Tab 1	**SB 1668** by **Rodriguez**; (Identical to H 01335) Seagrass Mitigation Banks

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Tab 2	**CS/SB 896** by **RI, Brodeur (CO-INTRODUCERS) Hutson**; (Similar to CS/H 00539) Renewable Natural Gas

Tab 3	**SB 1522** by **Stewart**; (Identical to H 01225) Implementation of the Recommendations of the Blue-Green Algae Task Force

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The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

ENVIRONMENT AND NATURAL RESOURCES
Senator Brodeur, Chair
Senator Stewart, Vice Chair

MEETING DATE: Monday, March 29, 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 1668** Rodriguez (Identical H 1335)	Seagrass Mitigation Banks; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to establish seagrass mitigation banks under certain conditions, etc. EN 03/29/2021 Fav/CS CA AP	Fav/CS Yeas 5 Nays 0
2	**CS/SB 896** Regulated Industries / Brodeur (Similar CS/H 539)	Renewable Natural Gas; Authorizing the Florida Public Service Commission to approve cost recovery by a gas public utility for certain contracts for the purchase of renewable natural gas, etc. RI 03/09/2021 Temporarily Postponed RI 03/16/2021 Fav/CS EN 03/29/2021 Favorable RC	Favorable Yeas 3 Nays 2
3	**SB 1522** Stewart (Identical H 1225)	Implementation of the Recommendations of the Blue-Green Algae Task Force; Citing this act as the "Implementation of Governor DeSantis' Blue-Green Algae Task Force Recommendations Act"; requiring the Department of Environmental Protection to implement a stormwater system inspection and monitoring program for a specified purpose by a specified date; requiring owners of onsite sewage treatment and disposal systems to have the system periodically inspected, beginning on a specified date; requiring basin management action plans to describe potential future increases in pollutant loading and provide a comprehensive analysis of options to mitigate such increases, etc. EN 03/29/2021 Fav/CS AEG AP	Fav/CS Yeas 5 Nays 0
4	Presentation on Manatees by the Fish and Wildlife Conservation Commission		Presented

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

2021 Legislative Session

Bill #/Title:
SB 1668 – Seagrass Mitigation Banks
Sponsor: Rodriguez R.
Companion Bill (if applicable): HB 1335 (Identical)
Program(s): Division of State Lands, Division of Water Resource Management

OVERVIEW

The proposed language authorizes the Board of Trustees of the Internal Improvement Trust Fund (BOT) to establish seagrass mitigation banks under certain conditions.

PRESENT SITUATION

Chapter 373.4135, F.S., states: "Mitigation banks and off-site regional mitigation should emphasize the restoration and enhancement of degraded ecosystems and the preservation of uplands and wetlands as intact ecosystems rather than alteration of landscapes to create wetlands. This is best accomplished through restoration of ecological communities that were historically present."

Section 373.4135(1)(b), F.S., requires a governmental entity establishing a mitigation bank to provide the same financial assurances as required by private mitigation bankers unless the mitigation is only for their own governmental projects.

Section 373.4135(1)(b)8, F.S., requires that DEP or a water management district enter into a memorandum of agreement for mitigation to occur on sovereign submerged lands when the mitigation is sponsored by a local government, DEP or a water management district.

Mitigation banks are currently authorized by a state permit (issued by either a water management district or DEP) and by the U.S. Army Corps of Engineers as a Mitigation Bank Instrument.

IMPACTS

This bill would give the BOT the authority to establish seagrass mitigation banks under Section 373.4136, F.S., to ensure the preservation and regeneration of seagrass, as defined in Section 253.04(3)(a), F.S., and to offset the unavoidable impacts of projects when seagrass banks meet the public interest criteria under Chapters 253 and 258, F.S. Mitigation banks may be established by the BOT on sovereignty and non-sovereignty submerged lands.

This activity would be somewhat contradictory to the BOT's statutes and rules, which encourage traditional public uses of the state's sovereignty submerged lands (e.g., boating, fishing, swimming). The long-term dedication necessary to establish mitigation banks may conflict with the BOT's policy and purpose to allow for the inclusion of public access over sovereignty lands.

DEP and water management districts have authorized non-mitigation bank mitigation on sovereign submerged lands under an Environmental Resource Permit to offset impacts to seagrasses, mangroves, corals and other submerged resources. These projects are authorized by staff to the BOT. The last sentence of the bill (lines 19-21) seems to now require the BOT to approve these projects.

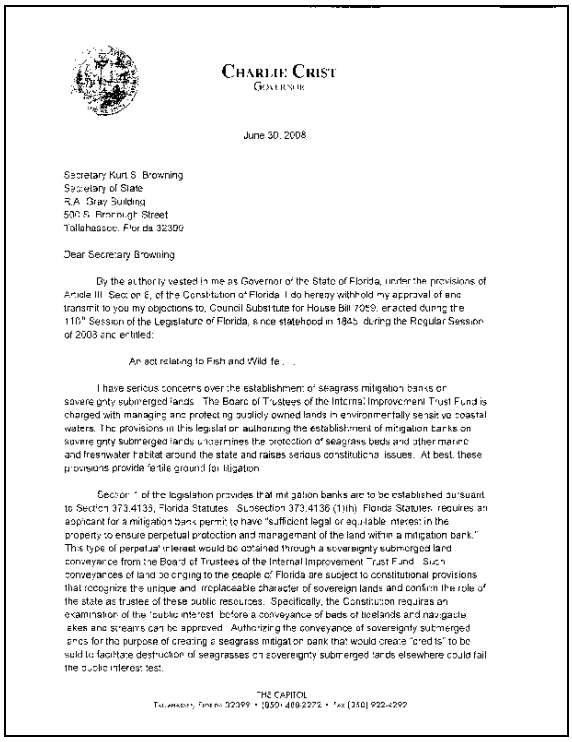
Mitigation banks are most typically private enterprises and on private lands. The BOT would need to provide the same financial assurances (both construction financial assurance and long-term financial assurance) as a private mitigation banker if the BOT is the entity establishing the mitigation bank.

DSL would need to be made aware of all state-owned land used for seagrass mitigation banks. Many state-owned lands were purchased with bond proceeds. The use to which land is acquired with bond proceeds can trigger taxation of the interest on the bonds in violation of the Internal Revenue Service's regulations and the bond indenture. DSL tracks revenue-generating activities (which would now include mitigation banks) on bond-funded land to ensure these activities will not cause all or any portion of the interest on revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.

ADDITIONAL COMMENTS

In 2008, a similar bill was vetoed (see veto letter below) that called for the establishment of seagrass mitigation on sovereign submerged lands because:

- There are several complicating factors involved in seagrass mitigation, including site selection, seed source, sediment quality, bathymetry, etc.
- The long-term viability of seagrass mitigation is also a concern – once established, how do you keep boaters out of the area to ensure the long-term preservation of the seagrasses. The BOT's statutes and rules encourage traditional public uses of the state's sovereignty submerged lands – boating, fishing, swimming. Without proper safeguards in place (i.e., motorized vessel exclusion zones, no mooring zones, etc.) the long-term viability of a seagrass mitigation bank is threatened.



CHARLIE CRIST
GOVERNOR

June 30, 2008

Secretary Kurt S. Browning
Secretary of State
R.A. Gray Building
500 S. Bronough Street
Tallahassee, Florida 32399

Dear Secretary Browning

By the authority vested in me as Governor of the State of Florida, under the provisions of Article III, Section 8, of the Constitution of Florida, I do hereby withhold my approval of and transmit to you my objections to, Council Substitute for House Bill 7059, enacted during the 110th Session of the Legislature of Florida, since statehood in 1845, during the Regular Session of 2008 and entitled:

An act relating to Fish and Wildlife . . .

I have serious concerns over the establishment of seagrass mitigation banks on sovereignty submerged lands. The Board of Trustees of the Internal Improvement Trust Fund is charged with managing and protecting publicly owned lands in environmentally sensitive coastal waters. The provisions in this legislation authorizing the establishment of mitigation banks on sovereignty submerged lands undermines the protection of seagrass beds and other marine and freshwater habitat around the state and raises serious constitutional issues. At best, these provisions provide fertile ground for litigation.

Section 1 of the legislation provides that mitigation banks are to be established pursuant to Section 373.4135, Florida Statutes. Subsection 373.4136 (1)(h), Florida Statutes, requires an applicant for a mitigation bank permit to have "sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank." This type of perpetual interest would be obtained through a sovereignty submerged land conveyance from the Board of Trustees of the Internal Improvement Trust Fund. Such conveyances of land belonging to the people of Florida are subject to constitutional provisions that recognize the unique and irreplaceable character of sovereign lands and confirm the role of the state as trustee of these public resources. Specifically, the Constitution requires an examination of the "public interest" before a conveyance of beds of bodies of water and navigable lakes and streams can be approved. Authorizing the conveyance of sovereignty submerged lands for the purpose of creating a seagrass mitigation bank that would create "credits" to be sold to facilitate destruction of seagrasses on sovereignty submerged lands elsewhere could fail the public interest test.

THE CAPITOL
Tallahassee, Florida 32399 • (850) 488-2272 • Fax (850) 922-4292

[Double click image to open letter]

Regulatory staff in the Beaches Inlets and Ports Program (BIPP) agree with the concerns raised by the letter, especially the concern regarding long-term viability of seagrasses in the absence of a protective mechanism such as the establishment of a no-motor zone. Moreover, BIPP staff raised concerns that preservation of seagrass resources is not appropriate for compensatory mitigation, given that seagrass resources are already protected by state regulations. The establishment of mitigation banks where preservation of seagrasses would be used as compensatory mitigation to offset unavoidable impacts to seagrasses is not consistent with DEP's programmatic goal of no-net-loss of wetland and surface water functions (Environmental Resource Permit Applicant's Handbook Volume 1 Section 10.3). If seagrass resources are lost or degraded due to a permitted project, and these impacts are said to be offset by the preservation of existing seagrasses within a mitigation bank, then there will be a net loss of seagrass resources. Although the preservation of existing seagrasses is not considered to be appropriate, the creation of mitigation banks where seagrasses will be enhanced, restored or created could be appropriate.

It is unclear whether the bill is authorizing the BOT to allow for the establishment of a seagrass mitigation bank by private entities or will the BOT be the permittee and be responsible for the construction, implementation and management of the mitigation bank. It is also unclear whether this language is being proposed as a result of local governments and others anticipating impacts related to resiliency planning.

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 1668
INTRODUCER:	Environment and Natural Resources Committee and Senator Rodriguez
SUBJECT:	Seagrass Mitigation Banks
DATE:	March 29, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	**Fav/CS**
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1668 authorizes the Board of Trustees of the Internal Improvement Trust Fund to authorize leases for seagrass mitigation banks to:

- Ensure the preservation and regeneration of seagrass; and
- Offset the unavoidable impacts of projects when seagrass banks meet the public interest criteria related to state-owned lands and state parks and preserves.

The bill states that this authorization does not prohibit mitigation for impacts to seagrass or other habitats on sovereignty submerged lands, upon approval of the Board of Trustees.

The bill requires the Department of Environmental Protection to modify rules on mitigation banking to remove any duplicative financial assurance requirements and ensure that permitted seagrass mitigation banks comply with the federal mitigation banking rules.

II. Present Situation:

Seagrasses

Seagrasses are grass-like flowering plants that live completely submerged in marine and estuarine waters.[1] Seagrasses occur in protected bays and lagoons as well as in deeper waters

[1] DEP, *Florida Seagrasses*, https://floridadep.gov/rcp/seagrass (last visited Mar. 24, 2021).

along the continental shelf in the Gulf of Mexico.[2] The depth at which seagrasses occur is limited by water clarity because most species require high levels of light.[3] Florida's approximately 2.2 million acres of seagrasses perform many significant functions, including maintaining water clarity, stabilizing the bottom, sheltering marine life, and providing food for many marine animals and water birds.[4]

The Board of Trustees of the Internal Improvement Trust Fund (Board),[5] comprised of the Governor and Cabinet, generally owns and administers all state-owned lands in Florida, unless otherwise specified.[6] The Board has a duty to conserve and improve state-owned land, which includes the preservation and regeneration of seagrass, deemed by the Legislature to be essential to the oceans, gulfs, estuaries, and shorelines of the state.[7] The term "seagrass" is defined in statute to mean any of seven specified species of seagrass.[8]

Sovereign Submerged Lands

Sovereign submerged lands are owned by the state and they include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line,[9] beneath navigable fresh water or tidally-influenced waters.[10] Under the State Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.[11] The sale of such lands may be authorized by law when in the public interest, and the private use of portions of such lands may be authorized by law when not contrary to the public interest.[12]

The Board generally holds title to all sovereign submerged lands in the state.[13] The Board is authorized to sell and convey sovereign submerged lands if determined by the Board to be in the public interest.[14] Before conveying sovereign submerged lands, the Board must determine to what extent such conveyance would interfere with the conservation of wildlife, natural resources,

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[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] The Governor and Cabinet, *Structure of the Florida Cabinet*, http://www.myflorida.com/myflorida/cabinet/structurehistory.html (last visited Mar. 9, 2021).
[6] *See* s. 253.03, F.S.
[7] Section 253.04(3), F.S.
[8] Section 253.04(3)(a)1., F.S. These species are: "Cuban shoal grass (Halodule wrightii), turtle grass (Thalassia testudinum), manatee grass (Syringodium filiforme), star grass (Halophila engelmannii), paddle grass (Halophila decipiens), Johnson's seagrass (Halophila johnsonii), or widgeon grass (Ruppia maritima)."
[9] *See* ss. 177.27(15), (16) and 177.28, F.S. The mean high water line is the point on the shore marking the average height of the high waters over a 19-year period, and it is the boundary between the state-owned foreshore (land alternately covered and uncovered by the tide) and the dry area above the mean high water line that is subject to private ownership.
[10] Fla. Admin. Code R. 18-21.003(65). "Sovereignty submerged lands" are defined as "those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated. For the purposes of this chapter sovereignty submerged lands shall include all submerged lands title to which is held by the Board."
[11] FLA. CON., art. X, s. 11.
[12] *Id*.
[13] Section 253.03, F.S.
[14] Section 253.12, F.S.; *see* s. 258.42, F.S.

and marine ecosystems.[15] Florida law authorizes the Board to adopt rules to administer sovereign submerged lands.[16]

Chapter 18-21 of the Florida Administrative Code, Sovereign Submerged Lands Management, lists the various forms of authorization necessary for specified activities on sovereign submerged lands.[17] The Department of Environmental Protection (DEP) and the Department of Agriculture and Consumer Services (DACS) generally act as staff to the Board in the review of proposed uses of sovereign submerged lands.[18] DEP is responsible for environmental permitting of activities and water quality protection on sovereign submerged lands, while DACS is responsible for managing aquacultural activities on sovereignty submerged lands.[19]

Mitigation Banking

A mitigation bank is a wetland, stream, or other aquatic resource area that has been restored, established, or preserved for the purpose of providing compensation for unavoidable impacts to aquatic resources permitted under certain federal, state, or local programs.[20] In Florida, mitigation banking is part of separate permitting programs at the federal and state levels.

At the federal level, the U.S. Army Corps of Engineers (USACE) administers permitting under section 404 of the Clean Water Act, which establishes a program to regulate the discharge of dredged or fill material in waters of the United States, including wetlands.[21] In 2020, DEP assumed permitting authority under the State 404 Program for certain "assumed waters," but USACE will retain such permitting authority for all other waters in the state.[22]

The U.S. Environmental Protection Agency and USACE promulgate federal regulations establishing environmental criteria, and mechanisms for compensatory mitigation, under section 404.[23] The regulations require a permit applicant to take all appropriate and practicable steps to avoid and minimize adverse impacts to waters of the United States.[24] For unavoidable impacts, as the last step in a sequence after avoidance and minimization, compensatory mitigation may be required to replace the loss of wetland and aquatic resource functions in the watershed.[25] The

[15] Section 253.12(2)(a), F.S.
[16] Sections 253.03(7) and 253.73, F.S.
[17] Fla. Admin. Code R. 18-21.005.
[18] DEP, *Sovereign Submerged Lands (SSL) - Proprietary Authority versus Regulatory Authority in Chapter 18-21, F.A.C.*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/sovereign-submerged-lands-ssl (last visited Mar. 24, 2021); DACS, *Aquaculture Submerged Land Leasing*, https://www.fdacs.gov/Agriculture-Industry/Aquaculture/Aquaculture-Submerged-Land-Leasing (last visited Mar. 24, 2021).
[19] Fla. Admin. Code R. 18-21.002.
[20] U.S. EPA, *Mitigation Banks under CWA Section 404*, https://www.epa.gov/cwa-404/mitigation-banks-under-cwa-section-404 (last visited Mar. 25, 2021).
[21] 33 U.S.C. s. 1344; U.S. EPA, *Wetland Regulatory Authority*, https://www.epa.gov/sites/production/files/2015-03/documents/404_reg_authority_fact_sheet.pdf (last visited Mar. 24, 2021).
[22] DEP, *State 404 Program*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/state-404-program (last visited Mar. 24, 2021); *see* DEP, *State 404 Program Applicant's Handbook*, https://www.flrules.org/gateway/reference.asp?No=Ref-12064 (last visited Mar. 24, 2021).
[23] 40 C.F.R. pt. 230 and 33 C.F.R. pt. 322.
[24] 40 C.F.R. s. 230.91(c) and 33 C.F.R. s. 322.1(c).
[25] U.S. EPA, *Wetlands Compensatory Mitigation*, *available at* https://www.epa.gov/sites/production/files/2015-08/documents/compensatory_mitigation_factsheet.pdf (last visited Mar. 24, 2021).

federal regulations establish requirements and create mechanisms for mitigation approved by an interagency review team, including mitigation banks allowing permittees to purchase credits to meet federal requirements for compensatory mitigation.[26]

At the state level, DEP regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs).[27] ERPs are required for certain development or construction activities, typically involving the dredging or filling of wetlands or surface waters, construction of flood protection facilities, building dams or reservoirs, or any other activities that affect state waters.[28] ERP applications are processed by either DEP or one of the water management districts in accordance with the division of responsibilities specified in operating agreements between DEP and the water management districts.[29]

Florida's ERP criteria generally require that, for proposed activities that will result in adverse impacts to wetland or surface water functions, applicants must implement practicable design modifications to reduce or eliminate such adverse impacts.[30] After such requirements have been completed, mitigation is required to offset the adverse impacts.[31] Mitigation under the ERP program is evaluated in light of the programmatic goal of no net loss of wetland and other surface water functions.[32] Florida law authorizes DEP and the water management districts to require permits authorizing the establishment and use of mitigation banks.[33] DEP has adopted rules that serve as the basis for mitigation bank permitting done by DEP and the water management districts.[34]

Creation of a mitigation bank in Florida requires both a permit from DEP or a water management district, and federal authorization from several agencies led by USACE, in a joint state/federal interagency review team.[35] Through this process, depending on agency approval, mitigation banks may provide mitigation for permitees under both the federal and state permitting programs.

Generally, mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity ("banker") to provide

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[26] *Id*. In addition to mitigation banking, mechanisms for mitigation include permittee-responsible mitigation and in-lieu fee mitigation; 33 C.F.R. pt. 322.
[27] DEP, *Submerged Lands and Environmental Resources Coordination Program*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination (last visited Mar. 24, 2021).
[28] South Florida Water Management District, *Environmental Resource Permits*, https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits (last visited Mar. 24, 2021).
[29] DEP, *Submerged Lands and Environmental Resources Coordination Program*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination (last visited Mar. 24, 2021).
[30] DEP, *ERP Applicant's Handbook Volume I*, 10-2, 10-24–10-33 (2020), *available at* https://www.flrules.org/gateway/reference.asp?No=Ref-12078 (last visited Mar. 24, 2021).
[31] *Id*.
[32] *Id*. at 10-1, 10-24.
[33] Sections 373.4135 and 373.4136, F.S.
[34] Fla. Admin. Code Ch. 62-342.
[35] DEP, *Mitigation Banking Rule and Procedure Synopsis*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and (last visited Mar. 25, 2021).

mitigation for unavoidable wetland impacts within a defined region (mitigation service area).[36] The bank is the site itself, and the currency sold by the banker to the impact permitee is a credit, representing the wetland ecological value equivalent to the complete restoration of one acre.[37] The number of potential credits permitted for the bank, and the credit debits required for impact permits, are determined by the permitting agencies.[38]

Mitigation usually consists of restoration, enhancement, creation, and/or preservation, and may include onsite mitigation, offsite mitigation, regional offsite mitigation areas, or purchasing mitigation credits from permitted mitigation banks.[39] Generally, mitigation preferably involves enhancing or preserving ecological communities or types of resources that are similar to those being impacted by the permitted activities; however different types of communities or resources may be found environmentally acceptable.[40] During the permitting of a mitigation bank, the permitting agencies and interagency review team will determine the mitigation service area: the geographic region within which the bank could reasonably be expected to offset impacts.[41] Determining the boundaries of a mitigation services area generally starts with the regional watershed in which the bank lies. The service area may be larger or smaller depending upon the ecological and hydrological location and value.[42] The impact permitting agency determines whether a particular mitigation bank has sufficient credits and appropriate types of mitigation.[43]

The Uniform Mitigation Assessment Method (UMAM)[44] provides a standardized procedure for assessing the ecological functions provided by surface waters, the amount that those functions are reduced by a proposed impact, and the amount of mitigation necessary to offset that loss.[45] The UMAM evaluates functions by considering an ecological community's current condition, hydrologic connection, uniqueness, location, fish and wildlife utilization, time lag, and mitigation risk.[46] The UMAM is also used to determine the degree of improvement in ecological value of proposed mitigation bank activities.[47]

Under Florida law, to obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;

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[36] DEP, *Mitigation and Mitigation Banking*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking (last visited Mar. 25, 2021).
[37] *Id*.
[38] *Id*.
[39] DEP, *Mitigation*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation (last visited Mar. 25, 2021).
[40] DEP, *ERP Applicant's Handbook Volume I*, 10-25 (2020), *available at* https://www.flrules.org/gateway/reference.asp?No=Ref-12078 (last visited Mar. 24, 2021); 33 C.F.R. s. 332.3(e).
[41] DEP, *Mitigation Banking Rule and Procedure Synopsis*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and (last visited Mar. 25, 2021).
[42] *Id*.
[43] *Id*.
[44] Fla. Admin. Code Ch. 62-345.
[45] DEP, *The Uniform Mitigation Assessment Method (UMAM)*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/uniform-mitigation-assessment (last visited Mar. 25, 2021).
[46] *Id*.
[47] *Id*.

- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.[48]

The applicant must also provide reasonable assurance that:

- Any surface water management system that will be constructed, altered, operated, maintained, abandoned, or removed within a mitigation bank will meet the requirements of part IV of ch. 373, F.S., which regulates management and storage of surface waters, and rules adopted thereunder;
- The applicant has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- The applicant can meet the financial responsibility requirements prescribed for mitigation banks.[49]

Four distinct types of mitigation banks have developed.[50] Single user banks are typically started by large entities, such as utility companies, to offset their own development activities.[51] For-profit banks are where private investors provide the necessary capital to preserve and restore wetlands (e.g., plug old drainage ditches and remove exotic species) and then credits are awarded to the bank investors, who then sell the credits to developers to mitigate for unavoidable impacts.[52] Public banks are operated by the government on public lands.[53] Finally, in-lieu or fee-based banks are a widely used form of public mitigation bank funded by impact fees collected by a permitting agency for the purpose of acquiring or restoring large-scale wetlands.[54]

III. Effect of Proposed Changes:

Section 1 amends s. 253.03, F.S., which generally vests the title to state lands in the Board of Trustees of the Internal Improvement Trust Fund (Board) and authorizes the Board to administer state-owned lands and adopt rules accordingly.

The bill authorizes the Board to authorize leases for seagrass mitigation banks[55] to ensure the preservation and regeneration of seagrass,[56] and to offset the unavoidable impacts of projects

[48] Section 373.4136(1), F.S.
[49] *Id*.; Fla. Admin. Code R. 62-342.400.
[50] Florida House of Representatives Resource & Land Management Council, *Issues Pertaining to the Office of Program Policy Analysis and Government Accountability's Study on Wetlands Mitigation Options*, 7 (Nov. 1999), http://www.leg.state.fl.us/data/Publications/2000/House/reports/interim_reports/pdf/wetlnds.pdf (last visited Mar. 17, 2021).
[51] *Id*.
[52] *Id*. at 7-8.
[53] *Id*. at 8.
[54] *Id*.
[55] Section 373.4136, F.S. The bill authorizes the seagrass mitigation banks under this statute, which provides the Department of Environmental Protection and water managements districts permitting authority for the establishment and use of mitigation banks.
[56] Section 253.04(3)(a), F.S. The bill defines "seagrass" using this paragraph.

when seagrass banks meet the public interest criteria under chapters of the Florida Statutes related to state-owned lands and state parks and preserves.[57] The bill states that this authorization does not prohibit mitigation for impacts to seagrass or other habitats on sovereignty submerged lands, upon approval of the Board.

Section 2 requires the Department of Environmental Protection to modify rules on mitigation banking,[58] in order to remove any duplicative financial assurance requirements and to ensure permitted seagrass mitigation banks comply with the federal mitigation banking rules.

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:

The bill may result in a positive, indeterminate fiscal impact for private entities that acquire leases to create and operate seagrass mitigation banks.

[57] Chapters 253 and 258, F.S. The bill references the public interest criteria under these chapters, which pertain to state lands, and state parks and preserves, respectively.
[58] Section 373.4136, F.S. The bill requires DEP to modify rules adopted pursuant to this section of law.

C. Government Sector Impact:

The bill may result in increased costs for the Board of Trustees of the Internal Improvement Trust Fund and the Department of Environmental Protection. Rulemaking, and potentially establishment of a new program, may be necessary to implement the requirements contained in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Environmental Protection's (DEP) bill analysis on SB 1668 discusses how traditional public uses of sovereign submerged lands may not be consistent with mitigation banks.[59] DEP also discusses concerns that offsetting the loss or degradation of seagrass resources with existing protected seagrasses may lead to a net loss of seagrass resources.[60]

VIII. Statutes Affected:

This bill substantially amends section 253.03 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 March 29, 2021:

- Authorizes the Board of Trustees of the Internal Improvement Trust Fund to authorize leases for seagrass mitigation banks, instead of authorizing the Board to establish seagrass mitigation banks.
- Removes nonsovereignty submerged lands from the areas of seagrass or other habitats impacts to which are not prohibited by the bill.
- Requires the Department of Environmental Protection to modify rules on mitigation banking, in order to remove any duplicative financial assurance requirements and ensure permitted seagrass mitigation banks comply with the federal mitigation banking rules.

B. Amendments:

None.

[59] DEP, *2021 Legislative Session, Bill #: SB 1668*, 1-2 (2021)(on file with the Florida Senate Environment and Natural Resources Committee).
[60] *Id*. at 2.

550372

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 14 - 21

and insert:

(17) The board of trustees may authorize leases for seagrass mitigation banks under s. 373.4136 to ensure the preservation and regeneration of seagrass, as defined in s. 253.04(3)(a), and to offset the unavoidable impacts of projects when seagrass banks meet the public interest criteria under chapters 253 and 258. This subsection does not prohibit

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mitigation for impacts to seagrass or other habitats on sovereignty submerged lands, upon approval of the board of trustees.

Section 2. The Department of Environmental Protection shall modify rules adopted pursuant to s. 373.4136, Florida Statutes, to remove any duplicative financial assurance requirements and to ensure that permitted seagrass mitigation banks comply with the federal mitigation banking rules.

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

And the title is amended as follows:

Delete lines 4 - 6

and insert:

the Internal Improvement Trust Fund to authorize leases for seagrass mitigation banks under certain conditions; providing construction; requiring the Department of Environmental Protection to modify specified mitigation banking rules for specified purposes; providing an effective date.

By Senator Rodriguez

39-01124-21 20211668__

A bill to be entitled

An act relating to seagrass mitigation banks; amending s. 253.03, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to establish seagrass mitigation banks under certain conditions; providing construction; providing an effective date.

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

Section 1. Subsection (17) is added to section 253.03, Florida Statutes, to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(17) The board of trustees may establish seagrass mitigation banks under s. 373.4136 to ensure the preservation and regeneration of seagrass, as defined in s. 253.04(3)(a), and to offset the unavoidable impacts of projects when seagrass banks meet the public interest criteria under chapters 253 and 258. This subsection does not prohibit mitigation for impacts to seagrass or other habitats on sovereignty or nonsovereignty submerged lands, upon approval of the board of trustees.

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

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE "NIKKI" FRIED

February 15, 2021

Agency Affected: Dept. of Agriculture and Consumer Services **Telephone:** 850-617-7000

Agency Contact: Emily Buckley, Legislative Affairs Director **Telephone:** 850-617-7700

Senate Bill Number: 896 **Senate Bill Sponsor:** Senator Brodeur

Bill Title: Renewable Natural Gas

Effective Date: July 1, 2021

Similar Bill(s): Yes ☒ No ☐
Similar Bill(s): HB 539: Renewable Energy by Rep. Byrd

Identical Bill: Yes ☐ No ☒
Identical Bill:

1. **SUMMARY**

   By adding biogas and renewable natural gas (RNG) to the definition of renewable energy found in subsection 366.91(2), F.S., the bill extends the same requirements as for other renewable energy sources. Specifically, public utilities in Florida would be required to continuously offer a purchase contract to producers of biogas and RNG energy, which must be for a term of at least 10 years, and contain payment provisions for energy and capacity, based upon the utility's full avoided costs. The cost-recovery provisions of s. 366.91, F.S., would still apply.

   The bill specifically allows the Florida Development Finance Corporation to continue issuing revenue bonds to finance the undertaking of renewable energy projects, including RNG and biogas renewable energy projects.

2. **PRESENT SITUATION**

   Renewable Natural Gas and Biogas

   Natural gas is primarily made up of methane, with low concentrations of other hydrocarbons, water, carbon dioxide, nitrogen, oxygen, and sulfur compounds. While conventional natural gas is primarily extracted from subsurface porous rock reservoirs via gas and oil wells that utilize drilling and hydraulic fracturing technologies, RNG production

begins with capturing a methane biogas created by the decomposition of organic matter that can be derived from digesters installed on dairy or swine farms, wastewater treatment plants, and landfills, or produced from thermal chemical processes.[1] The raw biogas must then be treated through a process called conditioning or upgrading, which involves the removal of water, carbon dioxide, hydrogen sulfide, and other trace elements.[2]

After minor cleanup, biogas can be used to produce electricity and heat, but to fuel vehicles, biogas must be processed to a higher purity standard. The resulting RNG, or biomethane,[3] has a higher content of methane than raw biogas, which makes it comparable to conventional natural gas and thus a suitable energy source in applications that require pipeline-quality gas. RNG is processed to the purity standards of a pipeline-quality gas that can be used in natural gas vehicles, either in the form of compressed natural gas (CNG) or liquefied natural gas (LNG).

Expansion of RNG offers an opportunity to decarbonize traditional gas end uses such as transportation and heating. RNG qualifies as an advanced biofuel under the Federal Renewable Fuel Standard, which is a federal program requiring transportation fuel sold in the United States to contain a minimum volume of renewable fuels.[4] Other expected benefits of RNG include a reduction in total GHG emissions by using waste streams, improved air quality, and supply diversification.[5]

Nationwide, there were 157 total confirmed operational RNG projects as of December 31, 2020.[6] The total operational production, as of December 31, 2020, was reported as 59,488,530 Million British Thermal Units (MMBTU) with another 9,717,129 MMBTU of production under construction. While there were at least two RNG projects reportedly under construction in Florida at the end of 2020,[7] it is not confirmed whether any operational production has been achieved in the state.

Renewable Energy

Chapter 366, F.S., provides for the regulation of electric utilities by the Florida Public Service Commission (FPSC). Subsection 366.91(2)(d), F.S., defines "renewable energy" as electrical energy produced from:

- hydrogen produced from sources other than fossil fuels,

[1] Thermal chemical processes involve gasification utilizing renewable feedstocks like wood and agricultural waste.
[2] *See*, USDOE Alternative Fuel Data Center, at https://afdc.energy.gov/fuels/natural_gas_renewable.html
[3] Biomethane refers to biogas that has been treated to be interchangeable with traditional natural gas but is often used separately from vehicle applications.
[4] The Renewable Fuel Standard, administered by the US EPA, originated with the Energy Policy Act of 2005 and was expanded and extended by the Energy Independence and Security Act of 2007 (EISA).
[5] National Association of Regulated Utility Commissioners Committee on Gas, NARUC 2019 Summer Policy Summit: RNG Workshop (July 23, 2019).
[6] For a comprehensive list of projects that are upgrading gas for pipeline injection or use as vehicle fuel, see the Renewable Natural Gas Database developed and maintained by Argonne National Laboratory.
[7] Fortistar in partnership with New River Solid Waste Association in Raiford, Florida, as well as Brightmark in Okeechobee County.

- biomass,
- solar energy,
- geothermal energy,
- wind energy,
- ocean energy,
- hydroelectric power, and
- "the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration."

Subsection 366.91(3), F.S., requires that each public utility continuously offer a purchase contract to producers of renewable energy, which must be for a term of at least 10 years, and contain payment provisions for energy and capacity based upon the utility's full avoided costs. Capacity payments are not required if, due to the operational characteristics of the renewable energy generator or the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit, the producer is unlikely to provide any capacity value to the utility or the electric grid during the contract term. Prudent and reasonable costs associated with a renewable energy contract are to be recovered from the ratepayers of the contracting utility, without differentiation among customer classes, through the appropriate cost-recovery clause mechanism administered by the FPSC.

RNG Laws in Other States

In Nevada, RNG is defined as gas "produced by processing biogas or by converting electric energy generated using renewable energy into storable or injectable gas fuel, in a process commonly known as power-to-gas or electrolysis; and Meets the quality standards applicable to the natural gas pipeline into which the gas will be injected." Additionally, a RNG facility is defined as "a facility or any part of the equipment located at a facility that is used to create biogas, create hydrogen for methanation, gather biogas, gather hydrogen, process biogas into renewable natural gas, inject renewable natural gas into a natural gas pipeline or determine the constituents of renewable natural gas before the injection of the renewable natural gas into a natural gas pipeline." In 2019, the Public Utilities Commission of Nevada was directed to adopt regulations authorizing a public utility that purchases natural gas for resale to engage in specified RNG activities, along with recovery for "all reasonable and prudent costs" associated with RNG activities that provide specified environmental benefits. Additionally, a public utility which purchases natural gas for resale must attempt to incorporate RNG into its gas supply portfolio.[8]

In Oregon, renewable natural gas is included in "the broader set of low carbon resources that may leverage the natural gas system to reduce greenhouse gas emissions."[9]

[8] Sections 704.9995-9997, Nevada Revised Statutes.
[9] Sections 757.390-398, Oregon Revised Statutes.

Renewable natural gas is defined as "products processed to meet pipeline quality standards or transportation fuel grade requirements", and includes "biogas that is upgraded to meet natural gas pipeline quality standards such that it may blend with, or substitute for, geologic natural gas," hydrogen gas derived from renewable energy sources, or methane gas derived from any combination of biogas, hydrogen gas or carbon oxides derived from renewable energy sources, or waste carbon dioxide. Biogas is defined as "a mixture of carbon dioxide and hydrocarbons, primarily methane gas, released from the biological decomposition of organic materials." The Oregon PUC has established RNG programs for large natural gas utilities,[10] and another for small natural gas utilities. Cost recovery is available, including an automatic adjustment clause. The voluntary RNG target distribution goals for large utilities that participate in the RNG program anticipates 5% RNG by 2025, and 30% RNG by 2050.

Laws in the state of Washington,[11] provide that renewable natural gas is defined as "a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters." Renewable hydrogen is defined as "hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process." Washington public utility districts are authorized to:

- produce renewable natural gas and renewable hydrogen and utilize the renewable natural gas or renewable hydrogen they produce for internal operations;
- sell renewable natural gas and renewable hydrogen that is delivered into a gas transmission pipeline located in the state of Washington or delivered in pressurized containers;
- sell renewable natural gas and renewable hydrogen to facilities that condense or dispense natural gas or renewable hydrogen for use as a motor fuel; and
- sell renewable hydrogen at wholesale or to an end-use customer in pressurized containers directly from renewable hydrogen production facilities to facilities that utilize renewable hydrogen as a nonutility related input for a manufacturing process.

3. EFFECT OF PROPOSED CHANGES

Section 1 of the bill adds definitions for "biogas" and "renewable natural gas (RNG)" to subsection 366.91(2), F.S. Biogas would be defined as "a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas." RNG would be defined as "anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline."

[10] Natural gas utilities with more than 200,000 customers in the state.
[11] Section 54.04.190, Revised Code of Washington.

Additionally, the definition of “renewable energy” would be expanded to include “energy created to displace traditional fuel sources,” which clarifies that the production of electrical energy is not exclusively required to meet the definition of renewable energy.

Public utilities in Florida would be required to continuously offer a purchase contract to producers of biogas and RNG energy, for a term of at least 10 years, and containing payment provisions for energy and capacity based upon the utility's full avoided costs. Cost-recovery provisions of s. 366.91, F.S., would also apply.

For the purpose of permitting the consumptive uses of water at a renewable energy generating facility,[12] as administered by the Florida Department of Environmental Protection, a permit “shall be granted for a term of at least 25 years at the applicant’s request based on the anticipated life of the facility if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit.”[13] By reference, the bill would establish the same duration of consumptive use permitting for biogas and RNG facilities.

Additionally, the bill would make biogas and RNG projects eligible for the expedited permitting process of certain economic development projects found in section 403.973, F.S.

Section 2 of the bill amends s. 366.92, F.S., to conform a reference.

Section 3 of the bill amends s. 373.236, F.S., to conform a reference.

Section 4 of the bill amends s. 403.973, F.S., to conform a reference

Section 5 of the bill reenacts s.288.9606, F.S., for the purpose of incorporating the changes made by the bill. Pursuant to s.288.9606(7)(a), F.S., the Florida Development Finance Corporation has authority to issue revenue bonds to finance the undertaking of any project within the state that promotes renewable energy. By reference and reenactment, the bill would extend this authority to biogas and RNG projects.

Section 6 of the bill provides an effective date of July 1, 2021.

[12] Section 373.236, F.S.

[13] Alternatively, a permit may be issued for a shorter duration depending on the reasonable assurances that are provided. Such a permit is subject to certain compliance reports.

4. **FISCAL IMPACT ON FDACS**
   Currently, the proposed bill does not have a fiscal impact on the Florida Department of Agriculture and Consumer Services.

	(FY 21-22) Amount/ FTE	(FY 22-23) Amount/ FTE	(FY 23-24) Amount/ FTE
A. Revenues			
Recurring			
Non-Recurring			
TOTAL REVENUES	N/A	N/A	N/A
B. Expenditures			
Recurring			
Non-Recurring			
TOTAL EXPENDITURES	N/A	N/A	N/A
C. NET TOTAL	N/A	N/A	N/A

5. **IS THERE AN ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENT(s)?**
   No.

6. **IS THERE AN ESTIMATED FISCAL IMPACT ON THE PRIVATE SECTOR?**
   No.

7. **ARE THERE ESTIMATED TAXES, FEES, OR FINES ASSOCIATED WITH THE PROPOSED BILL?** (If yes, please explain the impact in A and/or B below)
   No.

   A. **Does the proposed bill create new or increase existing taxes, fees, or fines? If so, please explain.**

   B. **Does the proposed bill repeal or decrease existing taxes, fees, or fines? If so, please explain.**

   C. **DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?**

a. Yes: ☐ No: ☒
b. If yes please explain:

8. **DOES THE PROPOSED BILL REQUIRE THE DEPARTMENT TO PARTICIPATE IN OR PRODUCE ANY REPORTS OR STUDIES?**
   a. Yes: ☐ No: ☒
   b. If yes please explain:

9. **ARE THERE ANY APPOINTMENTS, CREATION OF, OR CHANGES TO ANY BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. THAT WILL IMPACT THE DEPARTMENT?**
   a. Yes: ☐ No: ☒
   b. If yes please explain:

LEGAL ISSUES

10. **Does the proposed bill conflict with existing federal law or regulations that impact the department? If so, what laws and/or regulations?**
    Unknown.

11. **Does the proposed bill raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts) that impacts the department?**
    Unknown.

12. **Is the proposed bill likely to generate litigation for the department and, if so, from what interest groups or parties?**
    Unknown.

COMMENTS:

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 896
INTRODUCER:	Regulated Industries Committee and Senators Brodeur and Hutson
SUBJECT:	Renewable Natural Gas
DATE:	March 26, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon	Imhof	RI	**Fav/CS**
2.	Anderson	Rogers	EN	**Favorable**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 896 amends s. 366.91, F.S., by adding the terms "biogas" and "renewable natural gas," and expanding the term "renewable energy."

The term "biogas" means a mixture of gases, largely comprised of carbon dioxide, hydrocarbons, and methane gas, that is produced by the biological decomposition of organic materials.

The term "renewable natural gas" (RNG) means anaerobically generated biogas, landfill gas, or wastewater treatment gas, which is refined to a methane content of 90 percent or more, that may be used as transportation fuel, for electric generation, or is of a quality capable of being injected into a natural gas pipeline.

The term "renewable energy," is expanded to mean electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced *or resulting* from energy sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power.

The bill provides that the Public Service Commission (PSC) may approve cost recovery by a gas public utility for RNG purchase contracts, in which the pricing provisions exceed the current market price of natural gas, but which are otherwise deemed reasonable and prudent by the PSC.

The bill is effective on July 1, 2021.

II. Present Situation:

Renewable Natural Gas and Biogas

Natural gas is a fossil energy source which forms beneath the earth's surface.[1] Natural gas contains many different compounds, the largest of which is methane.[2] Conventional natural gas is primarily extracted from subsurface porous rock reservoirs via gas and oil well drilling and hydraulic fracturing, commonly referred to as "fracking." The term renewable natural gas (RNG) refers to biogas that has been refined to use in place of conventional natural gas.[3]

Biogas used to produce RNG comes from various sources, including municipal solid waste landfills, digesters at water resource recovery facilities, livestock farms, food production facilities, and organic waste management operations.[4] Raw biogas has a methane content between 45 and 65 percent.[5] Once biogas is captured, it is treated in a process called conditioning or upgrading, which involves the removal of water, carbon dioxide, hydrogen sulfide, and other trace elements.[6] After this process, the nitrogen and oxygen content is reduced and the RNG has a methane content of 90 percent or more.[7] RNG prepared for injection into a natural gas pipeline typically has a methane content between 96 and 98 percent.[8]

The expansion of RNG offers an opportunity to decarbonize traditional gas end uses such as transportation and heating.[9] RNG qualifies as an advanced biofuel under the Federal Renewable Fuel Standard Program.[10] This program was enacted by Congress in order to reduce greenhouse gas emissions by reducing reliance on imported oil and expanding the nation's renewable fuels sector.[11]

Nationally, there were 157 total confirmed operational RNG projects as of December 2020.[12] While there were at least two RNG projects reportedly under construction in Florida at the end of 2020, it is not confirmed whether any operational production has been achieved in the state.[13]

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[1] U.S. Energy Information Administration, *Natural gas explained*, https://www.eia.gov/energyexplained/natural-gas/ (last visited Mar. 23, 2021).
[2] U.S. Environmental Protection Agency (EPA), *An Overview of Renewable Natural Gas from Biogas* (July 2020), *available at* https://www.epa.gov/sites/production/files/2020-07/documents/lmop_rng_document.pdf (last visited Mar. 23, 2021).
[3] EPA, *Landfill Methane Outreach Program (LMOP): Renewable Natural Gas*, https://www.epa.gov/lmop/renewable-natural-gas (last visited Mar. 23, 2021).
[4] *Id*.
[5] *Id.*
[6] Florida Department of Agriculture and Consumer Services (DACS), *Bill Analysis for SB 896* (Feb. 15, 2021) (on file with the Senate Committee on Environment and Natural Resources).
[7] EPA, LMOP: Renewable Natural Gas, *supra* at n. 3.
[8] *Id*.
[9] DACS, *Bill Analysis*, *supra* at n. 6.
[10] *Id*.
[11] EPA, *Renewable Fuel Standard Program*, https://www.epa.gov/renewable-fuel-standard-program (last visited Mar. 23, 2021).
[12] DACS, *Bill Analysis*, *supra* at n. 6.
[13] *Id*.

Florida Public Service Commission

Chapter 366, F.S., provides for the regulation of electric utilities by the Florida Public Service Commission (PSC). The PSC is an arm of the legislative branch of government and has rate-setting jurisdiction over electric and natural gas public utilities.[14] The role of the PSC is to ensure that Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.[15] In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: (1) rate or economic regulation; (2) market competition oversight; and/or (3) monitoring of safety, reliability, and service issues.[16] The PSC monitors the safety and reliability of the electric power grid[17] and may order the addition or repair of infrastructure as necessary.[18] Further, the PSC reviews applications to determine the need for certain new electrical power plants[19] and certain large transmission lines as part of the Department of Environmental Protection's siting process.[20]

A public utility includes any person or legal entity supplying electricity or gas, including natural, manufactured, or similar gaseous substance, to or for the public within the state.[21] Notably, courts have ruled that the sale of electricity to even a single customer makes the provider a "public utility," subjecting them to the PSC's regulatory jurisdiction, under s. 366.02(1), F.S.[22] The PSC's jurisdiction over public utilities is exclusive and superior to all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties, and in cases of conflict, the PSC is to prevail.[23]

Investor-Owned Electric Utilities Companies

There are five investor-owned electric utility companies in Florida: Florida Power & Light Company, Duke Energy Florida, Tampa Electric Company, Gulf Power Company, and Florida Public Utilities Corporation.[24] Investor-owned electric utility rates and revenues are regulated by the PSC.[25] These utilities must file periodic earnings reports, either monthly, quarterly, or semi-annually, depending upon each company's size. These more frequent company filings allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.[26]

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[14] *See* ss. 350.001, 366.02, and 366.05, F.S.
[15] *See* Florida Public Service Commission (PSC), *The PSC's Role*, http://www.psc.state.fl.us (last visited Mar. 23, 2021).
[16] *Id*.
[17] Sections 366.04(5) and (6), F.S.
[18] Sections 366.05(1) and (8), F.S.
[19] Section 403.519, F.S.
[20] Section 403.537, F.S.
[21] Section 366.02(1), F.S.
[22] *Florida Public Service Com'n v. Bryson*, 569 So. 2d 1253, 1255 (Fla. 1990) (finding that even a property management company is a public utility within the PSC's regulatory jurisdiction); *PW Ventures, Inc. v. Nichols*, 533 So. 2d 281, 284 (Fla. 1988) (finding that "to the public," as used in ch. 366, F.S., means "to any member of the public," rather than "to the general public").
[23] Section 366.04(1), F.S.
[24] DACS, *Electric Utilities*, https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Electric-Utilities (last visited Mar. 23, 2021).
[25] *Id*.
[26] PSC, *2020 Annual Report*, *supra* at n. 21.

Municipally-Owned Electric Utilities

A municipal electric utility is an electric utility system owned or operated by a municipality engaged in serving residential, commercial or industrial customers, usually within the boundaries of the municipality.[27] Municipally-owned utility rates and revenues are regulated by the applicable city commission.[28] As noted above, the PSC has limited jurisdiction over municipally-owned electric utilities.[29] There are 34 municipal electric companies in Florida.[30] Most municipal electric utilities are represented by the Florida Municipal Electric Association, which serves over three million Floridians.[31]

Natural Gas Utilities

Florida's natural gas network is comprised of four interstate pipelines and two intrastate pipelines.[32] These pipelines supply natural gas to five investor-owned natural gas utilities, 27 municipal natural gas utilities, and four special gas districts.[33] The PSC has regulatory authority over: investor-owned natural gas utilities in all aspects of operations, including safety; municipally-owned natural gas utilities, limited to safety and territorial boundary disputes; and special gas districts, limited to safety and territorial boundary disputes.[34]

Public Utility Regulatory Policies Act

In 1978, the federal government enacted the Public Utility Regulatory Policies Act (PURPA).[35] The PURPA requires promotion of energy efficiency and use of renewable energy.[36] Primarily, the PURPA was enacted to encourage:

- The conservation of electric energy;
- Increased efficiency in the use of facilities and resources by electric utilities;
- Equitable retail rates for electric consumers;
- Expeditious development of hydroelectric potential at existing small dams;
- Conservation of natural gas while ensuring that rates to natural gas consumers are equitable.[37]

The PURPA requires utilities to interconnect with and purchase power from "qualifying facilities," which fall into two categories: (1) qualifying small power production facilities and (2) qualifying cogeneration facilities.[38] Qualifying small power production facilities must produce less than 80 megawatts and use biomass, waste, renewable resources, geothermal resources, or

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[27] DACS, *Electric Utilities*, *supra* at n. 26.
[28] *Id*.
[29] PSC, *2020 Annual Report*, *supra* at n. 21.
[30] DACS, *Electric Utilities*, *supra* at n. 26.
[31] Florida Municipal Electric Association, *About FMEA*, https://www.publicpower.com/about-us (last visited Mar. 23, 2021).
[32] DACS, *Natural Gas Utilities*, https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Natural-Gas-Utilities (last visited Mar. 6, 2021).
[33] *Id*.
[34] Chapter 366, F.S. *See also*, FPSC, *2020 Annual Report*, *supra* at n. 21.
[35] Public L. No. 95-617 (HR 4018)(1978).
[36] *Id*.
[37] Federal Energy Regulatory Commission, *PURPA Qualifying Facilities*, https://www.ferc.gov/qf (last visited Mar. 23, 2021).
[38] *Id*.

any combination thereof, of which 75 percent or more of the total energy input must be from these sources.[39] Qualifying cogeneration facilities are entities that generate electricity as a byproduct of an industrial process, which is not intended fundamentally for sale to an electric utility.[40]

The PURPA directed the Federal Energy Regulatory Commission (FERC) to implement its provisions, which in turn, directed the states to implement these provisions. In response, the Legislature created s. 366.051, F.S., directing utilities to purchase power from cogenerators and small power producers and defining "full avoided costs."[41] "A utility's 'full avoided costs' are the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source."[42] Traditionally, the FERC has approved electric utilities power purchase contracts that include provisions for payment, capacity, and energy based upon either the utility's cost to construct and operate its next planned generating unit or the cost of purchasing capacity and energy from generating units owned by other utilities in the interchange market.[43]

Renewable Energy

In 2005, the Legislature created s. 366.91, F.S., to address renewable energy.[44] This section requires utilities to continuously offer a purchase contract to renewable energy producers for a minimum of 10 years and contains payment provisions for energy and capacity based upon the utility's full avoided costs.[45] It also includes municipal electric utilities and rural electric cooperatives whose annual sales exceed 2,000 gigawatt hours.[46] The term "renewable energy" means electrical energy produced from:

- Hydrogen produced from sources other than fossil fuels;[47]
- Biomass,
- Solar energy,
- Geothermal energy,
- Wind energy,
- Ocean energy,
- Hydroelectric power, and

[39] 18 C.F.R. 292.204.
[40] 18 C.F.R. 292.205.
[41] Ch. 89-292, Laws of Fla.
[42] Section 366.051(3) and (4), F.S.
[43] PSC, *States' Electric Restructuring Activities Update: Wholesale Sales* http://www.psc.state.fl.us/Publications/ElectricRestructuringDetails#4 (last visited Mar. 23, 2021); PSC, *States' Electric Restructuring Activities Update: Federal Legislation - Public Utilities Regulatory Policy Act* http://www.psc.state.fl.us/Publications/ElectricRestructuringDetails#5 (last visited Mar. 6, 2021).
[44] Ch. 2005-259, Laws of Fla.
[45] Section 366.91(3), F.S.
[46] Section 366.91(4), F.S.
[47] Section 366.91(2)(d), F.S. "Traditional fuel sources" is assumed to be limited to fossil fuels and fuels derived from fossil fuels. *See* U.S. Energy Information Administration, *What is energy? Sources of energy: Most of Our Energy is Nonrenewable*, https://www.eia.gov/energyexplained/what-is-energy/sources-of-energy.php (last visited Mar. 6, 2021) (listing petroleum, hydrocarbon gas liquids, natural gas, coal, and nuclear energy as the most common energy sources, in the U.S. and abroad).

- The alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.[48]

III. Effect of Proposed Changes:

CS/SB 896 amends s. 366.91, F.S., by adding the terms "biogas" and "renewable natural gas," and expanding the term "renewable energy."

The term "biogas" means a mixture of gases, largely comprised of carbon dioxide, hydrocarbons, and methane gas, that is produced by the biological decomposition of organic materials.

The term "renewable natural gas" means anaerobically generated biogas, landfill gas, or wastewater treatment gas, which is refined to a methane content of 90 percent or more, that may be used as transportation fuel, for electric generation, or is of a quality capable of being injected into a natural gas pipeline.

The term "renewable energy," is expanded to mean electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced *or resulting* from energy sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power.

The bill provides that the Public Service Commission may approve cost recovery by a gas public utility for renewable natural gas purchase contracts, in which the pricing provisions exceed the current market price of natural gas, but which are otherwise deemed reasonable and prudent by the PSC.

The bill includes conforming changes in ss. 366.92, 373.236, and 403.973, F.S., to reflect the revised definition of "renewable energy."

The bill reenacts s. 288.9606(7), F.S., without modification, to incorporate the changes made to s. 366.91, F.S.

The bill is effective on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[48] Section 366.91(2)(d), F.S.

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 the following sections of the Florida Statutes: 366.91, 366.92, 373.236, 403.973, and 288.9606.

IX. Additional Information:

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

CS by Regulated Industries Committee on March 16, 2021:
The committee substitute:

- Redefines "renewable energy" in s. 366.91, F.S., to include hydrogen *resulting from* sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power;

- Deletes the provision that includes energy created to displace traditional fuel sources from the definition of "renewable energy;"
- Maintains the definition of "renewable natural gas;"
- Amends the definition of "renewable energy," contained in s. 366.92, F.S., to include renewable natural gas;
- Authorizes the Florida Public Service Commission to approve cost recovery by a gas public utility for contracts for the purchase of renewable natural gas in which the pricing provisions exceed the current market price of natural gas, but are otherwise deemed reasonable and prudent by the commission.

B. Amendments:

None.

By the Committee on Regulated Industries; and Senator Brodeur

580-02948-21 2021896c1

A bill to be entitled

An act relating to renewable natural gas; amending s. 366.91, F.S.; defining and redefining terms; authorizing the Florida Public Service Commission to approve cost recovery by a gas public utility for certain contracts for the purchase of renewable natural gas; amending ss. 366.92, 373.236, and 403.973, F.S.; conforming cross-references; reenacting s. 288.9606(7), F.S., relating to the issuance of revenue bonds, to incorporate the amendment made to s. 366.91, F.S., in a reference thereto; providing an effective date.

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

Section 1. Present paragraphs (a) through (d) of subsection (2) of section 366.91, Florida Statutes, are redesignated as paragraphs (b) through (e), respectively, a new paragraph (a) and paragraph (f) are added to that subsection, present paragraph (d) of that subsection is amended, and subsection (9) is added to that section, to read:

366.91 Renewable energy.—

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

(a) "Biogas" means a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas.

(e) ~~(d)~~ "Renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources

other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

(f) "Renewable natural gas" means anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline.

(9) The commission may approve cost recovery by a gas public utility for contracts for the purchase of renewable natural gas in which the pricing provisions exceed the current market price of natural gas, but which are otherwise deemed reasonable and prudent by the commission.

Section 2. Paragraph (b) of subsection (2) of section 366.92, Florida Statutes, is amended to read:

366.92 Florida renewable energy policy.—

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

(b) "Renewable energy" includes ~~means~~ renewable energy and renewable natural gas as those terms are defined in s. 366.91(2) ~~s. 366.91(2)(d)~~.

Section 3. Subsection (7) of section 373.236, Florida Statutes, is amended to read:

373.236 Duration of permits; compliance reports.—

(7) A permit approved for a renewable energy generating facility or the cultivation of agricultural products on lands consisting of 1,000 acres or more for use in the production of

renewable energy, as defined in s. 366.91(2)(e) ~~s. 366.91(2)(d)~~, shall be granted for a term of at least 25 years at the applicant's request based on the anticipated life of the facility if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit; otherwise, a permit may be issued for a shorter duration that reflects the longest period for which such reasonable assurances are provided. Such a permit is subject to compliance reports under subsection (4).

Section 4. Paragraph (f) of subsection (3) and paragraph (b) of subsection (19) of section 403.973, Florida Statutes, are amended to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)

(f) Projects resulting in the production of biofuels cultivated on lands that are 1,000 acres or more or in the construction of a biofuel or biodiesel processing facility or a facility generating renewable energy, as defined in s. 366.91(2)(e) ~~s. 366.91(2)(d)~~, are eligible for the expedited permitting process.

(19) The following projects are ineligible for review under this part:

(b) A project, the primary purpose of which is to:

1. Effect the final disposal of solid waste, biomedical waste, or hazardous waste in this state.

2. Produce electrical power, unless the production of electricity is incidental and not the primary function of the project or the electrical power is derived from a fuel source

for renewable energy as defined in s. 366.91(2)(e) ~~s. 366.91(2)(d)~~.

3. Extract natural resources.

4. Produce oil.

5. Construct, maintain, or operate an oil, petroleum, or sewage pipeline.

Section 5. For the purpose of incorporating the amendment made by this act to section 366.91, Florida Statutes, in a reference thereto, subsection (7) of section 288.9606, Florida Statutes, is reenacted to read:

288.9606 Issue of revenue bonds.—

(7) Notwithstanding any provision of this section, the corporation in its corporate capacity may, without authorization from a public agency under s. 163.01(7), issue revenue bonds or other evidence of indebtedness under this section to:

(a) Finance the undertaking of any project within the state that promotes renewable energy as defined in s. 366.91 or s. 377.803;

(b) Finance the undertaking of any project within the state that is a project contemplated or allowed under s. 406 of the American Recovery and Reinvestment Act of 2009; or

(c) If permitted by federal law, finance qualifying improvement projects within the state under s. 163.08.

Section 6. 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 1522
INTRODUCER:	Environment and Natural Resources Committee and Senator Stewart
SUBJECT:	Implementation of the Recommendations of the Blue-Green Algae Task Force
DATE:	March 30, 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 1522, entitled the "Implementation of Governor DeSantis' Blue-Green Algae Task Force Recommendations Act," includes legislation intended to implement the recommendations of the Blue-Green Algae Task Force.

The bill includes provisions that require DEP to:

- Administer an onsite sewage treatment and disposal system (OSTDS) inspection program to inspect systems at least once every 5 years, beginning on July 1, 2024.
- Assess whether certain pollution reduction projects are effectively reducing nutrient pollution or water use.

The bill requires basin management action plans to identify and prioritize spatially focused suites of projects in areas likely to yield maximum pollutant reductions.

The bill takes effect July 1, 2021.

II. Present Situation:

Blue-Green Algae Task Force

In January of 2019, Governor DeSantis issued Executive Order Number 19-12.[1] The order directed the Department of Environmental Protection (DEP) to establish a Blue-Green Algae Task Force charged with expediting progress towards reducing nutrient pollution and the impacts of blue-green algae (cyanobacteria) blooms in the state.[2] The task force's responsibilities included identifying priority projects for funding and making recommendations for regulatory changes. The five-person task force issued a consensus document on October 11, 2019.[3] The recommendations issued by the task force on topics addressed in this Present Situation are included in the relevant section below.

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as "septic systems," generally consist of two basic parts: the septic tank and the drainfield.[4] Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.[5]

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.[6] In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.[7] For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.[8] The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[9]

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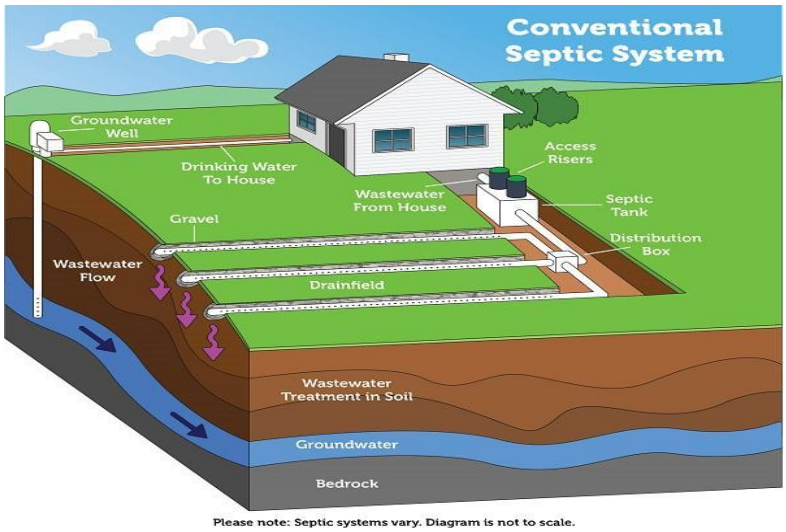
[1] State of Florida, Office of the Governor, *Executive Order Number 19-12* (2019), *available at* https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf (last visited Mar. 24, 2021).
[2] *Id.* at 2; Department of Environmental Protection (DEP), *Blue-Green Algae Task Force*, https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force (last visited Mar. 24, 2021).
[3] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf (last visited Mar. 24, 2021).
[4] DOH, *Septic System Information and Care*, http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html (last visited Mar. 24, 2021); EPA, *Types of Septic Systems*, https://www.epa.gov/septic/types-septic-systems (last visited Mar. 24, 2021) (showing the graphic provided in the analysis).
[5] *Id.*
[6] DOH, *Onsite Sewage*, http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html (last visited Mar. 24, 2021).
[7] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/_documents/rrac/2008-11-06.pdf (last visited Mar. 24, 2021). The report begins on page 56 of the PDF.
[8] *Id.*
[9] *Id.*



The Blue-Green Algae Task Force recommended that DEP should develop a more comprehensive regulatory program to ensure that OSTDSs are sized, designed, constructed, installed, operated, and maintained to prevent nutrient pollution, reduce environmental impact, and preserve human health. The task force also recommended more post-permitting septic tank inspections.[10]

The Clean Waterways Act transferred the Onsite Sewage Program from the Department of Health (DOH) to DEP, effective July 1, 2021.[11] Currently, permitting and inspection of OSTDSs is handled by the Environmental Health Section of the Florida Department of Health (DOH) in each county.[12] The section permits, regulates, and inspects the construction of new systems, repairs and modifications to existing systems, existing system approvals, and abandonments of systems.[13] DEP has historically had jurisdiction over OSTDSs when: domestic sewage flow exceeds 10,000 gallons per day; commercial sewage flow exceeds 5,000 gallons per day; there is a likelihood of hazardous or industrial wastes; a sewer system is available; or if any system or flow from the establishment is currently regulated by DEP (unless DOH grants a variance).[14]

Historically, OSTDSs have not been regulated for nutrient pollution. However, the Clean Waterways Act requires basin management action plans (BMAPs) to include remediation plans

[10] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 6-7 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf (last visited Mar. 24, 2021).
[11] Chapter 2020-150, s. 2, Laws of Fla.
[12] DOH, *Onsite Sewage*, http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html (last visited Mar. 24, 2021).
[13] *Id*.
[14] *Interagency Agreement between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems*, 6-13(Sept. 30, 2015), *available at* https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf (last visited Mar. 24, 2021); s. 381.0065(3)(b), F.S.; DEP, *Septic Systems*, https://floridadep.gov/water/domestic-wastewater/content/septic-systems (last visited Mar. 24, 2021).

if OSTDSs are found to contribute at least 20 percent of point source or nonpoint source nutrient pollution.[15]

DEP and DOH issued recommendations on the Onsite Sewage Program transfer in response to the Clean Waterways Act and found, in agreement with the Act, that county health departments should continue to have a role in the inspection, permitting, and tracking of OSTDSs, under the direction of DEP.[16]

Basin Management Action Plans

DEP is the lead agency in coordinating the development and implementation of total maximum daily loads (TMDLs), which are scientific determinations of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.[17] BMAPs are one of the primary mechanisms DEP uses to achieve TMDLs. BMAPs address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

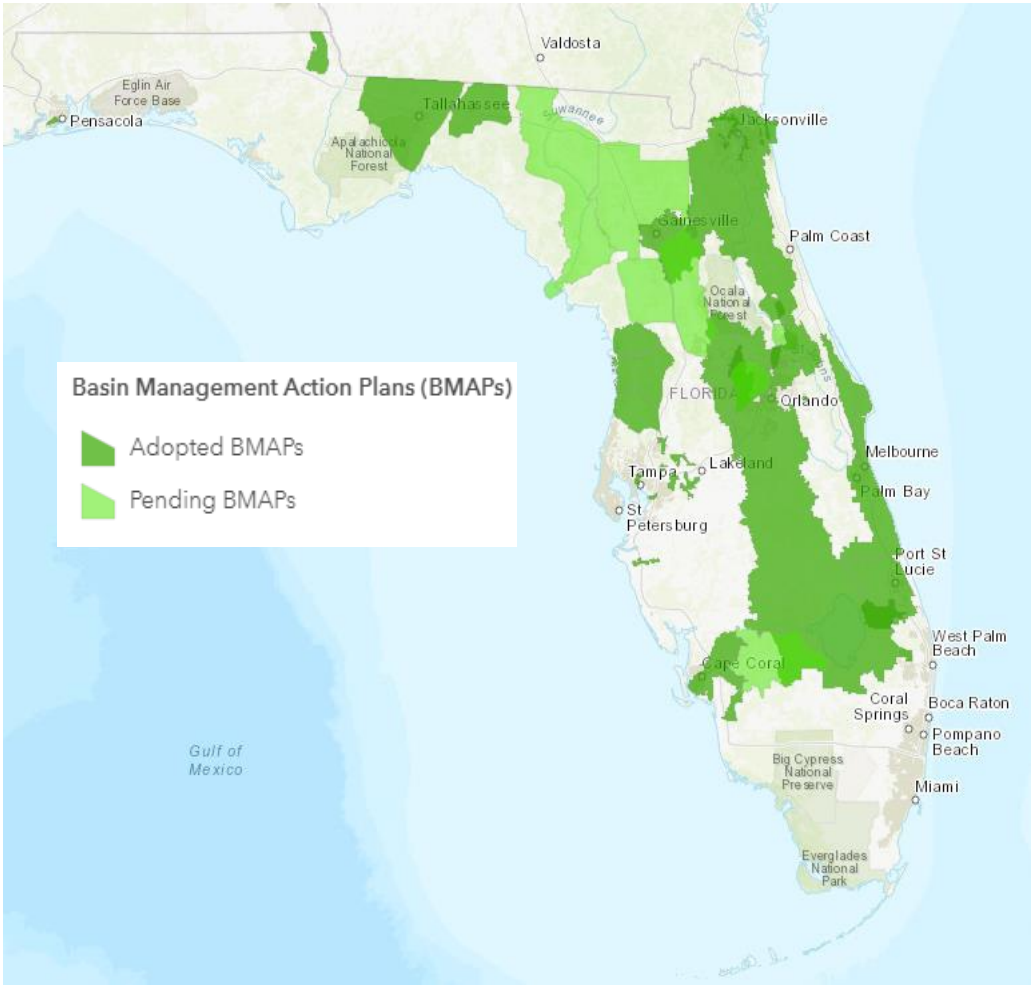
- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices (BMPs) and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.[18]

BMAPs equitably allocate pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.[19] Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the public to collectively determine and share water quality cleanup responsibilities.[20]

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of

[15] Section 403.067(7)(a)9., F.S.
[16] DOH and DEP, *Onsite Sewage Treatment and Disposal Systems Program Transfer Process – Recommendations Report* (Dec. 31, 2020), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/variances/_documents/ostds-recomm-rep-final12-30-20.pdf (last visited Mar. 24, 2021).
[17] DEP, *Total Maximum Daily Loads Program*, https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program (last visited Mar. 24, 2021); s. 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.
[18] Section 403.067(7), F.S.
[19] Section 403.067(7)(a)2., F.S.
[20] DEP, *Basin Management Action Plans (BMAPs)*, https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps (last visited Mar. 24, 2021).

progress toward these milestones must be conducted every five years, with revisions to the BMAP made as appropriate.[21]



Currently, BMAPs are adopted or pending for a significant portion of the state and will continue to be developed as necessary to address water quality impairments. The graphic above shows the state's adopted and pending BMAPs.[22]

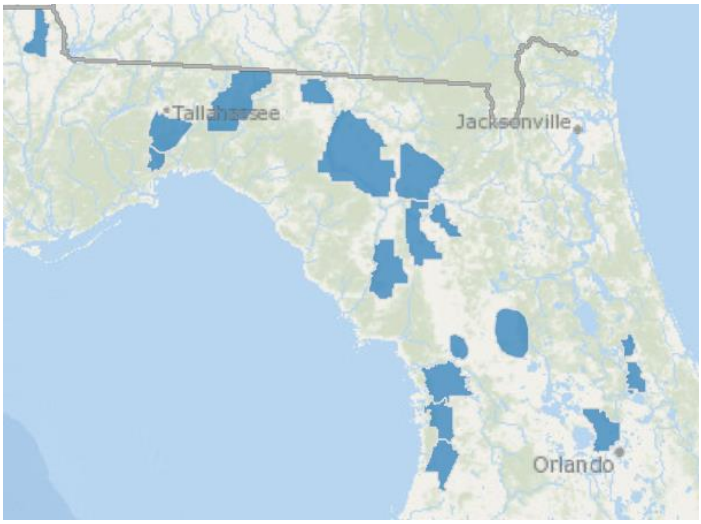
Producers of nonpoint source pollution included in a BMAP must comply with established pollutant reductions by either implementing appropriate BMPs or by conducting water quality monitoring.[23] BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and to help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, forestry operations, and stormwater management.[24]

[21] Section 403.067(7)(a)6., F.S.
[22] DEP, *Impaired Waters, TMDLs, and Basin Management Action Plans Interactive Map*, https://floridadep.gov/dear/water-quality-restoration/content/impaired-waters-tmdls-and-basin-management-action-plans (last visited Mar. 24, 2021).
[23] Section 403.067(7)(b)2.g., F.S.
[24] DEP, *NPDES Stormwater Program*, https://floridadep.gov/Water/Stormwater (last visited Mar. 24, 2021).

The Blue-Green Algae Task Force recommended that DEP develop a more targeted approach to project selection and evaluate project effectiveness through monitoring.[25]

Priority Focus Areas for Springs

Pursuant to the Florida Springs and Aquifer Protection Act,[26] DEP delineates priority focus areas for each Outstanding Florida Spring[27] that is impaired by excessive nutrient pollution.[28] DEP uses the best available data to delineate these areas, considering groundwater travel time to the spring, hydrogeology, nutrient loads in the springshed, and other factors. These areas are effective upon incorporation into a BMAP.[29] The delineated priority focus areas are shown in the map below.[30]



III. Effect of Proposed Changes:

The bill includes a series of whereas clauses stating that:

- Governor Ron DeSantis created the Blue-Green Algae Task Force (task force) in 2019, to "improve water quality for the benefit of all Floridians," the task force issued a consensus report in October 2019, with multiple recommendations for basin management action plans (BMAP), agriculture, human waste, stormwater, technology, public health, and science;
- In June 2020, Governor DeSantis signed SB 712, the Clean Waterways Act, which implemented many of the recommendations of the task force; and

[25] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 2-4 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf (last visited Mar. 24, 2021).
[26] Sections 373.801-813, F.S.
[27] *See* s. 373.802, F.S., Outstanding Florida Springs include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs, and their associated spring runs.
[28] Section 373.803, F.S.
[29] *Id*.
[30] DEP, *Springs Priority Focus Areas*, https://geodata.dep.state.fl.us/datasets/8a6f9e78959d48849e65f96c628eb883_1?geometry=-90.108%2C27.975%2C-76.232%2C31.316 (last visited Mar. 25, 2021).

- Full implementation of the task force's recommendations will require enactment of additional substantive legislation.

Section 1 titles the bill the "Implementation of Governor DeSantis' Blue-Green Algae Task Force Recommendations Act."

Section 2 amends s. 381.0065, F.S., relating to regulation of onsite sewage treatment and disposal systems (OSTDS). Beginning July 1, 2024, the bill requires periodic inspections of OSTDSs. The bill specifies that the owner of an OSTDS, excluding a system required to have an operating permit, must have the system inspected at least once every 5 years to assess the fundamental operational condition of the system, prolong the life of the system, and identify any failure within the system.

The bill requires DEP to administer an OSTDS inspection program, including implementing program standards, procedures, and requirements. The bill requires DEP to adopt rules, including, at a minimum, all of the following:

- A schedule for a 5-year inspection cycle;
- A county-by-county implementation plan phased in over a 10-year period with first priority given to those areas within a springshed protection area identified by DEP;
- Minimum standards for a functioning OSTDS;
- Requirements for the pumpout or repair of a failing OSTDS; and
- Enforcement procedures for the failure of an OSTDS owner to obtain an OSTDS inspection and failure of a contractor to timely report inspection results to DEP and the owner.

Section 3 amends s. 403.067, F.S., relating to the development of basin management action plans (BMAP). The bill requires BMAPs to:

- Include identification and prioritization of spatially focused suites of projects in areas likely to yield maximum pollutant reductions;
- For pollution reduction projects with a total cost exceeding $1 million, include an assessment by DEP of whether the project is working to reduce nutrient pollution or water use.

The bill requires DEP to assess, through integrated and comprehensive monitoring, whether a pollution reduction project is working to reduce nutrient pollution or water use, or both, as intended, and complete the assessment expeditiously.

Section 4 provides 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:

None.

C. Government Sector Impact:

The Department of Environmental Protection may incur costs relating to the implementation and administration of the inspection program and monitoring required under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

On line 57, the bill refers to "springshed protection area." For clarity and consistency with existing law, the term could be revised to "priority focus area for springs."

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0065 and 403.067.

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 March 29, 2021:
The amendment deletes requirements from the underlying bill that:

- The Department of Environmental Protection (DEP) implement a stormwater inspection and monitoring program.
- A basin management action plan describe potential future increases in pollutant loading and provide a comprehensive analysis of options for mitigation or elimination of these increases.
- A notice of intent to implement best management practices include an estimate of input reduction and load reduction.
- Verification of interim measures, best management practices, or other measures adopted by rule must be completed by a certain date to receive a presumption of compliance.
- The Department of Agriculture and Consumer Services provide to DEP certain information promptly and in unadulterated form.

B. Amendments:

None.

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Implementation of Governor DeSantis' Blue-Green Algae Task Force Recommendations Act."

Section 2. Present subsections (5), (6), and (7) of section 381.0065, Florida Statutes, are redesignated as subsections (6), (7), and (8), respectively, and a new subsection (5) is added to

that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(5) PERIODIC INSPECTIONS.—

(a) Effective July 1, 2024, the owner of an onsite sewage treatment and disposal system, excluding a system required to have an operating permit, must have the system inspected at least once every 5 years to assess the fundamental operational condition of the system, prolong the life of the system, and identify any failure within the system. The department shall administer an onsite sewage treatment and disposal system inspection program for such periodic inspections. The department shall implement the program standards, procedures, and requirements, and adopt rules that must include, at a minimum, all of the following:

1. A schedule for a 5-year inspection cycle.

2. A county-by-county implementation plan phased in over a 10-year period with first priority given to those areas within a springshed protection area identified by the department.

3. Minimum standards for a functioning system.

4. Requirements for the pumpout or repair of a failing system.

5. Enforcement procedures for failure of a system owner to obtain an inspection of the system and failure of a contractor to timely report inspection results to the department and the system owner.

Section 3. Paragraph (a) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum

daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) Basin management action plans.—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan’s effectiveness, and identify feasible funding strategies for implementing the plan’s management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of

pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4.a. Each new or revised basin management action plan shall

include:

(I) ~~a.~~ The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;

(II) ~~b.~~ A description of best management practices adopted by rule;

(III) ~~c.~~ A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;

(IV) Identification and prioritization of spatially focused suites of projects in areas likely to yield maximum pollutant reductions;

(V) ~~d.~~ The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable; and

(VI) ~~e.~~ A planning-level estimate of each listed project's expected load reduction, if applicable.

b. For each project listed pursuant to this subparagraph which has a total cost that exceeds $1 million, the department shall assess through integrated and comprehensive monitoring whether the project is working to reduce nutrient pollution or water use, or both, as intended. These assessments must be completed expeditiously and must be included in each basin management action plan update.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this

section.

6. The basin management action plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department

water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities within the jurisdiction of the local government, that addresses domestic wastewater. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility

improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the original project.

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

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to implementation of the recommendations of the Blue-Green Algae Task Force; providing a short title; amending s. 381.0065, F.S.; requiring owners of onsite sewage treatment and disposal systems to have the system periodically inspected, beginning on a specified date; requiring the department to administer the inspection program; requiring the department to implement program standards, procedures, and requirements; providing for rulemaking; amending s. 403.067, F.S.; requiring new or revised basin management action plans to include an identification and prioritization of certain spatially focused projects; requiring the department to assess certain projects; providing an effective date.

WHEREAS, Governor Ron DeSantis created the Blue-Green Algae Task Force in 2019, to "improve water quality for the benefit of all Floridians," and the task force's consensus report was issued in October 2019, with multiple recommendations for basin management action plans (BMAP), agriculture, human waste, stormwater, technology, public health, and science, and

WHEREAS, the Legislature recognizes that in June 2020, Governor DeSantis signed SB 712, the Clean Waterways Act, which implemented many of the recommendations of the task force, and WHEREAS, full implementation of the task force's

recommendations will require enactment of additional substantive legislation, NOW, THEREFORE,

By Senator Stewart

13-01218A-21 20211522__

A bill to be entitled

An act relating to implementation of the recommendations of the Blue-Green Algae Task Force; providing a short title; amending s. 373.4131, F.S.; requiring the Department of Environmental Protection to implement a stormwater system inspection and monitoring program for a specified purpose by a specified date; amending s. 381.0065, F.S.; requiring owners of onsite sewage treatment and disposal systems to have the system periodically inspected, beginning on a specified date; requiring the department to administer the inspection program; requiring the department to implement program standards, procedures, and requirements; providing for rulemaking; amending s. 403.067, F.S.; requiring basin management action plans to describe potential future increases in pollutant loading and provide a comprehensive analysis of options to mitigate such increases; requiring new or revised basin management action plans to include an identification and prioritization of certain spatially focused projects; requiring the department to assess certain projects; requiring certain notices of intent to implement pollution reduction measures to include estimated input reductions and load reductions associated with adopting certain practices; providing requirements for such reporting; requiring the verification of certain programs to be completed by a specified date; requiring the department to provide all records promptly and in an unadulterated form;

providing an effective date.

WHEREAS, Governor Ron DeSantis created the Blue-Green Algae Task Force in 2019, to "improve water quality for the benefit of all Floridians," and the task force's consensus report was issued in October 2019, with multiple recommendations for basin management action plans (BMAP), agriculture, human waste, stormwater, technology, public health, and science, and

WHEREAS, the Legislature recognizes that in June 2020, Governor DeSantis signed SB 712, the Clean Waterways Act, which implemented many of the recommendations of the task force, and

WHEREAS, full implementation of the task force's recommendations will require enactment of additional substantive legislation, NOW, THEREFORE,

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

Section 1. This act may be cited as the "Implementation of Governor DeSantis' Blue-Green Algae Task Force Recommendations Act."

Section 2. Subsection (7) is added to section 373.4131, Florida Statutes, to read:

373.4131 Statewide environmental resource permitting rules.—

(7) By January 1, 2022, the department shall implement a stormwater system inspection and monitoring program with the goal of identifying improperly functioning or failing systems so that corrective action may be taken to reduce nutrient pollution and other negative environmental impacts.

Section 3. Present subsections (5), (6), and (7) of section 381.0065, Florida Statutes, are redesignated as subsections (6), (7), and (8), respectively, and a new subsection (5) is added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(5) PERIODIC INSPECTIONS.—

(a) Effective July 1, 2024, the owner of an onsite sewage treatment and disposal system, excluding a system required to have an operating permit, must have the system inspected at least once every 5 years to assess the fundamental operational condition of the system, prolong the life of the system, and identify any failure within the system. The department shall administer an onsite sewage treatment and disposal system inspection program for such periodic inspections. The department shall implement the program standards, procedures, and requirements, and adopt rules that must include, at a minimum, all of the following:

1. A schedule for a 5-year inspection cycle.

2. A county-by-county implementation plan phased in over a 10-year period with first priority given to those areas within a springshed protection area identified by the department.

3. Minimum standards for a functioning system.

4. Requirements for the pumpout or repair of a failing system.

5. Enforcement procedures for failure of a system owner to obtain an inspection of the system and failure of a contractor to timely report inspection results to the department and the system owner.

Section 4. Paragraphs (a) and (c) of subsection (7) of section 403.067, Florida Statutes, are amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been

adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must describe, in specific quantitative terms, potential future increases in pollutant loading and provide a comprehensive analysis of options for mitigating or eliminating these increases. The analysis should account for increased pollutant loading from population growth, as estimated by the University of Florida's Bureau of Economic and Business Research, and for increased pollutant loading from agricultural growth, as informed by agricultural water use estimates projected by the Department of Agriculture and Consumer Services ~~also identify the mechanisms that will address potential future increases in pollutant loading~~.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process.

The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4.a. Each new or revised basin management action plan shall include:

(I) ~~a.~~ The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;

(II) ~~b.~~ A description of best management practices adopted by rule;

(III) ~~c.~~ A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;

(IV) Identification and prioritization of spatially focused suites of projects in areas likely to yield maximum pollutant reductions;

(V) ~~d.~~ The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable; and

(VI)~~e.~~ A planning-level estimate of each listed project's expected load reduction, if applicable.

b. For each project listed pursuant to this subparagraph which has a total cost that exceeds $1 million, the department shall assess through integrated and comprehensive monitoring whether the project is working to reduce nutrient pollution or water use, or both, as intended. These assessments must be completed expeditiously and must be included in each basin management action plan update.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section.

6. The basin management action plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal

authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A wastewater treatment plan developed by each local government, in cooperation with the department, the water

management district, and the public and private domestic wastewater treatment facilities within the jurisdiction of the local government, that addresses domestic wastewater. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as

required for Outstanding Florida Springs under s. 373.807.

10. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the original project.

(c) *Best management practices.*—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b). These practices and measures may be implemented by

those parties responsible for agricultural pollutant sources, and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including site inspection and recordkeeping requirements. Each notice of intent must include an estimate of input reduction and load reduction associated with adopting the practices. Reporting of input reductions must be initiated for all operations receiving a presumption of compliance, and the implementation of sampling programs must be initiated to assess the effectiveness of sector-specific best management practices intended to reduce nutrient loading to adjacent water bodies.

3. When interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented pursuant to paragraph (12)(b) must be verified at representative sites by the department. These verifications must be completed by July 1, 2024. A presumption of compliance with state water quality standards may not be provided without such verification.

The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, when applicable, shall notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other

agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. When water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. If the reevaluation determines that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Subject to subparagraph 6., the Department of Agriculture and Consumer Services shall provide to the department, promptly and in unadulterated form, all records ~~information~~ obtained pursuant to subparagraph (d)3.

6. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3., 4., and 5. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request, records made confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district provided that the

confidentiality specified by this subparagraph for such records is maintained.

7. Subparagraphs 1. and 2. do not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

Section 5. This act shall take effect July 1, 2021.

THE FLORIDA SENATE

APPEARANCE RECORD

3/29/24 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) CS/SB 896

Meeting Date *Bill Number (if applicable)*

Topic Runaway 12

Amendment Barcode (if applicable)

Name David Serdan

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City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

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Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

3/29/21
Meeting Date

896
Bill Number (if applicable)

929598
Amendment Barcode (if applicable)

Topic Renewable Natural Gas

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Chesapeake Utilities Corporation

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/29/21
Meeting Date

896
Bill Number (if applicable)

Topic RENEWABLE NATURAL GAS

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 PUBLIC UTILITIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/29/21
Meeting Date

SB 896
Bill Number (if applicable)

Topic RENEWABLE NATURAL GAS

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 BRIGHT MARK

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

3/29/2021
Meeting Date

896
Bill Number (if applicable)

Topic _____

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 Natural Gas 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

3/29/21 ENR A2 3:30
Meeting Date

896
Bill Number (if applicable)

Topic Renewable Natural Gas

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 Ssierra Club Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/29/2021
Meeting Date

896
Bill Number (if applicable)

Topic Renewable Natural Gas

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 Conservation Voters

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/29/2021
Meeting Date

SB 1522
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Implementation of the Recommendations of the Blue-Green Algae Task Force

Name Beth Alvi

Job Title Director of Policy (Audubon Florida)

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Phone 850-999-2081

Email beth.alvi@audubon.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Audubon Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/21
Meeting Date

SB 1522
Bill Number (if applicable)

Topic Blue Green Algae Task Force
Amendment Barcode (if applicable)

Name David Sunday

Job Title Retired Senior Citizen of Fl.

Address 606 Wintergreen Dr
Street

Phone 3528056597

Fruitland Park Fl 34731
City *State* *Zip*

Email golferdave1955@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self STATEWIDE Environment

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

3/29/2021
Meeting Date

1522
Bill Number (if applicable)

Topic Implementation of the Recommendations of the Blue-Green Algae Task Force

Amendment Barcode (if applicable)

Name Jonathan Webber

Job Title Deputy Director

Address 1700 N. Monroe St. #11-286
Street

Phone 954-593-4449

Tallahassee FL 32303
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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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/29/2021
Meeting Date

SB 1522
Bill Number (if applicable)

Topic Implementation of the Recommendations of the Blue-G

Amendment Barcode (if applicable)

Name Holly Parker Curry

Job Title Florida Policy Manager

Address 1229 Mitchell Ave.
Street

Phone 850-567-3393

Tallahassee FL 32303
City *State* *Zip*

Email hparker@surfrider.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Surfrider 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

3/29/21 ENR A2 3:30
Meeting Date

1522
Bill Number (if applicable)

Topic Blue-Green Algae Task Force Recommendations Implementation

Amendment Barcode (if applicable)

Name David Cullen

Job Title

Address 1934 Shelby Court
Street

Phone 941-323-2404

Tallahassee FL 32308
City *State* *Zip*

Email cullenasea@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Ssierra Club Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/29/21
Meeting Date

1522
Bill Number (if applicable)

Topic Recommendation of Blue Green Algae Task

Amendment Barcode (if applicable)

Name Kate Macfall

Job Title State director

Address 1206 Walton Dr.
Street
Tallahassee FL 32312
City *State* *Zip*

Phone 850 508-1001

Email kmacfall@hsus.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Humane Society of the United States

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/29/21
Meeting Date

1522
Bill Number (if applicable)

Topic SB 1522 BGATF Recommendations

Amendment Barcode (if applicable)

Name Haley Busch

Job Title Outreach Director

Address 308 N Monroe St.
Street

Phone

Tallahassee FL 32301
City *State* *Zip*

Email HBusch@1000FOF.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing 1000 Friends of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

1522

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

3/29/2021
Meeting Date

SB [redacted]
Bill Number (if applicable)

Topic Implementing Recommendations

Amendment Barcode (if applicable)

Name TRISH NEELY

Job Title DIRECTOR

Address 2024 SHANGRI LA LANE
Street

Phone 850 322 3317

TALLY FL 32303
City *State* *Zip*

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing LEAGUE 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)

3/29
Meeting Date

1522
Bill Number (if applicable)

Topic Blue Green Algae Task Force

Amendment Barcode (if applicable)

Name Ryan Smart

Job Title Executive Director

Address 209 Tallwood Rd
Street

Phone 561-358-7191

Jax Beach FL 32250
City *State* *Zip*

Email Smartgmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Springs Council

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/29/21 — *Meeting Date*

SB 1668 — *Bill Number (if applicable)*

Amendment Barcode (if applicable)

Topic EST SEAGRASS mapping

Name David Gardner

Job Title Retired Citizen of FL

Address 616 Wynton Green Dr — *Street*

Phone 3528056597

Email golfendark@gmail.com

Fruitland Park FL 34731 — *City* *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

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

Representing Self STATESMAN Environ

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

3/29/21 ENR A2 3:30
Meeting Date

1668
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Seagrass Mitigation Banks

Name David Cullen

Job Title

Address 1934 Shelby Court
Street

Tallahassee FL 32308
City *State* *Zip*

Phone 941-323-2404

Email cullenasea@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Ssierra Club Florida

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

3/29/2021 *Meeting Date*

1668 *Bill Number (if applicable)*

Amendment Barcode (if applicable)

Topic Seagrass Mitigation Banks

Name Jonathan Webber

Job Title Deputy Director

Address 1700 N. Monroe St. #11-286 *Street*

Phone 954-593-4449

Tallahassee *City* FL *State* 32303 *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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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/29/2021
Meeting Date

SB 1668
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Seagrass Mitigation Banks

Name TRISH NEELY

Job Title DIRECTOR

Address 2024 SHANGRI LA LANE
Street

TALLY FL 32303
City *State* *Zip*

Phone 850 322 3317

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing LEAGUE WOMEN 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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THE FLORIDA SENATE

APPEARANCE RECORD

March 29, 2021
Meeting Date

1668
Bill Number (if applicable)

550372
Amendment Barcode (if applicable)

Topic Seagrass Mitigation Banks

Name Chris Lyon

Job Title

Address 315 South Calhoun Street, Suite 830
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-222-5702

Email clyon@llw-law.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Association of Mitigation Bankers

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)

CourtSmart Tag Report

Room: SB 37 **Case No.:** **Type:**
Caption: Senate Environment and Natural Resources Committee **Judge:**

Started: 3/29/2021 3:30:17 PM
Ends: 3/29/2021 4:30:50 PM **Length: 01:00:34**

3:30:16 PM Meeting called to order.
3:30:22 PM Roll Call: Quorum is present
3:30:31 PM Senator Brodeur is excused from the meeting today
3:30:55 PM Chair Stewart gives the public instruction regarding Covid process appearances.
3:31:41 PM Take up CS/SB 896 Renewable Natural Gas by Senator Brodeur, presented by Senator Hutson
3:32:40 PM No questions
3:32:43 PM Public Appearance:
3:33:47 PM Kenya Cory for Bright Mark in support to the bill
3:35:04 PM RJ Seecray for Florida Public Utilities waives in support
3:35:21 PM Dale Calhoun waives in support
3:35:28 PM Michael Cassell waives in support for Chesapeake Utilities Corporation
3:35:36 PM David Cullen for Sierra Club speaks in opposition to the bill
3:37:05 PM Jonathan Webber waives in opposition for Florida Conservation Voters
3:37:19 PM David Serdar, citizen of Lake County speaks in support
3:38:13 PM In debate: none
3:38:21 PM Senator Hutson waives close
3:38:35 PM Roll call: SB 896 is reported favorably
3:38:56 PM SB 1668 Seagrass Mitigation Banks by Senator Rodriguez is presented
3:39:18 PM No questions
3:40:17 PM Amendment barcode# 550372 by Senator Rodriguez is taken up
3:40:18 PM No questions on the amendment
3:40:41 PM Public Appearance:
3:40:42 PM Chris Lyon speaks in support for Florida Association of Mitigation Bankers
3:41:18 PM No debate on amendment
3:41:27 PM Senator Rodriguez waives close
3:41:31 PM Amendment barcode# 550372 is adopted
3:41:38 PM Back on the bill
3:41:41 PM No questions on amended bill
3:41:52 PM Public appearance: Dave Cullen for Sierra Club waives against
3:42:09 PM Jonathon Webber for Florida Conservation Voters waives against
3:42:19 PM Trish Neely for League of Womens Voters waives against
3:42:39 PM David Serdar Lake County Florida in support
3:43:06 PM No debate on the bill
3:43:53 PM Senator Rodriguez waives close
3:43:57 PM Roll call: CS/SB 1668 is reported favorably
3:44:18 PM Chair Stewart yields the gavel to Senator Albritton
3:44:28 PM SB 1522 Implementation of Blue-Green Algae Task Force by Senator Stewart
3:44:35 PM Senator Stewart takes up amendment barcode# 756710 and explains
3:44:52 PM Questions on the amendment: none
3:45:52 PM Public appearance: none
3:46:05 PM In debate on the amendment: Senator Ausely makes comments
3:46:20 PM The amendment is adopted with no objection
3:46:39 PM Back on the bill
3:46:41 PM No questions on amended bill
3:46:49 PM Public appearance: Beth Alvi, Director of Policy, Audubon Florida waives in support
3:46:59 PM Jonathan Webber Deputy Director for Florida Conservation Voters waives in support
3:47:08 PM Holly Parker Curry Florida Policy Manager for Surfrider Foundation in support
3:47:21 PM David Cullen speaking in support Sierra Club
3:47:42 PM Kate Macfall State Director for Humane Society of The United States waives in support
3:47:50 PM Haley Busch Outreach Director for 1000 Friends of Florida speak in support
3:48:57 PM Trish Neely, Director for League of Women Voters speaking in support
3:50:07 PM Ryan Smart, Executive Director speaking in support for Florida Springs Council

3:51:12 PM David Serdar, citizen of Lake County speaks in support
3:52:17 PM No debate on the bill as amended
3:53:20 PM Senator Stewart closes on the bill
3:53:34 PM Roll call: CS/SB 1522 is reported favorably
3:54:04 PM The gavel is returned to Senator Stewart
3:54:23 PM Take up tab 4: FWC Manatee Presentation by Gil McRae
4:04:07 PM Questions for Gil McRae:
4:05:09 PM Senator Albritton questions on how this year's scenario compares with other years
4:06:11 PM Mr. McRae responds on water temperature
4:06:32 PM Senator Albritton follow up on weather cooling events
4:07:20 PM Mr. McRae responds on feeding chanllenges
4:08:15 PM Power plants have become friends with signage
4:08:53 PM Senator Albritton continues discussion on what could be helpful
4:09:34 PM Mr. McRae welcomes the suggestions
4:09:56 PM Question from Senator Albritton on feeding migration and population adaptability
4:10:53 PM Mr. McRae discusses methods regarding natural sites
4:12:25 PM Senator Stewart has question on % grass depletion
4:12:25 PM Mr. McRae elaborates on natural sites
4:12:44 PM Mr. McRae responds on what percentages will be returned
4:12:58 PM Senator Stewart has question from Sarasota
4:13:23 PM Senator Stewart questions on funding and studies
4:13:34 PM Mr. McRae discusses studies under NOAH
4:13:51 PM Senator Stewart asks who oversees endangerment funding and responsibility
4:14:24 PM Mr. McRae discusses Federal cooperation and spike of manatee mortality
4:14:52 PM Senator Stewart asks about health of the rivers regarding Clam depletion
4:15:26 PM Mr. McRae responds about clams in the water
4:16:16 PM Mr. McRae discusses decline of clams
4:16:22 PM Senator Stewart questions about feeding of manatees
4:17:15 PM Mr. McRae responds
4:17:16 PM Senator Stewart follows up question
4:17:40 PM Mr. McRae discusses involvement of Warm Water Task Force
4:19:04 PM Senator Stewart has question on budgeting and funding
4:19:36 PM Mr. McRae defers question to DEP
4:19:52 PM Senator Perry questions on manatees' learning
4:20:09 PM Mr. McRae discusses manatee motivation
4:20:49 PM Senator Stewart discusses on mortality rate
4:21:31 PM Senator Stewart asks what public can do in immediate assistance
4:21:48 PM Mr. McRae responds with discussion on public observation and reporting
4:22:19 PM Senator Albritton question on discussion on manatee mortality
4:23:19 PM Mr. McRae responds on manatee mortality
4:24:22 PM Senator Albritton asks about tracking manatees
4:24:42 PM Mr. McRae explains how tracking is done
4:25:26 PM Senator Albritton quizzes on averages of population going up or down
4:26:11 PM Response Mr. McRae responds on analysis of events projectory
4:26:51 PM Senator Stewart asks when get report
4:26:56 PM Mr. McRae responds when event is concluded
4:27:17 PM Senator Stewart comments on sumation of public regarding manatees
4:27:49 PM Mr. McRae: ways public can support
4:29:02 PM Senator Stewart comments on effect of public support for manatees and Florida
4:29:33 PM Mr. McRae talks about long term issue
4:29:42 PM Senator Stewart asks if any public appearance at Civic Center on manatees - none
4:30:25 PM Senator Albritton moves to adjourn. The meeting is adjourned.