

Tab 1	SB 336 by Rouson; Large-scale Agricultural Pollution Reduction Pilot Program					
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Tab 2	SB 406 by Rodrigues; (Identical to H 00209) Big Cypress Basin					
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815588	A	S	RCS	EN, Rodrigues	Delete L.47 - 48:	02/15 05:35 PM
492910	A	S	RCS	EN, Rodrigues	Delete L.49 - 75:	02/15 05:35 PM
153086	AA	S	RCS	EN, Rodrigues	Delete L.30:	02/15 05:35 PM

Tab 3	SB 514 by Rodrigues (CO-INTRODUCERS) Garcia; (Identical to H 00315) Resiliency					
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Tab 4	SB 694 by Rodrigues; (Identical to H 00331) Displacement of Private Waste Companies					
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Tab 5	SB 920 by Bradley; (Identical to H 00287) Liability of Persons Providing Areas for Public Outdoor Recreational Purposes					
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Tab 6	SB 952 by Burgess; (Similar to H 00169) Water Management Districts					
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Tab 7	SB 964 by Diaz (CO-INTRODUCERS) Taddeo; Environmental Compliance Costs					
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Tab 8	CS/SB 88 by JU, Brodeur (CO-INTRODUCERS) Baxley, Albritton, Perry; Farming Operations					
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441286	A	S	RCS	EN, Brodeur	Delete L.112:	02/15 05:35 PM
302848	A	S	WD	EN, Stewart	Delete L.151 - 160:	02/15 05:35 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ENVIRONMENT AND NATURAL RESOURCES

Senator Brodeur, Chair
Senator Stewart, Vice Chair

MEETING DATE: Monday, February 15, 2021

TIME: 3:30—6:00 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Brodeur, Chair; Senator Stewart, Vice Chair; Senators Albritton, Ausley, Bean, and Perry

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A2 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	SB 336 Rouson	Large-scale Agricultural Pollution Reduction Pilot Program; Creating a large-scale agricultural pollution reduction pilot program within the Department of Environmental Protection as a partnership with dairy farms for a specified purpose; specifying that pilot program participants are presumed to comply with water quality standards and are eligible for certain permit terms and funding; authorizing the department to grant general permits for certain department-approved large-scale dairy farm pollution reduction pilot program participants, etc. AG 01/27/2021 Favorable EN 02/15/2021 Temporarily Postponed AP	Temporarily Postponed
2	SB 406 Rodrigues (Identical H 209)	Big Cypress Basin; Revising the membership of the Big Cypress Basin governing board; requiring the South Florida Water Management District to revise the boundaries of the Big Cypress Basin based on a specified study at a specified time; requiring the South Florida Water Management District to ensure that the distribution of ad valorem taxes collected within the Big Cypress Basin be used for projects within the counties in which they were collected, etc. EN 02/15/2021 Fav/CS AEG AP	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environment and Natural Resources

Monday, February 15, 2021, 3:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 514 Rodrigues (Identical H 315)	Resiliency; Establishing the Statewide Office of Resiliency within the Executive Office of the Governor; creating the Statewide Sea-Level Rise Task Force adjunct to the office; authorizing the Department of Environmental Protection to contract for specified services, upon request of the task force; requiring the Environmental Regulation Commission to take certain action on the task force's recommendations, etc. EN 02/15/2021 Favorable AEG AP	Favorable Yeas 6 Nays 0
4	SB 694 Rodrigues (Identical H 331)	Displacement of Private Waste Companies; Requiring a local government to pay a specified amount of compensation to a displaced private waste company at the end of a specified notice period; removing a provision authorizing a local government to pay a specified amount of compensation to a private waste company as an alternative to delaying displacement for a specified period; removing a provision authorizing a local government and private waste company to negotiate such compensation and notice, etc. EN 02/15/2021 Favorable CA RC	Favorable Yeas 6 Nays 0
5	SB 920 Bradley (Identical H 287)	Liability of Persons Providing Areas for Public Outdoor Recreational Purposes; Limiting liability for persons who enter into written agreements with state agencies to provide areas for public outdoor recreational purposes without charge, etc. EN 02/15/2021 Fav/CS JU RC	Fav/CS Yeas 5 Nays 0
6	SB 952 Burgess (Similar H 169)	Water Management Districts; Authorizing water management districts to purchase commodities and contractual services from the contracts of other specified entities under certain circumstances, etc. EN 02/15/2021 Favorable GO RC	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environment and Natural Resources

Monday, February 15, 2021, 3:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 964 Díaz	Environmental Compliance Costs; Redefining the term “environmental compliance costs” to include costs or expenses prudently incurred by an electric utility in complying with specified reclaimed water reuse requirements, etc. EN 02/15/2021 Favorable RI RC	Favorable Yeas 6 Nays 0
8	CS/SB 88 Judiciary / Brodeur	Farming Operations; Prohibiting farms from being held liable for certain claims for tort liability except under certain circumstances; providing a burden of proof; prohibiting nuisance actions from being filed against farm operations unless specified conditions are met; providing requirements for and limitations on damages; providing that plaintiffs who bring nuisance actions against farm operations are liable for certain costs and expenses under certain conditions, etc. JU 02/01/2021 Fav/CS EN 02/15/2021 Fav/CS RC	Fav/CS Yeas 4 Nays 1

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 336

INTRODUCER: Senator Rouson

SUBJECT: Large-scale Agricultural Pollution Reduction Pilot Program

DATE: February 12, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Argote	Becker	AG	Favorable
2.	Anderson	Rogers	EN	Pre-meeting
3.			AP	

I. Summary:

SB 336 creates a large-scale agricultural pollution reduction pilot program within the Department of Environmental Protection (DEP) in partnership with dairy farms to develop and maintain regional pollution reduction projects that eliminate water pollution in the state.

The bill establishes pilot program application and project selection requirements. All aspects of projects planned and developed must be available for inspection by the DEP, the Department of Agriculture and Consumer Services, and water management districts. The bill specifies that pilot program participants are presumed to comply with water quality standards and are eligible for certain permit terms and funding. The bill requires the DEP to adopt rules to implement the pilot program.

The DEP is given discretionary authority to adopt rules to provide a general permit for the construction of systems and projects under certain circumstances. The bill authorizes the DEP to grant general permits for certain pilot program participants.

The bill requires that the Office of Program Policy Analysis and Government Accountability evaluate the pilot program using specified minimum criteria and report its findings to the Legislature by June 30, 2024.

The pilot program is repealed as of October 2, 2025, unless reviewed and continued by the Legislature.

The bill provides for a nonrecurring appropriation in the 2021-2022 fiscal year of \$1.3 million for the initial implementation of the pilot program, of which \$800,000 is to be spent on projects in the Lake Okeechobee Basin Management Action Plan and \$500,000 on projects in the Suwannee Basin Management Action Plan.

II. Present Situation:

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality issues. Animal manure contains high concentrations of organic material, nitrogen, phosphorus, and fecal bacteria, which can be harmful when absorbed into wastewater. Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and impairment of the aesthetics and taste of water. Growth of nuisance aquatic weeds tends to increase in nutrient enriched waters, which can impact recreational activities.¹

Total Maximum Daily Loads

A total maximum daily load (TMDL), which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.² Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water Act, the DEP is required to establish a TMDL for impaired waterbodies.³ A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.⁴ Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels.⁵ Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.⁶

Concentrated Agricultural Feeding Operations

Concentrated agricultural feeding operations (CAFOs) are facilities where large numbers of livestock or poultry animals are confined for various purposes which include feeding, breeding, training, milking, egg production, meat production, and more.⁷ Facilities that do not meet the

¹ U.S. Environmental Protection Agency (EPA), *The Problem*, <https://www.epa.gov/nutrientpollution/problem> (last visited Jan. 26, 2021).

² Florida Department of Environmental Protection (DEP), *Total Maximum Daily Loads Program*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Jan. 26, 2021).

³ Section 403.067(1), F.S.

⁴ Section 403.031(21), F.S.

⁵ Fla. Admin. Code R. 62-620.200(37). “Point source” is defined as “any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.” Nonpoint sources of pollution are sources of pollution that are not point sources. Nonpoint sources can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

⁶ *Id.*

⁷ U.S. Department of Agriculture, Natural Resources Conservation Service, *Animal Feeding Operations*, <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/plantsanimals/livestock/afo/> (last visited Feb. 8, 2021).

threshold number of animals are referred to as Animal Feeding Operations (AFOs).⁸ The confinement of a large number of animals in a relatively small area can cause a manure buildup, which can impact TMDLs. Because of their potential to be significant pollution sources, CAFOs nationwide are subject to federal and state wastewater permitting regulations.⁹

CAFOs are regulated under the National Pollutant Discharge Elimination System (NPDES),¹⁰ which was created under the federal Clean Water Act.¹¹ NPDES rules require CAFOs to obtain a permit, which is issued by the DEP, if they discharge pollutants to surface water. In general, dairies that have fewer than 700 mature cows in confinement on an average annual basis do not need to have an NPDES permit, unless the dairy has a direct discharge of wastewater to surface waters of the state.¹² AFOs are regulated under the DEP's industrial wastewater program and include dairies, poultry, and horse and swine operations.¹³ The DEP has developed wastewater rules for AFOs and provides technical assistance to the livestock industry.¹⁴ Very small dairy operations that do not meet the threshold for a CAFO or AFO do not have to be regulated through the DEP, but are enrolled in the Department of Agriculture and Consumer Services (DACS) Office of Agricultural Water Policy's (OAWP) BMP program.¹⁵

Basin Management Action Plans

Basin management action plans (BMAPs) are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best Management Practices and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and

⁸ Facilities that have fewer than 700 mature cows in confinement on an average annual basis are classified as AFOs unless specifically designated. EPA, *Regulatory Definitions of Large CAFOs, Medium CAFOs, and Small CAFOs*, available at https://www.epa.gov/sites/production/files/2015-08/documents/sector_table.pdf.

⁹ Fla. Admin. Code R. 62-670.400; DEP, *Animal Feeding Operations*, <https://floridadep.gov/water/industrial-wastewater/content/animal-feeding-operations> (last visited Feb. 8, 2021).

¹⁰ EPA, *National Pollutant Discharge Elimination System*, <https://www.epa.gov/npdes/npdes-permit-basics> (last visited Feb. 8, 2021).

¹¹ 33 U.S.C. §1251 et seq. (1972).

¹² EPA, *Regulatory Definitions of Large CAFOs, Medium CAFOs, and Small CAFOs*, available at https://www.epa.gov/sites/production/files/2015-08/documents/sector_table.pdf.

¹³ Fla. Admin. Code R. 62-620.910(3); see DEP, *Application to Discharge Wastewater from Concentrated Animal Feeding Operations and Aquatic Animal Production Facilities - Form 2B*, available at https://floridadep.gov/sites/default/files/62-620.910_3.pdf.

¹⁴ Fla. Admin. Code R. 62-670.400; DEP, *Animal Feeding Operations*, <https://floridadep.gov/water/industrial-wastewater/content/animal-feeding-operations> (last visited Feb. 8, 2021).

¹⁵ The threshold for whether an operation is considered to be a CAFO or AFO is when animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and when crops, vegetation, forage growth, or post-harvest residues cannot be sustained in the normal growing season over any portion of the lot or facility due to animal activity. Florida Department of Agriculture and Consumer Services, *Water Quality/Quantity Best Management Practices for Florida Dairy Operations*, available at <https://www.fdacs.gov/ezs3download/download/64582/1525731/Media/Files/Agricultural-Water-Policy-Files/Best-Management-Practices/dairyBMPFinal.pdf>.

- Land acquisition.¹⁶

The Clean Waterways Act required a cooperative agricultural regional water quality improvement element as part of a BMAP.¹⁷ The DEP, the DACS, and owners of agricultural operations in the basin must develop this element as part of a BMAP if agricultural measures have been adopted and implemented by the DACS and the waterbody remains impaired, agricultural nonpoint sources contribute to at least 20 percent of nonpoint source nutrient discharges, and the DEP determines that additional measures are necessary to achieve the total maximum daily load.¹⁸ The element is implemented through cost-sharing projects and must include cost-effective and technically and financially practical agricultural nutrient reduction projects that can be implemented on a site-specific, cooperative basis.¹⁹

Best Management Practices (BMPs)

BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and help reduce water use. BMPs are developed for nutrient management of agricultural operations as well as nonagricultural activities. The DEP, in cooperation with the WMDs, establishes BMPs for nonagricultural nonpoint sources. The DACS establishes BMPs for agricultural nonpoint sources.²⁰

The DACS works with multiple partners, including the U.S. Department of Agriculture's Natural Resources Conservation Service, the DEP, water management districts, and soil and water conservation districts, to provide funding to assist producers in implementing BMPs. The DACS prioritizes the use of cost-share funding for projects and practices that provide the greatest benefits to water resources.²¹ The utilization of cost-share funding has greatly enhanced the implementation of BMPs and assists agricultural producers that face economic challenges in adopting BMPs.²²

Agricultural BMPs

Agricultural BMPs are practical measures that agricultural producers undertake to reduce the impacts of fertilizer and water use and otherwise manage the landscape to further protect water resources. BMPs are developed using the best available science with economic and technical consideration and, in certain circumstances, can maintain or enhance agricultural productivity.²³ BMPs are adopted by the DACS by rule and are implemented by agricultural producers.²⁴ Since

¹⁶ Section 403.067(7), F.S.

¹⁷ Ch. 2020-150, Laws of Fla.

¹⁸ Section 403.067(7)(e), F.S.

¹⁹ *Id.*

²⁰ Section 403.067(7)(c), F.S.

²¹ DACS, *Agricultural Best Management Practices*, <https://www.fdacs.gov/Agriculture-Industry/Water/Agricultural-Best-Management-Practices> (last visited Feb. 8, 2021).

²² DACS Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 9, (Jul. 1, 2019), available at <https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files>.

²³ *Id.* at 3.

²⁴ DACS, *Agricultural Best Management Practices*, <https://www.fdacs.gov/Agriculture-Industry/Water/Agricultural-Best-Management-Practices> (last visited Feb. 8, 2021).

the BMP program was implemented in 1999,²⁵ the DACS has adopted 11 BMP manuals that cover nearly all major agricultural commodities in Florida. According to the annual report on BMPs prepared by the DACS, approximately 54 percent of agricultural acreage is enrolled in the DACS BMP program statewide.²⁶

Producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by BMPs.²⁷ Producers who enroll in the BMP program become eligible for technical assistance and cost-share funding for BMP implementation. To enroll in the BMP program, producers must meet with the OAWP to determine the BMPs that are applicable to their operation and submit a Notice of Intent to Implement the BMPs, along with the BMP checklist from the applicable BMP manual.²⁸

The University of Florida's Institute of Food and Agricultural Sciences (IFAS) is heavily involved in the adoption and implementation of BMPs and conducts research to issue recommendations for improving BMPs.²⁹ The DACS, in cooperation with IFAS and universities and institutions with agricultural research programs annually develop research plans and legislative budget requests to evaluate and enhance existing BMPs, develop new BMPs, and develop agricultural nutrient reduction projects that could be implemented and included under the cooperative agricultural regional water quality improvement element of a BMAP.³⁰

Self-Certification

The DEP currently offers self-certification for submission of projects that qualify for a general environmental resource permit for stormwater discharges.³¹ These permits are provided for stormwater management systems serving a total project area of up to 10 acres and less than two acres of impervious surface.³² The DEP allows construction of these systems to proceed without any agency action if an electronic self-certification is submitted before construction begins, which certifies that the proposed system will not impact wetlands or other surface waters when conducted in compliance with their terms and conditions.³³

²⁵ The program was voluntary from 1999-2005. In 2005, the Florida Legislature modified the law requiring agricultural producers to adopt BMPs or conduct water quality monitoring.

²⁶ DACS Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 2, (Jul. 1, 2019), available at <https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf>.

²⁷ Section 403.067(7)(c), F.S.

²⁸ DACS Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), available at <https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf>.

²⁹ UF/IFAS Everglades Research & Education Center, *Best Management Practices & Water Resources*, <https://erec.ifas.ufl.edu/featured-3-menus/research/-best-management-practices--water-resources/> (last visited Feb. 8, 2021).

³⁰ Section 403.067(7)(f), F.S.

³¹ Ch. 2012-205, Laws of Fla.

³² Section 403.814(12), F.S.

³³ *Id.*

Office of Program Policy Analysis and Government Accountability (OPPAGA)

The OPPAGA was created by the Legislature in 1994.³⁴ The OPPAGA describes itself as the “research arm of the Florida Legislature.”³⁵ The OPPAGA provides data, evaluative research, and objective analyses to assist legislative budget and policy deliberations. The OPPAGA conducts research as directed by state law, the presiding officers, or the Joint Legislative Auditing Committee.³⁶ The OPPAGA’s research services include:

- Performance evaluations and policy reviews of government programs;
- Research and technical assistance to legislators and legislative committees;
- Government Program Summaries (GPS), an electronic encyclopedia containing descriptive and evaluative information on all major state programs; and
- Policy Notes, a weekly electronic newsletter of policy research of interest to Florida policymakers.³⁷

III. Effect of Proposed Changes:

Section 1 creates s. 403.068, F.S., to establish a large-scale agricultural pollution reduction pilot program (pilot program) within the DEP which works in conjunction with dairy farms³⁸ to develop and maintain regional pollution reduction projects that eliminate water pollution in the state.

Pilot Program Application and Selection

The bill requires a pilot program applicant to submit an application to the DEP which includes the following information:

- A plan for the design, construction, operation, management, maintenance, and monitoring of pollution reduction;
- A financial plan that includes financial commitments for the development and long-term maintenance of the pollution reduction project(s), which may include a cooperative agreement among multiple dairy farms to collectively pool resources to support systems designed to capture, reuse, and treat all stormwater to reduce nutrient loading to waters of the state; and
- A plan to reduce nutrient loading to waters of the state completely or to insignificant levels for each participating dairy farm.

The DEP has the discretion to select projects to move forward and each of these projects is subject to DEP review and comment. All aspects of projects planned and developed must be available for inspection by the DEP, the DACS, and water management districts.

³⁴ Chapter 94-249, L.O.F.

³⁵ Office of Program Policy Analysis and Government Accountability (OPPAGA), *About OPPAGA*, <https://oppaga.fl.gov/About> (last viewed on February 8, 2021).

³⁶ *Id.*

³⁷ *Id.*

³⁸ Defined as any place or premises where one or more cows, goats, sheep, water buffalo, or other hooved mammals are kept and from which a part or all of the milk is provided, sold, or offered for sale. *See* s. 502.012 (2), F.S.

Participation in the Pilot Program

Participation in the pilot program results in:

- A rebuttable presumption that the dairy farms participating in the project comply with water quality standards;
- Permit issuance of up to 20 years unless inconsistent with federal law;
- Eligibility for state funding under the pilot program and under the cooperative agricultural regional water quality element of a BMAP; and
- Eligibility for self-certification of the pilot program project for a general permit.

The DEP is given discretionary authority to provide a general permit that authorizes the construction of approved pilot program projects. As a part of the general permit, pilot program projects are permitted to proceed without any further agency action if, before construction begins, an electronic self-certification is submitted to the DEP or water management district which certifies that the proposed system was designed by a Florida registered professional who has certified that the proposed system will not:

- Impact wetlands or surface waters;
- Contain activities conducted in, on, or over wetlands or other surface waters;
- Contain drainage facilities that include pipes having diameters greater than 24 inches and will not use pumps in any manner;
- Be a part of a larger common plan, development, or sale;
- Cause or contribute to adverse water quantity or flooding impacts to receiving water and adjacent lands;
- Cause or contribute to adverse impacts to existing surface water storage and conveyance;
- Cause or contribute to violation of state water quality standards; or
- Cause or contribute to an adverse impact to the maintenance of surface or groundwater flows established pursuant to minimum flows and minimum water levels or a work of the district.

The bill requires DEP to adopt rules to implement the pilot program.

Pilot Program Evaluation

The bill requires, by June 30, 2024, the OPPAGA to evaluate the pilot program and report its findings to the President of the Senate and Speaker of the House of Representatives. The report should include, at minimum, costs associated with the pilot program and the level of nutrient loading into the waters of the state by properties involved in the pilot program.

Other Provisions

The pilot program is repealed as of October 2, 2025, unless reviewed and continued by the Legislature. Commitments and benefits that result from the pilot program shall continue to be binding for all partnerships entered into before the repeal date unless or until the department terminates the partnership.

Section 2 amends s. 403.814, F.S., which outlines terms for general permits and delegation, to authorize the DEP to grant general permits for projects that are part of a department-approved pilot program.

Section 3 provides for a nonrecurring appropriation for the 2021-2022 fiscal year of \$1.3 million for the initial implementation of the pilot program, of which \$800,000 is allocated to projects within the Lake Okeechobee Basin Management Action Plan and \$500,000 is allocated to projects within the Suwannee Basin Management Action Plan.

Section 4 provides that this act shall take effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The bill includes a legislative appropriation in the amount of \$1.3 million.

The bill has an indeterminate fiscal impact on the DEP, the DACS, and water management districts for administrative costs incurred as a result of the creation and implementation of the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.814 of the Florida Statutes.

This bill creates section 403.068 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Rouson

19-00643-21

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A bill to be entitled

An act relating to a large-scale agricultural pollution reduction pilot program; creating s. 403.068, F.S.; creating a large-scale agricultural pollution reduction pilot program within the Department of Environmental Protection as a partnership with dairy farms for a specified purpose; providing pilot program application and project selection requirements; providing that projects must be available for inspection by the department, the Department of Agriculture and Consumer Services, and water management districts; specifying that pilot program participants are presumed to comply with water quality standards and are eligible for certain permit terms and funding; authorizing the department to adopt rules to provide a general permit for the construction of systems and projects under certain circumstances; requiring the Office of Program Policy Analysis and Government Accountability to evaluate the pilot program by a specified date using specified minimum criteria and report its findings to the Legislature; providing for the future repeal of the pilot program unless reviewed and saved from repeal by the Legislature; amending s. 403.814, F.S.; authorizing the department to grant general permits for certain department-approved large-scale dairy farm pollution reduction pilot program participants; providing an appropriation; providing an effective date.

19-00643-21

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

Section 1. Section 403.068, Florida Statutes, is created to read:

403.068 Large-scale agricultural pollution reduction pilot program.—

(1) There is created within the department a large-scale agricultural pollution reduction pilot program as a partnership with dairy farms, as defined in s. 502.012. The purpose of the pilot program is to develop and maintain regional pollution reduction projects that are designed to eliminate pollution to waters of the state.

(2) A pilot program applicant must submit an application to the department in a format prescribed by the department. The application must include all of the following information:

(a) A plan for the design, construction, operation, management, maintenance, and monitoring of pollution reduction from the agricultural properties that are participating in the project.

(b) A financial plan, including financial commitments for the development and long-term maintenance of the pollution reduction project or projects. The financial plan may include a cooperative agreement among multiple dairy farms to collectively pool resources to support systems designed to capture, reuse, and treat all stormwater to reduce nutrient loading to waters of the state.

(c) A plan to reduce nutrient loading to waters of the state completely or to negligible levels for each participating dairy farm.

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59 (3) Selection of projects shall be made at the discretion
60 of the department, and all aspects of selected projects are
61 subject to department review and comment. All aspects of
62 projects planned and developed pursuant to this section must be
63 available for inspection by the department, the Department of
64 Agriculture and Consumer Services, and water management
65 districts.

66 (4) A participant in a department-approved regional
67 pollution reduction project that meets the requirements of this
68 section and that operates in accordance with all rules and plans
69 applicable to such project shall:

70 (a) Have a rebuttable presumption that the dairy farms
71 participating in the project comply with water quality
72 standards;

73 (b) Unless inconsistent with federal law, receive a permit
74 duration of up to 20 years;

75 (c) Be eligible for state funding pursuant to this section;

76 (d) If the project is incorporated into the applicable
77 basin management action plan, be eligible for state funding
78 pursuant to s. 403.067(7) (e); and

79 (e) Be eligible for self-certification pursuant to
80 paragraph (5) (a) for systems and projects constructed under the
81 department-approved regional pollution reduction project.

82 (5) The department:

83 (a) May adopt rules to provide a general permit pursuant to
84 s. 403.814(13) that authorizes the construction of the systems
85 and projects that are part of a department-approved project.
86 Such construction projects may proceed without any further
87 agency action by the department or water management district if,

19-00643-21

2021336__

before construction begins, an electronic self-certification is submitted to the department or water management district which certifies that the proposed system was designed by a Florida registered professional and that the registered professional has certified that the proposed system will meet the following additional requirements:

1. Activities will not impact wetlands or surface waters;
2. Activities are not conducted in, on, or over wetlands or other surface waters;
3. Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;
4. The project is not part of a larger common plan, development, or sale; and
5. The project does not:
 - a. Cause or contribute to adverse water quantity or flooding impacts to receiving water and adjacent lands;
 - b. Cause or contribute to adverse impacts to existing surface water storage and conveyance;
 - c. Cause or contribute to violation of state water quality standards; or
 - d. Cause or contribute to an adverse impact to the maintenance of surface or groundwater flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086.

(b) Shall adopt rules to implement this section.

(6) By June 30, 2024, the Office of Program Policy Analysis and Government Accountability shall evaluate the pilot program created pursuant to this section and report its findings to the

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President of the Senate and the Speaker of the House of Representatives. The report shall examine, at a minimum, the costs associated with pilot program projects and the level of nutrient loading into the waters of the state by properties participating in this pilot program.

(7) This section shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature. Any commitments entered into or benefits received pursuant to this section shall continue to be binding for any project partnerships entered into before the repeal date unless or until the department terminates the project partnership.

Section 2. Subsection (13) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(13) The department may grant general permits for projects that are part of a department-approved large-scale dairy farm pollution reduction pilot program pursuant to s. 403.068.

Section 3. For the 2021-2022 fiscal year, the sum of \$1,300,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Environmental Protection for the purpose of large-scale dairy farm pollution reduction projects approved pursuant to s. 403.068, which shall be allocated as follows:

(1) The sum of \$800,000 shall be allocated to a project or projects located within the Okeechobee Basin Management Action Plan.

(2) The sum of \$500,000 shall be allocated to a project or projects located within the Suwanee Basin Management Action Plan.

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Section 4. This act shall take effect July 1, 2021.

Big Cypress Basin (BCB) Boundary Delineation



South Florida Water Management District

Hydrology and Hydraulics Bureau

December 2020

EXECUTIVE SUMMARY

Regional land areas are conceptually divided into smaller units or watersheds to help with the management of land and water in those areas, as well as for more convenient legal and political administration and organization. The process of delineating the boundaries of watersheds can be done in several ways. A science-based approach to watershed delineation establishes the boundary lines based on physical laws and environmental features of the landscape. Typically, the main factor that defines a catchment is the land elevation, which naturally drains rainfall and runoff from higher areas to lower areas and leads to a single discharge point for each catchment. Examples of other physical factors considered in a science-based approach include land use, man-made improvements to drainage features, animal habitats, and subsurface properties of aquifers. A science-based approach is based on measurements of physical properties and is repeatable and verifiable by independent observation.

This report documents the study to recommend the most appropriate geographic boundaries of the Big Cypress Basin as mandated in CHAPTER 2020-111, House Bill No. 5001, which states:

The South Florida Water Management District shall conduct a study to recommend the most appropriate geographic boundaries of the Big Cypress Basin. The proposed boundaries shall be based solely upon the common watershed within the Big Cypress Basin and must be scientifically supported. The completed study and recommendations must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2021.

This report provides a general methodology or approach for conducting a scientifically supported delineation, then applies the methodology to review watershed boundaries in the Big Cypress Basin (BCB). In cases where it was determined that a watershed boundary required updating, an analysis was conducted, and modified boundaries were proposed. This analysis considers historical factors but is an assessment of the current state of the system.

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DESCRIPTION OF SCIENCE-BASED DELINEATION METHODOLOGY

The process to evaluate watershed boundaries requires consideration of several sources of information relevant to the stated purpose of the boundary determination. These sources may range from current scientific data stored in databases to soil surveys to land use permits to historical maps and land surveys. The following steps outline a prioritized methodology for conducting a science-based delineation with numerous sources of information. As a writing convention, the remainder of this analysis defines a catchment as any land area that drains through a single location, and the hierarchy from largest area to smallest area is consistent with the naming convention established by the USGS (**Appendix A**) and adopted by the South Florida Water Management District (SFWMD or District) ArcHydro Enhanced Database (AHED) (**SFWMD, 2020c**), where basin > sub-basin > watershed > sub-watershed. Earlier drainage studies or projects in other areas of the District may follow other conventions.

Step 1: Review current catchment boundaries

In a Geographic Information System (GIS) setting, overlay existing drainage boundary maps and coverages. Areas where multiple existing boundary lines are identical will provide insight into the local features of the landscape, while areas where boundary lines differ will reveal areas where boundaries may not be clear-cut to define, where changes in drainage have occurred over time, where better data has become available, or possibly where non-science based methodologies were used. Additionally, differences in the boundary lines may indicate subtle changes in the landscape and shallow geology that affect surface hydrology. Newer maps are likely to include better data resolution and the changes in hydrography that have resulted from more-recent development, and therefore can confirm the continuation of previous boundaries or reveal where new boundaries have formed.

Step 2: Evaluate the topography

In GIS use the best available digital elevation data to represent the topography of the landscape. Complete an assessment of the topography by comparing and contrasting high and low elevations with the catchment boundaries identified in Step 1. Up-to-date topographic data can provide valuable insight in determining which catchment boundaries need realignment. In many cases, remote sensing technology for determining topography with high resolution at a regional scale, such as Light Detection and Ranging (LIDAR) (**Lukas & Stoker, 2016**), has resulted in more extensive and comprehensive data for analyses.

Step 3: Examine aerial photography

Conduct a survey on available aerial photography to identify current and historical land use, natural drainage features, and drainage characteristics modified through development. Current satellite imagery typically gives the most up-to-date aerial perspective, and older satellite imagery and historical flyover photographs should be reviewed when available. Older photographs in particular are useful for documenting changes over time.

Step 4: Review road maps

Roads are typically constructed on higher land surfaces, and therefore are commonly used as catchment boundaries. However, roads also may have a variety of drainage features such as bridges, culverts, and ditches that may affect drainage pathways, so a careful review of runoff routing and pathways as a result of such drainage features must be conducted.

Step 5: Conduct a field visit

If possible, visit the location to conduct on-site reconnaissance to help confirm drainage patterns and features. Site visits, especially when conducted shortly after a large rainfall event, provide visual confirmation of runoff patterns in the landscape that help guide the establishment of the boundary lines. Photographs and video taken during a site visit, especially if aerial images are available via a helicopter or drone, are priceless records of the state of the system that can be used in the establishment of the boundaries and for planning of current and future projects.

Step 6: Review permits

Conduct a review of any regulatory action or authorized permits that may alter or describe drainage patterns in a catchment, especially any permits related to the properties along the perimeter of a catchment and the relation to neighboring catchments. For example, SFWMD Environmental Resource Permits (ERPs) (**SFWMD, 2020a**) provide useful information for determining local hydrology. In the conceptual project documents of the ERPs, project engineers delineate pre- and post-project drainage patterns which may identify drainage patterns where the relief is too flat and ambiguous to resolve using other information. The approved permits describe any resulting changes to surface hydrology and as-built documents provide specific locations and dimensions of surface water control features.

Step 7: Review soil maps

If available, soil maps may be a useful reference to supplement the items above. The soils reflect an integration of landscape, land use, vegetation, and surface and subsurface hydrology. The published soils maps vary in detail and can be largely based on current land cover and landscape features. However, the soil series boundaries are secondary and confirmatory and should not contradict or overrule primary surficial factors such as topography in defining the catchment boundary maps.

Step 8: Review other historical documents

Search for and review any other historical documents available. Examples could be old county road maps and USGS quad sheets, which may have large-scale features that are not present on current maps. The large-scale landscape features may be indicative of native drainage patterns or drainage patterns that were present prior to more recent development. Development frequently enhanced or accommodated the native features, while the old roads frequently honored those features due to the cost incurred in building roads in difficult locations.

Step 9: Distribute proposed delineation for review

Distribute draft delineation to subject matter experts for review of areas such as water supply planning, permitting (ERP, Water Supply, etc.), and legal and policy-related matters.

BCB BASIN BOUNDARY DELINEATION

The objective of this study is to “recommend the most appropriate geographic boundaries of the Big Cypress Basin”. The starting point for this assessment is the boundaries of the Big Cypress Swamp (BCS) sub-basin (USGS HUC number 03090204) shown in **Figure 1**. This sub-basin is an aggregation of all AHED watersheds south of the Caloosahatchee Estuary that discharge to the Gulf of Mexico.

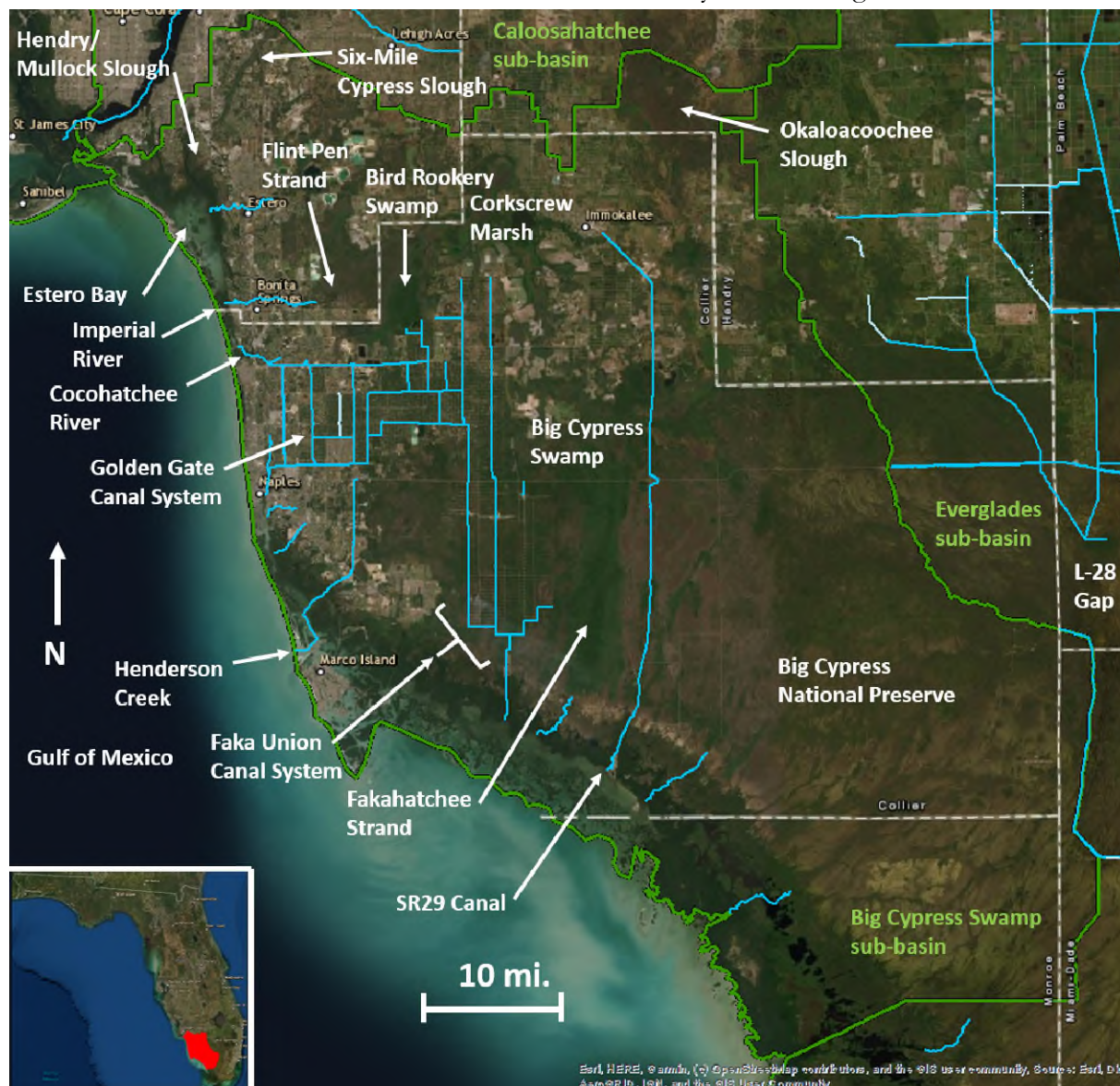


Figure 1. Hydrologic features of the Big Cypress Basin. Green outline represents the existing Big Cypress Swamp sub-basin boundary.

The watersheds within the BCS sub-basin are shown in **Figure 2**, along with the neighboring watersheds outside the BCS sub-basin. The sub-basin was developed by SFWMD, in coordination with USDA & USGS while developing the AHED geodatabase (SFWMD, 2004).



Figure 2. Existing BCS sub-basin in green with internal watersheds and neighboring external watersheds in orange.

There are several significant hydrologic features of the Big Cypress Swamp sub-basin (SFWMD, 2017) (**Figure 1**). The first is the Corkscrew marsh in northern Collier County that drains to the southwest along the southern border of Lee County and drains to the west coast. The Corkscrew marsh includes the Flint Pen Strand and Bird Rookery Swamp, and discharges to the Gulf of Mexico through the Cocohatchee River, Imperial River, Estero River to the west and the Faka Union Canal system to the south. The western inflows, along with Six-Mile Cypress and Hendry/Mullock sloughs, are a significant portion of the inflows to Estero Bay. The second feature is the Big Cypress Swamp in

central Collier County, a large rain-driven cypress swamp and wet prairie that drains to the south through a group of shallow sloughs to the coastal estuaries of the Ten Thousand Islands. Additionally, there are several canal systems including the Cocohatchee, Henderson Creek, Golden Gate, and Faka Union canal systems. These canals drain to the west and to the coastal slough and bays to the south. To the east of these canals is the Fakahatchee Strand, which receives runoff from the Okaloacoochee Slough and drains into the same coastal estuary and bay complex. Finally, the Big Cypress National Preserve (BCNP) is in eastern and southeastern Collier County and makes up the southern portion of the BCS sub-basin¹. Like the BCS, the BCNP is a large rain-driven swamp and drains to the southwest through many sloughs to the Gulf of Mexico.

The principal physically-based boundary for the BCB is defined by the AHED (BCS) sub-basin boundary. This sub-basin defines the catchment that drains to the Lower West Coast. The boundary of the BCS sub-basin is bounded on the north by the Caloosahatchee sub-basin, which includes the Caloosahatchee river and estuary, and on the east by the Everglades sub-basin. The current sub-basin boundaries provide a starting point for the evaluation of the catchment boundaries for the BCS sub-basin performed as part this study. In addition to AHED, other sources of information considered include the Southwest Florida Feasibility Study (USACE, 2015) – BEM (SWFFS-BEM) sub-watershed boundaries (BEM, 2004), particularly the Hendry/Mullock sub-watershed. The SWFFS sub-watersheds are a verified update from the Lee County stormwater master plan boundaries (JEI, CDM, HMA & WDBA, 1991a,b) and the Johnson Engineering, Inc. boundaries (JEI et al, 1998). Additionally, the Florida Department of Environmental Protection (FDEP) more-recently developed a set of boundaries for the Caloosahatchee River and Caloosahatchee Estuary which were also considered in this analysis (FDEP, 2012).

A science-based review of the existing sub-basin boundaries was conducted and is broken down into nine key regions starting in the northwest portion of the BCS sub-basin and moving clockwise. It was determined that eight of the nine regions need revision. The nine areas considered are described in Table 1 and are shown in Figure 3.

Table 1. Description of BCS study regions

Region ID (Fig. 3)	Description	Boundary Revision Proposed?	Watershed inside BCS	Watershed outside BCS
A	Iona Drainage District	Y	Estero Bay	Tidal South
B	Whiskey Creek	Y	Estero Bay	Tidal South
C	Old Ft. Myers Well Field	Y	Estero Bay	Tidal South
D	SR82 Corridor	N	Estero Bay	Tidal South
E	Upper Corkscrew	Y	Trafford	West Caloosahatchee
F	Okaloacoochee Slough	Y	Okaloacoochee	East Caloosahatchee & C139
G	CR846 & CR858	Y	Okaloacoochee & East Collier	Feeder Canal & L-28 Gap
H	L-28 Gap Boundary	Y	East Collier	L-28 Gap
I	Coastal Sloughs	Y	East Collier & Chatam Turner	ENP & Lostmans

¹ Note that the “BCS” is a land area in Collier County and the “BCS sub-basin” is a distinct sub-basin in AHED.

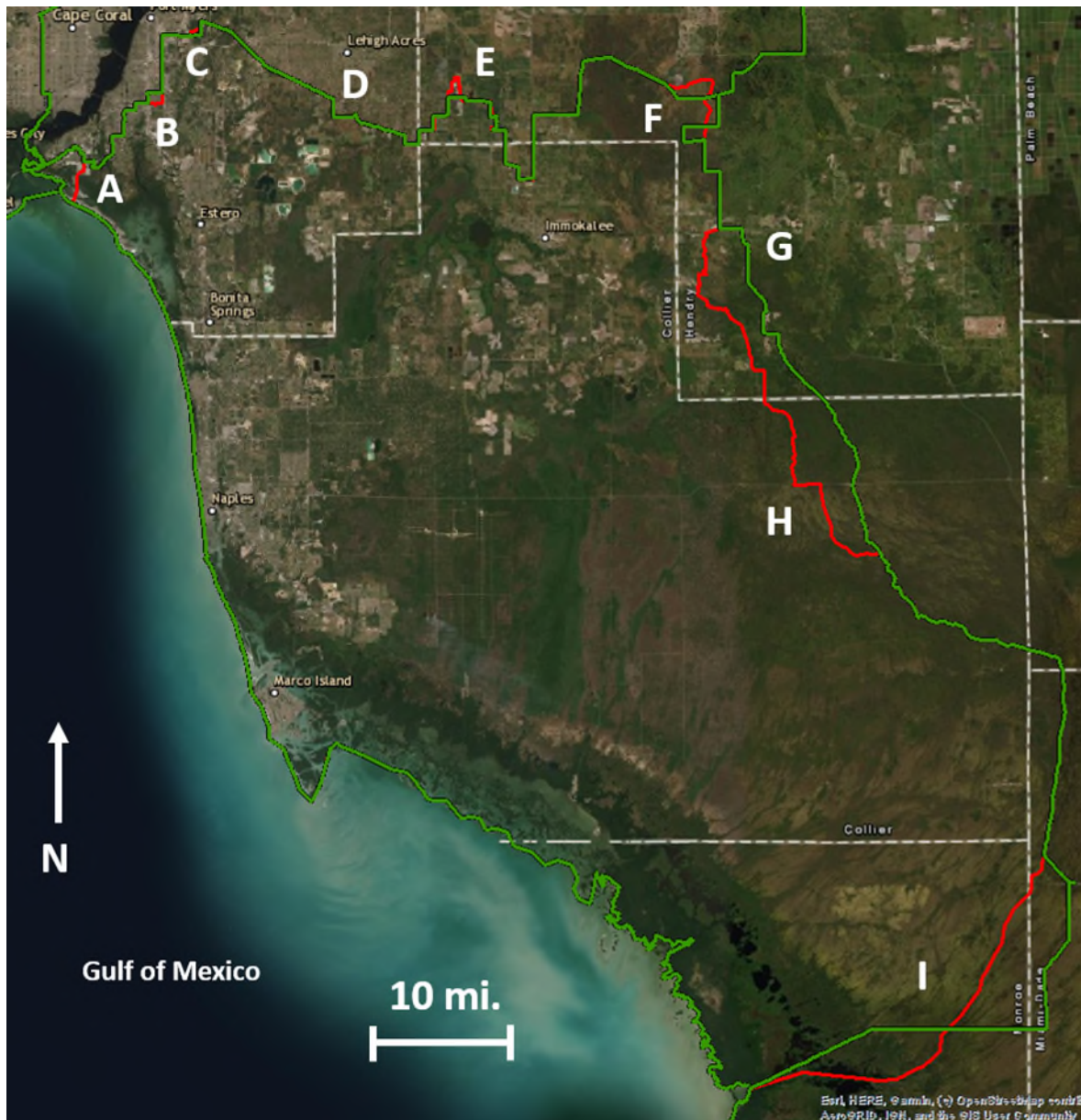


Figure 3. Nine areas of the Big Cypress Swamp sub-basin examined in depth, with the existing boundaries in green and proposed revised boundaries in red. See Table 1 for description.

Region A: Iona Drainage District

The sub-watershed boundary in south Ft. Myers is defined by the Iona Drainage District (IDD) canal system. The IDD canals were constructed in the 1920s and are the basis for the current canal system. In this low-gradient landscape, the catchment divides are determined by neighborhood drainage ditches and roads between the IDD canals. The current BCS sub-basin boundary follows the original IDD divides. Approximately half of the canals drain to the Caloosahatchee River (i.e. outside BCS) and the remaining canals drain to Hendry Creek (i.e. inside BCS). At Deep Lagoon, the drainage has been improved by several mosquito control canals and the drainage south is blocked by an old roadbed south of Summerlin Rd. The revised boundary follows San Carlos Blvd., as the water in San Carlos Bay is generally more representative of discharges from the Caloosahatchee River than it is of the water in Estero Bay. The proposed revised boundary is shown in **Figure 4**.



Figure 4. Iona Drainage District map, with the existing boundary in green and proposed revised boundary in red.

Region B: Whiskey Creek

The Fort Myers sub-watershed is modified to better reflect the drainage pattern in the Lee County Whiskey Creek watershed. Following the drainage description from the Lee County surface water watersheds (AHED sub-watersheds), a southward shift to the boundary to better reflect the drainage

of the IDD H-9 canal which drains to Whiskey Creek and the Caloosahatchee Estuary is recommended as part of this study. The proposed revised boundary is shown in **Figure 5**.

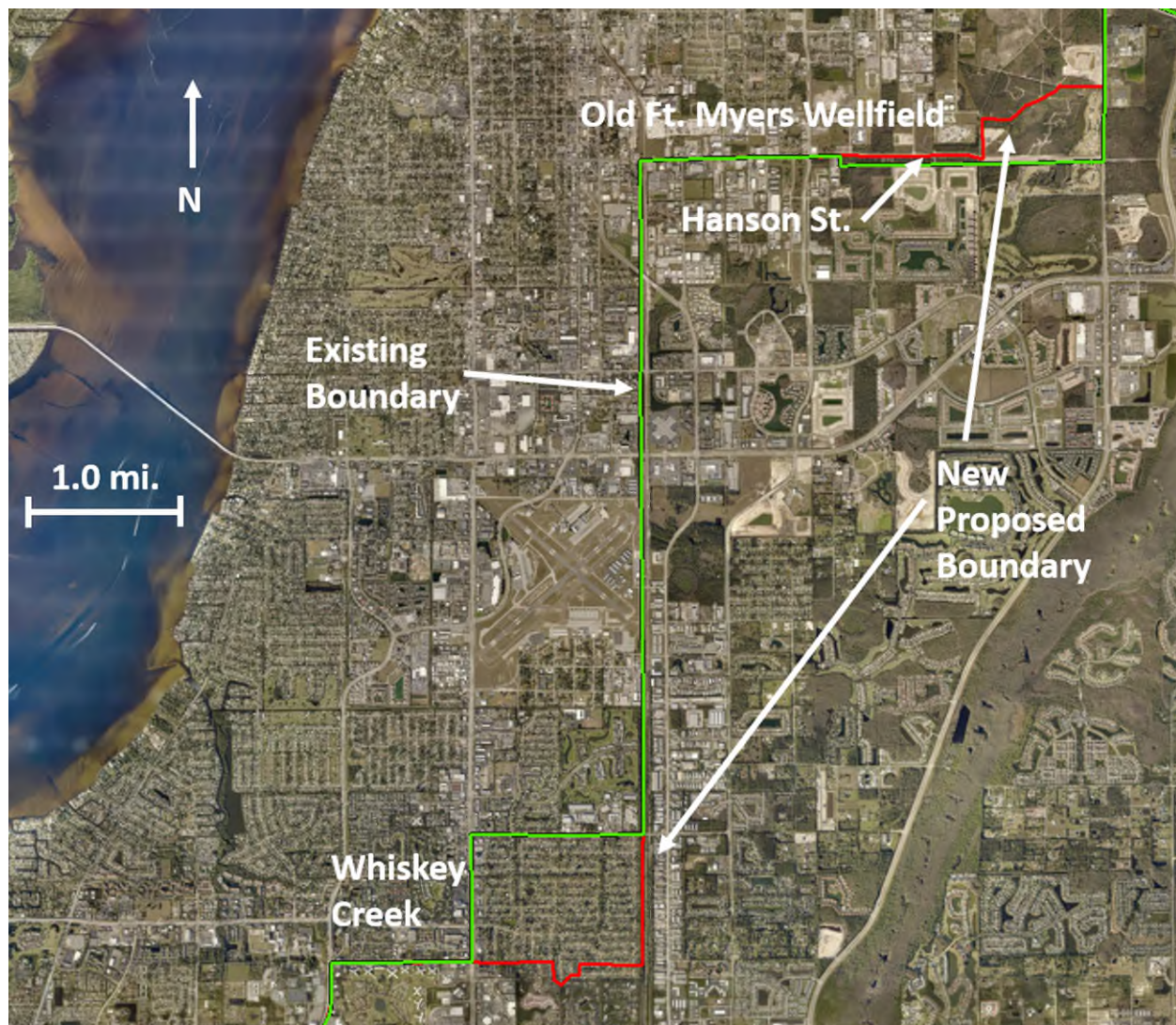


Figure 5. Existing Ft. Myers sub-watershed boundary in green with the proposed revised boundaries in red for both Whiskey Creek and the Old Ft. Myers Wellfield.

Region C: Old Ft. Myers Well Field

The basin boundary has been modified due to the development of the old Ft. Myers municipal well field and the Hanson Street improvements. The spray field has limited drainage as it was designed to receive and distribute water pumped from the Caloosahatchee River. The spray field has been decommissioned and is being developed into other land uses. Hanson Street is being improved to facilitate the improvements. The drainage on the site has been modified so that the runoff from the golf course and adjacent land drains under Hanson Street and in ditches that drain into 10-mile canal and Estero Bay. The proposed revised boundary includes a slight northward shift and is shown in **Figure 5**.

Region D: SR82 corridor

The SR82 road provides the basin boundary (**Figures 6 and 7**). Historically a ridge through Lehigh Acres defined the drainage divide between the Orange River and Upper Estero Bay landscapes. SR82 was placed on the southern shoulder of the ridge, and the East County Water Control District (ECWCD) drainage network was constructed to direct the surface drainage to the Orange River and Hickey Creek. Although there are small projects designed to direct more flow south, SR82 remains the BCS sub-basin boundary and no changes to the boundary lines are proposed as part of this study.

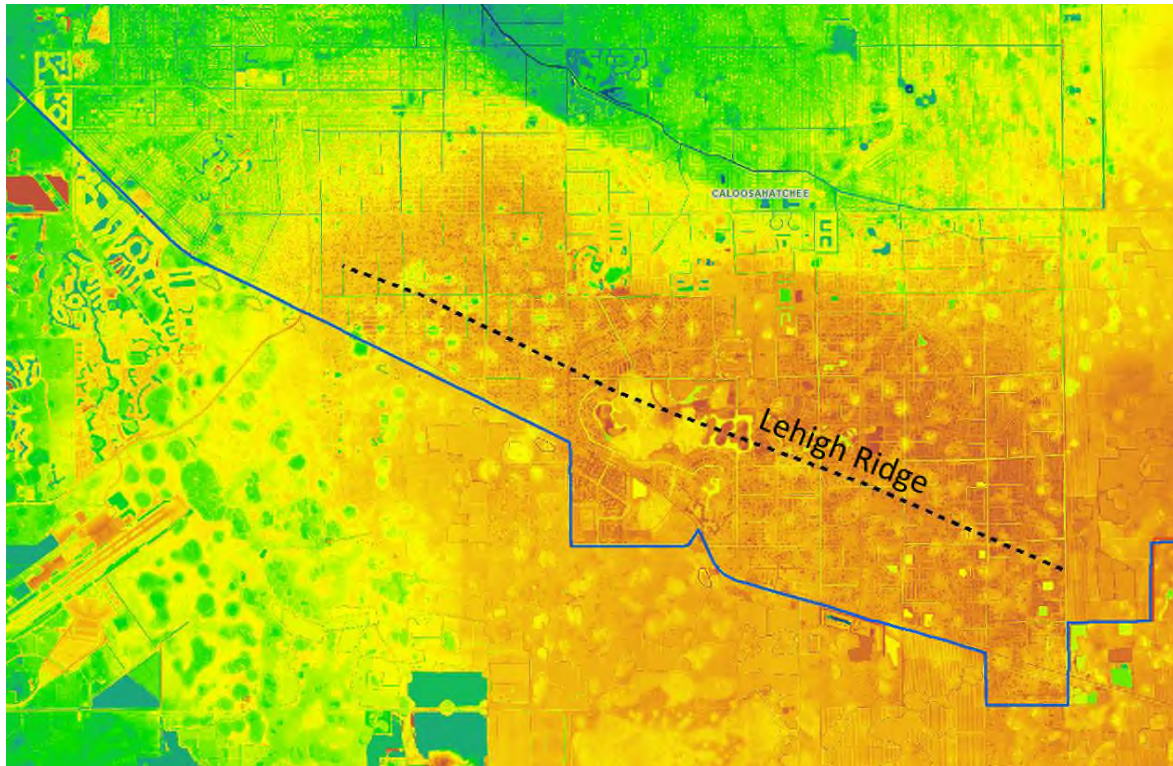


Figure 6. Topography map of the Lehigh Ridge in the SR82 corridor.

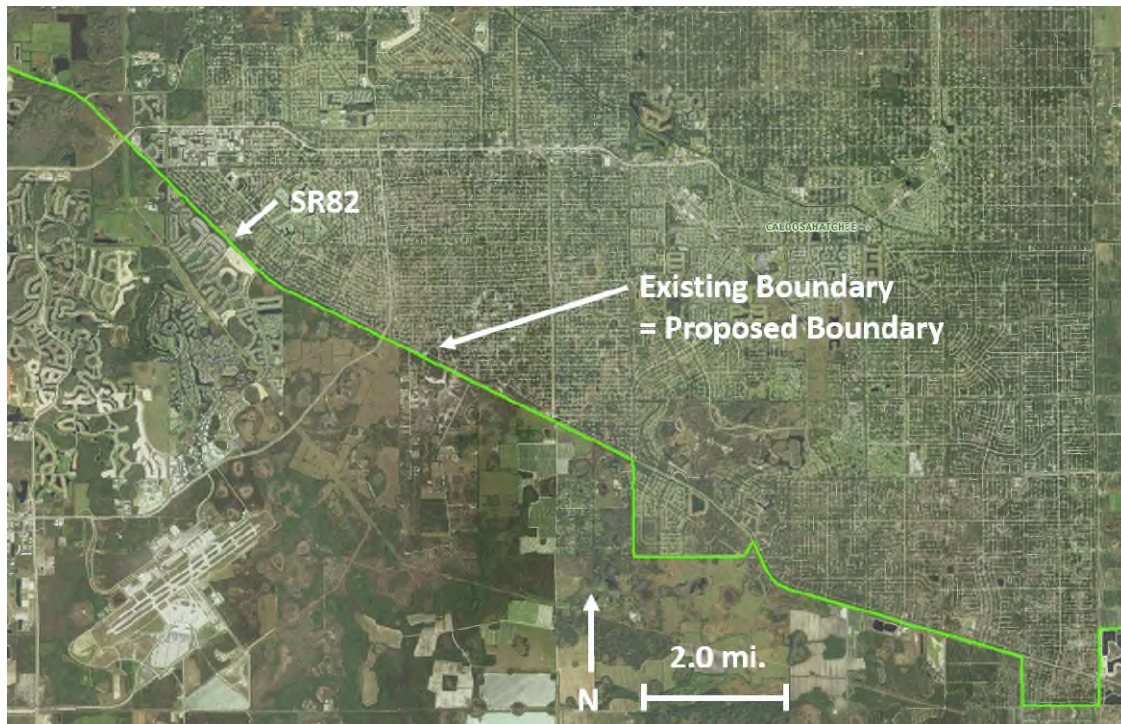


Figure 7. Sub-basin boundary in the SR82 corridor, there is no proposed change to the boundary in this region.

Region E: Upper Corkscrew

The land north of SR82 east of Lee County is the headwaters of the Corkscrew watershed. This land is west of the Immokalee Rise (**Figure 8**). The land contains several citrus groves with well-developed water management systems that define the drainage boundaries. The CPI grove (ERP: 26-00159-S) is constructed to drain north to the Caloosahatchee River. The Turner Groves water management system (ERP: 11-00262-S) drains to Corkscrew Swamp. There are two additional properties between Turner Groves and CPI, and they drain to Corkscrew swamp.

The Cow Slough Water Control district (CSWCD, ERP: 26-00324-S) provides drainage for several landowners whose land may have drained naturally to Corkscrew on the west or the Okaloacoochee Slough on the east. The runoff from the ranch land and citrus groves in the CSWCD drains into canals that flow via the Townsend Canal to the Caloosahatchee River. The CSWCD borders on the Turner Groves to the west and SR 29 on the east. The proposed revised boundary is included with these permitted areas in **Figure 9**.

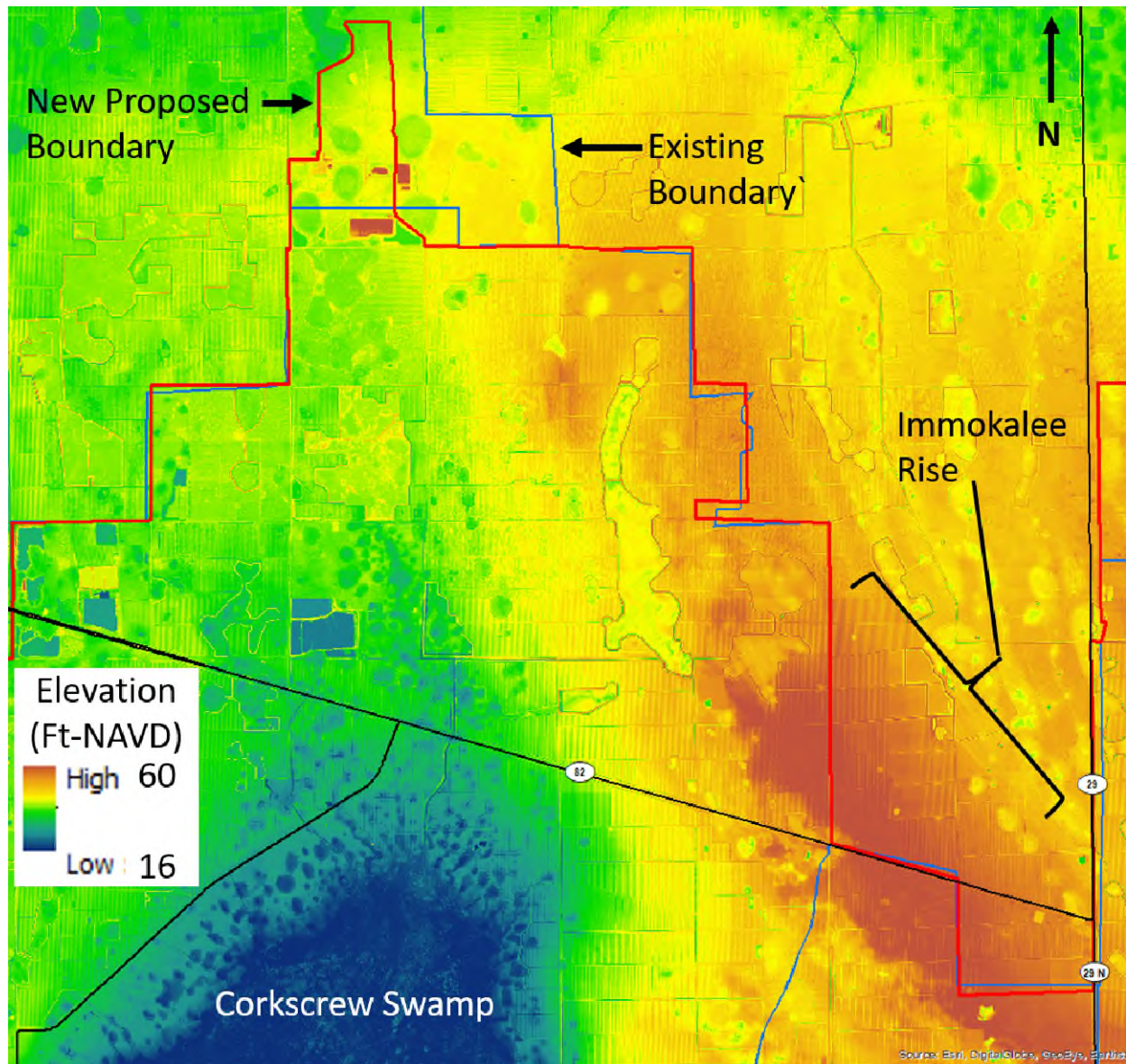


Figure 8. Topography map showing the high elevation of the Immokalee Rise and the Corkscrew Swamp to the west.

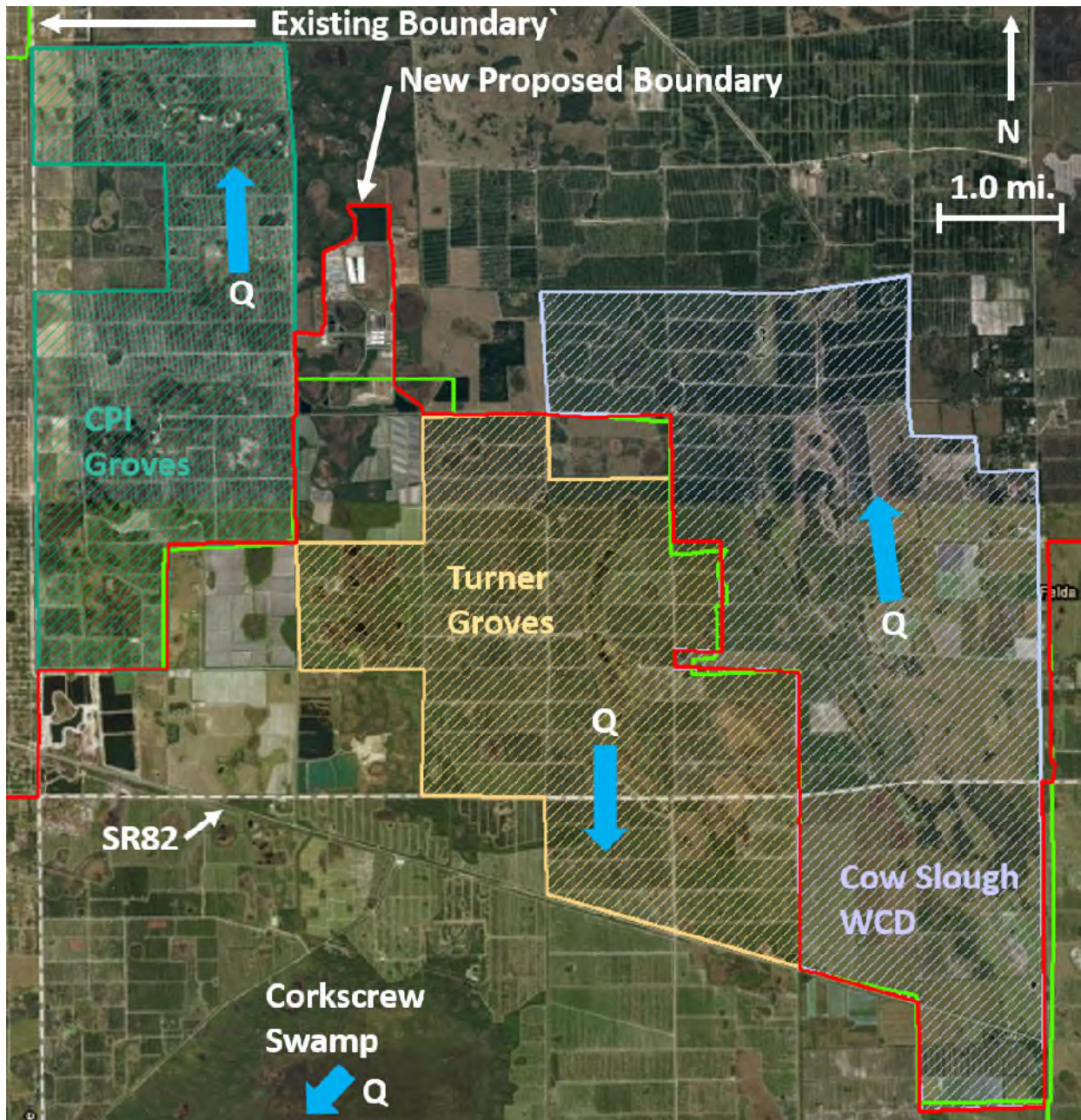


Figure 9. Upper Corkscrew headwaters region, showing existing sub-basin boundary in green and proposed revisions in red. CPI Groves, Turner Groves, and Cow Slough WCD have developed water management systems in the area that define the drainage flow patterns (Q).

Region F: Okaloacoochee Slough

The Okaloacoochee Slough (OKS) is the predominant natural drainage feature east of the Immokalee Rise. OKS is a shallow marsh that drains North to the Caloosahatchee River and south to the Gulf of Mexico via the Fakahatchee. The drainage boundary is defined by the topography and roads. The west side of the drainage is defined by SR29 going north along the east side of CSWCD until CR830. The drainage ditch along CR830 captures runoff from the south and discharges to OKS on the east. Runoff north of CR830 drains to the north into Roberts Canal and north to the Caloosahatchee River, and a small levee defines the sub-basin divide from CR830 to CR832. CR832 is located along a moderate ridge approaching the slough from the west side, and a detailed review of the LIDAR shows that the drainage divide occurs at CR832 (**Figure 10**).

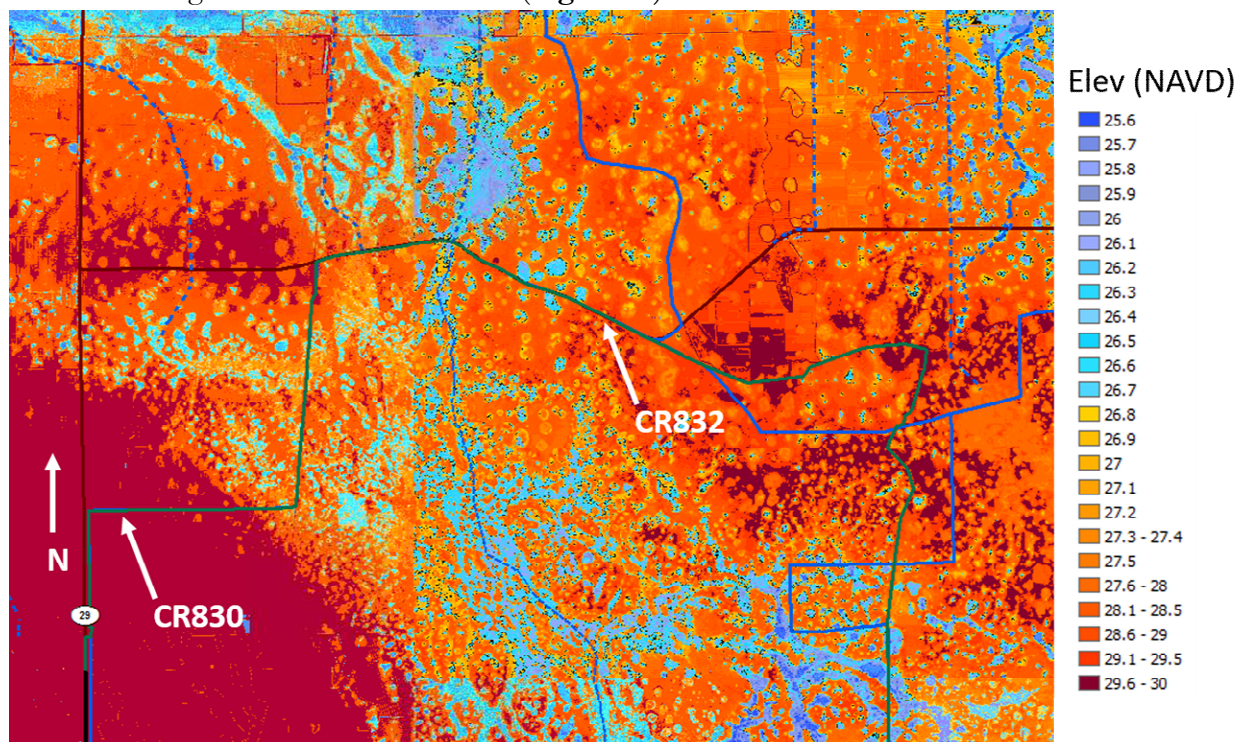


Figure 10. Topography map of the Okaloacoochee Slough.

Along the east side of OKS south of CR832, the landscape, topography and natural drainage are indeterminant. The Alico ranch has constructed all-season roads that appear to provide a drainage divide. To the south, the Dinner Island property has a ditch system that provided drainage for the property when it was a ranch. The drainage system included a berm, road and drainage ditch along the west side of the property that divides the flow between the OKS and the C-139 watershed. The proposed revised boundary is shown in **Figure 11**.

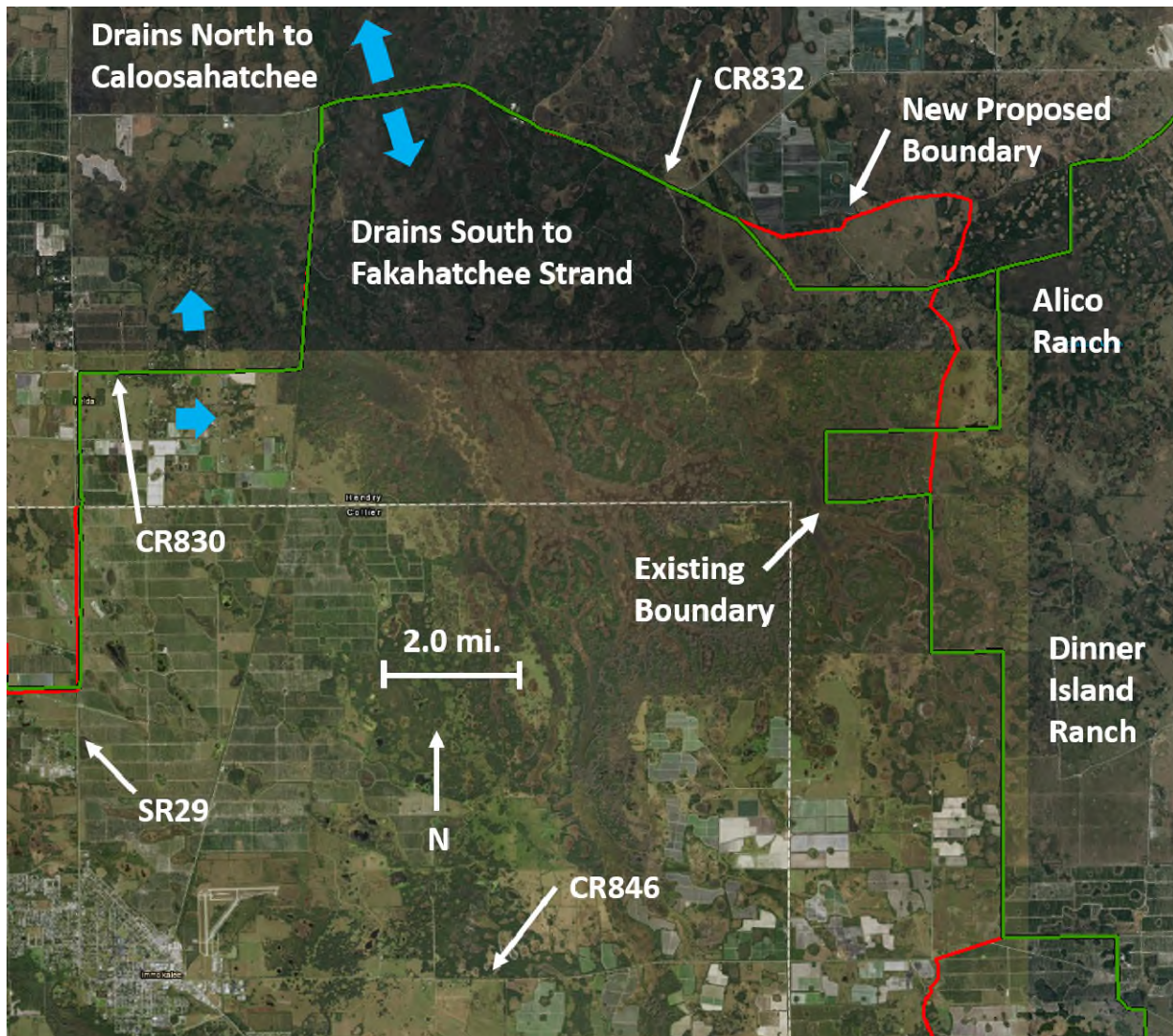


Figure 11. Map of Okaloacoochee Slough, with the existing boundary in green and proposed revised boundary in red.

Region G: CR846 & CR858

In northern Collier County, CR846 leaves the city of Immokalee and runs due east into Hendry County before turning north into central Hendry County (**Figure 12**). CR858 runs north to south and forms the boundary between Collier and Hendry Counties. South of CR846 in this region, the BCS sub-basin boundary separates the OKS from the Feeder Canal and L-28 Gap watersheds (**Figure 13**).



Figure 12. The north side of the intersection of CR858 and CR846, with the existing boundary in green and proposed revised boundary in red.

There are agricultural developments along CR858 that have developed water management systems that partition drainage either toward OKS to the west or to the east. The discharge that flows to the east may contribute to runoff in the Feeder basin or flow south toward the L-28 Gap and Mullet slough. The fine resolution LIDAR indicates that the land slopes from higher ridges in the northwest downward to the southeast, and the runoff is therefore expected to flow toward the southeast. Agricultural land along the western edge of the Feeder sub-watershed directs the water south. A private road extending from Wainwright Drive to Winegate Mill Road acts as a water control feature. There are two significant ditches flowing under the road. Surface runoff flowing down the eastern ditch flows into the headwaters of Mullet Slough while the runoff flowing into the western ditch flows south to a drainage ditch that flows west along Shoults Grade to OKS. The land south of Shoults grade drains to the west or to the south. A road to the east of Shoults Grade, Ranch Nursery Road provides a berm that separates runoff that flows south into the East Collier watershed from runoff that flows into Mullet Slough in the Feeder Canal watershed. At the southeast corner of the agricultural land the boundary follows a low ridge until it meets an old road. The boundary follows the road south until it reaches I-75. The proposed revised boundary is shown in **Figures 12 and 13**.

The boundary follows one of the shallow ridges south from I-75 and turns towards the east and connects with the L-28 tie-back levee. The boundary through this region is somewhat indeterminant. The direction of surface flow is determined by season, local water levels and recent burns.

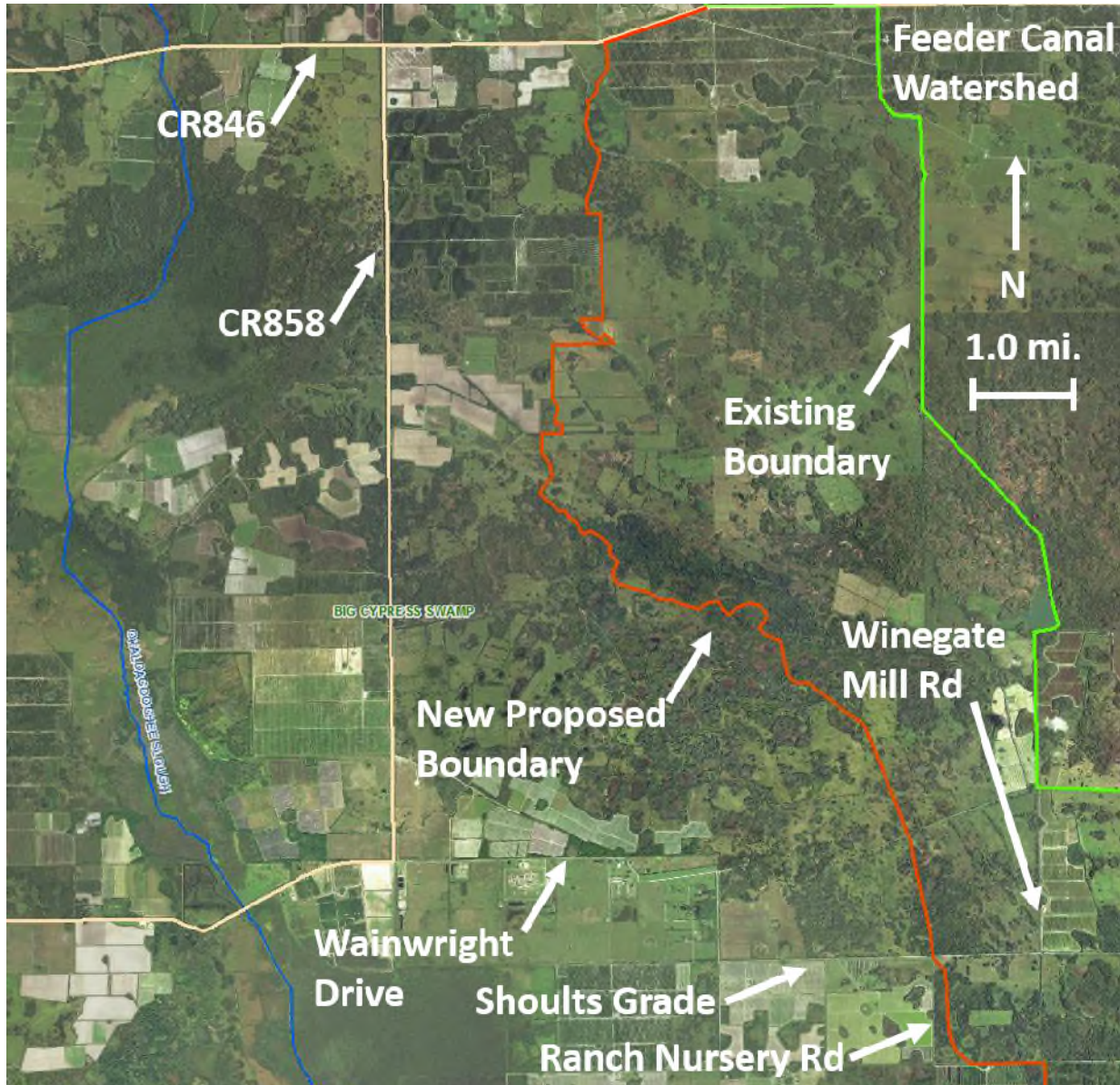


Figure 13. The region south of the intersection of CR858 and CR846, with the existing boundary in green and proposed revised boundary in red.

Region H: L-28 Gap Boundary

The L-28 levee provides a boundary between BCS (East Collier watershed) and Everglades Water Conservation Area 3A (WCA-3A) (**Figure 2**). Before development, the edge of the Everglades may have been further east where peat soil occurs. Runoff from Mullet Slough flowed east into the Everglades and curved back to the west and flowed back into the marsh (WCA3A). With the construction of the L-28 and L-28 Tieback the marsh is cut off from those flows. Cuts were made in the L-28 Tieback to facilitate rehydration of the east edge of the swamp. The L-28 Borrow canal is located on the east side of the levee on the northern half and located on the west side of the levee on the south half of the L-28. Water from the canal can interact directly with the swamp on the south

half. At the south end, the L-28 canal intersects with the Tamiami road ditch and the L-29. Most of the discharge from L-28 goes into L-29 and flows into the Everglades through five culverts. The proposed revised boundary is shown in **Figures 14-16**.

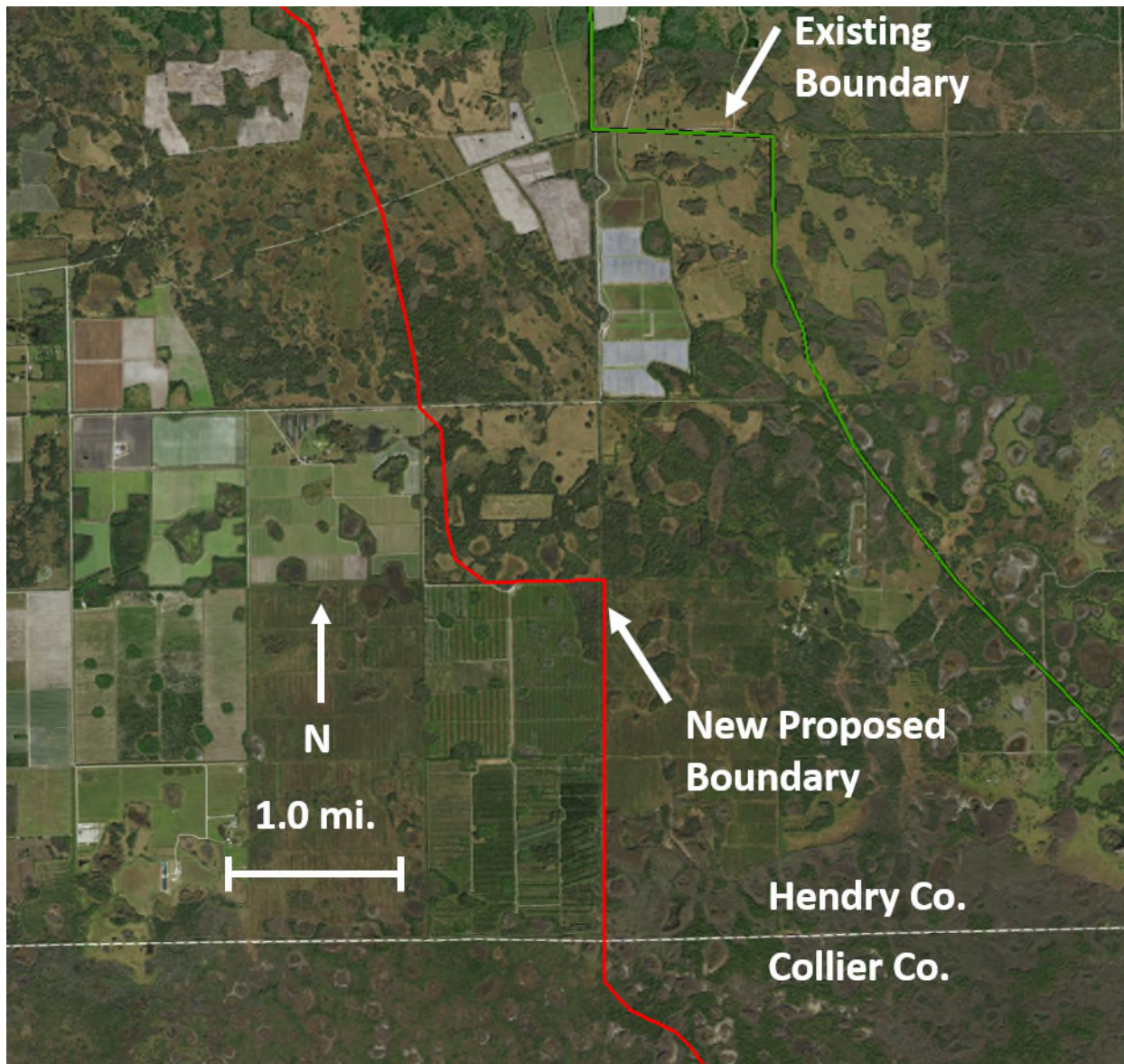


Figure 14. Upper end of L-28 Gap Boundary proposed revisions with the existing boundary in green and proposed revised boundary in red.

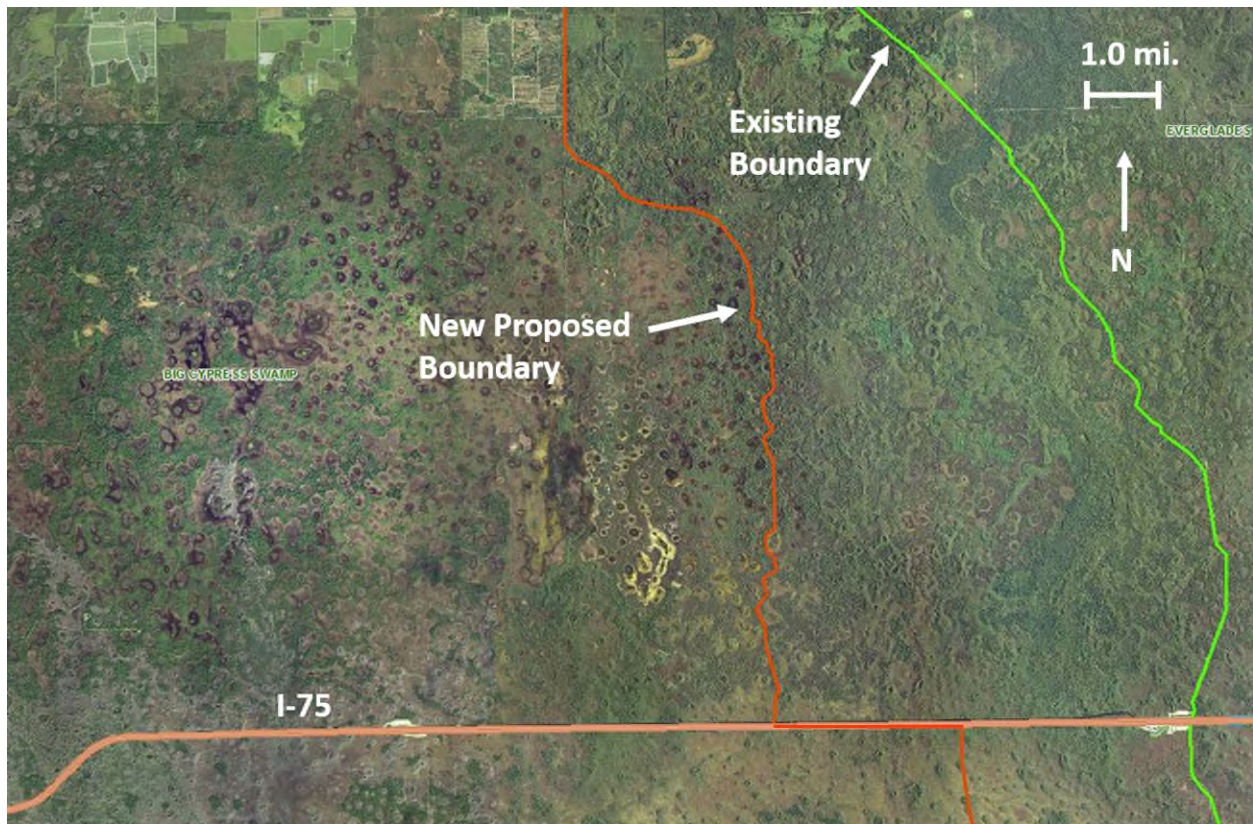


Figure 15. Middle portion of L-28 Gap Boundary proposed revisions with the existing boundary in green and proposed revised boundary in red.

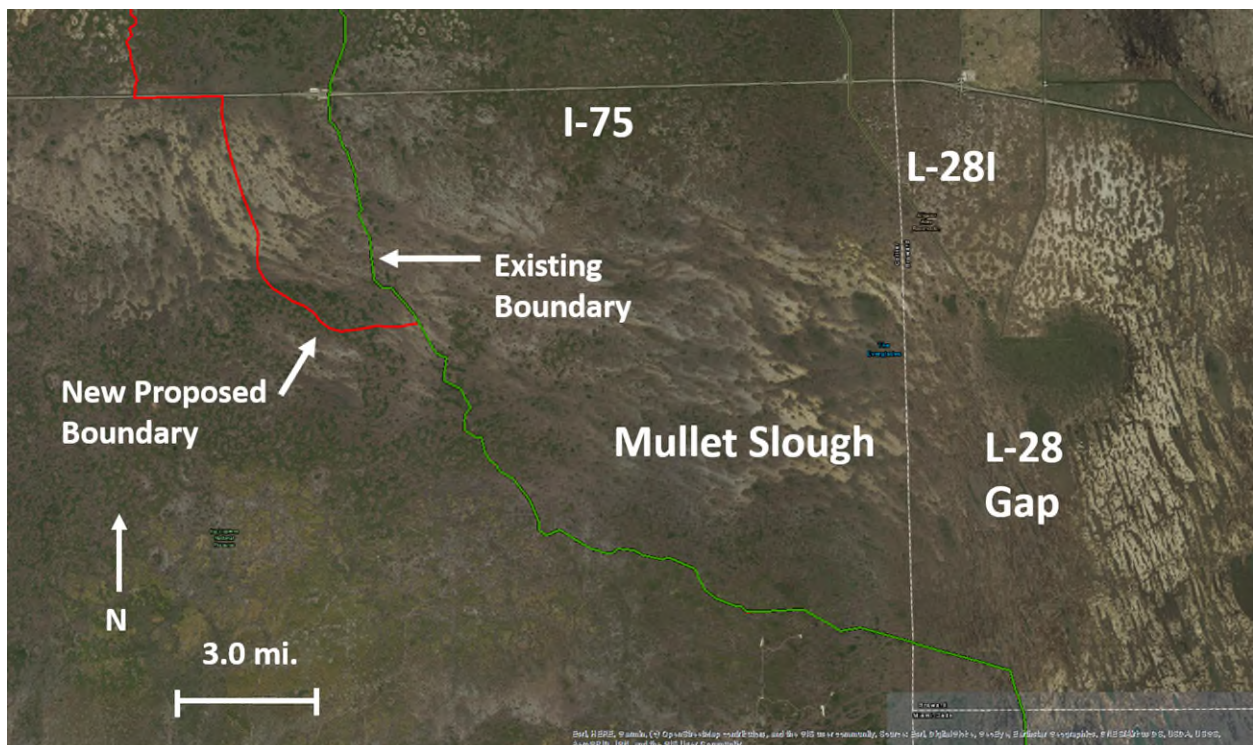


Figure 16. Lower end of L-28 Gap Boundary proposed revisions with the existing boundary in green and proposed revised boundary in red.

Region I: Coastal Sloughs

South of Tamiami Trail the Pinecrest string of hammocks provides a flow divide between Dayhoff Slough and Lostmans Slough (**Figure 17**). Pre-development, Dayhoff slough received runoff from Big Cypress Swamp while Lostmans Slough primarily received runoff from what is now WCA-3A. This historic connection has been severed by the L-28 canal and runoff from the area now discharges to the L-29 canal. The runoff from the swamp west of L-28 and east of the Pinecrest hammocks appears to collect in the Tamiami ditch and flow under Tamiami Trail through two culverts and flows to the southwest through shallow channels in the wet prairie landscape. The proposed revised boundary is shown in **Figures 17 and 18**.

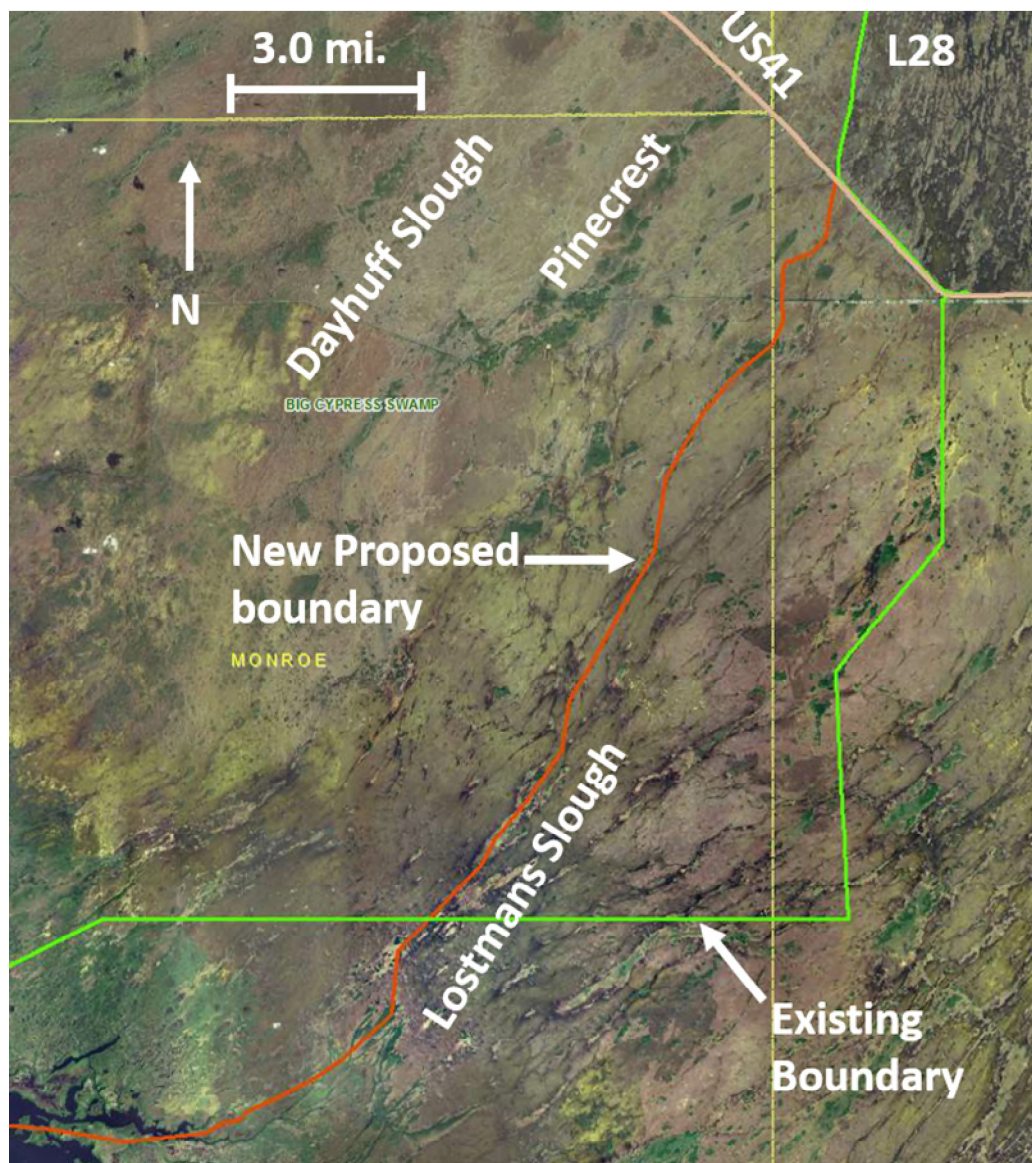


Figure 17. Coastal sloughs with the existing boundary in green and proposed revised boundary in red.

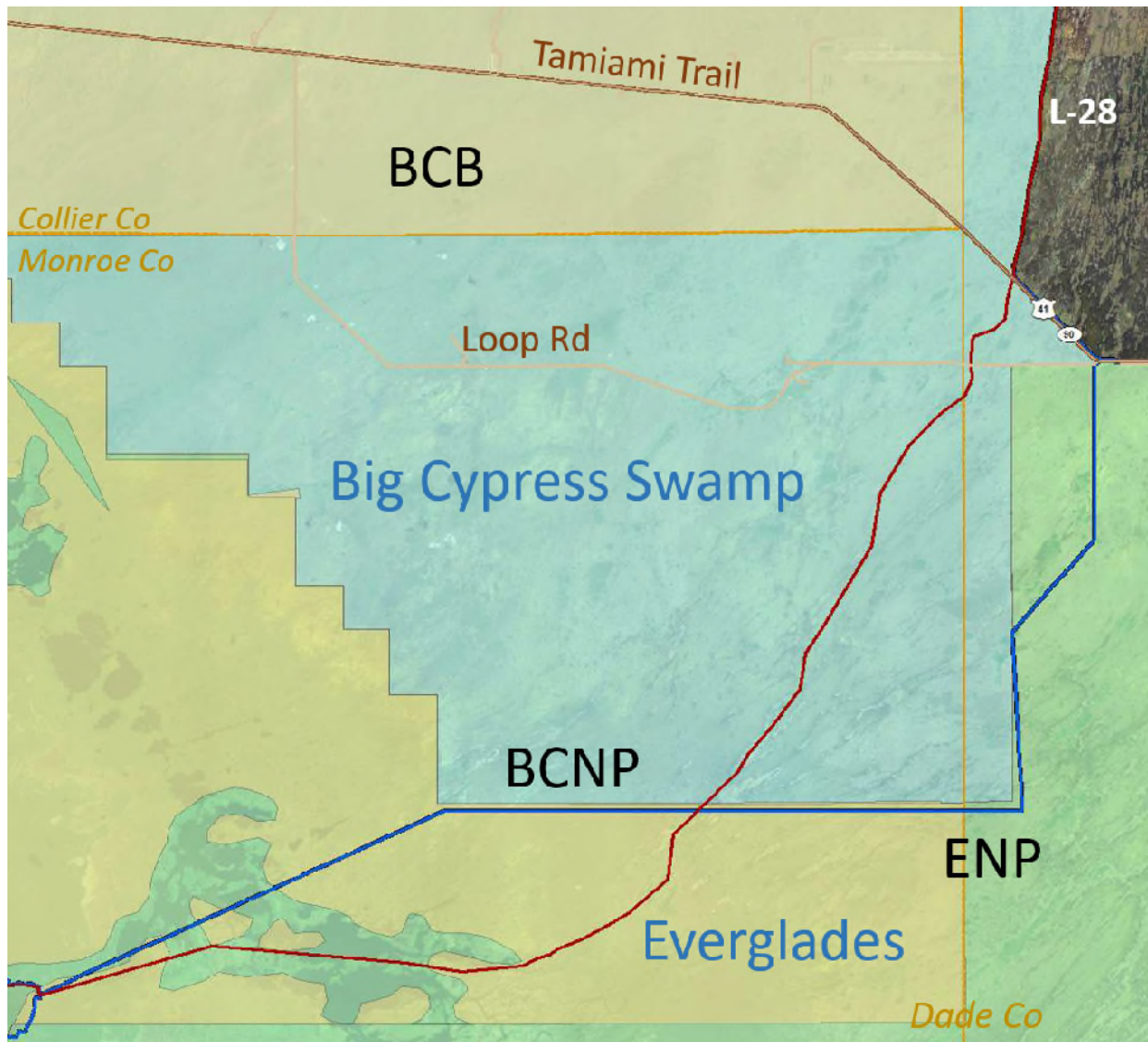


Figure 18. BCS and coastal sloughs with the existing boundary in blue and proposed revised boundary in red.

SUMMARY

This report provides a science-based assessment of the Big Cypress Swamp sub-basin boundaries. The analysis was done considering a wide variety of current and historical information and presents the most accurate sub-basin boundary delineation based on current conditions. The analysis shows that some of the previous boundaries are still accurate sub-basin limits, but other regions require revisions to represent the most current conditions. A comparison of the existing sub-basin boundary and the proposed revised boundary is shown in **Figure 19**.

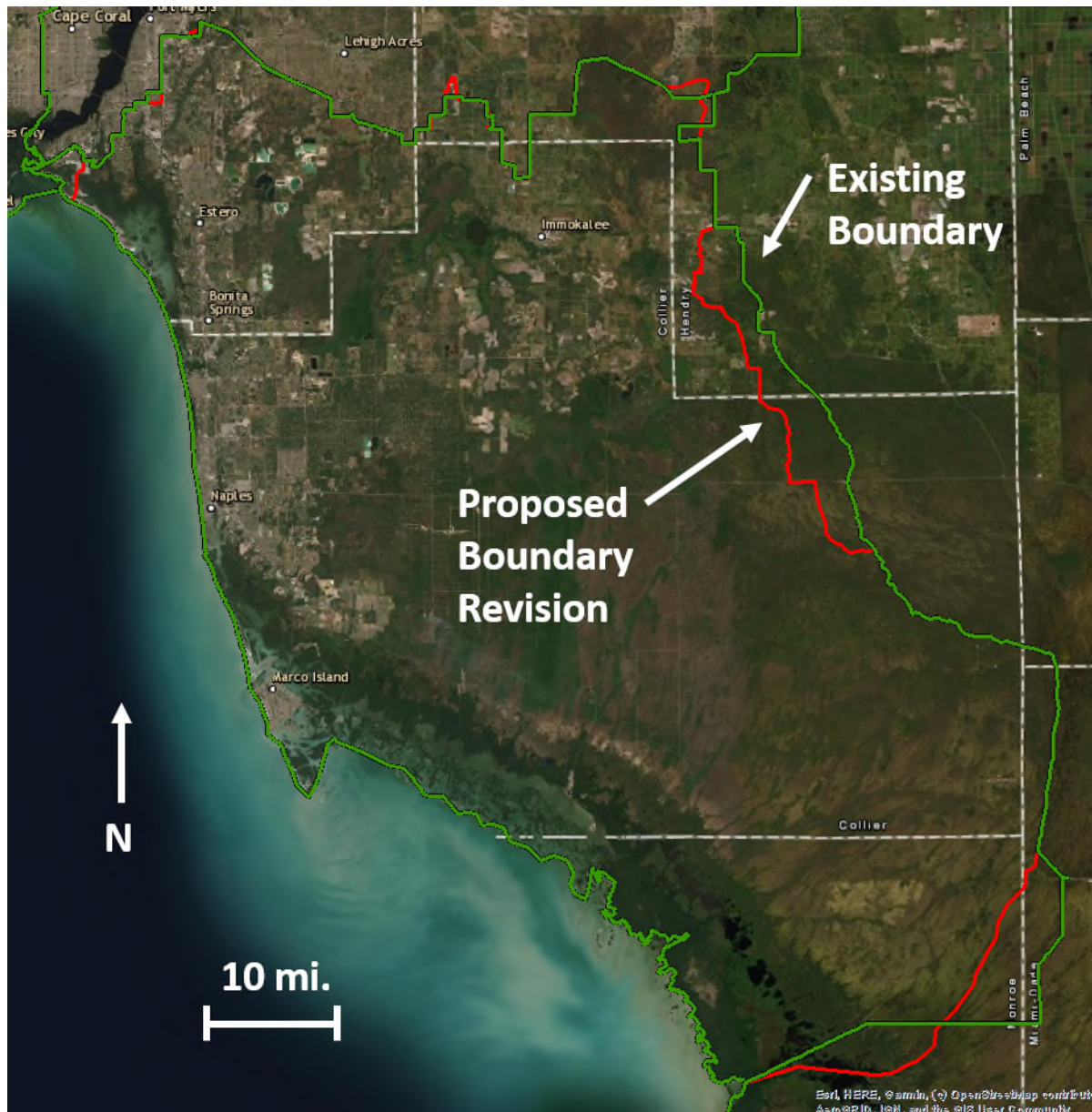


Figure 19. Full set of proposed revisions to existing Big Cypress Basin sub-basin boundary delineation. The green line represents the existing BCS sub-basin boundary, and the red line represents the proposed revisions to the boundary.

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SFWMD_SF_MRG_2016_5Ft elevation
WERP_LiDAR_DTM_20171229
T36448_DEM_ALL -Okaloacoochee Slough
DinnerIsland_2016_5ft
ENPN_2017_1_6ft
MD_2015_5ft
HAED_USGS_2007

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APPENDIX A

Terminology from USGS that is used in the AHED database (**SFWMD, 2020c**). This report updates the boundaries of the Big Cypress Swamp sub-basin (HUC ID 03090204; area = 2850 sq mi.).

Hydrologic Unit Levels

The six different levels of hydrologic units for the United States of America are shown in **Table A-1**. More information can be found on the USGS website <http://water.usgs.gov/GIS/huc.html>.

Table A-1. Six levels of hydrologic units.

Hydrologic Unit Level	Name	Digits	Size	Hydrologic Units
1	Region	2	Average: 177,560 square miles	21
2	Sub-region	4	Average: 16,800 square miles	222
3	Basin	6	Average: 10,596 square miles	352
4	Sub-basin	8	Average: 703 square miles	2,149
5	Watershed	10	63-391 square miles (40,000-250,000 acres)	22,000 (estimate)
6	Sub-watershed	12	16-63 square miles (10,000-40,000 acres)	160,000 (estimate)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 406

INTRODUCER: Environment and Natural Resources Committee and Senator Rodrigues

SUBJECT: Big Cypress Basin

DATE: February 15, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	Fav/CS
2.			AEG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 406 revises provisions relating to the Big Cypress Basin within the South Florida Water Management District. The bill:

- Revises the membership of the Big Cypress Basin governing board;
- Requires the governing board of the South Florida Water Management District to establish the boundary of the Big Cypress Basin as the scientific boundary recommended in the Big Cypress Basin Boundary Delineation study, except that the new basin boundary may include only counties that have at least 25 percent of their jurisdiction delineated within the boundary; and
- Requires that the South Florida Water Management District ensure that basin ad valorem taxes that are levied in counties within the Big Cypress Basin are used for projects and flood control operations and maintenance within the counties in which they are collected.

The bill takes effect July 1, 2021.

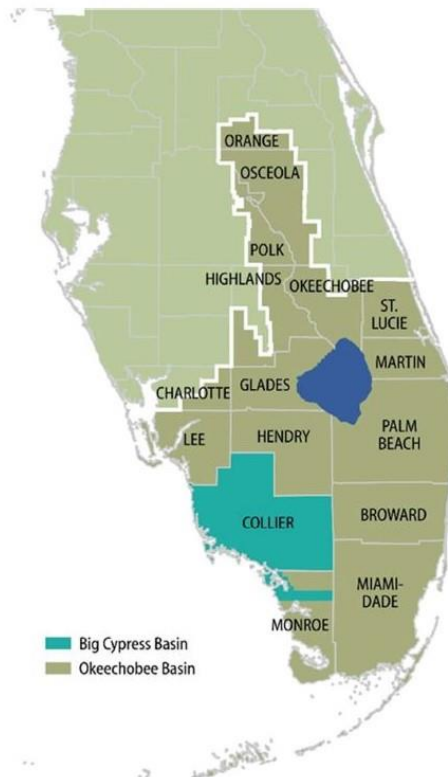
II. Present Situation:

South Florida Water Management District (SFWMD)

The SFWMD is a regional governmental agency that manages the water resources in the southern half of the state, covering 16 counties from Orlando to the Florida Keys and serving a

population of 8.7 million residents.¹ The SFWMD is responsible for managing and protecting South Florida's water resources by balancing and improving flood control, water supply, water quality, and natural systems.

Water management district governing boards may designate subdistricts or basins within the district and may revise the boundaries by resolution.² The SFWMD encompasses two major watershed basins, the Okeechobee Basin and the Big Cypress Basin. The Big Cypress Basin includes Collier County and part of Monroe County.³ The rest of the geographic area within the SFWMD boundaries comprises the Okeechobee Basin, as indicated in the map below.⁴



Big Cypress Basin (BCB)

The BCB was established in 1977 and was charged with providing conservation, preservation, and enhancement of water resources in the region.⁵ In 1979, an agreement with Collier County transferred the primary flood control system operation and maintenance responsibilities to the BCB. This agreement has been renewed every 10 years, and today BCB provides flood control in cooperation with Collier County.⁶

¹ South Florida Water Management District (SFWMD), *Who We Are*, <https://www.sfwmd.gov/who-we-are> (last visited Feb. 2, 2021).

² Section 373.0693(1), F.S.

³ SFWMD, *Big Cypress Basin*, <https://www.sfwmd.gov/who-we-are/bcb> (last visited Feb. 2, 2021). The initial boundaries of the basin are provided in s. 373.0693(9), F.S.

⁴ SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 79 (Jan. 15, 2021), available at https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf.

⁵ Chapter 76-243, Laws of Fla. See also SFWMD, *Big Cypress Basin Strategic Plan 2018-2023*, 3, available at https://www.sfwmd.gov/sites/default/files/documents/2018_strategic_plan_bcb.pdf.

⁶ *Id.*

The BCB is responsible for operating and maintaining 153 miles of primary canals, 45 water control structures, and four back pumps providing flood control during the wet season and protecting regional water supplies and environmental resources from over-drainage during the dry season.⁷ The BCB also provides capital improvements to water management infrastructure and assists local governments and water utilities in developing alternative water supplies and implementing stormwater management programs.⁸

The basin board sets the basin's regional policy, budget, and millage rate.⁹ The SFWMD governing board has the authority to revise the boundaries of the BCB, but may not abolish the basin.¹⁰ Members of the basin board are appointed by the Governor and must be approved by the Florida Senate.¹¹ The BCB basin board must have at least five members.¹² The SFWMD governing board member appointed to represent the Southwest region also serves as the chairman of the basin board.¹³

Ad Valorem Taxation

Water management district activities are partly financed by ad valorem property taxes paid by those who reside within the district.¹⁴ Property tax, or millage, rates are set by each taxing authority and vary throughout the state. Water management district governing boards adopt the budget and millage rates. Article VII, Section 9 of the Florida Constitution prescribes maximum millage rates for water management districts and additional limits are imposed by statute.¹⁵ The maximum millage for the SFWMD is 0.8 mill,¹⁶ but district policy is to levy rolled-back rates.¹⁷

The total millage rate for the BCB in the 2020-2021 Fiscal Year was 0.2255, which applies to Collier County and the portion of mainland Monroe County that is in the BCB.¹⁸ The total millage rate is comprised of the district-wide millage rate of 0.1103 and the BCB millage rate of 0.1152. The millage rate for the Okeechobee Basin in the 2020-2021 Fiscal Year was 0.2675, which applies to 15 of the SFWMD's 16 counties.¹⁹ The total millage rate is comprised of the

⁷ SFWMD, *Big Cypress Basin 2019-2020 Budget*, available at https://www.sfwmd.gov/sites/default/files/documents/factsheet_BCBbudget_2019-2020.pdf.

⁸ SFWMD, *Big Cypress Basin Strategic Plan 2018-2023*, 3, available at https://www.sfwmd.gov/sites/default/files/documents/2018_strategic_plan_bcb.pdf.

⁹ SFWMD, *Big Cypress Basin Board*, <https://www.sfwmd.gov/who-we-are/governing-board/big-cypress-basin-board> (last visited Feb. 2, 2021).

¹⁰ Section 373.0693(9)(c), F.S.

¹¹ Section 373.0693(4), F.S.

¹² Section 373.0693(9), F.S.

¹³ SFWMD, *Big Cypress Basin*, <https://www.sfwmd.gov/who-we-are/bcb> (last visited Feb. 2, 2021).

¹⁴ Section 373.503(1), F.S.

¹⁵ Section 373.503(3)(a), F.S.

¹⁶ *Id.*

¹⁷ Section 200.065(1), F.S.

¹⁸ SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 80 (Jan. 15, 2021), available at https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf. This tax rate represents \$22.55 per \$100,000 of taxable value.

¹⁹ *Id.* This tax rate represents \$26.95 per \$100,000 of taxable value.

district-wide millage rate of 0.1103, the Okeechobee Basin millage rate of 0.1192, and the Everglades Construction Project millage rate of 0.0380.²⁰

For the 2020-2021 Fiscal Year, \$288.3 million of the SFWMD's budget is provided by ad valorem taxes.²¹ The apportionment of ad valorem tax revenues within the SFWMD is a maximum of 40 percent for district purposes and a maximum of 60 percent for basin purposes.²² The BCB budget approved by the SFWMD governing board was \$14.3 million for the 2020-2021 Fiscal Year.²³ Approximately 76 percent of the revenue that funds the BCB budget comes from ad valorem taxes.²⁴

Big Cypress Basin Boundary Delineation Study

Pursuant to Specific Appropriation 1606 in the 2020 General Appropriations Act, the SFWMD was instructed to conduct a study to recommend the most appropriate geographic boundaries for the Big Cypress Basin. The Legislature required that the proposed boundaries be based solely upon the common watershed within the Big Cypress Basin and be scientifically supported.²⁵ The completed study and recommendations were due to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2021.²⁶ The map below shows the proposed boundaries recommended in the study.²⁷

²⁰ *Id.*

²¹ *Id.* at 56.

²² Section 373.503(3)(b), F.S.

²³ SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 257 (Jan. 15, 2021), available at https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf.

²⁴ SFWMD, *Big Cypress Basin 2019-2020 Budget*, available at https://www.sfwmd.gov/sites/default/files/documents/factsheet_BCBbudget_2019-2020.pdf.

²⁵ The study states that a science-based approach to watershed delineation establishes the boundary lines based on physical laws and environmental features of the landscape, including land elevation, land use, man-made improvements to drainage features, animal habitats, and subsurface properties of aquifers. SFWMD Hydrology and Hydraulics Bureau, *Big Cypress Basin Boundary Delineation*, 2 (Dec. 2020) (on file with the Senate Committee on Environment and Natural Resources).

²⁶ Ch. 2020-111, Laws of Fla. See p. 240, available at http://laws.flrules.org/files/Ch_2020-111.pdf.

²⁷ SFWMD Hydrology and Hydraulics Bureau, *Big Cypress Basin Boundary Delineation*, 25 (Dec. 2020) (on file with the Senate Committee on Environment and Natural Resources).

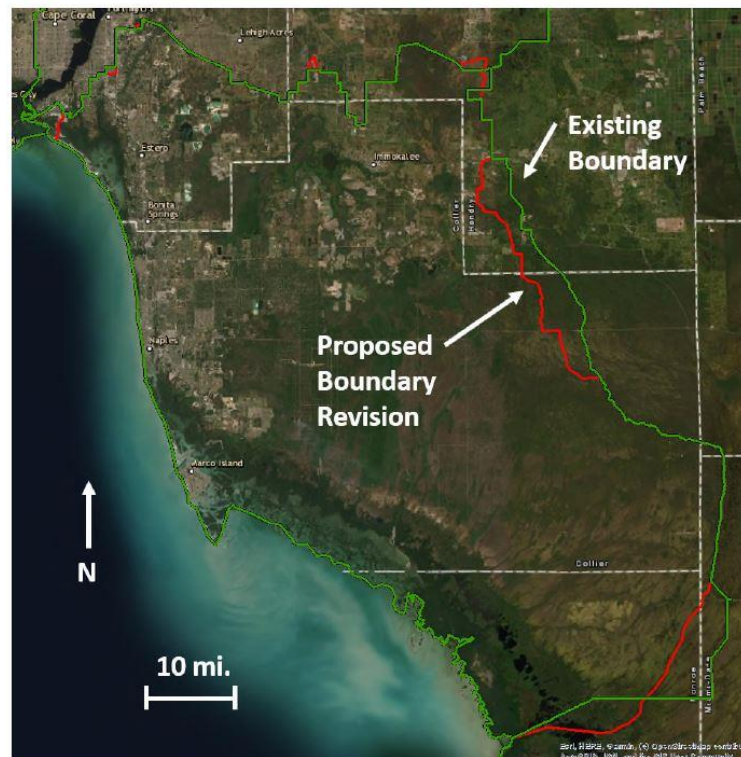


Figure 19. Full set of proposed revisions to existing Big Cypress Basin sub-basin boundary delineation. The green line represents the existing BCS sub-basin boundary, and the red line represents the proposed revisions to the boundary.

III. Effect of Proposed Changes:

Section 1 revises the membership of the Big Cypress Basin governing board. The bill requires the Governor to appoint five persons from Collier and Lee County who reside within the Big Cypress Basin. The bill deletes language that required the Governor to appoint at least five persons who reside in the Big Cypress Basin area.

The bill requires that at 11:59 p.m. on July 1, 2021, the governing board of the South Florida Water Management District (SFWMD) establish the boundary of the Big Cypress Basin as the scientific boundary recommended in the Big Cypress Basin Boundary Delineation study that the SFWMD completed pursuant to the 2020 General Appropriations Act.²⁸ The bill provides an exception that the new basin boundary may include only counties that have at least 25 percent of their jurisdiction delineated within the boundary.

The bill also deletes obsolete language.

Section 2 revises ad valorem taxation within the SFWMD to require the district to ensure that:

- Apportionment of ad valorem tax revenue within the district meets existing statutory requirements that state that a maximum of 40 percent of revenues are used for district purposes and a maximum of 60 percent of revenues are used for basin purposes; and

²⁸ Ch. 2020-111, Laws of Fla. See p. 240, available at http://laws.flrules.org/files/Ch_2020-111.pdf.

- Basin ad valorem taxes levied within the counties that comprise the Big Cypress Basin are used for projects and flood control operations and maintenance within the counties in which they were collected.

Section 3 reenacts s. 373.0697, F.S., relating to basin taxes, to incorporate the amendments made in section 2 of the bill.

Section 4 states that the act takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that any areas of land are transferred from the Okeechobee Basin to the Big Cypress Basin under the bill, residents in those areas will see decreased property tax rates. If any areas of land are transferred from the Big Cypress Basin to the Okeechobee Basin under the bill, residents in those areas will see increased property tax rates.

C. Government Sector Impact:

Okeechobee Basin may experience an impact to its ad valorem tax revenues due to the revised boundaries. The overall impact to the SFWMD budget is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 373.0693, 373.503, and 373.0697.

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 Environment and Natural Resources on February 15, 2021:

- Revises the bill to reflect the actual date the Big Cypress Boundary Delineation study was presented to the Legislature.
- Provides that the new Big Cypress Basin boundary may include only counties that have at least 25 percent of their jurisdiction delineated within the boundary, revised from 50 percent in the underlying bill.
- Requires the South Florida Water Management District to ensure that the basin ad valorem taxes that are levied in the Big Cypress Basin be used for flood control operations and maintenance, as well as projects, within the counties in which the taxes were collected.

B. Amendments:

None.



815588

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2021	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 47 - 48
and insert:
that the district presented to the Legislature on January 12,
2021, except that the new



492910

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 49 - 75
and insert:
basin boundary may include only counties that have at least 25
percent of their jurisdiction delineated within the boundary ~~If~~
~~the governing board shall fail to establish the initial~~
~~boundaries on or before December 31, 1976, the initial~~
~~boundaries shall be the same boundaries as described for the Big~~
~~Cypress Basin of the Ridge and Lower Gulf Coast District.~~



492910

~~(e)~~ The governing board of the South Florida Water Management District subsequently may change the boundaries of the basin, but may not abolish the basin.

Section 2. Paragraph (b) of subsection (3) of section 373.503, Florida Statutes, is amended to read:

373.503 Manner of taxation.—

(3) The districts may levy ad valorem taxes on property within the district solely for the purposes of this chapter and of chapter 25270, 1949, Laws of Florida, as amended, and chapter 61-691, Laws of Florida, as amended. If appropriate, taxes levied by each governing board may be separated by the governing board into a millage necessary for the purposes of the district and a millage necessary for financing basin functions specified in s. 373.0695.

(b) ~~The apportionment in~~ The South Florida Water Management District shall ensure that:

1. The apportionment within the district is ~~be~~ a maximum of 40 percent for district purposes and a maximum of 60 percent for basin purposes; and

2. The ad valorem taxes levied within the counties that comprise the Big Cypress Basin are used for projects and flood control operations and maintenance within the

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

And the title is amended as follows:

Delete line 11

and insert:

the Big Cypress Basin be used for projects and flood control operations and maintenance within the



153086

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2021	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (492910)

Delete line 30
and insert:
2. The basin ad valorem taxes levied within the counties
that

By Senator Rodrigues

27-00560A-21

2021406__

A bill to be entitled
An act relating to the Big Cypress Basin; amending s.
373.0693, F.S.; revising the membership of the Big
Cypress Basin governing board; requiring the South
Florida Water Management District to revise the
boundaries of the Big Cypress Basin based on a
specified study at a specified time; removing obsolete
language; amending s. 373.503, F.S.; requiring the
South Florida Water Management District to ensure that
the distribution of ad valorem taxes collected within
the Big Cypress Basin be used for projects within the
counties in which they were collected; reenacting s.
373.0697, F.S., relating to basin taxes, to
incorporate the amendment made to s. 373.503, F.S., in
a reference thereto; providing an effective date.

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

Section 1. Subsection (9) of section 373.0693, Florida
Statutes, is amended to read:

373.0693 Basins; basin boards.—

(9) At 11:59 p.m. on December 31, 1976, a portion of the
Big Cypress Basin of the Ridge and Lower Gulf Coast District
which is being annexed into the South Florida Water Management
District by change of boundaries pursuant to chapter 76-243,
Laws of Florida, shall be formed into a subdistrict or basin of
the South Florida Water Management District. Such portion shall
be designated as the Big Cypress Basin. ~~On or before December~~
~~31, 1976,~~ The Governor shall appoint ~~not fewer than~~ five persons

27-00560A-21

2021406__

30 from Collier and Lee Counties who reside within the Big Cypress
31 Basin ~~residing in the area~~ to serve as members of the governing
32 board of the basin, ~~effective at the time of transfer and~~
33 subject to confirmation by the Senate as provided in subsection
34 (4).

35 (a) The initial boundaries of the Big Cypress Basin shall
36 be established by resolution of the governing board of Central
37 and Southern Florida Flood Control District, after notice and
38 hearing, and generally shall encompass the Big Cypress Swamp and
39 southwestern coastal area hydrologic cataloging unit, as
40 indicated on River Basin and Hydrologic Unit Map of Florida—
41 1975, Florida Department of Natural Resources, Bureau of Geology
42 Map Series No. 72.

43 (b) At 11:59 p.m. on July 1, 2021, the governing board of
44 the South Florida Water Management District shall establish the
45 boundary of the Big Cypress Basin as the scientific boundary
46 recommended in the Big Cypress Basin Boundary Delineation study
47 that the district completed in the fall of 2020 and will present
48 to the Legislature on February 1, 2021, except that the new
49 basin boundary may include only counties that have at least 50
50 percent of their jurisdiction delineated within the boundary ~~if~~
51 ~~the governing board shall fail to establish the initial~~
52 ~~boundaries on or before December 31, 1976, the initial~~
53 ~~boundaries shall be the same boundaries as described for the Big~~
54 ~~Cypress Basin of the Ridge and Lower Gulf Coast District.~~

55 ~~(c)~~ The governing board of the South Florida Water
56 Management District subsequently may change the boundaries of
57 the basin, but may not abolish the basin.

58 Section 2. Paragraph (b) of subsection (3) of section

27-00560A-21

2021406__

373.503, Florida Statutes, is amended to read:

373.503 Manner of taxation.—

(3) The districts may levy ad valorem taxes on property within the district solely for the purposes of this chapter and of chapter 25270, 1949, Laws of Florida, as amended, and chapter 61-691, Laws of Florida, as amended. If appropriate, taxes levied by each governing board may be separated by the governing board into a millage necessary for the purposes of the district and a millage necessary for financing basin functions specified in s. 373.0695.

(b) ~~The apportionment in~~ The South Florida Water Management District shall ensure that:

1. The apportionment within the district is ~~be~~ a maximum of 40 percent for district purposes and a maximum of 60 percent for basin purposes; and

2. The ad valorem taxes levied within the counties that comprise the Big Cypress Basin are used for projects within the counties in which they were collected, ~~respectively.~~

Section 3. For the purpose of incorporating the amendment made by this act to section 373.503, Florida Statutes, in a reference thereto, section 373.0697, Florida Statutes, is reenacted to read:

373.0697 Basin taxes.—The respective basins may, pursuant to s. 9(b), Art. VII of the State Constitution, by resolution request the governing board of the district to levy ad valorem taxes within such basin. Upon receipt of such request, a basin tax levy shall be made by the governing board of the district to finance basin functions enumerated in s. 373.0695, notwithstanding the provisions of any other general or special

27-00560A-21

2021406__

law to the contrary, and subject to the provisions of s.
373.503(3).

(1) The amount of money to be raised by said tax levy shall be determined by the adoption of an annual budget by the district board of governors, and the average millage for the basin shall be that amount required to raise the amount called for by the annual budget when applied to the total assessment of the basin as determined for county taxing purposes. However, no such tax shall be levied within the basin unless and until the annual budget and required tax levy shall have been approved by formal action of the basin board, and no county in the district shall be taxed under this provision at a rate to exceed 1 mill.

(2) The taxes provided for in this section shall be extended by the county property appraiser on the county tax roll in each county within, or partly within, the basin and shall be collected by the tax collector in the same manner and time as county taxes, and the proceeds therefrom paid to the district for basin purposes. Said taxes shall be a lien, until paid, on the property against which assessed and enforceable in like manner as county taxes. The property appraisers, tax collectors, and clerks of the circuit court of the respective counties shall be entitled to compensation for services performed in connection with such taxes at the same rates as apply to county taxes.

(3) It is hereby determined that the taxes authorized by this subsection are in proportion to the benefits to be derived by the several parcels of real estate within the basin from the works authorized herein.

Section 4. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 514

INTRODUCER: Senators Rodrigues and Garcia

SUBJECT: Resiliency

DATE: February 15, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schreiber	Rogers	EN	Favorable
2. _____	_____	AEG	_____
3. _____	_____	AP	_____

I. Summary:

SB 514 establishes the Statewide Office of Resiliency within the Executive Office of the Governor. The office must be headed by a Chief Resilience Officer, appointed by and serving at the pleasure of the Governor. The bill creates the Statewide Sea-Level Rise Task Force, adjunct to the Statewide Office of Resiliency, to recommend consensus projections of the anticipated sea level rise and flooding impacts along Florida's coastline. The bill provides for task force membership and requires that all appointments be made by August 1, 2021. The Chief Resilience Officer must chair the task force and convene it no later than October 1, 2021, after which it must meet upon the call of the chair.

The task force must develop and recommend consensus baseline projections of the expected sea level rise for planning horizons designated by the task force. The task force is authorized to designate technical advisory groups to inform its decision-making and to request the Department of Environmental Protection (DEP) to contract for services to assist in developing the recommended baseline projections. The DEP must serve as contract administrator for such contracts and must provide administrative support to the task force.

By January 1, 2022, the task force must submit its recommended projections to the Environmental Regulation Commission for adoption or rejection. If adopted, the task force's projections must serve as the state's official estimate of sea level rise and flooding impacts along Florida's coastline for the purpose of developing future state projects, plans, and programs. The task force must review the adopted projections as it deems appropriate and submit any recommended revisions to the Commission. The bill repeals the provisions relating to the task force on July 1, 2024.

For Fiscal Year 2021-2022, the bill appropriates \$500,000 in nonrecurring funds from the General Revenue Fund to DEP for the authorized contracting and for task force administrative expenses.

II. Present Situation:

Sea Level Rise and Coastal Flooding

With 1,350 miles of coastline, relatively low elevations, and a porous geology, Florida is particularly vulnerable to coastal flooding.¹ Climate change² is influencing three drivers of coastal flooding in Florida: sea level rise, storm surge intensity, and rainfall intensity and frequency.³

Sea level rise is an observed increase in the average local sea level or global sea level trend.⁴ Climate change is causing global sea level rise through two primary factors: the loss of land-based ice (ice sheets and glaciers) due to melting and thermal expansion caused by the warming of the oceans (water expands as it warms).⁵ Global mean sea level has risen about 8–9 inches since 1880, and the rate of rise is accelerating: 0.06 inches per year throughout most of the twentieth century, 0.14 inches per year from 2006–2015, and 0.24 inches per year from 2018–2019.⁶

Sea level rise data is obtained through various scientific equipment: tide gauge stations record the local height of the surrounding water level relative to a reference point on land, and satellite laser altimeters measure the average height of the entire ocean.⁷ Data is incorporated into numerous online tools for visualizing sea level rise.⁸ Scientific projections of future sea level rise vary based on modeling different scenarios of future greenhouse gas emissions and atmospheric

¹ Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan*, 107-108, 162 (2018) [hereinafter *SHMP*], available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Feb 6, 2021). Florida has over 8,000 miles of coastline when considering intricacies such as bays, inlets, and waterways; McKinsey Global Institute, *Will Mortgages and Markets Stay Afloat in Florida?*, 10, 12, 27 (2020) [hereinafter *MGI Mortgages and Markets*], available at https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf (last visited Jan. 31, 2020). Florida's porous limestone foundation causes saltwater intrusion and seepage from underground.

² See NASA, *Global Climate Change, Effects*, <https://climate.nasa.gov/effects/> (last visited Feb. 6, 2021).

³ See *SHMP*, at 107.

⁴ DEP, *Florida Adaptation Planning Guidebook*, Glossary (2018) [hereinafter *DEP Guidebook*], available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Jan. 31, 2021).

⁵ *Id.*; NOAA, *Climate Change: Ocean Heat Content*, <https://www.climate.gov/news-features/understanding-climate/climate-change-ocean-heat-content> (last visited Jan. 31, 2021). More than 90 percent of the warming that has happened on Earth over the past 50 years has occurred in the ocean.

⁶ NOAA, *Climate Change: Global Sea Level*, <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited Jan. 31, 2021). The melting of glaciers and ice sheets (such as the Greenland and Antarctic Ice Sheets) is accelerating, and from 2005–2013 melting caused nearly twice as much sea level rise as thermal expansion.

⁷ NOAA, *Tides and Currents, Sea Level Trends*, <https://tidesandcurrents.noaa.gov/sltrends/> (last visited Jan. 31, 2021).

Showing trends in data from tide gauge stations around Florida; NOAA, *Is Sea Level Rising?*, <https://oceanservice.noaa.gov/facts/sealevel.html> (last visited Jan. 31, 2021); see *SHMP*, at 107. “Relative sea level” is measured locally using tide gauges. “Eustatic sea level” is measured globally based on the volume of water in earth’s oceans.

⁸ DEP, *Presentation to the Florida House of Representatives Environment, Agriculture, & Flooding Subcommittee* (Feb. 4, 2021), available at <https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=6697> (last visited Feb 10, 2021).

concentrations.⁹ After 2050, sea level rise projections diverge significantly based on different scenarios of emissions trajectories.¹⁰

Rising sea levels result in gradual coastal inundation.¹¹ Sea level rise raises the height of high tide.¹² Since 2000, the frequency of “high tide flooding” in the U.S. has more than doubled, with data showing large increases at tide gauge locations in Florida.¹³ For example, research shows that in Miami Beach, between 1998 and 2013, the frequency of recurrent tidal flooding events quadrupled.¹⁴ The frequency of such flooding is expected to continue to increase.¹⁵

Impacts of flooding from sea level rise in Florida include disruptions in transportation, damage to buildings, and impairment of infrastructure such as roads, stormwater systems, and wastewater systems.¹⁶ Sea level rise causes saltwater intrusion of both surface water and groundwater, threatening fresh water resources including coastal aquifers.¹⁷ It causes coastal erosion and threatens coastal ecosystems which, when healthy and allowed space for landward migration, are critical for resilience.¹⁸ Sea level rise also raises coastal groundwater tables and pushes salt water further inland.¹⁹ Many of these processes are exacerbated by Florida’s porous limestone geology.²⁰

Sea level rise is expected to increase the damage from storm surges as they will build on top of a higher base of water, travel farther inland, and impact more areas and properties than in the past.²¹ Furthermore, future storms are generally expected to have increased average intensity and precipitation rates.²² Extreme rainfall events can stress or overwhelm stormwater infrastructure,

⁹ U.S. Global Change Research Program, *Fourth National Climate Assessment*, 6, 40-43, 85-86, 338, 758 (2018)[hereinafter *NCA4*], available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Feb. 6, 2021).

¹⁰ *Id.* at 40-43, 85, 109; IPCC, *The Ocean and Cryosphere in a Changing Climate*, 4-9-4-10 (Sept. 2019), available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Jan. 31, 2021); SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 7, 25, 29 (2019)[hereinafter *SFRCCC Update*], available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 31, 2021).

¹¹ *SHMP*, at 108; *SFRCCC Update*, at 17. Rapid pulses are possible.

¹² *SHMP*, at 101, 108.

¹³ NOAA, *2019 State of U.S. High Tide Flooding with a 2020 Outlook*, v-3, 15-16 (2020), available at https://tidesandcurrents.noaa.gov/publications/Techrpt_092_2019_State_of_US_High_Tide_Flooding_with_a_2020_Outlook_30June2020.pdf (last visited Jan. 31, 2021). High tide flooding (also called “nuisance” or “sunny-day” flooding) begins to occur when coastal water levels reach heights between .5–.65 meters above the daily average highest tide.

¹⁴ *SFRCCC Update*, at 31.

¹⁵ NOAA, *2019 State of U.S. High Tide Flooding with a 2020 Outlook*, v, 11-12 (2020); *SFRCCC Update*, at 31-32.

¹⁶ *See SFRCCC Update*, at 5.

¹⁷ *SHMP*, at 106; *SFRCCC Update*, at 33-35.

¹⁸ *SFRCCC Update*, at 35; *SHMP*, at 106, 221; *NCA4*, at 340-341, 690, 775, 833.

¹⁹ *SHMP*, at 108.

²⁰ *See* Urban Land Institute, *The Business Case for Resilience - Regional Economic Benefits of Climate Adaptation*, 20 (2020) [hereinafter *Business Case for Resilience*], available at https://knowledge.uli.org/-/media/files/research-reports/2020/the-business-case-for-resilience-in-southeast-florida_final.pdf?rev=81609c7f6b72479d89c49aff72fea446&hash=FB2E953B8A456CFE781169A0CAA82333 (last visited Jan. 31, 2021).

²¹ *SHMP*, at 100, 106-108, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 31, 2021); *NCA4*, at 758, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 31, 2021).

²² *NCA4*, at 97, 116-117, 1482; *see* Knutson et al., *Tropical Cyclones and Climate Change Assessment, Part II: Projected Response to Anthropogenic Warming*, American Meteorological Society, E317-E318 (2020), available at

while sea level rise impairs gravity-driven systems and reduces the discharge capacity of coastal water control structures.²³ By raising groundwater levels, sea level rise reduces the ability of rainfall to infiltrate the soil, and the reduced soil storage capacity causes flooding.²⁴

Florida's 35 coastal counties contain 76% of its population, and 79% of its total economy as of 2012.²⁵ One study found that 20.5% of properties in Florida are at substantial risk of flooding as of 2020 and 24.3% are at such risk by 2050.²⁶ Another study on Florida's residential property found tidal flooding could result in a property devaluation of \$10–\$30 billion by 2030 and \$30–\$80 billion by 2050, and that real estate losses during 100-year storm surge events could reach \$50–\$75 billion by 2050.²⁷ Another analysis found that in Southeast Florida alone, by 2040, \$4.2 billion in property value could be lost to daily tidal inundation and one 10-year storm tide event could cause \$3.2 billion in property damage.²⁸ People and capital continue to flow into exposed coastal areas in Florida.²⁹

As sea level rise continues, financial impacts may include increases in flood insurance costs, decreases in property sales or property values, and increased risk for lenders.³⁰ Coastal flooding disrupts local economies leading to lost revenues for the private and public sectors, and over time risks include loss or impairment of employment opportunities and public services and infrastructure.³¹ Coastal flooding can cause displacement in frontline communities, and the burdens of adaptation are likely to disproportionately impact vulnerable populations.³²

Studies show significant positive returns on investment calculated for resilience measures, including the following benefit-cost ratios: \$6 for every \$1 spent through federal grants on

<https://journals.ametsoc.org/bams/article/101/3/E303/345043/Tropical-Cyclones-and-Climate-Change-Assessment> (last visited Jan. 31, 2021).

²³ *NCA4*, at 763; *SFRCCC Update*, at 5, 34.

²⁴ *SFRCCC Update*, at 33; *SHMP*, at 106, 181.

²⁵ *DEP Guidebook*, at III, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019); see *MGI Mortgages and Markets*, at 13. Almost 10% of the state's population is less than 4.9 feet (1.5 meters) above sea level.

²⁶ First Street Foundation, *The First National Flood Risk Assessment: Defining America's Growing Risk*, 39 (2020), available at https://assets.firststreet.org/uploads/2020/06/first_street_foundation_first_national_flood_risk_assessment.pdf (last visited Oct. 8, 2020). The study calculates substantial risk as a 1% annual risk of 1 cm of inundation or more.

²⁷ *MGI Mortgages and Markets*, at 15–19, available at https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf (last visited Jan. 31, 2020).

²⁸ *Business Case for Resilience*, at 6. In 2070, the estimated potential harm in Southeast Florida increases to \$53.6 billion of lost property value from daily tidal inundation and \$16.5 billion of property damage from one 10-year storm.

²⁹ *MGI Mortgages and Markets*, at 13.

³⁰ *MGI Mortgages and Markets*, at 22–27 (lending risks include not only banks investing in private homes and businesses, but also potential downgrades to bond ratings for local governments that fail to adapt); *SFRCCC Update*, at 5, available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 31, 2021).

³¹ *Business Case for Resilience*, at 14, 19, 20, available at https://knowledge.uli.org/-/media/files/research-reports/2020/the-business-case-for-resilience-in-southeast-florida_final.pdf?rev=81609c7f6b72479d89c49aff72fea446&hash=FB2E953B8A456CFE781169A0CAA82333 (last visited Jan. 31, 2021).

³² *Id.*; *NCA4* at 333–335; U.S. Government Accountability Office, *A Climate Migration Pilot Program Could Enhance the Nation's Resilience and Reduce Federal Fiscal Exposure*, 29 (2020), <https://www.gao.gov/assets/710/707961.pdf> (last visited Feb. 2, 2021).

natural hazard mitigation, and, for future resilience investments in Southeast Florida, \$4 for every \$1 on building-level adaptations and \$2 for every \$1 on community-wide adaptations.³³

Sea Level Rise Projections

Entities from the international to the local level use scientific data and modeling to create projections of future sea level rise for planning and decision-making. The Intergovernmental Panel on Climate Change (IPCC) includes 195 member countries compiling climate change science reviewed by thousands of experts around the globe and intended to reflect the full range of scientific views.³⁴ The National Oceanic and Atmospheric Administration (NOAA) operates tide gauges along the nation's coasts and satellites measuring changes in sea level. In 2012 and 2017, NOAA published sea level rise projections for the U.S.³⁵ NOAA's projections include six scenarios ranging from "low" to "extreme."³⁶ NOAA's projections were used in the fourth national climate assessment by the U.S. Global Change Research Program, a program of thirteen federal agencies studying the changing global environment.³⁷ The U.S. Army Corps of Engineers (USACE) has developed guidance requiring consideration of three scenarios of "low," "intermediate," and "high" sea level change over a project's life cycle.³⁸

The State of Florida has recently begun to examine sea level rise projections on a statewide level. In 2020, the Legislature required that public entities commissioning or managing a construction project within the coastal building zone,³⁹ using funds appropriated from the state, must conduct a sea level impact projection (SLIP) study prior to commencing construction.⁴⁰ The study must assess the risks from potential sea level rise and storms over the expected life of the structure up to 50 years, and it must provide design and siting alternatives and assess costs for the structure.⁴¹ DEP must perform rulemaking to establish the specific standards for conducting the SLIP

³³ *Business case for Resilience*, at 26; National Institute of Building Sciences, *Natural Hazard Mitigation Saves*, 1-2 (Dec. 2019), available at https://cdn.ymaws.com/www.nibs.org/resource/resmgr/reports/mitigation_saves_2019/mitigationsaves2019report.pdf (last visited Feb. 10, 2021).

³⁴ IPCC, *About the IPCC*, <https://www.ipcc.ch/about/> (last visited Feb. 2, 2021).

³⁵ NOAA, *Climate Change: Global Sea Level*, available at <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited Feb. 2, 2021).

³⁶ Sweet et al., NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 21–23 (2017), available at https://tidesandcurrents.noaa.gov/publications/techrpt83_Global_and_Regional_SLR_Scenarios_for_the_US_final.pdf (last visited Feb. 2, 2021).

³⁷ U.S. Global Change Research Program, *About USGCRP*, <https://www.globalchange.gov/about> (last visited Feb. 2, 2021).

³⁸ USACE, *Incorporating Sea Level Change in Civil Works Programs*, 2–3, B-1–B-8 (Dec. 31, 2013), available at https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER_1100-2-8162.pdf?ver=2014-02-12-131510-113 (last visited Feb. 2, 2021); USACE, *Procedures to Evaluate Sea Level Change: Impacts, Responses, and Adaptation*, 13 (June 30, 2019) available at <https://www.publications.usace.army.mil/Portals/76/Users/182/86/2486/EP-1100-2-1.pdf?ver=2019-09-13-141310-707> (last visited Feb. 2, 2021).

³⁹ Section 161.54(1), F.S. "Coastal Building Zone" is defined as "the land area from the seasonal high-water line landward to a line 1,500 feet landward from the coastal construction control line as established pursuant to s. 161.053, and, for those coastal areas fronting on the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida and not included under s. 161.053, the land area seaward of the most landward velocity zone (V-zone) line as established by the Federal Emergency Management Agency and shown on flood insurance rate maps"; s. 161.55(4), F.S. Coastal barrier island requirements differ.

⁴⁰ Section 161.551, F.S.; see ch. 2020-119, Laws of Fla.

⁴¹ Section 161.551(3), F.S.

studies.⁴² DEP is currently holding workshops and developing draft rule language accordingly.⁴³ DEP is developing a web-based tool to enable constructors to create and submit SLIP study reports pursuant to the legislation, and also to provide resources to educate the public such as an interactive map for visualizing future scenarios of sea level rise and coastal hazards.⁴⁴

Sea level rise is experienced differently in different areas, depending on many factors including ocean currents, changing land elevations, land use, and erosion.⁴⁵ The Southeast Florida Regional Climate Change Compact, a collaboration including Broward, Miami-Dade, Monroe, and Palm Beach counties, periodically assembles a technical work group of experts to produce sea level rise projections to assist planning and decision-making in Southeast Florida.⁴⁶ In 2019, the Tampa Bay Climate Science Advisory Panel recommended a common set of sea level rise projections for use throughout the Tampa Bay region.⁴⁷

Below is a table showing examples of sea level rise projections, including ranges of low and high estimates, both globally and in regions of Florida.

⁴² *Id.*

⁴³ DEP, *Resilience and Coastal Protection Rules in Development*, <https://floridadep.gov/rcp/beaches-funding-program/content/resilience-and-coastal-protection-rules-development> (last visited Feb. 2, 2021).

⁴⁴ DEP, *Presentation to the Florida House of Representatives Environment, Agriculture, & Flooding Subcommittee* (Feb. 4, 2021), available at <https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=6697> (last visited Feb 10, 2021).

⁴⁵ *NCA4*, at 757, 855, 1495 available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Feb. 6, 2021).

⁴⁶ *SFRCCC Update*, at 8, available at https://southeastfloridaclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Feb. 2, 2021).

⁴⁷ Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 7 (Apr. 2019), available at http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf (last visited Feb. 2, 2021).

Sea Level Rise Projections				
Source	Scale	Years	Low (feet)	High (feet)
IPCC Assessment Report 5 ⁴⁸	Global	2046-2065	0.72	1.25
		2081-2100	1.48	2.69
		2100	1.71	3.22
NOAA (Sweet et al., 2017), Low–Extreme ⁴⁹	Global	2040	0.43	1.35
		2070	0.72	3.94
		2100	.98	8.20
SFRCCC Unified Sea Level Rise Projection, 2019 Update ⁵⁰	Southeast Florida	2040	.83	1.42
		2070	1.75	3.33
		2120	3.33	7.67
Tampa Bay Climate Science Advisory Panel ⁵¹	Tampa Bay Region	2050	1	2.5
		2100	2	8.5

Resilience

In January of 2019, Governor DeSantis issued Executive Order 19-12, creating the Office of Resilience and Coastal Protection to help prepare Florida’s coastal communities and habitats for impacts from sea-level rise by providing funding, technical assistance, and coordination among state, regional, and local entities.⁵² This office oversees a broad range of state programs.⁵³ In August of 2019, the Governor appointed Florida’s first Chief Resilience Officer (CRO), which reports to the Executive Officer of the Governor with the direction to coordinate a statewide response to better prepare for the impacts of climate change.⁵⁴ Florida’s first CRO was Dr. Julia Nesheiwat. Dr. Nesheiwat’s efforts produced a 2019 report discussing her activities as CRO,

⁴⁸ IPCC, *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, 23, 79-81, 1180, 1461 (2013), available at https://www.ipcc.ch/site/assets/uploads/2018/02/WG1AR5_all_final.pdf (last visited Feb. 2, 2021). These changes in global mean sea level rise are relative to the reference period of 1986-2005. The range shown in the table represents the projections for the Representative Concentration Pathway 8.5 scenario.

⁴⁹ Sweet et al., NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 21, 23 (2017), available at https://tidesandcurrents.noaa.gov/publications/techrpt83_Global_and_Regional_SLR_Scenarios_for_the_US_final.pdf (last visited Feb. 2, 2021). These global mean sea level rise scenarios are based on the year 2000 (i.e., a 1991-2009 epoch).

⁵⁰ SFRCCC Update, 9-10, available at https://southeastfloridaclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Feb. 2, 2021). These projections start from zero in year 2000 and are referenced to mean sea level at the Key West tide gauge. The range in the table shows regional applications of the IPCC Representative Concentration Pathway 8.5 Median curve and the NOAA Intermediate High curve.

⁵¹ Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 7 (Apr. 2019), available at http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf (last visited Feb. 2, 2021).

⁵² State of Florida, Office of the Governor, *Executive Order Number 19-12*, 5 (2019), available at <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-12-.pdf> (last visited Feb. 2, 2021).

⁵³ DEP, *Office of Resilience and Coastal Protection*, <https://floridadep.gov/rcp> (last visited Feb. 2, 2021).

⁵⁴ See Governor Ron DeSantis, News Releases, *Governor Ron DeSantis Announces Dr. Julia Nesheiwat as Florida’s First Chief Resilience Officer* (Aug. 1, 2019), <https://flgov.com/2019/08/01/governor-ron-desantis-announces-dr-julia-nesheiwat-as-floridas-first-chief-resilience-officer/> (last visited Feb. 2, 2021).

impacts to Florida's coastline, and assessments she made during her time as CRO.⁵⁵ In February of 2020, Dr. Nesheiwat stepped down as CRO. Secretary of DEP, Noah Valenstein, currently serves as the interim CRO, appointed to coordinate and advocate for resilience planning by Florida's local, regional, and state entities.⁵⁶

DEP's Florida Resilient Coastlines Program helps prepare coastal communities and habitats for the effects of climate change, especially rising sea levels, by offering technical assistance and funding to communities dealing with increasingly complex flooding, erosion, and habitat shifts.⁵⁷ The program provides resilience grants to local governments of the 35 coastal counties and all municipalities within their boundaries required to include a coastal element in the local comprehensive plan.⁵⁸ Currently, there are two types of grants provided under the program: Resilience Planning Grants and Resilience Implementation Grants.

In 2018, DEP published the Florida Adaptation Planning Guidebook to be used by local governments to develop and update adaptation plans for sea level rise.⁵⁹ The comprehensive guidebook breaks down the adaptation planning process into four steps: Context, Vulnerability Assessments, Adaptation Strategies, and Implementation.⁶⁰

DEP's Coastal Construction Control Line (CCCL) program regulates coastal construction and related activities to prevent imprudent construction that can cause beach erosion, destabilize dunes, damage upland properties, or interfere with public access, and the program also protects sea turtles and dune plants.⁶¹ A CCCL defines the portion of the beach-dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other predictable weather conditions.⁶² DEP has established CCCLs in 25 of Florida's coastal counties.⁶³ Generally, a permit is required for construction and excavation activities seaward of the CCCL, and criteria for such permitting may be more stringent than in other areas due to the special hazards and potential for environmental impacts in those areas.⁶⁴ DEP makes 30-year erosion projections of the location of the seasonal high-water line on a site-specific basis.⁶⁵ With

⁵⁵ Florida Executive Office of the Governor, Chief Resilience Officer, *2019 Annual Report* (2019), <https://www.documentcloud.org/documents/6867224-Florida-Chief-Resilience-Officer-2019-Annual.html> (last visited Feb. 2, 2021).

⁵⁶ DEP, *Office of the Secretary*, <https://floridadep.gov/sec> (last visited Feb. 2, 2021); DEP, *DEP Secretary Noah Valenstein Highlights Governor DeSantis' Continued Historic Environmental Achievements in 2020*, <https://content.govdelivery.com/accounts/FLDEP/bulletins/2ad2c3a> (last visited Feb. 2, 2021).

⁵⁷ DEP, *Florida Resilient Coastlines Program*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program> (last visited Feb. 2, 2021).

⁵⁸ DEP, *FRCP Resilience Grants*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program/content/frcp-resilience-grants> (last visited Feb. 2, 2021).

⁵⁹ *DEP Guidebook*, at I, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Feb. 2, 2021).

⁶⁰ *Id.* at 1-61.

⁶¹ DEP, *Coastal Construction Control Line Program*, <https://floridadep.gov/rcp/coastal-construction-control-line> (last visited Feb. 3, 2021); s. 161.053, F.S.; Fla. Admin. Code Chapters 62B-33, 62B-34, and 62B-56.

⁶² Section 161.053, F.S.; see DEP, *Frequently Asked Questions About the Coastal Construction Control Line* (2020), available at <https://floridadep.gov/sites/default/files/CCCL-FrequentlyAskedQuestions-2020.pdf> (last visited Feb. 3, 2021). Historical weather data are evaluated to establish a control line.

⁶³ Section 161.053, F.S.; DEP, *LOCATE the Coastal Construction Control Line (CCCL)*, <https://floridadep.gov/rcp/coastal-construction-control-line/content/locate-coastal-construction-control-line-cccl> (last visited Feb. 12, 2021).

⁶⁴ See s. 161.053, F.S. and Fla. Admin. Code R. 62B-33.004. Several exemptions exist.

⁶⁵ Fla. Admin. Code R. 62B-33.024. The projections are based on historical measurements; see s. 161.053(5)(a)2., F.S.

certain exceptions, DEP or local governments may not issue CCCL permits for major structures that are seaward of the 30-year erosion projection.⁶⁶

The following list includes examples of resilience efforts by government entities in Florida:

- Florida’s coastal local governments must have a coastal management element in their comprehensive plans,⁶⁷ and this element may include an “adaptation action area” designation⁶⁸ and must contain a redevelopment component in compliance with the 2015 “Peril of Flood” law.⁶⁹
- The Department of Transportation plans for resilience to prepare Florida’s transportation system for potential hazards.⁷⁰ Florida’s Metropolitan Planning Organizations consider resilience as a planning factor in the Long Range Transportation Plans.⁷¹
- The Department of Economic Opportunity assists communities with adaptation planning, and its Office of Disaster Recovery supports communities following disasters which includes administering federal funds that support resiliency efforts.⁷²
- The Fish and Wildlife Conservation Commission is Florida’s lead agency on addressing the impacts of climate change on fish and wildlife.⁷³ In 2016, the Commission published a guide of adaptation strategies for the predicted impacts of climate changes.⁷⁴
- The Department of Agriculture and Consumer Services’ Office of Energy develops Florida’s energy policy and works on climate change issues.⁷⁵
- The Division of Emergency Management in the Executive Office of the Governor maintains a statewide emergency management program, and its roles include administering federal mitigation grant programs and serving as Florida’s state coordinating agency for the National Flood Insurance Program.⁷⁶
- The Department of Business and Professional Regulation’s Florida Building Commission adopts floodplain management and resilience standards into the Florida Building Code.⁷⁷

⁶⁶ Section 161.053(5), F.S.

⁶⁷ Sections 380.24, 163.3177(6)(g), and 163.3178(2), F.S.

⁶⁸ Chapter 2011-139, Laws of Fla.; ss. 163.3164(1) and 163.3177(6)(g)10., F.S.

⁶⁹ Chapter 2015-69, Laws of Fla.; s. 163.3178(2)(f), F.S.

⁷⁰ DOT, *Florida Transportation Plan (FTP): Resilience*, <http://www.floridatransportationplan.com/resilience.htm> (last visited Feb. 3, 2021).

⁷¹ DOT, *Resilience Quick Guide: Incorporating Resilience in the MPO Long Range Transportation Plan*, 2 (2020), available at [http://www.floridatransportationplan.com/pdf/2020-01-](http://www.floridatransportationplan.com/pdf/2020-01-29_FDOT%20Resilience%20Quick%20Start%20Guide_FINAL.pdf)

[29_FDOT%20Resilience%20Quick%20Start%20Guide_FINAL.pdf](http://www.floridatransportationplan.com/pdf/2020-01-29_FDOT%20Resilience%20Quick%20Start%20Guide_FINAL.pdf) (last visited Feb. 3, 2021).

⁷² DEO, *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Feb. 3, 2021); DEO, *Office of Disaster Recovery*, <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited Feb. 3, 2021).

⁷³ FWC, *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Feb. 3, 2021).

⁷⁴ FWC, *A Guide to Climate Change Adaptation for Conservation*, 1-1 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf> (last visited Feb. 3, 2021).

⁷⁵ DACS, *Office of Energy*, <https://www.fdacs.gov/Divisions-Offices/Energy> (last visited Feb. 21, 2021).

⁷⁶ DEM, *Mitigation*, <https://www.floridadisaster.org/dem/mitigation/> (last visited Feb. 3, 2021); DEM, *State Floodplain Management Program*, <https://www.floridadisaster.org/dem/mitigation/floodplain/> (last visited Feb. 3, 2021).

⁷⁷ Chapter 553, pt. IV, F.S.; Fla. Admin. Code R. 61g20-1.001; see Building a Safer Florida, Inc., *Flood Resistant Construction and the 6th Edition Florida Building Code*, 1 (2017), available at https://floridabuilding.org/fbc/thecode/2017-6edition/BASF_2017_flood_061217.pdf (last visited Feb. 4, 2021).

- The water management districts implement a range of resilience and flood control programs.⁷⁸
- Florida is divided into ten Regional Planning Councils, and some do resilience planning.⁷⁹
 - The Northeast Florida Regional Council's efforts include grant funding, technical support, and resources including an online mapping tool for determining risk.⁸⁰
 - The East Central Florida Regional Planning Council has formed the East Central Florida Regional Resilience Collaborative, which includes 25 member counties and cities and six member organizations and agencies.⁸¹
 - The Tampa Bay Regional Planning Council is active on resiliency planning.⁸²
- The USACE is planning and implementing many projects in Florida related to resilience.
 - The Miami-Dade Back Bay Coastal Storm Risk Management Feasibility Study is a three-year study, ending in September of 2021, that has tentatively recommended a plan that may include storm surge barriers, floodproofing of critical infrastructure countywide, and nonstructural measures (including home elevations or floodproofing) in seven refined focus areas determined to be the most socially vulnerable economic damage centers in Miami-Dade County.⁸³
 - The Central and Southern Florida Flood Resiliency Study was proposed by USACE, with the support of the South Florida Water Management District, to reevaluate the Central and Southern Florida Project to address climate change, sea level rise, and more.⁸⁴
- The Federal Emergency Management Agency (FEMA) administers hazard mitigation programs that increase resilience and facilitate hazard mitigation planning and grant

⁷⁸ St. John's River Water Management District, *Sea-Level Rise and Resiliency*, <https://www.sjrwmd.com/localgovernments/sea-level-rise/> (last visited Feb. 4, 2021); Akintunde Owosina, Chief, Hydrology and Hydraulics Bureau, South Florida Water Management District, Governing Board Meeting, June 13, 2019, *Impact of Sea Level Rise on the SFWMD Mission, Focus on Flood Protection*, 2, 6-10 (June 13, 2019), available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/21964> (last visited Feb. 4, 2021); Dr. Carolina Maran, District Resiliency Officer, South Florida Water Management District, Governing Board Meeting, March 12, 2020, *Central and Southern Florida Flood Resiliency Study*, 1 (Mar. 12, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/25445> (last visited Nov. 4, 2021). In 2020, the South Florida Water Management District appointed a District Resiliency Officer.

⁷⁹ Sections 186.501-186.513, F.S.

⁸⁰ Northeast Florida Regional Council, *Resiliency Services*, <https://www.nefrc.org/resiliency> (last visited Feb. 4, 2021).

⁸¹ East Central Florida Regional Planning Council, *East Central Florida Regional Resilience Collaborative*, <https://www.ecfrpc.org/resiliencycollaborative> (last visited Feb. 4, 2021).

⁸² Tampa Bay Regional Planning Council, *Resiliency Planning*, <https://www.tbrpc.org/resiliency-2/> (last visited Feb. 4, 2021).

⁸³ USACE, *Miami-Dade Back Bay Coastal Storm Risk Management Feasibility Study*, <https://www.saj.usace.army.mil/MiamiDadeBackBayCSRMFeasibilityStudy/> (last visited Feb. 4, 2021); USACE, *Miami-Dade Back Bay Coastal Storm Risk management Draft Integrated Feasibility Report and Programmatic Environmental Impact Statement*, 177-178, 181, 222-238 (May 2020), available at <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll7/id/14453> (last visited Feb. 4, 2021).

⁸⁴ Dr. Carolina Maran, District Resiliency Officer, South Florida Water Management District, Governing Board Meeting March 12, 2020, *Central and Southern Florida Flood Resiliency Study*, video begins at 4:50:30 (Mar. 12, 2020), available at <http://sfwmd.igmp2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2008&Format=Agenda> (last visited Feb. 4, 2021).

funding.⁸⁵ FEMA also administers the National Flood Insurance Program (NFIP), which includes insurance, floodplain mapping, and federal, state, and local regulations.⁸⁶

The Environmental Regulation Commission

The Environmental Regulation Commission (Commission) is an unpaid seven-member board within DEP.⁸⁷ Under specified statutory provisions and with certain exceptions, the Commission must exercise the standard-setting authority of DEP - approving, modifying, or disapproving proposed rules that contain standards.⁸⁸ In exercising its authority to set standards, the Commission must consider scientific and technical validity, economic impacts, and relative risks and benefits to the public and the environment.⁸⁹

The Commission is composed of seven state residents appointed by the Governor for four-year terms, subject to confirmation by the Senate.⁹⁰ The appointees must provide reasonable representation from all sections of the state, and 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 related to water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering.⁹¹ Most issues that go before the Commission relate to air pollution, water quality, or waste management.⁹² The Commission has not met since 2019.⁹³ According to DEP's website, two of the memberships to the Commission are vacant and the terms of the five listed members have lapsed.⁹⁴

III. Effect of Proposed Changes:

Section 1 creates s. 14.2031, F.S., entitled "Statewide Office of Resiliency." The bill establishes the Statewide Office of Resiliency within the Executive Office of the Governor. The office must be headed by a Chief Resilience Officer. The Chief Resilience Officer is appointed by and serves at the pleasure of the Governor, and must perform duties and responsibilities assigned by the Governor.

⁸⁵ FEMA, *Hazard Mitigation Assistance Guidance - Hazard Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program*, 1–5 (2015), available at https://www.fema.gov/sites/default/files/2020-07/fy15_HMA_Guidance.pdf (last visited Feb. 4, 2021).

⁸⁶ FEMA, *National Flood Insurance Program (NFIP), Floodplain Management Requirements*, FEMA 480, 2-6-2-8 (2005), available at https://www.fema.gov/sites/default/files/documents/fema-480_floodplain-management-study-guide_local-officials.pdf (last visited Feb. 4, 2021); see 44 C.F.R. parts 59 and 60.

⁸⁷ Section 20.255(6), F.S.; DEP, *Environmental Regulation Commission*, <https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission> (last visited Jan. 31, 2021).

⁸⁸ Sections 403.803(13), 403.804, and 403.805(1), F.S. "Standard" is defined as any DEP rule relating to air and water quality, noise, solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substations. The term does not include rules relating to internal management or procedural matters.

⁸⁹ Section 403.804, F.S.

⁹⁰ Section 20.255(6), F.S.

⁹¹ *Id.*

⁹² DEP, *Environmental Regulation Commission*, <https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission> (last visited Jan. 31, 2021).

⁹³ *Id.*

⁹⁴ DEP, *ERC Members*, <https://floridadep.gov/ogc/ogc/content/erc-members> (last visited Feb. 8, 2021).

Adjunct to the Statewide Office of Resiliency, the bill creates the Statewide Sea-Level Rise Task Force.⁹⁵ The purpose of the task force is to recommend consensus projections of the anticipated sea-level rise and flooding impacts along Florida's coastline.

The task force is composed of the following nine members:

- The Chief Resilience Officer, serving as the chair of the task force;
- The Department of Environmental Protection's (DEP's) Chief Science Officer, serving as vice-chair of the task force;
- One member appointed by the President of the Senate;
- One member appointed by the Speaker of the House of Representatives; and
- One representative from each of the following agencies, appointed by his or her respective agency head, division director, executive director, or commission chair:
 - The Department of Transportation;
 - The Division of Emergency Management;
 - The Department of Agriculture and Consumer Services;
 - The Fish and Wildlife Conservation Commission; and
 - The Department of Economic Opportunity.

All appointments to the task force must be made no later than August 1, 2021. The bill requires that any vacancy on the task force be filled in the same manner as the original appointment.

The bill requires the Chief Resilience Officer to convene the task force by no later than October 1, 2021, and the task force must meet thereafter upon the call of the chair. The task force must develop official scientific information, from appropriate sources as determined by the task force, necessary to recommend consensus baseline projections, or a range of projections, of the expected rise in sea level along the state's coastline for planning horizons designated by the task force. The projections may address various geographic areas of the state, as determined by the task force.

DEP is required to provide administrative support to the task force. The bill authorizes the task force to request DEP to contract for services to assist in developing the recommended official baseline projections. DEP must serve as the contract administrator for any such contracts. The task force is also authorized to designate technical advisory groups, as it deems necessary, to assist in the gathering of scientific data to inform the task force's decision-making.

The bill requires the task force to submit its recommended consensus baseline projections to the Environmental Regulation Commission (Commission) by January 1, 2022. The task force must include in its report supporting data and assumptions the task force used in developing the recommended projections. The Commission must adopt or reject the task force's recommended projections. Following adoption by the Commission, the projections must serve as the state's official estimate of sea-level rise and flooding impacts along the state's coastline and must be

⁹⁵ Section 20.03(8), F.S. The bill defines the task force using the following definition: "an advisory body...created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment"; s. 20.052, F.S. Except as otherwise provided in the bill, the bill requires the task force to operate in a manner consistent with s. 20.052, F.S., which specifies requirements for the establishment, evaluation, and maintenance of certain bodies created by specific statutory enactment as an adjunct to an executive agency.

used for developing future state projects, plans, and programs. The task force must review the adopted consensus baseline projections as it deems appropriate, and submit any recommended revisions to the projections to the Commission.

The bill repeals all of the provisions regarding the task force on July 1, 2024. However, the provisions establishing the Statewide Office of Resiliency and the Chief Resilience Officer will remain in effect after that date.

Section 2 contains an appropriation. For Fiscal Year 2021-2022, the bill appropriates \$500,000 in nonrecurring funds from the General Revenue Fund to DEP to fund any contracts for services that DEP enters into to assist the task force in developing its recommended official baseline projections and for the administrative expenses of the task force.

Section 3 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

For Fiscal Year 2021-2022, the bill contains an appropriation for \$500,000 in nonrecurring funds from the General Revenue Fund to DEP for the expenses associated with contracting for services to develop the projections and for task force administrative expenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 14.2031 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Rodrigues

27-00366-21

2021514__

A bill to be entitled

An act relating to resiliency; creating s. 14.2031, F.S.; establishing the Statewide Office of Resiliency within the Executive Office of the Governor; providing for appointment of the Chief Resilience Officer by the Governor; creating the Statewide Sea-Level Rise Task Force adjunct to the office; specifying the purpose of the task force; providing for the membership of the task force; providing timeframes for initial appointments and the task force's initial meeting; specifying duties of the task force; authorizing the Department of Environmental Protection to contract for specified services, upon request of the task force; requiring the Department of Environmental Protection to serve as the task force's contract administrator and to provide administrative support; authorizing the designation of technical advisory groups for specified purposes; prescribing reporting requirements; requiring the Environmental Regulation Commission to take certain action on the task force's recommendations; specifying the function of the consensus baseline projections; providing for future repeal of the task force; providing an appropriation; providing an effective date.

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

Section 1. Section 14.2031, Florida Statutes, is created to read:

27-00366-21

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30 14.2031 Statewide Office of Resiliency.—The Statewide
31 Office of Resiliency is established within the Executive Office
32 of the Governor. The office shall be headed by a Chief
33 Resilience Officer, who is appointed by and serves at the
34 pleasure of the Governor. The Chief Resilience Officer shall
35 perform duties and responsibilities assigned by the Governor.

36 (1) The Statewide Sea-Level Rise Task Force, a task force
37 as defined in s. 20.03(8), is created adjunct to the Statewide
38 Office of Resiliency. Except as otherwise provided in this
39 section, the task force shall operate in a manner consistent
40 with s. 20.052. The purpose of the task force is to recommend
41 consensus projections of the anticipated sea-level rise and
42 flooding impacts along this state's coastline.

43 (2) The task force is composed of the following members:

44 (a) The Chief Resilience Officer, who shall serve as chair.

45 (b) The Chief Science Officer of the Department of
46 Environmental Protection, who shall serve as vice chair.

47 (c) One member appointed by the President of the Senate.

48 (d) One member appointed by the Speaker of the House of
49 Representatives.

50 (e) One representative each from the Department of
51 Transportation, the Division of Emergency Management, the
52 Department of Agriculture and Consumer Services, the Fish and
53 Wildlife Conservation Commission, and the Department of Economic
54 Opportunity, each appointed by his or her respective agency
55 head, division director, executive director, or commission
56 chair.

57
58 All appointments to the task force must be made no later than

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59 August 1, 2021. Any vacancy on the task force shall be filled in
60 the same manner as the original appointment.

61 (3) The Chief Resilience Officer shall convene the task
62 force by no later than October 1, 2021. The task force shall
63 meet thereafter upon the call of the chair.

64 (4) (a) The task force shall develop official scientific
65 information, from appropriate sources as determined by the task
66 force, necessary to make recommendations on consensus baseline
67 projections, or a range of projections, of the expected rise in
68 sea level along the state's coastline for planning horizons
69 designated by the task force. The projections may address
70 various geographic areas of the state, as determined by the task
71 force.

72 (b) The task force may request the Department of
73 Environmental Protection to contract for services to assist the
74 task force in developing the recommended official baseline
75 projections. The Department of Environmental Protection shall
76 serve as the contract administrator for any such contracts.

77 (c) The Department of Environmental Protection shall
78 provide administrative support to the task force.

79 (d) The task force may designate technical advisory groups,
80 as it deems necessary, to assist in the gathering of scientific
81 data to inform the task force's decisionmaking.

82 (5) By January 1, 2022, the task force shall submit its
83 recommended consensus baseline projections to the Environmental
84 Regulation Commission, created pursuant to s. 20.255(6). The
85 commission shall adopt or reject the task force's recommended
86 projections. Following adoption by the commission, these
87 projections serve as the state's official estimate of sea-level

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88 rise and flooding impacts along the state's coastline and must
89 be used for the purpose of developing future state projects,
90 plans, and programs. In its report, the task force must include
91 supporting data and assumptions used by the task force in
92 developing the recommended projections. The task force shall
93 review the adopted consensus baseline projections as it deems
94 appropriate, and shall submit any recommended revisions to the
95 projections to the commission.

96 (6) Subsections (1) through (5) and this subsection are
97 repealed July 1, 2024.

98 Section 2. For the 2021-2022 fiscal year, the sum of
99 \$500,000 in nonrecurring funds is appropriated from the General
100 Revenue Fund to the Department of Environmental Protection for
101 the purpose of funding any contracts for services entered into
102 by the department to assist the Statewide Sea-Level Rise Task
103 Force in developing its recommended official baseline
104 projections and for the administrative expenses of the task
105 force.

106 Section 3. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 694

INTRODUCER: Senator Rodrigues

SUBJECT: Displacement of Private Waste Companies

DATE: February 15, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schreiber	Rogers	EN	Favorable
2. _____	_____	CA	_____
3. _____	_____	RC	_____

I. Summary:

SB 694 amends the requirement that a local government must either provide three years' notice before its solid waste collection service displaces a private waste company or pay the displaced company an amount equal to the company's preceding 15 months' gross receipts for the displaced service. The bill requires a local government that displaces a solid waste collection service to provide a three-year notice period *and* pay the displaced company an amount equal to the company's preceding 18 months' gross receipts at the end of the notice period. The bill deletes a provision stating that a local government and a private waste company may voluntarily negotiate a different notice period or amount of compensation.

II. Present Situation:

Home Rule Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by vote of the electors.² Likewise, municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide services, and exercise any power for municipal purposes except as otherwise provided by law.³

County governments have authority to provide fire protection, ambulance services, parks and recreation, libraries, museums and other cultural facilities, waste and sewage collection and disposal, and water and alternative water supplies.⁴ Municipalities are afforded broad home rule powers with the exception of annexation, merger, exercise of extraterritorial power, or subjects prohibited or preempted by the Federal or State Constitutions, county charter, or statute.⁵

Solid Waste

Counties have the authority to provide and regulate waste and sewage collection and disposal.⁶ A county may require that any person within the county demonstrate the existence of some arrangement or contract by which the person's solid waste⁷ will be disposed of in a manner consistent with county ordinance or state or federal law.⁸ Counties also have authority to adopt ordinances that govern the disposal of solid waste generated outside the county at the county's solid waste disposal facility.⁹

The Department of Environmental Protection (DEP) is responsible for implementing and enforcing the solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state.¹⁰ The program is required to include procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities and groups of counties and municipalities where appropriate.¹¹

¹ FLA. CONST., art. VIII, s. 1.(f).

² FLA. CONST., art. VIII, s. 1.(g).

³ FLA. CONST., art. VIII, s. 2.(b); *see also* s. 166.021(1), F.S.

⁴ Section 125.01(1)(d)(e)(f) and (k)1., F.S.

⁵ Section 166.021(3), F.S.

⁶ Section 125.01(1)(k), F.S.

⁷ Section 403.703(36), F.S. "Solid waste" is defined as sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

⁸ Section 125.01(1)(k)2., F.S.

⁹ Section 403.706(1), F.S.

¹⁰ Section 403.705, F.S.

¹¹ Section 403.705(2)(a), F.S.

Counties are responsible for operating solid waste disposal facilities, which are permitted through DEP, in order to meet the needs of the incorporated and unincorporated areas of the county¹² and may contract with other persons to fulfill some or all of its solid waste responsibilities.¹³ Each county must ensure that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means.¹⁴ In providing services or programs for solid waste management, local governments and state agencies are encouraged to use the most cost-effective means for providing services and are encouraged to contract with private entities for any or all such services or programs to assure that those services are provided on the most cost-effective basis.¹⁵ Local governments are expressly prohibited from discriminating against privately owned solid waste management facilities solely because they are privately owned.¹⁶

Competition with Private Companies

Section 403.70605, F.S., was enacted in 2000 to address concerns of private waste management companies regarding competition with local governments' solid waste departments for third party service contracts.¹⁷ Private companies were concerned that public entities were able to subsidize their costs with funds from other government operations, allowing the public entities to unfairly compete for contracts.¹⁸

Solid Waste Collection Services in Direct Competition

Under s. 403.70605, F.S., local governments providing specific solid waste collection services in direct competition with a private company must comply with local environmental, health, and safety standards applicable to private companies providing competitive collection services.¹⁹ Local governments may not enact or enforce any license, permit, registration procedure, or associated fee that:

- Does not apply to the local government and for which there is not a substantially similar requirement that applies to the local government; and
- Provides the local government with a material advantage in its ability to compete with a private company in terms of cost or ability to promptly or efficiently provide such collection services, excluding zoning, land use, or comprehensive plan requirements.²⁰

When providing solid waste collection services outside of their jurisdiction in competition with private companies, local governments are prohibited from instituting predatory pricing schemes.²¹

¹² Section 403.706(1), F.S.

¹³ Section 403.706(8), F.S.

¹⁴ Section 403.706(3), F.S.

¹⁵ Section 403.7063, F.S.

¹⁶ *Id.*

¹⁷ Chapter 2000-304, s. 1, Laws of Fla.

¹⁸ See Florida House of Representatives, Committee on Community Affairs, *CS/HB 1425 Final Analysis*, p. 2 (May 12, 2000), available at <http://archive.flsenate.gov/data/session/2000/House/bills/analysis/pdf/HB1425S1Z.CA.pdf> (last visited Feb. 5, 2021).

¹⁹ Section 403.70605(1)(a), F.S.

²⁰ Section 403.70605(1)(a)2., F.S.

²¹ Section 403.70605(2), F.S.; see also ss. 542.18 and 542.19, F.S.

A private company in competition with a local government has legal remedies against local government action that violates the statute, including injunctive relief.²² The private company must notify the local government of the violation and give them 30 days to respond.²³ No injunctive relief is granted if the official action has a reasonable relationship to the health, safety, or welfare of the citizens of the local government, unless a court finds the actual or potential anticompetitive effects outweigh the public benefits of the challenged action.²⁴

Displacement of Private Garbage, Trash, and Refuse Collection Services

A local government, or group of local governments, may not displace a private company²⁵ that provides garbage, trash, or refuse collection without following the requirements under s. 403.70605, F.S. “Displacement” means a local government’s provision of a collection service which prohibits a private company from continuing to provide the same service it was providing when the decision to displace was made.²⁶

Displacement does not include:

- Public and private sector competition for individual contracts;
- A local government refusing to renew an expiring contract with a private company;
- Local government action in response to an act by a private company that is a threat to public health or safety or results in a substantial public nuisance;
- Local government action in response to material breach by a private company of its contract with the local government;
- Refusal by a private company to continue operations under the terms and conditions of existing agreement during the three-year notice period;
- Contracts between local governments and private waste companies absent an ordinance that displaces another private company;
- A majority of property owners in the displacement area petitioning for the local governing body to take over collection services;
- Municipal annexations honoring existing solid waste contracts pursuant to law; or
- A private company licensed to provide service for a limited time whose license expires and is not renewed by the local government.²⁷

Before displacing a private company, a local government must first hold at least one public hearing, publicly noticed with separate notice to private companies providing the service within the jurisdiction, on the advisability of the local government providing the service.²⁸ The local government must take measures to provide services within one year of the final public hearing.²⁹ The local governments must provide three years’ notice to a private company before it engages in the actual provision of the service that displaces the company.³⁰ As an alternative to delaying

²² Section 403.70605(1)(b) & (2)(c), F.S.

²³ Section 403.70605(1)(b), F.S.

²⁴ *Id.*

²⁵ Section 403.70605(4)(b), F.S. “Private company” is defined as “any entity other than a local government or other unit of government that provides solid waste collection services.”

²⁶ Section 403.70605(3)(a), F.S.

²⁷ *Id.*

²⁸ Section 403.70605(3)(b), F.S.

²⁹ Section 403.70605(3)(c), F.S.

³⁰ *Id.*

displacement three years, the local government may pay a displaced company an amount equal to the company's preceding 15 months' gross receipts for the displaced service in the displacement area.³¹ The local government and the private company are not prohibited from voluntarily negotiating a different notice period or amount of compensation.³²

If a private company refuses to continue operations under the terms and conditions of its existing agreement during the 3-year notice period, the company is no longer considered displaced and the notice period lapses.³³

III. Effect of Proposed Changes:

Section 1 amends s. 403.70605, F.S., which establishes the process a local government must follow when its provision of a solid waste collection service displaces a private waste company. Under current law, a local government must either provide three years' notice to the private company before beginning the displacing service, or, as an alternative to delaying displacement for three years, the local government may pay the displaced company an amount equal to the company's preceding 15 months' gross receipts for the displaced service. The bill requires local governments to provide the three years' notice *and* pay the private company an amount equal to its preceding 18 months' gross receipts at the end of the three-year notice period.

The bill deletes a provision stating that a local government and a private waste company may voluntarily negotiate a different notice period or amount of compensation.

Section 2 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³¹ *Id.*

³² *Id.*

³³ Section 403.70605(3)(a)5., F.S.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There may be an indeterminate, positive economic impact on the private sector because the bill deletes the authorization in current law for local governments to pay the displaced company 15 months of gross receipts instead of providing three year's notice so that the displaced companies are assured 3 years' notice prior to displacement and 18 months of gross receipts when their service ends.

C. Government Sector Impact:

There may be an indeterminate, negative fiscal impact on local governments because the bill deletes the authorization in current law for local governments to pay the displaced company 15 months of gross receipts instead of providing three year's notice so that the displaced companies are assured 3 years' notice prior to displacement and 18 months of gross receipts when their service ends.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.70605 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Rodrigues

27-00920-21

2021694__

A bill to be entitled
An act relating to displacement of private waste companies; amending s. 403.70605, F.S.; requiring a local government to pay a specified amount of compensation to a displaced private waste company at the end of a specified notice period; removing a provision authorizing a local government to pay a specified amount of compensation to a private waste company as an alternative to delaying displacement for a specified period; removing a provision authorizing a local government and private waste company to negotiate such compensation and notice; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 403.70605, Florida Statutes, is amended to read:

403.70605 Solid waste collection services in competition with private companies.—

(3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.—

(c) Following the final public hearing held under paragraph (b), but not later than 1 year after the hearing, the local government may proceed to take those measures necessary to provide the service. The A local government shall provide 3 years' notice to the a private company before it engages in the actual provision of the service that displaces the company. At the end of the 3-year notice period ~~As an alternative to delaying displacement 3 years,~~ the a local government shall ~~may~~

27-00920-21

2021694__

pay the a displaced company an amount equal to the company's
preceding 18 ~~15~~ months' gross receipts for the displaced service
in the displacement area. The 3-year notice period shall lapse
as to any private company being displaced when the company
ceases to provide service within the displacement area. ~~Nothing
in this paragraph prohibits the local government and the company
from voluntarily negotiating a different notice period or amount
of compensation.~~

Section 2. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 920

INTRODUCER: Environment and Natural Resources Committee and Senator Bradley

SUBJECT: Liability of Persons Providing Areas for Public Outdoor Recreational Purposes

DATE: February 15, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 920 expands the applicability of the limitation of liability for persons who make areas available to the public for outdoor recreational purposes.

- The bill amends the definition of “outdoor recreational purposes” to expressly include “traversing or crossing for the purpose of ingress and egress to and from, and access to and from, public lands or lands owned or leased by a state agency which are used for outdoor recreational purposes.”
- The bill defines “state agency” as “the state or any governmental or public entity created by law,” and uses the defined term in an existing subsection limiting liability for property owners who enter into written agreements with state agencies.

The bill takes effect July 1, 2021.

II. Present Situation:

Limitation of Liability for Persons Making Areas Available to the Public for Outdoor Recreational Purposes

Under general legal principles of premises liability, a property owner or occupier may be found negligent based on a duty to maintain the property in a reasonably safe condition or a duty to warn of dangerous conditions known to the owner or occupier that are not readily apparent.¹ Section 375.251, F.S., also known as the Florida Recreational Use Statute,² provides a limitation of liability to encourage persons to make land, water areas, and park areas available to the public for recreational purposes.³ Under the statute, an owner or lessee who provides the public with an area⁴ for outdoor recreational purposes⁵ owes no duty of care to keep the area safe for entry or use by others, or to give warning to persons entering the area of any hazardous conditions, structures, or activities on the area.⁶ An owner or lessee who provides the public with an area for outdoor recreational purposes:

- Is not presumed to extend any assurance that the area is safe for any purpose;
- Does not incur any duty of care toward a person who goes on the area; or
- Is not liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the area.⁷

This limitation of liability applies only if no charge is made for entry to or use of the area for outdoor recreational purposes and no other revenue is derived from patronage of the area for outdoor recreational purposes.⁸ Notwithstanding the inclusion of the term “public,” an owner or lessee who makes available to any person an area primarily for the purposes of hunting, fishing, or wildlife viewing is entitled to the limitation of liability so long as the owner or lessee provides written notice of this provision to the person before or at the time of entry or posts notice of this provision conspicuously upon the area.⁹

¹ See *Grimes v. Family Dollar Stores of Fla., Inc.*, 194 So. 3d 424, 427 (Fla. Dist. Ct. App. 2016); see *Phillips v. Republic Fin. Corp.*, 157 So. 3d 320, 326 (Fla. Dist. Ct. App. 2015) (noting the “crux of a cause of action for premises liability is not the ownership of the premises, but the negligence of the possessor in permitting licensees and invitees to come unwarned to an area where they could foreseeably be injured by a dangerous condition which is not readily apparent”).

² See *Hurst v. United States by & through Dep't of the Agric. US Forest Serv.*, 782 F. App'x 978, 979 (11th Cir. 2019).

³ Section 375.251(1), F.S.; see ss. 253.42(4)(c), 373.1395(5), 589.19(4)(e)1., and 773.05, F.S. Several sections contain cross-references to the limitation of liability in s. 375.251, F.S.

⁴ Section 375.251(5)(a), F.S. As used in the section, “‘area’ includes land, water, and park areas.”

⁵ Section 375.251(5)(b), F.S. As used in the section, “‘outdoor recreational purposes’ includes, but is not limited to, hunting, fishing, wildlife viewing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, motorcycling, and visiting historical, archaeological, scenic, or scientific sites.”

⁶ Section 375.251(2)(a), F.S.; see *Abdin v. Fischer*, 374 So. 2d 1379, 1380-1381 (Fla. 1979) (holding that s. 375.251, F.S., is constitutional because, while it alters the standard of care owed, it does not deny access to the courts).

⁷ Section 375.251(2)(a), F.S.; see *City of Pensacola v. Stamm*, 448 So. 2d 39, 41-42 (Fla. Dist. Ct. App. 1984) (holding that s. 375.251, F.S., does not relieve government entities of liability as government entities are already charged with making areas available for public recreational use); see *Hurst*, 782 F. App'x at 982-983 (explaining that s. 375.251, F.S., shields the federal government from tort liability under the Federal Tort Claims Act if s. 375.251, F.S., would shield a private individual under like circumstances).

⁸ Section 375.251(2)(c), F.S.; see *Fernandez v. United States*, 766 F. App'x 787, 792-794 (11th Cir. 2019) (explaining that an owner or lessee is immune from liability so long as he makes no charges in the distinct area where the injury occurred).

⁹ Section 375.251(2)(b), F.S.

Section 375.251(3), F.S., provides a limitation of liability for an owner of an area who enters into a written agreement concerning the area with the state for outdoor recreational purposes.¹⁰ Where such agreements recognize that the state is responsible for personal injury, loss, or damage resulting in whole or in part from the state's use of the area under the terms of the agreement¹¹, the owner owes no duty of care to keep the area safe for entry or use by others, or to give warning to persons entering the area of any hazardous conditions, structures, or activities on the area.¹² An owner who has entered into such an agreement:

- Is not presumed to extend any assurance that the area is safe for any purpose;
- Does not incur any duty of care toward a person who goes on the area that is subject to the agreement; or
- Is not liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the area that is subject to the agreement.¹³

This limitation of liability applies to all persons going on the area subject to the agreement, including invitees, licensees, and trespassers.¹⁴ The Legislature intended that the agreement should not result in compensation to the owner of the area above reimbursement of reasonable costs or expenses associated with the agreement, but an agreement, executed after July 1, 2012, that provides for compensation exceeding such costs and expenses does not subject the owner or the state to liability.¹⁵

Section 375.251, F.S., does not relieve any person of liability that would otherwise exist for deliberate, willful, or malicious injury to persons or property.¹⁶ The section does not create or increase the liability of any person.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 375.251, F.S., which limits the liability of persons who make areas available to the public for outdoor recreational purposes. The bill expands the section's definition of "outdoor recreational purposes" to include "traversing or crossing for the purpose of ingress and egress to and from, and access to and from, public lands or lands owned or leased by a state agency which are used for outdoor recreational purposes." This expressly applies the section's limitation of liability to persons who make areas available to the public for the purpose of entering and exiting public lands, or lands owned or leased by a state agency, used for outdoor recreational purposes.

The bill also creates a definition for "state agency" for s. 375.251, F.S., defining it as "the state or any governmental or public entity created by law." The bill replaces the undefined term

¹⁰ See ch. 2012-203, Laws of Fla.

¹¹ Section 768.28, F.S. The responsibility of the state recognized by the agreements described in s. 375.251(3), F.S., is subject to the limitations and conditions specified in the statutory waiver of sovereign immunity for liability for torts.

¹² Section 375.251(3)(a), F.S.

¹³ *Id.*

¹⁴ Section 375.251(3)(b), F.S.

¹⁵ Section 375.251(3)(c), F.S. This paragraph applies only to agreements executed after July 1, 2012.

¹⁶ Section 375.251(4), F.S.

¹⁷ *Id.*

“state” with the defined term “state agency” in s. 375.251(3), F.S., broadening and clarifying the government entities to which that subsection applies.

Section 2 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 375.251 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 Environment and Natural Resources Committee on February 15, 2021:

- Amends the title to reflect that the expanded definition of “outdoor recreational purposes” in the bill applies broadly throughout s. 375.251, F.S., and not only to the subsection on written agreements.

B. Amendments:

None.

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



628690

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2021	.	
	.	
	.	
	.	

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

Senate Amendment

In title, delete lines 4 - 7
and insert:
amending s. 375.251, F.S.; expanding the applicability
of the limitation of liability for persons who provide
areas to the public for outdoor recreational purposes
without charge; revising and

By Senator Bradley

5-01103-21

2021920__

A bill to be entitled
An act relating to liability of persons providing
areas for public outdoor recreational purposes;
amending s. 375.251, F.S.; limiting liability for
persons who enter into written agreements with state
agencies to provide areas for public outdoor
recreational purposes without charge; revising and
defining terms; providing an effective date.

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

Section 1. Subsections (3) and (5) of section 375.251,
Florida Statutes, are amended to read:

375.251 Limitation on liability of persons making available
to public certain areas for recreational purposes without
charge.—

(3) (a) An owner of an area who enters into a written
agreement concerning the area with a ~~the~~ state agency for
outdoor recreational purposes, where such agreement recognizes
that the state agency is responsible for personal injury, loss,
or damage resulting in whole or in part from the state agency's
~~state's~~ use of the area under the terms of the agreement subject
to the limitations and conditions specified in s. 768.28, owes
no duty of care to keep the area safe for entry or use by
others, or to give warning to persons entering or going on the
area of any hazardous conditions, structures, or activities
thereon. An owner who enters into a written agreement concerning
the area with a ~~the~~ state agency for outdoor recreational
purposes:

5-01103-21

2021920__

1. Is not presumed to extend any assurance that the area is safe for any purpose;

2. Does not incur any duty of care toward a person who goes on the area that is subject to the agreement; or

3. Is not liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the area that is subject to the agreement.

(b) This subsection applies to all persons going on the area that is subject to the agreement, including invitees, licensees, and trespassers.

(c) It is the intent of this subsection that an agreement entered into pursuant to this subsection should not result in compensation to the owner of the area above reimbursement of reasonable costs or expenses associated with the agreement. An agreement that provides for such does not subject the owner or the state agency to liability even if the compensation exceeds those costs or expenses. This paragraph applies only to agreements executed after July 1, 2012.

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

(a) "Area" includes land, water, and park areas.

(b) "Outdoor recreational purposes" includes, but is not limited to, hunting, fishing, wildlife viewing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, motorcycling, ~~and~~ visiting historical, archaeological, scenic, or scientific sites, and traversing or crossing for the purpose of ingress and egress to and from, and access to and from, public lands or lands owned or leased by a state agency which are used for outdoor recreational purposes.

(c) "State agency" means the state or any governmental or

5-01103-21

2021920__

59 public entity created by law.

60 Section 2. This act shall take effect July 1, 2021.

Schreiber, Daniel

From: Rogers, Ellen
Sent: Friday, February 5, 2021 11:50 AM
To: Schreiber, Daniel
Subject: FW: HB 169

From: Bickley, Alex M. <Alex.Bickley@floridadep.gov>
Sent: Friday, February 5, 2021 11:38 AM
To: Rogers, Ellen <ROGERS.ELLEN@flsenate.gov>
Subject: HB 169

Hi Ellen,

This is what Southwest shared with me on this topic.

-Alex

From: Cara S. Martin <Cara.Martin@swfwmd.state.fl.us>
Sent: Thursday, January 14, 2021 10:06 AM
To: Bickley, Alex M. <Alex.Bickley@floridadep.gov>;
Subject: HB 169

Section 189.053, F.S., applicable to special districts, currently provides the Districts with the authority to piggyback on another entity's contract. Specifically to use purchasing agreements of other special districts, municipalities or counties. It does not provide for use of purchasing agreements of federal government, another state, purchasing cooperatives or nonprofit entities.

Proposed language clarifies purchasing language for water management districts and puts them on equal footing with other public entities such as state agencies, counties and municipalities that have broader piggyback authority. This results in efficiencies both in terms of the procurement process and cost savings.

Cara Martin
Government and Community Affairs Office Chief
Southwest Florida Water Management District
2379 Broad Street
Brooksville, FL 34604
Office: (352) 796-7211 ext:4636
Cell: (727) 237-4917

*Southwest Florida
Water Management District*

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 952

INTRODUCER: Senator Burgess

SUBJECT: Water Management Districts

DATE: February 15, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schreiber	Rogers	EN	Favorable
2. _____	_____	GO	_____
3. _____	_____	RC	_____

I. Summary:

SB 952 authorizes water management districts to purchase commodities and services from the contracts of other specified entities, when such contracts have been procured pursuant to certain processes and would have met the procurement requirements of the purchasing water management district. The bill authorizes water management districts to purchase from the contracts of: special districts, municipalities, counties, or other political subdivisions; educational institutions; other states; the Federal Government; nonprofit entities; or purchasing cooperatives. The authorization does not apply to purchasing services in the fields of architecture, professional engineering, landscape architecture, or registered surveying and mapping.

II. Present Situation:

Procurement of Commodities and Services

Chapter 287, F.S., regulates state agency procurement of personal property and services. The Department of Management Services (DMS) is responsible for overseeing state purchasing activity, including professional and contractual services, as well as commodities needed to support agency activities.¹ DMS establishes purchasing agreements and procures state term contracts for commodities and contractual services, and establishes uniform procurement policies, rules, and procedures.² DMS negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.

Agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These methods include the following:

- Single source contracts,³ used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid,⁴ used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals,⁵ which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate,⁶ which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.

For procurement of commodities or contractual services in excess of \$35,000, agencies must use a competitive solicitation process.⁷ However, specified contractual services and commodities are not subject to competitive solicitation requirements.⁸

Chapter 287 defines "agency" to mean any unit of the executive branch of state government.⁹ This definition does not apply to water management districts or local governments, so generally

¹ See ss. 287.032 and 287.042, F.S.

² *Id.*; see Fla. Admin. Code ch. 60A-1.

³ Section 287.057(3)(c), F.S.

⁴ Section 287.057(1)(a), F.S.

⁵ Section 287.057(1)(b), F.S.

⁶ Section 287.057(1)(c), F.S.

⁷ Section 287.057(1), F.S.

⁸ Section 287.057(3)(e), F.S.

⁹ Section 287.012(1), F.S. The term "agency" is defined as "any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges."

these entities are not subject to the requirements of the chapter. In general, water management districts¹⁰ maintain their own processes and requirements for procurement.¹¹

Consultants' Competitive Negotiation Act

While the requirements of ch. 287, F.S., generally only apply to state agencies, s. 287.055, F.S., known as the Consultants' Competitive Negotiation Act, applies to state agencies as well as local governments and water management districts.¹² The Act requires these entities to follow specified procedures when purchasing professional services involving the following fields:

- Architecture;
- Professional Engineering;
- Landscape Architecture; or
- Registered Surveying and Mapping.¹³

Purchasing from Other Entities' Contracts

Chapter 287, F.S., and rules pursuant thereto, authorize state agencies to purchase commodities and services from the contracts of other entities, such as the federal government and other states.¹⁴ Section 287.056, F.S., provides that state agencies must, and “eligible users” may, purchase commodities and contractual services from purchasing agreements established and state term contracts procured by DMS.¹⁵ The definition of eligible user applies to water management districts.¹⁶ Therefore, water management districts are authorized to purchase commodities and services from state agency contracts.

In 2009, the Legislature created s. 189.053, F.S., which authorizes special districts to purchase commodities and contractual services, other than services the acquisition of which is governed by 287.055, F.S., from the purchasing agreements of other special districts, municipalities, or counties which have been procured pursuant to competitive bid, requests for proposals, requests

¹⁰ See 373.019(23), F.S. “Water management districts” are defined as “any flood control, resource management, or water management district operating under the authority of this chapter.”

¹¹ See SFWMD, *Procurement*, <https://www.sfwmd.gov/doing-business-with-us/procurement> (last visited Feb. 9, 2021); see NFWFMD, *District Procurement*, <https://www.nfwfwater.com/Business-Finance/District-Procurement> (last visited Feb. 9, 2021); see SJRWMD, *Procurement*, <https://www.sjrwmd.com/finance/procurement/> (last visited Feb. 9, 2021); see SRWMD, *Bids & Contracts*, <https://www.mysuwanneeriver.com/26/Bids-Contracts> (last visited Feb. 9, 2021); see SWFWMD, *Procurement and Contracts Administration*, <https://www.swfwmd.state.fl.us/business/finance/procurement-and-contracts-administration> (last visited Feb. 9, 2021).

¹² Section 287.055(2)(b), F.S. The term “agency” is defined as “the state, a state agency, a municipality, a political subdivision, a school district, or a school board.”

¹³ Section 287.055, F.S.

¹⁴ See s. 287.042(16), F.S.; see Fla. Admin. Code R. 60A-1.045(5). Alternative purchasing methods require approval from DMS.

¹⁵ See DMS, *State Contracts and Agreements*, https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements (last visited Feb. 10, 2021).

¹⁶ Section 287.012(11), F.S. “Eligible user” is defined in statute as “any person or entity authorized by the department pursuant to rule to purchase from state term contracts or to use the online procurement system”; Fla. Admin. Code R. 60A-1.001(2). “Eligible user” is defined in rule to include “(e) Political subdivisions, including counties, cities, towns, villages and districts, as described by Section 1.01(8), F.S., and instrumentalities thereof”; see s. 1.01(8), F.S. Providing that, in construing the statutes, the words “political subdivision” include “counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state.”

for qualifications, competitive selection, or competitive negotiations, and which are otherwise in compliance with general law if the purchasing agreement of the other special district, municipality, or county was procured by a process that would have met the procurement requirements of the purchasing special district.¹⁷ The definition of “special districts” applies to water management districts for these purposes.¹⁸ Therefore, water management districts are authorized to purchase commodities and services from the contracts of other special districts, municipalities, and counties, pursuant to the specified standards.

III. Effect of Proposed Changes:

Section 1 creates s. 373.6075, F.S., entitled “Water management district purchases from contracts of other entities.”

The bill authorizes water management districts to purchase commodities and contractual services from the contracts of other specified entities which have been procured pursuant to competitive bids, requests for proposals, requests for qualifications, competitive selection, or competitive negotiations, and which are otherwise in compliance with general law if the contract of the procuring entity was procured by a process that would have met the procurement requirements of the purchasing water management district. The bill authorizes water management districts, for contracts procured in the manner specified in the bill, to purchase from the contracts of the following entities:

- Special districts, municipalities, counties, or other political subdivisions;
- Educational institutions;
- Other states;
- The Federal Government;
- Nonprofit entities; or
- Purchasing cooperatives.

The bill’s authorization for water management districts to purchase from the contracts of other entities does not apply to professional services within the scope of practice of, or performed in connection with the professional employment or practice of, the following fields:

- Architecture;
- Professional Engineering;
- Landscape Architecture; or
- Registered Surveying and Mapping.

According to email correspondence from January of 2021, the Southwest Florida Water Management District believes that the general language of the bill clarifies purchasing language for water management districts and puts them on equal footing with other public entities such as state agencies, counties, and municipalities that have broader “piggyback” authority.¹⁹ The

¹⁷ Section 189.053, F.S.

¹⁸ Section 189.012(6), (7), F.S.

¹⁹ *Email from Cara Martin, Southwest Florida Water Management District Government and Community Affairs Office Chief* (Jan. 14, 2021)(on file with the Florida Senate Environment and Natural Resources Committee). The email is referring to HB 169, which contains essentially the same substantive language as SB 952.

district believes the language would result in efficiencies both in terms of the procurement process and cost savings.²⁰

Section 2 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The bill may have an indeterminate, positive fiscal impact on water management districts as it authorizes them to purchase commodities and services from the contracts of other entities, potentially resulting in reduced spending due to enhanced procurement efficiency, lower prices, or better purchasing options.

VI. Technical Deficiencies:

None.

²⁰ *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 373.6075 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Burgess

20-00706-21

2021952__

1 A bill to be entitled
2 An act relating to water management districts;
3 creating s. 373.6075, F.S.; authorizing water
4 management districts to purchase commodities and
5 contractual services from the contracts of other
6 specified entities under certain circumstances;
7 providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 373.6075, Florida Statutes, is created
12 to read:

13 373.6075 Water management district purchases from contracts
14 of other entities.—A water management district may purchase
15 commodities and contractual services, other than services the
16 acquisition of which is governed by s. 287.055, from the
17 contracts of special districts, municipalities, counties, or
18 other political subdivisions; educational institutions; other
19 states; the Federal Government; nonprofit entities; or
20 purchasing cooperatives, which have been procured pursuant to
21 competitive bids, requests for proposals, requests for
22 qualifications, competitive selection, or competitive
23 negotiations, and which are otherwise in compliance with general
24 law if the contract of the procuring entity was procured by a
25 process that would have met the procurement requirements of the
26 purchasing water management district.

27 Section 2. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 964

INTRODUCER: Senators Diaz and Taddeo

SUBJECT: Environmental Compliance Costs

DATE: February 12, 2021

REVISED: _____

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

I. Summary:

SB 964 revises the definition of “environmental compliance costs” in the environmental cost recovery provision of the Florida Energy Efficiency and Conservation Act to include costs or expenses incurred by an electric utility after July 1, 2021, pursuant to an agreement between the electric utility and a wastewater utility for the construction and operation of a wastewater reuse system that fully or partially satisfies a local government’s statutory reclaimed water reuse requirements. The bill also requires that at least 50 percent of the reclaimed water the reuse system produces is used in conjunction with the water requirements of an electrical generating facility or facilities owned by the electric utility. The revision adds the costs to those recoverable by utilities through a cost recovery factor that is separate from the utility’s base rates.

The bill takes effect on July 1, 2021.

II. Present Situation:

Environmental Cost Recovery

The Florida Energy Efficiency and Conservation Act establishes a mechanism for a utility to recover specified environmental compliance costs through a charge separate from the utility’s base rates.¹ This is referred to as the environmental cost recovery clause (ECRC).²

¹ Section 366.8255(2), F.S.

² *Citizens v. Brown*, 269 So. 3d 498 (Fla. 2019).

Environmental compliance costs are defined as all costs or expenses incurred by an electric utility in complying with environmental laws or regulations.³ Environmental compliance costs include, but are not limited to:

- Inservice capital investments, including the electric utility's last authorized rate of return on equity;
- Operation and maintenance expenses;
- Fuel procurement costs;
- Purchased power costs;
- Emission allowance costs;
- Direct taxes on environmental equipment;
- Costs or expenses prudently incurred by an electric utility pursuant to an agreement entered into between the electric utility and the Department of Environmental Protection (DEP) or the United States Environmental Protection Agency (EPA) for the exclusive purpose of ensuring compliance with ozone ambient air quality standards by an electrical generating facility owned by the electric utility; and
- Costs or expenses prudently incurred for scientific research and geological assessments of carbon capture and storage conducted in this state for the purpose of reducing an electric utility's greenhouse gas emissions when such costs or expenses are incurred in joint research projects with Florida state government agencies and universities.⁴

Typically, the ECRC allows utilities to recover costs that are not easily controlled by the utility, such as fuel costs which fluctuate with the market or environmental costs based on new regulations.⁵ Revenue collected through the ECRC provides cash flow for the specific operations and maintenance activities and large equipment modifications necessary to comply with environmental laws and regulations.⁶

An electric utility may submit to the Florida Public Service Commission (PSC) a petition describing the utility's proposed environmental compliance activities and projected environmental compliance costs.⁷ If approved, the PSC will allow recovery of the utility's prudently incurred environmental compliance costs, and any amendments to the costs or change in the application or enforcement of the costs, through an environmental compliance cost recovery factor that is separate and apart from the utility's base rates.⁸ An adjustment for the level of costs currently being recovered through base rates or other rate adjustment clauses must be included in the petition.⁹

The environmental compliance cost recovery factor must be set periodically (at least annually) based on projections of the utility's environmental compliance costs during the forthcoming

³ Section 366.8255(1)(d), F.S. Environmental laws or regulations are defined as “all federal, state, or local statutes, administrative regulations, orders, ordinances, resolutions, or other requirements that apply to electric utilities and are designed to protect the environment.” Section 366.8255(1)(c), F.S.

⁴ Section 366.8255(1)(d), F.S.

⁵ Public Service Commission (PSC), *Senate Bill 964 Analysis* (Feb. 11, 2021), available at <http://abar.laspsb.state.fl.us/ABAR/Attachment.aspx?ID=31380>.

⁶ *Id.*

⁷ Section 366.8255(2), F.S.

⁸ *Id.*

⁹ *Id.*

recovery period. The environmental compliance cost recovery factor must periodically reconcile the actual environmental compliance costs with the projections on which past factors have been set.¹⁰ Environmental compliance costs recovered through the environmental cost recovery factor must be allocated to the customer classes using statutory criteria.¹¹

Reuse of Reclaimed Water

Water conservation and the promotion of reuse of reclaimed water have been established as formal state objectives by the Legislature.¹² Reuse is defined as the deliberate application of reclaimed water for a beneficial purpose.¹³ Whereas, reclaimed water is defined as water from a domestic wastewater¹⁴ treatment facility that has received at least secondary treatment¹⁵ and basic disinfection¹⁶ for reuse.¹⁷

Reclaimed water is reused for various purposes, such as irrigation, industrial uses, groundwater recharge, and prevention of saltwater intrusion in coastal groundwater aquifers.¹⁸ Industrial uses of reclaimed water include plant wash down and processing and cooling water.¹⁹ Several power plants throughout the state use reclaimed water for cooling purposes.²⁰

Local governments are authorized and encouraged under Florida law to implement programs for the reuse of reclaimed water and are authorized to allocate the costs of such programs in a reasonable manner.²¹

Ocean Outfalls

An ocean outfall occurs when a wastewater treatment facility or other facility discharges treated effluent into coastal or ocean waters. There are six domestic wastewater facilities in Palm Beach, Broward, and Miami-Dade Counties that discharge or previously discharged approximately 300 mgd of treated domestic wastewater directly into the Atlantic Ocean through ocean outfalls.²² However, state law prohibits construction of new ocean outfalls and requires that all six ocean

¹⁰ Section 366.8255(3), F.S.

¹¹ Section 366.8255(4), F.S.

¹² Sections 403.064(1) and 373.250(1), F.S.

¹³ Fla. Admin. Code R. 62-610.200(52).

¹⁴ Section 367.021(5), F.S., defines the term “domestic wastewater” to mean wastewater principally from dwellings, business buildings, institutions, and sanitary wastewater or sewage treatment plants.

¹⁵ Fla. Admin. Code R. 62-610.200(54) defines the term “secondary treatment” to mean “wastewater treatment to a level that will achieve the effluent limitations specified in paragraph 62-600.420(1)(a), F.A.C.”

¹⁶ Fla. Admin. Code R. 62-600.440(5) provides the requirements for basic disinfection.

¹⁷ Section 373.019(17), F.S.; Fla. Admin. Code R. 62-610.200(48).

¹⁸ Martinez, Christopher J. and Clark, Mark W., *Reclaimed Water and Florida’s Water Reuse Program*, UF/IFAS Agricultural and Biological Engineering Department (rev. 07/2012), available at <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.590.5063&rep=rep1&type=pdf>.

¹⁹ Department of Environmental Protection (DEP), *Uses of Reclaimed Water*, <https://floridadep.gov/water/domestic-wastewater/content/uses-reclaimed-water> (last visited Feb. 5, 2021).

²⁰ DEP, *Industrial Uses of Reclaimed Water*, <https://floridadep.gov/water/domestic-wastewater/content/industrial-uses-reclaimed-water> (last visited Feb. 5, 2021).

²¹ Section 403.064(9)-(10), F.S.

²² DEP, *Ocean Outfall Study Final Report ES-1* (Apr. 18, 2006), available at https://floridadep.gov/sites/default/files/OceanOutfallStudy_0.pdf.

outfalls in Florida cease discharging wastewater by December 31, 2025.²³ In addition, wastewater facilities that discharged wastewater through an ocean outfall on July 1, 2008, are required to install a reuse system no later than December 31, 2025.²⁴ Existing discharges through ocean outfalls were required to meet advanced waste treatment requirements²⁵ by December 31, 2018.²⁶

III. Effect of Proposed Changes:

The bill revises the definition of “environmental compliance costs” in the environmental cost recovery provision of the Florida Energy Efficiency and Conservation Act to include all costs or expenses incurred by an electric utility after July 1, 2021, pursuant to an agreement between the electric utility and a wastewater utility for the exclusive purpose of the electric utility constructing and operating a wastewater reuse system that fully or partially satisfies a local government’s statutory reclaimed water reuse requirements, including for ocean outfalls. The bill requires that at least 50 percent of the reclaimed water the reuse system produces is used in conjunction with the water requirements of an electrical generating facility or facilities owned by the electric utility.

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

²³ Section 403.086(10), F.S.; chapter 2008-232, Laws of Fla.

²⁴ Section 403.086(10)(c), F.S.

²⁵ Section 403.086(4), F.S.

²⁶ Section 403.086(10)(b), F.S.

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

None.

B. Private Sector Impact:

The bill could potentially result in higher electric rates for consumers if an electric utility's costs increase due to agreements with wastewater utilities for wastewater reuse systems.²⁷

C. Government Sector Impact:

The bill could potentially result in higher electric rates for local governments if an electric utility's costs increase due to agreements with wastewater utilities for wastewater reuse systems.²⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 366.8255 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

²⁷ PSC, *Senate Bill 964 Analysis* (Feb. 11, 2021), available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=31380>.

²⁸ *Id.*

By Senator Diaz

36-00754-21

2021964__

A bill to be entitled
An act relating to environmental compliance costs;
amending s. 366.8255, F.S.; redefining the term
"environmental compliance costs" to include costs or
expenses prudently incurred by an electric utility in
complying with specified reclaimed water reuse
requirements; providing an effective date.

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

Section 1. Paragraph (d) of subsection (1) of section
366.8255, Florida Statutes, is amended to read:

366.8255 Environmental cost recovery.—

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

(d) "Environmental compliance costs" includes all costs or
expenses incurred by an electric utility in complying with
environmental laws or regulations, including, but not limited
to:

1. Inservice capital investments, including the electric
utility's last authorized rate of return on equity thereon.
2. Operation and maintenance expenses.
3. Fuel procurement costs.
4. Purchased power costs.
5. Emission allowance costs.
6. Direct taxes on environmental equipment.
7. Costs or expenses prudently incurred by an electric
utility pursuant to an agreement entered into on or after the
effective date of this act and prior to October 1, 2002, between
the electric utility and the Florida Department of Environmental

36-00754-21

2021964__

30 Protection or the United States Environmental Protection Agency
31 for the exclusive purpose of ensuring compliance with ozone
32 ambient air quality standards by an electrical generating
33 facility owned by the electric utility.

34 8. Costs or expenses prudently incurred for scientific
35 research and geological assessments of carbon capture and
36 storage conducted in this state for the purpose of reducing an
37 electric utility's greenhouse gas emissions when such costs or
38 expenses are incurred in joint research projects with Florida
39 state government agencies and Florida state universities.

40 9. Costs or expenses prudently incurred by an electric
41 utility after July 1, 2021, pursuant to an agreement between the
42 electric utility and a wastewater utility for the exclusive
43 purpose of the electric utility constructing and operating a
44 wastewater reuse system that fully or partially satisfies a
45 local government's reclaimed water reuse requirements under s.
46 403.064 or s. 403.086, where at least 50 percent of the
47 reclaimed water the reuse system produces is used in conjunction
48 with the water requirements of an electrical generating facility
49 or facilities owned by the electric utility.

50 Section 2. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 88

INTRODUCER: Environment and Natural Resources Committee; Judiciary Committee; and Senator Brodeur and others

SUBJECT: Farming Operations

DATE: February 15, 2021 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Anderson</u>	<u>Rogers</u>	<u>EN</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 88 amends the Florida Right to Farm Act. The general purpose of the act is to protect reasonable agricultural activities conducted on farm land from nuisance lawsuits. The bill provides stronger liability protections to farms that comply with best management practices and environmental regulations.

The definition of “farm operations” is expanded to add “agritourism” activities to the list of farm operations that receive limited legal protections in nuisance suits and other similar civil actions. The definition is further revised to include the generation of “particle emissions” to the list of conditions or activities that constitute farm operations.

The bill defines “established date of operation” for an agritourism activity as the date the specific agritourism activity commenced, providing for a separate established date of operation for an agritourism activity than for the farm operation.

The burden of proof that a plaintiff must meet in a nuisance action or similar legal action is raised to the clear and convincing evidence standard if the claim is based upon allegations that the defendant’s conduct did not comply with government environmental laws, regulations, or best management practices.

The bill limits those who may bring a nuisance action against a farm operation to people whose real property that is alleged to be damaged is located within one-half mile of the alleged source of the nuisance.

The bill limits compensatory damages in a private nuisance action to the reduction in the fair market value of the plaintiff's property, which may not exceed the fair market value of the property.

The bill prohibits a plaintiff from recovering punitive damages for a farm operation in a private nuisance action unless the alleged nuisance is based on substantially the same conduct that resulted in either a criminal conviction or a civil enforcement action by a government environmental regulatory agency and the conviction or enforcement action occurred within 3 years of the first act forming the basis of the nuisance action.

A losing plaintiff is liable for a farm's litigation costs and expenses incurred defending a nuisance action if the farm operation has been in existence for 1 year or more before the legal action was instituted and the farm operation conforms to generally accepted agricultural and management practices or government environmental laws.

The bill takes effect July 1, 2021.

II. Present Situation:

Background

In the 1970s, states began to identify the potential conflicts between farmers and developers as urban sprawl crept into rural, agricultural areas. One of the initial concerns was that the relocation of city dwellers into the agricultural areas would result in a rash of very expensive nuisance lawsuits once the new neighbors were confronted with the sensory nature of farm life, complete with an inescapable array of odors, loud noises, dust, and other side-effects.¹

In an effort to protect farms and agricultural operations from the encroaching sprawl, states passed anti-nuisance laws that are referred to as "Right to Farm" laws. These laws, enacted in all 50 states, protect agricultural production against some nuisance lawsuits. The laws do not grant absolute immunity but generally provide protections for defendants based upon a "coming to the nuisance" defense theory. These laws provide a liability shield for pre-existing agricultural operations when changes are made to the use of nearby parcels, such that the plaintiffs are described as "coming to the nuisance."² The Florida Right to Farm Act was enacted in 1979.³

Nuisance

A nuisance is described as an activity, condition, or situation created by someone that significantly interferes with another person's use or enjoyment of his or her property. A private

¹ Alexia B. Borden and Thomas R. Head, III, *The "Right To Farm" In The Southeast – Does it Go Too Far?* 11 No. 1 ABA Agric. Mgmt. Committee Newsl. 8 (April, 2007).

² *Id.*

³ Chapter 79-61, ss. 1-2, Laws of Fla.

nuisance affects a person's private right that is not common to the public while a public nuisance is an interference that affects the general public, for example, a condition that is dangerous to health or community standards.⁴

The Florida Right to Farm Act

The Florida Right to Farm Act⁵ protects farm operations from nuisance lawsuits if the operations comply with generally accepted agricultural and management practices.

The Florida Right to Farm Act states that a farm operation cannot be classified as a public or private nuisance if the farm:

- Has been in operation for 1 year or more since its established date of operation;
- Was not a nuisance when it was established; and
- Conforms to generally accepted agricultural and management practices.⁶

However, the following four unsanitary conditions constitute evidence of a nuisance:

- The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life.
- The presence of improperly built or improperly maintained septic tanks, water closets, or privies.
- The keeping of diseased animals which are dangerous to human health, unless the animals are kept in accordance with a current state or federal disease control program.
- The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.⁷

Additionally, a farm operation cannot be classified as a public or private nuisance due to a change:

- In ownership,
- In the type of farm product that is produced,
- In conditions in or around the locality of the farm, or
- Made in compliance with Best Management Practices adopted by local, state or federal agencies.⁸

The Florida Right to Farm Act, however, may not be construed to permit an existing farm operation to increase to a more excessive farm operation with regard to noise, odor, dust, or fumes where the existing operation is adjacent to an established homestead or business on March 15, 1982.^{9,10}

⁴ BLACK'S LAW DICTIONARY (11th ed. 2019).

⁵ Section 823.14, F.S.

⁶ Section 823.14(4)(a), F.S.

⁷ *Id.*

⁸ Section 823.14(4)(b), F.S.

⁹ Section 823.14(5), F.S.

¹⁰ In an effort to eliminate duplication of regulatory authority over farm operations, local governments may not adopt an ordinance or similar policy to prohibit or limit an activity of a bona fide farm operation on land that is classified as agricultural land in accordance with statute, where the activity is regulated through implemented best management practices or certain interim measures. The full text of this prohibition is contained in s. 823.14(6), F.S.

Florida's Agricultural Landscape

According to the University of Florida Institute of Food and Agricultural Sciences, Florida had 47,590 farm operations covering 9.7 million acres of farmland in 2018, the most recent year for which this information is available. Agricultural land, which consists of cropland and ranchland, combined with forest land, comprises nearly two-thirds of the state's entire land.¹¹

Data provided by the U.S. Department of Agriculture notes that in 2019, Florida's cash receipts from the sale of agricultural commodities was \$7.67 billion, ranking 18th in the nation for total commodity sales. Florida leads the United States in the production of oranges, sugarcane, and watermelons. The state ranks second in the nation for the production of bell peppers, cucumbers, grapefruit, peanuts, strawberries, and tomatoes.¹²

Agritourism Activity

"Agritourism activity" is defined under "Agricultural Development" in chapter 570, F.S., the Department of Agriculture and Consumer Services chapter. It includes any agricultural related activity that is consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows the general public to view or enjoy its activities for recreational, entertainment, or educational purposes. These activities include farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions. An agritourism activity does not include the building of new or additional structures or facilities that are intended primarily to house, shelter, transport, or otherwise accommodate the general public. An activity is deemed to be an agritourism activity regardless of whether the participant paid to participate in the activity.¹³

Established Date of Operation

"Established date of operation" is defined under the Florida Right to Farm Act as the date the farm operation commenced. The definition provides that:

- If the farm operation is subsequently expanded within the original boundaries of the farm land, the established date of operation of the expansion is the same date the original farm operation commenced.
- If the land boundaries of the farm are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent established date of operation. However, the expanded operation does not divest the farm operation of a previous established date of operation.¹⁴

¹¹University of Florida – IFAS, *Florida Agriculture & Natural Resource Facts* (July 2018) published by the UF/IFAS Economic Impact Analysis Program in 2019 and 2020.

¹² U.S. Department of Agriculture, National Agricultural Statistics Service, *Florida Agricultural Facts* (Sept. 2020), https://www.nass.usda.gov/Statistics_by_State/Florida/Publications/More_Features/FL2019.pdf.

¹³ Section 570.86(1), F.S.

¹⁴ Section 823.14(3)(d), F.S.

Litigation

A federal class action lawsuit¹⁵ has been filed against sugarcane farmers in south Florida alleging that the pre-harvest burning of sugarcane has caused damages to nearby individuals and property. The defendants farm sugarcane on approximately 400,000 acres in areas south and southeast of Lake Okeechobee. The farmers burn the outer leaves of the sugarcane during a pre-harvest burn that takes place during a 6-month period from October through May each year. The plaintiffs allege that the burning has diminished their property values, caused long-term health issues, and prevented the area from growing economically.

Although the litigation is continuing through a series of pre-trial motions, the court has determined that pre-harvest burning of sugarcane is an acceptable agricultural practice protected by the Florida Right to Farm Act. However, the court has found that the act does not bar all of the plaintiffs' claims. The court ruled that the act did not protect the farmers from claims that pre-harvest burning released harmful pollutants.

III. Effect of Proposed Changes:

The Florida Right to Farm Act (Section 1)

Legislative Findings and Purpose; Adding Agritourism

The Florida Right to Farm Act contains a section of legislative findings and purposes that establish why reasonable agricultural activities conducted on farmland should be protected from nuisance lawsuits that can force the premature removal of farmland from agricultural use.¹⁶ The language notes, in part, that: agricultural production makes major contributions to the state economy; agricultural lands cannot be replaced; agricultural activities increase tourism; and that agriculture furthers the economic self-sufficiency of the people of the state and should be protected. The bill adds agritourism to this section of the act such that preservation of agricultural activities contributes to the increase of tourism and agritourism. Additionally, and as now amended, the purpose of the act protects reasonable agricultural and complementary agritourism activities conducted on farmland from nuisance suits and other similar lawsuits.

Changes to Definitions in the Florida Right to Farm Act

Agritourism Activity

The definitions section of the act is amended to add a definition of "agritourism activity" and then include it in the definition of what constitutes a farm operation. With this change, agritourism activities receive the nuisance protections that compliant farm operations receive under the terms of the act.

Farm Operation

The definition of a "farm operation" is expanded. The current definition states that a farm operation means all conditions or activities ... which occur on a farm and includes, but is not limited to, "the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise odors, dust, and fumes ..." The phrase

¹⁵ *Coffie v. Florida Crystals Corporation*, 460 F. Supp. 3d 1297 (S.D. Fla. 2020).

¹⁶ Section 823.14(2), F.S.

“particle emissions” is added to the list of conditions and activities that constitute a farm operation.

Established Date of Operation

The bill defines “established date of operation” for an agritourism activity as the date the specific agritourism activity commenced, providing for a separate established date of operation for an agritourism activity than for the farm operation.

Lawsuit Protections: Evidence Standard and Damages

New provisions are added to the Right to Farm Act to provide additional protections for farm operations from lawsuits.

Clear and Convincing Evidence

For a plaintiff to succeed in certain claims against a farm for conduct that is alleged to cause harm outside of the farm, the plaintiff must prove by “clear and convincing evidence” that the claim arises from conduct that did not comply with state and federal environmental laws, regulations, or best management practices. Those claims involve actions for:

- Public or private nuisance,
- Negligence,
- Trespass,
- Personal injury,
- Strict liability, or
- Another tort based on a farm operation.

“Clear and convincing evidence” is a standard or burden of proof which measures the level or degree to which an issue must be proved. In civil cases, two standards of proof generally apply: “the greater weight of the evidence standard” which applies most often in civil cases; or “the clear and convincing evidence standard” which applies less often, and is a higher standard of proof.

The clear and convincing standard requires that the evidence be credible and the facts which the witness testifies to must be remembered distinctly. The witness’s testimony “must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue.” The evidence must be so strong that it guides the trier of fact to a firm conviction, to which there is no hesitation, that the allegations are true.¹⁷

One-half Mile Distance Restrictions for Nuisance Claims

A physical distance restriction is placed on nuisance actions. Under the bill, a nuisance action may not be filed against a farm operation unless the real property affected by the alleged nuisance condition is located within one-half mile of the source of the activity or structure which is alleged to be a nuisance. If real property is not affected, it appears that there is no distance restriction on the action.

¹⁷ *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

Compensatory Damages¹⁸ in a Nuisance Claim

If a plaintiff prevails in a private nuisance action and alleges that the nuisance emanated from a farm operation, the measure of compensatory damages is limited. The compensatory damages must be measured by the reduction in the fair market value of the plaintiff's property caused by the nuisance. However, these damages may not exceed the fair market value of the property.

Punitive Damages¹⁹ in a Nuisance Claim

The bill generally limits the availability of punitive damages based on farm operations. A plaintiff may not recover punitive damages in a private nuisance action against a farm unless:

- The alleged nuisance is based on substantially the same conduct that resulted in a criminal conviction or a civil enforcement action by a state or federal environmental regulatory agency; and
- The conviction or enforcement action happened within 3 years of the first act forming the basis of the current nuisance action.

Costs and Expenses Awarded Against a Plaintiff

If a plaintiff does not prevail in a nuisance claim against a farm operation that has been in existence for 1 year or more before the date the claim was filed and the farm operation conforms with generally accepted agricultural and management practices or state and federal environmental laws, the plaintiff is liable to the farm for all costs and expenses incurred in defending the action.

Sections 2, 3, 4, 5, 6, 7, 8, and 9

These sections do not create any substantive changes to the Florida Right to Farm Act. They are necessary changes made by the Senate Bill Drafting Office to correct cross-references, reenact provisions, or incorporate amendments made by changes in the substance of the bill.

Section 10 - Effective Date

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁸ Compensatory damages are awarded to repay actual losses. BLACK'S LAW DICTIONARY (11th ed. 2019).

¹⁹ Punitive damages are awarded to punish a defendant and are awarded in addition to actual damages. They are awarded when the defendant acted in a reckless manner or with malice or deceit. BLACK'S LAW DICTIONARY (11th ed. 2019).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

This bill may reduce litigation costs faced by farms based on nuisance-type lawsuits. On the other hand, persons adversely affected by a farm operation will have more difficulties in obtaining redress. At least in some cases, plaintiffs will need to prove that the farm operation was in violation of environmental laws.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 823.14 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/CS by Environment and Natural Resources on February 15, 2021:

- Revises the definition of the term “established date of operation” to provide for a separate established date of operation for an agritourism activity than the established date of operation for the farm operation.

- Defines “established date of operation” for an agritourism activity as the date the specific agritourism activity commenced.

CS by Judiciary on February 1, 2021:

The punitive damages section of the bill is amended for clarification. It now states that a plaintiff may not recover punitive damages in a private nuisance action against a farm unless the alleged nuisance is based on substantially the same conduct that resulted in a criminal conviction or a civil enforcement action by a state or federal environmental regulatory agency and that conviction or enforcement action occurred within 3 years of the first act that forms the basis of the nuisance action.

B. Amendments:

None.



441286

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 112
and insert:
farm operation commenced. For an agritourism activity, the term
"established date of operation" means the date the specific
agritourism activity commenced. If the farm operation is
subsequently

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



441286

11 And the title is amended as follows:
12 Delete lines 4 - 5
13 and insert:
14 the term "agritourism activity"; revising definitions;
15 prohibiting



302848

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/15/2021	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 151 - 160

and insert:

public or private nuisance based on a farm operation that
is alleged to cause harm outside of the farm unless the
plaintiff proves by clear and convincing evidence that the claim
arises out of conduct that did not comply with state and federal
environmental laws, regulations, or best management practices.

(d) A nuisance action may not be filed against a farm



302848

11 operation unless the real property affected by the conditions
12 alleged to be a nuisance is located within one mile of the
13

By the Committee on Judiciary; and Senators Brodeur and Baxley

590-01950-21

202188c1

A bill to be entitled

An act relating to farming operations; amending s. 823.14, F.S.; revising legislative findings; defining the term "agritourism activity"; revising the definition of the term "farm operation"; prohibiting farms from being held liable for certain claims for tort liability except under certain circumstances; providing a burden of proof; prohibiting nuisance actions from being filed against farm operations unless specified conditions are met; providing requirements for and limitations on damages; providing that plaintiffs who bring nuisance actions against farm operations are liable for certain costs and expenses under certain conditions; amending ss. 193.4517, 316.5501, 633.202, and 812.015, F.S.; conforming cross-references; reenacting ss. 163.3162(2)(b), 163.3163(3)(b), 403.9337(4), and 570.86(4), F.S., relating to agricultural lands and practices, applications for development permits and disclosure and acknowledgment of contiguous sustainable agricultural land, Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes, and definitions relating to agritourism, respectively, to incorporate the amendments made by this act to s. 823.14, F.S., in references thereto; providing an effective date.

WHEREAS, all 50 U.S. states have enacted "Right to Farm" laws that protect farmers and ranchers from nuisance lawsuits

590-01950-21

202188c1

filed by individuals who move into a rural area where normal farming operations exist and then use legal actions to stop or interfere with ongoing farming operations, and

WHEREAS, Florida's Right to Farm legislation was enacted in 1979 to protect agricultural operations from these types of actions and is in need of updating, and

WHEREAS, as our state continues to experience unprecedented growth and as residential development continues to encroach upon our rural areas, there is a possibility for increased complaints regarding farming practices approved by the Department of Environmental Protection and the Department of Agriculture and Consumer Services, such as harvesting, transporting crops, and conducting controlled burning, despite the use of best management practices, and

WHEREAS, because of the COVID-19 pandemic, there is an increasing exodus from more densely populated areas from both within and outside this state into our rural communities, potentially creating conflicts with existing legal farming activities and their complementary agritourism activities, and

WHEREAS, there is a longstanding tradition of using agritourism activities, such as hayrides, corn mazes, winery tours, and farm festivals, to supplement income received from growing crops and raising farm animals, and

WHEREAS, ensuring the potential for revenues from agritourism activities is necessary to preserve farms and the rural character of many areas in the face of rising costs and foreign competition and the many uncertainties associated with growing crops and raising farm animals, and

WHEREAS, it is timely and prudent to modernize the Florida

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59 Right to Farm Act by clarifying definitions, standing, and
60 procedures in order to ensure that the original intent of
61 Florida's Right to Farm law is preserved and a viable
62 agricultural industry in this state can continue, NOW,
63 THEREFORE,

64
65 Be It Enacted by the Legislature of the State of Florida:

66
67 Section 1. Subsections (2), (3), and (4) of section 823.14,
68 Florida Statutes, are amended, and subsections (7), (8), and (9)
69 are added to that section, to read:

70 823.14 Florida Right to Farm Act.—

71 (2) LEGISLATIVE FINDINGS AND PURPOSE.—The Legislature finds
72 that agricultural production is a major contributor to the
73 economy of the state; that agricultural lands constitute unique
74 and irreplaceable resources of statewide importance; that the
75 continuation of agricultural activities preserves the landscape
76 and environmental resources of the state, contributes to the
77 increase of tourism, including agritourism, and furthers the
78 economic self-sufficiency of the people of the state; and that
79 the encouragement, development, improvement, and preservation of
80 agriculture will result in a general benefit to the health and
81 welfare of the people of the state. The Legislature further
82 finds that agricultural activities conducted on farm land in
83 urbanizing areas are potentially subject to lawsuits based on
84 the theory of nuisance and that these suits encourage and even
85 force the premature removal of the farm land from agricultural
86 use. It is the purpose of this act to protect reasonable
87 agricultural and complementary agritourism activities conducted

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on farm land from nuisance suits and other similar lawsuits.

(3) DEFINITIONS.—As used in this section:

(a) "Agritourism activity" has the same meaning as provided in s. 570.86.

(b) "Farm" means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

(c) ~~(b)~~ "Farm operation" means all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm, honeybee, or apiculture products or in connection with complementary agritourism activities. These conditions and activities include, but are ~~and includes, but is~~ not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, fumes, and particle emissions ~~and fumes~~; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; agritourism activities; and the employment and use of labor.

(d) ~~(e)~~ "Farm product" means any plant, as defined in s. 581.011, or animal or insect useful to humans and includes, but is not limited to, any product derived therefrom.

(e) ~~(d)~~ "Established date of operation" means the date the farm operation commenced. If the farm operation is subsequently expanded within the original boundaries of the farm land, the established date of operation of the expansion shall also be considered as the date the original farm operation commenced. If the land boundaries of the farm are subsequently expanded, the

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established date of operation for each expansion is deemed to be a separate and independent established date of operation. The expanded operation shall not divest the farm operation of a previous established date of operation.

(4) FARM OPERATIONS; NUISANCE ~~FARM OPERATION NOT TO BE OR BECOME A NUISANCE.~~—

(a) No farm operation which has been in operation for 1 year or more since its established date of operation and which was not a nuisance at the time of its established date of operation shall be a public or private nuisance if the farm operation conforms to generally accepted agricultural and management practices, except that the following conditions shall constitute evidence of a nuisance:

1. The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life.

2. The presence of improperly built or improperly maintained septic tanks, water closets, or privies.

3. The keeping of diseased animals which are dangerous to human health, unless such animals are kept in accordance with a current state or federal disease control program.

4. The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.

(b) No farm operation shall become a public or private nuisance as a result of a change in ownership, a change in the type of farm product being produced, a change in conditions in or around the locality of the farm, or a change brought about to comply with best management practices adopted by local, state,

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or federal agencies if such farm has been in operation for 1 year or more since its established date of operation and if it was not a nuisance at the time of its established date of operation.

(c) A farm may not be held liable for a claim involving public or private nuisance, negligence, trespass, personal injury, strict liability, or other tort based on a farm operation that is alleged to cause harm outside of the farm unless the plaintiff proves by clear and convincing evidence that the claim arises out of conduct that did not comply with state and federal environmental laws, regulations, or best management practices.

(d) A nuisance action may not be filed against a farm operation unless the real property affected by the conditions alleged to be a nuisance is located within one-half mile of the source of the activity or structure alleged to be a nuisance.

(7) COMPENSATORY DAMAGES.—When the alleged nuisance emanated from a farm operation, the compensatory damages that may be awarded to a plaintiff for a private nuisance action must be measured by the reduction in the fair market value of the plaintiff's property caused by the nuisance, but may not exceed the fair market value of the property.

(8) PUNITIVE DAMAGES.—A plaintiff may not recover punitive damages in a private nuisance action against a farm unless:

(a) The alleged nuisance is based on substantially the same conduct that resulted in a criminal conviction or a civil enforcement action by a state or federal environmental regulatory agency; and

(b) The conviction or enforcement action occurred within 3

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years of the first act forming the basis of the nuisance action.

(9) NUISANCE ACTIONS BASED ON EXISTING FARM OPERATIONS.—A plaintiff who fails to prevail in a nuisance action based on a farm operation that has been in existence for 1 year or more before the date that the action was instituted and that conforms with generally accepted agricultural and management practices or state and federal environmental laws is liable to the farm for all costs and expenses incurred in defense of the action.

Section 2. Paragraphs (a) and (b) of subsection (1) of section 193.4517, Florida Statutes, are amended to read:

193.4517 Assessment of agricultural equipment rendered unable to be used due to Hurricane Michael.—

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

(a) "Farm" has the same meaning as provided in s. 823.14(3)(b) ~~s. 823.14(3)(a)~~.

(b) "Farm operation" has the same meaning as provided in s. 823.14(3)(c) ~~s. 823.14(3)(b)~~.

Section 3. Subsection (1) of section 316.5501, Florida Statutes, is amended to read:

316.5501 Permitting program for combination truck tractor, semitrailer, and trailer combination coupled as a single unit subject to certain requirements.—

(1) By no later than January 1, 2020, the Department of Transportation in conjunction with the Department of Highway Safety and Motor Vehicles shall develop a permitting program that, notwithstanding any other provision of law except conflicting federal law and applicable provisions of s. 316.550, prescribes the operation of any combination of truck tractor, semitrailer, and trailer combination coupled together so as to

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operate as a single unit in which the semitrailer and the trailer unit may each be up to 48 feet in length, but not less than 28 feet in length, if such truck tractor, semitrailer, and trailer combination is:

(a) Being used for the primary purpose of transporting farm products as defined in s. 823.14(3)(d) ~~s. 823.14(3)(e)~~ on a prescribed route within the boundary of the Everglades Agricultural Area as described in s. 373.4592(15);

(b) Traveling on a prescribed route that has been submitted to and approved by the Department of Transportation for public safety purposes having taken into account, at a minimum, the point of origin, destination, traffic and pedestrian volume on the route, turning radius at intersections along the route, and potential for damage to roadways or bridges on the route;

(c) Operating only on state or local roadways within a radius of 60 miles from where such truck tractor, semitrailer, and trailer combination was loaded; however, travel is not authorized on the Interstate Highway System; and

(d) Meeting the following weight limitations:

1. The maximum gross weight of the truck tractor and the first trailer shall not exceed 88,000 pounds.

2. The maximum gross weight of the dolly and second trailer shall not exceed 67,000 pounds.

3. The maximum overall gross weight of the truck tractor-semitrailer-trailer combination shall not exceed 155,000 pounds.

Section 4. Paragraph (b) of subsection (16) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(16)

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(b) Notwithstanding any other provision of law:

1. A nonresidential farm building in which the occupancy is limited by the property owner to no more than 35 persons is exempt from the Florida Fire Prevention Code, including the national codes and Life Safety Code incorporated by reference.

2. An agricultural pole barn is exempt from the Florida Fire Prevention Code, including the national codes and the Life Safety Code incorporated by reference.

3. Except for an agricultural pole barn, a structure on a farm, as defined in s. 823.14(3)(b) ~~s. 823.14(3)(a)~~, which is used by an owner for agritourism activity, as defined in s. 570.86, for which the owner receives consideration must be classified in one of the following classes:

a. Class 1: A nonresidential farm building that is used by the owner 12 or fewer times per year for agritourism activity with up to 100 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal pursuant to this section.

b. Class 2: A nonresidential farm building that is used by the owner for agritourism activity with up to 300 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal pursuant to this section.

c. Class 3: A structure or facility that is used primarily

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for housing, sheltering, or otherwise accommodating members of the general public. A structure or facility in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is subject to the Florida Fire Prevention Code.

Section 5. Paragraph (g) of subsection (1) of section 812.015, Florida Statutes, is amended to read:

812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(1) As used in this section:

(g) "Farm theft" means the unlawful taking possession of any items that are grown or produced on land owned, rented, or leased by another person. The term includes the unlawful taking possession of equipment and associated materials used to grow or produce farm products as defined in s. 823.14(3)(d) ~~s. 823.14(3)(e)~~.

Section 6. For the purpose of incorporating the amendments made by this act to section 823.14, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 163.3162, Florida Statutes, is reenacted to read:

163.3162 Agricultural Lands and Practices.—

(2) DEFINITIONS.—As used in this section, the term:

(b) "Farm operation" has the same meaning as provided in s. 823.14.

Section 7. For the purpose of incorporating the amendments made by this act to section 823.14, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section

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163.3163, Florida Statutes, is reenacted to read:

163.3163 Applications for development permits; disclosure and acknowledgment of contiguous sustainable agricultural land.—

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

(b) "Farm operation" has the same meaning as defined in s. 823.14.

Section 8. For the purpose of incorporating the amendments made by this act to section 823.14, Florida Statutes, in a reference thereto, subsection (4) of section 403.9337, Florida Statutes, is reenacted to read:

403.9337 Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.—

(4) This section does not apply to the use of fertilizer on farm operations as defined in s. 823.14 or on lands classified as agricultural lands pursuant to s. 193.461.

Section 9. For the purpose of incorporating the amendments made by this act to section 823.14, Florida Statutes, in a reference thereto, subsection (4) of section 570.86, Florida Statutes, is reenacted to read:

570.86 Definitions.—As used in ss. 570.85-570.89, the term:

(4) "Farm operation" has the same meaning as in s. 823.14.

Section 10. This act shall take effect July 1, 2021.

Bonn, Kim

From: Rogers, Ellen
Sent: Tuesday, February 16, 2021 8:37 AM
To: Bonn, Kim
Subject: FW: Bill 920

From: Lee, Mary <LEE.MARY@flsenate.gov>
Sent: Monday, February 15, 2021 4:38 PM
To: Brodeur, Jason <Brodeur.Jason@flsenate.gov>; Rogers, Ellen <ROGERS.ELLEN@flsenate.gov>; Albritton, Ben <Albritton.Ben@flsenate.gov>
Subject: Bill 920

Dear Senator Brodeur

Please allow another member of the committee on Environment and Natural Resources to present SB 920 on my behalf.

Sincerely

Jennifer Bradley

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2/15/2021

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

88

Bill Number (if applicable)

441286

Amendment Barcode (if applicable)

Topic Farming Operations

Name Rebecca O'Hara

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities, Inc.

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)

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THE FLORIDA SENATE
APPEARANCE RECORD

2/15/2021

Meeting Date

88

Bill Number (if applicable)

441286

Amendment Barcode (if applicable)

Topic Farming Operations

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Agritourism Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/15/21

Meeting Date

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

88

Bill Number (if applicable)

Topic SB 88

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title EXECUTIVE VICE PRESIDENT

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA POULTRY FEDERATION

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)

2/15/21

Meeting Date

88

Bill Number (if applicable)

Topic

Farming Operations

Amendment Barcode (if applicable)

Name

Adam Basford

Job Title

Director, Legislative Affairs

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Email

adam.basford@fsr.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

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

2/15/21
Meeting Date

88
Bill Number (if applicable)

Topic Farm Operations

Amendment Barcode (if applicable)

Name GARY Hunter

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA Fruit and Vegetable Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE
APPEARANCE RECORD

2/15/21

Meeting Date

88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Carolyn Johnson

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/21

Meeting Date

SB 88

Bill Number (if applicable)

Topic FARMING OPERATIONS

Amendment Barcode (if applicable)

Name META CALDER

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA LEAGUE OF WOMEN VOTERS

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)

2/15/21

Meeting Date

88

Bill Number (if applicable)

Topic Farm Operations

Amendment Barcode (if applicable)

Name Jim Spratt

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA Forestry Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

2/15/2021

Meeting Date

SB 88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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Enviro
3,30

THE FLORIDA SENATE

APPEARANCE RECORD

2/15/21

Meeting Date

88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Brewster Bevis

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Email bbevis@aif.com

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State

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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

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

2/15/2021

Meeting Date

SB 88

Bill Number (if applicable)

Topic SB 88 Concerning Right to Farm

Amendment Barcode (if applicable)

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Email RRudd@mwllc.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Nature Conservancy

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)

2/15/21

Meeting Date

88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Ida V. Eskamani

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Email ida.eskamani@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Rising

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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2/15/21

Meeting Date

88

Bill Number (if applicable)

Topic Farming Ops

Amendment Barcode (if applicable)

Name Deborah Foote

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State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Sierra Club FL

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)

2/15/2021

Meeting Date

88

Bill Number (if applicable)

Topic FARMING Operations

Amendment Barcode (if applicable)

Name JONATHAN Webber

Job Title Deputy Director

Address 1700 N. Monroe St. #11-186

Phone 954-593-4449

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Tallahassee

FL

3234

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State

Zip

Email jwebber@FCVOTERS.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA CONSERVATION VOTERS

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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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

2/15/2021

Meeting Date

SB 88

Bill Number (if applicable)

302848

Amendment Barcode (if applicable)

Topic Farming Operations

Name Matthew Posgay

Job Title Attorney

Address PO Box 1860

Street

Jacksonville

City

FL

State

32201

Zip

Phone 904-356-6071

Email mnp@cokerlaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Association

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)

2/15/21

Meeting Date

406

Bill Number (if applicable)

Topic Big Cypress Basin

Amendment Barcode (if applicable)

Name LISA HURLEY

Job Title _____

Address 301 E. Park Ave

Phone 224-5081

Tallahassee, FL 32301
City State Zip

Email lhurley@senatorhaley.com
and haley@senatorhaley.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing COLLIER COUNTY

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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Env. & Nat. Resources
3:30

THE FLORIDA SENATE
APPEARANCE RECORD

2/15/21

Meeting Date

SB 406

Bill Number (if applicable)

Topic Big Cypress Basin

Amendment Barcode (if applicable)

Name Dan DeLisi, ~~Atty~~

Job Title DeLisi, Inc.

Address 520 27th Street

Phone (239) 913-7159

Street

West Palm Beach

FL

33407

Email mailto:dan@delisi-inc.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Lee County

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)

2/15/2021

Meeting Date

514

Bill Number (if applicable)

Topic Resiliency

Amendment Barcode (if applicable)

Name JONATHAN Webber

Job Title Deputy Director

Address 1700 N. Monroe St. #11-286

Phone 954 593-4449

Street

Tallahassee

FL

32301

City

State

Zip

Email JWebber@FCVOTERS.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA CONSERVATION VOTERS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

2/15/2021

Meeting Date

SB 514

Bill Number (if applicable)

Topic SB 514 concerning Resiliency

Amendment Barcode (if applicable)

Name Ryder Rvd

Job Title SVP at McGuire Woods Consulting

Address 115 East Park Avenue Suite 1

Phone 850-294-3767

Street

Tallahassee, FL 32301

City

State

Zip

Email RRvd@mwc11c.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Nature Conservancy

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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Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

2/15

Meeting Date

514

Bill Number (if applicable)

Topic Resiliency

Amendment Barcode (if applicable)

Name Anna Upton

Job Title General Council for the Everglades Foundation

Address 960 Live Oak Plantation Rd

Phone 850-222-9075

Street

Tallahassee

FL

32312

Email anna@ahupton.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The Everglades Foundation

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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THE FLORIDA SENATE
APPEARANCE RECORD

2/15/2021

Meeting Date

514

Bill Number (if applicable)

Topic Resiliency

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Deputy General Counsel

Address P.O. Box 1757

Phone 850-701-3692

Street

Tallahassee

FL

32301

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, Inc.

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)

2/15/21

Meeting Date

SB 514

Bill Number (if applicable)

Topic Resiliency

Amendment Barcode (if applicable)

Name META CALDER

Job Title (RETIRED)

Address 3740 RAVINE DR

Phone 850-228-5900

Street

TALL

FL

32312

City

State

Zip

Email meta@orleans@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA 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.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/15/21

Meeting Date

SB 514

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jeff Scala

Job Title Associate Director of Public Policy

Address 100 South Monroe Street

Street

Phone (850) 922-4300

Tallahassee

FL

32301

Email jscala@fl-counties.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Counties

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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THE FLORIDA SENATE

APPEARANCE RECORD

2/15/2021

Meeting Date

514

Bill Number (if applicable)

Topic Resiliency

Amendment Barcode (if applicable)

Name Spencer Pylant

Job Title Vice President of Government Affairs

Address 1601 Biscayne Blvd., Ballroom Level

Phone 305-577-5421

Street

Miami

Florida

33132

Email spylant@miamichamber.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Greater Miami Chamber of Commerce

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)

APPEARANCE RECORD

2-15-21

Meeting Date

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

964

Bill Number (if applicable)

Topic ENVIR'L COMPLIANCE COSTS

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTY

Address 111 NW 1ST ST 2810

Phone 305-979-7418

Street

MIAMI FL 33128

Email JMM2@MIAMIDADE.GOV

City

State

Zip

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

CourtSmart Tag Report

Room: LL 37
Caption: Environment and Natural Resources Committee

Case No.:

Type:
Judge:

Started: 2/15/2021 3:31:30 PM

Ends: 2/15/2021 4:41:09 PM

Length: 01:09:40

3:31:29 PM Meeting called to order
3:31:35 PM Roll call
3:31:37 PM Quorum is present
3:31:47 PM Pledge of Allegiance
3:32:09 PM Chair instructs on public appearances in civic center
3:32:47 PM SB 336 Large-Scale Agricultural Pollution Reduction Pilot Program by Senator Rouson is TPd
3:33:00 PM Senator Rodrigues explains the bill
3:33:00 PM SB 406 - Big Cypress Basin
3:33:00 PM 3 Amendments
3:33:00 PM Amendments all by the sponsor Senator Rodrigues
3:34:06 PM Amendments taken up for SB 406
3:34:36 PM Barcode 815588 is explained
3:35:08 PM Questions - none; No public appearance
3:35:20 PM No debate
3:35:23 PM Senator Rodrigues waive close
3:35:26 PM Barcode 815588 is adopted
3:35:33 PM Barcode 492910 by Senator Rodrigues is explained
3:35:50 PM No questions
3:36:15 PM AA Barcode 153086 to barcode A492910 by Senator Rodrigues
3:37:04 PM No questions
3:37:27 PM No public appearance
3:37:28 PM No debate
3:37:46 PM Senator Rodrigues closes
3:37:47 PM Amendment is adopted
3:37:50 PM Back on amended amendment barcode 492910
3:37:59 PM No debate
3:38:05 PM Senator Rodrigues waives close
3:38:33 PM Voice call on amendment
3:38:35 PM Barcode 492910 is adopted
3:38:40 PM Back on the bill SB 406 Big Cypress Basin
3:38:44 PM Questions from the members- none
3:38:50 PM Public appearance
3:38:53 PM At the Civic Center
3:39:05 PM Lisa Hurley representing Collier County waives against the bill
3:40:25 PM Dan DeLisi representing Lee County speaks in support
3:40:47 PM No debate from members
3:40:52 PM Senator waives close on SB 406
3:41:13 PM Roll call
3:41:16 PM CS/SB 406 is reported favorably
3:41:39 PM SB 514 Resiliency is explained by Senator Rodrigues
3:43:32 PM Questions from members on SB 514
3:44:32 PM Senator Stewart with question on future programs
3:44:52 PM Senator Rodrigues responds
3:45:13 PM Public appearance: Jeff Scalla, Florida Association of Counties in support
3:46:15 PM Meta Calder, Florida League of Women Voters speaks in support
3:47:41 PM Rebecca O'Hara, Florida League of Cities, Inc. waives in support
3:47:50 PM Anna Upton General Council for the Everglades Foundation speaks in support
3:47:50 PM Ryder Rudd Nature conservancy waives in support
3:47:59 PM Jonathan Webber, Deputy Director for Florida Conservation Voters speaking in support
3:47:59 PM Spencer Plyant for Greater Miami chamber of Commerce in support
3:49:05 PM Members in debate
3:50:20 PM Senator Ausley points to concerns on climate change

3:50:30 PM Senator Rodrigues closes on bill
3:50:41 PM Roll call
3:50:44 PM SB 514 is reported favorably
3:51:07 PM SB 694 Displacement of Private Waste Companies by Senator Rodrigues
3:52:30 PM Questions from members:
3:53:32 PM Vice Chair Stewart with question on local governments
3:53:59 PM Senator Rodrigues responds
3:54:17 PM Public appearance - none
3:54:32 PM Member debate - none
3:54:37 PM Senator Rodrigues closes on bill
3:54:49 PM Roll call
3:54:54 PM SB 694 is reported favorably
3:55:13 PM SB 964 Environment Compliance Costs by Senator Diaz and Senator Taddeo
3:55:24 PM Senator Diaz presents the bill
3:56:50 PM Questions on SB 964 from members: none
3:57:49 PM Public appearance: Jess McCarty, Miami Dade County in support
3:58:20 PM Member debate - none
3:58:28 PM Senator Diaz closes on the bill
3:58:41 PM Roll call
3:59:16 PM SB 964 is reported favorably
3:59:32 PM Recording Paused- short recess
4:02:19 PM Recording Resumed
4:02:34 PM SB 952 - Water Management Districts is presented by Senator Burgess
4:03:06 PM Questions from members: none
4:03:25 PM Public appearance none
4:03:31 PM Civic center- none
4:03:39 PM Member debate- none
4:03:43 PM Senator Burgess waives close
4:03:52 PM Roll call
4:04:01 PM SB952 is reported favorably
4:04:16 PM Chair Brodeur passes the gavel to Senator Bean
4:04:59 PM Senator Brodeur explains SB 88 Farming Operations
4:05:25 PM Senator Ausley with question on the bill
4:06:26 PM Senator Brodeur responds on injury concern
4:07:32 PM Senator Ausley with follow up question on nuisance negligence
4:08:15 PM Senator Brodeur responds on section 4
4:08:34 PM Senator Ausley with follow up on liability of farm
4:09:12 PM Senator Brodeur responds
4:09:28 PM Senator Bean- recognizes Senator Ausley to continue
4:09:43 PM Question on section 7
4:10:37 PM Senator Brodeur responds on compensatory damages
4:12:13 PM Senator Ausley with follow up
4:12:51 PM Senator Brodeur discusses
4:13:27 PM Senator Bean makes comment
4:13:46 PM Senator Brodeur reponse
4:14:09 PM Amendments taken up Barcode: 302848 by Senator Stewart
4:14:20 PM Senator Stewart withdraws the amendment - expresses concerns on liabilities
4:15:16 PM Amendment 441286 by Senator Brodeur - late filed with no objection
4:15:48 PM Amendment is explained
4:15:57 PM Questions on the amendment:
4:16:42 PM No questions
4:16:52 PM Public appearance: Lena Juarez on withdrawn barcode 302848 is against the amendment
4:16:52 PM Matthew Posgay, Florida Justice Association against the amendment
4:17:33 PM Rebecca Ohara, Florida League of Cities, Inc. in support of amendment 441286
4:17:59 PM Senator Brodeur amendment 441286 is adopted
4:18:07 PM Public testimony
4:18:48 PM Jonathan Webber Deputy Director Florida Conservation Voters is against
4:18:50 PM No member debate
4:18:50 PM Deborah Foote Deputy Chapter Director for Sierra Club FL is against
4:19:06 PM Ida V. Eskamoni of Tallahassee for Florida Rising is against
4:21:44 PM Ryder Rudd, The Nature Conservancy in support
4:22:48 PM Brewster Bevis, Associated Industries of Florida in support

4:23:23 PM	Matthew Posgay Florida Justice Association is against SB 88
4:25:47 PM	Jim Spratt Florida Forestry Association in support. Meta Caldar Florida League of Women Voters is against
4:26:50 PM	Carolyn Johnson Florida Chamber of Commerce waives in support
4:27:19 PM	Gary Hunter Florida Fruit and Vegetable Association in support. Adam Basford Florida Farm Bureau in support
4:27:46 PM	Nancy Stephens Exec Vice President of Florida Poultry Federation in support
4:29:07 PM	Members in debate:
4:29:22 PM	Senator Stewart in debate infers concerns but they could be worked out
4:30:14 PM	Senator Stewart comments on fires
4:31:27 PM	Senator Ausley in debate, points to concerns to expansion probabilities
4:32:39 PM	Chair Brodeur closes on bill - willingness to work further on bill
4:33:11 PM	Roll Call on SB 88 as amended
4:34:02 PM	Senator Bean concludes to Roll Call
4:34:19 PM	CS for CS/SB 88 is found favorably
4:34:38 PM	Gavel is passed back to Chair Brodeur
4:35:00 PM	Recording Paused- short recess
4:36:57 PM	Recording Resumed
4:37:34 PM	Reconvene - SB 920 - Liability Outdoor Activities
4:38:35 PM	SB 920 is presented by Senator Albritton
4:38:53 PM	Questions on bill before amendment: none
4:39:25 PM	Barcode 628690 is explained by Senator Albritton
4:39:42 PM	No member questions
4:39:44 PM	No debate
4:39:52 PM	Amendment is adopted
4:39:58 PM	Questions on bill as amended
4:40:05 PM	None
4:40:08 PM	No public appearance
4:40:14 PM	No debate
4:40:20 PM	Senator Albritton waives close
4:40:23 PM	Roll call
4:40:26 PM	CS/SB 920 is reported favorably
4:40:44 PM	Senator Bean moves to adjourn. Meeting is adjourned