2910 Kerry Forest Pkwy D4368 Phone 264-3225
Street
TLH FL 32309
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Pest Management Assoc.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic FERTILIZER

Name STEPHEN JAMES

Job Title _____

Address 100 S MONROE

Street

TALLAHASSEE FL

City

State

Zip

Bill Number 604

Amendment Barcode 665304
(if applicable)

Phone 922-4300

E-mail _____

Speaking: ☐ For ☒ Against ☒ Information

Representing FLA. ASSOC. OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/6/12
Meeting Date

Topic Fertilizer, Urban Use

Bill Number SB 604
(if applicable)

Name Peter L. Snyder

Amendment Barcode
(if applicable)

Job Title Executive Director Florida Turfgrass Assn.

Address 120 E. Pine St., Suite 1

Phone 800-882-6721

Street
Lake/and, FL 33801
City State Zip

E-mail pete@ftga.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Turfgrass Assn.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic Fertilizer

Bill Number SB 604
(if applicable)

Name Todd Josko

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2900 W. Azeele St, Unit A
Street
Tampa, FL 33607
City State Zip

Phone (813) 374-4618

E-mail todd@joskoassociates.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Turfgrass Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

11

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-6-2012

Meeting Date

Topic Fertilizer - Nitrogen/Phosphorus

Bill Number SB 604
(if applicable)

Name MARTHA C SIMONS

Amendment Barcode _____
(if applicable)

Job Title Councilwoman

Address 9101 Bonita Beach Rd
Street
Bonita Springs, FL 34135
City State Zip

Phone 239-949-6262
E-mail MARTHA.SIMONS@cityofbonitasprings.org

Speaking: ☐ For ☒ Against ☐ Information

Representing taxpayers/Citizens of the City of Bonita Springs, FL.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

11

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/2012

Meeting Date

Topic FERTILIZER

Bill Number SB 604
(if applicable)

Name JACK MERRIAM

Amendment Barcode _____
(if applicable)

Job Title _____

Address 319 Braden AVE
Street
SARASOTA FL 34243
City State Zip

Phone (941) 780-3120

E-mail jack.merriam@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/2012

Meeting Date

Topic Fertilizers

Bill Number SB604
(if applicable)

Name Jeff Juchnowicz

Amendment Barcode _____
(if applicable)

Job Title _____

Address 4296 Las Palmas Way
Sarasota FL 34238
City State Zip

Phone 941-724-0050

E-mail JmJuchno@egyle.

FGCU
Edn

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)



THE FLORIDA SENATE
APPEARANCE RECORD

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

02-06-12

Meeting Date

Topic Fertilizer Bill

Bill Number SB 604
(if applicable)

Name Ray Judah

Amendment Barcode _____
(if applicable)

Job Title Lee County Commissioner

Address 12664 Coconut Creek Court
Street
Ft. Myers FL 33908
City State Zip

Phone (239) 533-2223

E-mail Dist 3 @ leegov.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Lee County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

11

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-12
Meeting Date

Topic Fertilizer

Bill Number CS/SB 604
(if applicable)

Name Stephanie Kunkel

Amendment Barcode 665304
(if applicable)

Job Title _____

Address 1830 Meriadow Rd.
Street
Tallahassee FL 32303
City State Zip

Phone 850-320-4208

E-mail stef.kunkel@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Clean Water Action

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

11
2/6/12

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic Fertilizer

Bill Number CS/SB 604 (if applicable)

Name Mary Jean Yan

Amendment Barcode 665304 (if applicable)

Job Title _____

Address 3324 Charleston Rd.
Street
ILH FL 32309
City State Zip

Phone (850) 519-7859

E-mail maryjeanyan@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

Representing Audubon Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic Fertilizer

Bill Number 604

Name Ryan Matthews

Amendment Barcode 665304
(if applicable)

Job Title Leg Advocate

Address PO Box 1757

Phone 850-222-9684

Street

Tallahassee

State

FL

Zip

32302

City

E-mail rmatthews@flcities.com

Speaking: ☐ For ☐ Against ☒ Information

Representing FL League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

11

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-6-12
Meeting Date

LATVALA AMENDMENT

Topic FERTILIZER

Bill Number 604
(if applicable)

Name KURT SPITZER

Amendment Barcode _____
(if applicable)

Job Title EXEC. DIRECTOR

Address 719 E PARK
Street

Phone 561-0904

T 32301
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☒ Information

Representing FLA. STORMWATER ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic Fertilizer

Bill Number SB604

Name John Mascaro

Amendment Barcode 448222
(if applicable)

Job Title Ex. Director Sports Turf Managers Assoc.

Address 1471 Capital Circle NW #13
Street
Tallahassee FL 32303
City State Zip

Phone 850-580-4026

E-mail John@Turf-Tec.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Sports Turf Managers Association / Fla Chapters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12
Meeting Date

Topic Fertilizer

Bill Number SB 604
(if applicable)

Name Teresa Heitmann

Amendment Barcode _____
(if applicable)

Job Title Councilwoman of the City of Naples

Address 2350 Forrest Lane
Street
Naples FL 34102
City State Zip

Phone 239-370-1499

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)



THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic FERTILIZER BILL

Bill Number 604
(if applicable)

Name MICK DENHAM

Amendment Barcode _____
(if applicable)

Job Title VICE MAYOR CITY OF SANIBEL

Address DUNLOP RD
Street
SANIBEL
City State Zip

Phone 239 395 1848

E-mail mickdenham@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Representing CITY OF SANIBEL, SWF REGIONAL PLANNING COUNCIL

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/20/11)

11

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/6/12

Meeting Date

Topic Fertilizer

Bill Number CS/SB 604
(if applicable)

Name NOAH ~~VALENSTEIN~~ VALENSTEIN

Amendment Barcode _____
(if applicable)

Job Title LEGISLATIVE AFFAIRS DIRECTOR

Address 625 N. Adams

Phone 850 222 5805

Tallahassee FL 32303
City State Zip

E-mail nvalenstein@
evergladesfoundation.org

Speaking: ☐ For ☒ Against ☐ Information

Representing Everglades Foundation (EVERGLADES FOUNDATION)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 604

INTRODUCER: Agriculture Committee and Senator Dean and others

SUBJECT: Limited Certification for Urban Landscape Commercial Fertilizer Application

DATE: January 27, 2012

REVISED: _____

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

Please see Section VIII. for Additional Information:

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

I. Summary:

This committee substitute (CS) provides legislative findings that the use of best management practices (BMPs) when applying commercial fertilizer is critical to the state's efforts in minimizing potential harmful impacts to the water quality of the state. It provides that persons who have obtained the limited certification for urban landscape commercial fertilizer application by the Department of Agriculture and Consumer Services (DACS) are required to follow BMPs, and that they are exempt from local government ordinances that address the fertilization of urban turfs, lawns, and landscapes. It requires the department to provide local and state governmental agencies with information concerning the certification status of persons that have obtained the limited certification. It also clarifies that the department is granted enforcement authority over certified professionals, including administration, enforcement, and collection of penalties, fines, and administrative actions.

This CS amends section 482.1562 of the Florida Statutes.

II. Present Situation:

Model Ordinance for Florida-Friendly Fertilizer Use

The Florida Consumer Fertilizer Task Force was created by the Florida Legislature in 2007 to review and provide recommendations on the state's policies and programs addressing consumer fertilizers. A Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes (model ordinance), was developed by the Department of Environmental Protection (DEP), in conjunction with the Florida Consumer Fertilizer Task Force, the DACS, and the University of Florida Institute of Food and Agricultural Sciences (IFAS). In 2009 the Legislature made findings that implementation of the model ordinance will assist in protecting the quality of Florida's surface water and groundwater resources.¹

Local Government Adoption of Fertilizer Ordinances

Section 403.9337, F.S., encourages local governments to adopt the model ordinance as a mechanism for protecting local surface and groundwater quality; however, it recognizes that certain local conditions may necessitate the implementation of additional or more stringent fertilizer management practices at the local government level. Many local governments have enacted a variety of ordinances through their home rule powers to regulate the commercial fertilization of urban turfs, lawns and landscapes.² These ordinances relate to composition of applied fertilizer, fertilizer application rate, fertilizer free zones, setback requirements and blackout times where no fertilizer can be applied (usually the rainy season).

Local governments are also required to limit impacts from stormwater discharges. The U.S. Army Corps of Engineers (Corps) administers the National Pollution Discharge Elimination System (NPDES) permit program under the federal Clean Water Act. The Corps has delegated the authority to Florida to implement this program for stormwater systems, including municipal systems. The DEP permits MS4 municipal separate storm sewer systems.³ An MS4 is a publicly-owned conveyance or system of conveyances (i.e., ditches, curbs, catch basins, underground pipes, etc.) that is designed or used for collecting or conveying stormwater and that discharges to surface waters of the state.⁴ Under the MS4 permit, local governments are required to undertake a number of activities to protect water bodies. Some of these activities include capital construction projects to retain stormwater, retrofitting where possible and land use decisions.

¹ Chapter 2009-199, s. 3, Laws of Fla.

² The following counties have adopted more stringent standards than the model ordinance or substantially similar ordinances to the model ordinance: Alachua, Charlotte, Duval, Hillsborough, Lee, Manatee, Marion, Martin, Orange, Pinellas, Sarasota, St. Johns and Wakulla. The following municipalities have also adopted more stringent standards than the model ordinance: City of Alachua, Bonita Springs, Cape Coral, Fort Meyers, Fort Meyers Beach, Jacksonville, Longboat Key, Monteverde, Naples, Northport, all municipalities within Pinellas County, Port St. Lucie, Sanibel, City of Sarasota, Sewall's Point and Venice.

³ DEP, *Florida's NPDES Stormwater Program*, http://www.dep.state.fl.us/water/stormwater/npdes/MS4_1.htm (last visited Jan. 26, 2012).

⁴ *Id.*

DACS-certification of Commercial Fertilizer Applicators

In order to have a means of documenting and ensuring compliance with BMPs for commercial fertilizer application to urban landscapes, the Legislature directed the DACS to establish a limited certification for urban landscape commercial fertilizer application. The DACS, in cooperation with the IFAS, was also directed to develop an educational program for people working in lawn-care and landscape maintenance to teach safe landscaping practices. After receiving a certificate demonstrating successful completion of the DACS or a DACS-approved program, and paying a certification fee, a person may apply to the DACS to receive a limited certification of urban landscape commercial fertilizer application under s. 482.1562, F.S. Starting January 1, 2014, all commercial fertilizer applicators must be certified to make any type of fertilizer application to commercial turf or ornamental trees, the turf or ornamental areas of parks or fields other than agricultural areas, or the turf or ornamental area of any residential property.⁵ Currently, certified persons are not exempt from local government ordinances that address fertilization of urban turfs, lawns, and landscapes.

Contributions of Fertilizers to Waters of the State

There have been numerous studies of the effects on urban fertilizer use in Florida. A 2008 study completed by the Tampa Bay Estuary Program concluded that a conservative estimate of fertilizer runoff in urbanized areas approaches 25 percent.⁶

In the Lower St. Johns River basin management action plan, the Florida Department of Transportation (FDOT) was required to remove 18,472 pounds of nitrogen per year from stormwater runoff. The FDOT commissioned a study that concluded of the 112,020 pounds of nitrogen applied annually to roadside areas, 18,477 pounds (16.5 percent) washed into surface waters. The study also concluded that the roadside areas did not require application of nitrogen fertilizer, saving \$150,000 annually. In addition, by not applying the fertilizer, the FDOT was able to meet its reduction goal of removing 18,472 pounds of nitrogen with no other reduction strategies.⁷

In a third study, the DEP hired MACTEC, an environmental engineering firm, to conduct a study of Wekiva River nitrate sourcing. The study was completed in two phases and a final report was issued in March 2010. Part of phase II of the study re-visited the effects of residential fertilizer in the Wekiva River Basin. The study concluded that 15 percent of the annual nitrogen loading in the Wekiva River Basin comes from residential fertilizer use. This amounts to 1,485 metric tons per year in the Wekiva Basin.⁸

⁵ University of Florida, IFAS Extension, *Licensing of Lawn and Ornamental Pesticide Applicators in Florida*, available at <http://edis.ifas.ufl.edu/pdf/PI/PI00600.pdf> (last visited Jan. 27, 2012).

⁶ Tampa Bay Estuary Program, *Technical Memorandum: Model-Based Estimates of Nitrogen Load Reductions Associated with Fertilizer Restriction Implementation* (Nov. 2008) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁷ FDOT Research, *Evaluation of Pollution Levels Due to the Use of Consumer Fertilizers under Florida Conditions*, available at http://www.dot.state.fl.us/research-center/Completed_Proj/Summary_RD/FDOT_BDK78%20_977-04_sum.pdf (last visited Jan. 26, 2012).

⁸ MACTEC, prepared for the St. Johns WMD and the DEP, *Final Report Wekiva River Basin Nitrate Sourcing Study* (Mar. 2010), available at <http://www.dep.state.fl.us/water/wekiva/docs/wekiva-basin-nitrate-sourcing-fr0310.pdf> (last visited Jan. 26, 2012).

III. Effect of Proposed Changes:

Section 1 amends s. 482.1562, F.S., to provide legislative findings that using BMPs in the application of commercial fertilizer to urban landscapes is a critical component of the state's efforts to minimize potential impacts to water quality. It requires persons, certified for urban landscape commercial fertilizer application, to follow BMPs established by the DEP. It exempts certified persons from local government ordinances that address the fertilization of urban turfs, lawns, and landscapes. It requires the department to provide specified information to other local and state governmental agencies. Finally, it clarifies that the department has enforcement authority over certified professionals and provides requirements for associated penalties, fines, and administrative actions taken by the department.

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

Other Potential Implications:

The CS will preempt local governments that have adopted urban fertilizer ordinances from regulating department-certified fertilizer applicators. Certified applicators must adhere to BMPs established by the DEP. However, the DEP has not adopted any BMPs for urban fertilizer application. It has only coordinated the development of recommended guidelines in the "Florida-Friendly Best Management Practices for Protection of Water Quality by the Green Industries," including BMPs for urban fertilizer application.⁹ Therefore, this requirement appears to be unenforceable and may exempt urban fertilizer applicators from local ordinances even if they do not follow the recommended BMPs. The DEP has existing authority to adopt BMPs by rule pursuant s. 403.067(7)(c)1., F.S., for the establishment of total maximum daily loads. If the Legislature intends to ensure the applicability of this provision, it should authorize the DEP to adopt BMPs for urban fertilizer application as well.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ DEP, *Florida-Friendly Best Management Practices for Protection of Water Quality by the Green Industries*, available at http://fyn.ifas.ufl.edu/pdf/GIBMP_Manual_WEB_2_17_11.pdf (last visited Jan. 26, 2012).

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

None.

B. Private Sector Impact:

The CS exempts department-certified fertilizer applicators from all local government ordinances that address urban fertilization. It also allows the department to assess penalties and fines against applicators who do not comply with certain provisions. The impact can only be determined on a case-by-case basis.

C. Government Sector Impact:

The CS requires the DACS to provide information concerning the certification status of persons who have obtained the limited certification for urban landscape commercial fertilizer application to other local and state governmental agencies. This may result in a potential workload increase for the DACS, which is expected to meet the costs with existing staff and resources.

Additionally, the CS may have a significant impact on local governments to provide for nutrient reductions for their NPDES permits (MS4 stormwater systems) or to comply with total maximum daily loads and basin management action plans. Several counties' representatives have expressed concerns that the CS may require them to provide for much more costly options to remove nutrients from surface waters, including capital projects and constructed wetlands. The Tampa Bay Estuary Program estimates 30.2 tons on nitrogen will be prevented from entering the Tampa Bay watershed as the result of enacting local ordinances.¹⁰ Another county has constructed a filter marsh to remove nitrogen at a cost of \$600 per pound.¹¹ While the individual costs to local governments cannot be determined, they may be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁰ E-mail from Nanette Holland, Public Outreach Coordinator, Tampa Bay Estuary Program (Jan. 26, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹¹ E-mail from Kurt Harclerode, Operations Manager, Natural Resources Division, Lee County (Jan. 26, 2012) (on file with the Senate Committee on Environmental Preservation and Conservation).

VIII. Additional Information:

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

CS by the Agriculture Committee on December 5, 2011:

The CS requires that persons certified for urban landscape and commercial fertilizer application follow BMPs as established by the DEP. It also requires the department to provide specified information to other local and state governmental agencies.

- B. **Amendments:**

None.



152126

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/06/2012	.	
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The Committee on Environmental Preservation and Conservation
(Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (1) through (8) of section
482.1562, Florida Statutes, are renumbered as subsections (2)
through (9), respectively, a new subsection (1) is added to that
section and present subsections (2), and (8) of that section are
amended, to read:

482.1562 Limited certification for urban landscape
commercial fertilizer application.—

(1) The Legislature finds that the implementation of best



152126

13 management practices for commercial fertilizer application to
14 urban landscapes is a critical component of the state's efforts
15 to minimize potential impacts to water quality.

16 (3)(2) Beginning January 1, 2014, any person applying
17 commercial fertilizer to an urban landscape must be certified
18 under this section. A person certified under this section must
19 follow best management practices for commercial fertilizer
20 application to urban landscapes as established by the Department
21 of Environmental Protection. A person certified under this
22 section is exempt from local government ordinances that address
23 the fertilization of urban turfs, lawns, and landscapes.

24 (9)(8) The department shall ~~may~~ provide information
25 concerning the certification status of persons certified under
26 this section to other local and state governmental agencies. The
27 department is encouraged to create an online database that lists
28 all persons certified under this section.

29 Section 2. Subsections (5) and (6) are added to section
30 403.9337, Florida Statutes, to read:

31 (5) The provisions of s. 482.1562(3) do not limit the
32 authority of the department or water management districts
33 pursuant to chapter 373 or chapter 403 to adopt rules or issue
34 orders relating to fertilizer practices that are necessary to
35 achieve compliance with applicable water quality standards or to
36 implement federally authorized or delegated programs.

37 (6) The department shall submit a report on the
38 effectiveness of seasonal or calendar-based prohibited
39 application periods for the fertilization of urban turfs, lawns
40 and landscapes on the water quality of the state to the
41 Governor, President of the Senate and the Speaker of the House



152126

of Representatives, by December 31, 2016.

Section 3. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to limited certification for urban
landscape commercial fertilizer application; amending s.
482.1562, F.S.; providing legislative findings; requiring
persons who hold a limited certification to follow the model
ordinance; providing exemptions; requiring local governments to
establish a variance process; allowing application of fertilizer
during certain periods; providing for sunset of certain
provisions; requiring the Department of Agriculture and Consumer
Services to provide specified information to other local and
state governmental agencies; amending s. 403.9337, F.S.;
allowing the Department of Environmental Protection to adopt
certain rules; requiring a report; providing an effective date.



665304

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2012	.	
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The Committee on Environmental Preservation and Conservation
(Latvala) recommended the following:

**Senate Substitute for Amendment (152126) (with title
amendment)**

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (1) through (8) of section
482.1562, Florida Statutes, are renumbered as subsections (2)
through (9), respectively, a new subsection (1) is added to that
section and present subsections (2), and (8) of that section are
amended, to read:

482.1562 Limited certification for urban landscape
commercial fertilizer application.—



665304

13 (1) The Legislature finds that the implementation of best
14 management practices for commercial fertilizer application to
15 urban landscapes is a critical component of the state's efforts
16 to minimize potential impacts to water quality.

17 (3) ~~(2)~~ Beginning January 1, 2014, any person applying
18 commercial fertilizer to an urban landscape must be certified
19 under this section. A person certified under this section must
20 follow the most recent version of the Model Ordinance for
21 Florida-Friendly Fertilizer Use on Urban Landscapes.

22 (a) A person certified under this section is exempt from
23 seasonal or calendar-based prohibited application period bans
24 within local government ordinances that address the
25 fertilization of urban turfs, lawns and landscapes; however, a
26 county or municipal government which has adopted an ordinance
27 prior to January 1, 2012, which contain a seasonal or calendar-
28 based prohibited application period, may continue to enforce the
29 ordinance within its jurisdiction.

30 (b) Notwithstanding paragraph (a), within 90 days of the
31 effective date of this act, a county or municipal government
32 with an existing seasonal or calendar-based prohibited
33 application period ban shall establish a reasonable process
34 whereby a person certified under this section may apply for a
35 variance from the prohibited application period ban to apply
36 nutrients to damaged turf and landscape plants based on industry
37 recognized tests and standards that demonstrate a need for
38 nutrients on a site-specific basis. Between July 1, 2012, and
39 the date at which a county or municipal government establishes a
40 process under the provisions of this paragraph, a certified
41 commercial fertilizer applicator may apply nutrients to damaged



665304

turf and landscape plants based on industry recognized tests and standards that demonstrate a need for nutrients on a site-specific basis.

For the limited purposes of an ordinance amended to include the provisions of paragraph (b), ss. 403.9337(3), 570.07(41)(b), and 576.181(5)(b), do not apply.

(c) Paragraphs (a) and (b) shall sunset on July 1, 2017, unless reauthorized by the Legislature.

(9)(8) The department shall may provide information concerning the certification status of persons certified under this section to other local and state governmental agencies. The department is encouraged to create an online database that lists all persons certified under this section.

Section 2. Subsections (5) and (6) are added to section 403.9337, Florida Statutes, to read:

(5) The provisions of s. 482.1562(3) do not limit the authority of the department or water management districts pursuant to chapter 373 or chapter 403 to adopt rules or issue orders relating to fertilizer practices that are necessary to achieve compliance with applicable water quality standards or to implement federally authorized or delegated programs.

(6) The department shall submit a report on the effectiveness of seasonal or calendar-based prohibited application periods for the fertilization of urban turfs, lawns and landscapes on the water quality of the state to the Governor, President of the Senate and the Speaker of the House of Representatives, by December 31, 2016.

Section 3. This act shall take effect July 1, 2012.



665304

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to limited certification for urban
landscape commercial fertilizer application; amending s.
482.1562, F.S.; providing legislative findings; requiring
persons who hold a limited certification to follow the Model
Ordinance for Florida-Friendly Fertilizer Use on Urban
Landscapes; providing exemptions; requiring local governments to
establish a variance process; allowing application of fertilizer
during certain periods; providing for sunset of certain
provisions; requiring the Department of Agriculture and Consumer
Services to provide specified information to other local and
state governmental agencies; amending s. 403.9337, F.S.;
allowing the Department of Environmental Protection to adopt
certain rules; requiring a report; providing an effective date.



448222

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2012	.	
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The Committee on Environmental Preservation and Conservation
(Detert) recommended the following:

**Senate Amendment to Amendment (665304) (with title
amendment)**

Delete lines 56 - 58
and insert:

Section 2. Subsection (4) of section 403.9337, Florida
Statutes, is amended, and subsections (5) and (6) are added to
that section, to read:

403.9337 Model Ordinance for Florida-Friendly Fertilizer
Use on Urban Landscapes.—

(4) This section does not apply to the use of fertilizer on



448222

farm operations as defined in s. 823.14, ~~or~~ on lands classified
as agricultural lands pursuant to s. 193.461, or on golf
courses, including all landscaped areas, that comply with the
Best Management Practices provisions of the Department of
Environmental Protection when applying fertilizer to those
areas.

(5) The provisions of s. 482.1562(3) do not limit the

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

And the title is amended as follows:

Between lines 87 and 88

insert:

exempting certain golf courses from the provisions of
the Model Ordinance for Florida-Friendly Fertilizer
Use on Urban landscapes;



189584

LEGISLATIVE ACTION

Senate

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House

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

**Senate Amendment to Amendment (665304) (with title
amendment)**

Between lines 69 and 70
insert:

Section 3. If fertilizer is applied to a golf course, the
most current update of the Department of Environmental
Protection's Best Management Practices for the Enhancement of
Environmental Quality on Florida Golf Courses must be followed.
For all other applications, specialized turf managers must use
the department's Florida Green Industries Best Management
Practices for Protection of Water Resources in Florida (June



189584

2002).

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

And the title is amended as follows:

Delete line 89

and insert:

certain rules; requiring a report; providing
guidelines for the application of fertilizer on golf
courses and all other applications; providing an
effective date.



240700

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete line 35
and insert:
section is exempt from seasonal or calendar-based prohibited
application period bans within local government ordinances that
address



897476

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with directory and title amendments)

Between lines 45 and 46
insert:

(12) This section does not limit the authority of the
Department of Environmental Protection or a water management
district to adopt rules or issue orders requiring fertilizer
practices that are necessary to achieve compliance with
applicable water quality standards or to implement federally
authorized or delegated programs.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====



897476

And the directory clause is amended as follows:

Delete line 20

and insert:

through (11), respectively, a new subsection (1) and subsection (12) are added to

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

And the title is amended as follows:

Delete line 13

and insert:

and administrative actions; providing that the act does not limit the authority of the Department of Environmental Protection or the water management districts to adopt rules or issue orders requiring fertilizer practices necessary to comply with applicable water quality standards; providing an effective

By the Committee on Agriculture; and Senator Dean

575-01522-12

2012604c1

1 A bill to be entitled
2 An act relating to limited certification for urban
3 landscape commercial fertilizer application; amending
4 s. 482.1562, F.S.; providing legislative findings;
5 requiring persons who hold a limited certification to
6 follow certain best management practices; providing an
7 exemption from certain local government ordinances;
8 requiring the Department of Agriculture and Consumer
9 Services to provide specified information to other
10 local and state governmental agencies; providing the
11 department with certain enforcement authority;
12 providing a requirement for related penalties, fines,
13 and administrative actions; providing an effective
14 date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Present subsections (1) through (10) of section
19 482.1562, Florida Statutes, are renumbered as subsections (2)
20 through (11), respectively, a new subsection (1) is added to
21 that section, and present subsections (2), (8), and (10) of that
22 section are amended, to read:

23 482.1562 Limited certification for urban landscape
24 commercial fertilizer application.—

25 (1) The Legislature finds that the implementation of best
26 management practices for commercial fertilizer application to
27 urban landscapes is a critical component of the state's efforts
28 to minimize potential impacts to water quality.

29 (3)~~(2)~~ Beginning January 1, 2014, any person applying

575-01522-12

2012604c1

30 commercial fertilizer to an urban landscape must be certified
31 under this section. A person certified under this section must
32 follow best management practices for commercial fertilizer
33 application to urban landscapes as established by the Department
34 of Environmental Protection. A person certified under this
35 section is exempt from local government ordinances that address
36 the fertilization of urban turfs, lawns, and landscapes.

37 (9)-(8) The department shall ~~may~~ provide information
38 concerning the certification status of persons certified under
39 this section to other local and state governmental agencies. The
40 department is encouraged to create an online database that lists
41 all persons certified under this section.

42 (11)-(10) The department has enforcement authority over
43 persons certified under this section and may adopt rules to
44 administer this section. All penalties, fines, and
45 administrative actions must be consistent with this chapter.

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

760

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Kurt S. Browning, Secretary of State,
do hereby certify that

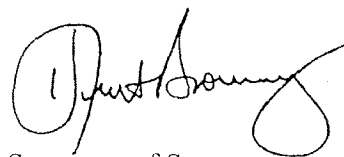
Adam Gelber

is duly appointed a member of the

Environmental Regulation Commission

for a term beginning on the
Tenth day of October, A.D., 2011,
until the First day of July, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Tenth day of November, A.D., 2011*



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.

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

2011 NOV 10 AM 10:50

DEPARTMENT OF STATE
DIVISION OF ELECTIONS

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

Environmental Regulation Commission

(Title of Office)

on which I am now about to enter, so help me God.

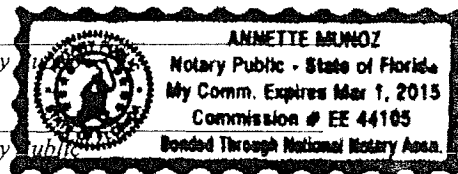
[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Adam R. Gelber
Signature

Sworn to and subscribed before me this 8th day of November, 2011.

Annette Munoz
Signature of Officer Administering Oath or of Notary Public

Annette Munoz
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

5916 Pine Tree Drive

Street or Post Office Box

Miami Beach, FL 33140

City, State, Zip Code

Adam Gelber

Print name as you desire commission issued

Adam R. Gelber
Signature



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE

2011 OCT 17 PM 3:2

DIVISION OF ELECTIONS
TALLAHASSEE, FL

October 10, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following appointment under the provisions of Section 20.255(7), Florida Statutes:

Mr. Adam R. Gelber
5916 Pinetree Drive
Miami Beach, Florida 33140

as a member of the Environmental Regulation Commission, succeeding Donald H. Ross, subject to confirmation by the Senate. This appointment is effective October 10, 2011, for a term ending July 1, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/nj

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.

Please type or print in blue or black ink.

10/24/2011

Date Completed

1. Name: Mr Gelber Adam R
MR./MRS./MS. LAST FIRST MIDDLE/MAIDEN

2. Business Address: 2001 NW 107th Avenue Doral
STREET OFFICE # CITY
Florida 33172 (305) 592-7275
POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

3. Residence Address: 5916 Pine Tree Drive Miami Beach Miami-Dade
STREET CITY COUNTY
Florida 33140 (305) 867-0287
POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

Specify the preferred mailing address: Business ☐ Residence ☒ Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

ADDRESS	CITY & STATE	FROM	TO
5916 Pine Tree Drive	Miami Beach, FL	1998	Present

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

ADDRESS	CITY & STATE	FROM	TO
1501 Highland Avenue, #301	Knoxville, TN	~1988	1991

5. Date of Birth: 06/12/70 Place of Birth: Portsmouth, VA

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

RECEIVED
DIVISION OF ELECTIONS
SECRETARY OF STATE

11 OCT 27 AM 10:22

RECEIVED

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1974

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Miami-Dade B. Current Party Affiliation: Republican

12. Education

A. High School: Ransom Everglades, Coconut Grove, FL Year Graduated: 1988

(NAME AND LOCATION)

- B. List all postsecondary educational institutions attended:

NAME & LOCATION

DATES ATTENDED

CERTIFICATES/DEGREES RECEIVED

University of Tennessee, Knoxville 1988-1991 ---

St. Thomas University, Miami 1992-1994 ---

Univ of Miami 1994-1998 BS - Wildland & Wildlife Management

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☒ If "Yes" give details:

DATE

PLACE

NATURE

DISPOSITION

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

EMPLOYER'S NAME & ADDRESS

TYPE OF BUSINESS

OCCUPATION/JOB TITLE

PERIOD OF EMPLOYMENT

Atkins 2001 NW 107th Avenue, Miami A&E Corporation Group Manager/Sr Scientist 2000-Present

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☐ No ☒ If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

POSITION

EMPLOYING AGENCY

PERIOD OF EMPLOYMENT

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have lived in south Florida for the past 36 years. Work history involves dealing with a wide range of environmental matters from when I was employed at Biscayne National Park in the Resource Management Division to dealing with groundwater remediation of a former Superfund Site in north Miami to my current position addressing coastal issues for clients.

- B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

BS - Wildland & Wildlife Management

- C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

- D. Identify all association memberships and association offices held by you that relate to this appointment:

Coastal Conservation Association

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☐ No ☒ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

OFFICE TITLE

DATE OF ELECTION OR APPOINTMENT

TERM OF OFFICE

LEVEL OF GOVERNMENT

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

MEETINGS ATTENDED

MEETINGS MISSED

REASON FOR ABSENCE

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

DATE

NATURE OF VIOLATION

DISPOSITION

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☐ No ☒ If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

LICENSE/CERTIFICATE
TITLE & NUMBER

ORIGINAL
ISSUE DATE

ISSUING AUTHORITY

DISCIPLINARY ACTION/DATE

US Merchant Marine/1165697 2001 US Coast Guard

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☒ No ☐ If "Yes", explain:

NAME OF BUSINESS

YOUR RELATIONSHIP TO BUSINESS

BUSINESS RELATIONSHIP TO AGENCY

Atkins North America, Inc. Employer Vendor/Consultant

- B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☐ If "Yes", explain:

NAME OF BUSINESS	FAMILY MEMBER'S RELATIONSHIP TO YOU	FAMILY MEMBER'S RELATIONSHIP TO BUSINESS	BUSINESS RELATIONSHIP TO AGENCY
------------------	--	---	------------------------------------

Not to the best of my knowledge

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☐ No ☒

- A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☒

- B. Name of agency or entity you lobbied and the principal(s) you represented:

AGENCY LOBBIED	PRINCIPAL REPRESENTED
----------------	-----------------------

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

NAME	MAILING ADDRESS	ZIP CODE	AREA CODE/PHONE NUMBER
------	-----------------	----------	------------------------

Monica Cepero

Mike Kennedy

Donald Deis

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

NAME	MAILING ADDRESS	OFFICE(S) HELD & TERM	DATE(S) OF MEMBERSHIP
------	-----------------	-----------------------	-----------------------

Backcountry Unlimited, Inc. 5916 Pine Tree Drive, Miami Beach, FL 33140 President Since 2001

Coastal Conservation Assoc 4061 Forrestal Avenue, #8, Orlando, FL 32806 Board Member Since 2007

Atkins North America, Inc. 2001 NW 107th Avenue, Miami, FL 33172 Employee Since 2000

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☐ No ☐

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA, COUNTY OF

Before me, the undersigned Notary Public of Florida, personally appeared

Adam R. Gether

, who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

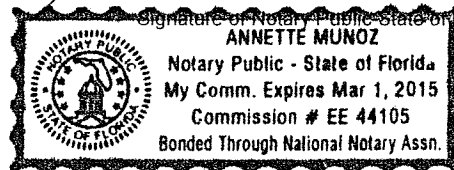
Adam R. Gether

Signature of Applicant-Affiant

Sworn to and subscribed before me

this 24 day of October, 2011.

Annette Munoz



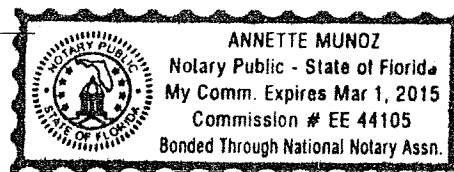
Annette Munoz

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: March 1, 2015

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____



(seal)

850

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Kurt S. Browning, Secretary of State,
do hereby certify that

Aliese Price Priddy

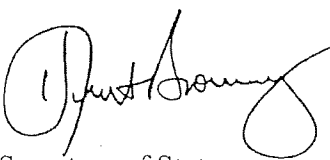
is duly appointed a member of the

Fish and Wildlife Conservation Commission

for a term beginning on the
Seventh day of January, A.D., 2011,
until the Sixth day of January, A.D., 2017
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 Tenth day of January, A.D., 2012.*




Secretary of State

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Lee

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12 JAN -9 AM 9:31
DIVISION OF ELECTIONS
SECRETARY OF STATE

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 of the Florida Fish and Wildlife Conservation Commission

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Aliese P. Priddy
Signature

Sworn to and subscribed before me this 5th day of January, 2012.

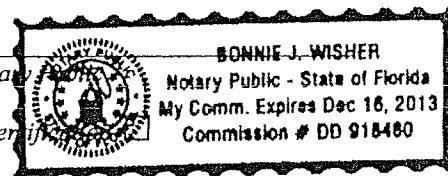
Bonnie J. Wisher
Signature of Officer Administering Oath or of Notary Public

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

P. O. Box 930

Street or Post Office Box

Immokalee, FL 34143

City, State, Zip Code

Aliese Price Priddy

Print name as you desire commission issued

Aliese P. Priddy
Signature



RICK SCOTT
GOVERNOR

RECEIVED
GOVERNOR'S OFFICE

2012 JAN 10 AM 9:45

CLERK
TALLAHASSEE, FL

December 30, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following appointment under the provisions of Article IV, Section 9, FL Const. :

Ms. Aliese P. Priddy
7007 State Road 29 South
Immokalee, Florida 34143

as a member of the Fish and Wildlife Conservation Commission, succeeding Dwight Stephenson, subject to confirmation by the Senate. This appointment is effective January 7, 2011, for a term ending January 6, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/nj

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.

Please type or print in blue or black ink.

1-5-12

1. Name: Ms. Priddy Aliese Price
MR./MRS./MS. LAST FIRST MIDDLE/MAIDEN

2. Business Address: 7007 State Rd. 29 South. Immokalee 34142
STREET OFFICE # CITY
P.O. Box 930 FL 34143 239 657-4380
POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

3. Residence Address: Same
STREET CITY COUNTY
Same
POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

Specify the preferred mailing address: Business ☒ Residence ☐ Fax #
(optional)

4. A. List all your places of residence for the last five (5) years.

ADDRESS	CITY & STATE	FROM	TO
7007 State Rd. 29 South	Immokalee, FL	1994	Present

- B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

ADDRESS	CITY & STATE	FROM	TO
4334 Purdue Dr.	N. Charleston, SC	7/77	4/78
4404 Purdue Dr.	N. Charleston, SC	4/78	12/79
4325 Evanston Blvd.	N. Charleston, SC	12/79	7/84

5. Date of Birth: 11-08-57 Place of Birth: Miami, FL
6. Social Security Number:
7. Driver License Number: Issuing State: FL
8. Have you ever used or been known by any other legal name? Yes ☒ No ☐ If "Yes" Explain
Cathryn Aliese Price maiden name

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SECRETARY OF STATE
12 JAN -9 AM 9:31

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

N/A

If you are a naturalized citizen, date of naturalization: N/A

10. Since what year have you been a continuous resident of Florida? 1984

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Collier B. Current Party Affiliation: Republican

12. Education

A. High School: Goldent Hills Academy Ocala, FL Year Graduated: 1974

(NAME AND LOCATION)

- B. List all postsecondary educational institutions attended:

NAME & LOCATION

DATES ATTENDED

CERTIFICATES/DEGREES RECEIVED

FGCU Ft. Myers, FL 2009-present still enrolled for BA-Env. Studies
Graduate School of Banking at LSU Baton Rouge, LA 97-99 Diploma
GA Southern Univ. Statesboro, GA 74-77 BBA in finance

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: N/A

B. Branch or Component: N/A

C. Date & type of discharge: N/A

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☒ No ☐ If "Yes" give details:

DATE

PLACE

NATURE

DISPOSITION

1/18/06 Collier County, FL speeding fine paid

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

EMPLOYER'S NAME & ADDRESS

TYPE OF BUSINESS

OCCUPATION/JOB TITLE

PERIOD OF EMPLOYMENT

< Cohen & Grigsby, P.C. law firm Conflict of Interest 2006-present
Bonita Springs, FL Coordinator
< Sunniland Family, LP/JB Ranch owner 2007-present
Immokalee, FL ranch

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☐ No ☒ If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

POSITION

EMPLOYING AGENCY

PERIOD OF EMPLOYMENT

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I am a third generation Floridian and the third generation to own this cattle ranch. I have hunted and fished my whole life as well as being involved with camping and boating. We are actively involved with instituting best management practices on our ranch and applying sound conservation guidelines.

- B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

I am a senior at FGCU working on a BA degree in Environmental Studies with a minor in biology

- C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

2011 Land Conservationist of the Year - FL Wildlife Federation

- D. Identify all association memberships and association offices held by you that relate to this appointment:

Florida and Collier County Audubon

Florida Wildlife Federation

Defenders of Wildlife

Florida and Collier County Cattlemen's Assoc. (Secty. of county group)

NRA

National Wild Turkey Federation - Big Cypress Longbeards Chapter

Collier Sportman's & Conservation Club

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

OFFICE TITLE	DATE OF ELECTION OR APPOINTMENT	TERM OF OFFICE	LEVEL OF GOVERNMENT
Supervisor/Vice Chair	7-29-04 + 11-4-08	4 yrs.	Ave Maria Stewardship Community District

Board Member/Secty	3/04 + 3/07	3 yrs.	State Big Cypress Basin Board
--------------------	-------------	--------	----------------------------------

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Big Cypress Basin 6/yr.

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reason(s) for your absence(s).

MEETINGS ATTENDED

MEETINGS MISSED

REASON FOR ABSENCE

Over 6 years I estimate I missed 3 meetings due to being out of town

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☒ No ☐ If "Yes", give details:

DATE

NATURE OF VIOLATION

DISPOSITION

N/A

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☒ No ☐ If "Yes", list:

A. Title of Office: Board Member - Big Cypress Basin

B. Term of Appointment: 2 three year terms

C. Confirmation results: confirmed

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

N/A

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☐ No ☒ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

LICENSE/CERTIFICATE

ORIGINAL

ISSUING AUTHORITY

DISCIPLINARY ACTION/DATE

TITLE & NUMBER

ISSUE DATE

N/A

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☒ No ☐ If "Yes", explain:

NAME OF BUSINESS

YOUR RELATIONSHIP TO BUSINESS

BUSINESS' RELATIONSHIP TO AGENCY

JB Ranch

owner

participate in panther predation of calves study with FWC + UF/IFAS

See attached Correction to Question No. 25 A.

25. A

From: Liesa Priddy [lpjbranch@gmail.com]
Sent: Tuesday, January 24, 2012 2:39 PM
To: ROBERTS.DAWN
Cc: TISDALE.LYGIA
Subject: Correction to Senate Questionnaire-Aliese Priddy

TO: Ms. Dawn Roberts, Staff Director, Senate Rules Subcommittee on Ethics & Elections

Ms. Roberts:

Please correct the Senate Questionnaire I completed as an appointee to the Florida Fish and Wildlife Conservation Commission to show that the calf depredation research project which is being conducted on my ranch is in conjunction with the United States Fish and Wildlife Service (FWS) and **NOT** the Florida Fish and Wildlife Conservation Commission (FWC). On the questionnaire I indicated "FWC" and it should have been "FWS".

I apologize for this error and any inconvenience it may have caused. Please let me know if you need anything else in regards to this.

Best regards,
Aliese (Liesa) Priddy
239-289-0065

- B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☒ No ☐ If "Yes", explain:

NAME OF BUSINESS	FAMILY MEMBER'S RELATIONSHIP TO YOU	FAMILY MEMBER'S RELATIONSHIP TO BUSINESS	BUSINESS RELATIONSHIP TO AGENCY
JB Ranch	husband	co-owner	same as 25A

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☒ No ☐

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☒

B. Name of agency or entity you lobbied and the principal(s) you represented:

AGENCY LOBBIED	PRINCIPAL REPRESENTED
FL Legislature	Collier County & FL Cattlemen's Assoc.

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

NAME	MAILING ADDRESS	ZIP CODE	AREA CODE/PHONE NUMBER
Joe English			

Russell Budd
Nancy Casey

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

NAME	MAILING ADDRESS	OFFICE(S) HELD & TERM	DATE(S) OF MEMBERSHIP
Collier Sportsmen's & Conservation Club	Naples, FL		2006-present
FL & Collier County Cattlemen's Assoc.	Kissimmee, FL	none	2007-present
FL Cracker Cattle Assoc.	Tallahassee, FL	none	2007-present
Zeta Tau Alpha	Indianapolis, IN	none	1976-present
Leadership Collier	Naples, FL	none	1995-present
Collier County Junior Deputies League	Naples, FL	board	2002-present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

MA

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐
- | | | |
|--|--------------------------|--------------------|
| National Wild Turkey Federation - Big Cypress Longbeards Chapter | Naples, FL | none |
| Economic Development Council | Naples, FL | board 2003-present |
| Collier County & FL Farm Bureau | Naples & Gainesville, FL | none 2007-2009 |
| National Rifle Assoc. | Fairfax, VA | none 1994-present |
| FL Republican Party | Tallahassee, FL | none 2008-present |
| | | 2008-present |

also see 17 D

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA, COUNTY OF LEE

Before me, the undersigned Notary Public of Florida, personally appeared Allese P. Priddy, who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

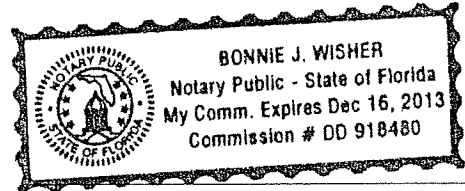
Allese P. Priddy

Signature of Applicant-Affiant

Sworn to and subscribed before me
this 5th day of Jan., 2012

Bonnie J. Wisher

Signature of Notary Public-State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

(seal)