

<b>Tab 2</b>	<b>SB 198 by Rodriguez; (Compare to CS/H 00349) Seagrass Mitigation Banks</b>					
855490	D	S	RCS	EN, Rodriguez	Delete everything after	01/18 10:42 AM

<b>Tab 3</b>	<b>SB 1326 by Rodriguez (CO-INTRODUCERS) Farmer, Jones, Berman; (Similar to CS/H 00513) Comprehensive Review Study of the Central and Southern Florida Project</b>					
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<b>Tab 4</b>	<b>SB 1432 by Rodriguez; (Identical to H 01065) Vessel Anchoring</b>					
494990	A	S	RCS	EN, Rodriguez	Delete L.47 - 102:	01/18 10:42 AM

<b>Tab 5</b>	<b>SB 1400 by Burgess; (Similar to H 00603) Land Acquisition Trust Fund</b>					
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<b>Tab 6</b>	<b>SB 1658 by Bean (CO-INTRODUCERS) Rodrigues; (Compare to CS/H 01295) Executive Appointments</b>					
731196	D	S	RCS	EN, Bean	Delete everything after	01/31 04:46 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**ENVIRONMENT AND NATURAL RESOURCES**

**Senator Brodeur, Chair**  
**Senator Stewart, Vice Chair**

**MEETING DATE:** Tuesday, January 18, 2022  
**TIME:** 9:00—10:30 a.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
1	A Report on Elimination of Discharges to Surface Waters by the Department of Environmental Protection		Presented
2	<b>SB 198</b> Rodriguez (Compare CS/H 349)	Seagrass Mitigation Banks; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to establish seagrass mitigation banks under certain conditions; providing construction, etc.  EN     01/18/2022 Fav/CS CA AP	Fav/CS Yeas 3 Nays 2
3	<b>SB 1326</b> Rodriguez (Identical H 513)	Comprehensive Review Study of the Central and Southern Florida Project; Requiring the South Florida Water Management District to prepare and submit a consolidated annual report regarding the status of the project to the Office of Economic and Demographic Research, the Department of Environmental Protection, the Governor, and the Legislature by a specified date, etc.  EN     01/18/2022 Favorable CA RC	Favorable Yeas 5 Nays 0
4	<b>SB 1432</b> Rodriguez (Identical H 1065)	Vessel Anchoring; Providing tenancy and lease conditions for approved and permitted mooring and mooring fields in Monroe County; requiring certain anchored vessels in Monroe County to be re-anchored in a new location that meets certain requirements according to a specified timeframe; requiring the Fish and Wildlife Conservation Commission, in consultation with certain entities, to establish designated anchoring areas within the county by rule; providing an exception for certain domiciled vessels; requiring certain vessels equipped with marine sanitation devices to maintain specified records of such devices, etc.  EN     01/18/2022 Fav/CS CA RC	Fav/CS Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Environment and Natural Resources

Tuesday, January 18, 2022, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 1400</b> Burgess (Similar H 603)	Land Acquisition Trust Fund; Providing an annual appropriation to the Department of Environmental Protection to implement the Heartland Headwaters Protection and Sustainability Act; requiring the funds to be used and distributed for specified purposes, etc.  EN 01/18/2022 Favorable AEG AP	Favorable Yeas 5 Nays 0

6	<b>SB 1658</b> Bean (Compare H 1295)	Executive Appointments; Removing the requirement that appointment of the Secretary of Environmental Protection be subject to the concurrence of three members of the Cabinet, etc.  EN 01/18/2022 Temporarily Postponed RC	Temporarily Postponed
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TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<b>Senate Confirmation Hearing:</b> A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
<b>Governing Board of the St. Johns River Water Management District</b>			
7	Atwood, Ryan (Mount Dora)	03/01/2023	Recommend Confirm Yeas 5 Nays 0
8	Ghyabi-White, Maryam (Ormond Beach)	03/01/2025	Recommend Confirm Yeas 5 Nays 0
9	Burnett, Douglas (St. Augustine)	03/01/2025	Recommend Confirm Yeas 5 Nays 0

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



# Protecting **FLORIDA** Together

Senate Bill 64  
Elimination of Surface Water Discharges

Environment and Natural Resources Appropriations Subcommittee  
Jan. 18, 2022



## CREATES SECTION 403.064(17), F.S.

- Goal is to eliminate nonbeneficial surface water discharges by Jan. 1, 2032.
- Requires utilities to submit plans to DEP by Nov. 1, 2021.
  - DEP has nine months to review the plans and approve or deny.
- Provides for some continued discharges.
- Provides for some exemptions from the elimination requirement.
- Includes penalties for failure to submit a plan or have it approved.
- Requires DEP to submit an annual report to the Legislature.



By Nov. 1, 2021, utilities that have a domestic wastewater surface water discharge (effluent, reclaimed water or reuse water) shall submit a plan to DEP for review and approval to eliminate nonbeneficial surface water discharge by Jan. 1, 2032.

### PLAN MUST INCLUDE

- The average gallons per day (gpd) of effluent, reclaimed water, or reuse water that will no longer be discharged into surface waters and the date of such elimination.
- The average gpd of surface water discharge that are to continue, if allowed by provisions of the statute.
- The level of treatment the effluent, reclaimed water, or reuse water will receive before being discharged into a surface water by each alternative.



**FOR APPROVAL, THE PLAN MUST MEET ONE  
OF THE FOLLOWING CRITERIA**

- **Results in eliminating the surface water discharge.**
- **Results in meeting the requirements of section 403.086(10), F.S. (i.e., the statute for the elimination of ocean outfall discharges).**
- **If the plan does not result in complete elimination of the surface water discharge, it demonstrates that any remaining discharge meets statutory provisions.**



## CONTINUED DISCHARGES ARE ALLOWED BY STATUTE, IF

- The discharge is associated with an indirect potable reuse project.
- The discharge is a wet weather discharge that occurs in accordance with an applicable department permit.
- The discharge is into a stormwater management system and is subsequently withdrawn by a user for irrigation purposes.
- The facility's reuse systems reuses a minimum of 90% of a facility's annual average flow for reuse purposes authorized by the department.
- The discharge provides direct ecological or public water supply benefits.





## THE REQUIREMENTS FOR A PLAN TO ELIMINATE NONBENEFICIAL SURFACE WATER DISCHARGES DO NOT APPLY TO THE FOLLOWING

- A domestic wastewater treatment facility located in a fiscally constrained county as described in section 218.67(1), F.S.
- A domestic wastewater treatment facility located in a municipality that is entirely within a rural area of opportunity as designated pursuant to section 288.0656, F.S.
- A domestic wastewater treatment facility located in a municipality that has less than \$10 million in total revenue, as determined by the municipality's most recent annual financial report submitted to DFS in accordance with section 218.32, F.S.
- A domestic wastewater treatment facility that is operated by an operator of a mobile home park as defined in section 723.003, F.S., and has a permitted capacity of less than 300,000 gallons per day.



## ALL 167 ACTIVE CIVILIAN FACILITIES SUBMITTED REPORTS

- 32 of the 167 claimed exemptions.

## PLANS ARE UNDER REVIEW, BUT INCLUDE THE FOLLOWING

- Aquifer storage and recovery.
- Underground injection control disposal.
- Reclaimed or wetland creation/hydration.



**THANK YOU**

**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.)

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

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BILL: CS/SB 198

INTRODUCER: Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Seagrass Mitigation Banks

DATE: January 19, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Rogers	EN	<b>Fav/CS</b>
2.			CA	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 198 authorizes the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under, and meet the public interest criteria in, state law. The bill provides that it does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs upon meeting the public interest criteria. It also directs the Department of Environmental Protection to adopt and modify rules to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation.

The bill revises the existing Environmental Resource Permitting (ERP) program exceptions for:

- The installation and repair of certain mooring pilings and dolphins, piers, and recreational docking facilities, to provide that docks authorized under same must be granted authorization for the use of submerged lands upon approval by the Board of Trustees; and
- Floating vessel platform or floating boat lift structures, to:
  - Create a presumption of compliance with any requirement to minimize adverse environmental impacts, where they are associated with a dock on a parcel of land; and
  - Provide that local governments may require only a one-time registration of certain floating vessel platforms to ensure compliance with listed exemption criteria or with local electrical or plumbing codes that are no more stringent than the exemption criteria or address other subjects.

The bill also provides a definition for the term “local government.”

## II. Present Situation:

### Seagrasses

Seagrasses are grass-like flowering plants that live completely submerged in marine and estuarine waters.<sup>1</sup> Seagrasses occur throughout the coastal waters in Florida, including in protected bays and lagoons as well as in deeper waters along the continental shelf in the Gulf of Mexico.<sup>2</sup> The depth at which seagrasses occur is limited by water clarity because most species require high levels of light.<sup>3</sup> Seagrasses perform many important functions, including maintaining water clarity, stabilizing the bottom of aquatic habitats, providing habitat for marine life, and providing food for many marine animals and water birds.<sup>4</sup> There are seven different species of seagrasses found in Florida's waters.<sup>5</sup>

Along Florida's coastline and within its estuaries, there are more than 2 million acres of seagrass.<sup>6</sup> The state and its partners map and monitor seagrass abundance, and while efforts to promote seagrasses have led to positive outcomes in places like Tampa Bay and Sarasota Bay, certain areas have experienced recent losses of seagrasses, such as Florida's Big Bend, Florida Bay, and the Indian River Lagoon.<sup>7</sup> Seagrasses face several threats, including events that reduce water clarity and decrease the amount of light reaching the bottom, such as algae blooms, as well as physical damage, such as from boat propeller scarring or dredging.<sup>8</sup> In many cases a person operating a vessel outside a marked channel that causes "seagrass scarring" within an aquatic preserve commits a noncriminal infraction.<sup>9</sup>

### Sovereign Submerged Lands

Sovereign submerged lands are owned by the state and include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line,<sup>10</sup> beneath navigable fresh water or tidally-influenced waters.<sup>11</sup> Under the State Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.<sup>12</sup> This generally

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<sup>1</sup> Florida Dep't of Environmental Protection (DEP), *Florida Seagrasses*, <https://floridadep.gov/rcp/seagrass> (last visited Jan. 11, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* 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*)." Section 253.04(3)(a)1., F.S.

<sup>6</sup> Florida Fish and Wildlife Conservation Commission, *Seagrass FAQ*, <https://myfwc.com/research/habitat/seagrasses/information/faq/> (last visited Jan. 11, 2022).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Section 253.04(3), F.S. (2021).

<sup>10</sup> Fla. Admin. Code R. 18-21.003(67). 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. *See ss.* 177.27(14), (15) and 177.28(1), F.S.

<sup>11</sup> Fla. Admin. Code R. 18-21.003(67).

<sup>12</sup> FLA. CONST. art. X, s. 11.

provides the public with the right to use sovereign submerged lands for traditional recreational purposes such as swimming, boating, and fishing.<sup>13</sup>

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), comprised of the Governor and Cabinet, holds title to all sovereign submerged lands in the state.<sup>14</sup> The Board of Trustees has a duty to preserve and regenerate seagrass in these areas, and the Legislature has recognized seagrasses as essential to the oceans, gulfs, estuaries, and shorelines of the state.<sup>15</sup> The Board of Trustees may sell sovereign submerged lands when it determines it to be in the public interest, and the Board of Trustees may authorize private use of sovereign submerged lands when it determines it to be not contrary to the public interest.<sup>16</sup> The Board of Trustees' consideration of what is in the public interest includes determining to what extent such conveyance would interfere with the conservation of wildlife, marine ecosystems, and other natural resources.<sup>17</sup> If objections are filed and it appears the conveyance of submerged lands would result in the destruction of grass flats suitable as nursery or feeding grounds for marine life, the Board of Trustees must withdraw the lands from sale.<sup>18</sup>

Florida law authorizes the Board of Trustees to adopt rules to administer sovereign submerged lands.<sup>19</sup> 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.<sup>20</sup> The Department of Environmental Protection (DEP) and the Department of Agriculture and Consumer Services (DACCS) act as staff to the Board of Trustees in the review of proposed uses of sovereign submerged lands.<sup>21</sup> DEP is responsible for environmental permitting of activities and water quality protection on sovereign submerged lands, while DACCS is responsible for managing aquacultural activities on sovereignty submerged lands.<sup>22</sup>

In determining whether an activity is not contrary to the public interest or is in the public interest, DEP must consider and balance the following criteria:

- Whether the activity will adversely affect the public health, safety, or welfare or the property of others;

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<sup>13</sup> Fla. Admin. Code R. 18-21.004(2)(a); *see also* 5F, LLC v. Hawthorne, 317 So. 3d 220, 223 (Fla. 2d DCA 2021) (identifying the same traditional uses).

<sup>14</sup> Sections 253.03 and 253.12(1), F.S.

<sup>15</sup> Section 253.04(3), F.S.

<sup>16</sup> FLA. CONST. art. X, s. 11; s. 253.12(2), F.S.; *see also* Fla. Admin. Code R. 18-21.003(54). The rule defines public interest as meaning “demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.” Fla. Admin. Code R. 18-21.003(54).

<sup>17</sup> Section 253.12(2)(a), F.S.

<sup>18</sup> Section 253.12(4)(e), F.S.

<sup>19</sup> Sections 253.03(7) and 253.73, F.S.

<sup>20</sup> *See* Fla. Admin. Code R. 18-21.005.

<sup>21</sup> 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 Jan. 11, 2022); *see also* Dep't of Agriculture and Consumer Services, *Aquaculture Submerged Land Leasing*, <https://www.fdacs.gov/Agriculture-Industry/Aquaculture/Aquaculture-Submerged-Land-Leasing> (last visited Jan. 11, 2022).

<sup>22</sup> Fla. Admin. Code R. 18-21.002(1).

- Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
- Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
- Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
- Whether the activity will be of a temporary or permanent nature;
- Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of s. 267.061; and
- The current condition and relative value of functions being performed by areas affected by the proposed activity.<sup>23</sup>

## Mitigation

### *Federal Mitigation*

The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (USACE) promulgate federal regulations establishing environmental criteria, and mechanisms for compensatory mitigation, under Section 404. The regulations require a permit applicant to take all appropriate and practicable steps to avoid and minimize adverse impacts to waters of the U.S.<sup>24</sup> 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.<sup>25</sup>

There are three basic types of compensatory mitigation under Section 404:

- Mitigation banks — a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. Mitigation banking is the preferred method of compensatory mitigation under the federal regulations. Reasons for this include that the banks have an approved mitigation plan and financial assurances, credits are not released until specific milestones are achieved, and banks typically involve larger, more ecologically valuable parcels.
- In-lieu fee programs — funds are paid to a governmental or non-profit entity for natural resources management. Similar to a bank, an in-lieu fee program sells credits to permittees whose obligation is then transferred to the in-lieu program sponsor. However, the rules governing in-lieu fee programs are somewhat different, and their operation and use are governed by an in-lieu fee program instrument.

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<sup>23</sup> Section 373.414(1)(a), F.S.

<sup>24</sup> 40 C.F.R. s. 230.91(c); *see generally* 40 C.F.R. pt. 230 and 33 C.F.R. pt. 322. USACE administers permitting under Section 404 of the Clean Water Act, which generally requires a permit for any discharge of dredged or fill material into waters of the U.S., including wetlands. 33 U.S.C. s. 1344 (2021); U.S. Environmental Protection Agency (EPA), *Wetland Regulatory Authority*, available at [https://www.epa.gov/sites/production/files/2015-03/documents/404\\_reg\\_authority\\_fact\\_sheet.pdf](https://www.epa.gov/sites/production/files/2015-03/documents/404_reg_authority_fact_sheet.pdf) (last visited Jan. 11, 2022). 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. DEP, *State 404 Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/state-404-program> (last visited Jan. 11, 2022); DEP, *State 404 Program Applicant’s Handbook*, § 1.1, available at <https://www.flrules.org/gateway/reference.asp?No=Ref-12064> (last visited Jan. 11, 2022).

<sup>25</sup> EPA, *Wetlands Compensatory Mitigation*, available at [https://www.epa.gov/sites/production/files/2015-08/documents/compensatory\\_mitigation\\_factsheet.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/compensatory_mitigation_factsheet.pdf) (last visited Jan. 11, 2022).

- Permittee-responsible mitigation — activities are undertaken by the permittee, or an authorized agent or contractor, to provide compensatory mitigation for which the permittee retains full responsibility.<sup>26</sup>

### *State Mitigation*

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).<sup>27</sup> 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.<sup>28</sup> 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.<sup>29</sup>

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.<sup>30</sup> After such requirements have been completed, mitigation is required to offset the adverse impacts.<sup>31</sup> Mitigation under the ERP program is evaluated in light of the programmatic goal of no net loss of wetland and other surface water functions.<sup>32</sup> Mitigation can be conducted on-site, off-site, or through the purchase of credits from a mitigation bank, or through a combination of approaches.<sup>33</sup> Off-site mitigation is preferred when on-site mitigation is not expected to have long-term viability, or when off-site mitigation will provide greater improvement in ecological value.<sup>34</sup>

Florida law authorizes DEP and the water management districts to require permits authorizing the establishment and use of mitigation banks.<sup>35</sup> DEP has adopted rules that serve as the basis for mitigation bank permitting done by DEP and the water management districts.<sup>36</sup>

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<sup>26</sup> EPA, *Mechanisms for Providing Compensatory Mitigation under CWA Section 404*, <https://www.epa.gov/cwa-404/mechanisms-providing-compensatory-mitigation-under-cwa-section-404> (last visited Jan. 11, 2022); *see also* 40 C.F.R. s. 290.93(b).

<sup>27</sup> DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Jan. 11, 2022).

<sup>28</sup> South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Jan. 11, 2022).

<sup>29</sup> DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Jan. 11, 2022).

<sup>30</sup> *See generally* 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 Jan. 11, 2022).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 10-1, 10-24.

<sup>33</sup> *Id.* at 10-25.

<sup>34</sup> *Id.*

<sup>35</sup> *See generally* ss. 373.4135 and 373.4136, F.S.

<sup>36</sup> *See generally* Fla. Admin. Code Ch. 62-342.



## Mitigation Banking

Generally, mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable wetland impacts within a defined mitigation service area.<sup>37</sup> The bank is the site itself, and the currency sold by the banker to the impact permittee is a credit, representing the wetland ecological value equivalent to the complete restoration of one acre.<sup>38</sup> The number of potential credits permitted for the bank, and the credit debits required for impact permits, are determined by the permitting agencies.<sup>39</sup>

Creation of a mitigation bank in Florida requires both a permit from DEP or a water management district, and federal approval of a mitigation bank instrument from several agencies led by USACE, in a joint state/federal interagency review team.<sup>40</sup> Through this process, depending on agency approval, a mitigation bank may provide mitigation for permittees under both the federal and state permitting programs.

Requirements for permitting mitigation banks differ between mitigation bank instruments issued by the USACE and state permits issued by DEP or the water management districts. Under the federal process, a mitigation banking instrument serves as the legal document for the establishment, operation, and use of a mitigation bank.<sup>41</sup> They are approved by an interagency review team, through procedures involving public notice and comment.<sup>42</sup> Mitigation banking instruments must include certain detailed elements, such as a comprehensive mitigation plan including financial assurances, and a credit release schedule that is tied to the achievement of specific milestones.<sup>43</sup>

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;
- 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.<sup>44</sup>

The applicant must also provide reasonable assurance that:

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<sup>37</sup> DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Jan. 11, 2022).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> DEP, *Mitigation Banking Rule and Procedure Synopsis*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and> (last visited Jan. 11, 2022).

<sup>41</sup> 33 C.F.R. s. 332.2.

<sup>42</sup> 33 C.F.R. s. 332.8; 40 C.F.R. s. 230.98.

<sup>43</sup> See generally 33 C.F.R. s. 332.8(d)(6); see also 40 C.F.R. s. 230.98(d)(6).

<sup>44</sup> Section 373.4136(1), F.S.

- 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.<sup>45</sup>

## Seagrass Mitigation Banking

### *Conceptually*

Seagrass mitigation banking is a concept that applies the practices of mitigation banking to seagrass resources, where seagrass resources could be restored, established, enhanced, or preserved in a mitigation bank, which then generates credits that may be used to offset unavoidable impacts to seagrass resources elsewhere. Proponents argue that incentivizing third parties to protect and maintain a large, healthy area of seagrass beds in advance with an off-site mitigation bank can provide better protection of seagrass resources than permittee-responsible mitigation.<sup>46</sup>

### *Legislation*

In 2008, the Legislature passed a bill authorizing the Board of Trustees to provide for the establishment of seagrass mitigation banks to offset the unavoidable impacts of projects where they meet the applicable public interest test.<sup>47</sup> The bill also stated that the authorization “shall not prohibit mitigation for impacts to seagrass or other habitats on sovereignty submerged lands for other types of projects, or for projects occurring on non-sovereign submerged lands, upon applicable approval of the board of trustees.”<sup>48</sup>

Governor Crist vetoed the 2008 bill.<sup>49</sup> The veto letter stated that authorizing the conveyance of sovereignty submerged lands for a bank selling credits to facilitate the destruction of seagrasses on sovereignty submerged lands elsewhere could fail the constitutional public interest test.<sup>50</sup> The Governor raised concerns about the long-term success of artificially-created seagrass beds, and stated that seagrass mitigation banks would likely result in the net destruction of seagrass beds.<sup>51</sup> In addition to seagrass beds, the letter stated that the legislation allows an applicant to seek approval from the Board of Trustees for any project involving destruction of habitat in sovereignty submerged lands that does not pass the public interest test. Finally, the letter stated

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<sup>45</sup> *Id.*; Fla. Admin. Code R. 62-342.400.

<sup>46</sup> See generally Stephanie A. Broad, *Seagrass Mitigation Banks and the Governor’s Veto*, 39 STETSON L. REV. 285 (2009), available at <https://www.stetson.edu/law/lawreview/media/vol-39-1-broad.pdf> (last visited Jan. 11, 2022).

<sup>47</sup> CS/HB 7059 (Reg. Sess. 2008).

<sup>48</sup> *Id.*

<sup>49</sup> *Letter from Governor Charlie Crist to Secretary Kurt S. Browning* (June 30, 2008), available at <https://static.votesmart.org/static/vetotext/21176.pdf> (last visited Jan. 11, 2022).

<sup>50</sup> *Id.* at 1.

<sup>51</sup> *Id.* at 2.

that implementing the banks would require excluding the public from the sovereignty submerged lands and contravene the public's navigation rights.<sup>52</sup>

In 2021, another bill was introduced that authorized the Board of Trustees to establish seagrass mitigation banks, and which expressly did not prohibit mitigation, upon approval of the Board of Trustees, for impacts to other habitats on sovereignty submerged lands or non-sovereignty submerged lands.<sup>53</sup> In its first committee of reference, the bill was amended to specify that the Board of Trustees "may authorize leases" for seagrass mitigation banks, and also to require DEP to modify its rules to remove duplicative financial assurance requirements and ensure permitted seagrass mitigation banks comply with the federal mitigation banking rules.<sup>54</sup> The bill died in its second committee of reference.

In a 2021 analysis, DEP raised several concerns and comments about seagrass mitigation banks.<sup>55</sup> DEP stated that the long-term dedication necessary to establish the banks may conflict with the Board of Trustees' policy and purpose to allow for public access to sovereignty submerged lands, including swimming, boating, and fishing.<sup>56</sup> DEP expressed concern that if state-owned lands that were purchased with bond proceeds were used for seagrass mitigation banks – a revenue-generating activity – it could trigger taxation of the interest on the bonds in violation of the Internal Revenue Service's regulations and the bond indenture. DEP's analysis also agreed with the concerns regarding mitigation banks that were raised by the 2008 veto letter, commenting that preserving seagrass resources is not appropriate for compensatory mitigation, because if loss or degradation of seagrass resources are said to be offset by preserving existing seagrasses that are already protected then there will be a net loss of seagrass resources.<sup>57</sup>

### **Exceptions to Requirements for Environmental Resource Permitting**

DEP's Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows.<sup>58</sup> The ERP program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters).<sup>59</sup>

For a number of low impact activities and projects that are narrow in scope, an ERP permit is not required under state law.<sup>60</sup> Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to DEP.<sup>61</sup> A broad array of

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<sup>52</sup> *Id.*

<sup>53</sup> SB 1668 (Reg. Sess. 2021).

<sup>54</sup> CS/SB 1668 (Reg. Sess. 2021). The amendment also removed the reference to non-sovereignty submerged lands. *See id.*

<sup>55</sup> DEP, 2021 Legislative Session, Bill #: SB 1668 (2021), available at [https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/5170/9341\\_MeetingPacket\\_5170.29.21.pdf](https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/5170/9341_MeetingPacket_5170.29.21.pdf) (last visited Jan. 11, 2022).

<sup>56</sup> *Id.* at 1.

<sup>57</sup> *Id.* at 2.

<sup>58</sup> Chapter 373, p. IV, F.S.; Fla. Admin. Code Ch. 62-330; DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Jan. 18, 2022).

<sup>59</sup> Fla. Admin. Code R. 62-330.010(1)-(3). The responsibilities for implementing the statewide ERP program are partially delegated by DEP to the water management districts and certain local governments.

<sup>60</sup> Section 403.813, F.S.

<sup>61</sup> Fla. Admin. Code Rules 62-330.050(1) and 62-330.051(2).

activities are expressly exempted from the ERP program, and these include, but are not limited to: the installation of overhead transmission lines; installation and maintenance of boat ramps; work on seawalls and mooring pilings, swales, and foot bridges; the removal of aquatic plants; construction and operation of floating vessel platforms; and work on county roads and bridges.<sup>62</sup> Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees or a water management district in its governmental or proprietary capacity.<sup>63</sup>

***ERP Exemption for Certain Mooring Pilings, Dolphins, Private Docks, Piers, and Recreational Docking Facilities***

There is an ERP exemption for the installation and repair of mooring pilings and dolphins associated with private docking facilities or piers and the installation of private docks, piers, and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, any of which docks:<sup>64</sup>

- Has 500 square feet or less of over-water surface area for a dock located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock located in an area that is not designated as Outstanding Florida Waters;
- Is constructed on or held in place by pilings or is a floating dock constructed so as not to involve filling or dredging other than that necessary to install the pilings;
- May not substantially impede the flow of water or create a navigational hazard;
- Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and
- Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case one exempt dock may be allowed per parcel or lot.<sup>65</sup>

The exemption does not prohibit DEP from taking appropriate enforcement action pursuant to ch. 403, F.S., to abate or prohibit any activity otherwise exempt from permitting pursuant to this exemption if DEP can demonstrate that the exempted activity has caused water pollution in violation of ch. 403, F.S.<sup>66</sup>

***ERP Exemption for Certain Floating Vessel Platforms or Floating Boat Lifts***

There is also an ERP exemption for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:<sup>67</sup>

- Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;

<sup>62</sup> Section 403.813(1), F.S.; Fla. Admin. Code R. 62-330.051.

<sup>63</sup> Section 403.813(1), F.S.; *but see* s. 403.813(1)(s), F.S. (specifically relieving qualifying FVP structures from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees).

<sup>64</sup> Section 403.813(1)(b), F.S.

<sup>65</sup> Section 403.813(1)(b)1.-5., F.S.

<sup>66</sup> Section 403.813(1)(b), F.S.

<sup>67</sup> Section 403.813(1)(s), F.S.

- Are wholly contained within a boat slip previously permitted under state law, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;
- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in state law;
- Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and
- Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with state law, or other form of authorization issued by a local government.<sup>68</sup>

Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations.<sup>69</sup> Additionally, local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in s. 403.813, F.S., and to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in s. 403.813, F.S., or address subjects other than subjects addressed by the exemption criteria in this s. 403.813, F.S.<sup>70</sup>

### **Charter Counties**

In 1968, the electors of Florida granted local voters the power to adopt charters to govern their counties.<sup>71</sup> Charters are formal written documents that confer powers, duties, or privileges on the county. They resemble state or federal constitutions and they must be approved, along with any amendments, by the voters of a county. The establishment of charter government was designed to remove the resolution of local problems from the Legislature's busy agenda and to grant the county electorate greater control over their regional affairs.<sup>72</sup>

To date, there are 20 charter counties.<sup>73</sup> They are:

- Alachua
- Brevard
- Broward
- Charlotte

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<sup>68</sup> Section 403.813(1)(s)1.-5., F.S.

<sup>69</sup> Section 403.813(1)(s), F.S.

<sup>70</sup> *Id.*

<sup>71</sup> Florida Association of Counties, *Charter County Information*, <https://www.fl-counties.com/charter-county-information> (last visited Jan. 18, 2022).

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

- Clay
- Columbia
- Duval
- Hillsborough
- Lee
- Leon
- Miami-Dade
- Orange
- Osceola
- Palm Beach
- Pinellas
- Polk
- Sarasota
- Seminole
- Volusia
- Wakulla<sup>74</sup>

### **Manatee Protection Plans**

The Florida Manatee Sanctuary Act<sup>75</sup> provides that in order to protect manatees and manatee habitat, certain Florida counties are required to develop manatee protection plans (MPPs).<sup>76</sup> An MPP is a county specific management plan developed, approved and used by federal, state, and local governments to ensure the long term protection of manatees and their habitat within what is defined as the county's boundaries.<sup>77</sup>

Thirteen counties have adopted MPPs.<sup>78</sup> They are:

- Brevard
- Broward
- Charlotte
- Citrus
- City of Jacksonville (Duval)
- Clay
- Collier
- Flagler
- Indian River
- Lee
- Martin
- Miami-Dade
- Palm Beach

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<sup>74</sup> *Id.*

<sup>75</sup> Section 379.2431(2), F.S.

<sup>76</sup> Section 379.2431(2)(t), F.S.

<sup>77</sup> Fish and Wildlife Conservation Commission, *Manatee Protection Plans – MPPs*, <https://myfwc.com/wildlifehabitats/wildlife/manatee/protection-plans/> (last visited Jan. 18, 2022).

<sup>78</sup> *Id.*

- Sarasota
- St. Lucie
- Volusia<sup>79</sup>

### Local Pollution Control Programs

Section 403.182, F.S., provides that each county and municipality (or any combination thereof) may establish and administer a local pollution control program, so long as it complies with all other provisions of the Florida Air and Water Pollution Control Act (FAWPCA).<sup>80</sup> All local pollution control programs must:<sup>81</sup>

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

If DEP determines that a local pollution control program is inadequate to prevent and control pollution, or is being administered in a manner inconsistent with the requirements of the FAWPCA, it may require necessary corrective measures.<sup>82</sup> If these corrective measures are not implemented, DEP may reassume implementation of the FAWPCA within the jurisdiction.<sup>83</sup> Each local pollution control program must cooperate with and assist DEP in carrying out its powers, duties, and functions.<sup>84</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill provides that the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) may grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under the mitigation banking statute to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria under this chapters 253 and 258, F.S. The bill also provides that it does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs, upon meeting the public interest criteria under chapter 253 and 258, F.S.

**Section 2** of the bill directs the Department of Environmental Protection (DEP) to adopt and modify rules adopted pursuant to the mitigation banking and additional surface waters and wetlands criteria statutes to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation permitted under those provisions. DEP,

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<sup>79</sup> *Id.*

<sup>80</sup> Section 403.182, F.S.; *see also* ch. 67-436, s. 2, Laws of Fla. (identifying the short title of the act).

<sup>81</sup> Section 403.182(1), F.S.

<sup>82</sup> *See* s. 403.182(4), F.S.

<sup>83</sup> *See id.*

<sup>84</sup> Section 403.182(10), F.S.

in consultation with the water management districts, must include the rulemaking in existing active rulemaking, or must complete rule development by June 30, 2023.

**Section 3** of the bill amends the criteria to qualify for the permitting exemption in s. 403.813(1)(b), F.S., applicable to the installation and repair of certain mooring pilings, dolphins, piers, and docking facilities, as follows:

- In connection with the requirement that the dock be the sole dock constructed pursuant to the exemption “as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case one exempt dock may be allowed per per parcel or lot[,]” the bill revises the references to “a parcel of land or individual lot” to include a recorded easement as well.
- It provides that docks qualifying for the permitting exemption must be granted authorization for use of submerged lands upon approval by the Board of Trustees.

The bill also amends the permitting exemption in s. 403.813(s), F.S., applicable to the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, as follows:

- It amends the exemption to create a presumption of compliance with any requirement to minimize adverse environmental impacts, where the structure in question complies with the exemption criteria and is associated with an exempt or permitted dock on a parcel of land.
- It revises the exemption such that local governments no longer have the option of requiring a permit – instead, they may only require a one-time registration as necessary – for floating vessel platforms associated with docking structures to ensure compliance.
- It revises the exemption such that local governments can no longer use the one-time registration process to ensure compliance with local ordinances, codes, or regulations relating to building and zoning, but instead can only use one-time registration to ensure compliance with electrical or plumbing codes that are no more stringent than the listed exemption criteria or address other subjects other than the subjects addressed by the listed exemption criteria.

The bill also defines the term “local government,” as used in the bill, as including a charter county, a county that is required to implement a manatee protection plan pursuant to state law, or a county or municipality that establishes and administers a local pollution control program under state law.

**Section 4** provides that the bill takes effect upon becoming a law.

#### **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 Board of Trustees may realize a marginal increase in proprietary authorization fees due to the establishment of seagrass mitigation banks on sovereignty submerged lands. The bill may also result in increased costs to the Board of Trustees and DEP because rulemaking, and potentially the establishment of a new program, may be necessary to implement the requirements contained in the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Ordinarily, an “easement” (new law) would overlay a “parcel of land or individual lot” (existing law). It is unclear what change the addition of this language would make. Additionally, docks qualifying for the permitting exemption are granted authorization for use of submerged lands upon approval by the Board of Trustees under existing law (submerged lands are addressed in ch. 253, F.S.). It is unclear what change the addition of this language would make. It may be that the changes to law proposed in s. 403.813, F.S., should be clarified to ensure the intent of the bill is achieved.

The use of the word “includes” in the explanation of “local government” in s. 403.813(1)(s), F.S., could be ambiguous regarding if it is an inclusive or exclusive list. If the intent is to make it an inclusive list adding “includes, ‘but not limited to’” would make the language clearer.

**VIII. Statutes Affected:**

This bill substantially amends sections 253.03 and 403.813 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 on January 18, 2022:**

- Provides that the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) may grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under, and meet the public interest criteria in, state law.
- Provides that the bill does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs upon meeting the public interest criteria.
- Directs DEP to adopt and modify rules to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation.
- Provides that docks authorized under the permitting exception in s. 403.813(1)(b), F.S., for the installation and repair of certain mooring pilings and dolphins, piers, and recreational docking facilities, must be granted authorization for the use of submerged lands upon approval by the Board of Trustees.
- Provides that floating vessel platform or floating boat lift structures authorized under the permitting exception for them in s. 403.813(1)(s), F.S., when they are associated with a dock on a parcel of land and comply with the criteria listed, create a presumption of compliance with any requirement to minimize adverse environmental impacts.
- Revises existing law which authorizes local governments to..... to permit local governments, as defined in the bill, to require only a one-time registration of certain floating vessel platforms to ensure compliance with listed exemption criteria or with local electrical or plumbing codes that are no more stringent than the exemption criteria or address other subjects.
- Defines the term “local government” as used in s. 403.813(1)(s), F.S., as including a charter county, a county that is required to implement a manatee protection plan pursuant to state law, or a county or municipality that establishes and administers a local pollution control program under state law.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2022	.	
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The Committee on Environment and Natural Resources (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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 grant easements on  
sovereignty submerged lands for mitigation banks that are



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11 permitted under s. 373.4136 to ensure the protection and  
12 restoration of natural resources and to offset the unavoidable  
13 impacts of projects when mitigation banks meet the public  
14 interest criteria under this chapter and chapter 258. This  
15 subsection does not prohibit mitigation to offset impacts to  
16 seagrass or other habitats on sovereignty submerged lands, upon  
17 meeting the public interest criteria under this chapter and  
18 chapter 258.

19       Section 2. The Department of Environmental Protection shall  
20 adopt and modify rules adopted pursuant to ss. 373.4136 and  
21 373.414, Florida Statutes, to ensure that required financial  
22 assurances are equivalent and sufficient to provide for the  
23 long-term management of mitigation permitted under ss. 373.4136  
24 and 373.414, Florida Statutes. The department, in consultation  
25 with the water management districts, shall include the  
26 rulemaking required by this section in existing active  
27 rulemaking, or shall complete rule development by June 30, 2023.

28       Section 3. Paragraphs (b) and (s) of subsection (1) of  
29 section 403.813, Florida Statutes, are amended to read:

30       403.813 Permits issued at district centers; exceptions.—

31       (1) A permit is not required under this chapter, chapter  
32 373, chapter 61-691, Laws of Florida, or chapter 25214 or  
33 chapter 25270, 1949, Laws of Florida, and a local government may  
34 not require a person claiming this exception to provide further  
35 department verification, for activities associated with the  
36 following types of projects; however, except as otherwise  
37 provided in this subsection, this subsection does not relieve an  
38 applicant from any requirement to obtain permission to use or  
39 occupy lands owned by the Board of Trustees of the Internal



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40 Improvement Trust Fund or a water management district in its  
41 governmental or proprietary capacity or from complying with  
42 applicable local pollution control programs authorized under  
43 this chapter or other requirements of county and municipal  
44 governments:

45 (b) The installation and repair of mooring pilings and  
46 dolphins associated with private docking facilities or piers and  
47 the installation of private docks, piers, and recreational  
48 docking facilities, or piers and recreational docking facilities  
49 of local governmental entities when the local governmental  
50 entity's activities will not take place in any manatee habitat,  
51 any of which docks:

52 1. Has 500 square feet or less of over-water surface area  
53 for a dock located in an area designated as Outstanding Florida  
54 Waters or 1,000 square feet or less of over-water surface area  
55 for a dock located in an area that is not designated as  
56 Outstanding Florida Waters;

57 2. Is constructed on or held in place by pilings or is a  
58 floating dock constructed so as not to involve filling or  
59 dredging other than that necessary to install the pilings;

60 3. May not substantially impede the flow of water or create  
61 a navigational hazard;

62 4. Is used for recreational, noncommercial activities  
63 associated with the mooring or storage of boats and boat  
64 paraphernalia; and

65 5. Is the sole dock constructed pursuant to this exemption  
66 as measured along the shoreline for a distance of 65 feet,  
67 unless the parcel of land, recorded easement, or individual lot  
68 as platted is less than 65 feet in length along the shoreline,



69 in which case one exempt dock may be allowed per parcel,  
70 easement, or lot. Such docks shall be granted authorization for  
71 the use of submerged lands upon approval by the Board of  
72 Trustees of the Internal Improvement Trust Fund.

73

74 This paragraph does not prohibit the department from taking  
75 appropriate enforcement action pursuant to this chapter to abate  
76 or prohibit any activity otherwise exempt from permitting  
77 pursuant to this paragraph if the department can demonstrate  
78 that the exempted activity has caused water pollution in  
79 violation of this chapter.

80 (s) The construction, installation, operation, or  
81 maintenance of floating vessel platforms or floating boat lifts,  
82 provided that such structures:

83 1. Float at all times in the water for the sole purpose of  
84 supporting a vessel so that the vessel is out of the water when  
85 not in use;

86 2. Are wholly contained within a boat slip previously  
87 permitted under ss. 403.91-403.929, 1984 Supplement to the  
88 Florida Statutes 1983, as amended, or part IV of chapter 373, or  
89 do not exceed a combined total of 500 square feet, or 200 square  
90 feet in an Outstanding Florida Water, when associated with a  
91 dock that is exempt under this subsection or associated with a  
92 permitted dock with no defined boat slip or attached to a  
93 bulkhead on a parcel of land where there is no other docking  
94 structure;

95 3. Are not used for any commercial purpose or for mooring  
96 vessels that remain in the water when not in use, and do not  
97 substantially impede the flow of water, create a navigational



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98 hazard, or unreasonably infringe upon the riparian rights of  
99 adjacent property owners, as defined in s. 253.141;

100 4. Are constructed and used so as to minimize adverse  
101 impacts to submerged lands, wetlands, shellfish areas, aquatic  
102 plant and animal species, and other biological communities,  
103 including locating such structures in areas where seagrasses are  
104 least dense adjacent to the dock or bulkhead; and

105 5. Are not constructed in areas specifically prohibited for  
106 boat mooring under conditions of a permit issued in accordance  
107 with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes  
108 1983, as amended, or part IV of chapter 373, or other form of  
109 authorization issued by a local government.

110  
111 Structures that qualify for this exemption are relieved from any  
112 requirement to obtain permission to use or occupy lands owned by  
113 the Board of Trustees of the Internal Improvement Trust Fund  
114 and, with the exception of those structures attached to a  
115 bulkhead on a parcel of land where there is no docking  
116 structure, are may not be subject to any more stringent  
117 permitting requirements, registration requirements, or other  
118 regulation by any local government. Structures associated with a  
119 dock on a parcel of land under subparagraph 2. which comply with  
120 this paragraph create a presumption of compliance with any  
121 requirement to minimize adverse environmental impacts. A local  
122 government governments may require a permit either permitting or  
123 one-time registration of floating vessel platforms to be  
124 attached to a bulkhead on a parcel of land where there is no  
125 other docking structure as necessary to ensure compliance with  
126 local ordinances, codes, or regulations. A local government



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127 ~~governments~~ may require a either permitting or one-time  
128 registration of all other floating vessel platforms only as  
129 necessary to ensure compliance with the exemption criteria in  
130 this section, or to ensure compliance with local electrical or  
131 plumbing ordinances, codes that, ~~or regulations relating to~~  
132 ~~building or zoning, which~~ are no more stringent than the  
133 exemption criteria in this section or address subjects other  
134 than subjects addressed by the exemption criteria in this  
135 section; and to ensure proper installation, maintenance, and  
136 precautionary or evacuation action following a tropical storm or  
137 hurricane watch of a floating vessel platform or floating boat  
138 lift that is proposed to be attached to a bulkhead or parcel of  
139 land where there is no other docking structure. The exemption  
140 provided in this paragraph is ~~shall be~~ in addition to the  
141 exemption provided in paragraph (b). The department shall adopt  
142 a general permit by rule for the construction, installation,  
143 operation, or maintenance of those floating vessel platforms or  
144 floating boat lifts that do not qualify for the exemption  
145 provided in this paragraph but do not cause significant adverse  
146 impacts to occur individually or cumulatively. The issuance of  
147 such general permit ~~shall~~ also constitutes ~~constitute~~ permission  
148 to use or occupy lands owned by the Board of Trustees of the  
149 Internal Improvement Trust Fund. A local government ~~governments~~  
150 may not impose a more stringent regulation, permitting  
151 requirement, registration requirement, or other regulation  
152 covered by such general permit. A local government ~~governments~~  
153 may require either permitting or one-time registration of  
154 floating vessel platforms as necessary to ensure compliance with  
155 the general permit in this section; to ensure compliance with





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156 local ordinances, codes, or regulations relating to building or  
157 zoning that are no more stringent than the general permit in  
158 this section; and to ensure proper installation and maintenance  
159 of a floating vessel platform or floating boat lift that is  
160 proposed to be attached to a bulkhead or parcel of land where  
161 there is no other docking structure. As used in this paragraph,  
162 the term "local government" includes a charter county, a county  
163 that is required to implement a manatee protection plan pursuant  
164 to s. 379.2431(2)(t), or a county or municipality that  
165 establishes and administers a local pollution control program  
166 under s. 403.182.

167 Section 4. This act shall take effect upon becoming a law.

168  
169 ===== T I T L E A M E N D M E N T =====

170 And the title is amended as follows:

171 Delete everything before the enacting clause  
172 and insert:

173 A bill to be entitled

174 An act relating to water resources management;  
175 amending s. 253.03, F.S.; authorizing the Board of  
176 Trustees of the Internal Improvement Trust Fund to  
177 grant easements on sovereignty submerged lands for  
178 specified mitigation banks under certain conditions;  
179 providing construction; requiring the Department of  
180 Environmental Protection to adopt and modify specified  
181 rules; providing requirements for such rulemaking;  
182 requiring the department, in consultation with the  
183 water management districts, to include such rulemaking  
184 in any active rulemaking process or to complete such



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185 rule development within a specified timeframe;  
186 amending s. 403.813, F.S.; exempting certain docks on  
187 recorded easements from certain permit and  
188 verification requirements; requiring authorization for  
189 certain docks to use submerged lands upon approval of  
190 the board; providing that the compliance of certain  
191 structures associated with a dock on a parcel of land  
192 with certain provisions creates a presumption of  
193 compliance with certain environmental impact  
194 requirements; removing provisions authorizing local  
195 governments to require permits for certain floating  
196 vessel platforms; revising the purposes for which  
197 local governments may require one-time registration of  
198 such platforms; defining the term "local government";  
199 providing an effective date.

By Senator Rodriguez

39-00398-22

2022198\_\_

1 A bill to be entitled

2 An act relating to seagrass mitigation banks; amending  
3 s. 253.03, F.S.; authorizing the Board of Trustees of  
4 the Internal Improvement Trust Fund to establish  
5 seagrass mitigation banks under certain conditions;  
6 providing construction; providing an effective date.  
7

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

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

12 253.03 Board of trustees to administer state lands; lands  
13 enumerated.—

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

23 Section 2. This act shall take effect July 1, 2022.

**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.)

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

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BILL: SB 1326

INTRODUCER: Senator Rodriguez

SUBJECT: Comprehensive Review Study of the Central and Southern Florida Project

DATE: January 14, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1326 amends s. 373.1501, F.S., to require the South Florida Water Management District (SFWMD) to prepare and submit a consolidated annual report regarding the status of the Comprehensive Review Study of the Central and Southern Florida Project (Restudy) to the Office of Economic and Demographic Research, the Department of Environmental Protection (DEP), the Governor, and the Legislature. The required report must include:

- A summary of the findings in the SFWMD’s annual sea level rise and flood resiliency plan;
- A list of structures that are expected to fall below the expected service level in the next 5 years;
- Initial recommendations for the refurbishment or replacement of the structures identified in the preceding bullet; and
- A summary of the state and federal funds expended toward the implementation of the Restudy and other regional resiliency efforts of the SFWMD through June 30 of each year.

**II. Present Situation:**

**Central and Southern Florida Project (C&SF Project)**

In 1948, Congress authorized the Central and Southern Florida Project (C&SF Project).<sup>1</sup> The purposes of the project included flood control, regional water supply, prevention of saltwater intrusion, water supply to Everglades National Park, wildlife preservation, recreation, and navigation.<sup>2</sup> To achieve these purposes, in a partnership between the U.S. Army Corps of Engineers (USACE) and the state, the C&SF Project developed a water management system that

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<sup>1</sup> The Flood Control Act of 1948, Pub. L. No. 858, s. 203, 62 Stat. 1176.

<sup>2</sup> USACE and SFWMD, *Central and Southern Florida Project Comprehensive Review Study, Final Integrated Feasibility Report and Programmatic Environmental Impact Statement*, 1-1 (April 1999) [hereinafter *Restudy*], available at [https://www.sfwmd.gov/sites/default/files/documents/CENTRAL\\_AND\\_SOUTHERN\\_FLORIDA\\_PROJECT\\_COMPREHENSIVE\\_REVIEW\\_STUDY.pdf](https://www.sfwmd.gov/sites/default/files/documents/CENTRAL_AND_SOUTHERN_FLORIDA_PROJECT_COMPREHENSIVE_REVIEW_STUDY.pdf) (last visited Jan. 12, 2022).

includes 1,000 miles each of levees and canals, 150 water control structures, and 16 major pump stations.<sup>3</sup> The project involves an area of about 16,000 square miles, which includes all or part of 18 counties in central and southern Florida.<sup>4</sup> Major features of the C&SF Project include:

- An East Coast Protective Levee extending from the Homestead area north to the eastern shore of Lake Okeechobee near St. Lucie Canal;
- Three conservation areas for water impoundment in the Everglades area west of the East Coast Protective Levee, with control structures to effect transfer of water as necessary;
- Local protection works along the lower east coast;
- Encirclement of the Lake Okeechobee agricultural area by levees and canals;
- Enlargement of portions of Miami, North New River, Hillsboro, and West Palm Beach canals;
- Enlargement of existing Lake Okeechobee levees and construction of new levees on the northeast and northwest shores of the lake;
- Increased outlet capacity for improved control of Lake Okeechobee;
- Floodway channels in the Kissimmee River Basin, with suitable control structures to prevent over drainage;
- An interrelated system of canals, levees, pumping stations and structures in the southwest Miami-Dade County to control water levels; and
- Facilities for risk management of floods in the upper St. Johns River Basin.<sup>5</sup>

Among other things, the C&SF Project provides water control and protection from the recurrence of flood waters for the highly developed urban area along the lower east coast of Florida, for the agricultural areas around Lake Okeechobee, in the Upper St. Johns and Kissimmee River Basin, and in south Miami-Dade County.<sup>6</sup>

USACE operates and maintains project works on the St. Lucie Canal, Caloosahatchee River, Lake Okeechobee levees, channels, and major spillways, and the main outlets for Water Conservation Areas 1, 2A, and 3A.<sup>7</sup> The South Florida Water Management District (SFWMD) operates the remainder of the C&SF Project in accordance with regulations prescribed by USACE. SFWMD is authorized to act as local sponsor of the project for those project features located within the SFWMD.<sup>8</sup>

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<sup>3</sup> *Restudy*, at 1-10.

<sup>4</sup> U.S. Army Corps of Engineers (USACE), *Fact Sheet Central and Southern Florida Project*, available at [https://www.saj.usace.army.mil/Portals/44/docs/CongressionalFS/2015/CSF\\_Project\\_\(C\)\\_CFS15.pdf](https://www.saj.usace.army.mil/Portals/44/docs/CongressionalFS/2015/CSF_Project_(C)_CFS15.pdf) (last visited Jan. 13, 2022).

<sup>5</sup> *Id.*

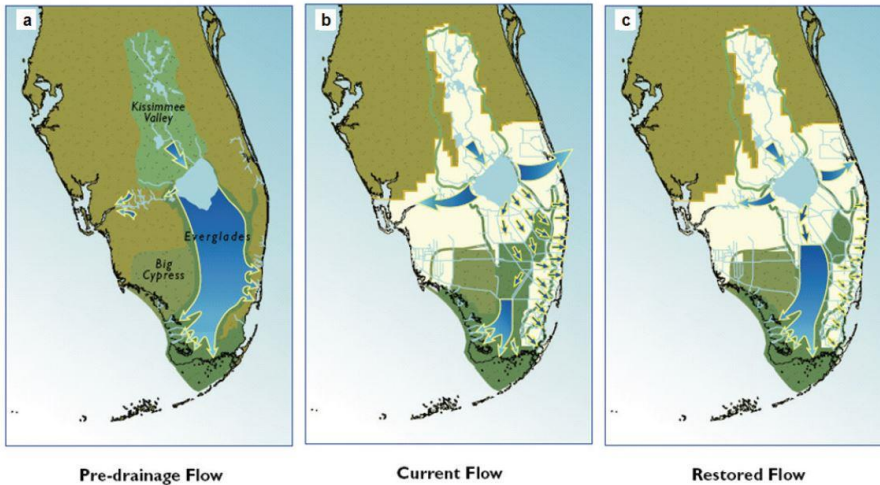
<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Section 373.1501(4), F.S.

### The Comprehensive Everglades Restoration Plan (CERP)

In the federal Water Resources Development Acts (WRDAs) of 1992 and 1996, Congress



directed USACE to conduct a comprehensive review study of the C&SF Project (known as the “Restudy”).<sup>9</sup> In 1999, the Restudy recommended a comprehensive restoration plan.<sup>10</sup>

In WRDA 2000, Congress authorized the Comprehensive

Everglades Restoration Plan (CERP).<sup>11</sup> CERP is a framework for modifications and operational changes to the C&SF Project necessary to restore, preserve, and protect the south Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection.<sup>12</sup> CERP contains over 68 individual components comprising more than 50 projects.<sup>13</sup> These components improve delivery and timing within the Everglades system by increasing the size of natural areas, improving water quality, releasing water to mimic historical flow patterns, and storing and distributing water for urban, agricultural, and ecological uses.<sup>14</sup> CERP covers around 18,000 square miles, including all or part of 16 counties in central and southern Florida.<sup>15</sup>

### SFWMD Flood Protection Level of Service

To fulfill the need of long-term flood protection for basins throughout its 16-county region, the SFWMD has established a flood protection level of service (FPLOS) program.<sup>16</sup> The mission of this program is to identify and prioritize long-term infrastructure improvement needs, and to

<sup>9</sup> *Restudy*, at 1-3 through 1-7; see also Pub. L. No. 102-580, s. 309(1), (1992) and Pub. L. No. 104-303, s. 528 (1996).

<sup>10</sup> *Restudy*, at i-ii.

<sup>11</sup> Water Resources Development Act of 2000, Pub. L. No. 106-541, s. 601, 114 Stat. 2680 (2000).

<sup>12</sup> USACE and DOI, *2015-2020 Momentum, Report to Congress, Comprehensive Everglades Restoration Plan, Central and Southern Florida Project*, 4 (Dec. 2020) [hereinafter *2020 Report to Congress*], at 6, available at [https://issuu.com/usace\\_saj/docs/final\\_2020\\_report\\_to\\_congress\\_on\\_cerp\\_progress\\_hig](https://issuu.com/usace_saj/docs/final_2020_report_to_congress_on_cerp_progress_hig) (last visited Jan. 12, 2022).

<sup>13</sup> *Id.* at 6-7; see generally *Restudy*. The April 1999 “Central and Southern Florida Project Comprehensive Review Study Final Integrated Feasibility Report and Programmatic Environmental Impact Statement,” commonly known as the “Yellow Book,” contains the original CERP plan authorized by Congress. The plan identifies CERP components using a code of letters.

<sup>14</sup> *Restudy*, at vii-x.

<sup>15</sup> U.S. House of Representatives, Committee on Transportation and Infrastructure, *Subcommittee Hearing on “The Comprehensive Everglades Restoration Plan and Water Management in Florida”* (Sept. 21, 2020), available at <https://www.congress.gov/116/meeting/house/111019/documents/HHRG-116-PW02-20200924-SD001.pdf> (last visited Jan. 12, 2022).

<sup>16</sup> SFWMD, *Flood Protection Level of Service*, <https://www.sfwmd.gov/our-work/flood-protection-level-service> (last visited Jan. 12, 2022).

develop an implementation strategy to assure that each basin can maintain its designated FPLOS, in a technical and cost-effective manner, in response to population growth, land development, sea level rise, and climate conditions change.<sup>17</sup>

The FPLOS allows the SFWMD to evaluate the effectiveness of its flood control assets including canals, structures and pump stations to determine their ability to meet the flood protection needs of the region.<sup>18</sup> The C&SF Project and other basins flood protection systems have many assets that are approaching end of design life, making it critical to implement this program to inform decisions on the flood control infrastructure needs of the region.<sup>19</sup>

### **Sea Level Rise, Flooding, and Associated Costs**

Climate change is causing global sea level rise, which is an observed increase in the average local sea level or global sea level trend.<sup>20</sup> Sea level rise is caused primarily by two factors: the loss of land-based ice (ice sheets and glaciers) due to melting, and thermal expansion caused by the warming of the oceans (water expands as it warms).<sup>21</sup> Climate change<sup>22</sup> is also increasing storm intensity and increasing frequency and severity of extreme rainfall events.<sup>23</sup>

These trends result in increased flooding in inland and coastal areas.<sup>24</sup> Impacts of flooding from sea level rise in Florida include disruptions in transportation and impairment of infrastructure such as roads, stormwater systems, and wastewater systems.<sup>25</sup> Extreme rainfall events can stress or overwhelm stormwater infrastructure, while sea level rise impairs gravity-driven systems and reduces the discharge capacity of coastal water control structures.<sup>26</sup> By raising groundwater

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<sup>17</sup> *Id.*

<sup>18</sup> SFWMD, *Sea Level Rise and Flood Resiliency Plan, Draft Version 2.2 (Sept. 2021)*, at 10, available at [https://www.sfwmd.gov/sites/default/files/FDEP\\_ResilientFlorida\\_ResilientProjectsPlan\\_09\\_01-2021.pdf](https://www.sfwmd.gov/sites/default/files/FDEP_ResilientFlorida_ResilientProjectsPlan_09_01-2021.pdf) (last visited Jan. 12, 2022).

<sup>19</sup> *Id.*

<sup>20</sup> Dep't of Environmental Protection (DEP), *Florida Adaptation Planning Guidebook*, Glossary (2018) [hereinafter *DEP Guidebook*], available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Jan. 12, 2022).

<sup>21</sup> *Id.*; NOAA, *Climate Change: Ocean Heat Content*, <https://www.climate.gov/news-features/understanding-climate/climate-change-ocean-heat-content> (last visited Jan. 12, 2022). More than 90 percent of the warming that has happened on Earth over the past 50 years has occurred in the ocean.

<sup>22</sup> See NASA, *Global Climate Change, Facts, Effects*, <https://climate.nasa.gov/effects/> (last visited Jan. 12, 2022).

<sup>23</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, at 31, 40-43, 97, 116-118, 745, 762, 1482 (2018) [hereinafter *NCA4*], available at [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf) (last visited Jan. 12, 2022); IPCC, *Climate Change 2014: Synthesis Report, Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, at 7-8, 10, 42, 47-49, 53, 60, 74 (2014), available at [https://www.ipcc.ch/site/assets/uploads/2018/02/SYR\\_AR5\\_FINAL\\_full.pdf](https://www.ipcc.ch/site/assets/uploads/2018/02/SYR_AR5_FINAL_full.pdf) (last visited Jan. 12, 2022).

<sup>24</sup> *NCA4*, at 757-768.

<sup>25</sup> SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, at 5 (2019) [hereinafter *SFRCCC Update*], available at [https://southeastfloridaclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report\\_FINAL\\_02212020.pdf](https://southeastfloridaclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf) (last visited Jan. 12, 2022).

<sup>26</sup> *NCA4*, at 763; *SFRCCC Update*, at 5, 34.

levels, sea level rise reduces the ability of rainfall to infiltrate the soil, and the reduced soil storage capacity causes flooding.<sup>27</sup>

Florida's 35 coastal counties contain 76% of its population and 79% of its total economy as of 2012.<sup>28</sup> A regional analysis found that in southeast Florida alone, by 2040, \$4.2 billion in property value could be lost to daily tidal inundation and one 10-year storm tide event could cause \$3.2 billion in property damage.<sup>29</sup> It is estimated that Florida has nine of the top ten counties in the nation for total annual risk of economic loss from flooding.<sup>30</sup> Despite the risks, people and capital continue to flow into exposed coastal areas in Florida.<sup>31</sup>

As sea level rise continues, financial impacts may include increases in flood insurance costs,<sup>32</sup> decreases in property sales or property values, and increased risk for lenders.<sup>33</sup> Coastal flooding can disrupt local economies and tourism, leading to lost revenues for the public and private sectors, and over time risks include loss or impairment of employment opportunities and public services and infrastructure.<sup>34</sup> Coastal flooding can cause displacement in frontline communities, and the burdens of adaptation are likely to disproportionately impact vulnerable populations.<sup>35</sup>

Studies show significant positive returns on investment calculated for resilience measures, including the following benefit-cost ratios: \$6 for every \$1 spent through federal grants on natural hazard mitigation, and, for future resilience investments in southeastern Florida, \$4 for every \$1 on building-level adaptations, and \$2 for every \$1 on community-wide adaptations.<sup>36</sup>

<sup>27</sup> *SFRCCC Update*, at 33; Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan*, at 106-181 (2018) [hereinafter *SHMP*], available at [https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full\\_final\\_approved.6.11.2018.pdf](https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf) (last visited Jan. 12, 2022).

<sup>28</sup> *DEP Guidebook*, at III, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Jan. 12, 2022); see also McKinsey Global Institute, *Will Mortgages and Markets Stay Afloat in Florida?*, at 13 (2020) [hereinafter *MGI Mortgages and Markets*], available at [https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI\\_Climate%20Risk\\_Case%20Studies\\_Florida\\_May2020.pdf](https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf) (last visited Jan. 12, 2022). Almost 10% of the state's population is less than 4.9 feet (1.5 meters) above sea level.

<sup>29</sup> Urban Land Institute, *The Business Case for Resilience - Regional Economic Benefits of Climate Adaptation*, at 6 (2020) [hereinafter *Business Case for Resilience*], available at [https://knowledge.uli.org/-/media/files/research-reports/2020/the-business-case-for-resilience-in-southeast-florida\\_final.pdf?rev=81609c7f6b72479d89c49aff72fea446&hash=FB2E953B8A456CFE781169A0CAA82333](https://knowledge.uli.org/-/media/files/research-reports/2020/the-business-case-for-resilience-in-southeast-florida_final.pdf?rev=81609c7f6b72479d89c49aff72fea446&hash=FB2E953B8A456CFE781169A0CAA82333) (last visited Jan. 12, 2022). In 2070, the estimated potential harm in Southeast Florida increases to \$53.6 billion of lost property value from daily tidal inundation and \$16.5 billion of property damage from one 10-year storm.

<sup>30</sup> First Street Foundation, *The Cost of Climate, America's Growing Flood Risk*, 11 (Feb. 2021) [hereinafter *The Cost of Climate*], available at [https://assets.firststreet.org/uploads/2021/02/The\\_Cost\\_of\\_Climate\\_FSF20210219-1.pdf](https://assets.firststreet.org/uploads/2021/02/The_Cost_of_Climate_FSF20210219-1.pdf) (last visited Jan. 12, 2022).

<sup>31</sup> *MGI Mortgages and Markets*, at 13.

<sup>32</sup> *The Cost of Climate*, at 39. The report finds that if insurance prices were adjusted to account for actual current flood risk premiums for many properties in Florida would increase significantly, by as much as 4.8 to 7.7 times the current rates (depending on location), impacting property values.

<sup>33</sup> *MGI Mortgages and Markets*, at 22-27 (lending risks involve not only banks investing in private homes and businesses, but also potential downgrades to bond ratings for local governments that do not implement adaptation strategies); *SFRCCC Update*, at 5, available at [https://southeastfloridaclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report\\_FINAL\\_02212020.pdf](https://southeastfloridaclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf) (last visited Jan. 12, 2022).

<sup>34</sup> *Business Case for Resilience*, at 13, 14, 19, 20.

<sup>35</sup> *Id.*; *NCA4* at 333-335.

<sup>36</sup> *Business case for Resilience*, at 26; National Institute of Building Sciences, *Natural Hazard Mitigation Saves*, at 1-2 (Dec. 2019), available at [http://2021.nibs.org/files/pdfs/NIBS\\_MMC\\_MitigationSaves\\_2019.pdf](http://2021.nibs.org/files/pdfs/NIBS_MMC_MitigationSaves_2019.pdf) (last visited Jan. 12, 2022).



## Statewide Flooding and Sea-Level Rise Resilience Plan

In 2021, the Legislature enacted ch. 2021-28, Law of Fla. (Act).<sup>37</sup> The Act establishes statewide resiliency programs that assess and address inland and coastal flooding and sea level rise. These programs include:

- The Resilient Florida Grant Program within DEP, which provides funding, subject to appropriation, to local governments for the costs of resilience planning such as vulnerability assessments and new plans or policies.<sup>38</sup>
- The Comprehensive Statewide Flood Vulnerability and Sea-Level Rise Data Set and Assessment, to be updated every three years.<sup>39</sup> DEP must:
  - Develop a statewide data set necessary to determine the risks to inland and coastal communities, including statewide sea level rise projections; and
  - Develop a statewide assessment, based on the statewide data set, that identifies vulnerable areas and infrastructure, including “critical assets” as defined in the statute.<sup>40</sup>
- The Statewide Flooding and Sea-Level Rise Resilience Plan.<sup>41</sup> DEP must annually submit a plan proposing up to \$100 million in funding for projects that address risks from flooding and sea level rise. Local governments and regional entities may submit projects, water management districts must evaluate projects and annually submit lists to DEP, and DEP must implement a scoring system for assessing projects for inclusion in the plan.<sup>42</sup>

In addition to establishing these programs, the Act also:

- Authorizes local governments to form regional resilience coalitions to assist with community resilience efforts, including utilization of the programs created by the bill. DEP is authorized, subject to appropriation, to provide funding to regional resilience coalitions.<sup>43</sup>
- Requires the University of South Florida to create a hub to coordinate and lead statewide efforts for research and innovation regarding flooding and sea level rise.<sup>44</sup>
- Requires the Office of Economic and Demographic Research to add an analysis of flooding issues to its annual assessment of Florida’s water resources and conservation lands.<sup>45</sup>

As noted above, the Act authorizes each water management district and flood control district to submit to DEP a list of any proposed projects that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state and a corresponding evaluation of each project.<sup>46</sup> Consistent with this authorization, the SFWMD has prepared a draft Sea Level Rise

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<sup>37</sup> Ch. 2021-28, Laws of Fla.; codified at ss. 380.093, 380.0933, and 403.928(4), F.S.

<sup>38</sup> See s. 380.093(3), F.S.

<sup>39</sup> See s. 380.093(4), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> See s. 380.093(5), F.S.

<sup>42</sup> *Id.*

<sup>43</sup> See s. 380.093(6), F.S.

<sup>44</sup> See s. 380.0933, F.S.

<sup>45</sup> See s. 403.928(4), F.S.

<sup>46</sup> See s. 380.093(5)(d)2., F.S.

and Flood Resiliency Plan,<sup>47</sup> which is currently undergoing public review.<sup>48</sup> SFWMD's list of priority resiliency projects focuses primarily on the investments needed to increase the resiliency of the SFWMD's coastal structures, including structure hardening needs and additional sea level rise adaptation needs.<sup>49</sup> The projects identified on the list represent urgent actions that need to be taken immediately to address the vulnerability of the existing flood protection infrastructure.<sup>50</sup>

### III. Effect of Proposed Changes:

The bill amends s. 373.1501, F.S., to provide that by October 1, 2023, and each October 1 thereafter, the South Florida Water Management District (SFWMD) must prepare and submit a consolidated annual report regarding the status of the Comprehensive Review Study of the Central and Southern Florida Project (Restudy) to the Office of Economic and Demographic Research, the Department of Environmental Protection (DEP), the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The required report must include:

- A summary of the findings in the SFWMD's annual sea level rise and flood resiliency plan.
- A list of structures that are expected to fall below the expected service level in the next 5 years.
- Initial recommendations for the refurbishment or replacement of the structures identified in the preceding bullet, including:
  - Future cost estimates and timelines for the refurbishment or replacement of the most vulnerable structures; and
  - An estimate of any projected annual funding gaps required to implement the recommendations based on a 10-year horizon.
- A summary of the state and federal funds expended toward the implementation of the Restudy and other regional resiliency efforts of the district through June 30 of each year.

The bill takes effect on July 1, 2022.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>47</sup> SFWMD, *Sea Level Rise and Flood Resiliency Plan, Draft Version 2.2 (Sept. 2021)*, available at [https://www.sfwmd.gov/sites/default/files/FDEP\\_ResilientFlorida\\_ResilientProjectsPlan\\_09\\_01-2021.pdf](https://www.sfwmd.gov/sites/default/files/FDEP_ResilientFlorida_ResilientProjectsPlan_09_01-2021.pdf) (last visited Jan. 12, 2022).

<sup>48</sup> SFWMD, *Resiliency and Flood Protection*, <https://www.sfwmd.gov/our-work/resiliency-and-flood-protection> (last visited Jan. 12, 2022).

<sup>49</sup> SFWMD, *Sea Level Rise and Flood Resiliency Plan, Draft Version 2.2 (Sept. 2021)*, 2, available at [https://www.sfwmd.gov/sites/default/files/FDEP\\_ResilientFlorida\\_ResilientProjectsPlan\\_09\\_01-2021.pdf](https://www.sfwmd.gov/sites/default/files/FDEP_ResilientFlorida_ResilientProjectsPlan_09_01-2021.pdf) (last visited Jan. 12, 2022).

<sup>50</sup> *Id.*

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:

This bill may cause the SFWMD to incur additional costs associated with the preparation and submission of the required consolidated annual report.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 373.1501 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

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By Senator Rodriguez

39-01015-22

20221326\_\_

1                   A bill to be entitled  
2       An act relating to the Comprehensive Review Study of  
3       the Central and Southern Florida Project; amending s.  
4       373.1501, F.S.; requiring the South Florida Water  
5       Management District to prepare and submit a  
6       consolidated annual report regarding the status of the  
7       project to the Office of Economic and Demographic  
8       Research, the Department of Environmental Protection,  
9       the Governor, and the Legislature by a specified date;  
10      providing report requirements; providing an effective  
11      date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15       Section 1. Subsection (10) is added to section 373.1501,  
16 Florida Statutes, to read:

17       373.1501 South Florida Water Management District as local  
18 sponsor.—

19       (10) (a) By October 1, 2023, and each October 1 thereafter,  
20 the district shall prepare and submit a consolidated annual  
21 report regarding the status of the restudy to the Office of  
22 Economic and Demographic Research, the department, the Governor,  
23 the President of the Senate, and the Speaker of the House of  
24 Representatives.

25       (b) The report must include:

26       1. A summary of the findings in the district's annual sea-  
27 level rise and flood resiliency plan.

28       2. A list of structures that are expected to fall below the  
29 expected service level in the next 5 years.

39-01015-22

20221326\_\_

- 30       3. Initial recommendations for the refurbishment or  
31 replacement of the structures identified in subparagraph 2.,  
32 including:
- 33       a. Future cost estimates and timelines for the  
34 refurbishment or replacement of the most vulnerable structures.
- 35       b. An estimate of any projected annual funding gaps  
36 required to implement the recommendations based on a 10-year  
37 horizon.
- 38       4. A summary of the state and federal funds expended toward  
39 the implementation of the restudy and other regional resiliency  
40 efforts of the district through June 30 of each year.
- 41       Section 2. This act shall take effect July 1, 2022.

**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.)

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

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BILL: CS/SB 1432

INTRODUCER: Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Vessel Anchoring

DATE: January 18, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	<b>Fav/CS</b>
2.			CA	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1432 amends statutes relating to vessel anchoring and mooring. The bill provides that approved and permitted moorings or mooring fields in Monroe County have a 10 year limit on general tenancies and that a sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field, or limit the tenancy of a vessel, because it is an established domicile or a primary residence.

The bill clarifies that Monroe County is designated as an anchoring limitation area in which vessels anchored on waters of the state within the county and within 10 linear nautical miles of a public mooring field or designated anchoring area must:

- Pull anchor,
- Move under their own power, and
- Re-anchor a certain distance away or in a different designated anchoring area.

This must occur at least once every 90 days. The requirement does not apply to vessels moored to approved and permitted moorings, or to domiciled vessels on the waters of the state within the county, until at least 100 new moorings are available for public use within 1 mile of Key West Bight City Dock. The bill removes the provisions requiring the county to approve of a certain number of moorings at certain locations.

The bill requires the Fish and Wildlife Conservation Commission to consult with Monroe County and the Florida Keys National Marine Sanctuary to establish designated anchoring areas throughout the county that meet certain criteria.

The bill requires certain vessels on the waters of the state within Monroe County that are equipped with a marine sanitation device to maintain a record of the date and location of each pump-out of the device, which must occur every 30 days, for one year after the date of the pump-out.

## II. Present Situation:

### Sovereign Submerged Lands

Sovereign submerged lands are owned by the state and include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line,<sup>1</sup> beneath navigable fresh water or tidally-influenced waters.<sup>2</sup> Under the Florida Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.<sup>3</sup> The public generally has the right to use sovereign submerged lands for traditional recreational purposes such as swimming, boating, and fishing.<sup>4</sup>

The Board of Trustees of the Internal Improvement Trust Fund, comprised of the Governor and Cabinet, holds title to all sovereign submerged lands in the state.<sup>5</sup> Chapter 18-21 of the Florida Administrative Code lists the various forms of authorization necessary for specified activities on sovereign submerged lands, including submerged land leases.<sup>6</sup>

Rule 18-21.0041 specifically addresses leases, easements, or consent to use sovereignty submerged lands in Monroe County for multi-slip docking facilities.<sup>7</sup> Certain general policies and specific criteria must be considered in determining whether to allow the use of sovereignty submerged lands for multi-slip docking facilities.<sup>8</sup> The general policies include:

- Taking into account the proximity to and potential adverse impacts on any rare, threatened, or endangered species, or species of special concern, or their habitat, or on any portion of the Florida Reef Tract and other corals;
- Eliminating any adverse impacts on wetland or submerged vegetation or benthic communities;
- Maintaining or enhancing water quality;

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<sup>1</sup> Fla. Admin. Code R. 18-21.003(67). 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. *See* ss. 177.27(14), (15) and 177.28(1), F.S.

<sup>2</sup> Fla. Admin. Code R. 18-21.003(67).

<sup>3</sup> FLA. CONST. art. X, s. 11.

<sup>4</sup> Fla. Admin. Code R. 18-21.004(2)(a); *see also* *5F, LLC v. Hawthorne*, 317 So. 3d 220, 223 (Fla. 2d DCA 2021) (identifying the same traditional uses).

<sup>5</sup> Sections 253.03 and 253.12(1), F.S.

<sup>6</sup> *See* Fla. Admin. Code R. 18-21.005.

<sup>7</sup> A multi-slip docking facility is a marina or dock designed to moor three or more vessels. Fla. Admin. Code R. 18-20.003(41).

<sup>8</sup> Fla. Admin. Code R. 18-20.003.



- Requiring adequate water depths to avoid dredging and other bottom disturbance;
- Requiring consistency and conformity with local government land use plans, zoning, and other land use or development regulations; and
- Requiring consistency and conformity with the Principles for Guiding Development in the Florida Keys Area of Critical State Concern.<sup>9</sup>

The specific criteria include:

- A moratorium on the approval of all leases of state owned submerged lands for multi-slip docking facilities from Tea Table Channel north to the Monroe County Line;
- No docking facilities that require either dredging or filling to provide access;
- Water depth requirements;
- Requirements for the size of the dock;
- For any new or expanded docking facility for 10 or more boats, a specific lease condition that the lessee shall maintain water quality standards;
- An application review for new docking facilities or expansions to existing facilities to identify ways to improve, mitigate or restore adverse environmental impacts caused by previous activities;
- A lease requirement for all applicants proposing docking facilities designed to moor 10 or more boats;
- Documentation from all applicants to show that there is an economic demand for the number of boat slips requested;
- No benthic communities present where the boat mooring area, turning basins, mooring piles, or other structures are to be located, excepting any main access docks required to cross benthic communities to reach acceptable areas; and
- Special consideration for certain projects to further the commercial fishing village or commercial fishing enterprise zone concept.<sup>10</sup>

### **Fish and Wildlife Conservation Commission**

The Division of Law Enforcement Boating and Waterways Section of the Florida Fish and Wildlife Conservation Commission (FWC) oversees and coordinates statewide regulatory waterway markers to ensure compliance with uniform markers and state boating and resource protection zones for the benefit of all waterway users and fish and wildlife resources in the state.<sup>11</sup> The Boating and Waterways Section takes public input and provides notice of proposed local boating-restricted areas.<sup>12</sup>

FWC's boating laws are enforced by the Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.<sup>13</sup> The

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<sup>9</sup> Fla. Admin. Code R. 18-20.003(2).

<sup>10</sup> Fla. Admin. Code R. 18-20.003(3).

<sup>11</sup> FWC, *Waterway Management*, <https://myfwc.com/boating/waterway/> (last visited Jan. 11, 2022).

<sup>12</sup> *Id.*

<sup>13</sup> Section 327.70(1), F.S.; *see s.* 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management

Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state.<sup>14</sup> This includes enforcing boating rules and regulations; coordinating boating safety campaigns and education; managing public waters and access to the waters; conducting boating accident investigations; identifying and removing derelict vessels; and investigating vessel theft and title fraud.<sup>15</sup>

### **Anchoring or Mooring**

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.<sup>16</sup> Mooring is accomplished through the use of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.<sup>17</sup>

### **Local Regulation of Anchoring or Mooring of Vessels**

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.<sup>18</sup> Mooring fields must be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters that the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.<sup>19</sup>

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures<sup>20</sup> or live-aboard vessels<sup>21</sup> within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.<sup>22</sup> However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or

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responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

<sup>14</sup> Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Jan. 11, 2022).

<sup>15</sup> FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Jan. 11, 2022). See s. 327.70(1) and (4), F.S.

<sup>16</sup> Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

<sup>17</sup> Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at [https://www.flseagrant.org/wp-content/uploads/anchoring\\_away\\_5\\_12\\_update\\_web.pdf](https://www.flseagrant.org/wp-content/uploads/anchoring_away_5_12_update_web.pdf) (last visited Jan. 11, 2022).

<sup>18</sup> See s. 373.118, F.S., and Fla. Admin. Code R. 62-330.420(1).

<sup>19</sup> See Fla. Admin. Code R. 62-330.420.

<sup>20</sup> Section 327.02, F.S., defines the term "floating structure" as a "floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such."

<sup>21</sup> Section 327.02, F.S., defines the term "live-aboard vessel" as "a vessel used solely as a residence and not for navigation; a vessel for which a declaration of domicile has been filed; or a vessel used as a residence that does not have an effective means of propulsion for safe navigation. The definition expressly excludes commercial fishing boats."

<sup>22</sup> Section 327.60(3), F.S.

local regulation that regulates the anchoring of vessels, other than live-aboard vessels and non-fishing commercial vessels, outside the marked boundaries of permitted mooring fields.<sup>23</sup>

### ***Anchoring Limitation Areas***

State law designates certain densely populated urban areas as anchoring limitation areas.<sup>24</sup> These areas usually have narrow state waterways, residential docking facilities, and significant recreational boating traffic.<sup>25</sup> Counties may create more anchoring limitation areas under certain circumstances.<sup>26</sup>

In 2021, Monroe County was designated as an anchoring limitation area within which a vessel on waters of the state may only be anchored in the same location for a maximum of 90 days.<sup>27</sup> FWC adopts rules to implement this.<sup>28</sup> Notwithstanding FWC's rules, this limitation is only effective for Monroe County until the county approves, permits, and opens new moorings for public use, including at least 250 moorings within 1 mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field.<sup>29</sup>

The following are some exceptions that allow anchoring in an anchoring limitation area:

- When a vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors;
- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors;
- During certain special events;<sup>30</sup> or
- Certain government, construction, and fishing vessels.<sup>31</sup>

Law enforcement officers or agencies may remove and impound, for up to 48 hours, vessels from anchoring limitation areas when a vessel operator who was previously issued a citation:

- Continues to anchor the vessel in an anchoring limitation area within 12 hours of being issued a citation; or
- Refuses to leave the anchoring limitation area after being directed to do so by a law enforcement officer or agency.<sup>32</sup>

In addition to the civil penalty imposed by a citation, a vessel operator whose vessel has been impounded must pay all of the applicable removal and storage fees before the vessel is released.<sup>33</sup>

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<sup>23</sup> Section 327.60(2)(f), F.S.

<sup>24</sup> Section 327.4108(1), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*; Section 327.4108(2), F.S.

<sup>27</sup> Section 327.4108(3), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Section 327.4108(3), F.S.; *see also* s. 327.48, F.S.

<sup>31</sup> Section 327.4108(4), F.S.

<sup>32</sup> Section 327.4108(5), F.S.

<sup>33</sup> *Id.*

An owner or operator of a vessel who anchors in an anchoring limitation area commits a noncriminal infraction and is subject to a uniform boating citation and penalties. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third or subsequent offense.<sup>34</sup>

Section 327.73(1) F.S., provides that any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws, be charged with a second degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days imprisonment.<sup>35</sup>

### **Marine Sanitation Devices**

A marine sanitation device is equipment, other than a toilet, for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage.<sup>36</sup> The U.S. Coast Guard categorizes marine sanitation devices into three types:

- Type I devices are flow-through treatment devices that commonly use maceration and disinfection for the treatment of sewage;
- Type II devices are flow-through treatment devices that may employ biological treatment and disinfection;
- Type III devices are typically a holding tank where sewage is stored until it can be discharged shore-side or at sea (beyond three miles from shore).<sup>37</sup>

Raw sewage cannot be discharged from any vessel or any floating structure in Florida waters.<sup>38</sup> All waste from Type III marine sanitation devices must be disposed of in an approved sewage pump-out facility.<sup>39</sup> A violation of the marine sanitation laws is a noncriminal infraction.<sup>40</sup>

### **No-Discharge Zones**

A no-discharge zone is a designated body of water that prohibits the discharge of treated and untreated boat sewage.<sup>41</sup> Within the boundaries of a no-discharge zone, vessel operators are required to retain their sewage discharges onboard for discharge at sea (beyond three miles from the Atlantic shore and beyond nine miles from the Gulf shore) or onshore at a pump-out facility.

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<sup>34</sup> Section 327.73(1)(z), F.S.

<sup>35</sup> Sections 775.082 and 775.083, F.S.

<sup>36</sup> Section 327.02, F.S.

<sup>37</sup> EPA, *Marine Sanitation Devices (MSDs)*, <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (last visited Jan. 11, 2022).

<sup>38</sup> Section 327.53(4), F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Section 327.53(6)(a), F.S.

<sup>41</sup> U.S. Environmental Protection Agency, *Vessel Sewage Discharges: No-Discharge Zones*, <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-no-discharge-zones> (last visited Jan. 12, 2022).

Currently, Florida has three designated no-discharge zones. They are Destin Harbor,<sup>42</sup> the city of Key West waters,<sup>43</sup> and the state waters within the Florida Keys National Marine Sanctuary.<sup>44</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 253.0346, F.S., to provide that notwithstanding any other law, all of the following conditions apply for approved and permitted moorings or mooring fields in Monroe County:

- The general tenancy on a mooring may exceed 12 months, if requested, but not 10 years.
- A sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field or limit a vessel's tenancy because it is a domicile or primary residence.

**Section 2** amends s. 327.4108, F.S., to clarify that Monroe County is designated as an anchoring limitation area within which no less than once every 90 days each vessel anchored within Monroe County on waters of the state within 10 linear nautical miles of a public mooring field or a designated anchoring area must pull anchor, be moved from its location using the vessel's propulsion system,<sup>45</sup> and be re-anchored in a new location. The bill provides that the location must be:

- No less than one-half linear nautical mile from the vessel's starting location. A vessel may not be re-anchored within one-half linear nautical mile from the vessel's starting location for at least 90 days; or
- In a different designated anchoring area. A vessel may not be re-anchored in its originating designated anchoring area for at least 90 days after anchoring within a new designated anchoring area.

This relocation requirement does not apply to:

- Vessels moored to approved and permitted moorings and
- Vessels for which domicile has been established, until at least 100 new moorings are available for public use within one mile of the Key West Bight City Dock.

The changes above replace the following provisions:

- Anchoring limitations do not apply to mooring fields; and
- Anchoring limitations are not effective for Monroe County until the county approves, permits, and opens new moorings, including at least 250 moorings within one mile of the Key West Bight City Dock and at least 50 moorings in the Key West Garrison Bight Mooring Field.

<sup>42</sup> Marine Sanitation Device Standard for Destin Harbor, 53 Fed. Reg. 1,678 (Jan. 21, 1988).

<sup>43</sup> City of Key West No Discharge Zone Determination, 64 Fed. Reg. 46,390 (Aug. 25, 1999).

<sup>44</sup> Regulation to Establish a No Discharge Zone for State Waters within the Boundary of the Florida Keys National Marine Sanctuary, 67 FR 35735 (May 21, 2002). The Florida Keys National Marine Sanctuary protects the 3,800 square miles of waters surrounding the Florida Keys from Miami to the Tortugas. NOAA, *Florida Keys National Marine Sanctuary Boundary*, <https://floridakeys.noaa.gov/about/welcome.html?s=about> (last visited Jan. 12, 2022).

<sup>45</sup> "Effective means of propulsion for safe navigation" means a vessel, other than a barge, that is equipped with: a functioning motor, controls, and steering system; or rigging and sails that are present and in good working order, and a functioning steering system. Section 327.02(13), F.S.

The bill replaces the Fish and Wildlife Conservation Commission's (FWC's) existing rulemaking authority with the requirement that FWC, in consultation with Monroe County and the Florida Keys National Marine Sanctuary, establish by rule designated anchoring areas throughout the county. The designated anchoring areas must:

- Specify a maximum vessel draft for each area;
- Be created only in locations where the water depth is sufficient to allow vessels whose drafts are less than the area's specified maximum vessel draft to navigate the areas without grounding or stranding;
- Not be located over coral reefs or other sensitive fish or wildlife habitat, to the maximum extent practicable, as determined by FWC;
- Not be located in an area subject to ongoing hazardous water currents or tides or containing navigational hazards; and
- Not be located within navigational channels, setbacks established by the U.S. Army Corps of Engineers associated with federal channels, areas where anchoring is prohibited, or any other lawfully established areas that prohibit anchoring.

The bill provides that all of the following vessels within Monroe County on waters of the state which are equipped with a marine sanitation device, other than a marine composting toilet, that processes and manages human waste using technologies that comply with U.S. Coast Guard requirements must maintain a record of the date and location of each pump-out of the marine sanitation device, which must occur every 30 days, for one year after the date of the pump-out:

- A vessel that has enclosed living spaces or rooms and is used by a person as a dwelling or living space overnight at any time, notwithstanding whether the vessel is also used for navigation; and
- A vessel moored in a public mooring field.

**Section 3** provides an effective date of July 1, 2022.

#### **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:**

A general law operates universally throughout the state, uniformly on specific subjects throughout the state, or uniformly within a permissible classification, or relates to a state function or entity.<sup>46</sup> Uniform operation of a general law does not require application throughout the state; instead there must be a reasonable possibility that others in the future may meet the criteria of the classification.<sup>47</sup> A general law of local application is a form of general law that operates within only a portion of the state due to a valid classification based on proper distinctions and differences.<sup>48</sup> Article III, Section 10 of the Florida Constitution does not place any burdens or requirements on the Legislature's ability to pass a general law of local application.

A special law is a law that operates on a specific category of people or subjects, and the classification is impermissible or illegal.<sup>49</sup> A special law requires prior publication of a notice of intent to seek passage, or it may become effective after approval by the affected voters in a referendum.<sup>50</sup> A local law is a form of special law that operates only in a specific geographic area or in a classified territory when classification is impermissible or illegal.<sup>51</sup>

The bill amends statutes relating to vessel anchoring and mooring and documentation of marine sanitation device pump-out in Monroe County.

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

None.

**B. Private Sector Impact:**

Owners of vessels in Monroe County on waters of the state that are equipped with a marine sanitation device and that have enclosed living spaces or rooms and are used as a dwelling or living space overnight at any time, may experience a negative fiscal impact due to the requirement that they have proof of a marine sanitation device pumpout every 30 days.

**C. Government Sector Impact:**

None.

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<sup>46</sup> State Affairs Committee and Local Administration and Veterans Affairs Subcommittee, *Local Bills Policies and Procedures Manual 2020-2022*, 1, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Bill+Policy+and+Procedures+Manual.pdf>.

<sup>47</sup> *Id.* at 1-2.

<sup>48</sup> *Id.* at 2.

<sup>49</sup> *Id.* at 2-3.

<sup>50</sup> *Id.* at 3.

<sup>51</sup> *Id.*

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 253.0346 and 327.4108 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 on January 18, 2022:**

- Clarifies that a bill requirement applies to “linear” nautical miles.
- Adds that the record of the date and location of each marine sanitation device pumpout that certain vessels in Monroe County are required to maintain must also indicate that the vessel was pumped out within the last 30 days.

- B. **Amendments:**

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2022	.	
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The Committee on Environment and Natural Resources (Rodriguez) recommended the following:

**Senate Amendment**

Delete lines 47 - 102  
and insert:  
County on waters of this state within 10 linear nautical miles of a public mooring field or a designated anchoring area must pull anchor and be moved from its location using the vessel's propulsion system and be re-anchored in a new location. The new location must be:

1. No less than one-half linear nautical mile from the



11 vessel's starting location. A vessel may not be re-anchored  
12 within one-half linear nautical mile from the vessel's starting  
13 location for at least 90 days; or

14 2. In a different designated anchoring area. A vessel may  
15 not be re-anchored in its originating designated anchoring area  
16 for at least 90 days after anchoring within a new designated  
17 anchoring area. ~~The commission shall adopt rules to implement~~  
18 ~~this subsection.~~

19 (b) The commission, in consultation with Monroe County and  
20 the Florida Keys National Marine Sanctuary, shall establish by  
21 rule designated anchoring areas throughout the county. The  
22 designated anchoring areas must:

23 1. Specify a maximum vessel draft for each area;

24 2. Be created only in locations where the water depth is  
25 sufficient to allow vessels whose drafts are less than the  
26 area's specified maximum vessel draft to navigate into and out  
27 of the areas without grounding or stranding;

28 3. Not be located over coral reefs or other sensitive fish  
29 or wildlife habitat, to the maximum extent practicable, as  
30 determined by the commission;

31 4. Not be located in an area subject to ongoing hazardous  
32 water currents or tides or containing navigational hazards; and

33 5. Not be located within navigational channels, setbacks  
34 established by the United States Army Corps of Engineers  
35 associated with federal channels, areas where anchoring is  
36 prohibited pursuant to s. 327.4109, or any other lawfully  
37 established areas that prohibit anchoring.

38 (c) Paragraph (a) does ~~The anchoring limitations in this~~  
39 ~~subsection do~~ not apply to vessels moored to approved and



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40 permitted moorings ~~or mooring fields~~.

41 (d) ~~(e)~~ A vessel upon the waters of this state and within  
42 Monroe County for which the owner or occupant has established  
43 the vessel as a domicile in accordance with s. 222.17 is exempt  
44 from paragraph (a) Notwithstanding the commission rules adopted  
45 pursuant to this section, this section is not effective for  
46 Monroe County until at least 100 the county approves, permits,  
47 and opens new moorings are available for public use, including  
48 at least 250 moorings within 1 mile of the Key West Bight City  
49 Dock and at least 50 moorings within the Key West Garrison Bight  
50 Mooring Field. Until such time, the commission shall designate  
51 the area within 1 mile of the Key West Bight City Dock as a  
52 priority for the investigation and removal of derelict vessels.

53 (e) All of the following vessels within Monroe County on  
54 waters of this state which are equipped with a marine sanitation  
55 device other than a marine composting toilet that processes and  
56 manages human waste using technologies that comply with United  
57 States Coast Guard requirements must maintain a record of the  
58 date of each pumpout of the marine sanitation device and the  
59 location of the pumpout station or waste reception facility for  
60 1 year after the date of the pumpout, and the record must  
61 indicate that the vessel was pumped out within the last 30 days:

By Senator Rodriguez

39-00834B-22

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1                   A bill to be entitled  
2       An act relating to vessel anchoring; amending s.  
3       253.0346, F.S.; providing tenancy and lease conditions  
4       for approved and permitted mooring and mooring fields  
5       in Monroe County; amending s. 327.4108, F.S.;  
6       requiring certain anchored vessels in Monroe County to  
7       be re-anchored in a new location that meets certain  
8       requirements according to a specified timeframe;  
9       requiring the Fish and Wildlife Conservation  
10       Commission, in consultation with certain entities, to  
11       establish designated anchoring areas within the county  
12       by rule; providing requirements for the designated  
13       anchoring areas; providing an exception for certain  
14       domiciled vessels; removing provisions requiring the  
15       county to approve a specified number of moorings at  
16       specified locations; requiring certain vessels  
17       equipped with marine sanitation devices to maintain  
18       specified records of such devices; providing an  
19       effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. Present subsection (4) of section 253.0346,  
24       Florida Statutes, is redesignated as subsection (5), and a new  
25       subsection (4) is added to that section, to read:

26       253.0346 Lease of sovereignty submerged lands for marinas,  
27       boatyards, mooring fields, and marine retailers.-

28       (4) Notwithstanding any other law, all of the following  
29       conditions apply for approved and permitted moorings or mooring

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30 fields in Monroe County:

31 (a) The general tenancy on a mooring may exceed 12 months,  
32 if requested, but may not exceed 10 years.

33 (b) A sovereign submerged land or other proprietary lease  
34 may not prohibit a vessel from an approved and permitted mooring  
35 or mooring field or limit the tenancy of a vessel because an  
36 individual has established it as his or her domicile in  
37 accordance with s. 222.17 or because the vessel is an  
38 individual's primary residence.

39 Section 2. Subsection (3) of section 327.4108, Florida  
40 Statutes, is amended to read:

41 327.4108 Anchoring of vessels in anchoring limitation  
42 areas.—

43 (3) (a) Monroe County is designated as an anchoring  
44 limitation area within which no less than once every a vessel on  
45 waters of the state may only be anchored in the same location  
46 for a maximum of 90 days each vessel anchored within Monroe  
47 County on waters of this state within 10 nautical miles of a  
48 public mooring field or a designated anchoring area must pull  
49 anchor and be moved from its location using the vessel's  
50 propulsion system and be re-anchored in a new location. The new  
51 location must be:

52 1. No less than one-half linear nautical mile from the  
53 vessel's starting location. A vessel may not be re-anchored  
54 within one-half linear nautical mile from the vessel's starting  
55 location for at least 90 days; or

56 2. In a different designated anchoring area. A vessel may  
57 not be re-anchored in its originating designated anchoring area  
58 for at least 90 days after anchoring within a new designated

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59 ~~anchoring area. The commission shall adopt rules to implement~~  
60 ~~this subsection.~~

61 (b) The commission, in consultation with Monroe County and  
62 the Florida Keys National Marine Sanctuary, shall establish by  
63 rule designated anchoring areas throughout the county. The  
64 designated anchoring areas must:

65 1. Specify a maximum vessel draft for each area;

66 2. Be created only in locations where the water depth is  
67 sufficient to allow vessels whose drafts are less than the  
68 area's specified maximum vessel draft to navigate into and out  
69 of the areas without grounding or stranding;

70 3. Not be located over coral reefs or other sensitive fish  
71 or wildlife habitat, to the maximum extent practicable, as  
72 determined by the commission;

73 4. Not be located in an area subject to ongoing hazardous  
74 water currents or tides or containing navigational hazards; and

75 5. Not be located within navigational channels, setbacks  
76 established by the United States Army Corps of Engineers  
77 associated with federal channels, areas where anchoring is  
78 prohibited pursuant to s. 327.4109, or any other lawfully  
79 established areas that prohibit anchoring.

80 (c) Paragraph (a) does ~~The anchoring limitations in this~~  
81 ~~subsection do not apply to vessels moored to approved and~~  
82 ~~permitted moorings or mooring fields.~~

83 (d)(e) A vessel upon the waters of this state and within  
84 Monroe County for which the owner or occupant has established  
85 the vessel as a domicile in accordance with s. 222.17 is exempt  
86 from paragraph (a) Notwithstanding the commission rules adopted  
87 pursuant to this section, this section is not effective for

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88 ~~Monroe County until at least 100 the county approves, permits,~~  
89 ~~and opens new moorings are available for public use, including~~  
90 ~~at least 250 moorings within 1 mile of the Key West Bight City~~  
91 ~~Dock and at least 50 moorings within the Key West Garrison Bight~~  
92 ~~Mooring Field.~~ Until such time, the commission shall designate  
93 the area within 1 mile of the Key West Bight City Dock as a  
94 priority for the investigation and removal of derelict vessels.

95 (e) All of the following vessels within Monroe County on  
96 waters of this state which are equipped with a marine sanitation  
97 device other than a marine composting toilet that processes and  
98 manages human waste using technologies that comply with United  
99 States Coast Guard requirements must maintain a record of the  
100 date of each pumpout of the marine sanitation device and the  
101 location of the pumpout station or waste reception facility for  
102 1 year after the date of the pumpout:

103 1. A vessel that:

104 a. Has enclosed living spaces or rooms; and

105 b. Is used by a person as a dwelling or living space  
106 overnight at any time, notwithstanding whether or not the vessel  
107 is also used for navigation.

108 2. A vessel moored in a public mooring field.

109 Section 3. This act shall take effect July 1, 2022.

# Heartland Headwaters Protection and Sustainability Act

## Annual Comprehensive Water Resources Report

FY 2022-23







# **Annual Comprehensive Water Resources Report**

## **Executive Summary**

In early 2017, the Florida Legislature passed HB 573, better known as the Heartland Headwaters Protection and Sustainability Act (Chapter No. 2017-111, Laws of Florida). The Act statutorily recognizes the vital importance of those portions of the Green Swamp Area of Critical State Concern that lie within the jurisdictional bounds of Polk and Lake counties and designates Polk County's aquifers as the headwaters for six of Florida's major rivers: the Alafia, Hillsborough, Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers. Furthermore, it acknowledges the critical importance of Polk County's aquifers to the economic and ecological health of the surrounding regions. The Act declared that fostering partnerships between Regional Water Supply Authorities (RWSA) and local governments is in the state interest.<sup>1</sup>

For the purposes of fostering such partnerships, the Act requires that the Polk Regional Water Cooperative, an RWSA created through inter-local agreement between Polk County and the county's 15 municipal governments, prepare an annual comprehensive report listing projects that are needed to protect and restore the region's water resources so that these may be considered for state funding support.

Consistent with the provisions of the Act, the Polk Water Cooperative has identified 26 drinking water, wastewater, stormwater & flood control, and environmental restoration & conservation projects submitted by its member governments, prioritized them and is

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<sup>1</sup> Fla. Stat. § 373.462 (2017)

requesting \$53,901,987 in state funding support for their implementation in FY 2022-23. The Cooperative now presents these to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Florida Department of Environmental Protection, and the Southwest Florida Water Management District for funding consideration.

## **Background**

### **Green Swamp Area of Critical State Concern**

The Green Swamp, as a whole, is spread out over 560,000 acres of Southwest Florida.<sup>2</sup> In 1979, the Florida Legislature designated a large area of these wetlands, roughly 322,690,000 acres that encompasses northern Polk and Southern Lake County, as the Green Swamp Area of Critical State Concern.<sup>3</sup> This hydrologic zone serves as the headwaters for the following rivers: the Hillsborough (drainage area: 690 sq. miles), the Withlacoochee (drainage area: 2,000 sq. miles), the Ocklawaha (drainage area: 2,120 sq. miles), and the Peace (Drainage area: 2,300 sq. miles).<sup>4</sup> The Withlacoochee and Ocklawaha are both designated as Outstanding Florida Waters, while the Peace and Hillsborough rivers both serve as primary potable drinking water sources for the Tampa Bay Area and Sarasota.<sup>5</sup>

The Green Swamp Area is an integral part of the Floridan Aquifer, a 100,000 sq. mile freshwater system that is among the largest and most productive sources of potable water in the world. Cities from Savannah, Georgia on the Atlantic Coast, to St. Petersburg, Florida in the Gulf of Mexico, rely upon this aquifer for most of their water needs.<sup>6</sup> The

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<sup>2</sup> Southwest Florida WMD. Green Swamp Wilderness Preserve, <http://www.swfwmd.state.fl.us/recreation/areas/greenswamp.html> (Accessed Aug. 10, Mar. 2, 2017)

<sup>3</sup> DEO. *Green Swamp Area*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/the-green-swamp> (Accessed Aug. 10, 2017)

<sup>4</sup> Southwest Florida WMD. *Green Swamp Interactive*, <https://www.swfwmd.state.fl.us/education/interactive/greenswamp/rivers.html> (Accessed August 10, 2017)

<sup>5</sup> DEO, *supra*.

<sup>6</sup> USGS. *Floridan Aquifer System*, [https://pubs.usgs.gov/ha/ha730/ch\\_g/G-text6.html](https://pubs.usgs.gov/ha/ha730/ch_g/G-text6.html) (last visited Mar. 2, 2017)

Aquifer reaches its highest elevation in the Green Swamp, which makes it vital to the health of the aquifer system as a whole since it acts as a pressure head to all the areas and riverine chains surrounding it. The swamp's flood basins are the linchpin to maintaining the region's water table during peak rain and flood seasons, while keeping the aquifer freshly recharged. However, the same limestone sub-strata that allows water to flow freely through the region also makes the aquifer highly susceptible to groundwater pollution.<sup>7</sup>

### **The Southern Water Use Caution Area (SWUCA)**

In 1998, the state's five Water Management District's (WMDs) conducted an evaluation of the state's aquifers in order to assess whether these resources were adequate enough to meet two decades worth of consumption needs. With the exception of the assessment done by the Suwannee River Water Management District (which must be re-evaluated periodically), all the WMDs ruled that natural water supplies were inadequate. In response to these findings, the WMDs began the process of developing Regional Water Supply Plans (RWSPs)<sup>8</sup> and forming partnerships with local governments and regulative agencies (as well as coordinating more closely with each other) to come up with region-wide planning strategies.

Six years earlier, in 1992, the Southwest Florida Water Management District declared 5,100 sq. miles of wetlands south of Tampa Bay as the Southern Water Use Caution Area (SWUCA), which encompasses a large portion of southwest Polk County along its northern regions, as well as the whole of Manatee, Hardee, Desoto, and Sarasota County, and parts of Charlotte, Hillsborough, and Highland County. The SWUCA was designated in order to address reduced flows in the upper Peace River, reduced lake levels in the Ridge Lakes Area that extends 90 miles across Hillsborough and Polk County, and an increasing level of saltwater intrusion along the coast of southern Hillsborough, Manatee and northwestern

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<sup>7</sup> DEO, *supra*.

<sup>8</sup> DEP. *Regional Water Supply Planning*,

<http://www.dep.state.fl.us/water/waterpolicy/rwsp.htm> (last visited Mar. 5, 2017).

Sarasota counties, some 708 sq. miles of which has been declared a Most Impacted Area (MIA). In some areas of the aquifer, groundwater fluctuations exceeded as much as 50 ft.<sup>9</sup>

Historically, the primary use for water in the SWUCA has been for agricultural purposes, (with some supplies also used for phosphate mining activities, though these activities are on the decline). Due to high salt content in the coastal aquifers, most freshwater withdrawals come from the Floridan Aquifer further inland, which has put heavy strain on that natural source.<sup>10</sup>

In 2006, the Southwest WMD adopted its 20-year SWUCA Recovery Strategy, with the aim of meeting the minimum flows and levels established for the Peace River and Ridge Lake, as well as the longer term goal of slowing saltwater intrusion into the aquifer over a period of 50 years, all while maintaining a sufficient supply of water for all projected beneficial and reasonable uses within the 8-county area. This plan is made up of two components: (1) the control of withdrawals from the aquifer, and (2) the development of water resource projects to restore the aquifer to its historical flows.<sup>11</sup>

The regional water supply plan developed under SWUCA calls for the following conditions:

- (1) Restore minimum levels to priority lakes in the Ridge area by 2025.
- (2) Restore minimum flows to the upper Peace River by 2025.
- (3) Reduce the rate of saltwater intrusion in coastal Hillsborough, Manatee and Sarasota counties by achieving the proposed minimum aquifer level for saltwater intrusion by 2025; once achieved, future efforts should seek further reductions in the rate of saltwater intrusion and the ultimate stabilization of the saltwater-freshwater interface.

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<sup>9</sup> Southwest Florida WMD. *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/swuca/> (Accessed Aug. 12, 2017)

<sup>10</sup> Southwest Florida WMD. *Southern Water Use Caution Area Recovery Strategy* (Mar. 2006), [https://www.swfwmd.state.fl.us/documents/plans/swuca\\_recovery\\_strategy.pdf](https://www.swfwmd.state.fl.us/documents/plans/swuca_recovery_strategy.pdf) (Accessed Aug. 12, 2017), at pg. 8.

<sup>11</sup> *Id.* at pg. 43.

- (4) Ensure that there are sufficient water supplies for all existing and projected reasonable-beneficial uses.

To meet the minimum flows for reduction of saltwater intrusion, the SWFWMD estimated that an annual average reduction of 50 mgd from the Floridan aquifer must be achieved, though they also estimated that a significantly smaller reduction would be needed if water withdrawals were optimally increased in less impacted areas while being reduced in heavily impacted areas.

Public water use was estimated in this report to be the largest growing area of demand, with a projected annual increase of 105.2 mgd by 2025 (111.8 mgd in drought years), with the largest increases expected in Polk County, where water needs during drought conditions are anticipated to go up by 22.1 mgd.

Recreational water use, meanwhile, was projected to grow to 19.6 mgd by 2025, (25.3 during drought years). The total additional need for water throughout the entire SWUCA was thus estimated to be 181.7 in average conditions and 193.7 mgd during drought conditions. Over half that must be allocated to public use, while the remainder, 50 mgd, must be reserved for the purposes of restoring minimum flows and levels.<sup>12</sup>

The FY2012-2016 SWUCA 5-Year Assessment concluded that the District has made progress towards recovery, but continued to support the need to reduce overall groundwater withdrawals through LFA investigations, AWS project prioritization, supporting regional water supply entities and other initiatives.

### **The Central Florida Water Initiative (CFWI).**

In 2006, around the same time that the SWFWMD was releasing its SWUCA Recovery Plan, the St. John's River, South Florida, and Southwest Florida WMD agreed to a Central Florida Coordination Area (CFCA) Action Plan to address the near-term and long-term

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<sup>12</sup> Id at pg. 54-55

development of water supplies in the central Florida region, including southern Lake, Orange, Osceola, Seminole and Polk counties.

The Action Plan, which was originally set to be carried out in two phases, only covered those areas of northeast Polk that were not already within the SWUCA.<sup>13</sup>

The first phase of the action plan, an interim set of regulations for water withdrawals and alternative supply development, sunsetted on Dec. 31, 2012. The second phase, which was to rely on data gathered through hydrological studies and local stakeholder input, was halted due to the unexpected technical complexity of performing the studies, a sudden downturn in the local economy, and the inability of stakeholders to reach a consensus. As a result, the 2012 rule-making deadlines could not be met.<sup>14</sup>

The three WMDs, along with their associated stakeholders, developed a new process for rulemaking, which they dubbed the Central Florida Water Initiative (CFWI), led by a steering committee composed of the three representatives for the three member WMDs, a representative for the water utilities, one DEP representative, and another from DACS.<sup>15</sup>

The CFWI's 2015 Guiding Document created a number of collaborative technical teams to undertake the necessary scientific hydrologic analysis to support decision making for the CFWI and create accurate estimates of water supplies needs through 2035.

In 2016, the CFWI released a new guiding document, assigning technical teams to following respective areas:

- Conservation
- Regulation
- CFWI Water Supply Development

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<sup>13</sup> CFWI. *Central Florida Water Initiative Guiding Document* (Jan. 2015), [http://cfwiwater.com/pdfs/CFWI\\_Guiding\\_Document\\_2015-01-30.pdf](http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf) (Accessed Aug. 14, 2017), at pg. 2.

<sup>14</sup> Id at pg. 3.

<sup>15</sup> Id at pg. 5.

- Water Resource Developments
- Communication Outreach<sup>16</sup>

The work product of all these teams became the 2015 Regional Water Supply Plan and Water Supply Strategies Plan and the 2035 Water Resources Protection and Water Supply Strategies Plan, and have since been updated with the publication of the 2020 Regional Water Supply Plan.

### **CFWI 2020 Regional Water Supply Plan**

Overall, the updated 2020 CFWI RSWP estimates that the total population within the CFWI Planning Area, some 2.9 million people, will grow to about 4.4 million by 2040. In that same period, the total average water use within the CFWI area will grow from the current 667 mgd to 908 mgd in 2040, with public supply being the largest and fastest growing use, followed by agricultural and commercial consumption.<sup>17</sup> In Polk County alone, public supply is projected to grow from 69.74 mgd in 2015 to the 5-in-10 average of 99.81 by 2040. In Osceola, one of the faster growing counties in the region, that demand is expected to double, from a 2015 usage of 34.81 mgd to 72.67 mgd in the same time period.<sup>18</sup>

The CFWI estimates that at most, 760 mgd may be safely drawn from traditional natural sources without harming the aquifer, and only through carefully coordinated management strategies amongst the stakeholders involved. Much of the region's water supply is already being provided through these traditional sources, with the rest of the remaining burden taken on through wastewater recycling efforts. 95% of the wastewater in the CFWI Area, some 215 mgd on average, is already being recycled for agricultural and industrial uses.<sup>19</sup>

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<sup>16</sup> CFWI. *Central Florida Water Initiative 2020 Guiding Document* (April 1, 2016), pdf (Accessed Aug. 30, 2017), at pg. 5-6.

<sup>17</sup> CFWI, *Regional Water Supply 2020*, Public Review Draft. (Accessed Oct. 8, 2020) [https://cfwiwater.com/pdfs/CFWI\\_2020%20Public\\_Review\\_Draft\\_VolI\\_Rpt\\_3-8-2020R8.pdf](https://cfwiwater.com/pdfs/CFWI_2020%20Public_Review_Draft_VolI_Rpt_3-8-2020R8.pdf), at page ii

<sup>18</sup> Id at Appendix pg. A-20

<sup>19</sup> Id at pg. 7.

MFLs have been established in 54 waterbodies within the CFWI Area, 13 of which are not being met and many more projected to fall below those levels if alternative sources are not developed to meet the growing demand. While the monitoring wells in the Lake Wales Ridge are currently meeting their targets, SWUCA's Saltwater Intrusion Minimum Aquifer Level is not being met.<sup>20</sup>

Through the RWSP planning process, CFWI stakeholders have identified up to 85 potential water supply projects for meeting the demands, including 11 involving non-traditional groundwater/brackish water sources, 48 reclaimed water, 17 surface water, 2 stormwater, and 7 management strategies projects, all of which have the potential to increase available public water supplies not covered by traditional sources.<sup>21</sup> It is anticipated that the 95 MGD of needed alternative water supplies can be achieved to meet 2040 demands.

### **FDEP CFWI Rulemaking**

In 2016, the Florida Legislature enacted 373.0465(2)(d) requiring the adoption of uniform rulemaking in the CFWI area. Rulemaking has since concluded with Rules 62-41.300 through 62-41.305 F.A.C. and the CFWI Supplemental Applicant's Handbook, both which apply to consumptive use permit application and permittees with withdrawal points within the CFWI area.

With this rulemaking, public suppliers in the CFWI would have their upper Floridan allocations limited to 2025 demonstrated demands, resulting in a need to explore alternative water supplies.

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<sup>20</sup> SWFWMD, *Southern Water Use Caution Area Five Year Assessment for 2012-2016*, April 2019 (Accessed October 10, 2020).  
<https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/SWUCA%20Five-Year%20Assessment%20FY2012-16.pdf> at page 19

<sup>21</sup> CFWI, *Regional Water Supply 2020*, Public Review Draft. (Accessed Oct. 8, 2020)  
[https://cfwiwater.com/pdfs/CFWI\\_2020%20Public\\_Review\\_Draft\\_VolI\\_Rpt\\_3-8-2020R8.pdf](https://cfwiwater.com/pdfs/CFWI_2020%20Public_Review_Draft_VolI_Rpt_3-8-2020R8.pdf), at page 69



### **Polk County Regional Water Cooperative**

Carrying out both the findings and guiding principles outlined by the SWUCA and CFWI will require the cooperation, assistance, and technical expertise that can be provided by the Polk County Regional Water Cooperative. The Cooperative is a Regional Water Supply Authority (RWSA) that was created on March 1, 2016 by inter-local agreement between Polk County and 15 member municipalities.<sup>22</sup>

It is the intent and purpose of the Cooperative to study, plan, develop, improve, and maintain water projects within its jurisdiction, with the powers granted to it under Fla. Stat. § 373.713(1) and 163.01 (Florida Inter-local Cooperation Act).<sup>23</sup>

FY 2021-22 was another productive year for the Cooperative. In September of 2020, the Cooperative member governments completed a Demand Management Plan (DMP) which has enabled the PRWC to estimate the amount of water which could be conserved with the implementation of select programs. The Implementation Strategy will enable the Cooperative Conservation Project Team to select those programs which provide the most savings for their dollar, and provide specific guidance on how to enhance participation. The Conservation Team continues to work collaboratively to provide indoor incentives such as low flow toilet rebates and conservation kits, to develop outdoor BMPs like Florida Friendly landscaping rebates and smart irrigation controllers, and to obtain funding.

In October of 2017, the Cooperative entered into an agreement with a professional services team, referred to as “TeamOne,” to implement feasibility studies for three alternative water supply projects. A fourth project was added in May of 2019. Two of the projects involve the use of the brackish lower Floridan aquifer as a water supply, and the other two involve surface water capture for use as a water supply through treatment and direct use or through

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<sup>22</sup> Polk Regional Water Cooperative. *Inter-local Agreement Relating to the Establishment of the Polk Regional Water Cooperative*. <http://www.prwcwater.org/docs/default-source/documents/16-06-07-prwc-interlocal-agreement2.pdf?sfvrsn=4>. (Accessed Aug. 14, 2017)

<sup>23</sup> Id at pg. 14.

groundwater offset. The scope of the overall feasibility study program involves conducting field investigations and engineering evaluations to determine project yield, preparing preliminary designs for three of the projects, and conducting a rate analysis for all four projects.

Since entering into the TeamOne agreement, the Cooperative contractor has completed aquifer performance testing of the test wells drilled at the Southeast wellfield and completed the conceptual design of the Southeast Water Production Facility and Transmission System. The Final Preliminary Design Report (PDR) for the Water Production Facility and transmission system was delivered in October of 2021 following a Third Party Review conducted by SWFWMD. Final design is planned to initiate in 2022.

The PRWC has also completed the drilling and testing of wells at the West Polk site with the purpose determining the sustainable yield and quality of the aquifer system. A PDR for the West Polk Water Production Facility and transmission system was developed and the SWFWMD conducted a Third Party Review in 2021.

A site selection report for Peace Creek Integrated Water Supply Project has been completed which resulted in recommendations for a surface water capture and aquifer recharge project to be developed. The contractor delivered a Preliminary Design Report in 2021. The Fourth project, the Peace River and Land Use Transition Project has kicked off with a conceptual plan for intake locations and treatment underway.

The Cooperative continues to work diligently to advance the feasibility study, update its member demands, and determine the most practical solutions to meet the region's long-term water supply needs.

### **The Heartland Headwaters Protection and Sustainability Act of 2017**

In 2017, the Florida Legislature passed HB 573, better known as the Heartland Headwaters Protection and Sustainability Act. The Act recognizes the vital importance of those portions of the Green Swamp Area of Critical State Concern that lie within the jurisdictional bounds

of Polk and Lake Counties. It designates Polk County's aquifers as the headwaters for six of Florida's major rivers: the Alafia, Hillsborough, Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers.

Furthermore, it recognizes the findings of the Central Florida Water Initiative Guiding Document dated January 30, 2015, and the Southern Water Use Caution Area Recovery Strategy dated March 2006, both of which layout the critical importance of Polk County's aquifers to the economic and ecological health of the surrounding regions. Lastly the Act declares that fostering partnerships between RWSAs and local governments is now in the state interest.<sup>24</sup>

For the purposes of fostering such partnerships and addressing the hydrologic needs of the region, the Act requires that the Polk Regional Water Cooperative prepare an annual comprehensive report identifying and prioritizing all the water resource projects of its constituent member counties and local governments so that these may be considered for state funding support.

The list of projects must be divided into the following categories:

1. Drinking Water
2. Wastewater
3. Stormwater and Flood Control
4. Environmental Restoration
5. Conservation

(Note: A project may be listed under multiple categories)

The Act requires that a priority ranking be given to each project that is ready to proceed in the upcoming fiscal year. Each listed project must have an estimated cost and completion date, as well as a breakdown of each source of financial assistance (the water cooperative, member counties & local government, etc.) and what their total contribution is. This report

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<sup>24</sup> Fla. Stat. § 373.462 (2017)

must be submitted to the Governor, both Legislative Chambers, the DEP, and to all the appropriate WMDs by Dec. 1 of every year.<sup>25</sup>

(Note: The Act also requires the cooperative to submit an annual status report to the appropriate WMD regarding all the projects that have received priority state funding in the prior year, for the purpose of including these same projects the WMD's consolidated district annual report. See Fla. Sta. § 373.036(7).<sup>26</sup>

The Legislature appropriated \$7,000,000 for the projects in FY 2021-2022. These funds are currently being used towards advancing the PRWC alternative water supply projects currently underway and to support a number of other member projects.

## **Heartland Headwaters Protection and Sustainability Act -**

### **Implementation**

#### **Water Resources Project Identification**

In July of 2020, the PRWC members were asked to identify the water resources projects that they planned on implementing in the upcoming fiscal year (FY 2021-22) for the five water resource management categories as shown in Table A. A total of 26 projects were submitted. Consistent with the regional challenge to develop and maximize the efficient use of the existing water resources, the projects were mostly drinking water (11) and wastewater (8), but also included stormwater and flood control (6), environmental restoration (6) and conservation (2) projects. Many projects provided multiple benefits so fell into multiple categories. A general description of the need for each project submitted can be found in Table B.

The total cost (all years) of the projects submitted was \$967,469,000. For Fiscal Year 2022-23, \$100,762,910 will be required to implement these projects with the PRWC governments collectively committing \$35,376,987 (35.1%) of that funding. This amount

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<sup>25</sup> Fla. Stat. § 373.463 (2017)

<sup>26</sup> *Id.*

**Heartland Headwaters Protection and Sustainability Act  
Table A - Water Resource Project Category Summary**

Project Name	Member Government	Drinking Water	Wastewater (+ Reuse)	Stormwater & Flood Control	Environmental Restoration	Conservation
PRWC West Polk Lower Floridan Aquifer Project Phase I	*PRWC / Lakeland	1				
PRWC Southeast Wellfield Lower Floridan Aquifer Project Phase I	*PRWC / Polk County	1				
Sapphire Necklace Creation	Winter Haven				1	
Headwaters of the Everglades - Water Quality and Wastewater Treatment Project	Polk County	1	1	1	1	
Peace Creek Water Preservation Project	Polk County	1		1	1	
Lake Howard Watershed Treatment Enhancement	Winter Haven			1		
Septic to Sewer Program, Remediation Area 6A	Winter Haven				1	
Crooked Lake Wastewater Collection System Upgrades	Polk County		1			
Utility System Rehab	Auburndale		1			
Water Treatment Plant Additional Lime Softening Unit Upgrade Project	Bartow	1				
Allred Wastewater Treatment Plant Filter Upgrade	Auburndale		1			
Wastewater Treatment Plant Headworks Rehabilitation Project	Bartow		1			
Wastewater Treatment Plant Solids Management Improvement Project	Bartow		1			
Reclaimed-Winter Haven Preserve at Lake Ashton Reclaimed Water Transmission	Winter Haven					1
Water Resource Center	Winter Haven					1
Pollard Road Water Production Facility	Winter Haven	1				
City of Winter Haven (WWTP#3 Expansion)	Winter Haven		1			
ASR Wellfield at WWTP#3	Winter Haven	1				
Lake May, Lake Shipp Restoration Phase 1	Winter Haven				1	
ONE Water Peace Creek Development	Winter Haven			1		
Low Impact Development Stormwater Enhancements	Winter Haven			1		
Cypresswood Water Treatment Plant	Winter Haven	1				
Water Treatment Plant Sodium Hypochlorite Conversion Project	Bartow	1				
Wastewater Treatment Plant Sodium Hypochlorite Conversion Project	Bartow		1			
Water Treatment Plant Finished Water Control Valves and Discharge Line	Bartow	1				
Road (and Drainage) Enhancement	Lake Hamilton			1		
<b>Total Number of Projects</b>		<b>11</b>	<b>8</b>	<b>6</b>	<b>6</b>	<b>2</b>

**Heartland Headwaters Protection and Sustainability Act Implementation**

**Table B - FY 2022-23 Project Descriptions**

Project Name	Member Government	Project Description
<b>West Polk Wellfield Phase II Final Design and Construction</b>	<b>PRWC/City of Lakeland</b>	The PRWC is completing a feasibility study which has considered 4 different alternative water supply approaches to meet the growing demands of the communities within Polk County. Alternative water supplies, including brackish and surface water supplies, diversify water consumptions away from the extensively-used upper Floridan aquifer system. The West Polk Wellfield brackish water supply project has been identified as one project which could be implemented to meet needs of the members within Polk County which cannot be met by traditional, upper Floridan supplies. A preliminary design report is now complete, and the PRWC is moving forward with the final design and construction of the Phase 1, 2.5 MGD reverse osmosis treatment facility, wellfield, and transmission system. Initial work requested under this application include land acquisition (including any legal fees) for the test production well and proeprerty acquisition for the wells and transmission system.
<b>Southeast Wellfield Phase II Final Design and Construction.</b>	<b>PRWC/Polk County</b>	The PRWC has completed a feasibility study which has considered 4 different alternative water supply approaches to meet the growing demands of the communities within Polk County. Alternative water supplies, including brackish and surface water supplies, diversify water consumptions away from the extensively-used upper Floridan aquifer system. The PRWC is moving forward with the final design and construction of the Phase 1, 5 MGD reverse osmosis treatment facility, wellfield, and transmission system. Initial work requested under this application includes land acquisition (including any legal fees) for the test production well and property acquisition for the wells and trasmission system.
<b>Septic to Sewer Program</b>	<b>City of Winter Haven</b>	This is one of several projects being implemented under Winter Haven’s One Water Master Plan (1WMP). There are currently 22,900 water accounts with sewer service and 10,500 accounts that are on septic systems in the City of Winter Haven. This project will include recommendations for priority areas to be converted from septic systems to sewer service as part of an ongoing Septic to Sewer Master Plan. This project will also remove pollution discharges from septic tanks that currently enter the groundwater system, some of which impact the lakes in Winter Haven and the drinking water aquifers.
<b>Lake Howard Watershed Treatment Enhancement</b>	<b>City of Winter Haven</b>	This project will eliminate untreated stormwater from a 550 acre watershed that discharges into Lake Howard, which is one of 16 lakes that makes up the iconic Winter Haven Chain of Lakes. The proposed project will divert this stormwater flow into a constructed wetland treatment system. Construction of this green infrastructure project will provide improved capacity to handle stormwater flow during saturated conditions, treatment of stormwater prior to entering a TMDL impaired SWFWMD SWIM Priority Water Body, habitat enhancement for an urban area, and opportunity to expand recreational amenities.
<b>Sapphire Necklace Creation</b>	<b>City of Winter Haven</b>	The Peace Creek Watershed Hydrologic Restoration Project is a phased regional stormwater infrastructure improvement and hydrologic restoration project in central Polk County. The project, which is based on modeling and analysis completed by the SWFWMD, consists of an interconnected system of enhanced surface water storage. The project will increase lake levels in the nine lakes in the Northern Winter Haven Chain of Lakes to restore 47,940 feet of lost storage. Operated as a system, with the addition of operable water control structures for maintaining dynamic storage (not static storage such as a reservoir), the surface water storage areas would hold floodwaters to reduce flooding, and then release the water slowly downstream to increase base flow in the Peace Creek Drainage Canal and the Peace River during the driest times of the year, when water is most needed in the system.
<b>Reclaimed-Winter Haven Preserve at Lake Ashton Reclaimed Water Transmission</b>	<b>City of Winter Haven</b>	This project includes the construction and permitting of approximately 17,600 feet of reclaimed water transmission mains and other necessary appurtenances for a portion of a transmission loop to supply approximately 500 single family residential homes, common areas and medians as well as two golf courses in the southeast reuse portion of Winter Haven. It is expected that this project will provide 0.59 million gallons per day of reclaimed water to the “Ridge Lakes” area of the CFWI.
<b>Water Resource Center</b>	<b>City of Winter Haven</b>	The Water Resource Center will serve as the establishment that connects the pieces of the One Water Master Plan. The Water Resource Center is a joint effort among Winter Haven Water, Natural Resources, and the Parks Recreation and Culture Departments to showcase how the basic needs of the community, the environment and economy are interconnected and can work together to create a community that will be sustainable for many years to come. The project will include new trails for recreation, an outdoor educational space with examples of sustainable development, and office spaces for City staff and volunteers.
<b>Pollard Road Water Production Facility</b>	<b>City of Winter Haven</b>	The area around Pollard Road, where the City owns land in conjunction with Wastewater Treatment Plant #3, will be a focal point for future water supplies for the region and City of Winter Haven. This area will serve as the receiving point for alternative water supplies from the Polk Regional Water Cooperative, generate up to 10 MGD of highly treated reuse water, serve as an alternative site for groundwater pumpage, distribute alternative sources of water from the PRWC to other communities (water wheeling) and is within one mile of the Peace Creek surface water system. Also, this plant will supply water to a growing industrial complex forming around the neighboring CSX Intermodal Transportation Facility. Atkins Engineers has completed 100% design plans for a new water plant at this site that includes a conventional 2.6 MGD water treatment plant, with two raw water wells, two 500,000 gallon above ground storage tank, and four high service pumps. Future expansion to the complex include Wastewater treatment Plant expansion, potable reuse and an ASR wellfield.

**Heartland Headwaters Protection and Sustainability Act Implementation  
Table B - FY 2022-23 Project Descriptions**

Project Name	Member Government	Project Description
WWTP#3 Expansion	City of Winter Haven	The City of Winter Haven currently has two wastewater treatment plans: Plant #2 on the north side of Winter Haven and Plant #3 on the south side. These plants were constructed in the 1971 and 1975 respectively and are operating towards the end of their life expectancies. Also, because of the rapid growth of the Winter Haven area, both plants are approaching the time when they will need to be expanded. Wastewater Treatment Plant #3's current permitted capacity is 7.5 MGD and the planned expansion will bring the plant to 12 MGD. Another critical factor is that Winter Haven is located in the CFWI and Southern Water Use Caution Area because of limitations to traditional groundwater supplies and the effluent from WWTP #3 will be used as a drinking water source in the future. The proposed project will combine the flows from the two existing WWTPs, construct a new WWTP at the Pollard Road site where there is available land, and design the new plants to create a high quality reuse water product that can help meet future water demands.
ASR Wellfield Construction at WWTP #3	City of Winter Haven	This is one of several projects being implemented under Winter Haven's One Water Master Plan (1WMP). The Winter Haven area is the headwaters of the Peace River which flows to Charlotte Harbor. The proposed project would construct new Aquifer Storage and Recovery (ASR) wells as recommended by an ASR Evaluation, Design, and Permitting study. Water will be pumped from the Peace Creek during flood conditions, stored in the Lower Floridan Aquifer (LFA) and then be treated for multiple future uses. During drought or low water conditions, the water will be pumped from the LFA and used for a number of potential purposes, including water supply, reuse augmentation, wetland restoration, recharging the Upper Floridan Aquifer (UFA), lake level enhancement (Ridge Lake MFLs and others) and improvements to the Peace River MFL.
Lake May and Shipp Restoration	City of Winter Haven	Project will remove organic sediment from Lakes May and Shipp, part of the City's Winter Haven Chain of Lakes, a SWIM Priority Waterbody. Currently, the organic sediment on the lake bottoms is up to 12 feet thick and contributes to poor water quality. Both lakes are listed as impaired for water quality, largely due to these legacy sediments. Poor water quality from these lakes also impacts neighboring lakes on the Chain of Lakes. Removing sediments will also improve habitat for wildlife, enhance the fishery, and improve navigation. Both lakes have TMDL requirements that could be met with this project.
ONE Water Peace Creek Development	City of Winter Haven	As part of the Peace Creek Watershed Summary Report and Implementation Plan, a recommendation was made to "Identify and evaluate water storage and recharge opportunities throughout the (Peace Creek) Watershed, create a priority list of potential sites and acquire land using partnerships". This effort was deemed necessary since the Peace Creek watershed contains many of the Ridge Lakes not meeting MFLs and is also just upstream of the section of Peace River that is not meeting its MFL. This section of creek is also listed as an impaired waterbody. Storing water where possible in natural wetland areas that have been drained over the past 100 years is a green infrastructure priority. This approach meets multiple local and regional water resource management objectives as adopted by the SWFWMD SWUCA Recovery Plan, CFWI Water Supply Plan and the City of Winter Haven. It is also imperative that protection measures be put in place prior to the construction of the Southwest-Central Florida Connector toll road since the Peace Creek Watershed is at the headwaters of this project and the exceptional rate of growth that will be experienced once this road is constructed.
Low Impact Development Stormwater Enhancements	City of Winter Haven	The City of Winter Haven has a long history of constructing green infrastructure projects, including Low Impact Development stormwater projects such as raingardens and stormwater percolation systems. This construction project was recommended by a Stormwater Master Plan Study of the City which included Lidar, infrastructure inventorying, and ICPR4 hydraulic and hydrologic modeling. This report defined 6 priority areas in the community where constructing green infrastructure/LID projects could prevent nutrients from entering impaired water bodies (including the Chain of Lakes, which is a SWIM Priority Waterbody), improve aquifer recharge to provide regional hydrologic benefits in the Southern Water Use Caution Area hydrologically impaired region, improve flooding issues and add scenic, recreational and habitat valued to neighborhoods.
Cypresswood Water Treatment Plant	City of Winter Haven	The existing Cypresswood Water Treatment Plant was constructed in 1975 and is in need of replacement. The City of Winter Haven awarded a scope of work to Wright-Pierce Engineers on July 8, 2019 for the evaluation and design of the new plant. A representative of the neighboring neighborhood has requested that the plant be relocated and a new site has been acquired. Wright-Pierce has recommended that the amount of water available at this location should be increased for better protection of natural systems and increased efficiencies of eliminating smaller water plants. The recommendation is to proceed with the design and construction of a new 2.5 MGD Water Treatment Plant, including dedicated land for future reclaimed water direct and indirect potable recharge development. Advantages of a new plant include: possibly increasing the City's permitted capacity by acquiring golf course and orange grove irrigation permits; providing a modern water processing and distribution center to the rapidly growing area; reducing stress to area lakes from other wells; reducing the number of small, outdated water treatment plants in east Winter Haven; and reducing overall maintenance costs.
Headwaters of the Everglades - Water Quality and Wastewater Treatment Project	Polk County Parks & Natural Resources	A priority for Polk County and its municipal partners is to manage infrastructure effectively and efficiently in this quickly urbanizing landscape. This proposal requests additional funding to address the demands and needs on the Kissimmee River Watershed in Polk County for improvement in water quality and increased wastewater treatment, while exploring the production of an alternate water supply. This project is collaborative approach between Polk County Utilities and Parks & Natural Resources to address the nutrient pollutant loads identified in the Headwaters of the Everglades contributing to declining water quality of Lake Okeechobee. This proposal aims to provide funding for a pilot voluntary septic to sewer conversion / septic maintenance program, a study to determine future needs of wastewater treatment in this quickly growing region, and an evaluation to utilize wastewater as an alternate water supply, in the Kissimmee Watershed in Polk County, which will reduce nutrient loading into the Kissimmee River and Lake Okeechobee.

**Heartland Headwaters Protection and Sustainability Act Implementation  
Table B - FY 2022-23 Project Descriptions**

Project Name	Member Government	Project Description
Peace Creek Water Preservation Project	Polk County Parks & Natural Resources	The Polk Regional Water Cooperative (PRWC) is proposing surface water withdrawals and the ability of the natural system to reliably provide water supply while meeting MFLs and effectively treating the surface water. The Peace Watershed program further increases the reliability of flows by storing water under high flow conditions and improving water quality. The program approach provides nutrient removal as well as timing and distribution of flow that is optimized for use at the future PRWC facility. The first phase of this program is to implement feasibility studies, engineering and design, and acquisition of lands as identified in previously completed studies within the watershed. Engineering and design will involve treatment for Lake Eva, Hamilton Chain and Lower Saddle Creek, including retrofits, and treatment wetlands. Wetland restoration projects through the Peace Creek Watershed stabilize hydroperiods, provide water quality treatment, and increase the overall reliability of water. Other benefits include flood protection, conservation of natural systems, hydrologic restoration, and water storage.
Crooked Lake Wastewater Collection System Upgrades	Polk County Utilities	This project represents a continuation of efforts to improve the conditions along Crooked Lake by upgrading the collection system to protect against sanitary sewer overflows. PCU has evaluated the collection system infrastructure by using TV inspections and has cleaned the collection system lines. PCU is currently working with a consultant team to evaluate the collection system to determine upgrades needed including assessing and replacing two (2) existing lift stations to meet current, minimum FDEP regulatory requirements. Future project goals include the abandonment and decommissioning of the current wastewater treatment facility, the design and construction of a third lift station and installation of approximately 4,500 linear feet of wastewater pipe to send the wastewater flows to the City of Lake Wales for treatment. PCU is requesting project funding for the permitting, design, and construction of three (3) lift stations and installation of approximately 4,500 linear feet of wastewater piping to facility transmission of the sewerage to the City of Lake Wales lift station located on HWY 27 at the Oakley Transportation Yard.
Utility System Rehab	City of Auburndale	This project involves the rehabilitation of the City's wastewater collection system and lift station in the Ider area of town. This system was constructed in 1955 and these improvements would have multiple benefits: they would reduce I&I for the sanitary system and minimize sanitary sewer overflows. One area of particular concern is the in the popular downtown City park area. These improvements would significantly reduce the risk of sanitary sewer spillage events and the risk to human health.
Allred Wastewater Treatment Plant Filter Upgrade	City of Auburndale	This project would involve improvements to the filter system at the Allread WWTF. By making these improvements, flow through the entire 1.4 MGD plant will be more consistent. This will improve efficiency of the UV Disinfection System, reducing electrical demands and increase reliability.
Wastewater Treatment Plant Headworks Rehabilitation Project	City of Bartow - Water and Wastewater Department	Replacement of the existing mechanical screen. Addresses issues with large amounts of stringy material and debris bypassing the existing screen. Excessive rags have increased maintenance to unclog pumping equipment and have interfered with control instruments. The new screen will improve operation of the plant and extend the life of downstream equipment.
Wastewater Treatment Plant Solids Management Improvement Project	City of Bartow - Water and Wastewater Department	Rehabilitation of aerobic digesters and equipment, conversion of existing clarifier to sludge storage, and addition of dewatering centrifuge. Expands capacity of existing facilities to produce Class B sludge. Currently, the plant relies on an outside sludge processing facility to meet the stabilization requirements. The solids improvements will minimize odor production and provide increased operational flexibility and reliability.
Water Treatment Plant Additional Lime Softening Unit Upgrade Project	City of Bartow - Water and Wastewater Department	The City of Bartow owns and operates a Lime Softening Water Treatment Plant that supplies water to the City's water service area. Rated for a maximum day capacity of 8.75 million gallons per day, it includes one 8.75 MGD inverted cone shaped lime softening unit. The existing unit was constructed in 2002 and has not been taken out of service for maintenance to date. Due to lime scaling, softening units require maintenance to maintain performance. In order to take the existing lime softening unit off-line for maintenance, a second lime softening unit for redundancy and reliability is required and professional surveying and engineering services for the design, permitting, bidding, and construction services required to a second lime softening unit and associated piping, electrical and controls are being sought. The second lime softening unit will also provide redundancy which will reduce the risk of a major failure which would otherwise result in a complete plant shut-down.
Water Treatment Plant Sodium Hypochlorite Conversion Project	City of Bartow - Water and Wastewater Department	Conversion of the disinfection system from gas chlorine to sodium hypochlorite. Using sodium hypochlorite will reduce the risk of exposure of plant staff. Chlorine gas is increasingly becoming scarce commodity. Recent increases in gas pricing, makes this conversion a necessity. The improvements will also bring the chlorination system into compliance with the latest OSHA regulations.
Wastewater Treatment Plant Sodium Hypochlorite Conversion Project	City of Bartow - Water and Wastewater Department	Conversion of the disinfection system from gas chlorine to sodium hypochlorite. Using sodium hypochlorite will reduce the risk of exposure of plant staff and nearby public facilities to potentially toxic chemicals in the event of an unexpected release. The improvements will bring the chlorination system into compliance with the latest OSHA regulations.
Water Treatment Plant Finished Water Control Valves and Discharge Line Upgrade Project	City of Bartow - Water and Wastewater Department	The City of Bartow (City) owns and operates a Water Treatment Plant (WTP) that supplies water to the City's water service area. The WTP consists of four (4) Upper Floridan wells. The existing piping system is missing (2) 30" dia valves that are critical in controlling the pipe system configuration. The 30" lines that these valves need to be inserted on are live lines and cannot be shutdown, therefore they must be installed by live insertion. The plant currently has only one discharge point into the distribution system, we would like to have a redundant feed (24" dia. piping) to give this redundancy.
Road enhancement	Town of Lake Hamilton	This project includes infrastructure improvements to all roads in Lake Hamilton, including adding storm drains, sidewalks, and paving. The main objective is to control the stormwater runoff which directly effects numerous water bodies. Lake Hamilton is home to 6 lakes which are designated as environmentally sensitive. The Town's goal is to protect and conserve all natural resources within the town, and this includes initiating stormwater treatment regulations. This program will work to achieve the Comprehensive Plan Goal of maintaining an effective drainage system and ensure proper management of the quantity and quality of stormwater runoff.



**Heartland Headwaters Protection and Sustainability Act Implementation  
Table C - FY 2022-23 Project Cost and Rank**

Priority Ranking*	Project Name	Member Government	Estimated Completion Date	Total Project Cost (All Years)	Total Project Cost (FY 22-23)	State Funding Requested (FY 22-23)	Local Gov. Funding (FY 22-23)	Other Funds (FY 22-23)	
Approved	West Polk Lower Floridan Aquifer Project - Phase II	*PRWC / Lakeland	July 2027	\$ 225,222,000	\$ 8,258,140	\$ 2,752,713	\$ 2,752,713	\$ 2,752,713.33	
Approved	Southeast Wellfield Lower Floridan Aquifer Project - Phase II	*PRWC / Polk County	July 2026	\$ 346,191,000	\$ 12,693,670	\$ 4,231,223	\$ 4,231,223.33	\$ 4,231,223.33	
<b>Subtotal for Projects Submitted to the CFWI</b>				<b>\$ 571,413,000</b>	<b>\$ 20,951,810</b>	<b>\$ 6,983,937</b>	<b>\$ 6,983,937</b>	<b>\$ 6,983,937</b>	
1	Lake Howard Watershed Treatment Enhancement	Winter Haven	2023	\$ 1,500,000	\$ 900,000	\$ 450,000	\$ 450,000	\$ -	
1	Utility System Rehab	Auburndale	May 2023	\$ 500,000	\$ 500,000	\$ 250,000	\$ 250,000	\$ -	
3	Peace Creek Water Preservation Project	Polk County	June 2023	\$ 22,000,000	\$ 10,000,000	\$ 3,000,000	\$ 7,000,000	\$ -	
4	Water Treatment Plant Additional Lime Softening Unit Upgrade Project	Bartow	August 2024	\$ 2,750,000	\$ 1,375,000	\$ 687,500	\$ 687,500	\$ -	
5	Sapphire Necklace Creation	Winter Haven	2024	\$ 3,500,000	\$ 500,000	\$ 250,000	\$ 250,000	\$ -	
6	Headwaters of the Everglades - Water Quality and Wastewater	Polk County	June 2023	\$ 30,000,000	\$ 3,600,000	\$ 1,800,000	\$ 1,800,000	\$ -	
7	Septic to Sewer Program, Remediation Area 6A	Winter Haven	2025	\$ 40,000,000	\$ 4,000,000	\$ 1,500,000	\$ 1,500,000	\$ 1,000,000	
8	Allred Wastewater Treatment Plant Filter Upgrade	Auburndale	May 2023	\$ 750,000	\$ 750,000	\$ 250,000	\$ 500,000	\$ -	
9	Crooked Lake Wastewater Collection System Upgrades	Polk County	June 2025	\$ 1,661,000	\$ 166,100	\$ 83,050	\$ 83,050	\$ -	
10	Road (and Drainage) Improvements	Lake Hamilton	September 2023	\$ 3,200,000	\$ 2,475,000	\$ 1,975,000	\$ 500,000	\$ -	
10	Wastewater Treatment Plant Headworks Rehabilitation Project	Bartow	December 2022	\$ 500,000	\$ 450,000	\$ 225,000	\$ 225,000	\$ -	
10	Wastewater Treatment Plant Solids Management Improvement Project	Bartow	June 2023	\$ 5,750,000	\$ 2,875,000	\$ 1,437,500	\$ 1,437,500	\$ -	
10	Reclaimed-Winter Haven Preserve at Lake Ashton Reclaimed Water	Winter Haven	2024	\$ 2,820,000	\$ 1,820,000	\$ 910,000	\$ 910,000	\$ -	
10	Water Resource Center	Winter Haven	2024	\$ 3,300,000	\$ 3,300,000	\$ 1,500,000	\$ 1,800,000	\$ -	
10	Pollard Road Water Production Facility	Winter Haven	2024	\$ 10,000,000	\$ 3,500,000	\$ 1,750,000	\$ 1,750,000	\$ -	
10	WWTP#3 Expansion	Winter Haven	2026	\$ 160,000,000	\$ 4,000,000	\$ 1,000,000	\$ 1,000,000	\$ 2,000,000	
10	ASR Wellfield at WWTP#3	Winter Haven	2024	\$ 6,100,000	\$ 3,000,000	\$ 750,000	\$ 750,000	\$ 1,500,000	
10	Lake May, Lake Shipp Restoration Phase 1	Winter Haven	2023	\$ 30,000,000	\$ 9,500,000	\$ 9,000,000	\$ 500,000	\$ -	
10	ONE Water Peace Creek Development	Winter Haven	2025	\$ 43,000,000	\$ 5,000,000	\$ 2,500,000	\$ 2,500,000	\$ -	
10	Low Impact Development Stormwater Enhancements	Winter Haven	2023	\$ 15,000,000	\$ 15,000,000	\$ 14,000,000	\$ 1,000,000	\$ -	
10	Cypresswood Water Treatment Plant	Winter Haven	2024	\$ 13,000,000	\$ 6,500,000	\$ 3,250,000	\$ 3,250,000	\$ -	
10	Water Treatment Plant Sodium Hypochlorite Conversion Project	Bartow	October 2022	\$ 225,000	\$ 200,000	\$ 25,000	\$ 175,000	\$ -	
10	Wastewater Treatment Plant Sodium Hypochlorite Conversion Project	Bartow	September 2022	\$ 125,000	\$ 75,000	\$ 50,000	\$ 25,000	\$ -	
10	Water Treatment Plant Finished Water Control Valves and Discharge	Bartow	August 2023	\$ 375,000	\$ 325,000	\$ 275,000	\$ 50,000	\$ -	
<b>Subtotal for Non-CFWI Local Projects</b>				<b>\$ 396,056,000</b>	<b>\$ 79,811,100</b>	<b>\$ 46,918,050</b>	<b>\$ 28,393,050</b>	<b>\$ 4,500,000</b>	
<b>TOTAL FOR ALL PRWC MEMBER PROJECTS</b>				<b>\$ 967,469,000</b>	<b>\$ 100,762,910</b>	<b>\$ 53,901,987</b>	<b>\$ 35,376,987</b>	<b>\$ 11,483,937</b>	
<b>NOTES:</b> <b>Approved</b> - These are the highest priority projects in the region and funding support for three of these projects is being sought through the Central Florida Water Initiative request submitted by DEP. <b>NR</b> - Indicates that these projects are being implemented by the identified local government using their own funds or other non-state matching funds. * In many cases, projects received equivalent scores so are ranked equally.					<b>Total Project Cost (All Years)</b>	<b>Total Project Cost (FY 21-21)</b>	<b>State Funding Requested (FY 21-22)</b>	<b>Local Gov. Funding (FY 21-22)</b>	<b>Other Funds (FY 21-22)</b>

does not include \$11,483,937 (11.4%) in funding secured from other sources, leaving a state request of \$53,901,987 (53.5%) for FY 22-23 (Table C).

### **Project Evaluation Criteria and Prioritization**

The top three projects listed in Table C (noted as Approved in the column titled “Priority Ranking”) are regionally the most important projects to the PRWC members. Two of these projects have been submitted to the water management districts and the Department of Environmental Protection for inclusion in the Central Florida Water Initiative (CFWI) Alternative Water Supply funding request to the legislature. The PRWC strongly support and urges the legislature to fund this request in its entirety.

In order to rank the projects for which state funding is being requested, the PRWC underwent an exercise which a) established a set of project criteria most important to each member government and the PRWC as a whole and b) scored each of the projects on those criteria. These two elements were used in combination to develop an overall project ranking.

The criteria selected by participating member government vote were:

- 1) Improvement of the environment
- 2) Protection of public health
- 3) Multiple water management benefits
- 4) Protection of existing infrastructure

Each of the projects were then scored for each of the 5 criteria using the justifications below:

- Protects public’s health
  - **HIGH** designations were given to potable water projects which improve on water quality or reliability of a potable supply.
  - **MEDIUM** designations were given to water quality improvements to the environment and water system expansions for growth.

- **LOW** designations were given to studies, wastewater operational improvements, reuse system extensions, and conservation projects.
- Protects infrastructure
  - **HIGH** designations were given to infrastructure reliability improvements which prevent major failure and flood protection construction projects.
  - **MEDIUM** designations were given to flood protection studies and infrastructure reliability improvements which prevent moderate failures or major systems.
  - **LOW** designations were given to sewer extensions, conservation projects, and water quality improvements.
- Improves the environment
  - **HIGH** designations were given to nutrient removal stormwater projects, sewer projects which take septic tanks offline, and energy conservation projects.
  - **MEDIUM** designations were given to reclaimed water offset and conservation projects.
  - **LOW** designations were given to studies, traditional potable water projects, and flood protection projects.
- Provides multiple water management benefits
  - **YES** designations were given to projects which fall into more than one water management category.
  - **NO** designations were given to projects which provide only one benefit. .
- Cost Effectiveness
  - Not enough project information was provided to accurately assess cost effectiveness, therefore this criteria was not assessed.

The scores were converted to a numerical value (1 is low, 2 is medium, 3 is high) and the voted weighting factors were applied to obtain a resulting project ranking. Table D summarizes how each project performed based on the above scoring justification.

Pursuant to the provisions of Sec. 373.463, F.S. and based on the methodology described herein, the member governments of the Polk Regional Water Cooperative respectfully submit the following list of projects for funding consideration during the 2021 Regular Session of the Florida Legislature:

**Table D – Project Rankings**

<b>Ranking</b>	<b>Project Name</b>	<b>Member Government</b>
Approved	<b>West Polk Lower Floridan Aquifer Project - Phases I&amp;II</b>	<b>*PRWC / Lakeland</b>
Approved	<b>Southeast Wellfield Lower Floridan Aquifer Project - Phase II</b>	<b>*PRWC / Polk County</b>
1	<b>Lake Howard Watershed Treatment Enhancement</b>	<b>Winter Haven</b>
1	<b>Utility System Rehab</b>	<b>Auburndale</b>
3	<b>Peace Creek Water Preservation Project</b>	<b>Polk County</b>
4	<b>Water Treatment Plant Additional Lime Softening Unit Upgrade Project</b>	<b>Bartow</b>
5	<b>Sapphire Necklace Creation</b>	<b>Winter Haven</b>
6	<b>Headwaters of the Everglades - Water Quality and Wastewater Treatment Project</b>	<b>Polk County</b>
7	<b>Septic to Sewer Program, Remediation Area 6A</b>	<b>Winter Haven</b>
8	<b>Allred Wastewater Treatment Plant Filter Upgrade</b>	<b>Auburndale</b>
9	<b>Crooked Lake Wastewater Collection System Upgrades</b>	<b>Polk County</b>
10	<b>Roadway (and Drainage) Improvements</b>	<b>Lake Hamilton</b>
10	<b>Wastewater Treatment Plant Headworks Rehabilitation Project</b>	<b>Bartow</b>
10	<b>Wastewater Treatment Plant Solids Management Improvement Project</b>	<b>Bartow</b>
10	<b>Winter Haven Preserve @ Lake Ashton Reclaimed Transmission</b>	<b>Winter Haven</b>
10	<b>Water Resource Center</b>	<b>Winter Haven</b>
10	<b>Pollard Road Water Production Facility</b>	<b>Winter Haven</b>
10	<b>WWTP#3 Expansion</b>	<b>Winter Haven</b>
10	<b>ASR Wellfield at WWTP#3</b>	<b>Winter Haven</b>
10	<b>Lake May, Lake Shipp Restoration Phase 1</b>	<b>Winter Haven</b>
10	<b>ONE Water Peace Creek Development</b>	<b>Winter Haven</b>
10	<b>Low Impact Development Stormwater Enhancements</b>	<b>Winter Haven</b>
10	<b>Cypresswood Water Treatment Plant</b>	<b>Winter Haven</b>
10	<b>Water Treatment Plant Sodium Hypochlorite Conversion Project</b>	<b>Bartow</b>
10	<b>WW Treatment Plant Sodium Hypochlorite Conversion Project</b>	<b>Bartow</b>
10	<b>Water Treatment Plant Finished Water Control Valves and Discharge Line Upgrade Project</b>	<b>Bartow</b>

\*In many cases, projects received equivalent scores so are ranked equally.

For the Fiscal Year Beginning July 1, 2022 and ending on June 30, 2023 the amount of state funding support required to implement these projects is \$53,901,987. Additional information on each of these projects can be found in Appendix A.

## **Appendix A**

### **Member-government Project Forms**

**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.)

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

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BILL: SB 1400

INTRODUCER: Senator Burgess

SUBJECT: Land Acquisition Trust Fund

DATE: January 14, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1400 amends s. 375.041, F.S., regarding the Land Acquisition Trust Fund, to provide an annual appropriation in the amount of \$20 million to the Department of Environmental Protection (DEP) to implement the Heartland Headwaters Protection and Sustainability Act (Act).

The funds must be used to enter into financial assistance agreements and distributed in accordance with the projects identified in the heartland headwaters annual report submitted to the Legislature to finance the cost of designing or constructing projects that protect, restore, or enhance the headwaters of the river systems located in the Heartland Region of Central Florida.

The distribution must be reduced by an amount equal to the debt service paid on bonds issued after July 1, 2022 for these purposes.

The bill also contains legislative findings regarding the enactment and purposes of the Act, findings from the Central Florida Water Initiative and its Regional Water Supply Plan, and the need for consistent funding support to implement the Act.

**II. Present Situation:**

**Polk County Regional Water Cooperative**

The Polk Regional Water Cooperative (PRWC) was created in 2016 through Interlocal Agreement and consists of Polk County and 15 municipal member governments.<sup>1</sup> It was formed to provide for regional cooperation on the development and delivery of water resources to meet

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<sup>1</sup> Southwest Florida Water Management District (SWFWMD), *Consolidated Annual Report (March 1, 2021)*, 7-1, available at <https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/2021-Consolidated-Annual-Report-Approved.pdf> (last visited Jan. 12, 2022).

future water demands within Polk County. The majority of the PRWC jurisdiction is located within the District's Southern Water Use Caution Area (SWUCA), while the entirety of its jurisdiction is located within the Central Florida Water Initiative (CFWI) planning area.<sup>2</sup>

### **The Southern Water Use Caution Area**

The SWUCA was established in 1992, by the Southwest Florida Water Management District (SWFWMD), in response to growing water demands from public supply, agriculture, mining, power generation and recreational uses and environmental concerns related to these ground water withdrawals.<sup>3</sup> It encompasses approximately 5,100 square miles, including all of DeSoto, Hardee, Manatee and Sarasota counties, and parts of Charlotte, Highlands, Hillsborough and Polk counties.<sup>4</sup>

In 2006, the SWFWMD adopted the SWUCA Recovery Strategy<sup>5</sup> that has four main goals:

- Achieve minimum flows in the upper Peace River;
- Achieve minimum lake levels in lakes along the Lake Wales Ridge, which extends roughly 90 miles along the center of the state in Polk and Highlands counties;<sup>6</sup>
- Achieve the saltwater intrusion minimum aquifer level; and
- Ensure water supply needs are met for existing and projected reasonable and beneficial uses.<sup>7</sup>

### **Central Florida Water Initiative**

The CFWI is a collaborative water supply planning effort involving the Department of Environmental Protection (DEP), the St. Johns River Water Management District, the South Florida Water Management District (SFWMD), SWFWMD, the Department of Agriculture and Consumer Services, regional public water supply utilities, and other stakeholders.<sup>8</sup> These groups have been tasked with addressing the current and long-term water supply needs of Central Florida without causing harm to the water resources and associated natural systems.<sup>9</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> Section 373.0363(2)(a), F.S.; SWFWMD, *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/southern-water-use-caution-area> (last visited Jan. 11, 2022).

<sup>4</sup> Section 373.0363(1)(c), F.S.; SWFWMD, *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/southern-water-use-caution-area> (last visited Jan. 11, 2022).

<sup>5</sup> The "Southern Water Use Caution Area Recovery Strategy" is the SWFWMD's planning, regulatory, and financial strategy for ensuring that adequate water supplies are available to meet growing demands while protecting and restoring the water and related natural resources of the area. Section 373.0363(1)(d), F.S.

<sup>6</sup> SWFWMD, *Ridge Lakes Stakeholder Workgroup*, <https://www.swfwmd.state.fl.us/projects/ridge-lakes-stakeholder-workgroup> (last visited Jan. 11, 2022).

<sup>7</sup> SWFWMD, *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/southern-water-use-caution-area> (last visited Jan. 11, 2022).

<sup>8</sup> Section 373.0465(1)(c), F.S. Stakeholders include water utilities, environmental groups, business organizations, agricultural communities, and others.

<sup>9</sup> Section 373.0465(1)(c), F.S.



The CFWI Initiative Area, also known as the CFWI Planning Area, includes Orange, Osceola, Polk, Seminole, and southern Lake counties.<sup>10</sup> It is home to approximately 2.9 million people and supports tourism, agriculture, and an industrial and commercial sector.<sup>11</sup>

The areas encompassed by the CFWI Planning Area have traditionally relied on groundwater from the Floridan aquifer system as their primary source of water.<sup>12</sup> Evaluations predict that fresh groundwater resources alone will be insufficient to meet 2040 projected water demands and currently permitted allocations for withdrawal without resulting in unacceptable impacts to water resources and related natural systems.<sup>13</sup> These impacts can include drying out wetlands, reducing spring flows, lowering lake levels, and degrading groundwater quality from saltwater intrusion.<sup>14</sup> Alternative water sources will need to be developed to meet the projected demands.<sup>15</sup>

### Funding of PRWC Projects

According to the Heartland Headwaters Protection and Sustainability Act Annual Comprehensive Water Resources Report (FY 2022-23) (Heartland Report), the projects identified as “Approved” in this table are the most important projects to the PRWC members:

Heartland Headwaters Protection and Sustainability Act Implementation									
Table C - FY 2022-23 Project Cost and Rank									
Priority Ranking*	Project Name	Member Government	Estimated Completion Date	Total Project Cost (All Years)	Total Project Cost (FY 22-23)	State Funding Requested (FY 22-23)	Local Gov. Funding (FY 22-23)	Other Funds (FY 22-23)	
Approved	West Polk Lower Floridan Aquifer Project - Phase II	*PRWC / Lakeland	July 2027	\$ 225,222,000	\$ 8,258,140	\$ 2,752,713	\$ 2,752,713	\$ 2,752,713.33	
Approved	Southeast Wellfield Lower Floridan Aquifer Project - Phase II	*PRWC / Polk County	July 2026	\$ 346,191,000	\$ 12,693,670	\$ 4,231,223	\$ 4,231,223.33	\$ 4,231,223.33	
<b>Subtotal for Projects Submitted to the CFWI</b>				<b>\$ 571,413,000</b>	<b>\$ 20,951,810</b>	<b>\$ 6,983,937</b>	<b>\$ 6,983,937</b>	<b>\$ 6,983,937</b>	
1	Lake Howard Watershed Treatment Enhancement	Winter Haven	2023	\$ 1,500,000	\$ 900,000	\$ 450,000	\$ 450,000	\$ -	
1	Utility System Rehab	Auburndale	May 2023	\$ 500,000	\$ 500,000	\$ 250,000	\$ 250,000	\$ -	
3	Peace Creek Water Preservation Project	Polk County	June 2023	\$ 22,000,000	\$ 10,000,000	\$ 3,000,000	\$ 7,000,000	\$ -	
4	Water Treatment Plant Additional Lime Softening Unit Upgrade Project	Bartow	August 2024	\$ 2,750,000	\$ 1,375,000	\$ 687,500	\$ 687,500	\$ -	
5	Sapphire Necklace Creation	Winter Haven	2024	\$ 3,500,000	\$ 500,000	\$ 250,000	\$ 250,000	\$ -	
6	Headwaters of the Everglades - Water Quality and Wastewater	Polk County	June 2023	\$ 30,000,000	\$ 3,600,000	\$ 1,800,000	\$ 1,800,000	\$ -	
7	Septic to Sewer Program, Remediation Area 6A	Winter Haven	2025	\$ 40,000,000	\$ 4,000,000	\$ 1,500,000	\$ 1,500,000	\$ 1,000,000	
8	Allred Wastewater Treatment Plant Filter Upgrade	Auburndale	May 2023	\$ 750,000	\$ 750,000	\$ 250,000	\$ 500,000	\$ -	
9	Crooked Lake Wastewater Collection System Upgrades	Polk County	June 2025	\$ 1,661,000	\$ 166,100	\$ 83,050	\$ 83,050	\$ -	
10	Road (and Drainage) Improvements	Lake Hamilton	September 2023	\$ 3,200,000	\$ 2,475,000	\$ 1,975,000	\$ 500,000	\$ -	
10	Wastewater Treatment Plant Headworks Rehabilitation Project	Bartow	December 2022	\$ 500,000	\$ 450,000	\$ 225,000	\$ 225,000	\$ -	
10	Wastewater Treatment Plant Solids Management Improvement Project	Bartow	June 2023	\$ 5,750,000	\$ 2,875,000	\$ 1,437,500	\$ 1,437,500	\$ -	
10	Reclaimed-Winter Haven Preserve at Lake Ashton Reclaimed Water	Winter Haven	2024	\$ 1,820,000	\$ 1,820,000	\$ 910,000	\$ 910,000	\$ -	
10	Water Resource Center	Winter Haven	2024	\$ 3,300,000	\$ 3,300,000	\$ 1,500,000	\$ 1,800,000	\$ -	
10	Pollard Road Water Production Facility	Winter Haven	2024	\$ 10,000,000	\$ 3,500,000	\$ 1,750,000	\$ 1,750,000	\$ -	
10	WWTP#3 Expansion	Winter Haven	2026	\$ 160,000,000	\$ 4,000,000	\$ 1,000,000	\$ 1,000,000	\$ 2,000,000	
10	ASR Wellfield at WWTP#3	Winter Haven	2024	\$ 6,100,000	\$ 3,000,000	\$ 750,000	\$ 750,000	\$ 1,500,000	
10	Lake May, Lake Shipp Restoration Phase 1	Winter Haven	2023	\$ 30,000,000	\$ 9,500,000	\$ 9,000,000	\$ 500,000	\$ -	
10	ONE Water Peace Creek Development	Winter Haven	2025	\$ 43,000,000	\$ 5,000,000	\$ 2,500,000	\$ 2,500,000	\$ -	
10	Low Impact Development Stormwater Enhancements	Winter Haven	2023	\$ 15,000,000	\$ 15,000,000	\$ 14,000,000	\$ 1,000,000	\$ -	
10	Cypresswood Water Treatment Plant	Winter Haven	2024	\$ 13,000,000	\$ 6,500,000	\$ 3,250,000	\$ 3,250,000	\$ -	
10	Water Treatment Plant Sodium Hypochlorite Conversion Project	Bartow	October 2022	\$ 225,000	\$ 200,000	\$ 25,000	\$ 175,000	\$ -	
10	Wastewater Treatment Plant Sodium Hypochlorite Conversion Project	Bartow	September 2022	\$ 125,000	\$ 75,000	\$ 50,000	\$ 25,000	\$ -	
10	Water Treatment Plant Finished Water Control Valves and Discharge	Bartow	August 2023	\$ 375,000	\$ 325,000	\$ 275,000	\$ 50,000	\$ -	
<b>Subtotal for Non-CFWI Local Projects</b>				<b>\$ 396,056,000</b>	<b>\$ 79,811,100</b>	<b>\$ 46,918,050</b>	<b>\$ 28,393,050</b>	<b>\$ 4,500,000</b>	
<b>TOTAL FOR ALL PRWC MEMBER PROJECTS</b>				<b>\$ 967,469,000</b>	<b>\$ 100,762,910</b>	<b>\$ 53,901,987</b>	<b>\$ 35,376,987</b>	<b>\$ 11,483,937</b>	
<b>NOTES:</b>				<b>Total Project Cost (All Years)</b>		<b>Total Project Cost (FY 21-21)</b>		<b>State Funding Requested (FY 21-22)</b>	
Approved - These are the highest priority projects in the region and funding support for three of these projects is being sought through the Central Florida Water Initiative request submitted by DEP.									
NR - Indicates that these projects are being implemented by the identified local government using their own funds or other non-state matching funds.									
* In many cases, projects received equivalent scores so are ranked equally.									

<sup>10</sup> Section 373.0465(2)(a), F.S.; Central Florida Water Initiative (CFWI), *What is CFWI?*, [https://cfwiwater.com/what\\_is\\_CFWI.html](https://cfwiwater.com/what_is_CFWI.html) (last visited Jan. 10, 2022).

<sup>11</sup> CFWI, *Regional Water Supply Plan 2020 Planning Document*, ii, available at [https://cfwiwater.com/pdfs/CFWI\\_2020RWSP\\_FINAL\\_PlanDocRpt\\_12-10-2020.pdf](https://cfwiwater.com/pdfs/CFWI_2020RWSP_FINAL_PlanDocRpt_12-10-2020.pdf) (last visited Jan. 10, 2022).

<sup>12</sup> CFWI, *Value of Water*, [https://cfwiwater.com/value\\_of\\_water.html](https://cfwiwater.com/value_of_water.html) (last visited Jan. 10, 2022).

<sup>13</sup> CFWI, *Regional Water Supply Plan 2020 Planning Document*, 89-90, available at [https://cfwiwater.com/pdfs/CFWI\\_2020RWSP\\_FINAL\\_PlanDocRpt\\_12-10-2020.pdf](https://cfwiwater.com/pdfs/CFWI_2020RWSP_FINAL_PlanDocRpt_12-10-2020.pdf) (last visited Jan. 10, 2022).

<sup>14</sup> CFWI, *Value of Water*, [https://cfwiwater.com/value\\_of\\_water.html](https://cfwiwater.com/value_of_water.html) (last visited Jan. 10, 2022).

<sup>15</sup> See *id.*

The table above lists the two “Approved” and 24 other local member government projects (there are 26 total), including total project cost, requested state funding, local government funding, and other funding sources.<sup>16</sup> Detailed project descriptions are provided in the Heartland Report.<sup>17</sup>

### **Heartland Headwaters Protection and Sustainability Act**

The Heartland water supply planning region (Heartland Planning Region) covers approximately 2,569 square miles and includes Hardee County and those portions of Polk and Highlands counties within the SWFWMD.<sup>18</sup> The region is underlain by three aquifer systems: the surficial, intermediate and Floridan; the latter is the primary source of water in the region and in the entire SWFWMD area.<sup>19</sup>

In 2017, the Legislature enacted the Heartland Headwaters Protection and Sustainability Act (Act).<sup>20</sup> The purpose of the Act was to recognize the critical importance of Polk County's aquifers to the economic and ecological health of the region as headwaters for six of Florida's major river systems.<sup>21</sup> The Act requires the development of a comprehensive annual report to be completed by the PRWC and submitted to the Governor, President of the Senate, Speaker of the House, DEP, and the water management districts (WMDs) by December 1 of each year.<sup>22</sup> In addition, the Act further requires the PRWC to coordinate with the appropriate WMD to provide a status report on projects receiving priority state funding and to include such status report in the consolidated water management district annual report.<sup>23</sup>

### **Land Acquisition Trust Fund**

Documentary stamp tax revenues are collected under ch. 201, F.S., which requires an excise tax to be levied on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of 70 cents per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at 35 cents per \$100.<sup>24</sup>

In 2014, Florida voters approved Amendment One, a constitutional amendment to provide a dedicated funding source for land and water conservation and restoration.<sup>25</sup> The amendment required that starting on July 1, 2015, and for 20 years thereafter, 33 percent of net revenues derived from documentary stamp taxes be deposited into the Land Acquisition Trust

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<sup>16</sup> Polk Regional Water Cooperative, *Heartland Headwaters Protection and Sustainability Act Annual Comprehensive Water Resources Report (FY 2022-23)*, Table C (on file with the Senate Committee on Environment and Natural Resources).

<sup>17</sup> *Id.* at Table B.

<sup>18</sup> SWFWMD, *RWSP Heartland Planning Region*, <https://www.swfwmd.state.fl.us/resources/plans-reports/rwsp/rwsp-heartland-planning-region> (last visited Jan. 22, 2022).

<sup>19</sup> *Id.*

<sup>20</sup> Ch. 2017-111, s. 1, Laws of Fla., codified in ss. 373.462-.463, F.S.

<sup>21</sup> Section 373.462(1)-(6), F.S.

<sup>22</sup> Section 373.463(1)-(2), F.S.

<sup>23</sup> Section 373.463(3), F.S.

<sup>24</sup> See ss. 201.02(1)(a) and 201.08(1)(a), F.S.

<sup>25</sup> The Florida Senate, *Water and Land Conservation*, <https://www.flsenate.gov/media/topics/WLC> (last visited Jan. 11, 2022).

Fund (LATF).<sup>26</sup> Article X, s. 28 of the State Constitution requires that funds in the LATF be expended only for the following purposes:

As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.<sup>27</sup>

To implement Art. X, s. 28 of the State Constitution, the Legislature passed ch. 2015-229, Laws of Florida. This act, in part, amended the following sections of law:

- Section 201.15, F.S., to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from documentary stamp taxes; and
- Section 375.041, F.S., to designate the LATF within DEP as the trust fund to serve as the constitutionally mandated depository for the percentage of documentary stamp tax revenues.<sup>28</sup>

Under s. 375.041, F.S., funds deposited into the LATF must be distributed in the following order and amounts:

- First, obligations relating to debt service, specifically:
  - Payments relating to debt service on Florida Forever Bonds and Everglades restoration bonds.
- Then, before funds are authorized to be appropriated for other uses:
  - A minimum of the lesser of 25 percent of the funds remaining after the payment of debt service or \$200 million annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan, or the Northern Everglades and Estuaries Protection Program (NEEPP), with priority given to Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. From these funds, the following specified distributions are required:
    - \$32 million annually through the 2023-2024 fiscal year for the Long-Term Plan;
    - After deducting the \$32 million, the minimum of the lesser of 76.5 percent of the remainder or \$100 million annually through the 2025-2026 fiscal year for the CERP; and

<sup>26</sup> *Id.*

<sup>27</sup> FLA. CONST. art. X, s. 28(b)(1).

<sup>28</sup> Ch. 2015-229, ss. 9 and 50, Laws of Fla.

- Any remaining funds for Everglades projects under the CERP, the Long-Term Plan, or the NEEPP.
- A minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million annually for spring restoration, protection, and management projects;
- \$5 million annually through the 2025-2026 fiscal year to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka;
- \$64 million to the Everglades Trust Fund in the 2018-2019 fiscal year and each fiscal year thereafter, for the Everglades Agricultural Area reservoir project, and any funds remaining in any fiscal year shall be made available only for Phase II of the C-51 Reservoir Project or projects that implement the CERP, the Long Term Plan, or the NEEPP; and
- \$50 million annually to the SFWMD for the Lake Okeechobee Watershed Restoration Project.
- Then, any remaining moneys are authorized to be appropriated for the purposes set forth in Art. X, s. 28 of the State Constitution.<sup>29</sup>

The General Revenue Estimating Conference in August 2021 estimated that for fiscal year (FY) 2021-2022 a total of \$3.82 billion would be collected in documentary stamp taxes.<sup>30</sup> Thirty-three percent of the net revenues collected, or approximately \$1.26 billion, must be deposited into the LATF in accordance with Art. X, s. 28 of the State Constitution. Of that amount, \$136 million is committed to debt service, leaving \$1.12 billion to be distributed for the uses specified by s. 375.041, F.S., and other purposes in accordance with the General Appropriations Act.<sup>31</sup>

### ***Litigation***

In 2015, two lawsuits were filed challenging the constitutionality of appropriations from the LATF and expenditures by state agencies.<sup>32</sup> The cases were consolidated and a hearing was held in June of 2018.<sup>33</sup> The plaintiffs argued that funds from the LATF were appropriated and expended for general state expenses in ways that were inconsistent with the constitutional language. The circuit court held for the plaintiffs, stating the amendment requires the funds be used for acquiring conservation lands, and for improving, managing, restoring, and enhancing public access to conservation lands acquired after the effective date of the amendment.<sup>34</sup> The decision described how the LATF funds may be used, and ruled numerous appropriations from 2015 and 2016 unconstitutional.<sup>35</sup>

The circuit court decision was appealed and the First District Court of Appeal overturned the circuit court ruling, holding that the LATF funds are not restricted to use on land purchased by

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<sup>29</sup> Section 375.041(3)-(4), F.S.

<sup>30</sup> Office of Economic & Demographic Research, Revenue Estimating Conference, *Documentary Stamp Tax, Conference Results (Aug. 2021)*, available at <http://edr.state.fl.us/Content/conferences/docstamp/docstampexecsummary.pdf> (last visited Jan. 11, 2022).

<sup>31</sup> *Id.*

<sup>32</sup> *Florida Wildlife Federation, Inc. v. Negron*, No. 2015-CA-001423 (Fla. 2nd Cir. Ct.); *Florida Defenders of the Environment, Inc., v. Detzner*, No. 2015-CA-002682 (Fla. 2nd Cir. Ct.).

<sup>33</sup> *Florida Wildlife Federation, Inc. v. Negron*, Nos. 2015-CA-001423, 2015-CA-002682 (Fla. 2nd Cir. Ct. June 28, 2018).

<sup>34</sup> *Id.* at 3.

<sup>35</sup> *Id.* at 7–8.

the state after the constitutional amendment took effect in 2015.<sup>36</sup> The court also held that the plain language in the Constitution authorizing the use of funds for management, restoration, and enhancement activities would specifically authorize use of the funds on activities beyond land acquisition.<sup>37</sup> The case was then remanded to the circuit court to rule on the legality of appropriations made since the enactment of the constitutional amendment.<sup>38</sup>

The circuit court dismissed the lawsuit on January 3, 2022, finding that it was moot because the money approved by the Legislature in 2015 had already been spent.<sup>39</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill provides the following Legislative findings:

- The Legislature unanimously approved CS/CS/HB 573, the Heartland Headwaters Protection and Sustainability Act (Act), in 2017, to protect the headwaters of the Alafia, Hillsborough, Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers located in the Green Swamp and Polk County, which are some of the most important and vulnerable water resources in the state.
- In the same Act, the Legislature declared that it is an important state interest to partner with regional water supply authorities and local governments, in accordance with the water resource and water supply development provisions in state law, to protect the water resources of the headwaters of the Alafia, Hillsborough, Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers and the surrounding areas.
- In 2020, the Central Florida Water Initiative (CFWI) Regional Water Supply Plan (RWSP), which is developed pursuant to state law, projected the population of the region to reach 4.4 million by 2040, which is a 49 percent increase from a 2015 estimate. The total average of surface water and groundwater use in the CFWI Planning Area is projected to increase 36 percent from 667 million gallons per day in 2015 to 908 million gallons per day in 2040.<sup>40</sup>
- The CFWI RWSP concluded that in some areas of the CFWI Planning Area, fresh groundwater is near or has exceeded the limits of groundwater availability and that alternative water sources will need to be developed along with additional water conservation efforts and local management strategies to meet the 2040 projected water demands or currently permitted allocations while allowing currently stressed water resources and natural systems to recover.<sup>41</sup>
- Consistent funding support is required in order to support the efforts of the water management districts to protect the rivers, springs, and wetlands in the region while providing for responsible development of these water resources to support growth and

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<sup>36</sup> *Oliva v. Florida Wildlife Federation, Inc.*, 1D18-3141 (Fla. 1st Dist. Ct. App.), available at [https://www.1dca.org/content/download/536427/5956785/file/183141\\_1286\\_09092019\\_09211709\\_i.pdf](https://www.1dca.org/content/download/536427/5956785/file/183141_1286_09092019_09211709_i.pdf) (last visited Sept. 23, 2019).

<sup>37</sup> *Id.* at 9-10.

<sup>38</sup> *Id.* at 11.

<sup>39</sup> *Florida Wildlife Federation, Inc. v. Negron*, Nos. 2015-CA-001423, 2015-CA-002682 (Fla. 2nd Cir. Ct. Jan. 3, 2022), available at <https://www.politico.com/states/fl/?id=0000017e-21d8-d3d7-a37f-afdee5cb0000&source=email> (last visited Jan. 11, 2022).

<sup>40</sup> These figures are taken from the Central Florida Water Initiative's (CFWI's) *Final 2020 Central Florida Water Initiative Regional Water Supply Plan 2020* (RWSP). See CFWI RWSP, 4, available at [https://cfwiwater.com/pdfs/CFWI\\_2020\\_RWSP\\_FINAL\\_PlanDocRpt\\_12-10-2020.pdf](https://cfwiwater.com/pdfs/CFWI_2020_RWSP_FINAL_PlanDocRpt_12-10-2020.pdf) (last visited Jan. 13, 2022).

<sup>41</sup> This conclusion is taken from the CFWI RWSP. *Id.* at v.

provide for public health and safety.

**Section 2** amends s. 375.041(3)(b)6., F.S., to provide an annual appropriation of \$20 million to the Department of Environmental Protection to implement the Act. These funds must be used to enter into financial assistance agreements and distributed in accordance with the projects identified in the heartland headwaters annual report to the Legislature, to finance the cost of designing or constructing projects that protect, restore, or enhance the headwaters of the river systems located in the Heartland Region of Central Florida. Additionally, the distribution must be reduced by an amount equal to the debt service paid on bonds issued after July 1, 2022 for these purposes.

**Section 3** provides that the bill takes effect July 1, 2022.

#### **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:

Article X, s. 28 of the Florida Constitution requires that funds distributed into the Land Acquisition Trust Fund be expended only for the purposes identified in that section. To ensure consistency with the Florida Constitution, the expenditures funded by the bill must fall into one or more of the identified purposes.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

**C. Government Sector Impact:**

The bill provides an annual appropriation of \$20 million to the Department of Environmental Protection to implement the Act. The funds must be used to enter into financial assistance agreements and distributed in accordance with the projects identified in the heartland headwaters annual report submitted to the Legislature pursuant to s. 373.463, F.S., to finance the cost of designing or constructing projects that protect, restore, or enhance the headwaters of the river systems located in the Heartland Region of Central Florida. The distribution must be reduced by an amount equal to the debt service paid on bonds issued after July 1, 2022 for these purposes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 375.041 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Burgess

20-01308A-22

20221400\_\_

1                   A bill to be entitled  
2           An act relating to the Land Acquisition Trust Fund;  
3           providing legislative findings; amending s. 375.041,  
4           F.S.; providing an annual appropriation to the  
5           Department of Environmental Protection to implement  
6           the Heartland Headwaters Protection and Sustainability  
7           Act; requiring the funds to be used and distributed  
8           for specified purposes; removing an obsolete  
9           provision; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. The Legislature finds that:

14           (1) The Legislature unanimously approved CS/CS/HB 573, the  
15 Heartland Headwaters Protection and Sustainability Act, in 2017,  
16 to protect the headwaters of the Alafia, Hillsborough,  
17 Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers located in  
18 the Green Swamp and Polk County, which are some of the most  
19 important and vulnerable water resources in this state.

20           (2) In the same act, the Legislature declared that it is an  
21 important state interest to partner with regional water supply  
22 authorities and local governments, in accordance with s.  
23 373.705, Florida Statutes, to protect the water resources of the  
24 headwaters of the Alafia, Hillsborough, Kissimmee, Ocklawaha,  
25 Peace, and Withlacoochee Rivers and the surrounding areas.

26           (3) In 2020, the Central Florida Water Initiative (CFWI)  
27 Regional Water Supply Plan developed pursuant to s. 373.0465,  
28 Florida Statutes, projected the population of the region to  
29 reach 4.4 million by 2040, which is a 49 percent increase from a



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30 2015 estimate. The total average of surface water and  
31 groundwater use in the CFWI Planning Area is projected to  
32 increase 36 percent from 667 million gallons per day in 2015 to  
33 908 million gallons per day in 2040.

34 (4) The CFWI Regional Water Supply Plan concluded that in  
35 some areas of the CFWI Planning Area, fresh groundwater is near  
36 or has exceeded the limits of groundwater availability and that  
37 alternative water sources will need to be developed along with  
38 additional water conservation efforts and local management  
39 strategies to meet the 2040 projected water demands or currently  
40 permitted allocations while allowing currently stressed water  
41 resources and natural systems to recover.

42 (5) Consistent funding support is required in order to  
43 support the efforts of the water management districts to protect  
44 the rivers, springs, and wetlands in the region while providing  
45 for responsible development of these water resources to support  
46 growth and provide for public health and safety.

47 Section 2. Subsection (3) of section 375.041, Florida  
48 Statutes, is amended to read:

49 375.041 Land Acquisition Trust Fund.—

50 (3) Funds distributed into the Land Acquisition Trust Fund  
51 pursuant to s. 201.15 shall be applied:

52 (a) First, to pay debt service or to fund debt service  
53 reserve funds, rebate obligations, or other amounts payable with  
54 respect to Florida Forever bonds issued under s. 215.618; and  
55 pay debt service, provide reserves, and pay rebate obligations  
56 and other amounts due with respect to Everglades restoration  
57 bonds issued under s. 215.619; and

58 (b) Of the funds remaining after the payments required

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59 under paragraph (a), but before funds may be appropriated,  
60 pledged, or dedicated for other uses:

61 1. A minimum of the lesser of 25 percent or \$200 million  
62 shall be appropriated annually for Everglades projects that  
63 implement the Comprehensive Everglades Restoration Plan as set  
64 forth in s. 373.470, including the Central Everglades Planning  
65 Project subject to Congressional authorization; the Long-Term  
66 Plan as defined in s. 373.4592(2); and the Northern Everglades  
67 and Estuaries Protection Program as set forth in s. 373.4595.  
68 From these funds, \$32 million shall be distributed each fiscal  
69 year through the 2023-2024 fiscal year to the South Florida  
70 Water Management District for the Long-Term Plan as defined in  
71 s. 373.4592(2). After deducting the \$32 million distributed  
72 under this subparagraph, from the funds remaining, a minimum of  
73 the lesser of 76.5 percent or \$100 million shall be appropriated  
74 each fiscal year through the 2025-2026 fiscal year for the  
75 planning, design, engineering, and construction of the  
76 Comprehensive Everglades Restoration Plan as set forth in s.  
77 373.470, including the Central Everglades Planning Project, the  
78 Everglades Agricultural Area Storage Reservoir Project, the Lake  
79 Okeechobee Watershed Project, the C-43 West Basin Storage  
80 Reservoir Project, the Indian River Lagoon-South Project, the  
81 Western Everglades Restoration Project, and the Picayune Strand  
82 Restoration Project. The Department of Environmental Protection  
83 and the South Florida Water Management District shall give  
84 preference to those Everglades restoration projects that reduce  
85 harmful discharges of water from Lake Okeechobee to the St.  
86 Lucie or Caloosahatchee estuaries in a timely manner. For the  
87 purpose of performing the calculation provided in this

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88 subparagraph, the amount of debt service paid pursuant to  
89 paragraph (a) for bonds issued after July 1, 2016, for the  
90 purposes set forth under paragraph (b) shall be added to the  
91 amount remaining after the payments required under paragraph  
92 (a). The amount of the distribution calculated shall then be  
93 reduced by an amount equal to the debt service paid pursuant to  
94 paragraph (a) on bonds issued after July 1, 2016, for the  
95 purposes set forth under this subparagraph.

96 2. A minimum of the lesser of 7.6 percent or \$50 million  
97 shall be appropriated annually for spring restoration,  
98 protection, and management projects. For the purpose of  
99 performing the calculation provided in this subparagraph, the  
100 amount of debt service paid pursuant to paragraph (a) for bonds  
101 issued after July 1, 2016, for the purposes set forth under  
102 paragraph (b) shall be added to the amount remaining after the  
103 payments required under paragraph (a). The amount of the  
104 distribution calculated shall then be reduced by an amount equal  
105 to the debt service paid pursuant to paragraph (a) on bonds  
106 issued after July 1, 2016, for the purposes set forth under this  
107 subparagraph.

108 3. The sum of \$5 million shall be appropriated annually  
109 each fiscal year through the 2025-2026 fiscal year to the St.  
110 Johns River Water Management District for projects dedicated to  
111 the restoration of Lake Apopka. This distribution shall be  
112 reduced by an amount equal to the debt service paid pursuant to  
113 paragraph (a) on bonds issued after July 1, 2016, for the  
114 purposes set forth in this subparagraph.

115 4. The sum of \$64 million is appropriated and shall be  
116 transferred to the Everglades Trust Fund for the 2018-2019

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117 fiscal year, and each fiscal year thereafter, for the EAA  
118 reservoir project pursuant to s. 373.4598. Any funds remaining  
119 in any fiscal year shall be made available only for Phase II of  
120 the C-51 reservoir project or projects identified in  
121 subparagraph 1. and must be used in accordance with laws  
122 relating to such projects. Any funds made available for such  
123 purposes in a fiscal year are in addition to the amount  
124 appropriated under subparagraph 1. This distribution shall be  
125 reduced by an amount equal to the debt service paid pursuant to  
126 paragraph (a) on bonds issued after July 1, 2017, for the  
127 purposes set forth in this subparagraph.

128 5. The sum of \$50 million shall be appropriated annually to  
129 the South Florida Water Management District for the Lake  
130 Okeechobee Watershed Restoration Project in accordance with s.  
131 373.4599. This distribution must be reduced by an amount equal  
132 to the debt service paid pursuant to paragraph (a) on bonds  
133 issued after July 1, 2021, for the purposes set forth in this  
134 subparagraph.

135 6. The sum of \$20 million shall be appropriated annually to  
136 the Department of Environmental Protection to implement the  
137 Heartland Headwaters Protection and Sustainability Act pursuant  
138 to chapter 2017-111, Laws of Florida. The funds must be used to  
139 enter into financial assistance agreements and distributed in  
140 accordance with the projects identified in the heartland  
141 headwaters annual report submitted to the Legislature pursuant  
142 to s. 373.463 to finance the cost of designing or constructing  
143 projects that protect, restore, or enhance the headwaters of the  
144 river systems located in the Heartland Region of Central  
145 Florida. This distribution shall be reduced by an amount equal

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146 to the debt service paid pursuant to paragraph (a) on bonds  
147 issued after July 1, 2022, for the purposes set forth in this  
148 subparagraph ~~Notwithstanding subparagraph 3., for the 2021-2022~~  
149 ~~fiscal year, funds shall be appropriated as provided in the~~  
150 ~~General Appropriations Act. This subparagraph expires July 1,~~  
151 ~~2022.~~

152 Section 3. This act shall take effect July 1, 2022.

**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.)

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

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BILL: CS/SB 1658

INTRODUCER: Environment and Natural Resources Committee and Senators Bean and Rodrigues

SUBJECT: Executive Appointments

DATE: February 1, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	Fav/CS
2.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1658 revises the appointment criteria for the executive director of the Department of Law Enforcement, the secretary of the Department of Environmental Protection, and the executive director of the Department of Veterans' Affairs.

**II. Present Situation:**

**Structure of the Executive Branch of the State of Florida**

The Florida Constitution creates the structure of all branches of the Florida Government. Article IV of the Florida Constitution establishes the executive branch and delineates its structure. The executive power is divided among four public officials: the Governor and the three members of the Florida Cabinet.<sup>1</sup> Article IV also requires that all functions of the executive branch of state government be allotted among not more than 25 departments, not including those provided for or authorized in the Constitution itself.<sup>2</sup> The administration of each department must be placed by law under the direct supervision of the Governor, the Lieutenant Governor, the Governor and Cabinet, a Cabinet member, or an officer or board appointed by and serving at the pleasure of the Governor.<sup>3</sup> The Legislature may provide by law that an appointment to or the removal from any

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<sup>1</sup> The Florida Constitution also creates the office of the Lieutenant Governor but does not specify the powers of that office, instead requiring the Lieutenant Governor to perform such duties pertaining to the office of the Governor as are assigned by the Governor. Art. IV, s. 2, FLA. CONST.

<sup>2</sup> Art. IV, s. 6, FLA. CONST.

<sup>3</sup> *Id.*

designated statutory office must require confirmation by the Senate or the approval of three members of the Cabinet.<sup>4</sup>

## Cabinet

The Florida Cabinet has existed in some form since 1868.<sup>5</sup> The 1868 Constitution created a Cabinet that consisted of executive officers appointed by the Governor and confirmed by the Senate.<sup>6</sup> The 1885 Florida Constitution created six independently elected administrative officers to assist the Governor in governing the executive branch.<sup>7</sup> The following officers comprised the cabinet under the 1885 Constitution:

- Secretary of State,
- Attorney General,
- Comptroller,
- Treasurer,
- Superintendent of Public Instruction, and
- Commissioner of Agriculture.

The Cabinet largely remained in this form until 2003. In 1998, the Constitution Revision Commission<sup>8</sup> placed Amendment 8, “Restructuring the Florida Cabinet,” on the ballot.<sup>9</sup> The amendment reduced the Cabinet to three members by merging the cabinet offices of the treasurer and comptroller into a new position entitled the Chief Financial Officer (CFO) and removed the Secretary of State and the Commissioner of Education<sup>10</sup> from the Cabinet. The amendment passed and became effective on January 7, 2003. The current Cabinet consists of the CFO, Attorney General, and the Commissioner of Agriculture.<sup>11</sup> The CFO serves as the chief fiscal officer of the state, settles and approves accounts against the state, and keeps all state funds and securities. The Attorney General is the chief state legal officer. The Commissioner of Agriculture supervises all matters pertaining to agriculture except as otherwise provided by law.<sup>12</sup>

The Governor and Cabinet meet as a collegial body.<sup>13</sup> The Florida Constitution specifies that when a tie vote occurs, the side on which the Governor voted is deemed to prevail.<sup>14</sup> Florida law

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<sup>4</sup> Art. IV, s. 6(a), FLA. CONST.

<sup>5</sup> See Joseph W. Landers, Jr., *The Myth of the Cabinet System: The Need to Restructure Florida’s Executive Branch*, 19 Fla. St. U. L. Rev. 1089 (1992) available at <https://ir.law.fsu.edu/cgi/viewcontent.cgi?article=2445&context=lr> (last visited Feb. 1, 2022).

<sup>6</sup> *Id.*

<sup>7</sup> Art. IV, s. 20, FLA. CONST. (1885).

<sup>8</sup> The Constitution Revision Commission meets every 20 years to examine the state constitution, hold public hearings, and proposed revisions. Art. IV, s. 2, FLA. CONST.

<sup>9</sup> Amendment 8, Florida Department of State, <https://dos.elections.myflorida.com/initiatives/fulltext/pdf/11-4.pdf> (last visited Feb. 1, 2022).

<sup>10</sup> The Commissioner of Education was formerly known as the Superintendent of Public Instruction.

<sup>11</sup> Art. IV, s. 4, FLA. CONST.

<sup>12</sup> *Id.*

<sup>13</sup> See Edwin Bayo & Kent Perez, *Florida’s Cabinet System: Y2K and Beyond*, Fla. B.J., Nov. 2000 at 68, available at <https://www.floridabar.org/the-florida-bar-journal/floridas-cabinet-system-y2k-and-beyond> (last visited Feb. 1, 2022).

<sup>14</sup> Art. IV, s. 4(a), FLA. CONST.

further specifies that when a tie vote occurs and the side the Governor votes on prevails, the vote satisfies the requirement that the action taken be by “majority” or “simple majority.”<sup>15</sup>

### **Department Head Appointments Requiring Unanimous Cabinet Approval**

Three departments – Department of Law Enforcement<sup>16</sup> (FDLE), Department of Environmental Protection<sup>17</sup> (DEP), and Department of Veterans’ Affairs<sup>18</sup> (DVA) – require the Governor and three members of the Cabinet to approve the appointment of the department’s secretary or executive director. This requirement existed prior to the Cabinet reorganization in 2003. With the six-member Cabinet that existed prior to 2003, the three Cabinet member approval requirement, when added with the Governor’s choice, would have been a majority.<sup>19</sup> However, the reduction of the Cabinet to three members in 2003 means that the Cabinet vote in these instances must be unanimous.

### **Florida Department of Law Enforcement**

The Florida Department of Law Enforcement (FDLE) was created in 1969, replacing the Bureau of Law Enforcement, with the head of the agency being the Governor and Cabinet.<sup>20</sup> Since its creation, the executive director of FDLE has been appointed by the Governor, with the approval of three members of the Cabinet, subject to Senate confirmation.<sup>21</sup> The executive director serves at the pleasure of the Governor and Cabinet.<sup>22</sup> FDLE’s mission is to “promote public safety and strengthen domestic security by providing services in partnership with local, state, and federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida’s citizens and visitors.”<sup>23</sup>

FDLE is composed of seven Regional Operating Centers<sup>24</sup> and the following programs are established in law:

- Criminal Justice Investigations and Forensic Science,
- Criminal Justice Information,
- Criminal Justice Professionalism, and
- Florida Capitol Police.<sup>25</sup>

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<sup>15</sup> Section 14.2001, F.S.

<sup>16</sup> Section 20.201, F.S.

<sup>17</sup> Section 20.255, F.S.

<sup>18</sup> Section 20.37, F.S.

<sup>19</sup> See Kent Perez, *The New Constitutional Cabinet “Florida’s Four,”* Fla. B.J., Apr. 2008 at 62, <https://www.floridabar.org/the-florida-bar-journal/the-new-constitutional-cabinet-floridas-four> (last visited Feb. 1, 2022).

<sup>20</sup> Ch. 69-106, Laws of Fla.

<sup>21</sup> Section 20.201(1), F.S.; see also Art. IV, s. 4(g), FLA. CONST.

<sup>22</sup> *Id.*

<sup>23</sup> FDLE, *Statement of Agency Organization and Operation*, available at <https://www.fdle.state.fl.us/About-Us/Documents/StatementofAgencyOrg.aspx> (last visited Feb. 1, 2022).

<sup>24</sup> The Regional Operating Centers report to “a Regional Director (Special Agent in Charge) instead of headquarters.” FDLE, *About Us*, <https://www.fdle.state.fl.us/About-Us/General-Information.aspx> (last visited Feb. 1, 2022).

<sup>25</sup> *Id.*; see also section 20.201(2), F.S., establishing four programs within FDLE: Criminal Justice Investigations and Forensic Science Program; Criminal Justice Information Program; Criminal Justice Professionalism Program; and Capitol Police.



## Department of Environmental Protection

DEP was created in 1993 by the Florida Environmental Reorganization Act of 1993,<sup>26</sup> replacing the Department of Environmental Regulation and the Department of Natural Resources.<sup>27</sup> Since the department's creation, the head of DEP has been a secretary<sup>28</sup> appointed by the Governor, with the concurrence of three members of the Cabinet, subject to Senate confirmation.<sup>29</sup> The secretary serves at the pleasure of the Governor.<sup>30</sup>

DEP is the state's lead agency for environmental management and stewardship.<sup>31</sup> DEP is divided into three primary program areas:

- Land and recreation programs, which acquire land for preservation and recreation;
- Regulatory programs, which oversee permitting and compliance activities that protect air and water quality and manage waste cleanups; and
- Ecosystems restoration programs, which protect and improve water quality and aquatic resources.<sup>32</sup>

DEP has six administrative districts involved in regulatory matters of water management, water resource management, wetlands, and air resources.<sup>33</sup> DEP has nine divisions, which direct the district offices and bureaus in matters of interpretation and applicability of DEP's rules and programs.<sup>34</sup> The divisions are:

- Administrative Services,
- Air Resource Management,
- Water Resource Management,
- Environmental Assessment and Restoration,
- Waste Management,
- Recreation and Parks,
- State Lands,
- Water Restoration Assistance, and
- Law Enforcement.<sup>35</sup>

## Department of Veterans' Affairs

In 1988, a constitutional amendment was adopted that required the Legislature to create the DVA in law and prescribe its duties.<sup>36</sup> The amendment also specified that the head of the DVA is the Governor and Cabinet.<sup>37</sup> Thereafter, the Legislature established the DVA in statute and required

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<sup>26</sup> Ch. 93-213, Laws of Fla.

<sup>27</sup> *Id.*

<sup>28</sup> The term "secretary" means an individual who is appointed by the Governor to head a department and who is not otherwise named in the State Constitution. Section 20.03(5), F.S.

<sup>29</sup> Section 20.255(1), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited Jan 12, 2022).

<sup>32</sup> *Id.*

<sup>33</sup> Section 20.255(d), F.S.

<sup>34</sup> Section 20.255(e), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> Art. IV, s. 11, FLA. CONST.

<sup>37</sup> *Id.*

the executive director be appointed by the Governor, with the approval of three members of the Cabinet, subject to confirmation by the Senate. The executive director serves at the pleasure of the Governor and Cabinet.<sup>38</sup>

Section 20.37, F.S., establishes the Division of Administration and Public Information and within that division, the Bureau of Information and Research. It also establishes the Division of Veterans' Benefits and Assistance with the following bureaus created within the division:

- Bureau of Veteran Claims Services.
- Bureau of Veteran Field Services.
- Bureau of State Approving for Veterans' Training.<sup>39</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 20.201, F.S., to provide that the director of the Department of Law Enforcement is appointed by the Governor subject to a majority vote of the Governor and Cabinet, with the Governor on the prevailing side.

**Section 2** amends s. 20.255, F.S., to provide that, notwithstanding the statutory requirement that the Senate must confirm the appointment of a secretary appointed by the Governor to serve as head of a department, the secretary of the Department of Environmental Protection shall be appointed by the Governor with the concurrence of three members of the Cabinet or subject to confirmation by the Senate.

The bill provides that upon appointment, the Governor shall notify the Cabinet and the President of the Senate in writing that he or she will seek either the concurrence of three members of the Cabinet or confirmation of the appointee by the Senate. If the Governor chooses the former, such concurrence must be obtained at the first scheduled meeting of the Cabinet following the appointment. The bill provides that if the concurrence is not obtained at such meeting, the appointee may be held over until his or her successor is appointed and qualified for a maximum of 30 days from the date of the Cabinet meeting at which the appointment was considered.

The bill provides that an appointee who does not receive the concurrence of three members of the Cabinet is not eligible for appointment to the same office for one year after the date of the Cabinet meeting at which the appointment was considered. The bill also provides that if the Governor seeks confirmation of the appointee by the Senate, s. 114.05, F.S., applies. That section governs the issuance of a letter of appointment, confirmation by the Senate, and refusal or failure to confirm.

**Section 3** amends s. 20.37, F.S., to provide that the executive director of Veterans' Affairs is appointed by the Governor subject to a majority vote of the Governor and Cabinet, with the Governor on the prevailing side.

**Section 4** provides that the bill will take effect upon becoming law.

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<sup>38</sup> Section 20.37(1), F.S.

<sup>39</sup> *Id.*

**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:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 20.201, 20.255, and 20.37 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 on January 31, 2022:**

Revises the appointment criteria for the executive director of the Department of Law Enforcement, the secretary of the Department of Environmental Protection, and the executive director of the Department of Veterans' Affairs.

- B. **Amendments:**

None.

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

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731196

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (1) of section 20.201, Florida  
Statutes, is amended to read:

20.201 Department of Law Enforcement.—

(1) There is created a Department of Law Enforcement. The  
head of the department is the Governor and Cabinet. The  
executive director of the department shall be appointed by the



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11 Governor subject to a majority vote of the Governor and Cabinet,  
12 with the Governor on the prevailing side. The appointment is  
13 ~~with the approval of three members of the Cabinet and~~ subject to  
14 confirmation by the Senate. The executive director shall serve  
15 at the pleasure of the Governor and Cabinet. The executive  
16 director may establish a command, operational, and  
17 administrative services structure to assist, manage, and support  
18 the department in operating programs and delivering services.

19 Section 2. Subsection (1) of section 20.255, Florida  
20 Statutes, is amended to read:

21 20.255 Department of Environmental Protection.—There is  
22 created a Department of Environmental Protection.

23 (1) Notwithstanding s. 20.05(2), the head of the Department  
24 of Environmental Protection shall be a secretary, who shall be  
25 appointed by the Governor, with the concurrence of three members  
26 of the Cabinet or subject to confirmation by the Senate.

27 (a) Upon appointment, the Governor shall, in writing,  
28 notify the Cabinet and the President of the Senate that he or  
29 she will seek either the concurrence of three members of the  
30 Cabinet or confirmation of the appointee by the Senate.

31 (b) If the Governor seeks the concurrence of three members  
32 of the Cabinet for the appointment, such concurrence must be  
33 obtained at the first scheduled meeting of the Cabinet following  
34 the appointment. If concurrence of three members of the Cabinet  
35 is not obtained at such meeting, the appointee may be held over  
36 until his or her successor is appointed and qualified, but the  
37 period of such holdover may not exceed 30 days from the date of  
38 the Cabinet meeting at which the appointment was considered. An  
39 appointee who does not receive the concurrence of three members



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40 of the Cabinet is not eligible for appointment to the same  
41 office for 1 year after the date of the Cabinet meeting at which  
42 the appointment was considered.

43 (c) If the Governor seeks confirmation of the appointee by  
44 the Senate, s. 114.05 applies ~~The secretary shall be confirmed~~  
45 ~~by the Florida Senate.~~

46 (d) The secretary shall serve at the pleasure of the  
47 Governor.

48 Section 3. Subsection (1) of section 20.37, Florida  
49 Statutes, is amended to read:

50 20.37 Department of Veterans' Affairs.—There is created a  
51 Department of Veterans' Affairs.

52 (1) The head of the department is the Governor and Cabinet.  
53 The executive director of the department shall be appointed by  
54 the Governor subject to a majority vote of the Governor and  
55 Cabinet, with the Governor on the prevailing side. The  
56 appointment is with the approval of three members of the Cabinet  
57 ~~and~~ subject to confirmation by the Senate. The executive  
58 director shall serve at the pleasure of the Governor and  
59 Cabinet.

60 Section 4. This act shall take effect upon becoming a law.

61  
62 ===== T I T L E A M E N D M E N T =====

63 And the title is amended as follows:

64 Delete everything before the enacting clause  
65 and insert:

66 A bill to be entitled  
67 An act relating to executive appointments; amending s.  
68 20.201, F.S.; requiring that the executive director of



731196

69 the Department of Law Enforcement be appointed subject  
70 to a majority vote of the Governor and Cabinet, with  
71 the Governor on the prevailing side; amending s.  
72 20.255, F.S.; requiring the appointment of the  
73 secretary of the Department of Environmental  
74 Protection be subject to the concurrence of three  
75 members of the Cabinet or confirmation by the Senate;  
76 requiring the Governor to notify the Cabinet and the  
77 President of the Senate in writing of the method of  
78 confirmation; requiring the Governor, if seeking the  
79 concurrence of the Cabinet, to seek such concurrence  
80 at the first scheduled meeting after appointment;  
81 providing that an appointee who does not receive the  
82 concurrence of the Cabinet may serve for a specified  
83 timeframe; providing that an appointee who does not  
84 receive concurrence from the Cabinet is not eligible  
85 for appointment to the same office for a specified  
86 timeframe; providing procedures for confirmation by  
87 the Senate; amending s. 20.37, F.S.; requiring that  
88 the executive director of the Department of Veterans'  
89 Affairs be appointed subject to a majority vote of the  
90 Governor and Cabinet, with the Governor on the  
91 prevailing side; providing an effective date.



By Senator Bean

4-01822A-22

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1                                   A bill to be entitled  
2           An act relating to executive appointments; amending s.  
3           20.255, F.S.; removing the requirement that  
4           appointment of the Secretary of Environmental  
5           Protection be subject to the concurrence of three  
6           members of the Cabinet; providing an effective date.

7

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

9

10           Section 1. Subsection (1) of section 20.255, Florida  
11 Statutes, is amended to read:

12           20.255 Department of Environmental Protection.—There is  
13 created a Department of Environmental Protection.

14           (1) The head of the Department of Environmental Protection  
15 shall be a secretary, who shall be appointed by the Governor,  
16 ~~with the concurrence of three members of the Cabinet.~~ The  
17 appointment is subject to confirmation ~~secretary shall be~~  
18 ~~confirmed~~ by the Florida Senate. The secretary serves ~~shall~~  
19 ~~serve~~ at the pleasure of the Governor.

20           Section 2. This act shall take effect upon becoming a law.

2420

STATE OF FLORIDA  
DEPARTMENT OF STATE

Division of Elections

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

*Ryan Atwood*

is duly appointed a member of the  
**Governing Board,**  
**Saint Johns River Water Management**  
**District**

for a term beginning on the Fourteenth day of May, A.D., 2021,  
until the First day of March, A.D., 2023 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.



*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Twenty-Second day of November, A.D., 2021.*

*Laurel M. Lee*

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida appears in small letters across the face of this 8 1/2 x 11 document.



**RON DESANTIS**  
GOVERNOR

**HAND DELIVERED  
RECEIVED**

**2021 MAY 21 PM 1:50  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL**

May 14, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 373.073, Florida Statutes:

Mr. Ryan Atwood  
1701 Heim Road  
Mount Dora, Florida 32757

as a member of the St. Johns Water Management District Governing Board, succeeding Frederick Roberts Jr., subject to confirmation by the Senate. This appointment is effective May 14, 2021, for a term ending March 1, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis  
Governor

RD/kk

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

Kay  
RECEIVED  
DEPARTMENT OF STATE  
2021 JUN 25 PM 2:44  
DIVISION OF ELECTIONS

STATE OF FLORIDA

County of Orange

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

St. John's Water Management District Governing Board  
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]  
Signature

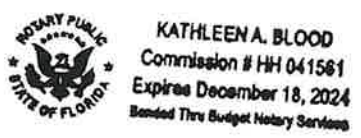
Sworn to and subscribed before me by means of  physical presence or  
online notarization, this 9<sup>TH</sup> day of June, 2021.

[Signature]  
Signature of Officer Administering Oath or of Notary Public

KATHLEEN A. BLOOD  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_



Notary For  
Subscribed  
Mount Dora, FL 32757

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

1701 HEIM RD  
Street or Post Office Box

MT DORA, FL 32757  
City, State, Zip Code

RYAN ATWOOD  
Print Name

[Signature]  
Signature



2420

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

*Maryam H. Ghyabi-White*

is duly appointed a member of the

**Governing Board,  
Saint Johns River Water Management  
District**

for a term beginning on the Twenty-Seventh day of August,  
A.D., 2021, until the First day of March, A.D., 2025 and is  
subject to be confirmed by the Senate during the next regular  
session of the Legislature.



*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Sixth day of October, A.D., 2021.*

Handwritten signature of Laurel M. Lee in black ink.

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida appears in small letters across the face of this 8 1/2 x 11" document.



**RON DESANTIS**  
GOVERNOR

RECEIVED  
DEPARTMENT OF STATE  
2021 SEP -2 AM 10:22  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL

August 27, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

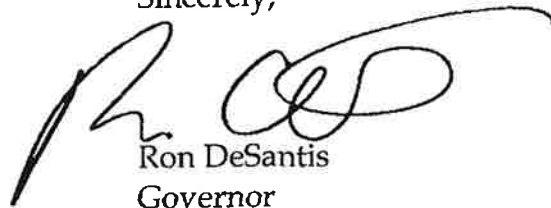
Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 373.073, Florida Statutes:

Mrs. Maryam Ghyabi-White  
1459 North US Highway 1  
Ormond Beach, Florida 32174

as a member of the St. Johns Water Management District Governing Board, succeeding Susan Dolan, subject to confirmation by the Senate. This appointment is effective August 27, 2021, for a term ending March 1, 2025.

Sincerely,



Ron DeSantis  
Governor

RD/kk

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED  
DEPARTMENT OF STATE

2021 SEP 20 AM 11:56

FLORIDA STATE  
DIVISION OF ELECTIONS

STATE OF FLORIDA

County of Volusia

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Governing Board, Saint Johns River Water Management District

(Title of Office)


on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]



Signature

Sworn to and subscribed before me by means of  physical presence or  
 online notarization, this 9<sup>th</sup> day of September, 2021.



Signature of Officer Administering Oath or of Notary Public

Tennille Lea Heart

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_



Tennille Lea Heart  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG911932  
Expires 9/11/2023

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

1459 N US Highway 1, Suite 3

Street or Post Office Box

Ormond Beach, FL 32174

City, State, Zip Code

Maryam H. Ghyabi-White

Print Name



Signature

2420

STATE OF FLORIDA  
DEPARTMENT OF STATE

Division of Elections

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

*Douglas Burnett*

is duly appointed a member of the  
**Governing Board,**  
**Saint Johns River Water Management**  
**District**

for a term beginning on the Fourteenth day of May, A.D., 2021,  
until the First day of March, A.D., 2025 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Ninth day of July, A.D., 2021.*



Secretary of State



If photocopied or chemically altered, the word "VOID" will appear.

State of Florida appears in small letters across the face of this 8 1/2 x 11 document.





**RON DESANTIS**  
GOVERNOR

**HAND DELIVERED  
RECEIVED**

**2021 MAY 21 PM 1:51**

**DIVISION OF ELECTIONS  
TALLAHASSEE, FL**

May 14, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 373.073, Florida Statutes:

Mr. Douglas Burnett  
291 Sophia Terrace  
St. Augustine, Florida 32095

as a member of the St. Johns Water Management District Governing Board, subject to confirmation by the Senate. This appointment is effective May 14, 2021, for a term ending March 1, 2025.

Sincerely,

Ron DeSantis  
Governor

RD/kk

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED  
DEPARTMENT OF  
2021 JUN 22 AM 9:17

STATE OF FLORIDA

County of St. Johns

FLORIDA DEPARTMENT OF  
DIVISION OF ELECTORAL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Member-Governing Board, Saint Johns River Water Management District

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]  
Signature

Sworn to and subscribed before me by means of  physical presence or  
 online notarization, this 8<sup>th</sup> day of June, 2021.

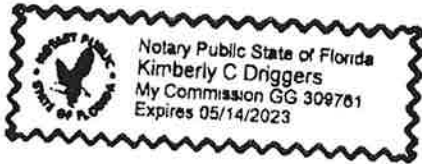
Kimberly C. Driggers  
Signature of Office Administering Oath or of Notary Public

Kimberly C. Driggers  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR

Produced Identification

Type of Identification Produced \_\_\_\_\_



## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

291 Sophia Terrace

Street or Post Office Box

St. Augustine, FL 32095

City, State, Zip Code

Douglas Burnett

Print Name

[Signature]  
Signature

The Florida Senate

APPEARANCE RECORD

Presentation on SB 64

Bill Number or Topic

Jan 18, 2022

Meeting Date

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

Env + Natural Resources

Committee

Amendment Barcode (if applicable)

Name John Truitt - DEP

Phone 850 245 2037

Address 3900 Commonwealth Blvd

Email john.truitt@floridadep.gov

Tallahassee

FL

32399

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/18/2022

Meeting Date

198

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Lori Killinger

Phone 850 222 5702

Address 315 S. Calhoun St. Suite 830

Email lkillinger@llw-law.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: [X] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing: FL ASSN. of Migration Bankers

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/18/2022

Meeting Date

SB198

Bill Number or Topic

ENR

Committee

Amendment Barcode (if applicable)

Name

BETH ALVI

Phone

850-999-1028

Address

308 N. MONROE

Email

Beth.Alvi@audubon.org

Street

TALL

FL

32309

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AUDUBON

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 198

Bill Number or Topic

1/18/22

Meeting Date

Env. + NR

Committee

Amendment Barcode (if applicable)

Name META CALDER

Phone 850-228-5900

Address 3740 RAVINE DR.

Email metacalder@gmail.com

Street

TALL

City

FL

State

32312

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

LEAGUE OF WOMEN VOTERS FLORIDA

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 198

Bill Number or Topic

1/18/22

Meeting Date

Env. & N. Res.

Committee

Amendment Barcode (if applicable)

Name Paul OWENS

Phone 850-222-6277

Address 308 N. Monroe

Email powens@1000Fof.org

Street

Tallahassee, FL

32301

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

1000 Friends of Florida

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

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

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

S-001 (08/10/2021)

# APPEARANCE RECORD

198

1/18/22

Meeting Date

ENR 37 SOB 9am

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **DAVID CULLEN**

Phone **941-323-2404**

Address **9830 ELM ST**

Email **cullenasea@gmail.com**

Street

**OCEAN CITY**

**MD**

**21842**

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**SIERRA CLUB FLORIDA**

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

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

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

S-001 (08/10/2021)



# APPEARANCE RECORD

198

11/18/22

Meeting Date

Sen ENV + NR

Committee

Bill Number or Topic

Amendment Barcode (if applicable)

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

Name

Lindsay Cross

Phone

Address

1700 N Monroe St 11-286

Email

lindsay@fcvoters.org

Street

Tallahassee FL

32303

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida conservation voters

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

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

The Florida Senate  
**APPEARANCE RECORD**

SB 198

Bill Number or Topic

Meeting Date

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

Committee

Amendment Barcode (if applicable)

Name

Laura Reynolds

Phone

786-543-1926

Address

1277 NE 79th Street

Email

lreynolds@conservationconceptsllc.org

Street

Miami FL 33138-4206

City

State

Zip

Speaking:

 For Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Friends of Biscayne Bay

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/18/22

Meeting Date

198

Bill Number or Topic

Env. & Nat. Resources

Committee

Amendment Barcode (if applicable)

Name Travis MOORE

Phone 727.421.6902

Address P.O. Box 2020

Email travis@moore-relations.com

Street

St Petersburg FL

33731

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

① Defenders of Wildlife  
② Animal Legal Defense Fund

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

01-18-2022

**APPEARANCE RECORD**

SB 1326

Meeting Date

Env. &amp; Natural Resources

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

Bill Number or Topic

N/A

Committee

Amendment Barcode (if applicable)

Name Natalie FauselPhone 561-317-0889Address 201 West Park Ave., Ste 100Email natalie@anfieldflorida.com

Street

TallahasseeFL32308

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:** I am appearing without  
compensation or sponsorship. I am a registered lobbyist,  
representing:**Palm Beach County** I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

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

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

S-001 (08/10/2021)

January 18 2022

APPEARANCE RECORD

SB 1326

Meeting Date

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

Bill Number or Topic

ENVIROMENT & NATURAL RESOURCES

Committee

Amendment Barcode (if applicable)

Name Edgar G. Fernandez

Phone 786 255 5755

Address 201 W Park Avenue Suite 100

Email Edgar@Anfieldflorida.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Town of Cutler Bay

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/18/2022  
Meeting Date

SB 1326  
Bill Number or Topic

ENR  
Committee

Amendment Barcode (if applicable)

Name BETH ALVI

Phone 850-999-1028

Address 308 N. MONROE  
Street

Email Beth-Alvi@Audubon.org

Tallahassee FL 32301  
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AUDUBON

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

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

The Florida Senate

APPEARANCE RECORD

SB 1320

1/18/22

Meeting Date

Bill Number or Topic

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

Envir. + NR

Committee

Amendment Barcode (if applicable)

Name META CALDER

Phone 850-228-5900

Address 3740 RAVINE DR

Email metaorleans@gmail.com

Street

TALL

FL

32312

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

LEAGUE OF WOMEN VOTERS FLORIDA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/18/2022

Meeting Date

SB 1326

Bill Number or Topic

Environment & Natural Resources

Committee

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

Amendment Barcode (if applicable)

Name Devon West

Phone 954-789-9293

Address 1328 NE 1st Ave.

Email dewest@broward.org

Street

Fort Lauderdale, FL 33301

City

State

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Broward County

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

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

S-001 (08/10/2021)



The Florida Senate  
**APPEARANCE RECORD**

1326

Meeting Date

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Jess M. McCarty, Executive Assistant County Attorney Phone 305-979-7110

Address 111 NW 1st Street, Suite 2800 Email jmm2@miamidade.gov  
Street

Miami FL 33128  
City State Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Miami-Dade County**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 JointRule1.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/18/22

Meeting Date

1400

Bill Number or Topic

Env + NR

Committee

Amendment Barcode (if applicable)

Name Lindsay Cross

Phone

Address 1700 N Monroe St 11-286

Email

lindsay@fcvoters.org

Street

Tallahassee FL 32303

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida conservation voters

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Jan. 18, 2022

SB 1400

Meeting Date

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

Bill Number or Topic

Environment + Nat Resources

Committee

Amendment Barcode (if applicable)

Name David Shepp

Phone 863 581-4250

Address P.O. Box 3739

Email shepp@thesoutherngroup.com

Street

Lakeland

FL

33802

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

City of Lakeland

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

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

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

1400

1/18/22

Meeting Date

ENR 37 SOB 9am

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **DAVID CULLEN**

Phone **941-323-2404**

Address **9830 ELM ST**

Email **cullenasea@gmail.com**

Street

**OCEAN CITY**

**MD**

**21842**

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**SIERRA CLUB FLORIDA**

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 1400

Bill Number or Topic

1/18/22

Meeting Date

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

Envir. + N. R.

Committee

Amendment Barcode (if applicable)

Name META CALDER

Phone 850-228-5900

Address 3740 RAVIDE DR.

Email metaorlean@gmail.com

Street

TALL

City

FL

State

32312

Zip

Speaking: [X] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

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

FLORIDA LEAGUE OF WOMEN VOTERS

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

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S-001 (08/10/2021)

**APPEARANCE RECORD**

SB 1400

01-18-2022

Meeting Date

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

Bill Number or Topic

Env. & Natural Resources

N/A

Committee

Amendment Barcode (if applicable)

Name **Natalie Fausel**

Phone **561-317-0889**

Address **201 West Park Ave., Ste 100**

Email **natalie@anfieldflorida.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Polk County**

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

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The Florida Senate

APPEARANCE RECORD

1/18/22

Meeting Date

1432

Bill Number or Topic

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

NAT Resources

Committee

Amendment Barcode (if applicable)

Name Robert Reyes

Phone 850 509 1802

Address 417 Ingham Ave

Email rreyes@capitolgrp.com

Street

TALL FL 32303

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Monroe County

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

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

5-001 (08/10/2021)

January 20, 2022

The Florida Senate  
**APPEARANCE RECORD**

SB 1658

Meeting Date

Environment and Natural Resources

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Carlos Nathan**

Phone **850-617-7700**

Address **400 S. Monroe Street**

Email **carlos.nathan@fdacs.gov**

Street

**Tallahassee**

**FL**

**32399**

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**FDACS**

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

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

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S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

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

1/18/22

Meeting Date

1658

Bill Number or Topic

Env + NR

Committee

Amendment Barcode (if applicable)

Name Lindsay Cross Phone \_\_\_\_\_

Address 1700 N Monroe St 11-286 Email lindsay@fcvoters.org

Tallahassee FL 32303

Street

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [x] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

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

Florida conservation voters

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

**Bonn, Kim**

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**From:** Brodersen, Zack  
**Sent:** Tuesday, January 18, 2022 9:36 AM  
**To:** Young, Alexandra  
**Cc:** Rogers, Ellen; Bonn, Kim  
**Subject:** Alternate Presenter Request Approved

Alex,

Chair Brodeur approves Senator Burgess's request that Senator Albritton present SB 1400, Land Acquisition Trust Fund, in the Environment and Natural Resources committee meeting today.

Thanks,

Zack Brodersen | Legislative Assistant  
**Senator Jason Brodeur | Senate District 9**  
311 Senate Office Building | Tallahassee, FL 32301  
Tallahassee (850) 487-5009 | Lake Mary (407) 333-1802

# CourtSmart Tag Report

**Room:** SB 37  
**Caption:** Senate Environment & Natural Resources Committee

**Case No.:**

**Type:**  
**Judge:**

**Started:** 1/18/2022 9:01:17 AM

**Ends:** 1/18/2022 10:07:59 AM

**Length:** 01:06:43

9:01:17 AM Meeting has come to order  
9:01:27 AM Attendance  
9:01:29 AM Quorum present  
9:01:43 AM Pledge  
9:02:48 AM Tab 1 Presentation on a Report on Elimination of Discharges to Surface Waters by DEP  
9:03:33 AM John Truett with DEP  
9:09:41 AM Any questions?  
9:09:48 AM Discussion?  
9:10:02 AM Temporary recess  
9:10:38 AM Recording Paused  
9:11:06 AM Recording Resumed  
9:11:14 AM Tab 2 SB 198 by Senator Rodriguez  
9:11:35 AM Senator Rodriguez SB 198  
9:13:18 AM Any questions?  
9:13:22 AM Amendment barcode 855490  
9:13:32 AM Senator Rodriguez explains amendment  
9:13:51 AM Questions on amendment?  
9:13:57 AM Appearance form  
9:14:14 AM Debate?  
9:14:17 AM Senator Rodriguez waive close on amendment  
9:14:32 AM Amendment is adopted  
9:14:37 AM Back on Bill as amended  
9:14:43 AM Questions  
9:14:46 AM Senator Ausley with question  
9:15:02 AM Senator Rodriguez responds to question  
9:15:39 AM Lori Killinger with Florida Association of Migration Bankers speaking on bill  
9:17:39 AM Senator Ausley question to Ms. Killinger  
9:18:03 AM Ms. Killinger responds to Senator Ausley  
9:18:28 AM Senator Ausley with follow up  
9:19:22 AM Ms. Killinger responds to Senator Ausley  
9:20:36 AM Vice Chair Stewart with question  
9:21:09 AM Ms. Killinger responds to Vice Chair Stewart  
9:22:04 AM Any other questions  
9:22:10 AM Appearance forms  
9:22:26 AM Beth Alvi with AUDUBON speaking against  
9:25:26 AM Meta Calder with League of Women Voters Florida speaking against  
9:26:36 AM Paul Owens with 1000 Friends of Florida speaking against  
9:29:35 AM David Cullen with Sierra Club of Florida speaking against  
9:30:38 AM Lindsay Cross with Florida Conservation Voters speaking against  
9:33:19 AM Laura Reynolds with Friends and Biscayne Bay speaking against  
9:38:23 AM Senator Bean with question  
9:39:48 AM Ms. Reynolds responds to Senator Bean  
9:40:49 AM Senator Bean with follow up  
9:42:14 AM Ms. Reynolds responds to follow up to Senator Bean  
9:43:13 AM Travis Moore with Defenders of Wildlife Animal Legal Defense Fund speaking against  
9:44:37 AM Debate on the bill?  
9:44:45 AM Senator Ausley with debate  
9:46:02 AM Vice Chair Stewart with debate  
9:47:35 AM Senator Rodriguez closes on bill  
9:48:00 AM Roll call on CS/SB 198  
9:49:07 AM CS/SB 198 is reported favorably  
9:49:23 AM Tab 3 SB1326 by Senator Rodriguez

9:49:48 AM Senator Rodriguez explains bill  
9:50:31 AM Questions on bill  
9:50:36 AM Appearance forms  
9:50:55 AM Natalie Fausel of Palm Beach County waives in support  
9:51:13 AM Edgar Fernandz of Town of Cutler Bay waives in support  
9:51:33 AM Beth Alvi with AUDUBON waives in support  
9:51:46 AM Devon West of Broward County waives in support  
9:52:04 AM Meta Calder with League of Women Voters Florida waives in support  
9:52:15 AM Jess M. McCarty, Executive Assistant County Attorney waives in support  
9:52:25 AM Senator Rodriguez waive close  
9:52:27 AM Roll call  
9:52:32 AM SB 1326 is reported favorably  
9:52:52 AM Tab 4 SB 1432  
9:53:00 AM Senator Rodriguez explains bill  
9:54:05 AM Questions on bill  
9:54:11 AM Amendment barcode 494990  
9:54:31 AM Amendment explained  
9:54:39 AM Questions on amendment  
9:54:47 AM Debate?  
9:54:59 AM Senator Rodriguez close on amendment  
9:55:05 AM Amendment barcod 494990 is adopted  
9:55:09 AM Back on bill  
9:55:15 AM Questions  
9:55:17 AM Appearance form  
9:55:21 AM Robert Reyes of Monroe County waives in support  
9:55:33 AM Debate?  
9:55:39 AM Senator Rodriguez waive close  
9:55:48 AM Roll call  
9:55:53 AM CS/SB 1432 is reported favorably  
9:56:18 AM Tab 5 SB 1400 presented by Senator Albritton  
9:56:37 AM Senator Albritton Explains Bill  
9:57:05 AM Questions on bill?  
9:57:50 AM Appearance form  
9:58:00 AM Natalie Fausel with Polk County speaking in favor  
9:58:55 AM Meta Calder with Florida League of Womens Voters Speaking in favor  
9:59:58 AM David Cullen with Sierra Club Florida speaking against  
10:01:39 AM David Shepp of City of Lakeland waives in support  
10:01:51 AM Lindsay Cross with Florida Conservation Voters speaking against  
10:03:09 AM Debate on bill  
10:03:12 AM Senator Albritton closes on bill  
10:03:44 AM Roll call on SB 1400  
10:04:47 AM SB 1400 is reported favorably  
10:05:15 AM Tab 6 SB 1658 temporarily postponed  
10:05:36 AM Senate Conformation Hearing  
10:05:41 AM Ryan Atwood of Mount Dora  
10:05:48 AM Maryam Ghyabi-White of Ormond Beach  
10:05:52 AM Duglas Burnett of St. Augustine  
10:05:58 AM Is there a motion to recommend confirmation?  
10:06:24 AM Senator Bean moves to recommend appointees  
10:06:38 AM Roll call on appointees  
10:06:46 AM Appointees recommended favorably  
10:07:03 AM Senator Bean speaking  
10:07:32 AM Meeting adjourned