

Tab 1	CS/SB 230 by EP, Steube ; (Similar to CS/H 00587) Nonnative Animals						
132678	A	S	L	RCS	AEN, Artiles	Delete L.33 - 82:	03/21 10:04 AM
Tab 2	CS/SB 336 by RI, Hutson (CO-INTRODUCERS) Book, Young ; (Identical to CS/H 00327) Household Movers						
821966	A	S		RCS	AEN, Hutson	Delete L.24 - 33:	03/21 10:05 AM
Tab 3	CS/SB 532 by EP, Galvano (CO-INTRODUCERS) Stewart, Benacquisto, Rouson, Book, Young, Hukill ; (Similar to H 01065) Public Notification of Pollution						
Tab 4	SB 678 by Montford ; (Identical to H 00629) Financial Assistance for Water and Wastewater Infrastructure						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**APPROPRIATIONS SUBCOMMITTEE ON THE
ENVIRONMENT AND NATURAL RESOURCES**

Senator Bradley, Chair
Senator Book, Vice Chair

MEETING DATE: Tuesday, March 21, 2017
TIME: 9:00—10:30 a.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Bradley, Chair; Senator Book, Vice Chair; Senators Braynon, Hukill, Hutson, Mayfield, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 230 Environmental Preservation and Conservation / Artiles (Compare H 587)	Nonnative Animals; Requiring the Fish and Wildlife Conservation Commission to establish a pilot program for the eradication of priority invasive species; specifying procedures for handling captures and the disposal of the animals; requiring certain nonnative species to be implanted with a passive integrated transponder before sale, resale, or being offered for sale by a pet dealer, etc. EP 02/21/2017 Fav/CS AEN 03/21/2017 Fav/CS AP	Fav/CS Yeas 6 Nays 0
2	CS/SB 336 Regulated Industries / Hutson (Identical CS/H 327)	Household Movers; Requiring the Department of Agriculture and Consumer Services to deny or refuse to renew the registration of a mover under certain circumstances; prohibiting a mover from knowingly refusing or failing to disclose in writing specified criminal information under certain circumstances; requiring the department to impose either a civil penalty or an administrative fine for failure to disclose in writing specified criminal information, etc. RI 02/08/2017 Fav/CS AEN 03/21/2017 Fav/CS AP	Fav/CS Yeas 6 Nays 0
3	CS/SB 532 Environmental Preservation and Conservation / Galvano (Similar H 1065)	Public Notification of Pollution; Creating the "Public Notice of Pollution Act"; specifying authority of the Department of Environmental Protection; specifying that the act does not alter or affect the emergency management responsibilities of certain other governmental entities; requiring an owner or operator of an installation at which a reportable pollution release occurred to provide certain information to the department within 24 hours after the discovery of a reportable pollution release, etc. EP 03/07/2017 Fav/CS AEN 03/21/2017 Favorable AP	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on the Environment and Natural Resources
Tuesday, March 21, 2017, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 678 Montford (Identical H 629)	Financial Assistance for Water and Wastewater Infrastructure; Allowing disbursement of financial assistance for water and wastewater infrastructure projects based upon invoiced costs; providing that recipients are not required to request advance payment; providing for the submission of proof of payment, etc. CU 03/07/2017 Favorable AEN 03/21/2017 Favorable AP	Favorable Yeas 6 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: PCS/CS/SB 230 (897660)

INTRODUCER: Appropriations Subcommittee on The Environment and Natural Resources;
Environmental Preservation and Conservation Committee; and Senator Ariles

SUBJECT: Nonnative Animals

DATE: March 23, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Fav/CS
2.	Reagan	Betta	AEN	Recommend: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 230 requires the Fish and Wildlife Conservation Commission (commission) to establish a pilot program to mitigate the impact of priority invasive species on public lands or waters of the state. The commission is required to submit a report of its recommendations and findings regarding the pilot program by January 1, 2020.

Additionally, the commission is required to identify nonnative animals that threaten the state's wildlife habitats. A pet dealer must implant such animal with a passive integrated transponder tag before any animal, identified by the commission, is sold, resold, or offered for sale.

The fiscal impact of the pilot program is indeterminate at this time; however, the bill provides for an appropriation from the State Game Trust Fund of \$300,000 annually during both the 2017-2018 Fiscal Year and the 2018-2019 Fiscal Year, for a total appropriation of \$600,000.

II. Present Situation:

Nonnative Species

Pursuant to s. 9, Art. IV of the State Constitution, the commission exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine

life.¹ These powers include authority with respect to the control and management of nonnative species.² Nonnative species are animals living outside captivity and which are not historically present in the state.³ More than 500 fish and wildlife nonnative species have been observed in Florida.⁴ Some nonnative species cause harm to native species, pose a threat to human health and safety, and cause economic damage.⁵

It is unlawful to import for sale or use, or to release within the state, any species not native to Florida unless authorized by the commission.⁶ Section 379.372, F.S., prohibits the following species from being kept, possessed, imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use:

- Burmese or Indian python;
- Reticulated python;
- Northern African python;
- Southern African python;
- Amethystine or scrub python;
- Green Anaconda;
- Nile Monitor; and
- Any other reptile designated as a conditional or prohibited species by the commission.⁷

The commission has designated by rule the red-eared turtle as a conditional species and the sea snake as a prohibited species.⁸ Conditional nonnative snakes and lizards are not authorized to be acquired for personal possession.⁹ A reptile dealer, public exhibitor, researcher, or nuisance trapper may apply for a permit to import or possess conditional nonnative snakes and lizards.¹⁰ Conditional nonnative snakes and lizards must be kept indoors or in outdoor enclosures with a fixed roof and must be permanently identified with a passive integrated transponder (PIT) tag, also known as a microchip.¹¹ Owners of such species must submit a Captive Wildlife Disaster and Critical Incident Plan to the commission and must maintain records of their inventory.¹²

The Argentine Black and White Tegu (*Tupinambis merianae*), commonly referred to as a tegu, is a large species of lizard that can grow up to four feet in length and is native to South America.¹³ Tegus are not innately aggressive but have sharp teeth, strong jaws, and sharp claws which they

¹ Fla. Const. Art. IV, s. 9.

² Fish and Wildlife Conservation Commission (FWC), *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

³ FWC, *What is a nonnative species?*, <http://myfwc.com/wildlifehabitats/nonnatives/what-are-nonnatives/> (last visited Feb. 13, 2017).

⁴ FWC, *Florida's Exotic Fish and Wildlife*, <http://myfwc.com/wildlifehabitats/nonnatives/> (last visited on Feb. 13, 2017).

⁵ *Id.*

⁶ Section 379.231, F.S.

⁷ Section 379.372(2)(a), F.S.

⁸ Fla. Admin. Code R. 68-5.002; Fla. Admin. Code R. 68-5.003.

⁹ FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Feb. 13, 2017).

¹⁰ Fla. Admin. Code R. 68-5.001(3)(e); see FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Feb. 13, 2017).

¹¹ *Id.*

¹² *Id.*

¹³ FWC, *Tegus in Florida*, <http://myfwc.com/media/2380549/Tegu-brochure.pdf> (Aug. 2015) (last visited Feb. 13, 2017).

will use to defend themselves if threatened.¹⁴ Tegus are an invasive species and have known breeding populations in Miami-Dade and Hillsborough counties.¹⁵ The tegu causes harm to native species by disturbing alligator and crocodile nests and consuming their eggs, and utilizing gopher tortoise burrows and consuming juvenile gopher tortoises.¹⁶ The tegu is not designated as a conditional or prohibited species.¹⁷ However, a person must possess a license from the commission to sell a tegu.¹⁸ In south Florida, tegus are mainly found on private lands and lands managed by other agencies; tegus are not commonly found on lands managed by the commission.¹⁹ In Hillsborough County, tegus are found mostly on public conservation land that is managed by the county or in state parks.²⁰

The commission is currently working with other agencies and organizations to assess the threat of the tegu and develop management strategies.²¹ The commission has found that the best method for removing tegus is by trapping.²² One strategy being used by the commission, in coordination with the University of Florida, Miami-Dade County, and the United States Geological Survey, is targeted trapping and removal. The goal of these partnerships is to minimize the impact of tegus on native wildlife and natural areas.²³ Over 4,000 tegus have been removed from the wild in the last five years, primarily in Miami-Dade County.²⁴ A limited number of commercial wildlife operators are available to trap and remove tegus for homeowners or on other private lands.²⁵

The lionfish (*Pterois volitans* and *Pterois miles*) is the only marine nonnative species with an established population in Florida.²⁶ The lionfish population has rapidly grown since their introduction into the coastal waters of southern Florida around 30 years ago.²⁷ Lionfish do not have any significant predators off Florida's coasts and can tolerate a wide range of temperatures, salinities, and depths.²⁸ They are able to consume prey that is more than half of their own length and have venomous spines they use for defense.²⁹ Lionfish consume a wide variety of fish and invertebrates, which greatly alters the populations of native marine species and impacts recreational and commercial fishing in Florida.³⁰

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁷ *Id.*

¹⁸ *Id.*; see s. 379.3761, F.S.

¹⁹ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

²⁰ *Id.*

²¹ FWC, *Tegus in Florida*, <http://myfwc.com/media/2380549/Tegu-brochure.pdf> (Aug. 2015) (last visited Feb. 13, 2017).

²² *Id.*

²³ *Id.*

²⁴ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

²⁵ *Id.*

²⁶ FWC, *Nonnative Marine Species*, <http://myfwc.com/wildlifehabitats/nonnatives/marine-species/> (last visited Feb. 21, 2017).

²⁷ FWC, *Lionfish: Be the Predator!*, available at <http://myfwc.com/media/4039504/LionfishBrochure.pdf> (last visited Feb. 21, 2017).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

The importation of live lionfish or hybrids or eggs thereof is prohibited.³¹ Live lionfish imported from outside the state after August 1, 2014, may not be sold, offered for sale, bartered, or otherwise exchanged.³² A recreational fishing license is not required for harvesting lionfish by divers if the following gear is used:

- Hand-held net;
- Pole spear;
- Hawaiian sling; or
- Any other spearing device specifically designed and exclusively marketed for lionfish.³³

Additionally, there is no minimum size limits, closed seasons, or bag limits for harvesting lionfish.³⁴

Nonnative Species Management

Removal Permit Program

Pursuant to Rule 68A-9.002, F.A.C., the commission authorizes individuals to remove Burmese pythons and other conditional reptiles on the Holey Land, Rotenberger, and Everglades and Francis S. Taylor wildlife management areas.³⁵ Under the year-round program, qualified applicants may obtain a removal permit at no cost to eradicate nonnative reptiles from these wildlife management areas.³⁶ To qualify an applicant must successfully complete an online training course.³⁷ One hundred and twenty-nine individuals have obtained this permit.³⁸ The program is not considered a hunting program, rather it is a management tool that aims to collect data on the locations of such reptiles.³⁹

All conditional reptiles and tegus are authorized to be collected under the permit.⁴⁰ Snakes may be captured by hand or with hand-held equipment, such as tongs or snake hooks. When a permit holder captures a reptile under the program he or she must report the location and take a digital picture of the animal. Captured reptiles may be euthanized onsite by legal and humane means or deposited alive at a drop off site designated by the commission. Any captured reptile is taken to the University of Florida Research and Education Center, where the stomach contents are

³¹ Fla. Admin. Code R. 68-5.005.

³² *Id.*

³³ Fla. Admin. Code R. 68B-5.006.

³⁴ *Id.*; FWC, *Lionfish: Be the Predator!*, available at <http://myfwc.com/media/4039504/LionfishBrochure.pdf> (last visited Feb. 21, 2017).

³⁵ Fla. Admin. Code R. 68A-15.064; FWC, *Burmese Python Removal Program*, <http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/> (last visited Feb. 13, 2017); and FWC, *Python Permit Program, Frequently Asked Questions*, <http://myfwc.com/wildlifehabitats/nonnatives/python/faqs/permit-faqs/> (last visited Feb. 13, 2017).

³⁶ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁷ FWC, *Burmese Python Removal Program*, <http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/> (last visited Feb. 13, 2017).

³⁸ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁹ FWC, *Burmese Python Removal Program*, <http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/> (last visited Feb. 13, 2017).

⁴⁰ FWC, *Python Permit Program, Frequently Asked Questions*, <http://myfwc.com/wildlifehabitats/nonnatives/python/faqs/permit-faqs/> (last visited Feb. 13, 2017).

analyzed. All data collected is used by the commission to help control and stop the spread of these invasive species.

Hunting in Wildlife Management Areas

The commission authorizes licensed hunters to harvest conditional nonnative snakes and lizards in the Holey Land, Rotenberger, Everglades and Francis S. Taylor, and the Big Cypress wildlife management areas during hunting seasons established for the taking of game animals or alligators on those areas or during seasons specific for conditional reptiles.⁴¹ The hunters must have a valid hunting license and a wildlife management area permit, and adhere to the regulations specific to each wildlife management area.⁴² To be considered a resident of the state for purposes of hunting a conditional reptile, a person must be a United States citizen who has continuously resided in the state for six months prior to applying for a hunting license.⁴³ Live pythons are not authorized to be removed from the wildlife management areas, but hunters are authorized to keep or sell the skins and meat of the reptiles. The Big Cypress Wildlife Management Area is the only federally owned land where hunting for conditional reptiles is authorized.⁴⁴ Hunting within the Everglades National Park is prohibited by federal law.⁴⁵

The Python Challenge and Python Removal Training

The commission, in coordination with the Fish and Wildlife Foundation of Florida, conducted a Python Challenge in 2013 and 2016. The challenge is designed to raise awareness concerning the potential impacts of nonnative animals, while engaging the public in conservation through invasive species removal. Each participant is required to complete an online training module designed to teach him or her how to identify, locate, and safely and humanely capture Burmese pythons. In the 2016 Python Challenge more than 1,000 people from 29 states registered to take part in the month-long challenge.⁴⁶ One hundred and six snakes were turned in as a result of the 2016 challenge.⁴⁷

Additionally, the commission provides a training program to teach individuals about the control and management of Burmese pythons in the state.⁴⁸ The program provides information related to rules and regulations, permits, python detection, species identification, data reporting, and safe capture techniques. The participants receive a hands-on experience catching wild Burmese pythons. These training programs are held in south and southwest Florida and are free of charge.

⁴¹ Fla. Admin. Code R. 68A-15.064.

⁴² *Id.*

⁴³ Section 379.101(30)(a), F.S.

⁴⁴ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁴⁵ *Id.* at 2.

⁴⁶ Press release, FWC, *With 106 snakes removed, 2016 Python Challenge a success*, Feb. 27, 2016, available at <http://myfwc.com/news/news-releases/2016/february/27/python-awards/> (last visited Feb. 12, 2017).

⁴⁷ *Id.*

⁴⁸ FWC, *Python Patrol*, <http://myfwc.com/wildlifehabitats/nonnatives/python/patrol/> (last visited Feb. 13, 2017).

Lionfish Derby Days and Tournaments

The commission, in coordination with the Fish and Wildlife Foundation of Florida, annually celebrates a weekend of Lionfish Removal and Awareness.⁴⁹ Several festivals and events are held around the state.⁵⁰ In 2016, more than 111,000 lionfish were removed.⁵¹ The commission is coordinating a Lionfish Challenge and Panhandle Pilot program from May 14, 2016, through May 20, 2017, in Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, and Franklin counties.⁵² For each 100 lionfish harvested, an individual receives a tag to take either a legal-sized red grouper or a legal-sized cobia over the bag limit from state waters.⁵³ As of December 6, 2016, 39 divers have removed 8,975 lionfish under the pilot program.⁵⁴

Public Reporting and Exotic Pet Amnesty

To raise awareness of invasive species the commission provides the public with a reporting hotline, website, and smartphone application. To report nonnative fish or wildlife to the commission, call the invasive species hotline at 888-IVE-GOT1, go to IVEGOT1.org, or download the IVEGOT1 smartphone application.

Additionally, the commission sponsors the Exotic Pet Amnesty Program which is an effort to reduce the number of nonnative species being released into the wild by pet owners who can no longer care for their pets or no longer wish to keep them.⁵⁵ Exotic Pet Amnesty Days are held periodically around the state to provide the opportunity for individuals to surrender their exotic pets free of charge and with no penalty.⁵⁶

Year	Number of Events	Number of Animals surrendered			Running totals
		Events	Hotline	Total	
2006	1	6		6	6
2007	1	50		50	56
2008	2	203		203	259
2009	3	252		252	511
2010	3	132		132	643
2011	2	126	90	216	859
2012	6	279	227	506	1365
2013	7	188	152	340	1705
2014	5	234	235	469	2174
2015	3	223	133	356	2530

⁴⁹ See Reef Rangers, *Lionfish Removal and Awareness Day*, <http://reefrangers.com/event-info/> (last visited Feb. 21, 2017).

⁵⁰ *Id.*; For a list of 2017 Derby Events, see FWC, *Lionfish Derby and Event Calendar*, <http://myfwc.com/fishing/saltwater/recreational/lionfish/events/> (last visited Feb. 21, 2017).

⁵¹ *Id.*

⁵² FWC, *2016 Lionfish Challenge and Panhandle Pilot Program*, <http://myfwc.com/fishing/saltwater/recreational/lionfish/challenge/> (last visited Feb. 21, 2017).

⁵³ *Id.*

⁵⁴ FWC, *Lionfish Challenge Hall of Fame*, <http://myfwc.com/fishing/saltwater/recreational/lionfish/challenge/fame/> (last visited Feb. 21, 2017).

⁵⁵ Fla. Admin. Code R. 68-5.004; see FWC, *Exotic Amnesty Program*, <http://myfwc.com/wildlifehabitats/nonnatives/amnesty-program/> (last visited Feb. 13, 2017).

⁵⁶ *Id.*

Since its creation in 2006, the Exotic Pet Amnesty Program has successfully found adoptive homes for hundreds of surrendered exotic pets.⁵⁷ Finding homes for these animals with pre-approved adopters helps to ensure that they are not released into Florida's natural areas.⁵⁸

Public Procurement Process

Chapter 287, F.S., governs the public procurement of personal property and services. The Florida Department of Management Services is responsible for overseeing state purchasing activity, including professional and commodity and contractual services needed to support agency activities.⁵⁹ The Division of State Purchasing within the Department of Management Services establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.⁶⁰

Contracts for commodities or contractual services in excess of \$35,000 must be procured through a competitive solicitation process.⁶¹ Section 287.058, F.S., outlines the provisions and conditions that must be present in contractual agreements for competitively procured services. The section also provides that a contract may be renewed for a period of time upon satisfactory performance evaluations by the agency and subject to the availability of funds.⁶²

III. Effect of Proposed Changes:

CS/SB 230 requires the Fish and Wildlife Conservation Commission (commission) to establish a pilot program to mitigate the impacts of priority invasive species on the public lands or waters of the state. The bill defines the term "priority invasive species" to include:

- Lizards of the genera *Tupinambis*, *Salvator*, and any taxonomic synonymies of such genera, also known as Tegu lizards;
- Species listed in s. 379.372(2), F.S., which includes the:
 - Burmese or Indian python;
 - Reticulated python;
 - Northern African python;
 - Southern African python;
 - Amethystine or scrub python;
 - Green Anaconda;
 - Nile Monitor; and
 - Any other reptile designated as a conditional or prohibited species by the commission;⁶³
- *Pterois volitans*, also known as red lionfish; and
- *Pterois miles*, also known as the common lionfish or devil firefish.

⁵⁷ FWC, *Exotic Amnesty Program*, <http://myfwc.com/wildlifehabitats/nonnatives/amnesty-program/> (last visited Feb. 13, 2017).

⁵⁸ *Id.*

⁵⁹ See ss. 287.032 and 287.042, F.S.

⁶⁰ Division of Purchasing rules are published under Chapter 60A of the Florida Administrative Code.

⁶¹ Section 287.057(1), F.S., requires a competitive solicitation process for contracts that exceed the Category Two threshold. Category thresholds are listed in s. 287.017, F.S., which identifies contracts exceeding \$35,000 as Category Two.

⁶² Section 287.058(1)(g), F.S.

⁶³ Section 379.372(2)(a), F.S.

The bill requires the commission to establish a pilot program to mitigate the impact of priority invasive species on the public lands or waters of the state. The goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of these nonnative animals, contain their populations, and eradicate them from the state.

The bill authorizes the commission to enter into contracts, in accordance with the public procurement requirements of the state, with entities or individuals to capture or destroy certain nonnative species found on the public lands or in waters of the state. Any private contracted work performed on public land or in the waters of the state that is not owned or managed by the commission must be performed with the consent of the owner.

Each capture and disposal of a nonnative animal is required to be documented and photographed and the geographic location of the take must be recorded for research purposes. All animals captured but not destroyed in the removal efforts are required to be disposed of at the direction of the commission. The commission is required to submit a report of findings and recommendations regarding the implementation of the pilot program to the Governor and the Legislature by January 1, 2020.

The bill requires the commission to identify by rule nonnative animals that threaten the state's wildlife habitats. Any nonnative animal identified by the commission must be implanted with a passive integrated transponder (PIT) tag before such animal is sold, resold, or offered for sale by a pet dealer. The bill defines the term "pet dealer" to include any person who, in the ordinary course of business, engages in the sale of more than twenty animals per year to the public, including breeders who sell animals directly to the public. The commission is required to establish by rule standards for the types of PIT tags that must be used by pet dealers and the manner in which the tags must be implanted.

The bill provides an appropriation of \$300,000 annually for the next two fiscal years from the State Game Trust Fund for a total appropriation of \$600,000.

The bill takes effect July 1, 2017.

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 authorizes the commission to contract with private entities or individuals to capture or destroy nonnative animals found on public lands or in the waters of the state. This will have a positive indeterminate fiscal impact on the entities or individuals who are awarded such contract bids.

C. Government Sector Impact:

The commission will incur additional costs associated with the pilot program. The commission stated that one or two additional staff positions are necessary to cover the workload required to develop and oversee private contractors and to develop and oversee agreements with other public land managing agencies.⁶⁴ Also, additional staff may be needed for budgeting oversight.⁶⁵ The estimated total cost for the pilot program is indeterminate at this time, but the bill provides an appropriation of \$300,000 over two fiscal years, for a total of \$600,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 379.2311 of the Florida Statutes.

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

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

Recommended CS/CS by Appropriations Subcommittee on The Environment and Natural Resources on March 21, 2017:

The CS/CS/SB 230 amends the description of tegu lizards as a “priority invasive species: to include lizards of the genus *Salvator* or any other taxonomic synonymies of such genera. Additionally, the CS authorizes the two year appropriation of \$300,000, for a

⁶⁴ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁶⁵ *Id.*

total of \$600,000, from the State Game Trust Fund rather than the Land Acquisition Trust Fund.

CS by Environmental Preservation and Conservation on February 21, 2017:

The CS/SB 230 creates a new section of law and expands the pilot program to include lionfish. The CS authorizes rather than requires the commission to contract with entities or private individuals and revises the method of removal from hunting to capturing and destroying. Additionally, the CS/SB 230 requires the commission to adopt rules to identify nonnative species that must have a passive integrated transponder (PIT) tag implanted and establish standards relating to such tags. The CS/SB 230 requires pet dealers to implant any nonnative species identified by the commission with a PIT tag before such animal is sold, resold, or offered for sale.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2017	.	
	.	
	.	
	.	

Appropriations Subcommittee on the Environment and Natural Resources (Articles) recommended the following:

Senate Amendment

Delete lines 33 - 82
and insert:

1. Lizards known as tegu lizards, consisting of the genera *Tupinambis* and *Salvator*, and any taxonomic synonymies of such genera.
2. Species listed in s. 379.372(2)(a).
3. *Pterois volitans*, also known as red lionfish.
4. *Pterois miles*, also known as the common lionfish or



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11 devil firefish.

12 (2) The commission shall establish a pilot program to
13 mitigate the impact of priority invasive species on the public
14 lands or waters of this state.

15 (a) The Legislature finds that priority invasive species
16 continue to expand their range and to decimate the fauna and
17 flora of the Everglades and other natural areas and ecosystems
18 in the southern and central parts of the state at an
19 accelerating rate.

20 (b) The goal of the pilot program is to examine the
21 benefits of using strategically deployed, trained private
22 contractors to slow the advance of these nonnative animals,
23 contain their populations, and eradicate them from this state.

24 (c) To implement the pilot program, the commission may
25 enter into contracts in accordance with chapter 287 with
26 entities or individuals to capture or destroy these nonnative
27 animals found on public lands or in the waters of the state. Any
28 private contracted work to be performed on public land or in the
29 waters of the state not owned or managed by the commission must
30 have the consent of the owner.

31 (d) The commission shall ensure that all captures and
32 disposals of these nonnative animals are documented and that the
33 geographic location of the take is recorded for research
34 purposes. The commission shall direct the disposal of all
35 animals captured and not destroyed in removal efforts.

36 (e) The commission shall submit a report of findings and
37 recommendations regarding its implementation of the pilot
38 program to the Governor, the President of the Senate, and the
39 Speaker of the House of Representatives by January 1, 2020.



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(3) Before selling, reselling, or offering for sale any nonnative animal specified by the commission pursuant to paragraph (a), pet dealers must implant in the animal or have the animal implanted with a passive integrated transponder (PIT) tag as specified by the commission. The commission shall adopt rules implementing this subsection, including:

(a) Identifying nonnative animals that threaten the state's wildlife habitats and therefore must be implanted with a PIT tag; and

(b) Establishing a standard for the types of PIT tags which must be used by pet dealers and the manner in which they must be implanted.

Section 2. For the 2017-2018 and 2018-2019 fiscal years, the sum of \$300,000 each year in nonrecurring funds is appropriated from the State Game Trust Fund to the Fish

By the Committee on Environmental Preservation and Conservation;
and Senator Steube

592-01943-17

2017230c1

A bill to be entitled

An act relating to nonnative animals; creating s. 379.2311, F.S.; defining the terms "pet dealer" and "priority invasive species"; requiring the Fish and Wildlife Conservation Commission to establish a pilot program for the eradication of priority invasive species; providing legislative findings; providing goals for the pilot program; authorizing the commission to enter into specified contracts; specifying parameters for the implementation of the pilot program; specifying procedures for handling captures and the disposal of the animals; requiring the commission to submit a report to the Governor and the Legislature by a specified date; requiring certain nonnative species to be implanted with a passive integrated transponder before sale, resale, or being offered for sale by a pet dealer; requiring the commission to adopt rules; providing appropriations; providing an effective date.

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

Section 1. Section 379.2311, Florida Statutes, is created to read:

379.2311 Nonnative animal management.—

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

(a) "Pet dealer" means any person who, in the ordinary course of business, engages in the sale of more than 20 animals per year to the public. This term includes breeders who sell

592-01943-17

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animals directly to consumers.

(b) "Priority invasive species" means the following species:

1. Lizards of the genus *Tupinambis*, also known as tegu lizards.

2. Species listed in s. 379.372(2)(a).

3. *Pterois volitans*, also known as red lionfish.

4. *Pterois miles*, also known as the common lionfish or devil firefish.

(2) The commission shall establish a pilot program to mitigate the impact of priority invasive species on the public lands or waters of this state.

(a) The Legislature finds that priority invasive species continue to expand their range and to decimate the fauna and flora of the Everglades and other natural areas and ecosystems in the southern and central parts of the state at an accelerating rate.

(b) The goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of these nonnative animals, contain their populations, and eradicate them from this state.

(c) To implement the pilot program, the commission may enter into contracts in accordance with chapter 287 with entities or individuals to capture or destroy these nonnative animals found on public lands or in the waters of the state. Any private contracted work to be performed on public land or in the waters of the state not owned or managed by the commission must have the consent of the owner.

(d) The commission shall ensure that all captures and

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59 disposals of these nonnative animals are documented and
60 photographed and that the geographic location of the take is
61 recorded for research purposes. The commission shall direct the
62 disposal of all animals captured and not destroyed in removal
63 efforts.

64 (e) The commission shall submit a report of findings and
65 recommendations regarding its implementation of the pilot
66 program to the Governor, the President of the Senate, and the
67 Speaker of the House of Representatives by January 1, 2020.

68 (3) Before selling, reselling, or offering for sale any
69 nonnative animal specified by the commission pursuant to
70 paragraph (a), pet dealers must implant in the animal or have
71 the animal implanted with a passive integrated transponder (PIT)
72 tag as specified by the commission. The commission shall adopt
73 rules implementing this subsection, including:

74 (a) Identifying nonnative animals that threaten the state's
75 wildlife habitats and therefore must be implanted with a PIT
76 tag; and

77 (b) Establishing a standard for the types of PIT tags which
78 must be used by pet dealers and the manner in which they must be
79 implanted.

80 Section 2. For the 2017-2018 and 2018-2019 fiscal years,
81 the sum of \$300,000 each year in nonrecurring funds is
82 appropriated from the Land Acquisition Trust Fund to the Fish
83 and Wildlife Conservation Commission for the purpose of
84 implementing s. 379.2311.

85 Section 3. This act shall take effect July 1, 2017.
86

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/21/17

Meeting Date

SR 230

Bill Number (if applicable)

Topic Non Native Animals

Amendment Barcode (if applicable)

Name Jane Jordan

Job Title n/a

Address 2932 Parrish Dr

Phone 850-591-2729

Street

Tallahassee

FL

32309

City

State

Zip

Email samsamgd84

gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking

(The Chair will read this information into the record.)

☐ In Support

☒ Against

Representing League of Women Voters

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 (10/14/14)

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 Appropriations Subcommittee on The Environment and Natural Resources

BILL: PCS/CS/SB 336 (605084)

INTRODUCER: Appropriations Subcommittee on The Environment and Natural Resources; Regulated Industries Committee; and Senator Hutson and others

SUBJECT: Household Movers

DATE: March 23, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>McSwain</u>	<u>RI</u>	Fav/CS
2.	<u>Blizzard</u>	<u>Betta</u>	<u>AEN</u>	Recommend: Fav/CS
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 336 prohibits a mover or moving broker from knowingly refusing or failing to provide written notice to a customer before a household move that the mover or an employee or subcontractor of the mover or moving broker who has access to the customer's dwelling or property is a convicted sexual predator in Florida, or has been convicted of a similar offense of another jurisdiction, regardless of when the felony offense was committed.

The bill requires the Department of Agriculture and Consumer Services (DACS) to either impose an administrative fine or seek a civil penalty of \$10,000 or more for each violation of that requirement.

In addition, the bill requires the DACS to deny or refuse to renew the registration of a mover or moving broker or the mover's or moving broker's directors, officers, owners, or general partners, if the mover or moving broker has not satisfied a civil fine or penalty imposed for refusing or knowingly failing to provide the customer with the required written notice.

The bill does not have a fiscal impact on state funds.

The bill takes effect on October 1, 2017.

II. Present Situation:

Chapter 507, F.S., provides for the regulation by the DACS of movers and moving brokers engaged in the **intrastate** transportation or shipment of household goods originating in this state and terminating in this state.¹ Chapter 507, F.S., does not apply to shipments contracted by the United States, the state, or any local government or political subdivision of the state.²

A mover or moving broker who is engaged in **intrastate** moving is required to register with the DACS.³ Section 507.03(1), F.S., specifies the information that must be provided to the DACS, including the mover's or broker's legal business and trade name, mailing address, business locations, and the full names, addresses, and telephone numbers of owners or corporate officers, directors, and the Florida agent of the corporation.

The certificate of registration must be prominently displayed in the mover's or broker's primary place of business.⁴ The registration fee is \$300 per year,⁵ and the registration is renewed biennially.⁶

Movers and moving brokers engaged in the **interstate** transportation of household goods are regulated by the Federal Motor Carrier Safety Administration within the United States Department of Transportation.⁷

Definitions

Section 507.01(7), F.S., defines the terms "household goods" or "goods" to mean:

personal effects or other personal property commonly found in a home, personal residence, or other dwelling, including, but not limited to, household furniture. The term does not include freight or personal property moving to or from a factory, store, or other place of business.

Section 507.01(8), F.S., defines the terms "household move" or "move" to mean:

the loading of household goods into a vehicle, moving container, or other mode of transportation or shipment; the transportation or shipment of those household goods; and the unloading of those household goods, when the transportation or shipment originates and terminates at one of the following ultimate locations, regardless of whether the mover temporarily stores the goods while en route between the originating and terminating locations:

(a) From one dwelling to another dwelling;

¹ Section 507.02(2), F.S.

² *Id.*

³ Section 507.03 (1), F.S.

⁴ Section 507.03(2), F.S.

⁵ Section 507.03(3)(a), F.S.

⁶ Section 507.03(4), F.S.

⁷ See "Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations," 47 C.F.R part 375 (2003).

- (b) From a dwelling to a storehouse or warehouse that is owned or rented by the shipper or the shipper's agent; or
- (c) From a storehouse or warehouse that is owned or rented by the shipper or the shipper's agent to a dwelling.

Section 507.01(9), F.S., defines the term "mover" to mean:

a person who, for compensation, contracts for or engages in the loading, transportation or shipment, or unloading of household goods as part of a household move. The term does not include a postal, courier, envelope, or package service that does not advertise itself as a mover or moving service.

Section 507.01(10), F.S., defines the term "moving broker" or "broker" to mean:

a person who, for compensation, arranges for another person to load, transport or ship, or unload household goods as part of a household move or who, for compensation, refers a shipper to a mover by telephone, postal or electronic mail, Internet website, or other means.

Denial of Registration or Registration Renewal

Section 507.03(8), F.S., permits the DACS to deny, refuse to renew, or revoke the registration of any mover or moving broker when it determines that the mover or moving broker, or any of the mover's or moving broker's directors, officers, owners, or general partners has:

- Failed to meet the requirements for registration as provided in this chapter;
- Been convicted of a crime involving fraud, dishonest dealing, or any other act of moral turpitude;
- Not satisfied a civil fine or penalty arising out of any administrative or enforcement action brought by any governmental agency or private person based upon conduct involving fraud, dishonest dealing, or any violation of this chapter;
- Pending against him or her any criminal, administrative, or enforcement proceedings in any jurisdiction, based upon conduct involving fraud, dishonest dealing, or any other act of moral turpitude; or
- Had a judgment entered against him or her in any action brought by the department or the Department of Legal Affairs under this chapter or ss. 501.201-501.213, [F.S.,] the Florida Deceptive and Unfair Trade Practices Act.

Administrative Remedies

Section 507.09(1), F.S., authorizes the DACS to issue an order for one or more of the following administrative remedies if it finds that a mover or moving broker, or a person employed or contracted by a mover or broker, has violated or is operating in violation of ch. 507, F.S., or rules or orders issued pursuant to the chapter:

- Issuing a notice of noncompliance under s. 120.695, F.S.⁸
- Imposing an administrative fine in the Class II category pursuant to s. 570.971, F.S., for each act or omission.
- Directing that the person cease and desist specified activities.
- Refusing to register or revoking or suspending a registration.
- Placing the registrant on probation, subject to the conditions specified by the department.

Fines and Penalties

Section 570.971(1), F.S., authorizes the DACS to impose the following fines based on the class category assigned in the law violated:

- (a) Class I. - For each violation in the Class I category, a fine not to exceed \$1,000 may be imposed.
- (b) Class II. - For each violation in the Class II category, a fine not to exceed \$5,000 may be imposed.
- (c) Class III. - For each violation in the Class III category, a fine not to exceed \$10,000 may be imposed.
- (d) Class IV. - For each violation in the Class IV category, a fine of \$10,000 or more may be imposed.

A person who violates ch. 570, F.S., which relates to the functions and programs of the DACS, or any rule adopted by the DACS under ch. 570, F.S., may be subject to an administrative fine under the Class II category in addition to any penalty provided by law.⁹

The DACS may refuse to issue or renew any license, permit, authorization, certificate, or registration to a person who has not paid a penalty.¹⁰

Florida Administrative Code Rule 5J-15.002 provides the penalty guidelines for violations of ch. 507, F.S., or rules adopted by the DACS. The DACS may issue a Notice of Noncompliance for a first violation in which the DACS determines that the violator was unaware of the rule or unclear as to how to comply with the rule.¹¹ The DACS may impose fines for “minor violations” that range from \$1,000 to \$2,500.¹² At present, for a “major violation,” the DACS may impose an administrative fine that ranges from \$1,000 to \$5,000, suspend or revoke the license, or impose any of the penalties provided in s. 507.09(1)(b)-(e), F.S.¹³

⁸ Section 120.695(2)(a), F.S., provides that a “notice of noncompliance” is “a notification by the agency charged with enforcing the rule issued to the person or business subject to the rule. A notice of noncompliance may not be accompanied with a fine or other disciplinary penalty.”

⁹ Section 570.971(3), F.S.

¹⁰ Section 570.971(4), F.S.

¹¹ See Fla. Admin. Code R. 5J-15.002(8)(a) (2015).

¹² See Fla. Admin. Code R. 5J-15.002(8)(b) (2015). The DACS defines a “minor violation” as a violation of specified provisions and a violation that “does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm.”

¹³ See Fla. Admin. Code R. 5J-15.002(8)(c) (2015). The DACS defines a “major violation” as a violation of specified provisions and a violation that “results in economic or physical harm to a person or adversely affects the public health, safety, or welfare, or creates a significant threat of such harm.”

Criminal Penalties

Section 507.11(1), F.S., provides that a mover or a mover's employee, agent, or contractor who refuses to comply with an order from a law enforcement officer to relinquish a shipper's household goods after the officer determines that the shipper has tendered payment of the amount of a written estimate or contract, or after the officer determines that the mover did not produce a signed estimate or contract supporting the demanded payment, commits a felony of the third degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.¹⁴

A person or business who violates any other provision of ch. 507, F.S., commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.¹⁵

Sexual Predator Criteria

Florida law requires certain persons to register as a sexual predator or sexual offender. The distinction between a sexual predator and a sexual offender depends on the offense the person has been convicted of, whether the person has previously been convicted of a sexual offense, and the date the offense occurred.¹⁶ "Sex offender" is defined in s. 943.0435, F.S.; the term "sex offenders" when under the custody, control, or supervision of the Department of Corrections is defined in s. 944.607, F.S.; the term "sexual predator" is defined in s. 775.21, F.S.; and the term "sex offender" when a juvenile is adjudicated delinquent is defined in s. 943.0435(1)(h)1.d., F.S.

A sexual predator or sexual offender must comply with a number of registration requirements.¹⁷ Most of the requirements relate to the registration of particular identifying and residence information, but other information may also be required (e.g., vehicular information, attendance at an institution of higher education, and temporarily or permanently departing from or reentering Florida).

Section 775.21(4)(a)1., F.S., defines a sexual predator as a person who is convicted, on or after October 1, 1993, of the following offenses:¹⁸

¹⁴ Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000. Section 775.084, F.S., provides increased penalties for habitual offenders.

¹⁵ Section 775.082, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

¹⁶ See generally, ss. 775.21, 943.0435, 944.607, and 985.4815, F.S. "All sex offenders that are required to register have been convicted of certain qualifying felonies set forth in Florida statutes or have registration requirements in other states.... Some sex offenders are designated by the court as sexual predators because they are deemed to present an extreme threat to public safety as demonstrated through repeated sex offenses, the use of physical violence, or preying on child victims." *Sex Offender Registration and Monitoring: Statewide Requirements, Local Practices, and Monitoring Procedures*, Report No. 15-16, p. 2 (footnote omitted), Office of Program Policy Analysis & Government Accountability, The Florida Legislature. This report is available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1516rpt.pdf> (last visited February 1, 2017).

¹⁷ *Id.* Failure to comply with these requirements is generally a third degree felony. See ss. 775.21, 943.0435, and 985.4815, F.S.

¹⁸ These convictions may only be used as a qualifying offense for designation as a sexual predator if there is a finding that the conviction has a sexual component. The sexual predator designation may not be applied if it is clear that the qualifying crime is totally devoid of a sexual component. *Raines v. State*, 805 So. 2d 999, 1003 (Fla. 4th DCA 2001); see also *Robinson v. State*, 873 So. 2d 1205 (Fla. 2004), and *Munroe v. State*, 69 So.3d 1044 (Fla. 2nd DCA 2011).

- A capital, life, or first degree felony violation, or any attempt thereof, of any of the criminal offenses prescribed in the following statutes in this state or a similar offense in another jurisdiction:
 - Section 787.01, F.S., kidnapping, or s. 787.02, F.S., false imprisonment, where the victim is a minor;
 - Section 794.011, F.S., sexual battery;
 - Section 800.04, F.S., lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age;
 - Section 847.0145, F.S., selling or buying of minors;
 - A violation of a similar law in another jurisdiction; or
- Any felony violation, or attempt thereof, of the following offenses:
 - Section 393.135(2), F.S., sexual misconduct with an individual with a developmental disability;
 - Section 394.4593(2), F.S., sexual misconduct with a person in the custody of the Department of Children and Families or in treatment facility;
 - Section 787.01, F.S., kidnapping, or s. 787.02, F.S., false imprisonment, where the victim is a minor;
 - Section 787.025(2)(c), F.S., luring or enticing a child;
 - Section 787.06(3)(b),(d),(f),(g), or former (h), F.S., relating to human trafficking;
 - Section 794.011, F.S., sexual battery, excluding s. 794.011(10), F.S.;¹⁹
 - Section 794.05, F.S., unlawful activity with certain minors;
 - Former s. 796.03, F.S., procuring a person under the age of 18 for prostitution;
 - Former s. 796.035, F.S., selling or buying of minors into sex trafficking or prostitution;
 - Section 800.04, F.S., lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age;
 - Section 810.145(8)(b), F.S., relating to video voyeurism;
 - Section 825.1025, F.S., lewd or lascivious battery upon or in the presence of an elderly person or disabled person;
 - Section 827.071, F.S., sexual performance by a child;
 - Section 847.0135, F.S., excluding s. 847.0135(6), F.S., knowingly owning or operating an Internet service used for pornography;
 - Section 847.0145, F.S., selling or buying of minors;
 - Section 895.03, F.S., racketeering activity involving at least one of sexual offenses listed;
 - Section 916.1075(2), F.S., sexual misconduct with a forensic client;
 - Section 985.701(1), F.S., sexual misconduct with a juvenile offender; or
 - A violation of a similar law in another jurisdiction.

III. Effect of Proposed Changes:

The bill creates s. 507.03(9), F.S., to provide that the DACS must deny or refuse to renew the registration of a mover or moving broker, or the mover's or moving broker's directors, officers, owners, or general partners if the mover or moving broker has not satisfied a civil fine or administrative fine imposed for a violation of s. 507.07(9), F.S.

¹⁹ Section 794.011(10), F.S., relates to falsely accusing specified persons of sexual battery.

The bill creates s. 507.07(9), F.S., to prohibit a mover or moving broker from knowingly refusing or failing to disclose in writing to a customer before a household move that the mover or an employee or subcontractor of the mover or moving broker who has access to the dwelling or property of the customer has been convicted of a sexual predator felony offense listed in s. 775.21(4)(a)1., F.S., or convicted of a similar offense of another jurisdiction, regardless of when such felony offense was committed.

The bill amends s. 507.09(1)(b), F.S., to require the DACS to impose a Class IV category administrative fine for each violation of s. 507.07(9), F.S., if it does not seek a civil penalty for the same offense. A Class IV category fine is \$10,000 or more for each violation in the category.²⁰

The bill amends s. 507.10, F.S., relating to the civil penalties that the DACS may impose, to require the DACS to seek a civil penalty in the Class IV category for each violation of s. 507.07(9), F.S., if it does not impose an administrative fine for the same offense. A Class IV category penalty requires a fine of \$10,000 or more for each violation in the category.²¹

The bill takes effect on October 1, 2017.

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:

Under PCS/CS/SB 336, movers and moving brokers may incur expenses related to providing customers with written notices that they or an employee or subcontractor who has access to the dwelling or property of the customer has been convicted of a sexual predator offense.

²⁰ See s. 570.971(1)(d), F.S.

²¹ *Id.*

C. **Government Sector Impact:**

The DACS indicates the provisions in the bill can be implemented within existing resources.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 507.03, 507.07, 507.09, and 507.10.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

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

Recommended CS/CS by Appropriations Subcommittee on The Environment and Natural Resources on March 21, 2017:

The committee substitute:

- Expands the moving industry participants included within the scope of the bill by adding moving brokers and moving broker directors, officers, owners, or general partners to the prohibition against failing to disclose to a customer in writing that an employee with access to the customer's dwelling is a convicted sexual predator and subjects those additional persons to the administrative fines and penalties provided in the bill; and
- Adds subcontractors of a mover or moving broker, as persons whose convictions must be disclosed if they have access to the customer's dwelling or property.

CS by Regulated Industries on February 8, 2017:

The committee substitute:

- Revises s. 507.03(9), F.S., to include a mover's failure to satisfy an administrative penalty imposed for a violation of s. 507.07(9), F.S., as a basis for the DACS to deny or refuse to renew the registration of a mover or the mover's directors, officers, owners, or general partners;
- Amends s. 507.09(1)(b), F.S., to require the DACS to impose a Class IV category administrative fine if it does not seek civil penalty for the same offense; and
- Revises s. 507.10, F.S., to require the DACS to seek a civil penalty in the Class IV category for each violation of s. 507.07(9), F.S., if it does not impose an administrative fine for the same offense.

B. Amendments:

None.

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



821966

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2017	.	
	.	
	.	
	.	

Appropriations Subcommittee on the Environment and Natural
Resources (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 24 - 33
and insert:
registration of a mover or a moving broker or deny a
registration or renewal request by any of the mover's or moving
broker's directors, officers, owners, or general partners if the
mover or moving broker has not satisfied a civil penalty or
administrative fine for a violation of s. 507.07(9).

Section 2. Subsection (9) is added to section 507.07,



821966

Florida Statutes, to read:

507.07 Violations.—It is a violation of this chapter:

(9) For a mover or a moving broker to knowingly refuse or fail to disclose in writing to a customer before a household move that the mover or an employee or subcontractor of the mover or moving broker who has access to the dwelling or

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

And the title is amended as follows:

Delete lines 2 - 6

and insert:

An act relating to household movers and moving brokers; amending s. 507.03, F.S.; requiring the Department of Agriculture and Consumer Services to deny or refuse to renew the registration of a mover or a moving broker under certain circumstances; amending s. 507.07, F.S.; prohibiting a mover or moving broker from

By the Committee on Regulated Industries; and Senators Hutson
and Book

580-01750-17

2017336c1

A bill to be entitled

An act relating to household movers; amending s.
507.03, F.S.; requiring the Department of Agriculture
and Consumer Services to deny or refuse to renew the
registration of a mover under certain circumstances;
amending s. 507.07, F.S.; prohibiting a mover from
knowingly refusing or failing to disclose in writing
specified criminal information under certain
circumstances; amending ss. 507.09 and 507.10, F.S.,
relating to administrative remedies and civil
penalties, respectively; requiring the department to
impose either a civil penalty or an administrative
fine for failure to disclose in writing specified
criminal information; providing an effective date.

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

Section 1. Present subsections (9) and (10) of section
507.03, Florida Statutes, are redesignated as subsections (10)
and (11), respectively, and a new subsection (9) is added to
that section, to read:

507.03 Registration.—

(9) The department shall deny or refuse to renew the
registration of a mover or deny a registration or renewal
request by any of the mover's directors, officers, owners, or
general partners if the mover has not satisfied a civil penalty
or administrative fine for a violation of s. 507.07(9).

Section 2. Subsection (9) is added to section 507.07,
Florida Statutes, to read:

507.07 Violations.—It is a violation of this chapter:

(9) For a mover to knowingly refuse or fail to disclose in

580-01750-17

2017336c1

writing to a customer before a household move that the mover or
an employee of the mover who has access to the dwelling or
property of the customer has been convicted of a felony listed
in s. 775.21(4)(a)1. or convicted of a similar offense of
another jurisdiction, regardless of when such felony offense was
committed.

Section 3. Paragraph (b) of subsection (1) of section
507.09, Florida Statutes, is amended to read:

507.09 Administrative remedies; penalties.—

(1) The department may enter an order doing one or more of
the following if the department finds that a mover or moving
broker, or a person employed or contracted by a mover or broker,
has violated or is operating in violation of this chapter or the
rules or orders issued pursuant to this chapter:

(b) Imposing an administrative fine in the Class II
category pursuant to s. 570.971 for each act or omission.
However, the department must impose an administrative fine in
the Class IV category for each violation of s. 507.07(9) if the
department does not seek a civil penalty for the same offense.

Section 4. Subsection (2) of section 507.10, Florida
Statutes, is amended to read:

507.10 Civil penalties; remedies.—

(2) The department may seek a civil penalty in the Class II
category pursuant to s. 570.971 for each violation of this
chapter. However, the department must seek a civil penalty in
the Class IV category for each violation of s. 507.07(9) if the
department does not impose an administrative fine for the same
offense.

Section 5. This act shall take effect October 1, 2017.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Appropriations Subcommittee on The Environment and Natural Resources

Subject: Committee Agenda Request

Date: February 8, 2017

I respectfully request that **Senate Bill #336**, relating to Household Movers, be placed on the:

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

A handwritten signature in blue ink, reading "Travis J. Hutson".

Senator Travis Hutson
Florida Senate, District 7



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Appropriations Subcommittee on The Environment and Natural Resources

Subject: Committee Agenda Request

Date: February 28, 2017

I respectfully request that **Senate Bill #336**, relating to Household Movers, be placed on the:

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

A handwritten signature in blue ink, reading "Travis J. Hutson".

Senator Travis Hutson
Florida Senate, District 7

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 Appropriations Subcommittee on The Environment and Natural Resources

BILL: CS/SB 532

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Galvano and others

SUBJECT: Public Notification of Pollution

DATE: March 20, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Rogers</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEN</u>	<u>Recommend: Favorable</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 532 creates the Public Notice of Pollution Act. The bill defines a reportable pollution release as a release to the air, land, or water that is discovered by the owner or operator of an installation, is not authorized by law, and is:

- Reportable to the State Watch Office;
- Reportable to the Department of Environmental Protection (DEP) or a contracted county pursuant to rules governing storage tank systems;
- Reportable to DEP pursuant to rules governing underground injection control systems;
- A hazardous substance; or
- An extremely hazardous substance.

The owner or operator of any installation where a reportable pollution release occurs must provide a notice of the release to DEP. The notice must be submitted to DEP within 24 hours after discovery of the reportable pollution release and must contain detailed information described in the bill about the installation, the substance, and the circumstances surrounding the release. The bill also requires additional notice to DEP if a release migrates outside the property boundaries of the installation.

The bill requires DEP to publish each notice to the Internet within 24 hours after DEP receives it. DEP must also create a system for electronic mailing that allows interested parties to subscribe to and receive direct announcements of notices received by DEP. DEP must establish an email

address and an online form so that installation owners and operators are able to submit a notice of a reportable pollution release electronically. The bill provides that submitting a notice of a reportable pollution release does not constitute an admission of liability or harm. Finally, the bill provides for \$10,000 per day in civil penalties for violations of these notice requirements and authorizes DEP to adopt rules to administer these provisions.

The fiscal impact is indeterminate. The DEP will incur minimal costs as a result of the newly established reporting requirements and initiation of the rule making process.

II. Present Situation:

Public Notice

Many commercial, industrial, agricultural, and utility operations and entities are required to report various releases, discharges, or emissions as a condition of permitted operations or pursuant to law or rule. Under state law, to the extent notification is required, it typically must be made to the Department of Environmental Protection (DEP).¹ In some cases, notice to DEP is provided to the State Watch Office, an emergency communications center in the Division of Emergency Management. The State Watch Office, also known as the State Warning Point, serves as Florida's primary point of contact for a wide variety of both natural and man-made emergencies. It serves as the contact point in Florida for communications between local governments and emergency agencies of both the state and federal governments and also provides emergency information to newspapers and radio and television stations.² Examples of notification to the State Watch Office include DEP rule requirements for notification of petroleum discharges,³ wastewater discharges,⁴ and releases of hazardous substances,⁵ and a DEP statutory and rule requirement for notification of a discharge of drycleaning solvents.⁶ Requirements to notify the State Watch Office may also appear in DEP orders, permits, or variances, if required or authorized.

Notifications directly to DEP or a county under contract with DEP to perform compliance verification activities are required for certain releases or discharges of pollutants, including petroleum products, pesticides, ammonia, chlorine, hazardous substances, and specified mineral acids from underground or aboveground storage tanks.⁷ Notification is also required to be made to DEP of any noncompliance with an underground injection control permit that may endanger health or the environment.⁸ Requirements for notifications of the release of hazardous substances in DEP rule define "hazardous substance" and "extremely hazardous substance" by referencing definitions in federal regulations.⁹ Those federal regulations contain extensive lists of substances

¹ See, e.g., ss. 377.371(2), 376.30702, 403.862(1)(b), and 403.93345(5), F.S.; Fla. Admin. Code R. 62S-6.022.

² Division of Emergency Management, *Florida State Watch Office*, <http://www.floridadisaster.org/Response/Operations/swp.htm> (last visited February 28, 2017); see, e.g., Fla. Admin. Code R. 27P-14.011.

³ Fla. Admin. Code R. 62-780.210(1) and Fla. Admin. Code R. 62S-6.022.

⁴ Fla. Admin. Code R. 62-620.610 and Fla. Admin. Code R. 62-604.550

⁵ Fla. Admin. Code R. 62-150.300.

⁶ Section 376.3078(9)(c) and Fla Admin. Code R. 62-780.210(2).

⁷ Sections 376.303 and 376.322, F.S., Fla. Admin. Code R. 62-761.440, Fla. Admin. Code R. 62-762.441.

⁸ Fla. Admin. Code R. 62-528.307(1)(x).

⁹ Fla. Admin. Code R. 62-150.200 and Fla. Admin. Code R. 62-150.300.

defined as hazardous substances and extremely hazardous substances.¹⁰ In certain circumstances, statutes and rules require the owner or operator of an installation to directly notify a local government or the public of actions taken or conditions or occurrences at installations.¹¹

At present, there is no comprehensive notice requirement that all releases of substances be reported under state law. There is also no requirement in current law that all such reporting be accessible to the public.

Public Notice Rule

In response to recent pollution incidents, DEP initiated rulemaking in 2016 to establish a requirement for notification of releases of pollution from installations throughout the state. On September 27, 2016, DEP published an emergency rule. The following day, DEP published a notice of proposed rule with the same language. The emergency rule was in effect during the development of the proposed rule. The proposed rule would have:

- Required owners and operators of installations¹² to provide a notification of pollution within 24 hours of the incident resulting in the pollution or the discovery of the pollution to:
 - DEP;
 - Local government officials; and
 - The general public.¹³ Notification to the general public under the proposed rule would have required an owner or operator to provide notice of the pollution to local broadcast television affiliates and a newspaper of general circulation in the area of the contamination.
- Required further notifications by owners and operators of installations on the status of the pollution.
- Provided that failure to give a notification of pollution subjected an owner or operator to statutory penalties of up to \$10,000 per day.¹⁴

Following publication of the proposed rule, DEP received three written proposals for a lower cost regulatory alternative (LCRA) to the rule. DEP prepared a statement of estimated regulatory costs (SERC) for the rule in response to the proposed LCRAs, as required by s. 120.541(1), F.S.¹⁵ In the SERC, DEP estimated regulatory costs of \$182,000 per year, a calculation based on the number of notifications made under the newly-minted emergency rule. The LCRAs proposed that the rule be altered to require DEP to provide notification to local government officials and the general public and that notification requirements under the rule be loosened. DEP rejected

¹⁰ 40 C.F.R. s. 302.4 and 40 C.F.R. part 355, Appendices A and B.

¹¹ See, e.g., s. 376.707(11), F.S., Fla. Admin. Code R. 62-550.828, Fla. Admin. Code R. 62-560.410(1)(a), Fla. Admin. Code R. 62-761.405(3) and (4), Fla. Admin. Code R. 62-761.430, Fla. Admin. Code R. 62-761.440, Fla. Admin. Code R. 62-762.411, Fla. Admin. Code R. 62-762.431, Fla. Admin. Code R. 62-762.441, Fla. Admin. Code R. 62-560.400, Fla. Admin. Code R. 62-560.410, Fla. Admin. Code R. 62-560.430.

¹² An installation is defined in s. 403.031(4), F.S., as “any structure, equipment, or facility, or appurtenances thereto, or operation which may emit air or water contaminants in quantities prohibited by rules of the department.”

¹³ Proposed Rule 62-4.161, Florida Administrative Register Vol. 42/No. 189.

¹⁴ *Id.*

¹⁵ Statement of Estimated Regulatory Costs, Proposed Rule 62-4.161, *available at* <http://dep.state.fl.us/pollutionnotice/SERC%20for%20Rule%2062-4.161%20w%20attachments.pdf>.

the proposals because it determined that installations in compliance with law would have no costs under the rule and other proposals were inconsistent with the intent of the rule.¹⁶

A notice of change for the proposed rule was published on November 15, 2016. In the change notice, DEP altered the proposed rule by expanding and clarifying the operation of the notice requirement. DEP added the following:

- An intent section.
- A reportable release as the trigger for the requirement to provide notice; reportable release defined in the rule as a release of a substance not authorized by law which is discovered by an owner or operator after the effective date of the rule and which is:
 - Reportable to the State Watch Office or to DEP or a county administering a DEP program under certain rules; or
 - A hazardous or extremely hazardous substance at or above quantities established in certain federal regulations.
- Specific information that must be contained in the notice and the manner the notice must be submitted to various parties.
- Language providing that as long as one party provides notice in compliance with the rule, then other parties are not required to provide notice for the same reportable release.¹⁷

Rule Challenge

On November 18, 2016, several commercial associations filed an administrative challenge to the proposed rule in *Associated Industries of Florida, Inc. et al. v. Department of Environmental Protection*.¹⁸ The petitioners argued that the rule violated statutory requirements and was invalid on four grounds:

- DEP materially failed to follow the applicable rulemaking procedures and requirements;
- DEP exceeded its grant of rulemaking authority;
- The proposed rule enlarges, modifies, or contravenes the specific provisions of law implemented; and
- The proposed rule imposes regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.¹⁹

On December 30, 2016, the administrative law judge (ALJ) entered a final order, holding that DEP lacked the rulemaking authority for the proposed rule. The final order concluded that the authorities cited by DEP as providing it with the statutory authority to adopt the rule are general grants of authority and not specific enough to authorize DEP to require that owners and operators of installations provide notices to local governments, the general public, and broadcast media.²⁰ The ALJ also found that the proposed rule enlarges the provisions of law implemented because the statutory provisions cited by DEP did not contain specific language regarding reporting requirements for the release of contaminants. The ALJ concluded that the proposed rule was an

¹⁶ *Id.*

¹⁷ Notice of Change for Proposed Rule 62-4.161, Florida Administrative Register Vol. 42/No. 222.

¹⁸ Case No. 16-6889RP (Fla. DOAH 2016).

¹⁹ Section 120.52(8), F.S.

²⁰ Final Order, *Associated Industries of Florida, Inc. et al. v. Department of Environmental Protection*, Case No. 16-6889RP (Fla. DOAH 2016), 13, 16, available at <https://www.doah.state.fl.us/ROS/2016/16006889.pdf>.

invalid exercise of delegated legislative authority, affirming the petitioners' grounds for challenging the rule.²¹ The ALJ did not evaluate the issue of whether the LCRAs were properly rejected by DEP because he deemed the rule invalid on other grounds.²²

DEP has not appealed the final order. The rule, therefore, is invalid because there is insufficient statutory authority for DEP to adopt this notice of pollution requirement by rule. Immediately following the invalidation of DEP's proposed rule, the department began providing links on its website regarding notices of releases it receives from permitted and non-permitted facilities throughout the state.²³ DEP continues to maintain an email list for those who want to subscribe to notices of pollution releases.²⁴ Upon its receipt of a notice of pollution from an installation, DEP sends it to email list subscribers, local governments, and media outlets,²⁵ fulfilling the function the proposed rule had required of owners and operators of installations for the subset of all releases that are required to be reported to DEP under current law.

III. Effect of Proposed Changes:

CS/SB 532 creates the Public Notice of Pollution Act.

The bill sets forth goals and findings related to notifying the public about reportable releases. It defines a reportable pollution release as a release to the air, land, or water that is discovered by the owner or operator of an installation, is not authorized by law, and is:

- Reportable to the State Watch Office pursuant to DEP rule, permit, order, or variance;
- Reportable to DEP or a contracted county pursuant to rules governing storage tank systems;
- Reportable to DEP pursuant to rules requiring notice for noncompliance from underground injection control systems where such noncompliance:
 - May endanger public health or the environment; and
 - Has the potential to contaminate potable water wells outside the property boundaries of the installation;
- A hazardous substance as defined in statute at or above quantities established in federal regulations; or
- An extremely hazardous substance as defined in federal regulations.

The bill requires the owner or operator of an installation at which a reportable pollution release occurs to provide a notice to DEP within 24 hours after discovery of a reportable pollution release. The notice must include:

- The name and address of the installation where the reportable pollution release occurred.
- The name and title of the reporting person and the nature of his or her relationship to the installation.
- The identification number for any active DEP permits, variances, registrations, or orders that are relevant to the reportable pollution release.

²¹ *Id.* at 16.

²² *Id.* at 18.

²³ DEP, *Notice of an Incident or Discovery of Pollution*, <http://dep.state.fl.us/pollutionnotice/> (last visited March 5, 2017).

²⁴ DEP, *Notice of an Incident or Discovery of Pollution*, <http://lists.dep.state.fl.us/mailman/listinfo/pollution.notice> (last visited March 5, 2017).

²⁵ DEP, *Notice of an Incident or Discovery of Pollution*, <http://lists.dep.state.fl.us/pipermail/pollution.notice/> (last visited March 5, 2017).

- The name and telephone number of a contact person for further information.
- The substance released.
- The estimated quantity of the substance released and, if applicable, the estimated quantity that has since been recovered.
- The cause of the release.
- The source of the release.
- The location of the release.
- The date, time, and duration of the release.
- The medium into which the substance was released, such as, but not limited to, the outdoor air, land, groundwater, aquifer, or specified waters or wetlands.
- Whether the released substance has migrated to land or waters of the state outside the property boundaries of the installation and the location of such migration.
- To the extent available, toxicological information associated with the substance released as specified on a safety data sheet or comparable source published by the Occupational Safety and Health Administration or the Centers for Disease Control and Prevention, or their successor agencies.
- Other information to assist in the protection of the public health, safety, and welfare, at the discretion of the owner or operator.

The bill also requires that an additional notice be provided to DEP if, after submitting the initial notice, the owner or operator determines that a release has migrated outside the property boundaries of the installation. Such additional notice must be given within 24 hours of discovery of the migration and must provide all of the information required in an initial notice and specify the extent of the migration.

A notification of a reportable pollution release made by a party in accordance with statutory requirements constitutes compliance on behalf of all parties subject to the notice requirement for that reportable pollution release. However, if the notification is not made in accordance with statutory requirements, DEP may pursue enforcement against all parties subject to the notice requirement. After providing a notice of a reportable pollution release, an installation owner or operator may submit a letter to DEP documenting additional information if an amendment to the notice is warranted or the owner or operator has determined that a reportable pollution release did not, in fact, occur.

DEP must publish, on a website accessible to the public, all notices submitted by an owner or operator within 24 hours of receipt by the department. DEP must also create an electronic mailing list for notices and allow the public, including local governments, health departments, news media, and other interested persons, to subscribe to and receive periodic direct announcements of any reportable pollution release notices submitted. DEP must establish regional electronic mailing lists, such as by county or district boundaries, to allow subscribers to determine the notices they wish to receive by geographic area. DEP must also establish an e-mail address and an online form as options for owners and operators to provide notices of reportable pollution release.

The bill provides that a reportable pollution release notice provided by an owner or operator to DEP does not constitute an admission of liability or harm. It also provides that the owner or

operator of an installation is subject to civil penalties of up to \$10,000 per day for each day the owner or operator is in violation of the requirement to provide notification of a reportable pollution release. The bill authorizes DEP to adopt rules to administer these provisions.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(a) of the Florida Constitution provides in pertinent part that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds . . . unless the Legislature has determined that such law fulfills an important state interest and unless:

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or
- The expenditure is required to comply with a law that applies to all persons similarly situated.”

Although the bill does not contain an express finding that the law fulfills an important state interest, the bill does appear to apply to all persons similarly situated (those owners or operators of an installation at which a reportable pollution release has occurred), including state agencies, school boards, community colleges, counties, municipalities, special districts, and private entities. If this exception (similarly situated) does not apply, the bill must be approved by two-thirds vote of each chamber to be binding upon the counties and municipalities.

An exemption to the constitutional mandates provision may apply if the law has an insignificant fiscal impact on the counties and municipalities. Costs to local governments for gathering and reporting information regarding reportable pollution releases within 24 hours of discovery may have an insignificant fiscal impact. Since the costs associated with this law is expected to be less than \$2 million, it appears the law is exempt from the requirements of Article VII, section 18(a) of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners and operators of installations which use, produce, or contain substances listed by DEP will likely incur some costs for gathering and reporting information regarding reportable pollution releases within 24 hours of discovery when such an event occurs.

C. Government Sector Impact:

Installations owned or operated by governmental entities, including local governments, will likely incur some costs for gathering and reporting information regarding reportable pollution releases within 24 hours of discovery when such an event occurs.

DEP also will likely incur some costs in promulgating rules to administer the provisions of the bill and in developing the website and electronic mailing lists required by the bill. The DEP currently has notifications and electronic mailing for other programs within the department and should have the ability to absorb the costs within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 403.121 of the Florida Statutes.

This bill creates sections 403.076, 403.077, and 403.078 of the Florida Statutes.

IX. 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 March 7, 2017:

- Makes a technical change to add land to components of nature of which DEP has the authority and duty to control and prohibit pollution.
- Changes the definition of releases that must be reported by eliminating the requirement that DEP determine the releases by establishing and publishing a list of substances that present an immediate and substantial risk to the public health, safety, or welfare at or above specified quantities determined by DEP. Instead, the CS provides that a reportable pollution release is a release to the air, land, or water that is discovered by the owner or operator of an installation, is not authorized by law, and is:
 - Reportable to the State Watch Office;
 - Reportable to DEP or a contracted county pursuant to rules governing storage tank systems;

- Reportable to DEP pursuant to rules governing underground injection control systems;
- A hazardous substance as defined in statute at or above quantities established in Federal Regulations; or
- An extremely hazardous substance as defined in Federal Regulations.
- Requires additional notice to DEP if, after providing the initial notice, the owner or operator determines that a release has migrated outside the property boundaries of the installation. Such additional notice must be given within 24 hours of discovery of the migration and must provide all of the information required in an initial notice and specify the extent of the migration.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation;
and Senators Galvano, Stewart, Benacquisto, Rouson, Book, and
Young

592-02187-17

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A bill to be entitled

An act relating to public notification of pollution;
creating s. 403.076, F.S.; providing a short title;
creating s. 403.077, F.S.; providing goals and
legislative findings; specifying authority of the
Department of Environmental Protection; specifying
that the act does not alter or affect the emergency
management responsibilities of certain other
governmental entities; creating s. 403.078, F.S.;
defining the term "reportable pollution release";
requiring an owner or operator of an installation at
which a reportable pollution release occurred to
provide certain information to the department within
24 hours after the discovery of a reportable pollution
release; authorizing the owner or operator to amend
such notice; specifying compliance and enforcement
requirements; requiring owners or operators to provide
notice when a reportable pollution release migrates
outside the property boundaries of the installation;
requiring the department to publish such information
in a specified manner; requiring the department to
establish an electronic mailing list; requiring the
department to provide a reporting form and e-mail
address for such notice; specifying that providing a
notice does not constitute an admission of liability
or harm; specifying penalties for violations;
requiring the department to adopt rules; amending s.
403.121, F.S.; specifying penalties for failure to
provide required notice; providing an effective date.

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

Section 1. Section 403.076, Florida Statutes, is created to
read:

403.076 Short title.—Sections 403.076-403.078 may be cited
as the "Public Notice of Pollution Act."

Section 2. Section 403.077, Florida Statutes, is created to
read:

403.077 Public notice of pollution; goals and findings.—

(1) It is a goal of the state that the public be timely
notified of a discovered, reportable pollution release that may
pose an immediate danger to the public health, safety, or
welfare.

(2) The department has the authority and the duty to
control and prohibit pollution of the air, land, and water of
this state and has the primary responsibility to ensure that the
public is aware of reportable pollution releases. Alerting the
department about reportable pollution releases, within the
timeframes and in the manner provided by this act, will better
inform the department and the public regarding such releases and
the need, if any, to take action to protect the public health,
safety, and welfare.

(3) This act does not alter or affect the emergency
management responsibilities of the Governor, the Division of
Emergency Management, or the governing body of any political
subdivision of the state pursuant to chapter 252.

Section 3. Section 403.078, Florida Statutes, is created to
read:

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403.078 Public notification of pollution.-

(1) DEFINITION.-As used in this section, the term "reportable pollution release" means the release or discharge of a substance from an installation to the air, land, or waters of the state which is discovered by the owner or operator of the installation, which is not authorized by law, and which is:

(a) Reportable to the State Watch Office within the Division of Emergency Management pursuant to department rules, permit, order, or variance;

(b) Reportable to the department or a contracted county pursuant to department rules governing storage tank systems under ss. 376.303, 376.321, and 376.322;

(c) Reportable to the department pursuant to department rules requiring notice for noncompliance from underground injection control systems where such noncompliance may endanger public health or the environment and has the potential to contaminate potable water wells outside the property boundaries of the installation;

(d) A hazardous substance at or above the quantity established in Table 302.4 of 40 C.F.R. s. 302.4, revised as of July 1, 2016, for such substance, for which notification is required by 40 C.F.R. s. 302.6; or

(e) An extremely hazardous substance pursuant to 40 C.F.R. s. 355.61, at or above the quantity established in Appendices A and B of 40 C.F.R. part 355, revised as of July 1, 2016, for such substance, for which notice is required by 40 C.F.R. s. 355.33.

(2) OWNER AND OPERATOR RESPONSIBILITIES.-

(a) In the event of a reportable pollution release, any

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person who is an owner or operator of the installation at which the reportable pollution release occurred must provide a notice containing the following information, to the extent known at the time of such notice, to the department within 24 hours after its discovery:

1. The name and address of the installation where the reportable pollution release occurred.

2. The name and title of the reporting person and the nature of his or her relationship to the installation.

3. The identification numbers for any active department permits, variances, registrations, or orders that are relevant to the reportable pollution release.

4. The name and telephone number of a contact person for further information.

5. The substance released.

6. The estimated quantity of the substance released and, if applicable, the estimated quantity that has since been recovered.

7. The cause of the release.

8. The source of the release.

9. The location of the release.

10. The date, time, and duration of the release.

11. The medium into which the substance was released, including, but not limited to, the outdoor air, land, groundwater, aquifer, or specified waters or wetlands.

12. Whether the released substance has migrated to land or waters of the state outside the property boundaries of the installation and the location of such migration.

13. To the extent available, toxicological information

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associated with the substance released as specified on a safety data sheet or comparable source published by the Occupational Safety and Health Administration or the Centers for Disease Control and Prevention, or their successor agencies.

The owner or operator may also include in the notice any other information he or she wishes in order to assist in the protection of the public health, safety, and welfare.

(b) If multiple parties are subject to the notification requirements based on a single reportable pollution release, a single notification made by one party in accordance with this section constitutes compliance on behalf of all parties subject to the requirement. However, if the notification is not made in accordance with this section, the department may pursue enforcement against all parties subject to the requirement.

(c) If, after providing notice pursuant to paragraph (a), the installation owner or operator determines that a reportable pollution release did not occur or that an amendment to the notice is warranted, the installation owner or operator may submit a letter to the department documenting such determination.

(d) If, after providing notice under paragraph (a), the installation owner or operator determines that a release subject to the noticing requirements of this act has migrated outside the property boundaries of the installation, the owner or operator, within 24 hours after such discovery, must provide an additional notice to the department. Such notice must comply with the requirements of paragraph (a) and specify the extent of the migration outside the property boundaries.

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(3) DEPARTMENTAL RESPONSIBILITIES.—

(a) The department shall publish on a website accessible to the public all notices submitted by an owner or operator pursuant to subsection (2) within 24 hours of receipt.

(b) The department shall create an electronic mailing list for such notices and allow the public, including local governments, health departments, news media, and other interested persons, to subscribe to and receive periodic direct announcement of any notices submitted pursuant to subsection (2). The department shall establish regional electronic mailing lists, such as by county or district boundaries, to allow subscribers to determine the notices they wish to receive by geographic area.

(c) The department shall establish an e-mail address and an online form as options for owners and operators to provide the notice specified in paragraphs (2)(a) and (b).

(4) ADMISSION OF LIABILITY OR HARM.—Providing notice under subsection (2) does not constitute an admission of liability or harm.

(5) VIOLATIONS.—For failure to provide the notification required by paragraphs (2)(a) or (2)(d), the owner or operator shall be subject to the civil penalties specified in s. 403.121.

(6) ADOPTION OF RULES.—The department shall adopt rules necessary to administer the provisions of this section.

Section 4. Present paragraph (f) of subsection (4) of section 403.121, Florida Statutes, is redesignated as paragraph (g), and a new paragraph (f) is added to that subsection, to read:

403.121 Enforcement; procedure; remedies.—The department

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shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(f) For failure to provide required notice pursuant to s. 403.078, up to \$10,000 per day for each day an installation owner or operator is in violation of the section.

Section 5. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/21/17

Meeting Date

532

Bill Number (if applicable)

Topic Public Notification of Pollution

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 850-339-6211

Street

Tallahassee

FL

32302-1757

City

State

Zip

Email rohara@flcities.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida 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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/21/17

Meeting Date

SB 532

Bill Number (if applicable)

Topic

POLLUTION NOTIFICATION

Amendment Barcode (if applicable)

Name

JIM SPRATT

Job Title

Address

PO Box 10011

Street

TALAHASSEE

City

FL

State

32311

Zip

Phone

850-228-1296

Email

Jim.e.magnolia.strategic@llc.com

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Associated Industries of Florida

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/17

Meeting Date

532

Bill Number (if applicable)

WAIVE
IN SUPPORT

Topic Public Notification of Pollution

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title _____

Address 1625 SUMMIT LAKE DR., STE 300

Phone 850 445 1607

Street

TALLAHASSEE

FL

32317

Email nancy@nstephens.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing MANUFACTURERS ASSOCIATION OF FLORIDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Mar 21

Meeting Date

532

Bill Number (if applicable)

Topic Public Notification of Pollution

Amendment Barcode (if applicable)

Name Greg Munson

Job Title _____

Address 205 S. Monroe St Sk 601
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing American Water Works Association, Florida Section

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/21/2017

Meeting Date

SB 532

Bill Number (if applicable)

Topic Public Notification of Pollution

Amendment Barcode (if applicable)

Name Thomas Hawkins

Job Title Policy & Planning Director

Address 308 N Monroe St

Street

Phone 352.377.3141

Tallahassee

FL

32301

City

State

Zip

Email thawkins@1000fof.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing 1000 Friends of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/21/2017
Meeting Date

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

532
Bill Number (if applicable)

Topic Public Notification of Pollution

Amendment Barcode (if applicable)

Name Adam Basford

Job Title Director of Legislative Affairs

Address 310 W College
Street

Phone 222 2557

Tallahassee FL 32301
City State Zip

Email adam.basford@fla.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Farm Bureau

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/21/17

Meeting Date

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

CS/SB 532

Bill Number (if applicable)

Topic Public Notification of Pollution

Amendment Barcode (if applicable)

Name Larae Donnellan

Job Title Retired

Address 3568 Barrel Loop
Street

Phone 850-766-0049

The Villages
City

FL
State

32163
Zip

Email Larae.donnellan@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Unitarian Universalist Justice Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-21-17

Meeting Date

CS/SB 532

Bill Number (if applicable)

Topic Public Notification of Pollution

Amendment Barcode (if applicable)

Name Sara Ramsay

Job Title _____

Address 1154 Trappers Ct
Street

Phone 352-399-5209

The Villages, FL 32163
City State Zip

Email Sararamsay@hotmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

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APPEARANCE RECORD

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3/21/17

Meeting Date

SB 532

Bill Number (if applicable)

Topic SB 532 Publication of pollution

Amendment Barcode (if applicable)

Name Donna Polhamus

Job Title retired

Address 444 Paula Dr N
Street

Phone 727-286 7260

Dunedin, FL
City State Zip

Email donna@polhamus.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Ontarian Universalists of Clearwater

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/21/2017
Meeting Date

SB 532
Bill Number (if applicable)

Topic SB Transportation

Amendment Barcode (if applicable)

Name PEGGY TANNY

Job Title _____

Address 3014 Eagles Landing Cr W
Street
Clearwater, FL 33761
City State Zip

Phone (727) 474-6666

Email phunttanny@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Unitarian Universalist of Clearwater

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/17

Meeting Date

532

Bill Number (if applicable)

Topic SB532 Pollution notification

Amendment Barcode (if applicable)

Name David Johnson

Job Title

Address 2301 Plainfield Ave

Street

Phone 904-514-4304

Orange Park

City

FL

State

32073

Zip

Email dj-jj@icloud.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Higher
Education, *Chair*
Appropriations
Education
Governmental Oversight and Accountability
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR BILL GALVANO

21st District

March 8, 2017

Senator Rob Bradley
Appropriations Subcommittee on the Environment & Natural Resources
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Bradley:

I respectfully request that CS/SB 532 Public Notification of Pollution be scheduled for a hearing in the Appropriations Subcommittee on the Environment and Natural Resources, at your earliest convenience.

If I can provide additional documentation to you on this, please do not hesitate to contact me.
Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill", is written over a light blue rectangular background.

Bill Galvano

cc: Giovanni Betta
Lisa Waddell

REPLY TO:

- ☐ 1023 Manatee Avenue West, Suite 201, Bradenton, Florida 34205 (941) 741-3401
- ☐ 420 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 678

INTRODUCER: Senator Montford

SUBJECT: Financial Assistance for Water and Wastewater Infrastructure

DATE: March 20, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.	Reagan	Betta	AEN	Recommend: Favorable
3.			AP	

I. Summary:

SB 678 amends ss. 403.1835, 403.1838, and 403.8532 F.S., to authorize the Department of Environmental Protection to disburse financial assistance under those sections based solely upon invoiced costs, without a requirement that the recipients request advance payment pursuant to s. 216.181(16), F.S. The recipient must submit proof of payment of invoiced costs before or concurrent with the recipient's next disbursement request.

The bill has a positive but indeterminate fiscal impact.

The bill takes effect July 1, 2017.

II. Present Situation:

Overview

The Department of Environmental Protection (DEP or department) uses money from the State Revolving Fund Program (SRF) to provide financial assistance pursuant to ss. 403.1835, 403.1838, and 403.8532, F.S., relating to water pollution control, small community sewer construction, and drinking water, respectively.

Historically, the SRF program operated in much the same way as a bank does with a loan for house construction. With a construction loan, the owner takes out a construction loan from a bank; the owner's contractor does work and sends the owner an invoice; the owner gives that invoice to bank, which verifies the work was performed and approves a draw to pay the contractor. In the context of the SRF program, the local community's contractor performed work and invoiced the community; the local community sent the SRF program the invoice; the SRF program reviewed the invoice and approved payment to the local community, who then paid the contractor.

In 2010 and 2013, the laws governing state grant and contract procedures were amended to create safeguards. It was unclear whether these statutory changes applied to loan programs; however, both the department's Inspector General and the department's Division of Finance and Accounting raised concerns that, without explicit statutory language indicating the SRF loan program could operate based on invoiced costs, the program should be operating as a cost reimbursement program in accordance with s. 216.181(16), F.S. Under a cost reimbursement program:

- The local community takes out a loan from the SRF program.
- The local community's contractor performs work and sends the local community the invoice.
- The local community pays that invoice and then sends the SRF program proof that they already paid the contractor.
- The SRF program then reimburses the costs the community already paid to its contractor.

Small communities often cannot afford to front the funding to the contractors. For those local communities the SRF program is currently proceeding as follows:

- The local community must fill out advance payment request forms, which must be approved by the SRF program, the department's Division of Finance and Accounting, and the Department of Financial Services.
- The local community's loan agreement must be amended to add advance payment language, and the amended agreement must be signed by both the local community and the department.
- When the amendment is finalized, the SRF program can advance the funding to cover invoiced costs (i.e. operate as it did historically).
- Each subsequent payment request must demonstrate that the contractor's prior invoice was paid.
- The local community must also file a quarterly report on any interest earned on the advance payments received.

The department states that SRF has program accountability measures in place to assure the program is sound and loans are adequately monitored:

- SRF program's project manager makes site visits to inspect progress and conduct a closeout inspection at project completion.
- Sponsors must submit annual audits.
- The U.S. Environmental Protection Agency conducts annual SRF program audits.
- An independent auditor conducts annual financial audits.
- DEP's Inspector General's Office conducts ongoing loan agreement audits.
- DEP maintains separate staff to manage SRF projects and to qualify loan recipients based upon financial review.
- It also has the department's project managers and financial managers conduct separate review of requests for payment.

Accordingly, DEP wants to allow disbursement of loan funds based solely upon invoiced costs without any requirement to request advance payment pursuant to s. 216.181(16), F.S., to reduce the burden on loan recipients, particularly small and financially disadvantaged communities.

Section 216.181(16), F.S.

Section 216.181(16), F.S., authorizes advance payment of funds provided in any specific appropriation in the General Appropriations Act if the Act specifically so provides. More specifically, if the General Appropriations Act or another law expressly authorizes an agency or the judicial branch to make advances, it may do so for program startup or for contracted services, but such disbursements are limited to other governmental entities and not-for-profit corporations. Additionally, the amount of an initial disbursement cannot exceed the expected cash needs of the contractor or recipient within the initial 3 months, and all subsequent disbursements can be made only on a reimbursement basis. As an alternative, a recipient can request that the Chief Financial Officer (CFO), after consultation with the legislative appropriations committees, advance funds beyond a three-month requirement if it is determined to be consistent with the intent of the approved operating budget.

DEP Financing Programs***Water Pollution Control***

Section 403.1835, F.S., establishes the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund for DEP to use to fund water pollution control projects that are eligible under the Federal Water Pollution Control Act. Eligible projects include, but are not limited to, planning, designing, constructing, and implementing of wastewater management systems, stormwater management systems, nonpoint source pollution management systems, and estuary conservation and management.

DEP must prioritize eligible projects according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. It must consider the relative costs of achieving environmental and public health benefits in assigning priorities. The department must, by rule, adopt a priority system that gives priority to projects that:

- Eliminate public health hazards;
- Enable compliance with laws requiring the elimination of discharges to specific water bodies, including requirements regarding domestic wastewater ocean outfalls;
- Assist in the implementation of total maximum daily loads;
- Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;
- Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;
- Promote reclaimed water reuse;
- Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or
- Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

To apply for a loan, an entity must:

- Submit evidence of credit worthiness, loan security, and a loan repayment schedule in support of the request for a loan.
- Submit plans and specifications and evidence of permissibility in support of a request for funding of construction or other activities requiring a permit from the department.
- Provide assurance that records will be kept using generally accepted accounting principles and that the department, the Auditor General, or their agents will have access to all records pertaining to the financial assistance provided.
- Provide assurance that the subject facilities, systems, or activities will be properly operated and maintained.
- Identify the revenues to be pledged and document their sufficiency for loan repayment and pledged revenue coverage in support of a request for a loan.
- Provide assurance that financial information will be provided as required by the department.
- Provide assurance that a project audit prepared by an independent certified public accountant upon project completion will be submitted to the department in support of a request for a grant.
- Submit project planning documentation demonstrating a cost comparison of alternative methods, environmental soundness, public participation, and financial feasibility for any proposed project or activity.

If a local governmental agency becomes delinquent on its loan, the department must certify the delinquency to the CFO, who must forward the delinquent amount to the department from any unobligated funds due to the local governmental agency under any revenue-sharing or tax-sharing fund. The department may also pursue any other available remedies, may impose a penalty not to exceed 18 percent per annum on the amount due, and may charge the cost to handle and process the debt.

If a non-governmental loan recipient defaults on a loan, the department may pursue any remedy available to it at law or in equity, may impose a penalty not to exceed 18 percent per annum on any amount due, and may charge the cost to handle and process the debt.

The department must prepare an annual report detailing the amount of grants, amount loaned, interest earned, grant allocations, and loans outstanding at the end of each fiscal year.

Small Community Sewer Construction

Section 403.1838, F.S., is the Small Community Sewer Construction Assistance Act. The act requires the department to use funds specifically appropriated to award grants to assist financially disadvantaged small communities¹ with their needs for adequate sewer facilities. The department may provide grants for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.

¹ A “financially disadvantaged small community” is a county, municipality, or special district that has a population of 10,000 or fewer, 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.

In administering the loan program, the department is to be governed by rules of the Environmental Regulation Commission,² which must:

- Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.
- Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.
- Require that grant applications be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.
- Establish a system to determine eligibility of grant applications.
- Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution abatement.
- Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.
- Provide for termination of grants when program requirements are not met.

The department must perform adequate overview of each grant, including technical review, regular inspections, disbursement approvals, and auditing.

Drinking Water

Section 403.8533, F.S., creates the Drinking Water Revolving Loan Trust Fund to be the depository for all moneys awarded by the Federal Government to fund revolving loan programs. The Department of Environmental Protection is to administer the trust fund for the purposes of:

- Funding for low-interest loans for planning, engineering design, and construction of public drinking water systems and improvements to such systems;
- Funding for compliance activities, operator certification programs, and source water protection programs;
- Funding for administering loans by the department; and
- Paying amounts payable under any service contract entered into by the department and the Florida Water Pollution Control Financing Corporation, subject to annual appropriation.

Section 403.8532, F.S., provides for the use of the Drinking Water Revolving Loan Trust Fund. The fund is to be used exclusively to establish infrastructure financing, technical assistance, and source water protection programs to assist public drinking water systems in achieving and maintaining compliance with the Florida Safe Drinking Water Act and the federal Safe Drinking

² Section 20.255(6), F.S., creates the Environmental Regulation Commission (commission) as a part of the Department of Environmental Protection. The commission is composed of seven residents of this state appointed by the Governor and subject to confirmation by the Senate. Membership must provide reasonable representation from all sections of the state, and must be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering. Terms are 4 years. The Governor appoints the chair, and the members elect the vice chair. Members serve without compensation, but receive travel and per diem. The department furnishes administrative, personnel, and other necessary support services. The commission may employ independent counsel and contract for the services of outside technical consultants.

Water Act and to conserve and protect the quality of waters of the state. The department may use the fund to:

- Make, loans, grants, and deposits to community water systems; for-profit, privately owned, or investor-owned water systems; nonprofit, transient, noncommunity water systems; and nonprofit, nontransient, noncommunity water systems to assist them in planning, designing, and constructing public water systems.³
- Provide loan guarantees, purchase loan insurance, and refinance local debt through the issue of new loans for projects approved by the department.
- Make loans to public water systems that pledge any available revenues or other adequate security to repay any funds borrowed.

Department rules must:

- Set forth a priority system for loans based on public health considerations, compliance with state and federal requirements relating to public drinking water systems, and affordability. The priority system shall give special consideration to:
 - Projects that provide for the development of alternative drinking water supply projects and management techniques in areas where existing source waters are limited or threatened by saltwater intrusion, excessive drawdowns, contamination, or other problems;
 - Projects that provide for a dependable, sustainable supply of drinking water and that are not otherwise financially feasible; and
 - Projects that contribute to the sustainability of regional water sources.
- Establish the requirements for the award and repayment of financial assistance.
- Require evidence of credit worthiness and adequate security, including an identification of revenues to be pledged, and documentation of their sufficiency for loan repayment and pledged revenue coverage, to ensure that each loan recipient can meet its loan repayment requirements.
- Require each project receiving financial assistance to be cost-effective, environmentally sound, implementable, and self-supporting.
- Implement other provisions of the federal Safe Drinking Water Act, as amended.

The statute has special provisions for small public water systems⁴ and financially disadvantaged communities.⁵ The department may provide financial assistance to financially disadvantaged communities for the purpose of planning, designing, and constructing public water systems. This assistance may include the forgiveness of loan principal. Additionally, in any fiscal year, the department must reserve from the amounts credited to the Drinking Water Revolving Loan Trust Fund:

- At least 15 percent for qualifying small public water systems.
- Up to 15 percent for qualifying financially disadvantaged communities.

³ “Public water system” means all facilities, including land, necessary for the treatment and distribution of water for human consumption. Such systems may be publicly owned, privately owned, investor-owned, or cooperatively held.

⁴ “Small public water system” means a public water system that regularly serves fewer than 10,000 people.

⁵ “Financially disadvantaged community” means the service area of a project to be served by a public water system that meets criteria established by department rule and in accordance with federal guidance.

An applicant for a loan must, at a minimum:

- Provide a repayment schedule.
- Submit evidence of the permissibility or implementability of the project proposed for financial assistance.
- Submit plans and specifications, biddable contract documents, or other documentation of appropriate procurement of goods and services.
- Provide assurance that records will be kept using generally accepted accounting principles and that the department or its agents and the Auditor General will have access to all records pertaining to the loan.
- Provide assurance that the public water system will be properly operated and maintained in order to achieve or maintain compliance with the requirements of the Florida Safe Drinking Water Act and the federal Safe Drinking Water Act, as amended.
- Document that the public water system will be self-supporting.

The term of loans may not exceed 30 years.

The department may require reasonable service fees on loans made to public water systems to ensure that the trust fund will be operated in perpetuity. Service fees cannot be less than two percent nor greater than four percent of the loan amount exclusive of the service fee. Service fee revenues must be deposited into the department's Grants and Donations Trust Fund, and the fee revenues and interest earnings must be used exclusively to carry out the purposes of this section.

If a local governmental agency⁶ defaults, the department must certify the default to the Chief Financial Officer, who must forward the delinquent amount to the department from any unobligated funds due to the local governmental agency under any revenue-sharing or tax-sharing fund. The department may also pursue any other available remedies, including accelerating loan repayments, eliminating all or part of the interest rate subsidy on the loan, and court appointment of a receiver to manage the public water system.

If a non-governmental loan recipient defaults on a loan, the department may pursue any remedy available to it at law.

The department may impose a penalty of six percent of the amount due for delinquent loan payments, in addition to charging the cost to handle and process the debt.

The department also is authorized to terminate or rescind a financial assistance agreement when the recipient fails to comply with the terms and conditions of the agreement.

The department may conduct an audit of the loan project upon completion, or may require submission of a separate project audit prepared by an independent certified public accountant.

⁶ "Local governmental agency" means any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing acting jointly in connection with a project, having jurisdiction over a public water system.

The department shall prepare a report at the end of each fiscal year, detailing the financial assistance provided under this section, service fees collected, interest earned, and loans outstanding.

III. Effect of Proposed Changes:

The bill amends ss. 403.1835, 403.1838, and 403.8532 F.S., to authorize DEP to disburse financial assistance under those sections based solely upon invoiced costs, without a requirement that the recipients request advance payment pursuant to s. 216.181(16), F.S. The recipient must submit proof of payment of invoiced costs before or concurrent with the recipient's next disbursement request.

The bill takes effect July 1, 2017.

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 the DEP, the bill will reduce the burden on loan recipients, particularly small and financially disadvantaged communities, producing an indeterminate savings to those communities.

C. Government Sector Impact:

The bill is expected to reduce workload for DEP and the CFO's office, which currently must approve advanced payment request forms. As a result, the bill should produce an indeterminate savings to state government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.1835, 403.1838, and 403.8532.

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

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

None.

B. Amendments:

None.

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

By Senator Montford

3-00416A-17

2017678__

A bill to be entitled

An act relating to financial assistance for water and wastewater infrastructure; amending ss. 403.1835, 403.1838, and 403.8532, F.S.; allowing disbursement of financial assistance for water and wastewater infrastructure projects based upon invoiced costs; providing that recipients are not required to request advance payment; providing for the submission of proof of payment; providing an effective date.

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

Section 1. Subsection (12) is added to section 403.1835, Florida Statutes, to read:

403.1835 Water pollution control financial assistance.—

(12) Recipients of financial assistance under this section may receive disbursements based upon invoiced costs and are not required to request advance payment pursuant to s. 216.181(16). Proof of payment of invoiced costs shall be submitted before or concurrent with the recipient's next disbursement request.

Section 2. Subsection (4) is added to section 403.1838, Florida Statutes, to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(4) Recipients of financial assistance under this section may receive disbursements based upon invoiced costs and are not required to request advance payment pursuant to s. 216.181(16). Proof of payment of invoiced costs shall be submitted before or concurrent with the recipient's next disbursement request.

Section 3. Subsection (17) is added to section 403.8532, Florida Statutes, to read:

403.8532 Drinking water state revolving loan fund; use;

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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rules.—

(17) Recipients of financial assistance under this section may receive disbursements based upon invoiced costs and are not required to request advance payment pursuant to s. 216.181(16). Proof of payment of invoiced costs shall be submitted before or concurrent with the recipient's next disbursement request.

Section 4. This act shall take effect July 1, 2017.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/21/17
Meeting Date

53678
Bill Number (if applicable)

Topic Water / Wastewater Infrastructure

Amendment Barcode (if applicable)

Name GIL ZIFFER

Job Title City Commissioner / Tallahassee

Address 301 S. Adams St. Tall 32301

Phone 850-507-7886

TALL FL 32301
City State Zip

Email gil.ziffer@talsca.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/21/17

Meeting Date

678

Bill Number (if applicable)

Topic Financial Assistance for Water/Wastewater Infrastructure

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 850-339-6211

Street

Tallahassee

FL

32302-1757

Email rohara@flcities.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida 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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/21/17

Meeting Date

678

Bill Number (if applicable)

Topic Financial Assistance for Water/Wastewater Infrastructure

Amendment Barcode (if applicable)

Name Gil Ziffer

Job Title Commissioner, City of Tallahassee

Address 300 S. Adams St.

Phone 850-891-0000

Street

Tallahassee

FL

32301

Email gil.ziffer@talgov.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing City of Tallahassee

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/21/2017
Meeting Date

SB 678
Bill Number (if applicable)

Topic Water / Wastewater

Amendment Barcode (if applicable)

Name Thomas Hawkins

Job Title Policy & Planning Director

Address 308 N Monroe St
Street

Phone 352-377-3141

Tallahassee FL 32301
City State Zip

Email thawkins@1000fof.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing 1000 Friends 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/21/17

Meeting Date

678

Bill Number (if applicable)

Topic Racial Assistance for Western & Western City Infrastructure Amendment Barcode (if applicable)

Name Danda B. Meritt

Job Title Mayor

Address 135 Hwy 40 West

Street

Phone 352-229-0477

Englis, Florida

City

State

Zip

Email mayor@dandameritt.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Town of Englis

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/27/17

Meeting Date

678

Bill Number (if applicable)

Topic Water Waste water (Montford)

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Bellard Partners

Address 403 E. Park Ave

Phone 577-0444

Street

Tallahassee FL 32301

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL Rural Water Assoc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: SB 301

Case No.:

Caption: Senate Appropriations Subcommittee on The Environment and Natural Resources

Type:

Judge:

Started: 3/21/2017 9:00:06 AM

Ends: 3/21/2017 9:19:27 AM

Length: 00:19:22

9:00:14 AM	Sen. Bradley (Chair)
9:00:55 AM	S 230
9:01:05 AM	Sen. Artilles
9:01:09 AM	Sen. Bradley
9:01:15 AM	Am. 132678
9:01:32 AM	Sen. Artilles
9:01:45 AM	Sen. Braynon
9:01:52 AM	Sen. Bradley
9:02:04 AM	S 230 (cont.)
9:02:08 AM	Sen. Artilles
9:04:03 AM	Sen. Bradley
9:04:22 AM	Sen. Hutson
9:04:31 AM	Sen. Bradley
9:04:45 AM	Sen. Artilles
9:04:53 AM	Sen. Braynon
9:04:57 AM	Sen. Artilles
9:05:05 AM	Sen. Braynon
9:05:09 AM	Sen. Bradley
9:05:36 AM	Am. 132678 (cont.)
9:05:43 AM	Sen. Artilles
9:05:56 AM	Sen. Bradley
9:06:23 AM	S 230 (cont.)
9:06:38 AM	Jane Jordan, League of Women Voters (waives in opposition)
9:06:52 AM	Sen. Braynon
9:07:00 AM	Sen. Bradley
9:07:30 AM	Sen. Braynon
9:07:54 AM	Sen. Artilles
9:07:59 AM	Sen. Bradley
9:08:11 AM	Recording Paused
9:08:16 AM	Recording Resumed
9:09:16 AM	S 532
9:09:23 AM	Sen. Galvano
9:10:12 AM	Sen. Bradley
9:10:24 AM	Rebecca O'Hara, Senior Legislative Advocate, Florida League of Cities (waives in support)
9:10:30 AM	Jim Spratt, Associated Industries of Florida (waives in support)
9:10:38 AM	Nancy Stephens, Manufacturers Association of Florida (waives in support)
9:10:48 AM	Greg Munson, American Water Works Association, Florida Section (waives in support)
9:10:55 AM	Thomas Hawkins, Policy and Planning Director, 1000 Friends of Florida (waives in support)
9:11:09 AM	Adam Basford, Director of Legislative Affairs, Florida Farm Bureau (waives in support)
9:11:26 AM	LaRae Donnellan, Retired, Unitarian Universalist Justice Florida (waives in support)
9:11:40 AM	Sara Ramsay (waives in support)
9:11:53 AM	Donna Polhamees, Retired, Unitarian Universalist of Clearwater (waives in support)
9:12:04 AM	Peggy Tanney, Unitarian Universalist of Clearwater (waives in support)
9:12:22 AM	David Johnson (waives in support)
9:13:11 AM	S 678
9:13:28 AM	Sen. Montford
9:13:40 AM	Sen. Bradley
9:13:45 AM	Sen. Montford
9:13:51 AM	Sen. Braynon
9:13:55 AM	Sen. Bradley
9:14:00 AM	Sen. Montford
9:14:46 AM	Sen. Bradley

9:14:55 AM	Gil Ziffer, City Commissioner, Tallahassee (waives in support)
9:15:00 AM	Rebecca O'Hara, Senior Legislative Advocate, Florida League of Cities (waives in support)
9:15:12 AM	Thomas Hawkins, Policy and Planning Director, 1000 Friends of Florida (waives in support)
9:15:29 AM	Drinda Merritt, Mayor, Town of Inglis (waives in support)
9:15:45 AM	Chris Hansen, Bellard Partners, Florida Rural Water Association (waives in support)
9:16:31 AM	S 336
9:16:45 AM	Sen. Hutson
9:17:25 AM	Sen. Bradley
9:17:30 AM	Am. 821966
9:17:33 AM	Sen. Hutson
9:17:53 AM	Sen. Bradley
9:18:20 AM	S 336 (cont.)
9:18:33 AM	Sen. Book
9:18:43 AM	Sen. Bradley