

Tab 1	SB 982 by Mayfield; (Identical to H 01033) Implementation of the Water and Land Conservation Constitutional Amendment					
407870	T	S	RCS	EP, Mayfield	In title, delete L.2 -	03/22 06:01 PM
Tab 2	SB 162 by Rodriguez (CO-INTRODUCERS) Farmer, Clemens, Stewart, Campbell; (Similar to H 00093) Disposable Plastic Bags					
Tab 3	SB 1590 by Latvala (CO-INTRODUCERS) Hutson, Mayfield; (Similar to CS/H 01213) Coastal Management					
787478	A	S	RCS	EP, Latvala	Delete L.62 - 63:	03/22 06:05 PM
Tab 4	SB 1686 by Simmons; (Identical to H 01357) Reclaimed Water					
Tab 5	SB 1338 by Book; (Similar to H 07043) Vessels					
594170	D	S	RCS	EP, Book	Delete everything after	03/22 06:08 PM
Tab 6	SB 198 by Stewart (CO-INTRODUCERS) Rodriguez; (Similar to CS/H 00861) Environmental Regulation Commission					
288378	D	S	RCS	EP, Stewart	Delete everything after	03/22 06:10 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
ENVIRONMENTAL PRESERVATION AND CONSERVATION
Senator Book, Chair
Senator Bradley, Vice Chair

MEETING DATE: Wednesday, March 22, 2017
TIME: 4:00—6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Book, Chair; Senator Bradley, Vice Chair; Senators Farmer, Hutson, Latvala, Simmons, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 982 Mayfield (Identical H 1033, Compare H 847, CS/S 234)	Implementation of the Water and Land Conservation Constitutional Amendment; Requiring a specified appropriation for certain projects related to the Indian River Lagoon system; requiring the distribution to be reduced by an amount equal to the debt service paid on certain bonds, etc. EP 03/22/2017 Fav/CS AEN AP	Fav/CS Yeas 7 Nays 0
2	SB 162 Rodriguez (Similar H 93)	Disposable Plastic Bags; Authorizing certain municipalities to establish pilot programs to regulate or ban disposable plastic bags, etc. EP 03/22/2017 Favorable CA CM RC	Favorable Yeas 4 Nays 1
3	SB 1590 Latvala (Similar CS/H 1213)	Coastal Management; Revising the criteria to be considered by the Department of Environmental Protection in determining and assigning annual funding priorities for beach management and erosion control projects; revising the list of projects that are included as inlet management projects; revising the ranking criteria to be used by the department to establish certain funding priorities for certain inlet-caused beach erosion projects; revising requirements for the comprehensive long-term management plan; requiring certain funds from the Land Acquisition Trust Fund to be used for projects that preserve and repair state beaches, etc. EP 03/22/2017 Fav/CS AEN AP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation
Wednesday, March 22, 2017, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1686 Simmons (Identical H 1357)	Reclaimed Water; Revising a report that the Board of Administration must provide to the Legislature to include a summary of certain water supply investments; requiring the Office of Program Policy Analysis and Government Accountability to perform an annual review of the board in certain potential water supply projects and submit an annual report to the board and the Legislature; providing legislative findings; authorizing each water management district to adopt rules providing water reuse incentives, etc. EP 03/22/2017 Temporarily Postponed AP RC	Temporarily Postponed
5	SB 1338 Book (Similar H 7043)	Vessels; Providing an additional condition for a vessel at risk of becoming derelict on waters of this state; prohibiting anchoring or mooring of vessels or floating structures in certain areas; authorizing a local government to enact and enforce regulations related to proof of pumpout in certain areas; providing for issuance of uniform boating citations for certain violations, etc. EP 03/22/2017 Fav/CS AEN AP	Fav/CS Yeas 6 Nays 0
6	SB 198 Stewart (Similar CS/H 861)	Environmental Regulation Commission; Requiring the Governor to make appointments to the commission within a certain time frame; allowing for provisional membership under certain circumstances, etc. EP 03/22/2017 Fav/CS EE RC	Fav/CS Yeas 5 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 982

INTRODUCER: Environmental Conservation and Preservation Committee and Senator Mayfield

SUBJECT: Implementation of the Water and Land Conservation Constitutional Amendment

DATE: March 22, 2017 REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 982 requires \$30 million to be appropriated from the Land Acquisition Trust Fund annually for projects dedicated to the restoration of the Indian River Lagoon system. From these funds, \$15 million is required to be distributed to the St. Johns River Water Management District (SJRWMD) and the remaining \$15 million to the South Florida Water Management District (SFWMD). The bill authorizes such funds to be used for land management and acquisition and for recreational opportunities and public access improvements connected with the Indian River Lagoon (IRL) system.

II. Present Situation:

The Indian River Lagoon

The IRL system runs along 156 miles of Florida's east coast, extending from Ponce de Leon Inlet near New Smyrna Beach in Volusia County to Jupiter Inlet in Martin County.¹ The IRL system is composed of three main waterbodies: the Mosquito Lagoon, the Banana River, and the Indian River Lagoon.² More than 71 percent of its area and nearly half its length is within

¹ Indian River Lagoon Council (IRLC), *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Mar. 15, 2017).

² *Id.*

Brevard County.³ The IRL system is an estuary in which freshwater from uplands and tributaries meets and mixes with saltwater from the ocean to create an estuarine environment.⁴

The IRL is one of the most biologically diverse estuaries in North America and is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.⁵ The estimated economic value received from the IRL in 2014 was approximately \$7.6 billion, \$1.57 million of which was attributable to recreation and visitor-related activity.⁶ Industry groups that are directly influenced by the IRL support nearly 72,000 jobs, collecting wages of more than \$1.2 billion annually.⁷

The balance of the IRL's delicate ecosystem has been disturbed by increased development in the area. Development has led to harmful levels of nutrients and sediments entering the lagoon as a result of stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, septic systems, and excess fertilizer applications.⁸ In the last 5 years, there have been recurring brown tides; unusual mortalities of dolphins, manatees, and shorebirds; and large fish kills due to low dissolved oxygen from decomposing algae.⁹ During 2011, a massive phytoplankton algae bloom occurred throughout most of the IRL system, extending from Southern Mosquito Lagoon to just north of Ft. Pierce Inlet.¹⁰ This "2011 Superbloom" lasted for 7 months and resulted in massive loss of seagrass coverage. There is no single answer to why the bloom occurred, but studies have indicated that nitrogen inputs from septic systems in the IRL basin are a major source of nutrients that drive harmful algae blooms.¹¹

The SJRWMD and local governments have been proactive in implementing projects to address water quality issues in the IRL. Brevard County established the Save Our Indian River Lagoon Project Plan. The plan outlines local projects planned to meet water quality targets and improve the health, productivity, aesthetic appeal, and economic value of the lagoon.¹² In 2016, the county passed a referendum, approved by 62.4 percent of the voting population, to authorize the

³ Tetra Tech, Inc. & Closewaters, LLC, *Save Our Lagoon Project Plan for Brevard County, Florida*, 1 (July 2016) [hereinafter referred to as *Save Our Lagoon*], available at http://loveourlagoon.com/BCsave-our-lagoon-project-plan_final.pdf (last visited Mar. 15, 2017).

⁴ IRLC, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Mar. 15, 2017).

⁵ *Id.*

⁶ East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, vi (Aug. 26, 2016), available at http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf (last visited Mar. 10, 2017).

⁷ *Save Our Lagoon* at ix.

⁸ *Id.* at vi.

⁹ *Id.* at 1.

¹⁰ Indian River Lagoon Consortium, *Indian River Lagoon 2011 Superbloom Plan of Investigation*, 2 (June 2012), available at http://www.sjrwmd.com/indianriverlagoon/technicaldocumentation/pdfs/2011superbloom_investigationplan_June_2012.pdf (last visited Mar. 8, 2017).

¹¹ See Brian E. Lapointe, Laura W. Herren, David D. Debortoli, Margaret A. Vogel, *Evidence of sewage-driven eutrophication and harmful algae blooms in Florida's Indian River Lagoon*, (Jan. 28, 2015), available at <http://static.politico.com/27/4c/d449d31440529b9d75d8ac3bb461/2015-study-of-indian-river-lagoon-algae.%202015.pdf> (last visited Mar. 15, 2017).

¹² *Save Our Lagoon* at vi.

issuance of a half-cent infrastructure sales tax to pay for a portion of the plan.¹³ The sales tax is estimated to generate \$32 million per year.¹⁴

It is estimated to cost \$4.6 billion to accomplish the required nutrient load reductions in all four BMAPs that cover the IRL region.¹⁵ With efforts extended over a 20-year period, it would require an annual investment of \$230 million to sustain an IRL-based economy.¹⁶ The annual cost compared to the IRL's estimated total economic output of \$7.6 billion provides a return on investment of 33:1, which can be expected to increase as the IRL improves in health and productivity.¹⁷

Onsite sewage and disposal systems

In Florida, development in some areas is dependent on septic systems due to the cost and time it takes to install central sewer systems. Less than one percent of septic systems in Florida are actively managed.¹⁸ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.¹⁹ In Florida, approximately 30-40 percent of the nitrogen levels are reduced in a system that is installed 24 inches or more from groundwater.²⁰ This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from septic systems a potential contaminant in groundwater.²¹ Nitrogen sensitivity of Florida watersheds varies greatly, and includes areas of extremely high sensitivity to nitrogen loading and other areas where nitrogen loading from septic systems may be less critical.²²

In 1990, the Legislature enacted the Indian River Lagoon System and Basin Act, in part, to protect the IRL system from the improper use of septic systems.²³ The act required the SJRWMD and the SFWMD to identify areas where improper septic tank use poses a threat to the water quality of the IRL system.²⁴ There are six counties that have septic systems that contribute to the health of the IRL including Volusia, Brevard, Indian River, St. Lucie, Martin, and Palm Beach counties.

¹³ Brevard County Supervisor of Elections, *2016 General Election Official Results*, <http://enr.electionsfl.org/BRE/1616/Summary/> (last visited Mar. 9, 2017); see Brevard County Ordinance 2016-15, *Placing a Referendum on November 8, 2016 Ballot for One-Half Cent Infrastructure Sales Tax to Fund Implementation of the Save our Lagoon Project Plan* (August 23, 2016), available at <http://www.brevardfl.gov/docs/default-source/countymanager/save-our-lagoon-referendum-election-2016-ordinance-august-23-2016.pdf?sfvrsn=2> (last visited Mar. 15, 2017).

¹⁴ *Save Our Lagoon* at 60.

¹⁵ East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, x (Aug. 26, 2016).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Florida Department of Health (FDOH), *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, 1 (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rrac/2008-11-06.pdf> (last visited Mar. 15, 2017).

¹⁹ *Id.*

²⁰ *Id.* at 18.

²¹ University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), available at <http://edis.ifas.ufl.edu/pdf/SS/SS55000.pdf> (last visited Mar. 8, 2017).

²² FDOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study Final Report*, 14 (Dec. 31, 2015).

²³ See ch. 90-262, Laws of Fla.

²⁴ Chapter 90-262, s. 4, Laws of Fla.

In Brevard County alone, there are approximately 82,000 permitted septic systems, of which nearly 59,500 pollute groundwater that migrates to the IRL.²⁵ The Save Our Lagoon Plan includes septic system upgrades and removals at a total cost of approximately \$64 million.²⁶ The estimated total cost to convert all septic tanks in the county to central sewage treatment is \$1.19 billion.²⁷

Muck accumulation

Muck is a fine-grained organic rich sediment that is made up primarily of clay, sand, and decaying plant material. Thick layers of muck build up at the bottom of waterbodies and increase turbidity, inhibit seagrass growth, promote oxygen depletion in sediments and the water above, store and release nutrients, cover the natural bottom, and destroy healthy communities of benthic organisms.²⁸ Additionally, when muck is suspended within the water column due to wind or human activities, such as boating, these suspended solids limit light availability and further suppress seagrass growth.²⁹

Muck is not natural to the bottom of the lagoon, but it now covers an estimated 15,900 acres of the lagoon bottom in Brevard County, and tends to accumulate in deeper waters, sometimes in layers more than 6 feet thick.³⁰ Muck is transported into the lagoon through freshwater runoff, which carries with it soil from erosion and organic debris from sod, grass clippings, leaves, and other vegetation.³¹ Muck also accumulates potential pollutants and stores and releases nutrients into the water, which can feed algae blooms.³² The annual release of nutrients from decaying muck is almost as much as the annual external loading delivered by stormwater and groundwater baseflow combined.³³

Muck removal projects are very expensive and entail dredging muck from the bottom of the waterbody.³⁴ Muck removal projects have more immediate effects on water quality than external reduction projects, because the nutrient load is reduced as soon as the muck is dredged or flushed from the system.³⁵ The dredged material is then usually stored temporarily at the site to dry out and can be used for beneficial purposes, if deemed safe and cost-effective, or is transported to a landfill property for disposal.³⁶ There are a few muck removal projects currently underway in

²⁵ *Save our Lagoon* at 5.

²⁶ *Id.* at viii.

²⁷ *Id.* at 5.

²⁸ *Save Our Lagoon* at 39.

²⁹ *Id.*

³⁰ Florida SeaGrant, *Muck Removal in the Save Our Indian River Lagoon Project Plan, Brevard County*, <http://www.brevardfl.gov/docs/default-source/natural-resources-documents/muck-fact-sheet.pdf?sfvrsn=1> (last visited Mar. 10, 2017).

³¹ *Id.*

³² *Id.*

³³ *Save Our Lagoon* at 40.

³⁴ *See id.* at 39-41.

³⁵ *Id.* at 39.

³⁶ IFAS, *Muck Removal in the Save Our Lagoon Indian River Lagoon Project Plan, Brevard County*, <http://www.brevardfl.gov/docs/default-source/natural-resources-documents/muck-fact-sheet.pdf?sfvrsn=1> (last visited Mar. 15, 2017); *see also* St. Johns River Water Management District, *Eau Gallie Muck Dredging Project Frequently Asked Questions*, (Feb. 2, 2017), available at <http://www.sjrwm.com/EGRET/pdfs/Eau-Gallie-muck-dredging-project-FAQ.pdf> (last visited Mar. 15, 2017).

Turkey Creek, the Eau Gallie River, and Cocoa Beach.³⁷ The estimated total cost for all muck removal projects is \$198.1 million.³⁸

In 2016, the Legislature appropriated \$21.5 million to Brevard County for the removal of muck from the IRL.³⁹ Of the appropriation, \$1.5 million is required to be given to the Indian River Lagoon Research Institute for the purpose of a scientific assessment to determine the environmental benefits of the project.⁴⁰ The long-term success of muck removal is dependent upon continued reductions in land-based sources of pollutants to prevent the continued build-up of muck in the lagoon.⁴¹

Stormwater runoff

The drainage systems of the east coast of Florida were constructed to support agriculture and urban development. These systems have increased the volume of inflows into the IRL, while also changing the timing of flows and increasing nutrient loads conveyed to the IRL.⁴² Canal diversions to the IRL increase nutrient, sediment, and freshwater loading to the IRL and decrease flows to the St. Johns River.⁴³ Stormwater runoff contributes a significant portion of total nitrogen and total phosphorus to the lagoon each year.⁴⁴

In Brevard County, there are more than 1,500 stormwater outfalls to the IRL.⁴⁵ Brevard County in 1990 implemented a stormwater utility assessment, which established an annual assessment rate of \$36 per year per equivalent residential unit (ERU), which was increased to \$64/ERU in 2016.⁴⁶ The collections raised in 2016 due this assessment is estimated at \$6 million.⁴⁷ Of the funding raised, a portion is available for capital improvement programs or other stormwater BMPs and is split between water quality improvement programs and flood control and mitigation programs.⁴⁸ In addition, funding is spent on annual program operating expenses, such as the National Pollutant Discharge Elimination System permit compliance activities (street sweeping, trap and box cleaning, and aquatic weed harvesting), and outfall/ditch treatments.⁴⁹

Large-scale stormwater capture and treatment projects are intended to store and treat stormwater runoff before it enters the IRL. For example, the C-10 Water Management Area is a project that diverts water from the IRL system to the St. Johns River through a system of pump stations.⁵⁰ The project is estimated to provide a total nitrogen reduction of 29,300 pounds with an estimated capital cost of \$22.3 million.⁵¹ Another example is the Nova Canal Watershed Alternative Water

³⁷ *Id.*

³⁸ *Save Our Lagoon* at 58.

³⁹ Chapter 2016-66, Laws of Fla.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *IRL Stormwater Feasibility Analysis* at 4-1.

⁴³ *Id.* at 1-1.

⁴⁴ See *Save Our Lagoon* at 10, for specific nutrient loadings from different sources in each sub-lagoon.

⁴⁵ *Save Our Lagoon* at 32.

⁴⁶ *Id.* at 2.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *IRL Stormwater Feasibility Analysis* at 6-37.

⁵¹ *Id.* at 6-48, 49.

supply project to divert water away from the IRL to an integrated water resource system that fully utilizes stormwater, surface water, and reclaimed water.⁵² The project is estimated to provide a total nitrogen reduction of 33,000 pounds with an estimated capital cost between \$22.1 million and \$35.9 million.⁵³

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 \$0.70 per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at \$0.35 per \$100.⁵⁴

In 2014, Florida voters approved “Amendment One,” a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, and for 20 years thereafter, 33 percent of net revenues derived from the documentary stamp taxes be deposited into the Land Acquisition Trust Fund (LATF). Section 28, Article X 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.⁵⁵

To implement s. 28, Article X of the State Constitution, the Legislature in the 2015 Special Session A passed ch. 2015-229, Laws of Florida.⁵⁶ 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 the Department of Environmental Protection as the trust fund to serve as the constitutionally mandated depository for a percentage of the tax revenues.⁵⁷

⁵² *Id.* at 6-47.

⁵³ *Id.* at 6-48, 49.

⁵⁴ *See* ss. 201.02 and 201.08, F.S.

⁵⁵ FLA. CONST. art. X, s. 28.

⁵⁶ Chapter 2015-229, Laws of Fla.

⁵⁷ Chapter 2015-229, s. 9, s. 50, Laws of Fla.

In 2016, the Legislature passed ch. 2016-201, Laws of Florida, referred to as “Legacy Florida.”⁵⁸ Legacy Florida amended s. 375.041, F.S., to require specified minimum distributions from the LATF. 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:
 - First to payments relating to debt service on Florida Forever bonds and Everglades restoration bonds; and
 - Then to payments relating to debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- 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,⁵⁹ or the Northern Everglades and Estuaries Protection Program (NEEPP), with priority given to Everglades projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. The following specified distributions are required from these funds:
 - \$32 million through the 2023-2024 Fiscal Year (FY) 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 through the 2025-2026 FY for the CERP; and
 - 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 springs restoration, protection, and management projects; and
 - Five million annually to the SJRWMD for projects dedicated to the restoration of Lake Apopka.⁶⁰
- Then any remaining moneys are authorized to be appropriated for the purposes set forth in s. 28, Art. X, of the State Constitution.⁶¹

The General Revenue Estimating Conference in December of 2016 estimated that for the 2017-2018 FY a total of \$2.48 billion would be collected in documentary stamp taxes. Thirty-three percent of the net revenues collected or approximately \$814.1 million must be deposited into the LATF as required under s. 28, Article X of the State Constitution.⁶²

⁵⁸ Chapter 2016-201, Laws of Fla.

⁵⁹ Note that the “Long-Term Plan” includes the Restoration Strategies Regional Water Quality Plan.

⁶⁰ Section 375.041, F.S.

⁶¹ *Id.*

⁶² Office of Economic and Demographic Research, Revenue Estimating Conference, *Documentary Stamp Tax, Executive Summary* (Dec. 12, 2016) available at <http://www.edr.state.fl.us/Content/conferences/docstamp/docstampexecsummary.pdf> (last visited Mar. 15, 2017).

III. Effect of Proposed Changes:

CS/SB 982 amends s. 375.041, F.S., to require that \$30 million be appropriated annually for projects dedicated to the restoration of the IRL system. From these funds, \$15 million is required to be distributed to the SJRWMD and the remaining \$15 million to the SFWMD.

The bill authorizes such funds to be used for land management and land acquisition and for increasing recreational opportunities associated with, and improving public access to, areas associated with the IRL system.

The bill requires the distribution to be reduced by an amount equal to the debt service paid on bonds issued for such restoration purposes after July 1, 2017.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 28, Article X of the State Constitution requires that 33 percent of net revenues derived from documentary stamp taxes be deposited into the LATF for the acquisition and improvement of land, water areas, and related property interests, together with management, restoration of natural systems, and the enhancement of public access to, or recreational enjoyment of, conservation lands. For the full text of s. 28, Article X of the State Constitution, see the LATF section of this analysis beginning on page 6.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has a negative, recurring impact to the LATF of \$30 million.

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.)

CS by Environmental Conservation and Preservation on March 22, 2017:

The CS/SB 234 amended the relating to clause to the “Land Acquisition Trust Fund.”

B. Amendments:

None.



407870

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment

In title, delete lines 2 - 3
and insert:
An act relating to the Land Acquisition Trust Fund;
amending

By Senator Mayfield

17-01575-17

2017982__

1 A bill to be entitled
2 An act relating to the implementation of the water and
3 land conservation constitutional amendment; amending
4 s. 375.041, F.S.; requiring a specified appropriation
5 for certain projects related to the Indian River
6 Lagoon system; requiring the distribution to be
7 reduced by an amount equal to the debt service paid on
8 certain bonds; providing an effective date.

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

11
12 Section 1. Subsection (3) of section 375.041, Florida
13 Statutes, is amended to read:

14 375.041 Land Acquisition Trust Fund.—

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

17 (a) First, to pay debt service or to fund debt service
18 reserve funds, rebate obligations, or other amounts payable with
19 respect to Florida Forever bonds issued under s. 215.618; and
20 pay debt service, provide reserves, and pay rebate obligations
21 and other amounts due with respect to Everglades restoration
22 bonds issued under s. 215.619; and

23 (b) Of the funds remaining after the payments required
24 under paragraph (a), but before funds may be appropriated,
25 pledged, or dedicated for other uses:

26 1. A minimum of the lesser of 25 percent or \$200 million
27 shall be appropriated annually for Everglades projects that
28 implement the Comprehensive Everglades Restoration Plan as set
29 forth in s. 373.470, including the Central Everglades Planning

17-01575-17

2017982__

30 Project subject to Congressional authorization; the Long-Term
31 Plan as defined in s. 373.4592(2); and the Northern Everglades
32 and Estuaries Protection Program as set forth in s. 373.4595.
33 From these funds, \$32 million shall be distributed each fiscal
34 year through the 2023-2024 fiscal year to the South Florida
35 Water Management District for the Long-Term Plan as defined in
36 s. 373.4592(2). After deducting the \$32 million distributed
37 under this subparagraph, from the funds remaining, a minimum of
38 the lesser of 76.5 percent or \$100 million shall be appropriated
39 each fiscal year through the 2025-2026 fiscal year for the
40 planning, design, engineering, and construction of the
41 Comprehensive Everglades Restoration Plan as set forth in s.
42 373.470, including the Central Everglades Planning Project
43 subject to Congressional authorization. The Department of
44 Environmental Protection and the South Florida Water Management
45 District shall give preference to those Everglades restoration
46 projects that reduce harmful discharges of water from Lake
47 Okeechobee to the St. Lucie or Caloosahatchee estuaries in a
48 timely manner. For the purpose of performing the calculation
49 provided in this subparagraph, the amount of debt service paid
50 pursuant to paragraph (a) for bonds issued after July 1, 2016,
51 for the purposes set forth under paragraph (b) shall be added to
52 the amount remaining after the payments required under paragraph
53 (a). The amount of the distribution calculated shall then be
54 reduced by an amount equal to the debt service paid pursuant to
55 paragraph (a) on bonds issued after July 1, 2016, for the
56 purposes set forth under this subparagraph.

57 2. A minimum of the lesser of 7.6 percent or \$50 million
58 shall be appropriated annually for spring restoration,

17-01575-17

2017982__

59 protection, and management projects. For the purpose of
60 performing the calculation provided in this subparagraph, the
61 amount of debt service paid pursuant to paragraph (a) for bonds
62 issued after July 1, 2016, for the purposes set forth under
63 paragraph (b) shall be added to the amount remaining after the
64 payments required under paragraph (a). The amount of the
65 distribution calculated shall then be reduced by an amount equal
66 to the debt service paid pursuant to paragraph (a) on bonds
67 issued after July 1, 2016, for the purposes set forth under this
68 subparagraph.

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

76 4. The sum of \$30 million shall be appropriated annually
77 for projects dedicated to the restoration of the Indian River
78 Lagoon system. From these funds, \$15 million shall be
79 distributed to the St. Johns River Water Management District and
80 \$15 million shall be distributed to the South Florida Water
81 Management District. Such funds may be used for land management
82 and acquisition and for recreational opportunity and public
83 access improvements connected with the Indian River Lagoon
84 system. These distributions shall be reduced by an amount equal
85 to the debt service paid pursuant to paragraph (a) on bonds
86 issued after July 1, 2017, for the purposes set forth in this
87 subparagraph.

17-01575-17

2017982__

88

Section 2. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 162

INTRODUCER: Senator Rodriguez and others

SUBJECT: Disposable Plastic Bags

DATE: March 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Mitchell	Rogers	EP	Favorable
2.			CA	
3.			CM	
4.			RC	

I. Summary:

SB 162 authorizes a coastal community with a population of fewer than 100,000 people to establish a pilot program to regulate or ban disposable plastic bags. A municipality that establishes a pilot program must enact an ordinance for the regulation or ban of disposable bags, which may not take effect earlier than January 1, 2018, and must expire no later than June 30, 2020. The enacted ordinance may not include new taxes or fees on the use or distribution of disposable plastic bags. Additionally, a municipality that establishes a pilot program is required to collect data pertaining to the impact of its regulation or ban and submit a report on the impact of such regulation or ban to the governing body of the municipality at a public hearing. A copy of the report must also be provided to the Department of Environmental Protection (DEP).

II. Present Situation:

Plastic Bag Regulation in the United States

Americans use approximately 100 billion plastic bags every year, each typically discarded after a single use.¹ While plastic bags are more durable and considerably lighter in comparison to other carryout bags, single-use plastic bags harm the environment in several ways.² First, as plastic bags are comprised of high-density polyethylene, their production requires both petroleum and natural gas. It takes an estimated twelve million barrels of oil to produce the 100 billion plastic bags that are estimated to be used annually in the United States.³ Second, these types of plastic bags are non-biodegradable. As litter, a plastic bag's life expectancy is more than 1,000 years.⁴

¹ Bridget M. Warner, *Sacking the Culture of Convenience: Regulating Plastic Shopping Bags to Prevent Further Environmental Harm*, 40 U. MEM L. REV. 645, 646 (Spring, 2010).

² *Id.* at 648.

³ *Id.*

⁴ *Id.* at 649.

Ultraviolet rays weaken the bags and eventually break them down into smaller and smaller particles until they are invisible to the naked eye.⁵ Third, because of the plastic bag's lightweight nature, the bags are especially susceptible to being inadvertently transported by wind.⁶ Currents of air easily pick up plastic bags from garbage trucks, the tops of landfills, and trash receptacles, resulting in the littering of streets and landscapes.⁷ Additionally, the bags end up in the ocean where marine animals, such as sea birds and turtles, mistake them for food or become entangled in them.⁸

States for the past decade have been considering strategies to reduce the number of plastic bags to mitigate harmful impacts to oceans, rivers, lakes, and wildlife and to relieve pressure on landfills and waste management programs.⁹ There are a variety of types of plastic bag regulations that have been enacted to reduce the negative impacts of plastic bags such as bans, consumer-paid fees, in-store recycling programs, and other voluntary measures.

Bans

In August 2014, California became the first state to enact legislation imposing a statewide ban on single-use plastic bags at large retail stores.¹⁰ The ban took effect on July 1, 2015.¹¹ Additionally, many cities and counties throughout the country have banned the use of plastic bags.¹² The city of Austin, Texas implemented a Single Use Bag Ordinance in March of 2013.¹³ The Austin Resource Recovery office conducted a study on the impact of the ordinance and found that the ordinance effectively reduced the amount of single use plastic bags in the city, but it had the unintended consequence of increasing the use of reusable plastic bags.¹⁴ Not all reusable bags are environmentally friendly; some reusable bags are made out of plastic and require a great deal of energy to produce and ship.¹⁵ Compostable bags, another alternative to plastic bags, pose additional problems. They are not recyclable and, while they will eventually biodegrade, they still end up making their way into the environment.¹⁶ A plastic bag ban alone without any secondary measures enacted to address all single-use carryout bags may be replacing one environmental problem with another.¹⁷

⁵ *Id.*

⁶ *Id.* at 650.

⁷ *Id.*

⁸ *Id.*

⁹ National Conference of State Legislatures (NCSL), *State Plastic and Paper Bag Legislation* (Jan. 22, 2015), <http://www.ncsl.org/research/environment-and-natural-resources/plastic-bag-legislation.aspx> (last visited March 13, 2017).

¹⁰ *Id.*

¹¹ *Id.*

¹² Bag the Ban provides an interactive map for researching state and local legislation *available at* <http://www.bagtheban.com/in-your-state>. Additionally, Surfrider provides a partial list of checkout bag legislation, *available at* <http://www.surfrider.org/pages/plastic-bag-bans-fees>.

¹³ City of Austin, *Carryout Bags*, Ord. 20120301-078 (March 2, 2012) *available at* <https://www.austintexas.gov/department/single-use-carryout-bag-ordinance-documents>.

¹⁴ Aaron Waters, Austin Resource Recovery & The Zero Waste Advisory Commission, *Environmental Effects of the Single Use Bag Ordinance in Austin, Texas*, pg. 28 (June 10, 2015) *available at* <http://www.austintexas.gov/edims/document.cfm?id=232679>.

¹⁵ Bridget M. Warner, *Sacking the Culture of Convenience: Regulating Plastic Shopping Bags to Prevent Further Environmental Harm*, 40 U. MEM L. REV. 645, 669 (Spring, 2010).

¹⁶ *Id.* at 658, 659.

¹⁷ *Id.* at 662.

Consumer-paid Fees

Charging a consumer-paid fee on a per-bag basis is an increasingly popular method to regulate plastic bag consumption.¹⁸ In 2009, the City Council of the District of Columbia passed legislation imposing a 5 cent fee for every carryout paper or plastic disposable bag at all businesses that sell food or alcohol.¹⁹ This type of measure is aimed at changing consumer behavior.²⁰ The business retains 1 cent (or 2 cents if the business offers a rebate when customers bring their own bag), and the remaining 3 or 4 cents goes to the Anacostia River Clean Up and Protection Fund.²¹ The revenue from the bag fee generated 2.1 million dollars in the 2014 fiscal year.²² Not only do consumer-paid fees help reduce plastic bag use, they generate revenue to support pollution cleanups and other types of waste management programs.²³

In-store Recycling Programs

Plastic bags are usually recycled into products such as railroad ties, parking lot curbs, signs, and composite lumber.²⁴ Some states have mandated in-store plastic bag recycling programs. For example, Delaware requires certain retail stores to set up a plastic carry-out bag recycling program for customers.²⁵ The program aims to encourage Delaware citizens to increase their recycling of plastic carryout bags obtained at retail stores.²⁶ Additionally, affected stores are required to maintain records describing the collection and recycling of plastic bags and to offer reusable bags to their customers for purchase.²⁷ While overall regulations that mandate the recycling of plastic carryout bags help reduce the negative environmental effects of the bags, they are unlikely to change consumer behavior.²⁸

Voluntary Measures

A trend has been for large retailers to give consumers incentives to bring their own bags, usually in the form of a small rebate.²⁹ Whole Foods Market has a company-wide plastic bag ban.³⁰ Most Whole Foods stores offer customers a refund of up to 10 cents for bringing their own bags.³¹ Additionally, after witnessing the success of its “Bag the Plastic Bag” program, IKEA, in 2008, banned all single-use carryout bags.³²

¹⁸ *Id.* 662.

¹⁹ D.C. Code Ann. § 8-102.02.

²⁰ District of Columbia, Department of Energy & the Environment, *Bag Law FAQs*, <http://doee.dc.gov/page/bag-law-faqs> (last visited March 14, 2017).

²¹ D.C. Code Ann. § 8-102.02.

²² Washington Post https://www.washingtonpost.com/investigations/nickel-by-nickel-is-the-dc-bag-fee-actually-saving-the-anacostia-river/2015/05/09/d63868d2-8a18-11e4-8ff4-fb93129c9c8b_story.html.

²³ Warner at 663.

²⁴ Warner at 653.

²⁵ State of Delaware, Division of Waste and Hazards, *Delaware’s Plastic Carryout Bag Recycling Act*, http://www.dnrec.delaware.gov/dwhs/recycling/Pages/Plastic_Bag_Recycling.aspx (last visited March 16, 2017).

²⁶ *Id.*

²⁷ *Id.*

²⁸ Bridget M. Warner, *Sacking the Culture of Convenience: Regulating Plastic Shopping Bags to Prevent Further Environmental Harm*, 40 U. MEM L. REV. 645, 653, 656 (Spring, 2010).

²⁹ *Id.* 670.

³⁰ *Id.*

³¹ Whole Foods Market, *Green Mission Report* (2012), available at <http://www.wholefoodsmarket.com/sites/default/files/media/Global/PDFs/2012GreenMissionReport.pdf>.

³² Warner at 671.

Plastic Bag Regulation in Florida

In response to growing concerns regarding the impact of retail plastic bags on the environment, the Legislature enacted s. 403.7033, F.S., in 2008 to require the Department of Environmental Protection (DEP) to analyze “the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments.” Section 403.7033, F.S., required DEP to submit a report with its conclusions and recommendations to the Legislature by February 1, 2010.³³

Additionally, s. 403.7033, F.S. includes a prohibition on local governments, local governmental agencies, and state government agencies from enacting any rule, regulation, or ordinance regarding the use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags until the Legislature adopts DEP’s recommendations.³⁴ To date, the Legislature has not adopted any recommendations contained in the report and the prohibition on any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags remains in effect.

In its *Retail Bags Report*, the DEP found that improperly discarded plastic bags, besides being unsightly litter, can harm land and marine life, interfere with landfill operations, clog flood control systems, and breed mosquitos.³⁵ The DEP provided options, ranging from educational campaigns to complete bans, for discouraging and reducing the use of single-use paper and plastic retail bags and the pros and cons associated with each option.³⁶ The report concluded that some strategies were more effective than others, with bans, closely followed by user fees and taxes, producing the fastest results.³⁷ Voluntary efforts were found to be helpful in changing consumer behavior patterns, but their effectiveness was found to be dependent upon the number of retailers participating.³⁸ Finally, the report concluded that public education, by bringing awareness to the damages caused by single-use bags and the costs of undoing such damage, is crucial to any approach.³⁹

Recent Litigation

The City of Coral Gables enacted an ordinance on February 9, 2016, banning the sale or use of containers made of polystyrene, also known as Styrofoam, by different entities and in different places within the City. The ordinance set forth exemptions from the ban for certain products or uses of polystyrene and provided code enforcement procedures for issuing tickets and fines for violations and for appealing violations. On March 9, 2016, the Legislature passed House Bill 7007 which, among other provisions, created s. 500.90, F.S. The new statutory section

³³ Section 403.7033, F.S.

³⁴ *Id.*

³⁵ DEP, *Florida Department of Environmental Protection, Retail Bags Report*, pg. 1 (Feb. 1, 2010), available at https://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/retailbags/Retail-Bag-Report_01Feb10.pdf (last visited March 16, 2017).

³⁶ *Id.* at 19.

³⁷ *Id.* at 1.

³⁸ *Id.* at 2.

³⁹ *Id.*

preempted to the Department of Agriculture and Consumer Services the regulation of the use or sale of polystyrene products by entities regulated under ch. 500. Chapter 500, F.S., is related to the regulation of food products. Section 500.90, F.S., provided exceptions to the preemption including local ordinances enacted before January 1, 2016. House Bill 7007 became effective July 1, 2016. On July 18, 2016, the City was sued by the Florida Retail Federation, Inc. and Super Progreso Inc., who alleged that the City's ordinance was preempted by state statute.⁴⁰ The plaintiffs sought a declaratory judgment to that effect and injunctive relief to prevent the enforcement of the ordinance. The State of Florida was granted permission to intervene by the court and filed a response in opposition to the City's motion for summary judgment.⁴¹

In an order dated February 27, 2017, the court granted the City's Motion for Summary Judgment, holding that the statutory sections relied on by the plaintiffs in asserting preemption lack the necessary standards and guidelines for implementation and are unconstitutionally vague. Final judgment in the case was rendered on March 8, 2017. The court ruled in favor of the City of Coral Gables and held that the statutes preempting the regulation by local governments of polystyrene,⁴² plastic bags,⁴³ and the packaging of products manufactured or sold in the state⁴⁴ are unconstitutional and that the City's ordinance is valid and enforceable.⁴⁵ The time period to appeal the court's decision has not yet run. On March 14, 2017, the City of Coral Gables City Commission heard on first reading a proposed City ordinance banning the use of single-use carry out plastic bags by retailers.⁴⁶

III. Effect of Proposed Changes:

Notwithstanding the prohibition on local governments and state agencies, SB 162 would authorize coastal communities with populations of fewer than 100,000 people to establish pilot programs to regulate or ban disposable plastic bags within their boundaries. The bill defines the term "coastal community" as a "municipality that abuts or borders the Gulf of Mexico or Atlantic Ocean, or a saltwater bay, sound, straight (sic), inlet, lagoon, salt marsh, coastal wetland, or other saltwater body immediately adjacent to the Gulf of Mexico or Atlantic Ocean."

A municipality that establishes a pilot program is required to enact an ordinance for the regulation or ban of disposable plastic bags. Such ordinance may not take effect earlier than January 1, 2018, and must expire no later than June 30, 2020. Under the pilot program, a municipality may not enact an ordinance that includes new taxes or fees on the use or distribution of disposable plastic bags.

⁴⁰ Plaintiffs asserted that the City of Coral Gables ordinance was preempted by ss. 500.90, 403.708(9), and 403.7033, F.S.

⁴¹ *Florida Retail Federation, Inc. and Super Progreso Inc. v. The City of Coral Gables*, Case no. 2016-018370-CA-01 (Fla. 11th Jud. Cir. 2017).

⁴² Section 500.90, F.S.

⁴³ Section 403.7033, F.S.

⁴⁴ Section 403.708(9), F.S.

⁴⁵ *Florida Retail Federation, Inc. and Super Progreso Inc. v. The City of Coral Gables*, Case no. 2016-018370-CA-01 (Fla. 11th Jud. Cir. 2017).

⁴⁶ File #17-5900, City of Coral Gables City Commission Meeting, March 14, 2017, available at <https://coralgables.legistar.com/MeetingDetail.aspx?ID=517005&GUID=3EB94990-A8BA-4AF0-9795-BB9045104DF6&Options=info&Search=>.

A municipality that establishes a pilot program is required to:

- Collect data pertaining to the impact of its regulation or ban;
- Submit a report on the impact of its regulation or ban to the governing body of the municipality at a public hearing that is open to comments from the public by April 1, 2020; and
- Provide a copy of the report to DEP.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any ban or restriction on the use of disposable bags will result in an indeterminate negative fiscal impact on businesses, consumers, or both, depending on the structure of the ordinance enacted under the pilot program.

C. Government Sector Impact:

Local governments incur costs to clean up disposable plastic bans that are discarded and become litter or end up in stormwater drainage systems. Ordinances that have the effect of limiting the number of plastic bags that are improperly discarded may provide an indeterminate positive fiscal impact to a local government that enacts any such ordinance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 403.70325 of the Florida Statutes.

This bill republishes section 403.7033 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Rodriguez

37-00237A-17

2017162__

1 A bill to be entitled
2 An act relating to disposable plastic bags; creating
3 s. 403.70325, F.S.; defining the term "coastal
4 community"; authorizing certain municipalities to
5 establish pilot programs to regulate or ban disposable
6 plastic bags; providing program criteria; providing
7 for expiration of a certain required ordinance;
8 directing participating municipalities to collect data
9 and submit reports to the municipal governing bodies
10 and the Department of Environmental Protection;
11 republishing s. 403.7033, F.S.; providing an effective
12 date.

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

15
16 Section 1. Section 403.70325, Florida Statutes, is created
17 to read:

18 403.70325 Municipal pilot program for regulation or ban of
19 disposable plastic bags.-

20 (1) As used in this section, the term "coastal community"
21 means a municipality that abuts or borders the Gulf of Mexico or
22 Atlantic Ocean, or a saltwater bay, sound, straight, inlet,
23 lagoon, salt marsh, coastal wetland, or other saltwater body
24 immediately adjacent to the Gulf of Mexico or Atlantic Ocean.

25 (2) Notwithstanding s. 403.7033, a coastal community with a
26 population of fewer than 100,000 may establish a pilot program
27 to regulate or ban disposable plastic bags. A municipality
28 establishing a pilot program shall enact an ordinance for the
29 regulation or ban of disposable plastic bags which takes effect
30 no earlier than January 1, 2018, and expires no later than June
31 30, 2020. Such ordinance may not include any new taxes or fees
32 on the use or distribution of disposable plastic bags.

37-00237A-17

2017162__

33 (2) A municipality that establishes a pilot program shall:

34 (a) Collect data pertaining to the impact of such
35 regulation or ban.

36 (b) By April 1, 2020, submit a report on the impact of such
37 regulation or ban to the governing body of the municipality at a
38 public hearing that is open to comments from the public.

39 (c) Provide a copy of the report to the department.

40 Section 2. Section 403.7033, Florida Statutes, is
41 republished to read:

42 403.7033 Departmental analysis of particular recyclable
43 materials.—The Legislature finds that prudent regulation of
44 recyclable materials is crucial to the ongoing welfare of
45 Florida's ecology and economy. As such, the Department of
46 Environmental Protection shall undertake an analysis of the need
47 for new or different regulation of auxiliary containers,
48 wrappings, or disposable plastic bags used by consumers to carry
49 products from retail establishments. The analysis shall include
50 input from state and local government agencies, stakeholders,
51 private businesses, and citizens, and shall evaluate the
52 efficacy and necessity of both statewide and local regulation of
53 these materials. To ensure consistent and effective
54 implementation, the department shall submit a report with
55 conclusions and recommendations to the Legislature no later than
56 February 1, 2010. Until such time that the Legislature adopts
57 the recommendations of the department, no local government,
58 local governmental agency, or state government agency may enact
59 any rule, regulation, or ordinance regarding use, disposition,
60 sale, prohibition, restriction, or tax of such auxiliary
61 containers, wrappings, or disposable plastic bags.

37-00237A-17

2017162__

62

Section 3. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1590

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

SUBJECT: Coastal Management

DATE: March 23, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1590 revises the beach nourishment and inlet management project funding criteria and requires a minimum distribution of the minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million from the Land Acquisition Trust Fund to be appropriated annually for projects that preserve and repair the state's beaches in accordance with the revised project funding criteria.

II. Present Situation:

Beach and Shore Preservation

Fronting the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida, the state has 825 miles of sandy coastline.¹ Beaches are one of Florida's most valuable resources and serve multiple important functions including providing habitat and protection for several species of plants and animals, attracting visitors and new residents to the state, and providing a line of defense against

¹ Florida Department of Environmental Protection (DEP), *Beaches and Coastal Systems: About Us*, <http://www.dep.state.fl.us/beaches/> (last visited Mar. 16, 2017).

major storms.² Specifically, beaches are the most important feature of Florida's brand, accounting for 25.5 percent of the state's attractiveness to visitors.³

Beaches require ongoing maintenance to curtail erosion, which threatens this valuable state resource.⁴ While beaches are naturally prone to erosion due to natural forces, such as wind-driven currents and tides and storms, human-induced erosion is attributable to the construction and maintenance of navigation inlets and the development and placement of infrastructure in close proximity to the shore.⁵

Critically Eroded Beaches Report

The Florida Department of Environmental Protection (DEP) is required to determine which beaches are critically eroded and in need of restoration and nourishment.⁶ According to the DEP, there are 411.2 miles of critically eroded beach, 8.7 miles of critically eroded inlet shoreline, 93.5 miles of non-critically eroded beach, and 3.2 miles of non-critically eroded inlet shoreline statewide.⁷ Erosion is critical if "there is a threat to or loss of one of four specific interests – upland development, recreation, wildlife habitat, or important cultural resources."⁸

One way to restore eroded beaches is through beach nourishment, which is the replacement of sand that a beach has lost.⁹ In a typical beach nourishment project, sand is collected from an offshore location by a dredge and piped onto the beach.¹⁰ Bulldozers are then used to move the new sand on the beach until the beach matches the project design profile.¹¹ The DEP is authorized to review innovative technologies for beach nourishment and, on a limited basis, authorize alternatives to traditional dredge and fill projects to determine the most cost-effective techniques for beach nourishment.¹²

² *Id.*

³ Office of Economic & Demographic Research (EDR), *Economic Evaluation of Florida's Investment in Beaches: Identifying the State's Brand, Calculating the Return on Investment of Beach Restoration and Assessing the Risk of Disasters*, 1 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Mar. 16, 2017).

⁴ DEP, *Beaches and Coastal Systems: Why Restore Eroded Beaches?*, <http://www.dep.state.fl.us/beaches/programs/becp/restore.htm> (last visited Mar. 16, 2017).

⁵ DEP, *Strategic Beach Management Plan*, 1 (July 2015), available at <http://www.dep.state.fl.us/beaches/publications/pdf/SBMP/SBMP-Introduction.pdf> (last visited Mar. 16, 2017).

⁶ Section 161.101(1), F.S.

⁷ DEP, Division of Water Resource Management, *Critically Eroded Beaches in Florida*, 4, 5 (Aug. 2016), available at <http://www.dep.state.fl.us/beaches/publications/pdf/CriticalErosionReport.pdf> (last visited Mar. 16, 2017). The term "critically eroded shoreline" is defined in Fla. Admin. Code R. 62B-36.002 to mean "a segment of shoreline where natural processes or human activities have caused, or contributed to, erosion and recession of the beach and dune system to such a degree that upland development, recreational interests, wildlife habitat or important cultural resources are threatened or lost. Critically eroded shoreline may also include adjacent segments or gaps between identified critical erosion areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects."

⁸ DEP, Division of Water Resource Management, *Critically Eroded Beaches in Florida*, 7 (Aug. 2016).

⁹ *See s.* 161.021, F.S.

¹⁰ DEP, *Beaches and Coastal Systems: Why Restore Eroded Beaches?*, <http://www.dep.state.fl.us/beaches/programs/becp/restore.htm> (last visited Mar. 16, 2017).

¹¹ *Id.*

¹² Section 161.082, F.S.

Strategic Beach Management Plan

The DEP is required to develop and maintain a comprehensive long-term management plan for the restoration and maintenance of the state's critically eroded beaches.¹³ The beach management plan is required, in part, to:

- Address long-term solutions to the problem of critically eroded beaches;
- Evaluate each improved, modified, or altered inlet and determine whether the inlet is a significant cause of beach erosion;
- Design criteria for beach restoration and beach nourishment projects;
- Identify causes of shoreline erosion and change, calculate erosion rates, and project long-term erosion for all major beach and dune systems by surveys and profiles;
- Study dune and vegetative conditions; and
- Establish a prioritized list of beach restoration and beach nourishment projects and the funding levels needed for such projects.¹⁴

The State Beach Management Plan (SBMP) is a dynamic management tool for use by state, local, and federal government officials. The SBMP is updated periodically as specific strategies are implemented, new resources and opportunities are identified, and proposed strategies are developed by the DEP and federal or local government sponsors. The DEP prepares the SBMP at the regional level.¹⁵ The regional plans include recommendations of appropriate funding mechanisms for implementing projects in the beach management plan and describe the historical and present beach restoration activities taken to restore and manage Florida's beaches.¹⁶

Long Range Budget Plan

The statewide long range budget plan projects the 10-year planning needs for federal, state, and local governments necessary to implement the SBMP.¹⁷ The budget plan is subdivided by the same regions as the SBMP and provides a statewide view of many individual project efforts. The budget plan is used to encourage cooperation and coordination among local, state, and federal entities and organizations responsible for managing beaches.

Beach Management Funding Assistance Program

Pursuant to declared state public policy, the Legislature is required to fund beach restoration and nourishment projects, including inlet management projects, that cost-effectively provide beach-quality material for adjacent critically eroded beaches.¹⁸ Such projects must be in an area designated as critically eroded shoreline, or benefit an adjacent critically eroded shoreline; have a clearly identifiable beach management benefit consistent with the state's beach management plan; and be designed to reduce potential upland damage or mitigate adverse impacts caused by improved, modified, or altered inlets, coastal armoring, or existing upland development.¹⁹

¹³ Section 161.161, F.S.

¹⁴ *Id.*

¹⁵ See DEP, *Beaches and Coastal Systems: Publications*, <http://www.dep.state.fl.us/beaches/publications/index.htm#SBMP> (last visited Mar. 16, 2017), for each regional plan.

¹⁶ Section 161.161, F.S.

¹⁷ DEP, *Florida Beach Management Program, Long Range Budget Plan for 2017-2027*, 1 (Dec. 1, 2016), available at <http://www.dep.state.fl.us/beaches/programs/becp/docs/LRBP-FY1727.pdf> (last visited Mar. 16, 2017).

¹⁸ Section 161.088, F.S.

¹⁹ *Id.*

The DEP authorizes disbursements made to the DEP from the Land Acquisition Trust Fund (LATF) to carry out the state's responsibilities for a comprehensive, long-range, statewide beach management plan for erosion control; beach preservation, restoration, and nourishment; storm and hurricane protection; and other activities authorized pursuant to s. 28, Article X of the State Constitution.²⁰ The DEP established the Beach Management Funding Assistance Program for the purpose of working in concert with local, state, and federal governmental entities to achieve the protection, preservation, and restoration of Florida's sandy beaches.²¹

Section 161.101, F.S., authorizes the state to pay up to 75 percent of the actual costs for restoring and nourishing critically eroded beaches in recognition that local beach communities derive the primary benefits from the presence of adequate beaches.²² The local government in which the beach is located is responsible for the balance of such costs.²³ However, that section of law also provides that "until the unmet demand for repairing Florida's damaged beaches and dunes is satisfied, it is the further intent of the Legislature to cost share such projects equally between the state and local sponsors."²⁴

In order to receive state funds, projects are required to provide adequate public access, protect natural resources, and protect endangered and threatened species.²⁵ Additionally, the DEP is not authorized to fund projects that provide only recreational benefits. All funded projects are required to have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing the sand in the system. All of the following activities are ineligible for cost-sharing:

- Recreational structures, such as piers, decks, and boardwalks.
- Park activities and facilities, except for erosion control.
- Aesthetic vegetation.
- Water quality components of stormwater management systems.
- Experimental or demonstration projects, unless favorably peer-reviewed or scientifically documented.
- Hard structures, unless designed for erosion control or to enhance beach nourishment project longevity or bypassing performance.
- Operations and maintenance, with the exception of nourishment.
- Maintenance and repair of over-walks.
- Navigation construction, operation, and maintenance activities, except those elements whose purpose is to place or keep sand on adjacent beaches.²⁶

The DEP is required to consider the following criteria in determining annual funding priorities:

- The severity of erosion conditions, the threat to existing upland development, and recreational or economic benefits;

²⁰ Section 161.091(1), F.S.

²¹ Fla. Admin. Code R. 62B-36.001.

²² Section 161.101(1), F.S.

²³ *Id.*

²⁴ Section 161.101(15), F.S.

²⁵ Section 161.101(12), F.S.

²⁶ Section 161.101(13), F.S.

- The availability of federal matching dollars;
- The extent of the local government sponsor’s financial and administrative commitment to the project, including a long-term financial plan with a designated funding source for initial construction and periodic maintenance;
- Previous state commitment and involvement in the project;
- The anticipated physical performance of the proposed project, including the frequency of periodic planned nourishment;
- The extent to which the proposed project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches;
- Innovative, cost-effective, and environmentally sensitive applications to reduce erosion;
- Projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles;
- The extent to which local or regional sponsors of beach erosion control projects agree to coordinate the planning, design, and construction of their projects to take advantage of identifiable cost savings; and
- The degree to which the project addresses the state’s most significant beach erosion problems.²⁷

The DEP established a priority ranking system to implement the statutory criteria for beach and inlet management projects for funding assistance.²⁸ The ranking system is based on points. Under the system a project receives a total point score based on project ranking criteria. The total amount of points available for beach management projects is 115 points and the total for inlet

Statutory Criteria	Number of Component Criteria	Available Points
Beach Management		
Significance	6	20
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funds	3	10
Project Performance	2	10
Recreational and Economic Benefits	1	10
Severity of Erosion	1	10
Mitigation of Inlet Effects	1	10
Threat to Upland Structures	1	10
Innovative Technologies	2	5
Regionalization	1	5
Enhance Refuges of Nesting Sea Turtle	1	5
Total	29	115

Statutory Criteria	Number of Component Criteria	Available Points
Inlet Management		
Balancing the Sediment Budget	1	20
Inlet Management Plan	3	15
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funding	3	10
Sand Reaching the Inlet	1	10
Cost Effectiveness	1	10
Enhanced Project Performance	1	5
Total	20	90

²⁷ Section 161.101(14), F.S.

²⁸ Fla. Admin. Code R. 62B-36.006.

management projects is 90 points.²⁹ The charts provided above indicate the number of component criteria under each statutory criteria as developed by the DEP.³⁰

In December of 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating the DEP process for selecting and prioritizing beach management and inlet management projects. The review considered the current statutory criteria and related administrative rules and the funding request application process, information requirements, and timeline. Further, OPPAGA reviewed how the DEP uses each ranking criteria for establishing the annual priority order for beach management and restoration projects.

The report made several findings, including:

- Certain criteria accounts for the majority of the points awarded;
- Certain criteria only applies to a limited number of projects;
- The criteria do not adequately take into account the economic impact of beach projects;
- The criteria do not adequately account for a project's cost effectiveness or performance;
- The criteria do not take into account the impacts of recent storms or the current conditions of the shoreline;
- Stakeholders found the application requirements for funding to be too complicated and time consuming; and
- Stakeholders perceived a bias for projects that received federal funding.³¹

The American Society of Civil Engineers rated Florida's coastal areas infrastructure as a D+, citing to the fact that over the last 10 years, the average difference between requested and state appropriated funds exceeded \$40 million per year.³² The Office of Economic and Demographic Research determined that the state's investment in beach management and restoration generated a positive return on investment of 5.4.³³ A return greater than 1 means that the tax revenues generated by tourists to the state more than cover the state's expenditures on beaches.

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 \$0.70 per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at \$0.35 per \$100.³⁴

²⁹ See DEP, *Beach Management Funding Assistance Program, Local Government Funding Requests: Ranking Criteria for Beach and Inlet Management Projects*, (Updated 2013), available at

<http://www.dep.state.fl.us/BEACHES/programs/becp/docs/ranking-methodology-62B36.pdf> (last visited Mar. 17, 2017).

³⁰ Office of Program Policy Analysis & Government Accountability (OPPAGA), *The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist*, 4 (Dec. 2014), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1412rpt.pdf> (last visited Mar. 17, 2017).

³¹ *Id.* at 6-12.

³² American Society of Civil Engineers, *2016 Report Card for Florida's Infrastructure*, http://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf (last visited Mar. 16, 2017).

³³ EDR, *Economic Evaluation of Florida's Investment in Beaches: Identifying the State's Brand, Calculating the Return on Investment of Beach Restoration and Assessing the Risk of Disasters*, 1 (Jan. 2015).

³⁴ See ss. 201.02 and 201.08, F.S.

In 2014, Florida voters approved Amendment One, a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, and for 20 years thereafter, 33 percent of net revenues derived from the documentary stamp taxes be deposited into the LATF. Section 28, Article X 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.³⁵

To implement s. 28, Art. X of the State Constitution, the Legislature in the 2015 Special Session A passed ch. 2015-229, Laws of Florida.³⁶ 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 the Department of Environmental Protection as the trust fund to serve as the constitutionally mandated depository for a percentage of the documentary stamp tax revenues.³⁷

In 2016, the Legislature passed ch. 2016-201, Laws of Florida, referred to as “Legacy Florida.”³⁸ Legacy Florida amended s. 375.041, F.S., to require specified minimum distributions from the LATF. 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:
 - First to payments relating to debt service on Florida Forever bonds and Everglades restoration bonds; and
 - Then to payments relating to debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- 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

³⁵ FLA. CONST. art. X, s. 28.

³⁶ Chapter 2015-229, Laws of Fla.

³⁷ Chapter 2015-229, s. 9, s. 50, Laws of Fla.

³⁸ Chapter 2016-201, Laws of Fla.

Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan,³⁹ or the Northern Everglades and Estuaries Protection Program (NEEPP), with priority given to Everglades projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. The following specified distributions are required from these funds:

- \$32 million 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 through the 2025-2026 Fiscal Year for the CERP; and
- 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 springs restoration, protection, and management projects; and
- Five million annually to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka.⁴⁰
- Then any remaining moneys are authorized to be appropriated for the purposes set forth in s. 28, Art. X, of the State Constitution.⁴¹

The General Revenue Estimating Conference in December of 2016 estimated that for the 2017-2018 Fiscal Year a total of \$2.48 billion would be collected in documentary stamp taxes. Thirty-three percent of the net revenues collected or approximately \$814.1 million must be deposited into the LATF as required under s. 28, Art. X of the State Constitution.⁴²

III. Effect of Proposed Changes:

Beach Management Project Funding

Section 1 amends s. 161.101(14), F.S., to revise the beach management project funding criteria and require the Department of Environmental Protection (DEP) to adopt by rule a scoring system to determine annual funding priorities. The bill requires the scoring system to be consistent with the following criteria equally weighted within the following specified tiers:

Tier 1 (20 percent of the total project score)

Tier 1 consists of the tourism-related return on investment and economic impact of the project. The return on investment of the project equals the ratio of the tourism-related tax revenues for the most recent year to the amount of state funding requested for the proposed project. The economic impact of the project equals the ratio of the tourism-related tax revenues to all county tax revenues for the most recent year.

The DEP is required to calculate such ratios using state sales tax and tourism development tax data of the county having jurisdiction over the project area. If multiple counties have jurisdiction over the project area, the DEP is required to assess each county individually using these ratios

³⁹ Note that the “Long-Term Plan” includes the Restoration Strategies Regional Water Quality Plan.

⁴⁰ Section 375.041, F.S.

⁴¹ *Id.*

⁴² EDR, Revenue Estimating Conference, *Documentary Stamp Tax, Executive Summary* (Dec. 12, 2016) available at <http://www.edr.state.fl.us/Content/conferences/docstamp/docstampexecsummary.pdf> (last visited Mar. 15, 2017).

and then calculate the average of the ratios of each county to determine the final overall assessment for a multicounty project.

Tier 2 (45 percent of the total project score)

Tier 2 consists of the following criteria:

- The availability of federal matching dollars, considering federal authorization, the federal cost-share percentage, and the status of the funding award;
- The storm damage reduction benefits of the project based on the following considerations:
 - The current conditions of the project area, including any recent storm damage impacts, as a percentage of the volume of sand lost since the most recent beach nourishment event or most recent beach surveys. If the project area has not been previously restored, the DEP must use the historical background erosion rate;
 - The overall potential threat to existing upland development, including public and private structures and infrastructure, based on the percentage of vulnerable shoreline within the project boundaries;
 - The value of upland property benefiting from the protection provided by the project and its subsequent maintenance. A property must be within one-quarter mile of the project boundaries to be considered under this criterion; and
- The cost-effectiveness of the project based on the yearly cost per volume per mile of proposed beach fill placement. The DEP is required to consider the following criteria when assessing cost-effectiveness:
 - The existence of projects with proposed structural or design components to extend the beach nourishment interval;
 - Existing beach nourishment projects that reduce upland storm damage costs by incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects;
 - Proposed innovative technologies designed to reduce project costs; and
 - Regional sediment management strategies and coordination to conserve sand source resources and reduce project costs.

Tier 3 (20 percent of the total project score)

Tier 3 consists of the following criteria:

- Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project;
- The recreational benefits of the project based on:
 - The accessible beach area added by the project; and
 - The percentage of linear footage within the project boundaries that is zoned:
 - As recreational or open space;
 - For commercial use; or
 - Otherwise allows for public lodging establishments;
- The extent to which the project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches; and

- The degree to which the project addresses the state’s most significant beach erosion problems based on the ratio of the linear footage of the project shoreline to the cubic yards of sand placed per mile per year.

Tier 4 (15 percent of the total project score)

Tier 4 consists of:

- Increased prioritization of projects that have been on the DEP’s ranked project list for successive years and that have not previously secured state funding for project implementation;
- Environmental habitat enhancement, recognizing state or federal critical habitat areas for threatened or endangered species which may be subject to extensive shoreline armoring or recognizing areas where extensive shoreline armoring threatens the availability or quality of habitat for such species. Turtle-friendly designs, dune and vegetation projects for areas with redesigned or reduced fill templates, proposed incorporation of best management practices and adaptive management strategies to protect resources, and innovative technologies designed to benefit critical habitat preservation; and
- The overall readiness of the project to proceed in a timely manner considering the project’s readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, the availability of local funding sources, and the establishment of an erosion control line. If the DEP identifies specific reasonable and documented concerns that the project will not proceed in a timely manner, the DEP may choose not to include the project in the annual funding priorities submitted to the Legislature.

Section 2 amends s. 161.101(20), F.S., to revise provisions relating project lists, reporting requirements, and surplus funding in the following manner:

Project lists, notification, and summary reports

The bill requires the DEP to update their active project list at least quarterly, rather than by fiscal year. The bill revises the definition of the term “significant change” to include a project-specific change or cumulative changes which exceed the project’s original allocation by \$500,000 or more. The revised definition requires the DEP to notify the Governor and the Legislature when such change exceeds the project’s original allocation by \$500,000 or more in addition to a change exceeding 25 percent of the original allocation.

The DEP is required to prepare a summary of project activities, their funding status, and changes to annual project lists for the current and preceding fiscal year, which must be included in the DEP’s submission of its annual legislative budget request.

Funding for specific projects on annual project lists approved by the Legislature is required to remain available for 18 months. The bill requires the DEP, rather than the local project sponsor, to notify the Executive Office of the Governor and the Legislature when appropriated project dollars are released to a project sponsor.

Surplus funding

The bill requires the DEP to provide supporting justification in addition to notification to the Executive Office of the Governor and the Legislature regarding its intent regarding the use of surplus dollars for projects that have a significant change. The bill authorizes such surplus funds to be used for beach restoration and nourishment projects in addition to being available for inlet management projects, reversion as part of the next appropriations process, or used for other specified priority projects on active project lists.

The DEP is not required to provide such notice and justification for the use of surplus funds for projects that do not have a significant change. However, the DEP must post the uses of such surplus funds on the project listing page on its website.

Inlet Management Projects

Section 3 amends s. 161.143, F.S., to revise the funding priorities for inlet management projects.

The bill requires that projects considered for funding under the inlet management program are required to be considered separate and apart from projects reviewed and prioritized under the tiered structure for beach nourishment projects. The bill requires that the inlet management projects funded by the DEP constitute the intended scope of inlet management and of the state's public policy relating to improved navigation inlets found in s. 161.142, F.S. The bill expands the types of inlet management projects that the DEP may consider for priority funding to include improvements of infrastructure to facilitate sand bypassing.

The bill requires the DEP to give equal consideration to the listed criteria and revises such ranking criteria by:

- Requiring the DEP to consider the cost-effectiveness of sand made available by a proposed inlet management project or activity relative to other sand source opportunities that could be used to address inlet-caused erosion;
- Removing the term "existing" from the provision requiring the DEP to consider the extent to which bypassing activities at an inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project;
- Removing the requirement that the DEP consider the interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost share for initial construction, ongoing sand bypassing, channel dredging, and maintenance;
- Revising the requirements relating to inlet management plans or local-government-sponsored inlet studies by requiring the DEP to consider the existence of a proposed or recently updated inlet management plan or a local-government-sponsored inlet study addressing the mitigation of an inlet's erosive effects on adjacent beaches; and
- Clarifying that the DEP is to consider the criteria used for ranking beach nourishment projects for inlet management projects if the criteria is distinct from and not duplicative of the inlet management project ranking criteria.

The bill authorizes the DEP to pay from legislative appropriations up to 75 percent of the construction costs of an initial major inlet management project component for the purpose of mitigating the erosive effects of the inlet to the shoreline and balancing sediment budget. The remaining balance is required to be paid from other funding sources, such as local sponsors. All other project costs not associated with an initial major project component are required to be shared equally by state and local sponsors.

The bill removes the authorization for the DEP to employ university-based or other contractual sources for studies that are consistent with the public policy of the state relating to improved navigation inlets.

The bill revises the requirements for the inlet management project list, which the DEP is required to submit to the Legislature by:

- Removing the requirement that:
 - The list include studies, projects, or other activities that address the management of at least 10 separate ranked inlets;
 - At least 50 percent of the funds appropriated for feasibility and design category in the DEP's fixed capital outlay funding request be available for projects on the current year's inlet management project list which involve the study for, or design or development of, an inlet management project;
 - All statewide beach management funds that remain unencumbered or are allocated to non-project-specific activities for projects on legislatively approved inlet management project lists be made available;
 - The Legislature designate one of the three highest projects on the inlet management project list in any year as the Inlet of the Year and requirements of the DEP relating thereto; and
- Requiring that the DEP:
 - Designate for projects on the current year's list, in priority order, an amount that is at least equal to the greater of:
 - Ten percent of the total amount that the Legislature appropriates in the fiscal year for statewide beach management; or
 - The percentage of inlet management funding requests from local sponsors as a proportion of the total amount of statewide beach management dollars requested in a given year;
 - Include inlet monitoring activities ranked on the inlet management project list as one aggregated subcategory on the overall inlet management project list; and
 - Update and maintain an annual report on its website concerning the extent to which each inlet project has succeeded in balancing the sediment budget of the inlet and adjacent beaches and in mitigating the inlet's erosive effects on adjacent beaches. The report must provide an estimate of the quantity of sediment bypasses, transferred, or otherwise placed on adjacent eroding beaches, or in such beaches' nearshore area, for the purpose of offsetting the erosive effects of inlets on the beaches of this state.

Strategic Beach Management Plan

Section 4 amends s. 161.161, F.S., to require the DEP in developing and maintaining the Strategic Beach Management Plan (SBMP) to:

- Include recommendations for improvement of infrastructure to facilitate sand bypassing to mitigate the erosive impact of an inlet that causes beach erosion;
- Consider the establishment of regional sediment management alternatives for one or more individual beach and inlet sand bypassing projects as an alternative to beach restoration when appropriate and cost-effective, and recommend the location of such regional sediment management alternatives and the source of beach-compatible sand;
- In addition to identifying shoreline erosion and change, determine erosion rates, and maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions;
- In addition to studying dune and vegetation conditions, identify existing beach nourishment projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance events;
- Document procedures and policies for preparing post-storm damage assessments and corresponding recovery plans, including repair cost estimates; and
- Identify and assess appropriate management measures for all of the state's critically eroded sandy beaches.

The bill removes the requirement that the DEP, in developing and maintaining the SBMP:

- Include cost estimates necessary to take inlet corrective measures and recommendations regarding cost sharing among the beneficiaries of such inlet;
- Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches;
- Project long-term erosion for all major beach and dune systems by surveys and profiles;
- Identify shoreline development and degree of density;
- In identifying short-and long-term economic costs and benefits of beaches, include recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs;
- Identify alternative management responses to prevent inappropriate development and redevelopment on migrating beaches;
- Consider abandonment as an alternative management response;
- Establish criteria, including costs and specific implementation actions, for alternative management techniques; and
- Submit regional plans on a set schedule and in accordance with certain requirements.

The bill authorizes the DEP to hold a public meeting in the region which the plan is prepared through a publicly noticed webinar. The bill requires the comprehensive long-term management plan to include, at a minimum, a strategic beach management plan, a critically eroded beaches report, and a statewide long range budget plan.

Long range budget plan

The DEP is required to provide a long range budget plan that includes at least 5 years of planned beach nourishment and inlet management project funding needs as identified, and subsequently refined, by local government sponsors. The plan is required to consist of a 3-year work plan and a long-range plan that identifies projects for inclusion in the Fourth and Fifth ensuing years.

The long range budget plan must include a 3-year work plan for beach nourishment projects and inlet management projects. The 3-year work plan is required to list planned projects for each of the 3 fiscal years addressed in the work plan. The 3-year work plan must:

- Identity beach nourishment and inlet management projects viable for implementation during the next 3 ensuing fiscal years, as determined by available cost-sharing, local sponsor support, regulatory considerations, and the ability of the project to proceed as scheduled;
- For year fiscal year, identify proposed projects and their current development status, listing them in priority order based on the applicable criteria; and
- Be accompanied by a 3-year financial forecast for the availability of funding for the projects based on funds dedicated through the Land Acquisition Trust Fund.

The bill authorizes specific funding requests and criteria ranking to be modified as warranted in each successive fiscal year, provided that such modifications are documented and submitted to the Legislature with each 3-year work plan. Year One projects consist of projects identified for funding consideration in the ensuing fiscal year.

Projects for consideration in the Fourth and Fifth ensuing years may be presented by region and do not need to be presented by priority order. However, the DEP is required to identify issues that may prevent successful completion of such projects and recommend solutions that would allow the projects to progress into the 3-year work plan.

The bill requires the DEP to present the 3-year work plan to the Legislature each year.

Land Acquisition Trust Fund

Section 5 amends s. 375.041, F.S., to require an annual minimum distribution from the Land Acquisition Trust Fund in the amount of a minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million. Such funds are required to be appropriated annually for projects that preserve and repair the state's beaches.

The bill requires that the amount of the distribution to be calculated to be reduced by an amount equal to the debt service paid on bonds issues for projects that preserve or repair the state's beaches issued after July 1, 2016.

Except for section 1 and section 4 of the bill, which take effect July 1, 2018, the bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 28, Article X of the State Constitution requires that 33 percent of net revenues derived from documentary stamp taxes be deposited into the LATF to be used for the acquisition and improvement of land, water areas, and related property interests, together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands. For the full text of s. 28, Art. X of the State Constitution, see the Land Acquisition Trust Fund section of this analysis beginning on page 6.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have a positive, indeterminate fiscal impact to local governments that receive funding for beach nourishment. The bill has a negative, recurring impact to the LATF of the minimum of the lesser of 7.6 percent of the remainder of funds after the payment of debt service within the LATF or \$50 million. However, some of the costs may be offset depending on the return on investment the state receives related to beach restoration and nourishment projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.101, 161.143, 161.161, and 375.041.

IX. Additional Information:

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

CS by Environmental Preservation and Conservation on March 22, 2017:

CS/SB 1590 pushes back the effective date for the amendment to s. 161.101(14), F.S., relating to the scoring system for beach management project funding and s. 161.161, F.S., relating to the procedure for the approval of projects for beach and inlet management.

- B. **Amendments:**

None.

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



787478

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 62 - 63

and insert:

Section 1. Effective July 1, 2018, subsection (14) of
section 161.101, Florida Statutes, is amended to read:

Between lines 202 and 203

insert:

Section 2. Subsection (20) of section 161.101, Florida



787478

11 Statutes, is amended to read:

12 161.101 State and local participation in authorized
13 projects and studies relating to beach management and erosion
14 control.-

15
16 Delete line 407

17 and insert:

18 Section 4. Effective July 1, 2018, subsections (1) and (2)
19 of section 161.161,

20
21 Delete line 621

22 and insert:

23 Section 6. Except as otherwise provided in this act, this
24 act shall take effect July 1, 2017.

25
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete line 58

29 and insert:

30 providing effective dates.

By Senator Latvala

16-00086B-17

20171590__

1
2 A bill to be entitled
3 An act relating to coastal management; amending s.
4 161.101, F.S.; revising the criteria to be considered
5 by the Department of Environmental Protection in
6 determining and assigning annual funding priorities
7 for beach management and erosion control projects;
8 specifying tiers for such criteria; requiring tiers to
9 be given certain weight; requiring the department to
10 update active project lists on its website; redefining
11 the term "significant change"; revising the
12 department's reporting requirements; specifying
13 allowable uses for certain surplus funds; revising the
14 requirements for a specified summary; requiring that
15 funding for certain projects remain available for a
16 specified period; amending s. 161.143, F.S.;
17 specifying the scope of certain projects; revising the
18 list of projects that are included as inlet management
19 projects; requiring that certain projects be
20 considered separate and apart from other specified
21 projects; revising the ranking criteria to be used by
22 the department to establish certain funding priorities
23 for certain inlet-caused beach erosion projects;
24 revising provisions authorizing the department to
25 spend certain appropriated funds for the management of
26 inlets; deleting a provision authorizing the
27 department to spend certain appropriated funds for
28 specified inlet studies; revising the required
29 elements of the department's report of prioritized

16-00086B-17

20171590__

30 inlet management projects; revising the funds that the
31 department must make available to certain inlet
32 management projects; requiring the department to
33 include specified activities on the inlet management
34 project list; deleting provisions requiring the
35 department to make available funding for specified
36 projects; deleting a requirement that the Legislature
37 designate a project as an Inlet of the Year; requiring
38 the department to update and maintain a report
39 regarding the progress of certain inlet management
40 projects; revising the requirements for the report;
41 deleting certain temporary provisions relating to
42 specified appropriations; amending s. 161.161, F.S.;
43 revising requirements for the comprehensive long-term
44 management plan; requiring the plan to include a
45 strategic beach management plan, a critically eroded
46 beaches report, and a statewide long-range budget
47 plan; providing for the development and maintenance of
48 such plans; deleting a requirement that the department
49 submit a certain beach management plan on a certain
50 date each year; requiring the department to hold a
51 public meeting before finalization of the strategic
52 beach management plan; requiring the department to
53 submit a 3-year work plan and a related forecast for
54 the availability of funding to the Legislature;
55 amending s. 375.041, F.S.; requiring certain funds
56 from the Land Acquisition Trust Fund to be used for
57 projects that preserve and repair state beaches;
58 providing an effective date.

16-00086B-17

20171590__

59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87

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

Section 1. Subsections (14) and (20) of section 161.101, Florida Statutes, are amended to read:

161.101 State and local participation in authorized projects and studies relating to beach management and erosion control.—

(14) The intent of the Legislature in preserving and protecting Florida's sandy beaches pursuant to this act is to direct beach erosion control appropriations to the state's most severely eroded beaches, and to prevent further adverse impact caused by improved, modified, or altered inlets, coastal armoring, or existing upland development. In establishing annual project funding priorities, the department shall seek formal input from local coastal governments, beach and general government interest groups, and university experts. The department shall adopt by rule a scoring system to determine annual project funding priorities. The scoring system must consist of the following criteria equally weighted within the following specified tiers ~~criteria to be considered by the department in determining annual funding priorities shall include:~~

(a) Tier 1 must account for 20 percent of the total score and consist of the tourism-related return on investment and the severity of erosion conditions, the threat to existing upland development, and recreational and/or economic impact of the project. The return on investment of the project is the ratio of the tourism-related tax revenues for the most recent year to the

16-00086B-17

20171590__

88 amount of state funding requested for the proposed project. The
89 economic impact of the project is the ratio of the tourism-
90 related tax revenues for the most recent year to all county tax
91 revenues for the most recent year. The department must calculate
92 these ratios using state sales tax and tourism development tax
93 data of the county having jurisdiction over the project area. If
94 multiple counties have jurisdiction over the project area, the
95 department must assess each county individually using these
96 ratios. The department shall calculate the mean average of these
97 ratios to determine the final overall assessment for the
98 multicounty project ~~benefits~~.

99 (b) Tier 2 must account for 45 percent of the total score
100 and consist of the following criteria:

101 1. The availability of federal matching dollars,
102 considering federal authorization, the federal cost-share
103 percentage, and the status of the funding award;-

104 2. The storm damage reduction benefits of the project based
105 on the following considerations:

106 a. The current conditions of the project area, including
107 any recent storm damage impact, as a percentage of volume of
108 sand lost since the most recent beach nourishment event or most
109 recent beach surveys. If the project area has not been
110 previously restored, the department must use the historical
111 background erosion rate;

112 b. The overall potential threat to existing upland
113 development, including public and private structures and
114 infrastructure, based on the percentage of vulnerable shoreline
115 within the project boundaries; and

116 c. The value of upland property benefiting from the

16-00086B-17

20171590__

117 protection provided by the project and its subsequent
118 maintenance. A property must be within one-quarter mile of the
119 project boundaries to be considered under the criterion
120 specified in this subparagraph; and

121 3. The cost-effectiveness of the project based on the
122 yearly cost per volume per mile of proposed beach fill
123 placement. The department shall also consider the following when
124 assessing cost-effectiveness pursuant to this subparagraph:

125 a. The existence of projects with proposed structural or
126 design components to extend the beach nourishment interval;

127 b. Existing beach nourishment projects that reduce upland
128 storm damage costs by incorporating new or enhanced dune
129 structures or new or existing dune restoration and revegetation
130 projects;

131 c. Proposed innovative technologies designed to reduce
132 project costs; and

133 d. Regional sediment management strategies and coordination
134 to conserve sand source resources and reduce project costs.

135 (c) Tier 3 must account for 20 percent of the total score
136 and consist of the following criteria: ~~The extent of local~~
137 ~~government sponsor financial and administrative commitment to~~
138 ~~the project, including a long-term financial plan with a~~
139 ~~designated funding source or sources for initial construction~~
140 ~~and periodic maintenance.~~

141 1. ~~(d)~~ Previous state commitment and involvement in the
142 project, considering previously funded phases, the total amount
143 of previous state funding, and previous partial appropriations
144 for the proposed project;

145 2. The recreational benefits of the project based on:

16-00086B-17

20171590__

146 a. The accessible beach area added by the project; and
147 b. The percentage of linear footage within the project
148 boundaries that is zoned:

149 (I) As recreational or open space;
150 (II) For commercial use; or
151 (III) To otherwise allow for public lodging
152 establishments;-

153 ~~(c) The anticipated physical performance of the proposed~~
154 ~~project, including the frequency of periodic planned~~
155 ~~nourishment.~~

156 3.-(f) The extent to which the proposed project mitigates
157 the adverse impact of improved, modified, or altered inlets on
158 adjacent beaches; and-

159 ~~(g) Innovative, cost-effective, and environmentally~~
160 ~~sensitive applications to reduce erosion.~~

161 ~~(h) Projects that provide enhanced habitat within or~~
162 ~~adjacent to designated refuges of nesting sea turtles.~~

163 ~~(i) The extent to which local or regional sponsors of beach~~
164 ~~erosion control projects agree to coordinate the planning,~~
165 ~~design, and construction of their projects to take advantage of~~
166 ~~identifiable cost savings.~~

167 4.-(j) The degree to which the project addresses the state's
168 most significant beach erosion problems based on the ratio of
169 the linear footage of the project shoreline to the cubic yards
170 of sand placed per mile per year.

171 (d) Tier 4 must account for 15 percent of the total score
172 and consist of the following criteria:

173 1. Increased prioritization of projects that have been on
174 the department's ranked project list for successive years and

16-00086B-17

20171590__

175 that have not previously secured state funding for project
176 implementation;

177 2. Environmental habitat enhancement, recognizing state or
178 federal critical habitat areas for threatened or endangered
179 species which may be subject to extensive shoreline armoring or
180 recognizing areas where extensive shoreline armoring threatens
181 the availability or quality of habitat for such species. Turtle-
182 friendly designs, dune and vegetation projects for areas with
183 redesigned or reduced fill templates, proposed incorporation of
184 best management practices and adaptive management strategies to
185 protect resources, and innovative technologies designed to
186 benefit critical habitat preservation may also be considered;
187 and

188 3. The overall readiness of the project to proceed in a
189 timely manner considering the project's readiness for the
190 construction phase of development, the status of required
191 permits, the status of any needed easement acquisition, the
192 availability of local funding sources, and the establishment of
193 an erosion control line. If the department identifies specific
194 reasonable and documented concerns that the project will not
195 proceed in a timely manner, the department may choose not to
196 include the project in the annual funding priorities submitted
197 to the Legislature.

198
199 ~~If In the event that~~ more than one project qualifies equally
200 under the provisions of this subsection, the department shall
201 assign funding priority to those projects shown to be most ~~that~~
202 ~~are~~ ready to proceed.

203 (20) The department shall maintain active project lists,

16-00086B-17

20171590__

204 updated at least quarterly, ~~listings~~ on its website by fiscal
205 year in order to provide transparency regarding those projects
206 receiving funding and the funding amounts, and to facilitate
207 legislative reporting and oversight. In consideration of this
208 intent:

209 (a) The department shall notify the Executive Office of the
210 Governor and the Legislature regarding any significant changes
211 in the funding levels of a given project as initially requested
212 in the department's budget submission and subsequently included
213 in approved annual funding allocations. The term "significant
214 change" means a project-specific change or cumulative changes
215 that exceed the project's original allocation by \$500,000 or
216 that exceed ~~those changes exceeding~~ 25 percent of the a
217 project's original allocation.

218 1. Except as provided in subparagraph 2., if there is
219 surplus funding, the department must provide a notification and
220 supporting justification ~~shall be provided~~ to the Executive
221 Office of the Governor and the Legislature to indicate whether
222 surplus additional dollars are intended to be used for inlet
223 management projects pursuant to s. 161.143 or for beach
224 restoration and beach nourishment projects, offered for
225 reversion as part of the next appropriations process, or used
226 for other specified priority projects on active project lists.

227 2. For surplus funds for projects that do not have a
228 significant change, the department may use such funds for the
229 same purposes identified in subparagraph 1. The department shall
230 post the uses of such funds on the project listing web page of
231 its website. No other notice or supporting justification is
232 required before the use of surplus funds for a project that does

16-00086B-17

20171590__

233 not have a significant change.

234 (b) The department shall prepare a summary of ~~specific~~
235 project activities ~~for the current fiscal year,~~ their funding
236 status, and changes to annual project lists for the current and
237 preceding fiscal year. ~~shall be prepared by~~ The department shall
238 include the summary ~~and included~~ with the department's
239 submission of its annual legislative budget request.

240 (c) Funding for specific projects on annual project lists
241 approved by the Legislature must remain available for such
242 projects for 18 months. A local project sponsor may at any time
243 release, in whole or in part, appropriated project dollars by
244 formal notification to the department. The department, ~~which~~
245 shall notify the Executive Office of the Governor and the
246 Legislature of such release and. ~~Notification must~~ indicate in
247 the notification how the project dollars are recommended
248 ~~intended~~ to be used after such release.

249 Section 2. Subsections (2) through (5) of section 161.143,
250 Florida Statutes, are amended to read:

251 161.143 Inlet management; planning, prioritizing, funding,
252 approving, and implementing projects.-

253 (2) The department shall establish annual funding
254 priorities for studies, activities, or other projects concerning
255 inlet management. Such inlet management projects constitute the
256 intended scope of this section and s. 161.142 and consist of
257 ~~include, but are not limited to,~~ inlet sand bypassing,
258 improvement of infrastructure to facilitate sand bypassing,
259 modifications to channel dredging, jetty redesign, jetty repair,
260 disposal of spoil material, and the development, revision,
261 adoption, or implementation of an inlet management plan.

16-00086B-17

20171590__

262 Projects considered for funding pursuant to this section shall
263 be considered separate and apart from projects reviewed and
264 prioritized in s. 161.101(14). The funding priorities
265 established by the department under this section must be
266 consistent with the requirements and legislative declaration in
267 ss. 161.101(14), 161.142, and 161.161(1)(b). In establishing
268 funding priorities under this subsection and before transmitting
269 the annual inlet project list to the Legislature under
270 subsection (4) ~~(5)~~, the department shall seek formal input from
271 local coastal governments, beach and general government
272 associations and other coastal interest groups, and university
273 experts concerning annual funding priorities for inlet
274 management projects. In order to maximize the benefits of
275 efforts to address the inlet-caused beach erosion problems of
276 this state, the ranking criteria used by the department to
277 establish funding priorities for studies, activities, or other
278 projects concerning inlet management must include equal
279 consideration of:

280 (a) An estimate of the annual quantity of beach-quality
281 sand reaching the updrift boundary of the improved jetty or
282 inlet channel.

283 (b) The severity of the erosion to the adjacent beaches
284 caused by the inlet ~~and the extent to which the proposed project~~
285 ~~mitigates the erosive effects of the inlet.~~

286 (c) The overall significance and anticipated success of the
287 proposed project in mitigating the erosive effects of the inlet,
288 balancing the sediment budget of the inlet and adjacent beaches,
289 and addressing the sand deficit along the inlet-affected
290 shorelines.

16-00086B-17

20171590__

291 (d) The extent to which ~~existing~~ bypassing activities at an
292 inlet would benefit from modest, cost-effective improvements
293 when considering the volumetric increases from the proposed
294 project, the availability of beach-quality sand currently not
295 being bypassed to adjacent eroding beaches, and the ease with
296 which such beach-quality sand may be obtained.

297 (e) The cost-effectiveness of sand made available by a
298 proposed inlet management project or activity relative to other
299 sand source opportunities that would be used to address inlet-
300 caused beach erosion ~~The interest and commitment of local~~
301 ~~governments as demonstrated by their willingness to coordinate~~
302 ~~the planning, design, construction, and maintenance of an inlet~~
303 ~~management project and their financial plan for funding the~~
304 ~~local cost share for initial construction, ongoing sand~~
305 ~~bypassing, channel dredging, and maintenance.~~

306 (f) The existence of a proposed or recently updated ~~The~~
307 ~~previous completion or approval of a state-sponsored inlet~~
308 ~~management plan or a local-government-sponsored inlet study~~
309 ~~addressing concerning the inlet addressed by the proposed~~
310 ~~project, the ease of updating and revising any such plan or~~
311 ~~study, and the adequacy and specificity of the plan's or study's~~
312 ~~recommendations concerning the mitigation of an inlet's erosive~~
313 ~~effects on adjacent beaches.~~

314 (g) The degree to which the proposed project will enhance
315 the performance and longevity of proximate beach nourishment
316 projects, thereby reducing the frequency of such periodic
317 nourishment projects.

318 (h) The project-ranking criteria in s. 161.101(14) to the
319 extent such criteria are applicable to inlet management studies,

16-00086B-17

20171590__

320 projects, and activities and are distinct from, and not
321 duplicative of, the criteria listed in paragraphs (a)-(g).

322 (3) The department may pay from legislative appropriations
323 up to 75 percent of the construction costs of an initial major
324 inlet management project component for the purpose of mitigating
325 the erosive effects of the inlet to the shoreline and balancing
326 the sediment budget. The remaining balance of such construction
327 costs must be paid from other funding sources, such as local
328 sponsors. All project costs not associated with an initial major
329 inlet management project component must be shared equally by
330 state and local sponsors in accordance with, ~~pursuant to s.~~
331 ~~161.101 and notwithstanding s. 161.101(15), pay from legislative~~
332 ~~appropriations provided for these purposes 75 percent of the~~
333 ~~total costs, or, if applicable, the nonfederal costs, of a~~
334 ~~study, activity, or other project concerning the management of~~
335 ~~an inlet. The balance must be paid by the local governments or~~
336 ~~special districts having jurisdiction over the property where~~
337 ~~the inlet is located.~~

338 (4) ~~Using the legislative appropriation to the statewide~~
339 ~~beach management support category of the department's fixed~~
340 ~~capital outlay funding request, the department may employ~~
341 ~~university-based or other contractual sources and pay 100~~
342 ~~percent of the costs of studies that are consistent with the~~
343 ~~legislative declaration in s. 161.142 and that:~~

344 (a) ~~Determine, calculate, refine, and achieve general~~
345 ~~consensus regarding net annual sediment transport volumes to be~~
346 ~~used for the purpose of planning and prioritizing inlet~~
347 ~~management projects; and~~

348 (b) ~~Appropriate, assign, and apportion responsibilities~~

16-00086B-17

20171590__

349 ~~between inlet beneficiaries for the erosion caused by a~~
350 ~~particular inlet on adjacent beaches.~~

351 ~~(4)(5)~~ The department shall annually provide an inlet
352 management project list, in priority order, to the Legislature
353 as part of the department's budget request. ~~The list must~~
354 ~~include studies, projects, or other activities that address the~~
355 ~~management of at least 10 separate inlets and that are ranked~~
356 ~~according to the criteria established under subsection (2).~~

357 (a) The department shall designate for ~~make available at~~
358 ~~least 10 percent of the total amount that the Legislature~~
359 ~~appropriates in each fiscal year for statewide beach management~~
360 ~~for the three highest-ranked projects on the current year's~~
361 ~~inlet management project list, in priority order, an amount that~~
362 ~~is at least equal to the greater of:~~

363 1. Ten percent of the total amount that the Legislature
364 appropriates in the fiscal year for statewide beach management;
365 or

366 2. The percentage of inlet management funding requests from
367 local sponsors as a proportion of the total amount of statewide
368 beach management dollars requested in a given year.

369 (b) The department shall include inlet monitoring
370 activities ranked on the inlet management project list as one
371 aggregated subcategory on the overall inlet management project
372 list ~~make available at least 50 percent of the funds~~
373 ~~appropriated for the feasibility and design category in the~~
374 ~~department's fixed capital outlay funding request for projects~~
375 ~~on the current year's inlet management project list which~~
376 ~~involve the study for, or design or development of, an inlet~~
377 ~~management project.~~

16-00086B-17

20171590__

378 ~~(c) The department shall make available all statewide beach~~
379 ~~management funds that remain unencumbered or are allocated to~~
380 ~~non-project-specific activities for projects on legislatively~~
381 ~~approved inlet management project lists. Funding for local-~~
382 ~~government specific projects on annual project lists approved by~~
383 ~~the Legislature must remain available for such purposes for a~~
384 ~~period of 18 months pursuant to s. 216.301(2) (a). Based on an~~
385 ~~assessment and the department's determination that a project~~
386 ~~will not be ready to proceed during this 18-month period, such~~
387 ~~funds shall be used for inlet management projects on~~
388 ~~legislatively approved lists.~~

389 ~~(5) (d) The Legislature shall designate one of the three~~
390 ~~highest projects on the inlet management project list in any~~
391 ~~year as the Inlet of the Year. The department shall update and~~
392 ~~maintain an annual annually report on its website to the~~
393 ~~Legislature concerning the extent to which each inlet project~~
394 ~~designated by the Legislature as Inlet of the Year has succeeded~~
395 ~~in balancing the sediment budget of the inlet and adjacent~~
396 ~~beaches and in, mitigating the inlet's erosive effects on~~
397 ~~adjacent beaches. The report must provide an estimate of the~~
398 ~~quantity of sediment bypassed, transferred, and transferring or~~
399 ~~otherwise placed placing beach-quality sand on adjacent eroding~~
400 ~~beaches, or in such beaches' nearshore area, for the purpose of~~
401 ~~offsetting the erosive effects of inlets on the beaches of this~~
402 ~~state.~~

403 ~~(e) Notwithstanding paragraphs (a) and (b), and for the~~
404 ~~2016-2017 fiscal year only, the amount allocated for inlet~~
405 ~~management funding is provided in the 2016-2017 General~~
406 ~~Appropriations Act. This paragraph expires July 1, 2017.~~

16-00086B-17

20171590__

407 Section 3. Subsections (1) and (2) of section 161.161,
408 Florida Statutes, are amended, and present subsections (3)
409 through (7) are redesignated as subsections (4) through (8),
410 respectively, to read:

411 161.161 Procedure for approval of projects.—

412 (1) The department shall develop and maintain a
413 comprehensive long-term beach management plan for the
414 restoration and maintenance of the state's critically eroded
415 beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits
416 of Florida. In developing and maintaining this ~~the beach~~
417 ~~management plan, the department~~ shall:

418 (a) Address long-term solutions to the problem of
419 critically eroded beaches in this state.

420 (b) Evaluate each improved, modified, or altered inlet and
421 determine whether the inlet is a significant cause of beach
422 erosion. With respect to each inlet determined to be a
423 significant cause of beach erosion, the plan shall include:

424 ~~1.~~ the extent to which such inlet causes beach erosion and
425 recommendations to mitigate the erosive impact of the inlet,
426 including, but not limited to, ~~recommendations regarding inlet~~
427 sediment bypassing; improvement of infrastructure to facilitate
428 sand bypassing; modifications to channel dredging, jetty design,
429 and disposal of spoil material; establishment of feeder beaches;
430 and beach restoration and beach nourishment; ~~and~~

431 ~~2. Cost estimates necessary to take inlet corrective~~
432 ~~measures and recommendations regarding cost sharing among the~~
433 ~~beneficiaries of such inlet.~~

434 (c) Evaluate Design ~~Design~~ criteria for beach restoration and
435 beach nourishment projects, including, but not limited to, +

16-00086B-17

20171590__

436 ~~1.~~ dune elevation and width and revegetation and
437 stabilization requirements,~~r~~ and

438 ~~2.~~ beach profiles ~~profile~~.

439 (d) Consider ~~Evaluate~~ the establishment of regional
440 sediment management alternatives for one or more individual
441 beach and inlet sand bypassing projects ~~feeder beaches~~ as an
442 alternative to ~~direct~~ beach restoration when appropriate and
443 cost-effective, and recommend the location of such regional
444 sediment management alternatives ~~feeder beaches~~ and the source
445 of beach-compatible sand.

446 (e) Identify causes of shoreline erosion and change,
447 determine ~~calculate~~ erosion rates, and maintain an updated list
448 of critically eroded sandy beaches based on data, analyses, and
449 investigations of shoreline conditions ~~and project long-term~~
450 ~~erosion for all major beach and dune systems by surveys and~~
451 ~~profiles~~.

452 (f) ~~Identify shoreline development and degree of density~~
453 ~~and~~ Assess impacts of development and coastal protection
454 ~~shoreline protective~~ structures on shoreline change and erosion.

455 (g) Identify short-term and long-term economic costs and
456 benefits of beaches to the state of Florida and individual beach
457 communities, ~~including recreational value to user groups, tax~~
458 ~~base, revenues generated, and beach acquisition and maintenance~~
459 ~~costs~~.

460 (h) Study dune and vegetation conditions, identify existing
461 beach nourishment projects without dune features or with dunes
462 without adequate elevations, and encourage dune restoration and
463 revegetation to be incorporated as part of storm damage recovery
464 projects or future dune maintenance events.

16-00086B-17

20171590__

465 (i) Identify beach areas used by marine turtles and develop
466 strategies for protection of the turtles and their nests and
467 nesting locations.

468 (j) Identify alternative management responses to preserve
469 undeveloped beach and dune systems and, to restore damaged beach
470 and dune systems. In identifying such management responses, the
471 department shall consider, at a minimum, and to prevent
472 inappropriate development and redevelopment on migrating
473 beaches, and consider beach restoration and nourishment,
474 armoring, relocation and abandonment, dune and vegetation
475 restoration, and acquisition.

476 (k) Document procedures and policies for preparing post-
477 storm damage assessments and corresponding recovery plans,
478 including repair cost estimates. Establish criteria, including
479 costs and specific implementation actions, for alternative
480 management techniques.

481 (l) Identify and assess ~~Select and recommend~~ appropriate
482 management measures for all of the state's critically eroded
483 sandy beaches ~~in a beach management program.~~

484 ~~(m) Establish a list of beach restoration and beach~~
485 ~~nourishment projects, arranged in order of priority, and the~~
486 ~~funding levels needed for such projects.~~

487 (2) The comprehensive long-term management plan developed
488 and maintained by the department pursuant to subsection (1) must
489 include, at a minimum, a strategic beach management plan, a
490 critically eroded beaches report, and a statewide long-range
491 budget plan. The long-range budget plan must include a 3-year
492 work plan for beach nourishment projects and inlet management
493 projects that lists planned projects for each of the 3 fiscal

16-00086B-17

20171590__

494 years addressed in the work plan.

495 (a) The strategic beach management plan must identify and
496 recommend appropriate measures for all of the state's critically
497 eroded sandy beaches and may incorporate plans ~~be prepared at~~
498 the regional level taking into account ~~based upon~~ areas of
499 greatest need and probable federal and local funding. Upon
500 approval in accordance with chapter 86-138, Laws of Florida,
501 such regional plans, along with the 3-year work plan identified
502 in subparagraph (c)1., shall be components of the statewide
503 ~~beach management plan and shall serve as the basis for state~~
504 ~~funding decisions upon approval in accordance with chapter 86-~~
505 ~~138, Laws of Florida. In accordance with a schedule established~~
506 ~~for the submission of regional plans by the department, any~~
507 ~~completed plan must be submitted to the secretary of the~~
508 ~~department for approval no later than March 1 of each year.~~
509 ~~These regional plans shall include, but shall not be limited to,~~
510 ~~recommendations of appropriate funding mechanisms for~~
511 ~~implementing projects in the beach management plan, giving~~
512 ~~consideration to the use of single-county and multicounty taxing~~
513 ~~districts or other revenue generation measures by state and~~
514 ~~local governments and the private sector. Prior to finalizing~~
515 the strategic beach management ~~presenting the plan to the~~
516 ~~secretary of the department,~~ the department shall hold a public
517 meeting in the region areas for which the plan is prepared or
518 through a publicly noticed webinar. ~~The plan submission schedule~~
519 ~~shall be submitted to the secretary for approval. Any revisions~~
520 ~~to such schedule must be approved in like manner.~~

521 (b) The critically eroded beaches report must be developed
522 and maintained based primarily on the requirements specified in

16-00086B-17

20171590__

523 paragraph (1) (e).

524 (c) The statewide long-range budget plan must include at
525 least 5 years of planned beach nourishment and inlet management
526 project funding needs as identified, and subsequently refined,
527 by local government sponsors. This plan shall consist of two
528 components:

529 1. A 3-year work plan that identifies beach nourishment and
530 inlet management projects viable for implementation during the
531 next 3 ensuing fiscal years, as determined by available cost-
532 sharing, local sponsor support, regulatory considerations, and
533 the ability of the project to proceed as scheduled. The 3-year
534 work plan must, for each fiscal year, identify proposed projects
535 and their current development status, listing them in priority
536 order based on the applicable criteria established in ss.
537 161.101(14) and 161.143(2). Specific funding requests and
538 criteria ranking, pursuant to ss. 161.101(14) and 161.143(2),
539 may be modified as warranted in each successive fiscal year, and
540 such modifications must be documented and submitted to the
541 Legislature with each 3-year work plan. Year one projects shall
542 consist of those projects identified for funding consideration
543 in the ensuing fiscal year.

544 2. A long-range plan that identifies projects for inclusion
545 in the fourth and fifth ensuing fiscal years. These projects may
546 be presented by region and do not need to be presented in
547 priority order; however, the department should identify issues
548 that may prevent successful completion of such projects and
549 recommend solutions that would allow the projects to progress
550 into the 3-year work plan.

551 (3)-(2) Annually, The secretary shall annually present the

16-00086B-17

20171590__

552 3-year work plan to the Legislature. The work plan must be
553 accompanied by a 3-year financial forecast for the availability
554 of funding for the projects, based on funds dedicated in s.
555 375.041 ~~recommendations for funding beach erosion control~~
556 ~~projects prioritized according to the criteria established in s.~~
557 ~~161.101(14).~~

558 Section 4. Paragraph (b) of subsection (3) of section
559 375.041, Florida Statutes, is amended to read:

560 375.041 Land Acquisition Trust Fund.—

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

563 (b) Of the funds remaining after the payments required
564 under paragraph (a), but before funds may be appropriated,
565 pledged, or dedicated for other uses:

566 1. A minimum of the lesser of 25 percent or \$200 million
567 shall be appropriated annually for Everglades projects that
568 implement the Comprehensive Everglades Restoration Plan as set
569 forth in s. 373.470, including the Central Everglades Planning
570 Project subject to Congressional authorization; the Long-Term
571 Plan as defined in s. 373.4592(2); and the Northern Everglades
572 and Estuaries Protection Program as set forth in s. 373.4595.
573 From these funds, \$32 million shall be distributed each fiscal
574 year through the 2023-2024 fiscal year to the South Florida
575 Water Management District for the Long-Term Plan as defined in
576 s. 373.4592(2). After deducting the \$32 million distributed
577 under this subparagraph, from the funds remaining, a minimum of
578 the lesser of 76.5 percent or \$100 million shall be appropriated
579 each fiscal year through the 2025-2026 fiscal year for the
580 planning, design, engineering, and construction of the

16-00086B-17

20171590__

581 Comprehensive Everglades Restoration Plan as set forth in s.
582 373.470, including the Central Everglades Planning Project
583 subject to Congressional authorization. The Department of
584 Environmental Protection and the South Florida Water Management
585 District shall give preference to those Everglades restoration
586 projects that reduce harmful discharges of water from Lake
587 Okeechobee to the St. Lucie or Caloosahatchee estuaries in a
588 timely manner. For the purpose of performing the calculation
589 provided in this subparagraph, the amount of debt service paid
590 pursuant to paragraph (a) for bonds issued after July 1, 2016,
591 for the purposes set forth under paragraph (b) shall be added to
592 the amount remaining after the payments required under paragraph
593 (a). The amount of the distribution calculated shall then be
594 reduced by an amount equal to the debt service paid pursuant to
595 paragraph (a) on bonds issued after July 1, 2016, for the
596 purposes set forth under this subparagraph.

597 2. A minimum of the lesser of 7.6 percent or \$50 million
598 shall be appropriated annually for spring restoration,
599 protection, and management projects. For the purpose of
600 performing the calculation provided in this subparagraph, the
601 amount of debt service paid pursuant to paragraph (a) for bonds
602 issued after July 1, 2016, for the purposes set forth under
603 paragraph (b) shall be added to the amount remaining after the
604 payments required under paragraph (a). The amount of the
605 distribution calculated shall then be reduced by an amount equal
606 to the debt service paid pursuant to paragraph (a) on bonds
607 issued after July 1, 2016, for the purposes set forth under this
608 subparagraph.

609 3. The sum of \$5 million shall be appropriated annually

16-00086B-17

20171590__

610 each fiscal year through the 2025-2026 fiscal year to the St.
611 Johns River Water Management District for projects dedicated to
612 the restoration of Lake Apopka. This distribution shall be
613 reduced by an amount equal to the debt service paid pursuant to
614 paragraph (a) on bonds issued after July 1, 2016, for the
615 purposes set forth in this subparagraph.

616 4. A minimum of the lesser of 7.6 percent or \$50 million
617 shall be appropriated annually for projects that preserve and
618 repair the state's beaches as provided in s. 161.091(3). The
619 calculation provided in this subparagraph shall be performed
620 using the same formula as described in subparagraph 2.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1686

INTRODUCER: Senator Simmons

SUBJECT: Reclaimed Water

DATE: March 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Rogers</u>	<u>EP</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AP</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1686 requires a report by the State Board of Administration (Board) that summarizes potential water supply investments that the Board could make that will increase water supply in the state on a regional basis. A parallel requirement of the bill mandates the Office of Program Policy Analysis and Government Accountability (OPPAGA) to perform an annual review of investments made in Florida-based potential water supply projects by the Board. The review must include:

- The dollar amount and percentage share of potential water supply investments in the state made by the Board during the previous year;
- A list of identified potential water supply investments, within each asset class;
- An estimate of the amount of water that will become available through each potential investment, based on the region of the state; and
- An analysis of the direct and indirect economic benefits to the state resulting from the potential water supply investments.

The bill authorizes water management districts (WMDs) to adopt rules providing water reuse incentives in consumptive use permitting and requires that water supply development projects for the beneficial reuse of reclaimed water be included in regional water supply plans. It also requires certain reclaimed water facilities to develop reclaimed water utilization plans that phase out discharges of reclaimed water into surface waters.

The bill defines direct potable reuse (DPR) as the use of reclaimed water that:

- Is purified sufficiently to meet or exceed federal and state drinking water standards;
- Is safe for human consumption; and
- Is distributed directly into a potable water supply distribution system.

The bill also requires the Department of Environmental Protection (DEP) to submit a report by December 31, 2018 to the Governor and the Legislature with recommendations for criteria for the regulation of DPR. DEP is authorized to initiate rulemaking no earlier than July 1, 2019 to adopt criteria for DPR. Finally, the bill limits the purposes for which funds in the Water Protection and Sustainability Program Trust Fund may be used to the implementation of an alternative water supply program.

II. Present Situation:

State Board of Administration

The State Board of Administration (Board) is composed of the Governor, as chair, the Chief Financial Officer, and the Attorney General. The Board is responsible for the investment of funds in various trust funds, including the Florida Retirement System trust fund, and other funds required by law to be invested by the Board.¹ The Board must invest each fund to the fullest extent that is consistent with the cash requirements, trust agreement, and investment objectives of the fund.² On or before January 1 each year, the Board must provide a report to the Legislature on each fund which has been entrusted to the Board for investment. The report must include the following for each fund:

- A schedule of the annual beginning and ending asset values and changes and sources of changes in the asset value;³
- A description of the investment policy and changes in investment policy since the previous annual report;
- A description of compliance with investment strategy;
- A description of the risks inherent in investing in financial instruments of the major asset classes held in the fund;
- A summary of the type and amount of technology and growth investments held by each fund; and
- Other information deemed of interest by the Board's executive director.⁴

Office of Program Policy Analysis and Government Accountability Review

In 2008, the Legislature enacted a law requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to perform an annual review of technology and growth investments made in Florida-based companies by the Board and to submit its findings to the Board, the President of the Senate, and the Speaker of the House of Representatives. OPPAGA is authorized to consult with the Board, the Department of Revenue, the Office of Economic and Demographic Research, and other entities as necessary to obtain and evaluate the information OPPAGA needs to perform its review. The review must include:

¹ Florida State Board of Administration website, *available at* <https://www.sbafla.com/fsb/default.aspx>.

² Section 215.44(1), F.S.

³ The report must also include a schedule of the annual beginning and ending asset values and changes and sources of changes in the asset value of each asset class and portfolio within the Florida Retirement System Trust Fund.

⁴ Section 215.44, F.S.

- The dollar amount of technology and growth investments in the state made by the Board during the previous year ending June 30, and the investment's percentage share of the system trust fund's current net assets;⁵
- A list of investments in the state which are identified by the Board as technology and growth investments, within each asset class; and
- An analysis of the direct and indirect economic benefits to the state resulting from the technology and growth investments.⁶

Water Supply and Constraints

By 2030, Florida's population is estimated to reach 23,609,000 – almost a 26 percent increase over 2010.⁷ Fresh water demand is projected to reach 7.7 billion gallons per day by 2030, an additional 1.3 billion gallons more than the water use for the state in 2010.⁸ In Florida, groundwater accounts for about 90 percent of public and domestic water supply.⁹ Over 50 percent of all other water needs including agricultural, industry, mining, and electric power generation are supplied by ground water resources.¹⁰ The major source of groundwater supply in Florida is the Floridan Aquifer System, which underlies the entire state.¹¹

Water Management Districts (WMDs) are required to ensure an adequate supply of water and water resources for all citizens and natural features, provide protection and improvement of natural systems and water quality, minimize harm to water resources, and promote the reuse of reclaimed water.¹² The WMDs set minimum flows and minimum levels (MFLs) for surface waters and groundwater, respectively. The purpose of setting MFLs is to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.¹³ The WMDs

⁵ The system trust fund is the trust fund established in the State Treasury by ch. 121, F.S., for the purpose of holding and investing the contributions paid by members and employers of the Florida Retirement System and paying the benefits to which members or their beneficiaries may become entitled. *See* Section 121.021, F.S.

⁶ Section 215.474, F.S.

⁷ DEP, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water*, 11 (December 1, 2015) available at <http://www.dep.state.fl.us/water/reuse/docs/sb536/SB536-Report.pdf>.

⁸ DEP, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water*, 11 (December 1, 2015) available at <http://www.dep.state.fl.us/water/reuse/docs/sb536/SB536-Report.pdf>.

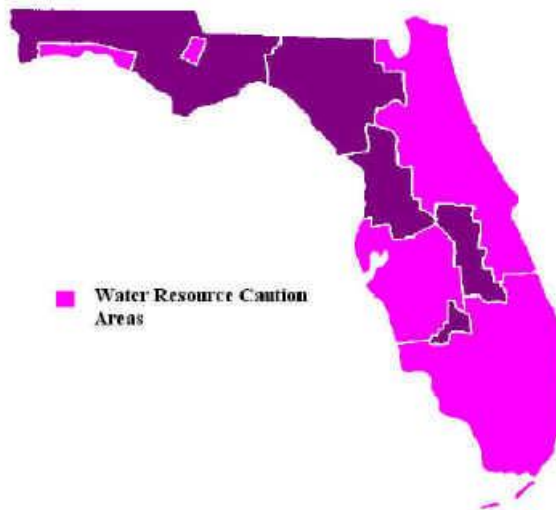
⁹ *Id.* at 14.

¹⁰ DEP, *Ground Water Program*, available at <http://www.dep.state.fl.us/water/groundwater/> (last visited March 3, 2017).

¹¹ DEP, *Aquifers*, available at <https://fldep.dep.state.fl.us/swapp/Aquifer.asp#> (last visited March 3, 2017).

¹² Section 373.036, F.S.

¹³ Section 373.042, F.S.



regulate consumptive use of water through a permitting process.¹⁴ WMD Governing Boards are required to conduct regional water supply planning for areas where existing water sources are insufficient to meet projected 20-year demands while sustaining water resources and related natural systems. Those areas are also to be designated as Water Resource Caution Areas. Chapter 62-40 of the Florida Administrative Code, requires the reuse of reclaimed water in these areas.¹⁵

Consumptive Use Permits (CUPs)

A consumptive use permit (CUP) establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the Department

of Environmental Protection (DEP) and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as “the three-prong test.” Specifically, the proposed water use must:

- Be a “reasonable-beneficial use”;¹⁶
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.¹⁷

If two or more competing applications qualify equally, the applicable WMD or the DEP must give preference to a renewal application over an initial application.¹⁸ If neither application is a renewal, preference is given to the applicant nearest the source.¹⁹

Reclaimed Water

Section 373.019(17), F.S., defines the term “reclaimed water” as “water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.” Water conservation and the promotion of reuse of reclaimed water have been established as formal state objectives in ss. 403.064 and 373.250, F.S. There are

¹⁴ Section 373.219, F.S. Note that a water management district may not require a permit for the use of reclaimed water. Section 373.250 (3)(b), F.S.

¹⁵ See also s. 403.064(2), F.S.

¹⁶ Section 373.019(16), F.S., defines reasonable-beneficial use as, “the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.” See also Fla. Admin. Code R. 62-40.410(2) for additional factors to help determine if a water use is a reasonable-beneficial use.

¹⁷ Fla. Admin. Code R. 62-40.410(1).

¹⁸ Section 373.233(2), F.S.

¹⁹ *Id.*

over 524 wastewater treatment facilities in Florida.²⁰ Florida tracks its reuse inventory in an annual report compiled by DEP.²¹ In 2015, a total of 478 domestic wastewater treatment facilities reported making reclaimed water available for reuse.²² The 738 million gallons per day (mgd) of reclaimed water use represents approximately 44 percent of the total domestic wastewater flow in the state.²³ The 1,668 mgd of reuse capacity represents approximately 65 percent of the total domestic wastewater treatment capacity in the state.²⁴ Reclaimed water from these systems was used to irrigate 362,737 residences, 537 golf courses, 1022 parks, and 369 schools.²⁵ Over 13,290 acres of edible crops on 68 farms were reported to be irrigated with reclaimed water.²⁶ Approximately 46 wastewater treatment facilities do not provide reuse of any kind.²⁷ Reclaimed water is a type of alternative water supply as defined in s. 373.019(1), F.S., and is eligible for alternative water supply funding.

Originally, water reuse was required only within water resource caution areas, unless such reuse was not economically, environmentally, or technically feasible as determined by a reuse feasibility study. Currently, ch. 62-40 of the Florida Administrative Code requires use of reclaimed water statewide. A domestic wastewater facility located within, discharging within, or serving a population within designated water resource caution areas is required to prepare a reuse feasibility study before receiving a domestic wastewater permit.²⁸ Section 403.064, F.S., provides that if the study shows that reuse is feasible, the permit applicant must give significant consideration to making reuse available.

Discharges of Reclaimed Water into Surface Waters

DEP may issue permits for backup discharges. A “backup discharge” is a surface water discharge that occurs as part of a functioning reuse system which has been permitted under DEP rules and which provides reclaimed water for irrigation of public access areas, residential properties, or edible food crops, or for industrial cooling or other acceptable reuse purposes. Backup discharges may occur during periods of reduced demand for reclaimed water in the reuse system. Backup discharges of reclaimed water meeting advanced water treatment standards are presumed to be allowable and are permitted in all waters in the state at a reasonably accessible point where such discharge results in minimal negative impact.²⁹

²⁰ DEP, *2015 Reuse Inventory*, available at http://www.dep.state.fl.us/water/reuse/docs/inventory/2015_reuse-report.pdf (last visited March 3, 2017) (note that this report tracks wastewater facilities with permitted capacities of 0.1 million gallons per day or greater).

²¹ See DEP, *2015 Reuse Inventory*, available at http://www.dep.state.fl.us/water/reuse/docs/inventory/2015_reuse-report.pdf (last visited March 3, 2017); compiled from reports collected pursuant to Fla. Admin. Code R. Ch. 62-610.

²² DEP, *2015 Reuse Inventory*, 2 available at http://www.dep.state.fl.us/water/reuse/docs/inventory/2015_reuse-report.pdf (last visited March 3, 2017).

²³ *Id.* at 3.

²⁴ *Id.*

²⁵ *Id.* at 2.

²⁶ *Id.*, noting that “[a]round 80 percent of the farmland was dedicated to the production of citrus (i.e., oranges, tangerines, grapefruit, etc.).”

²⁷ *Id.* at 3.

²⁸ *Id.* at 20

²⁹ Section 403.086, F.S.

The Safe Drinking Water Act

The Safe Drinking Water Act (SDWA) is the federal law that protects public drinking water supplies throughout the nation.³⁰ Under the SDWA, the U.S. Environmental Protection Agency (EPA) sets standards for drinking water quality and, with its partners, implements various technical and financial programs to ensure drinking water safety.³¹ Florida has the primary authority to implement the SDWA, having adopted a Florida SDWA that has been demonstrated to be at least as stringent as EPA.³² These statutes direct DEP to formulate and enforce rules pertaining to drinking water. These rules adopt the national primary and secondary drinking water standards of the Federal Government and create additional rules to fulfill state requirements. Drinking water standards are set out in ch. 62-550 of the Florida Administrative Code.

Direct Potable Reuse

As drought and long-term water shortages have occurred worldwide, reclaimed water has been investigated as a potable (drinking water) source. Confidence in advanced water treatment has increased as the costs and regulatory conditions for wastewater disposal have become more burdensome. The result has been an increased consideration of direct potable reuse (DPR), which would provide a direct or nearly direct connection of purified reclaimed water systems to potable water facilities.³³ Several high profile potable reuse projects have been underway in western states and in other countries which involve the process of treating reclaimed water to state and federal or national drinking water standards so that it can be recycled for potable water supply uses. Examples of notable DPR projects that are in operation or under construction include the Singapore NEWater Project, the Colorado River Municipal Water District's Big Spring Project, the Wichita Falls Texas Project, and the Cloudcroft New Mexico Project.³⁴

In 2011, the WateReuse Foundation and WateReuse California published a report, *Direct Potable Reuse – A Path Forward*.³⁵ This report cited various factors that recommend consideration of DPR as a supply source, including that DPR:

- Is lower in cost than indirect potable reuse;
- Is a “feasible alternative approach” for water supply; and
- Can be a reliable source of supply “through a combination of monitoring, storage, and treatment reliability measures.”³⁶

If direct reuse of purified water becomes a viable alternative source of potable water, it presents significant opportunities for water savings. DPR is the most efficient reuse activity at 100 percent

³⁰ The Public Health Service Act, 42 U.S. ss. 300f to 300j-26 (2016).

³¹ U.S. Environmental Protection Agency, *Safe Water Drinking Act (SDWA)*, available at <https://www.epa.gov/sdwa> (last visited March 3, 2017).

³² Sections 403.850-403.864, F.S.

³³ Fla. Admin. Code R. 62-610.200(27).

³⁴ DEP, Office of Water Policy, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water (Senate Bill 536)*, <http://dep.state.fl.us/water/reuse/docs/sb536/SB536-Report.pdf> (last visited March 6, 2017).

³⁵ WateReuse Research Foundation, *Direct Potable Reuse – A Path Forward* (2011), available at <http://aim.prepared-fp7.eu/viewer/doc.aspx?id=39>.

³⁶ DEP, Office of Water Policy, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water (Senate Bill 536)*, <http://dep.state.fl.us/water/reuse/docs/sb536/SB536-Report.pdf> (last visited March 6, 2017).

potable quality water offset.³⁷ As such, implementation of DPR would extend water supplies to a greater extent than other types of reuse.³⁸

There are a number of constraints on DPR, however, including:

- The relative availability and lower costs of surface and ground water supplies;
- The established regulatory and testing requirements generally being based on using “natural” sources of water supply without a clear regulatory structure for DPR;
- Concerns regarding the sustained reliability of purified water systems;
- Concerns regarding the impacts of commercial and industrial discharges on water quality; and
- Public perception - “yuck factor.”³⁹

Florida rule defines indirect potable reuse as the planned discharge of reclaimed water to surface waters to augment the supply of water available for drinking water and other uses.⁴⁰ According to EPA, DPR refers to the introduction of purified water, derived from municipal wastewater directly into a municipal water supply system after extensive treatment and monitoring to assure that strict water quality requirements are met.⁴¹ At present, Florida does not have specific regulations for DPR.

A large supply of uncommitted excess reclaimed water exists statewide. More than 883 mgd of unused reclaimed water were not reused in 2013, disposed of primarily into surface waters or deep injection wells. In addition, traditional water resources have been identified as limited in large portions of the state.⁴² The largest opportunities for DPR are in areas of Florida in which the following two circumstances occur:

- Utilities exist with large uncommitted (excess/unused/disposed) reclaimed water supplies; and
- Where traditional water sources are limited.⁴³

Both of these conditions occur together in six counties. The following six urban coastal counties account for more than 80 percent of the excess reclaimed water disposed of by release into surface waters and/or by pumping into deep injection wells (Miami-Dade, Broward, Palm Beach, Hillsborough, Duval, and Pinellas). Maximization of DPR development in these six counties alone would approximately double Florida’s total statewide reclaimed water use.⁴⁴

³⁷ DEP, Office of Water Policy, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water (Senate Bill 536)*, <http://dep.state.fl.us/water/reuse/docs/sb536/SB536-Report.pdf> (last visited March 6, 2017) (citing to The Reuse Coordinating Committee, 2003).

³⁸ DEP, Office of Water Policy, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water (Senate Bill 536)*, <http://dep.state.fl.us/water/reuse/docs/sb536/SB536-Report.pdf> (last visited March 6, 2017).

³⁹ *Id.*

⁴⁰ Fla. Admin. Code R. 62-610.200(27).

⁴¹ DEP, Office of Water Policy, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water (Senate Bill 536)*, <http://dep.state.fl.us/water/reuse/docs/sb536/SB536-Report.pdf> (last visited March 6, 2017).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

Water Protection and Sustainability Program

The Water Protection and Sustainability Program is supported by the Water Protection and Sustainability Program Trust Fund which is used to fund various programs.⁴⁵ DEP is required to distribute revenues deposited into or appropriated to the trust fund in the following manner:

- 65 percent to DEP for the implementation of an alternative water supply program;
 - 22.5 percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program; and
 - 12.5 percent to DEP for the Disadvantaged Small Community Wastewater Grant Program.⁴⁶
- Since 2009, the State has not used this trust fund to allocate moneys for these types of projects.

Alternative Water Supply Development

One of the ways water demands can be met is through the development of alternative water supplies (AWSs).⁴⁷ Alternative water supplies include:

- Salt water;
- Brackish surface water and groundwater;
- Sources made available through the addition of new storage capacity for surface or groundwater, water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses;
- The downstream augmentation of waterbodies with reclaimed water;
- Stormwater; and
- Any other water supply source that is designated as a nontraditional source for a water supply planning region in a regional water supply plan.⁴⁸

Funding for the development of AWSs is a shared responsibility between water suppliers and users, the state, and the WMDs.⁴⁹ Water suppliers and users have the primary responsibility for providing funding, while the state and WMDs have the responsibility to provide funding assistance.⁵⁰

AWS development projects may receive state funding through specific appropriation or through the Water Protection and Sustainability Program (WPSP) if funded by the Legislature.⁵¹

Applicants for projects that receive funding through the WPSP are required to pay at least 60 percent of the project's construction costs.⁵² A WMD may waive this requirement for projects developed by financially disadvantaged small local governments. Additionally, a WMD may, at its discretion, use ad valorem or federal revenues to assist a project applicant in meeting the match requirement.⁵³

⁴⁵ Section 403.890, F.S.

⁴⁶ Section 403.890(1), (2), and (3), F.S.

⁴⁷ Sections 373.707, F.S.

⁴⁸ Section 373.019(1), F.S.

⁴⁹ Section 373.707(2)(c), F.S.

⁵⁰ *Id.*

⁵¹ Section 373.707(1)(d), and (6), F.S.

⁵² Section 373.707(8)(e), F.S.

⁵³ *Id.*

Office of Economic and Demographic Research

The Office of Economic and Demographic Research (EDR) performs research for the Florida Legislature, principally focused on forecasting economic and social trends that affect policy making, revenues, and appropriations.⁵⁴ The EDR also researches projects for legislative committees, and works with agencies, statewide commissions, and task forces that have legislators among their membership to assess the impact of proposals they are considering submitting to the Legislature.⁵⁵ In 2016, the Legislature enacted s. 403.928, F.S., to evaluate historic, current, and present expenditures associated with water resources and conservation lands.

III. Effect of Proposed Changes:

SB 1686 makes legislative findings related to the need for the development and improvement of available water supplies.

State Board of Administration Report

The bill requires the State Board of Administration (Board) to include in the report it provides to the Legislature on the management of its funds a summary of potential water supply investments that will increase water supply in the state on a regional basis that could be made from each fund entrusted to the Board for investment. The summary must identify the types and amounts of potential investments.

Office of Program Policy Analysis and Government Accountability Review

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to perform an annual review of investments made in Florida-based potential water supply projects by the Board and submit its findings to the Board, the President of the Senate, and the Speaker of the House of Representatives by January 15 of each year. The findings may be combined with the findings OPPAGA is required to submit from its annual review of technology and growth investments made in Florida-based companies by the Board. OPPAGA is authorized to consult with the Board, DEP, the water management districts (WMDs), the Office of Economic and Demographic Research, and other entities as necessary to obtain and evaluate the information OPPAGA needs to perform its review. The bill requires the annual review to include:

- The dollar amount of potential water supply investments in the state made by the Board during the previous year ending June 30, and that investment's percentage share of the system trust fund's current net assets;⁵⁶
- A list of investments in the state which are identified by the Board as potential water supply investments, within each asset class;

⁵⁴ EDR, *Welcome*, <http://edr.state.fl.us/Content/> (last visited March 6, 2017).

⁵⁵ EDR, *Functions of EDR*, <http://edr.state.fl.us/Content/about/functions.cfm> (last visited March 6, 2017).

⁵⁶ The system trust fund is the trust fund established in the State Treasury by ch. 121, F.S., for the purpose of holding and investing the contributions paid by members and employers of the Florida Retirement System and paying the benefits to which members or their beneficiaries may become entitled. *See* Section 121.021, F.S.

- An estimate of the amount of water that will become available through each potential investment, based on the region of the state; and
- An analysis of the direct and indirect economic benefits to the state resulting from the potential water supply investments.

Reuse of Reclaimed Water

The bill provides legislative findings that direct potable reuse (DPR) of water may provide the state with a valuable tool to ensure that it has the water supplies necessary to meet growing water demands. The bill also authorizes WMDs to adopt rules providing water reuse incentives in consumptive use permitting, including limited permit extensions.

The bill requires that a water supply development project for the beneficial reuse of reclaimed water that is proposed for listing as an alternative water supply project be included on the list of water supply development project options that are part of the WMD's regional water supply plan. A reclaimed water facility that discharges reclaimed water into surface waters must submit a reclaimed water utilization plan to the WMD. The plan must include the steps to be taken to eliminate discharges of reclaimed water. This requirement applies to reclaimed water facilities located within regional water supply plan areas. It also applies regardless of any provisions authorizing discharges to surface waters in ch. 373, F.S., or ch. 403, F.S.

The bill defines DPR in the Safe Drinking Water Act (SDWA) as the use of reclaimed water that:

- Is purified sufficiently to meet or exceed federal and state drinking water standards;
- Is safe for human consumption; and
- Is distributed directly into a potable water supply distribution system.

The bill requires DEP to submit a report by December 31, 2018 to the Governor and the Legislature with recommendations for criteria for the regulation of DPR. The report must be developed in coordination with the State Surgeon General, the Department of Health, and stakeholders and the general public and must include recommendations that are protective of human health and the environment. The bill specifies other requirements for the process used to develop the report. DEP is authorized to initiate rulemaking not before July 1, 2019 to adopt criteria for DPR. The rule may not become effective until the conclusion of the next regular session of the Legislature following its adoption.

Finally, the bill amends the water protection and sustainability program by eliminating all of the distributions of funds from the Water Protection and Sustainability Program Trust Fund except for distributions for the implementation of an alternative water supply program.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Utility rates may increase as a result of increasing reuse requirements.

C. Government Sector Impact:

DEP will have an indeterminate cost associated with rulemaking.

VI. Technical Deficiencies:

In section 7 of the bill, at line 343, it is recommended that the word “final” be removed in order to clarify that website publication on October 1, 2018, upon which the public may comment, is publication of a draft and not the final report.

The definition of reclaimed water includes the requirement that it be reused after flowing out of the treatment facility. Line 215 of the bill refers to reclaimed water discharged into surface waters. Technically, such water would not fall under the definition of reclaimed water as it is not reused.

VII. Related Issues:

The State Board of Administration (Board) does not directly invest in water supply infrastructure in Florida.⁵⁷ Therefore the bill requirement that OPPAGA perform an annual review of

⁵⁷ Email message dated March 15, 2017, from John Kuczanski, Communications Manager and Legislative Affairs, State Board of Administration (on file with the Senate Committee on Environmental Preservation and Conservation).

investments made in Florida-based potential water supply projects would not be possible as the Board has no such investments.

Line 215 of the bill requires certain reclaimed water facilities to plan for the elimination of any discharges of reclaimed water into surface waters. If the intent is to promote water supply, the reference to discharges to surface waters could be modified to refer to discharges to tide. In some areas of the state, discharges to surface waters may support water supply via aquifer recharge or increased surface water flows.

VIII. Statutes Affected:

This bill creates section 215.4745 of the Florida Statutes.

This bill substantially amends sections 215.44, 373.250, 373.709, 403.852, 403.853, and 403.890 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 Simmons

9-00761C-17

20171686__

1 A bill to be entitled
2 An act relating to reclaimed water; providing
3 legislative findings; amending s. 215.44, F.S.;
4 revising a report that the Board of Administration
5 must provide to the Legislature to include a summary
6 of certain water supply investments; creating s.
7 215.4745, F.S.; requiring the Office of Program Policy
8 Analysis and Government Accountability to perform an
9 annual review of the board in certain potential water
10 supply projects and submit an annual report to the
11 board and the Legislature; authorizing the office to
12 consult with the board, the Department of
13 Environmental Protection, the water management
14 districts, the Office of Economic and Demographic
15 Research, and other entities as necessary; specifying
16 the components of the annual review; amending s.
17 373.250, F.S.; providing legislative findings;
18 authorizing each water management district to adopt
19 rules providing water reuse incentives; amending s.
20 373.709, F.S.; requiring that any project that
21 proposes to beneficially reuse reclaimed water be
22 included in a list of water supply development project
23 options as part of a regional water supply plan;
24 requiring reclaimed water facilities that currently
25 discharge reclaimed water into surface waters and that
26 are located within an area for which a regional water
27 supply plan has been developed to submit a reclaimed
28 water utilization plan to eliminate certain discharges
29 into surface waters; deleting obsolete language;

9-00761C-17

20171686__

30 amending s. 403.852, F.S.; defining the term "direct
31 potable reuse"; amending s. 403.853, F.S.; requiring
32 the department to submit a report recommending
33 criteria for the regulation of direct potable reuse;
34 requiring that the department develop the report in
35 coordination with certain entities and persons;
36 requiring the department to hold public meetings and
37 publish on its website a draft of the report before
38 submitting it to the Governor and the Legislature;
39 authorizing the department to adopt rules; providing
40 that certain rules may not take effect until a
41 specified time; amending s. 403.890, F.S.; revising
42 the distribution of revenues deposited into or
43 appropriated to the Water Protection and
44 Sustainability Program Trust Fund to allow
45 distribution only for the implementation of an
46 alternative water supply program; providing an
47 effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. The Legislature finds that sufficient water
52 availability is a paramount concern for existing and future
53 reasonable-beneficial uses and natural systems in this state.
54 The projected population of this state is estimated to exceed 25
55 million by the year 2040, and cooperative efforts between
56 municipalities, counties, utility companies, private landowners,
57 water consumers, water management districts, regional water
58 supply authorities, the Department of Environmental Protection,

9-00761C-17

20171686__

59 and the Department of Agriculture and Consumer Services are
60 necessary in order to meet water needs in a manner that will
61 supply adequate and dependable supplies of water where needed
62 without bringing about adverse effects upon the area from which
63 water is withdrawn. Water supply projects should employ all
64 practical means of obtaining water, including, but not limited
65 to, withdrawals of surface water and groundwater, reclaimed
66 water, and desalination, and properly implementing these
67 projects will require cooperation and well-coordinated
68 activities. Therefore, it is the policy of this state that
69 projects to increase water supply be planned on a regional
70 basis.

71 Section 2. Present paragraph (f) of subsection (5) of
72 section 215.44, Florida Statutes, is redesignated as paragraph
73 (g), and a new paragraph (f) is added to that subsection, to
74 read:

75 215.44 Board of Administration; powers and duties in
76 relation to investment of trust funds.—

77 (5) On or before January 1 of each year, the board shall
78 provide to the Legislature a report including the following
79 items for each fund which, by law, has been entrusted to the
80 board for investment:

81 (f) A summary of the type and amount of potential water
82 supply investments that will have the effect of increasing water
83 supply in the state on a regional basis.

84 Section 3. Section 215.4745, Florida Statutes, is created
85 to read:

86 215.4745 Analyses of water supply investments.—The Office
87 of Program Policy Analysis and Government Accountability shall

9-00761C-17

20171686__

88 perform an annual review of investments made in Florida-based
89 potential water supply projects by the State Board of
90 Administration and submit its findings to the State Board of
91 Administration, the President of the Senate, and the Speaker of
92 the House of Representatives by January 15 of each year. The
93 findings of the analysis of the review may be combined with the
94 findings reported under s. 215.474. The office may consult with
95 the board, the Department of Environmental Protection, the water
96 management districts, the Office of Economic and Demographic
97 Research, and other entities as necessary to obtain and evaluate
98 the information requested. The annual review must include:

99 (1) The dollar amount of potential water supply investments
100 in the state made by the board during the previous year ending
101 June 30 and that investment's percentage share of the system
102 trust fund's current net assets.

103 (2) A list of investments in the state which are identified
104 by the board as potential water supply investments, within each
105 asset class.

106 (3) An estimate of the amount of water that will become
107 available through each potential investment, based on the region
108 of the state.

109 (4) An analysis of the direct and indirect economic
110 benefits to the state resulting from the potential water supply
111 investments.

112 Section 4. Paragraph (c) is added to subsection (1) of
113 section 373.250, Florida Statutes, and subsection (9) is added
114 to that section, to read:

115 373.250 Reuse of reclaimed water.—

116 (1)

9-00761C-17

20171686__

117 (c) The Legislature recognizes that the need to identify
118 sources of potable water is of paramount concern to the state as
119 its population continues to grow. The Legislature further
120 recognizes that direct potable reuse, as defined in s. 403.852,
121 may provide the state with a valuable tool in ensuring that it
122 has the water supply necessary to meet its growing demands.

123 (9) In order to promote the reuse of reclaimed water during
124 the term of the permit and to produce significant water savings
125 beyond those required in a consumptive use permit, a water
126 management district may adopt rules providing water reuse
127 incentives. Such incentives may include limited permit
128 extensions.

129 Section 5. Paragraph (a) of subsection (2) and subsection
130 (9) of section 373.709, Florida Statutes, are amended to read:

131 373.709 Regional water supply planning.—

132 (2) Each regional water supply plan must be based on at
133 least a 20-year planning period and must include, but need not
134 be limited to:

135 (a) A water supply development component for each water
136 supply planning region identified by the district which
137 includes:

138 1. A quantification of the water supply needs for all
139 existing and future reasonable-beneficial uses within the
140 planning horizon. The level-of-certainty planning goal
141 associated with identifying the water supply needs of existing
142 and future reasonable-beneficial uses must be based upon meeting
143 those needs for a 1-in-10-year drought event.

144 a. Population projections used for determining public water
145 supply needs must be based upon the best available data. In

9-00761C-17

20171686__

146 determining the best available data, the district shall consider
147 the University of Florida Bureau of Economic and Business
148 Research (BEBR) medium population projections and population
149 projection data and analysis submitted by a local government
150 pursuant to the public workshop described in subsection (1) if
151 the data and analysis support the local government's
152 comprehensive plan. Any adjustment of or deviation from the BEBR
153 projections must be fully described, and the original BEBR data
154 must be presented along with the adjusted data.

155 b. Agricultural demand projections used for determining the
156 needs of agricultural self-suppliers must be based upon the best
157 available data. In determining the best available data for
158 agricultural self-supplied water needs, the district shall
159 consider the data indicative of future water supply demands
160 provided by the Department of Agriculture and Consumer Services
161 pursuant to s. 570.93 and agricultural demand projection data
162 and analysis submitted by a local government pursuant to the
163 public workshop described in subsection (1), if the data and
164 analysis support the local government's comprehensive plan. Any
165 adjustment of or deviation from the data provided by the
166 Department of Agriculture and Consumer Services must be fully
167 described, and the original data must be presented along with
168 the adjusted data.

169 2. A list of water supply development project options,
170 including traditional and alternative water supply project
171 options that are technically and financially feasible, from
172 which local government, government-owned and privately owned
173 utilities, regional water supply authorities,
174 multijurisdictional water supply entities, self-suppliers, and

9-00761C-17

20171686__

175 others may choose for water supply development. In addition to
176 projects listed by the district, such users may propose specific
177 projects for inclusion in the list of alternative water supply
178 projects. If such users propose a project to be listed as an
179 alternative water supply project, the district shall determine
180 whether it meets the goals of the plan, and, if so, it shall be
181 included in the list. Any project that proposes beneficially
182 reusing reclaimed water shall be included in the list. The total
183 capacity of the projects included in the plan must exceed the
184 needs identified in subparagraph 1. and take into account water
185 conservation and other demand management measures, as well as
186 water resources constraints, including adopted minimum flows and
187 minimum water levels and water reservations. Where the district
188 determines it is appropriate, the plan should specifically
189 identify the need for multijurisdictional approaches to project
190 options that, based on planning level analysis, are appropriate
191 to supply the intended uses and that, based on such analysis,
192 appear to be permittable and financially and technically
193 feasible. The list of water supply development options must
194 contain provisions that recognize that alternative water supply
195 options for agricultural self-suppliers are limited.

196 3. For each project option identified in subparagraph 2.,
197 the following must be provided:

198 a. An estimate of the amount of water to become available
199 through the project.

200 b. The timeframe in which the project option should be
201 implemented and the estimated planning-level costs for capital
202 investment and operating and maintaining the project.

203 c. An analysis of funding needs and sources of possible

9-00761C-17

20171686__

204 funding options. For alternative water supply projects, the
205 water management districts shall provide funding assistance
206 pursuant to s. 373.707(8).

207 d. Identification of the entity that should implement each
208 project option and the current status of project implementation.

209 (9) Notwithstanding any other provision of this chapter or
210 chapter 403, reclaimed water facilities that currently discharge
211 reclaimed water into surface waters and that are located within
212 an area for which a regional water supply plan has been
213 developed shall submit to the applicable water management
214 district a reclaimed water utilization plan establishing a plan
215 to eliminate discharges of reclaimed water into surface waters
216 ~~For any regional water supply plan that is scheduled to be~~
217 ~~updated before December 31, 2005, the deadline for such update~~
218 ~~shall be extended by 1 year.~~

219 Section 6. Section 403.852, Florida Statutes, is reordered
220 and amended to read:

221 403.852 Definitions; ss. 403.850-403.864.—As used in ss.
222 403.850-403.864:

223 (4)~~(1)~~ "Department" means the Department of Environmental
224 Protection, which is charged with the primary responsibility for
225 the administration and implementation of the Florida Safe
226 Drinking Water Act.

227 (5) "Direct potable reuse" refers to the use of reclaimed
228 water that is purified sufficiently to meet or exceed federal
229 and state drinking water standards, is safe for human
230 consumption, and is distributed directly into a potable water
231 supply distribution system.

232 (15)~~(2)~~ "Public water system" means a system for the

9-00761C-17

20171686__

233 provision to the public of water for human consumption through
234 pipes or other constructed conveyances if such system has at
235 least 15 service connections or regularly serves at least 25
236 individuals daily at least 60 days out of the year. A public
237 water system is either a community water system or a
238 noncommunity water system. The term "public water system"
239 includes:

240 (a) Any collection, treatment, storage, and distribution
241 facility or facilities under control of the operator of such
242 system and used primarily in connection with such system.

243 (b) Any collection or pretreatment storage facility or
244 facilities not under control of the operator of such system but
245 used primarily in connection with such system.

246 (2)~~(3)~~ "Community water system" means a public water system
247 which serves at least 15 service connections used by year-round
248 residents or regularly serves at least 25 year-round residents.

249 (11)~~(4)~~ "Noncommunity water system" means a public water
250 system that is not a community water system. A noncommunity
251 water system is either a nontransient noncommunity water system
252 or a transient noncommunity water system.

253 (13)~~(5)~~ "Person" means an individual, public or private
254 corporation, company, association, partnership, municipality,
255 agency of the state, district, federal agency, or any other
256 legal entity, or its legal representative, agent, or assigns.

257 (8)~~(6)~~ "Municipality" means a city, town, or other public
258 body created by or pursuant to state law or an Indian tribal
259 organization authorized by law.

260 (7) "Federal agency" means any department, agency, or
261 instrumentality of the United States Government.

9-00761C-17

20171686__

262 ~~(18)~~(8) "Supplier of water" means any person who owns or
263 operates a public water system.

264 ~~(3)~~(9) "Contaminant" means any physical, chemical,
265 biological, or radiological substance or matter in water.

266 ~~(1)~~(10) "Administrator" means the administrator of the
267 United States Environmental Protection Agency.

268 ~~(6)~~(11) "Federal act" means the Safe Drinking Water Act,
269 Pub. L. No. 93-523.

270 ~~(14)~~(12) "Primary drinking water regulation" means a rule
271 which:

272 (a) Applies to public water systems;

273 (b) Specifies contaminants which, in the judgment of the
274 department, after consultation with the Department of Health,
275 may have an adverse effect on the health of the public;

276 (c) Specifies for each such contaminant either:

277 1. A maximum contaminant level if, in the judgment of the
278 department, it is economically and technologically feasible to
279 ascertain the level of such contaminant in water in public water
280 systems; or

281 2. Each treatment technique known to the department which
282 leads to a reduction in the level of the contaminant sufficient
283 to satisfy the requirements of s. 403.853 if, in the judgment of
284 the department, it is not economically or technologically
285 feasible to ascertain the level of such contaminant; and

286 (d) Contains criteria and procedures to assure a supply of
287 drinking water which dependably complies with such maximum
288 contaminant levels, including quality control and testing
289 procedures to assure compliance with such levels and to ensure
290 proper operation and maintenance of the system, and which

9-00761C-17

20171686__

291 contains requirements as to:

292 1. The minimum quality of water which may be taken into the
293 system; and

294 2. Siting for new facilities for public water systems.

295 (17)~~(13)~~ "Secondary drinking water regulation" means a rule
296 which:

297 (a) Applies to public water systems; and

298 (b) Specifies the maximum contaminant levels which, in the
299 judgment of the department after public hearings, are requisite
300 to protect the public welfare. Such regulation may apply to any
301 contaminant in drinking water:

302 1. Which may adversely affect the odor or appearance of
303 such water and consequently may cause a substantial number of
304 the persons served by the public water system providing such
305 water to discontinue its use; or

306 2. Which may otherwise adversely affect the public welfare.

307

308 Such regulations may vary according to geographic and other
309 circumstances.

310 (9)~~(14)~~ "National primary drinking water regulations" means
311 primary drinking water regulations promulgated by the
312 administrator pursuant to the federal act.

313 (10)~~(15)~~ "National secondary drinking water regulations"
314 means secondary drinking water regulations promulgated by the
315 administrator pursuant to the federal act.

316 (16) "Sanitary survey" means an onsite review of the water
317 source, facilities, equipment, operation, and maintenance of a
318 public water system for the purpose of evaluating the adequacy
319 of such source, facilities, equipment, operation, and

9-00761C-17

20171686__

320 maintenance for producing and distributing safe drinking water.

321 (12)~~(17)~~ "Nontransient noncommunity water system" means a
322 noncommunity water system that regularly serves at least 25 of
323 the same persons over 6 months per year.

324 (19)~~(18)~~ "Transient noncommunity water system" means a
325 noncommunity water system that has at least 15 service
326 connections or regularly serves at least 25 persons daily at
327 least 60 days out of the year but that does not regularly serve
328 25 or more of the same persons for more than 6 months per year.

329 Section 7. Subsections (8) and (9) are added to section
330 403.853, Florida Statutes, to read:

331 403.853 Drinking water standards.—

332 (8) By December 31, 2018, the department shall submit to
333 the Governor, the President of the Senate, and the Speaker of
334 the House of Representatives a report with recommendations for
335 criteria for the regulation of direct potable reuse. The report
336 may also include technical information helpful in understanding
337 the treatment processes available to achieve such criteria. The
338 report shall be developed in coordination with the State Surgeon
339 General, the Department of Health, stakeholders, and the general
340 public, and must include recommendations that are protective of
341 human health and the environment. Before submitting the report,
342 the department must hold at least three public meetings on the
343 report. Additionally, the department must publish a final draft
344 on its website no later than October 1, 2018, and solicit public
345 comment on the recommendations.

346 (9) No sooner than July 1, 2019, the department may
347 initiate rulemaking to adopt criteria for direct potable reuse.
348 If the rule does not require ratification pursuant to s.

9-00761C-17

20171686__

349 120.541(3), it may not become effective until the conclusion of
350 the next regular session of the Legislature following its
351 adoption.

352 Section 8. Section 403.890, Florida Statutes, is amended to
353 read:

354 403.890 Water Protection and Sustainability Program.—
355 Revenues deposited into or appropriated to the Water Protection
356 and Sustainability Program Trust Fund shall be distributed by
357 the Department of Environmental Protection ~~in the following~~
358 ~~manner:~~

359 ~~(1) Sixty five percent to the Department of Environmental~~
360 ~~Protection for the implementation of an alternative water supply~~
361 ~~program as provided in s. 373.707.~~

362 ~~(2) Twenty two and five tenths percent for the~~
363 ~~implementation of best management practices and capital project~~
364 ~~expenditures necessary for the implementation of the goals of~~
365 ~~the total maximum daily load program established in s. 403.067.~~
366 ~~Of these funds, 83.33 percent shall be transferred to the credit~~
367 ~~of the Department of Environmental Protection Water Quality~~
368 ~~Assurance Trust Fund to address water quality impacts associated~~
369 ~~with nonagricultural nonpoint sources. Sixteen and sixty seven~~
370 ~~hundredths percent of these funds shall be transferred to the~~
371 ~~Department of Agriculture and Consumer Services General~~
372 ~~Inspection Trust Fund to address water quality impacts~~
373 ~~associated with agricultural nonpoint sources. These funds shall~~
374 ~~be used for research, development, demonstration, and~~
375 ~~implementation of the total maximum daily load program under s.~~
376 ~~403.067, suitable best management practices or other measures~~
377 ~~used to achieve water quality standards in surface waters and~~

9-00761C-17

20171686__

378 ~~water segments identified pursuant to s. 303(d) of the Clean~~
379 ~~Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.~~
380 ~~Implementation of best management practices and other measures~~
381 ~~may include cost share grants, technical assistance,~~
382 ~~implementation tracking, and conservation leases or other~~
383 ~~agreements for water quality improvement. The Department of~~
384 ~~Environmental Protection and the Department of Agriculture and~~
385 ~~Consumer Services may adopt rules governing the distribution of~~
386 ~~funds for implementation of capital projects, best management~~
387 ~~practices, and other measures. These funds shall not be used to~~
388 ~~abrogate the financial responsibility of those point and~~
389 ~~nonpoint sources that have contributed to the degradation of~~
390 ~~water or land areas. Increased priority shall be given by the~~
391 ~~department and the water management district governing boards to~~
392 ~~those projects that have secured a cost sharing agreement~~
393 ~~allocating responsibility for the cleanup of point and nonpoint~~
394 ~~sources.~~

395 ~~(3) Twelve and five tenths percent to the Department of~~
396 ~~Environmental Protection for the Disadvantaged Small Community~~
397 ~~Wastewater Grant Program as provided in s. 403.1838.~~

398 ~~(4) On June 30, 2009, and every 24 months thereafter, the~~
399 ~~Department of Environmental Protection shall request the return~~
400 ~~of all unencumbered funds distributed pursuant to this section.~~
401 ~~These funds shall be deposited into the Water Protection and~~
402 ~~Sustainability Program Trust Fund and redistributed pursuant to~~
403 ~~the provisions of this section.~~

404 Section 9. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1338

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Book

SUBJECT: Vessels

DATE: March 24, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1338 implements many of the findings and recommendations of the Florida Fish and Wildlife Conservation Commission (FWC) in their statutorily required report on the pilot program relating to the anchoring or mooring of vessels outside public mooring fields. The bill addresses issues relating to:

- Derelict vessels by:
 - Providing that a vessel is at risk of becoming derelict if an owner or operator of a vessel cannot demonstrate within 72 hours after notification by a law enforcement officer that the vessel has an effective means of propulsion or provide documentation of having ordered the necessary parts for vessel repair;
 - Elevating the civil penalties for having an expired vessel registration of more than 6 months;
 - Prohibiting the Department of Highway Safety and Motor Vehicles from issuing a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer until such vessel is longer deemed a derelict vessel; and
 - Exempting law enforcement officers who post a notice on a derelict vessel which he or she ascertains as lost or abandoned property from the additional requirement that such notice be sent by certified mail to the owner of the property when the law enforcement officer has given such owner notice of a violation of derelict vessels and issued him or her a citation for such violation.
- Anchoring or mooring in certain areas by prohibiting vessels or floating structures from anchoring or mooring within:

- 150 feet of any vessel launching or loading facility;
- 100 feet of public mooring field boundaries; or
- 300 feet of a superyacht repair facility.
- Local governmental authority by:
 - Amending the definition of the term “live-aboard vessel” to revise local governmental authority relating to the anchoring and mooring of vessels;
 - Authorizing local governments to enact and enforce regulations that require owners or operators of vessels or floating structures subject to marine sanitation requirements to provide proof of proper sewage disposal if such vessel has been anchored or moored for 10 consecutive days within the marked boundaries of permitted mooring fields or federally designated no discharge zones, provided the FWC has determined that adequate pumpout services are provided by such local government; and
 - Authorizing local governments to enact and enforce regulations that allow the local government to remove a vessel affixed to a public dock within its jurisdiction which has been deemed abandoned or lost property.

The bill authorizes that private residential multifamily docks that were grandfathered-in to use sovereignty submerged lands may exceed the 1:1 ratio for number of moored boats to the number of units within a private multifamily development.

The bill authorizes the FWC to establish boating restricted areas upon request of a private property owner of submerged lands that are adjacent to Outstanding Florida Waters or an aquatic preserve for the sole purpose of protecting any seagrass and contiguous seagrass habitat within their property boundaries from seagrass scarring due to propeller dredging.

The bill may have an indeterminate fiscal impact on state and local governments.

II. Present Situation:

Anchoring or mooring refers to a boater’s practice of seeking and using safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.¹ Mooring is accomplished through the utilization of moorings permanently affixed to the bottom. 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.²

The anchoring of vessels has created conflicts in some areas of the state related to the use and enjoyment of the waters for many years. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly;

¹ 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.

² Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012) available at <http://nsgl.gso.uri.edu/flsgp/flsgpt12001.pdf> (last visited Mar. 15, 2017).

- Vessels that become derelict;
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.³

Lease of Sovereignty Submerged Lands

The Board of Trustees of the Internal Improvement Trust Fund (BOT) is responsible for the administration and disposition of the state's sovereignty submerged lands.⁴ The BOT is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.⁵ Waterfront landowners must receive the BOT's authorization to build docks and related structures on sovereignty submerged lands. The Department of Environmental Protection (DEP) administers all staff functions on the BOT's behalf.⁶

Florida recognizes riparian rights for landowners with waterfront property bordering navigable waters, which include the rights of ingress, egress, boating, bathing, fishing, and others as defined by law.⁷ Riparian landowners must obtain a sovereignty submerged lands authorization in the form of a letter of consent, consent by rule, or a lease prior to installation and maintenance of docks, piers, and boat ramps on sovereignty submerged land.

A preempted area is the area of sovereignty submerged lands from which any traditional public uses have been or will be excluded by an activity, such as the area occupied by docks, piers, and other structures; the area between a dock and the shoreline where access is not allowed, between docks, or areas where mooring routinely occurs that are no longer reasonably accessible to the general public; permanent mooring areas not associated with docks; and swimming areas enclosed by nets, buoys, or similar marking systems.⁸ The preemption ratio is the ratio of the preempted area in square feet to the number of linear feet of shoreline owned by the applicant.⁹ A dock that preempts more than the 10:1 preemption ratio requires a lease.

A lease agreement between the state and the property owner transfers the use, possession, and control of sovereignty submerged lands to the property owner for up to 10 years. The annual lease fees for a standard term lease are calculated through a formula based on annual income, square footage, or a minimum annual fee. Extended term leases are available, under limited conditions, for up to 25 years. Annual lease fees for extended term leases are calculated in the same fashion as standard lease fees but with a multiplier for the term in years.

³ Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 6 (Dec. 21, 2016), available at <http://myfwc.com/media/4126646/anchoringandmooringpilotprogramreport122116.pdf> (last visited Mar. 15, 2017).

⁴ Section 253.03(8)(b), F.S., defines submerged lands as publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state.

⁵ Section 253.02(1), F.S.

⁶ Section 253.03, F.S.

⁷ Section 253.141(1), F.S.

⁸ Fla. Admin. R. 18-21.003

⁹ Fla. Admin. R. 18-21.005.

A private residential multi-family dock that is designed to moor up to the number of units within the multi-family development is not required to pay a lease fee if the preempted area is less than the 10:1 preempted ratio.¹⁰ When the lease requirements were first adopted, a grandfathering-in program was established, which postponed the requirement for leases and payment of lease fees until January 1, 1998, provided the facility was registered by September 30, 1984.¹¹ Because many facilities missed the original deadline, a second grandfathering program was adopted in 1990, which allowed unregistered facilities to apply for a lease under the program by April 1, 1991.¹²

State Regulation of the Anchoring or Mooring of Vessels

The BOT is authorized to adopt rules governing all uses of sovereignty submerged lands including rules for anchoring, mooring, or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages.¹³ Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.¹⁴ The BOT has yet to adopt rules relating to the anchoring of vessels on the waters of the state.

Section 327.44, F.S., prohibits a person from anchoring a vessel, except in cases of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. Anchoring under bridges or in, or adjacent to, heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.¹⁵ Interference with navigation is a noncriminal infraction, punishable by a civil penalty of \$50.¹⁶

The FWC and other law enforcement agencies are authorized to relocate or remove a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. The FWC or any law enforcement agency that relocates or removes a vessel under these circumstances is to be held harmless for all damages to the vessel resulting from the relocation or removal unless the damage results from gross negligence or willful misconduct.¹⁷ The costs to relocate or remove a vessel under these circumstances are recoverable against the vessel owner.¹⁸

Section 327.4108, F.S., prohibits, with specified exceptions, the anchoring of a vessel between one-half hour after sunset and one-half hour before sunrise in the following designated anchoring limitation areas:

¹⁰ Section 253.0374, F.S. See also DEP, *Construction Criteria for Docks, Piers, and Marinas-Not in an Aquatic Preserve*, http://publicfiles.dep.state.fl.us/dworm/slerp/erphelp/mergedProjects/docksguide/Not_in_AP/Private_Multi_Family_or_Multi_Slip.htm (last visited Mar. 23, 2017).

¹¹ R. Steven Lewis, Matthew Butler, and Timothy Rach, *Special Permitting Considerations for Sovereign Lands and Aquatic Preserves*, 19 (July 2014) available at <http://floridaenet.com/wp-content/uploads/2015/10/Special-Permitting-Considerations-for-Sovereign-Lands-and-Aquatic-Preserves-July-2014-00354627xBA9D6.pdf> (last visited Mar. 23, 2017).

¹² *Id.*

¹³ Section 253.03(7), F.S.

¹⁴ See Fla. Admin. Code ch. 18-21.

¹⁵ Section 327.44(2), F.S.

¹⁶ Section 327.73, F.S.

¹⁷ Section 327.44(3), F.S.

¹⁸ Section 327.44(5), F.S.

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County.
- Sunset Lake in Miami-Dade County.
- The sections of Biscayne Bay in Miami-Dade County lying between:
 - Rivo Alto Island and Di Lido Island;
 - San Marino Island and San Marco Island; or
 - San Marco Island and Biscayne Island.¹⁹

This prohibition expires upon the Legislature's adoption of the FWC's recommendations for the regulation of mooring vessels outside public mooring fields developed under the pilot program.²⁰

Local Regulation of the 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.²¹ Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters which 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.²²

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures²³ or live-aboard vessels²⁴ within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.²⁵ However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.²⁶ Local governments are only authorized to enact and enforce regulations regarding the mooring or anchoring of vessels that are located within marked boundaries of a mooring field.²⁷

¹⁹ Section 327.4108, F.S.

²⁰ Section 327.4108(7), F.S.

²¹ See s. 373.118, F.S. and Fla. Admin. Code R. 62-330.420(1).

²² See Fla. Admin. Code R. 62-330.420.

²³ 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."

²⁴ 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 represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats."

²⁵ Section 327.60(3), F.S.

²⁶ Section 327.60(2)(f), F.S.

²⁷ Section 327.60, F.S.

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned:

- In a wrecked, junked, or substantially dismantled condition upon any public waters of this state;
- At a port in the state without the consent of the agency that has jurisdiction of the port; or
- Docked, grounded, or beached upon the property of another without the consent of the owner of the property.²⁸

It is unlawful to store, leave, or abandon a derelict vessel in Florida.²⁹ Those who are found in violation of this prohibition commit a first degree misdemeanor.³⁰ Additionally, s. 376.16, F.S., provides that a violation of derelict vessel laws also subjects the violator to a civil penalty of up to \$50,000 per violation.³¹ Each day during any portion of which the violation occurs constitutes a separate offense.³²

Removal of Derelict Vessels

Chapters 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the Division of Law Enforcement of the FWC and its officers, and the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S.³³

Section 823.11, F.S., allows for the relocation or removal of a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons. The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner. A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.³⁴

According to the FWC, removal costs for derelict vessels are approximately \$350 to \$450 per foot of vessel length. However, a floating vessel may be towed to a boat ramp or hoist and pulled from the water at a much lower cost. Relocation may cost nothing if a law enforcement officer is

²⁸ Section 823.11(1)(b), F.S.

²⁹ Section 823.11(2), F.S.

³⁰ A first degree misdemeanor is punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.

³¹ Section 376.16(1), F.S.

³² *Id.*

³³ Section 943.10(1), F.S., defines the term “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 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.”

³⁴ Section 705.103(4), F.S.

able to tow it to a suitable location. Costs for professional towing services are approximately \$200 per hour.³⁵

The FWC maintains a statewide database of vessels that have been investigated by a law enforcement officer and deemed to be either derelict or at risk of becoming derelict. The database related to at-risk vessels is largely incomplete, because the current effort related to at-risk vessels is a voluntary, community-oriented policing effort. A total of 166 derelict vessels were removed by local governments in 2014 at a cost of approximately \$665,500, or \$4,009 per vessel.³⁶

The FWC held six public meetings in 2015 to seek public input on the problem of derelict vessels and possible solutions. Participants were asked to respond to a survey to indicate their level of support for 8 solutions to address problems related to derelict vessels. The concept of prohibiting a vessel at risk of becoming derelict from anchoring on Florida waters received 85.2 percent support from respondents.³⁷

At-risk vessels

In 2016, the Legislature passed ch. 2016-108, Laws of Florida, to prohibit neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.³⁸ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor; or
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk.³⁹

A violation for anchoring, mooring, or occupying a vessel at risk of becoming derelict on the waters of the state is a noncriminal infraction, for which the civil penalty is:

- Fifty dollars, for a first offense.
- One hundred dollars, for a second offense occurring 30 days or more after a first offense.
- Two hundred and fifty dollars, for a third or subsequent offense occurring 30 days or more after a previous offense.⁴⁰

Anchoring and Mooring Pilot Program

In 2009, the Legislature created the Anchoring and Mooring Pilot Program to explore options for local governments to regulate the anchoring and mooring of non-live-aboard vessels outside the

³⁵ FWC, *2016 Agency Bill Analysis for HB 7025*, (Jan. 6, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁶ *Id.*

³⁷ *Id.*

³⁸ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

³⁹ Section 327.4107, F.S.

⁴⁰ Section 327.40(1)(a)(a), F.S.

marked boundaries of public mooring fields.⁴¹ The pilot program is administered by the FWC in consultation with the DEP.⁴²

The following local governments were selected as participants in the pilot program and were authorized to regulate anchoring and mooring outside the marked boundaries of permitted mooring fields:

- The city of St. Augustine;
- The city of St. Petersburg;
- The city of Sarasota;
- Monroe County in partnership with the cities of Marathon and Key West; and
- Martin County in partnership with the city of Stuart.⁴³

The pilot program and the local government ordinances developed under the program are set to expire July 1, 2017, unless reenacted by the Legislature.⁴⁴

FWC's Anchoring and Mooring Pilot Program Findings and Recommendations Report

The FWC in 2016 published a report of its findings and recommendations upon completion of the pilot program.⁴⁵ The following recommendations were made based on lessons learned by the FWC through the individual pilot program participating local governments, public responses to surveys, and additional input from key stakeholders:

- Provide an allowance for a 300-foot buffer extending beyond mooring field boundaries within which anchoring is prohibited, to further protect the safety of mooring field users;
- Retain state authority to regulate the anchoring of vessels in the state or, if the state chooses to grant such authority to local governments, restrict such authority to counties in order to minimize confusion among boaters;
- Quantify the economic benefits and document the environmental benefits of mooring fields;
- Establish anchoring limited areas through a universal, statewide prohibition against allowing an anchored vessel to come within 150 feet of any marina, boat ramp, or other vessel launching and loading facility; and
- Require certain vessels within specified areas of Monroe County waters to demonstrate proof of compliance with marine sanitation device pump out requirements.⁴⁶

Additionally, the FWC provided the following recommendations to prevent or remove derelict vessels on the waters of the state:

- Place a hold on titles of vessels deemed derelict;
- Limit who may renew a vessel registration;
- Increase the penalties for repeat violations of expired vessel registrations;
- Authorize an alternate means of notification to derelict vessel owners; and

⁴¹ Chapter 2009-86, s. 48, Laws of Fla.; s. 327.4105, F.S.

⁴² Section 327.4105, F.S.

⁴³ FWC, *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 15 (Dec. 21, 2016).

⁴⁴ Section 327.4105(6), F.S. The pilot program was originally set to expire on July 1, 2014. However, the program was extended to provide more time to fully evaluate each pilot program location. See ch. 2014-136, s. 2, Laws of Fla.

⁴⁵ See FWC, *Anchoring and Mooring Pilot Program Report of Findings and Recommendations* (Dec. 21, 2016), for the full report.

⁴⁶ *Id.* at 50-54.

- Add another condition to the definition of the term “at-risk vessel” which would define a vessel that is incapable of effective navigation when the owner or operator cannot demonstrate an effective means of propulsion for the purpose of safe navigation as an at-risk vessel.⁴⁷

The FWC did not provide recommendations related to the following issues:

- Stored vessels;
- Inoperable vessels being used as residences;
- State-wide marine sanitation; and
- Setbacks from shorelines or private docks.⁴⁸

Boating Restricted Areas

Section 327.46, F.S., authorizes the FWC to establish restrictions on vessel speeds and vessel traffic on the waters of the state for any purpose necessary to protect the safety of the public, if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards. Boating-restricted areas are adopted by the FWC by rule.⁴⁹

Each boating-restricted area must be developed in consultation and coordination with the governing body of the county or municipality in which the boating-restricted area is located. When the boating-restricted area is to be on the navigable waters of the United States, the FWC must consult and coordinate with the United States Coast Guard and the United States Army Corps of Engineers.

Local governments are authorized to establish boating-restricted areas by ordinance within certain parameters.⁵⁰ Such ordinances must be reviewed by the FWC and determined necessary to protect public safety based upon substantial competent evidence.⁵¹ The following types of restrictions are authorized to be established:

- An ordinance establishing an idle speed, no wake⁵² boating-restricted area, if the area is:
 - Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet in width.
 - Within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet in width.
 - Within 500 feet of fuel pumps or dispensers at any marine fueling facility that sells motor fuel to the general boating public on waterways more than 300 feet in width.
 - Within 300 feet of the fuel pumps or dispensers at any licensed terminal facility that sells motor fuel to the general boating public on waterways not exceeding 300 feet in width.

⁴⁷ *Id.* at 52-54.

⁴⁸ *Id.* at 54-56.

⁴⁹ See Fla. Admin. Code Ch. 68D-24, for established boating restricted areas by county.

⁵⁰ Section 327.46(1)(b), F.S.

⁵¹ *Id.*

⁵² Fla. Admin. Code R. 68D-24.002, defines the term “Idle Speed No Wake” to mean that a vessel cannot proceed at a speed greater than necessary to maintain steerageway.

- Inside or within 300 feet of any lock structure.⁵³
- An ordinance establishing a slow speed, minimum wake⁵⁴ boating-restricted area if the area is:
 - Within 300 feet of any bridge fender system.
 - Within 300 feet of any bridge span presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.
 - On a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline.
 - On a lake or pond of less than 10 acres in total surface area.⁵⁵
- An ordinance establishing a vessel-exclusion zone if the area is:
 - Designated as a public bathing beach or swim area.
 - Within 300 feet of a dam, spillway, or flood control structure.⁵⁶

The penalty for operating a vessel in a prohibited manner within a boating-restricted area that has been clearly marked by regulatory markers is a noncriminal infraction, punishable by a civil penalty of \$50.⁵⁷

Protection of Seagrass

According to s. 253.04, F.S., the state has a duty to conserve and improve state-owned lands and the products thereof, including the preservation and regeneration of seagrass. A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring in an aquatic preserve, except for Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction punishable by:

- Fifty dollars, for a first offense.
- Two hundred and fifty dollars, for a second offense occurring within 12 months after a prior conviction.
- Five hundred dollars, for a third offense occurring within 36 months after a prior conviction.
- One thousand dollars, for a fourth or subsequent offense occurring within 72 months after a prior conviction.⁵⁸

Spring Protection Zones

Section 327.45, F.S., authorizes the FWC to establish protection zones that restrict the speed and operation of vessels to protect and prevent harm to springs.⁵⁹ Such harm includes negative impacts to water quality, water quantity, hydrology, wetlands, and aquatic and wetland-dependent species.⁶⁰ The penalty for operating a vessel in violation of a spring

⁵³ Section 327.46(1)(b), F.S.

⁵⁴ Fla. Admin. Code R. 68D-24.002, defines the term “Slow Speed Minimum Wake” to mean that a vessel must be fully off plane and completely settled in the water and it may not proceed greater than that speed which is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under existing circumstances.

⁵⁵ Section 327.46(1)(b), F.S.

⁵⁶ *Id.*

⁵⁷ Section 327.73, F.S.

⁵⁸ *Id.*

⁵⁹ Section 327.45, F.S.

⁶⁰ *Id.*

protection zone is a noncriminal infraction charged as a uniform boating citation of which the civil penalty is:

- Fifty dollars, for a first offense.
- Two hundred and fifty dollars, for a second offense occurring within 12 months after a prior conviction.
- Five hundred dollars, for a third offense occurring within 36 months after a prior conviction.
- One thousand dollars, for a fourth or subsequent offense occurring within 72 months after a prior conviction.⁶¹

The FWC is responsible for the posting and maintenance of regulatory markers to identify protection zones.⁶²

Uniform Waterway Markers

The FWC has established a uniform system of regulatory markers compatible with the system of regulatory markers prescribed by the United States Coast Guard in the United States Aids to Navigation System.⁶³ The Division of Law Enforcement's Boating Waterways Section, within the FWC, permits and regulates the placement of markers in, on, and over the waters and shores of Florida.⁶⁴

A person or municipality, county, or other governmental entity may not place any uniform waterway marker in, on, or over the waters or shores of the state without a permit.⁶⁵ The FWC will not issue any permit authorizing placement of regulatory markers implementing municipal or county ordinances that:

- Are in violation of s. 327.60, F.S., relating to limitations on local regulations;
- Establish boating-restricted areas until such ordinances have been reviewed and approved by the Boating and Waterways Section; or
- Regulate vessel speed or operation for manatee protection purposes, until such ordinances have been reviewed and approved by the FWC, coordinated through the Imperiled Species Management Section, and provided that such ordinances do not apply within the marked navigation channel of the Florida Intracoastal Waterway or to the waters within 100 feet of said channel.⁶⁶

III. Effect of Proposed Changes:

CS/SB 1338 implements many of the FWC's recommendations for the anchoring and mooring of vessels on state waters as provided in its report on the pilot program relating to the anchoring or mooring of vessels outside public mooring fields.

⁶¹ Section 327.73, F.S.

⁶² Section 327.45, F.S.

⁶³ Section 327.41, F.S.; *see* 33 C.F.R. §§ 62.1-62.65.

⁶⁴ Fla. Admin. Code R. 68D-23.102.

⁶⁵ Section 327.40, F.S.

⁶⁶ Fla. Admin. Code R. 68D-23.101.

At-risk and Derelict Vessels

The bill amends s. 327.02, F.S., to define the term “barge” to mean “a flat-bottomed vessel used for the transport of goods on inland waterways which is propelled by its own power or towed by another vessel;” and to define the term “effective means of propulsion for safe navigation” to mean “when a vessel, other than a barge, 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.”

The bill amends s. 327.4107, F.S., to provide an additional condition for which an officer may deem a vessel at risk of becoming derelict. Under the bill, a vessel is at risk of becoming derelict if within 72 hours after the owner or operator of the vessel receives written notification by an officer that the vessel does not have an effective means of propulsion for safe navigation, the vessel still does not have an effective means of propulsion for safe navigation and the owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair. The bill authorizes the written notice to be provided by electronic mail or by other electronic documentation. The FWC is authorized to adopt rules to implement the new condition for at-risk vessels.

The bill amends s. 328.72, F.S., to provide the following penalties for an expired vessel registration:

- The owner or operator of a vessel with an expired registration of 6 months or less, upon a first or subsequent offense, commits a noncriminal infraction, punishable by a civil penalty of up to \$50;
- The owner or operator of a vessel with an expired registration of more than 6 months, upon a first offense, commits a noncriminal infraction punishable by a civil penalty of up to \$250; and
- The owner or operator of a vessel with an expired registration of more than 6 months, upon a second or subsequent offense, commits a noncriminal infraction, punishable by a civil penalty of up to \$500. Additionally, such a violator may not just pay the civil penalty by mail or in person within 30 days of receipt of the citation, but must appear before the designated official at the time and location of a scheduled hearing.

The bill amends s. 328.09, F.S., to prohibit the Department of Highway Safety and Motor Vehicles (DHSMV) from issuing a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer. A law enforcement officer must inform the DHSMV in writing, which may include facsimile, electronic mail, or other electronic documentation, of the vessel’s derelict status and must supply the vessel title number or vessel identification number. The DHSMV is authorized to issue a certificate of title once a law enforcement officer has verified in writing that the vessel is no longer a derelict vessel.

The bill amends s. 705.103, F.S., to exempt officers who post a notice on a derelict vessel which he or she ascertains as lost or abandoned property from the additional requirement that such notice be sent by certified mail to the owner of the property when the law enforcement officer has given such owner notice of a violation of derelict vessels and issued a violation of such to the owner.

Anchoring or Mooring Limitation Areas

The bill prohibits the anchoring or mooring of a vessel or floating structure within:

- 150 feet of any marina, boat ramp, or other vessel launching or loading facility;
- 300 feet of a superyacht repair facility; or
- 100 feet of public mooring field boundaries or a lesser distance if approved by the FWC upon request by a local government within which the mooring field is located.

The bill defines the term “superyacht repair facility” to mean a facility that can provide service or repair to a yacht with a load line of 79 feet or more in length.

Exceptions to the anchoring and mooring prohibitions for vessel launching or loading facilities or public mooring field boundaries are allowed if:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the people on board unless the vessel anchors or moors. In such an event, the vessel may anchor or moor for 5 business days or until the vessel is repaired, whichever occurs first; or
- Imminent or existing weather in the vicinity of the vessel poses an unreasonable risk of harm to the vessel or the persons on board unless the vessel anchors or moors. The vessel may anchor or moor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

Additionally, the bill exempts all of the following vessels from the anchoring or mooring prohibition:

- Vessels owned or operated by a governmental entity;
- Construction or dredging vessels on an active job site;
- Vessels actively engaged in commercial fishing; and
- Vessels engaged in recreational fishing when the persons onboard are actively tending hook and line fishing gear or nets.

The bill prohibits a vessel or floating structure from anchoring, mooring, tying, or otherwise affixing or allowing the vessel or floating structure to remain anchored, moored, tied, or otherwise affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of waters of the state. This prohibition does not apply to a private mooring owned by the owner of private submerged lands.

A violation of an anchoring or mooring prohibition under the bill is a noncriminal infraction for a first violation, punishable by a civil penalty of up to \$50; second violation, punishable by a civil penalty of up to \$100; or a third or subsequent violation, punishable by a civil penalty of up to \$250. Additionally, the bill authorizes any such noncriminal violation to be enforced by a uniform boating citation issued to the owner or operator of a vessel or floating structure unlawfully anchored, moored, tied, or otherwise affixed in a prohibited area.

The bill also revises the expiration mandated in s. 327.4108, F.S., the effect of which is to keep the designated anchoring limitation areas in place after the Legislature adopts the FWC’s recommendations for the regulation of mooring vessels outside of public mooring fields.

Local Regulation of the Anchoring or Mooring of Vessels

The bill amends s. 327.02, F.S., to revise the definition of “live-aboard vessel” to remove vessels represented as a place of business or a professional or other commercial enterprise and include vessels used as residences which does not have an effective means of propulsion for safe navigation. Additionally, the definition is revised to expressly exclude commercial vessels and barges, rather than just commercial fishing boats.

The bill amends s. 327.60, F.S., to authorize local governments to enact and enforce regulations requiring owners or operators of vessels or floating structures subject to marine sanitation requirements to provide proof of proper disposal of sewage by means of an approved pumpout service, pumpout facility, or waste reception facility if the vessel is anchored or moored for more than 10 consecutive days within the following areas:

- Marked boundaries of a permitted mooring field under the jurisdiction of the local government; or
- Designated no discharge zones pursuant to 40 C.F.R. s. 1700.10, including those provided under 53 F.R. 1678 (1988) for Destin Harbor; 64 F.R. 46390 (1999) for the City of Key West; and 67 F.R. 35735 (2002) for the Florida Keys National Marine Sanctuary.⁶⁷

Before a local government may adopt an ordinance to enact and enforce such regulations, the local government is required to provide adequate sewage pumpout services. The bill prohibits any ordinance that is adopted from taking effect until the FWC has reviewed the ordinance and determined that the ordinance is consistent with the requirements. The bill clarifies that local governments may enact or enforce sewage pumpout requirements for live-aboard vessels within any areas of its jurisdiction. The FWC is authorized to adopt rules to implement the provisions relating to local governmental authority to adopt ordinances for marine sanitation requirements authorized pursuant to the bill.

Additionally, the bill authorizes a local government to enact and enforce regulations that allow the local government to remove a vessel affixed to a public dock within its jurisdiction which has been deemed abandoned or lost property.

Private Residential Multifamily Docks

The bill authorizes private residential multifamily docks grandfathered-in to use sovereignty submerged lands by January 1, 1998, pursuant to former Florida Administrative Code Rule 18-21.00405, as it existed in rule on March 15, 1990, to exceed the 1:1 ratio for the number of moored boats to the number of units within the private multifamily development, as previously authorized under the grandfather program.

⁶⁷ United States Environmental Protection Agency, *No-Discharge Zones by State*, <https://www.epa.gov/vessels-marinas-and-ports/no-discharge-zones-ndzs-state#fl> (last visited Mar. 17, 2017).

Boating Restricted Areas

The bill amends s. 327.46, F.S., to authorize the FWC to establish boating restricted areas by rule upon request of owners of private submerged lands that are adjacent to Outstanding Florida Waters⁶⁸ or an aquatic preserve for the sole purpose of protecting any seagrass and contiguous seagrass habitat within their private property boundaries from seagrass scarring due to propeller dredging. Owners making such request must demonstrate to the FWC clear ownership of the submerged lands.

The term “seagrass” is defined to mean “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*).”⁶⁹

The bill requires the commission to develop rules to implement the establishment of boating restricted areas, including, but not limited to, establishing an application process and criteria for meeting the request requirements. Private property owners are required to apply to the FWC for a uniform waterway marker permit for marking any boating-restricted area established by rule.

The bill amends s. 327.391, F.S., to conform a cross-reference for s. 327.02, F.S., relating to definitions.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁶⁸ Section 403.061(27), F.S., requires the Department of Environmental Protection to establish “Outstanding Florida Waters” which are water bodies worthy of special protection because of their natural attributes.

⁶⁹ See s. 253.04, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on both state and local governments. While the FWC and local governments may experience positive fiscal impacts resulting from the issuance of boating citations, they may also experience increased costs due to increased enforcement efforts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.0347, 327.02, 327.391, 327.4107, 327.4108, 327.46, 327.60, 327.70, 327.73, 328.09, 328.72, and 705.103.

This bill creates s. 327.4109 of the Florida Statutes.

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

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

CS by Environmental Preservation and Conservation on March 22, 2017:

The CS/SB 1338 does the following:

- Amends s. 253.0347, F.S., to authorize grandfathered-in private residential multifamily docks to exceed the amount of moored boats to the number of units within the private multifamily development.
- Defines the term “barge” to mean a flat-bottomed vessel used for the transport of goods on inland waterways that is propelled by its own power or towed by another vessel.
 - Exempts barges from the definition of the term “effective means of propulsion for safe navigation” and from the definition of the term “live-aboard vessel.”
- Revises the definition of the term “live-aboard vessel” to remove vessels represented as a place of business or a professional or other commercial enterprise.
 - Adds such vessels as vessels that local governments are authorized to regulate outside public mooring fields.
 - Expressly exempts commercial vessels rather than commercial fishing boats from the definition of live-aboard vessel.

- Revises the condition under which a vessel may be deemed at-risk if it does not have an effective means of propulsion for safe navigation by:
 - Clarifying that the notice must be written but may be provided electronically;
 - Provides the vessel owner or operator the opportunity to provide documentation of having ordered necessary parts for vessel repair; and
 - Authorizes the FWC to adopt rules to implement.
- Revises the amendment to s. 327.4108, F.S., instead of striking through the entire subsection the amendment adds that this section shall remain in affect notwithstanding the Legislature’s adoption of FWC’s recommendations.
- Revises s. 327.4109, F.S., relating to anchoring or mooring prohibited by:
 - Adding an additional prohibition on the anchoring or mooring of a vessel within 300 feet of a superyacht repair facility and defines the term “superyacht repair facility.”
 - Revising the 300 feet prohibition relating to public mooring fields to 100 feet. Authorizes the FWC to adopt rules to implement.
 - Revising the circumstances under which a vessel may anchor within 100 feet of a public mooring field and within 150 feet of a vessel launching or loading facility to authorize anchoring or mooring for 5 business days for repairs instead of 3.
 - Removes the criminal penalty for second and subsequent violations.
- Amends s. 327.46, F.S., to authorize the FWC to establish boating restricted areas to protect seagrasses on privately owned submerged lands upon request by owners of such lands which are adjacent to Outstanding Florida Waters or an aquatic preserve.
- Revises the amendment to s. 327.60, F.S., to limit the proof of pumpout requirements to vessels when anchored or moored for more than 10 consecutive days within the specified areas.
- Authorizes local governments to enact and enforce regulations which allow the local government to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property.
- Removes the criminal penalty for violating registration renewal requirements a second or subsequent time.
- Amends s. 328.09, F.S., to prohibit the Department of Highway Safety and Motor Vehicles from issuing a certificate of title to any applicant for any vessel that has been deemed derelict until the officer informs the department in writing that the vessel is no longer derelict.

B. Amendments:

None.



594170

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (f) of subsection (2) of section
253.0347, Florida Statutes, is amended to read:

253.0347 Lease of sovereignty submerged lands for private
residential docks and piers.—

(2)

(f) A lessee of sovereignty submerged lands for a private



594170

11 residential multifamily dock designed to moor boats up to the
12 number of units within the multifamily development is not
13 required to pay lease fees for a preempted area equal to or less
14 than 10 times the riparian shoreline along sovereignty submerged
15 land on the affected waterbody times the number of units with
16 docks in the private multifamily development. Private
17 residential multifamily docks grandfathered-in to use
18 sovereignty submerged lands by January 1, 1998, pursuant to
19 former rule 18-21.00405, Florida Administrative Code, as it
20 existed in rule on March 15, 1990, may exceed the number of
21 moored boats for the number of units within the private
22 multifamily development as previously authorized under the
23 grandfather program.

24 Section 2. Present subsections (3) through (10) and present
25 subsections (11) through (44) of section 327.02, Florida
26 Statutes, are renumbered as subsections (4) through (11) and
27 subsections (13) through (46), respectively, new subsections (3)
28 and (12) are added to that section, and present subsection (19)
29 of that section is amended, to read:

30 327.02 Definitions.—As used in this chapter and in chapter
31 328, unless the context clearly requires a different meaning,
32 the term:

33 (3) "Barge" means a flat-bottomed vessel used for the
34 transport of goods on inland waterways which is propelled by its
35 own power or towed by another vessel.

36 (12) "Effective means of propulsion for safe navigation"
37 means when a vessel, other than a barge, is equipped with:

- 38 (a) A functioning motor, controls, and steering system; or
39 (b) Rigging and sails that are present and in good working



594170

40 order, and a functioning steering system.

41 (21)~~(19)~~ "Live-aboard vessel" means:

42 (a) A vessel used solely as a residence and not for
43 navigation;

44 ~~(b) A vessel represented as a place of business or a~~
45 ~~professional or other commercial enterprise; or~~

46 ~~(c) A vessel for which a declaration of domicile has been~~
47 ~~filed pursuant to s. 222.17; or~~

48 (c) A vessel used as a residence which does not have an
49 effective means of propulsion for safe navigation.

50

51 A commercial vessel and a barge are ~~fishing boat is~~ expressly
52 excluded from the term "live-aboard vessel."

53 Section 3. Subsection (1) of section 327.391, Florida
54 Statutes, is amended to read:

55 327.391 Airboats regulated.—

56 (1) The exhaust of every internal combustion engine used on
57 any airboat operated on the waters of this state shall be
58 provided with an automotive-style factory muffler, underwater
59 exhaust, or other manufactured device capable of adequately
60 muffling the sound of the exhaust of the engine as described in
61 s. 327.02(29) ~~s. 327.02(27)~~. The use of cutouts or flex pipe as
62 the sole source of muffling is prohibited, except as provided in
63 subsection (4). Any person who violates this subsection commits
64 a noncriminal infraction punishable as provided in s. 327.73(1).

65 Section 4. Paragraph (e) is added to subsection (2) of
66 section 327.4107, Florida Statutes, to read:

67 327.4107 Vessels at risk of becoming derelict on waters of
68 this state.—



594170

69 (2) An officer of the commission or of a law enforcement
70 agency specified in s. 327.70 may determine that a vessel is at
71 risk of becoming derelict if any of the following conditions
72 exist:

73 (e) The vessel does not have an effective means of
74 propulsion for safe navigation within 72 hours after the owner
75 or operator of the vessel receives written notice, which may
76 include electronic mail or by other electronic documentation, of
77 such from an officer, and the vessel owner or operator is unable
78 to provide a receipt, proof of purchase, or other documentation
79 of having ordered necessary parts for vessel repair. The
80 commission may adopt rules to implement this paragraph.

81 Section 5. Subsection (7) of section 327.4108, Florida
82 Statutes, is amended to read:

83 327.4108 Anchoring of vessels in anchoring limitation
84 areas.—

85 (7) This section shall remain in effect notwithstanding
86 ~~expires upon~~ the Legislature's adoption of the commission's
87 recommendations for the regulation of mooring vessels outside of
88 public mooring fields pursuant to s. 327.4105.

89 Section 6. Section 327.4109, Florida Statutes, is created
90 to read:

91 327.4109 Anchoring or mooring prohibited; exceptions;
92 penalties.—

93 (1) (a) A vessel or floating structure may not anchor or
94 moor such that the nearest approach of the anchored vessel is:

95 1. Within 150 feet of any marina, boat ramp, boatyard, or
96 other vessel launching or loading facility;

97 2. Within 300 feet of a superyacht repair facility. For



594170

98 purposes of this subparagraph, a "superyacht repair facility"
99 means a facility that can provide service or repair to a yacht
100 with a load line of 79 feet or more in length; or

101 3. Within 100 feet of a public mooring field boundary or a
102 lesser distance if approved by the commission upon request by a
103 local government within which the mooring field is located. The
104 commission may adopt rules to implement this subparagraph.

105 (b) Paragraph (a) does not apply to:

106 1. A vessel owned or operated by a governmental entity.

107 2. A construction or dredging vessel on an active job site.

108 3. A vessel actively engaged in commercial fishing.

109 4. A vessel actively engaged in recreational fishing if the
110 persons onboard are actively tending hook and line fishing gear
111 or nets.

112 (2) Notwithstanding paragraph (1)(a), an owner or operator
113 of a vessel may anchor or moor within 150 feet of any marina,
114 boat ramp, boatyard, or other vessel launching or loading
115 facility or within 100 feet of public mooring field boundaries
116 if:

117 (a) The vessel suffers a mechanical failure that poses an
118 unreasonable risk of harm to the vessel or the persons on board
119 such vessel. The owner or operator of the vessel may anchor or
120 moor for 5 business days or until the vessel is repaired,
121 whichever occurs first; or

122 (b) Imminent or existing weather conditions in the vicinity
123 of the vessel pose an unreasonable risk of harm to the vessel or
124 the persons on board. The owner or operator of the vessel may
125 anchor or moor until weather conditions no longer pose such
126 risk. During a hurricane or tropical storm, weather conditions



594170

127 are deemed to no longer pose an unreasonable risk of harm when
128 the hurricane or tropical storm warning affecting the area has
129 expired.

130 (3) The owner or operator of a vessel or floating structure
131 may not anchor, moor, tie, or otherwise affix or allow the
132 vessel or floating structure to remain anchored, moored, tied,
133 or otherwise affixed to an unpermitted, unauthorized, or
134 otherwise unlawful object that is on or affixed to the bottom of
135 the waters of this state. This subsection does not apply to a
136 private mooring owned by the owner of private submerged lands.

137 (4) A violation of this section is a noncriminal infraction
138 punishable as provided in s. 327.73(1) (bb).

139 Section 7. Subsection (1) of section 327.46, Florida
140 Statutes, is amended to read:

141 327.46 Boating-restricted areas.—

142 (1) Boating-restricted areas, including, but not limited
143 to, restrictions of vessel speeds and vessel traffic, may be
144 established on the waters of this state for any purpose
145 necessary to protect the safety of the public if such
146 restrictions are necessary based on boating accidents,
147 visibility, hazardous currents or water levels, vessel traffic
148 congestion, or other navigational hazards or to protect
149 seagrasses on privately owned submerged lands.

150 (a) The commission may establish boating-restricted areas
151 by rule pursuant to chapter 120.

152 (b) Municipalities and counties have the authority to
153 establish the following boating-restricted areas by ordinance:

154 1. An ordinance establishing an idle speed, no wake
155 boating-restricted area, if the area is:



594170

156 a. Within 500 feet of any boat ramp, hoist, marine railway,
157 or other launching or landing facility available for use by the
158 general boating public on waterways more than 300 feet in width
159 or within 300 feet of any boat ramp, hoist, marine railway, or
160 other launching or landing facility available for use by the
161 general boating public on waterways not exceeding 300 feet in
162 width.

163 b. Within 500 feet of fuel pumps or dispensers at any
164 marine fueling facility that sells motor fuel to the general
165 boating public on waterways more than 300 feet in width or
166 within 300 feet of the fuel pumps or dispensers at any licensed
167 terminal facility that sells motor fuel to the general boating
168 public on waterways not exceeding 300 feet in width.

169 c. Inside or within 300 feet of any lock structure.

170 2. An ordinance establishing a slow speed, minimum wake
171 boating-restricted area if the area is:

172 a. Within 300 feet of any bridge fender system.

173 b. Within 300 feet of any bridge span presenting a vertical
174 clearance of less than 25 feet or a horizontal clearance of less
175 than 100 feet.

176 c. On a creek, stream, canal, or similar linear waterway if
177 the waterway is less than 75 feet in width from shoreline to
178 shoreline.

179 d. On a lake or pond of less than 10 acres in total surface
180 area.

181 3. An ordinance establishing a vessel-exclusion zone if the
182 area is:

183 a. Designated as a public bathing beach or swim area.

184 b. Within 300 feet of a dam, spillway, or flood control



594170

185 structure.

186 (c) Municipalities and counties have the authority to
187 establish by ordinance the following other boating-restricted
188 areas:

189 1. An ordinance establishing an idle speed, no wake
190 boating-restricted area, if the area is within 300 feet of a
191 confluence of water bodies presenting a blind corner, a bend in
192 a narrow channel or fairway, or such other area if an
193 intervening obstruction to visibility may obscure other vessels
194 or other users of the waterway.

195 2. An ordinance establishing a slow speed, minimum wake, or
196 numerical speed limit boating-restricted area if the area is:

197 a. Within 300 feet of a confluence of water bodies
198 presenting a blind corner, a bend in a narrow channel or
199 fairway, or such other area if an intervening obstruction to
200 visibility may obscure other vessels or other users of the
201 waterway.

202 b. Subject to unsafe levels of vessel traffic congestion.

203 c. Subject to hazardous water levels or currents, or
204 containing other navigational hazards.

205 d. An area that accident reports, uniform boating
206 citations, vessel traffic studies, or other creditable data
207 demonstrate to present a significant risk of collision or a
208 significant threat to boating safety.

209 3. An ordinance establishing a vessel-exclusion zone if the
210 area is reserved exclusively:

211 a. As a canoe trail or otherwise limited to vessels under
212 oars or under sail.

213 b. For a particular activity and user group separation must



594170

214 be imposed to protect the safety of those participating in such
215 activity.

216

217 Any of the ordinances adopted pursuant to this paragraph shall
218 not take effect until the commission has reviewed the ordinance
219 and determined by substantial competent evidence that the
220 ordinance is necessary to protect public safety pursuant to this
221 paragraph. Any application for approval of an ordinance shall be
222 reviewed and acted upon within 90 days after receipt of a
223 completed application. Within 30 days after a municipality or
224 county submits an application for approval to the commission,
225 the commission shall advise the municipality or county as to
226 what information, if any, is needed to deem the application
227 complete. An application shall be considered complete upon
228 receipt of all requested information and correction of any error
229 or omission for which the applicant was timely notified or when
230 the time for such notification has expired. The commission's
231 action on the application shall be subject to review under
232 chapter 120. The commission shall initiate rulemaking no later
233 than January 1, 2010, to provide criteria and procedures for
234 reviewing applications and procedures for providing for public
235 notice and participation pursuant to this paragraph.

236 (d)1. Owners of private submerged lands that are adjacent
237 to Outstanding Florida Waters, as defined in s. 403.061(27), or
238 an aquatic preserve established under ss. 258.39-258.399, may
239 request that the commission establish boating-restricted areas
240 for the sole purpose of protecting any seagrass and contiguous
241 seagrass habitat within their private property boundaries from
242 seagrass scarring due to propeller dredging. Owners making a



594170

243 request pursuant to this paragraph must demonstrate to the
244 commission clear ownership of the submerged lands.

245 2. The commission shall adopt rules to implement this
246 paragraph, including, but not limited to, establishing an
247 application process and criteria for meeting the requirements of
248 subparagraph 1.

249 3. Each approved boating-restricted area must be
250 established by commission rule.

251 4. For marking boating-restricted areas established
252 pursuant to this paragraph, private property owners must apply
253 to the commission for a uniform waterway marker permit in
254 accordance with ss. 327.40 and 327.41.

255 (e) As used in this section, the term "seagrass" has the
256 same meaning as in s. 253.04.

257 Section 8. Subsections (2) and subsection (3) of section
258 327.60, Florida Statutes, are amended, and subsections (4) and
259 (5) are added to that section, to read:

260 327.60 Local regulations; limitations.—

261 (2) Nothing in this chapter or chapter 328 shall be
262 construed to prevent the adoption of any ordinance or local
263 regulation relating to operation of vessels, except that a
264 county or municipality may ~~shall~~ not enact, continue in effect,
265 or enforce any ordinance or local regulation:

266 (a) Establishing a vessel or associated equipment
267 performance or other safety standard, imposing a requirement for
268 associated equipment, or regulating the carrying or use of
269 marine safety articles;

270 (b) Relating to the design, manufacture, or installation,
271 ~~or use~~ of any marine sanitation device on any vessel, except as



594170

272 authorized in subsection (4);

273 (c) Regulating any vessel upon the Florida Intracoastal
274 Waterway;

275 (d) Discriminating against personal watercraft;

276 (e) Discriminating against airboats, for ordinances adopted
277 after July 1, 2006, unless adopted by a two-thirds vote of the
278 governing body enacting such ordinance;

279 (f) Regulating the anchoring of vessels ~~other than live-~~
280 ~~aboard vessels~~ outside the marked boundaries of mooring fields
281 permitted as provided in s. 327.40, except for:

282 1. Live-aboard vessels; and

283 2. Vessels represented as a place of business or a
284 professional or other commercial enterprise. This does not
285 include commercial vessels or barges;

286 (g) Regulating engine or exhaust noise, except as provided
287 in s. 327.65; or

288 (h) That conflicts with any provisions of this chapter or
289 any amendments thereto or rules adopted thereunder.

290 (3) Nothing in this section shall be construed to prohibit
291 local governmental authorities from the enactment or enforcement
292 of regulations that ~~which~~ prohibit or restrict the mooring or
293 anchoring of floating structures, ~~or~~ live-aboard vessels, or
294 vessels represented as a place of business or a professional or
295 other commercial enterprise, other than commercial vessels or
296 barges, within their jurisdictions or of any vessels within the
297 marked boundaries of mooring fields permitted as provided in s.
298 327.40. However, local governmental authorities are prohibited
299 from regulating the anchoring outside of such mooring fields of
300 commercial vessels or barges and any vessels other than live-



594170

301 aboard vessels as defined in s. 327.02.

302 (4) (a) A local government may enact and enforce regulations
303 requiring owners or operators of vessels or floating structures
304 subject to the marine sanitation requirements of s. 327.53, when
305 anchored or moored for more than 10 consecutive days within the
306 following areas, to provide proof of proper sewage disposal by
307 means of an approved sewage pumpout service, approved sewage
308 pumpout facility, or approved waste reception facility:

309 1. Marked boundaries of a permitted mooring field under the
310 jurisdiction of the local government; or

311 2. Designated no-discharge zones pursuant to 40 C.F.R. s.
312 1700.10, and those provided in Volume 53, No. 13 of the Federal
313 Register, page 1678 (1988); Volume 64, No. 164 of the Federal
314 Register, pages 46390-46391 (1999); and Volume 67, No. 98 of the
315 Federal Register, pages 35735-35743 (2002).

316 (b) Before a local government may adopt an ordinance to
317 enact and enforce such regulations, the local government must
318 provide adequate sewage pumpout services. Any ordinance adopted
319 pursuant to this subsection may not take effect until the
320 commission has reviewed and approved the ordinance as being
321 consistent with the requirements of this subsection.

322 (c) The commission may adopt rules to implement this
323 subsection.

324 (d) This subsection does not prohibit a local government
325 from enacting or enforcing sewage pumpout requirements for live-
326 aboard vessels within any areas of its jurisdiction.

327 (5) A local government may enact and enforce regulations
328 that allow the local government to remove a vessel affixed to a
329 public dock within its jurisdiction which is abandoned or lost



594170

330 property pursuant to s. 705.103(1).

331 Section 9. Subsection (3) of section 327.70, Florida
332 Statutes, is amended to read:

333 327.70 Enforcement of this chapter and chapter 328.—

334 (3) (a) Noncriminal violations of the following statutes may
335 be enforced by a uniform boating citation mailed to the
336 registered owner of an unattended vessel anchored, aground, or
337 moored on the waters of this state:

338 1. Section 327.33(3) (b), relating to navigation rules.

339 2. Section 327.44, relating to interference with
340 navigation.

341 3. Section 327.50(2), relating to required lights and
342 shapes.

343 4. Section 327.53, relating to marine sanitation.

344 5. Section 328.48(5), relating to display of decal.

345 6. Section 328.52(2), relating to display of number.

346 7. Section 327.4107, relating to vessels at risk of
347 becoming derelict.

348 8. Section 327.4109, relating to prohibited anchoring or
349 mooring.

350 (b) Citations issued to livery vessels under this
351 subsection shall be the responsibility of the lessee of the
352 vessel if the livery has included a warning of this
353 responsibility as a part of the rental agreement and has
354 provided to the agency issuing the citation the name, address,
355 and date of birth of the lessee when requested by that agency.
356 The livery is not responsible for the payment of citations if
357 the livery provides the required warning and lessee information.

358 (c) A noncriminal violation of s. 327.4108 may be enforced



594170

359 by a uniform boating citation issued to the operator of a vessel
360 unlawfully anchored in an anchoring limitation area.

361 (d) A noncriminal violation of s. 327.4109 may be enforced
362 by a uniform boating citation issued to an owner or operator of
363 a vessel or floating structure unlawfully anchored, moored,
364 tied, or otherwise affixed in a prohibited area.

365 Section 10. Paragraph (g) of subsection (1) of section
366 327.73, Florida Statutes, is amended, and paragraph (bb) is
367 added to that section, to read:

368 327.73 Noncriminal infractions.—

369 (1) Violations of the following provisions of the vessel
370 laws of this state are noncriminal infractions:

371 (g) Section 328.72(13), relating to operation with an
372 expired registration, for which the penalty is:

373 1. For a first or subsequent offense of 328.72(13) (a), up
374 to a maximum of \$50.

375 2. For a first offense of 328.72(13) (b), up to a maximum of
376 \$250.

377 3. For a second or subsequent offense of 328.72(13) (b), up
378 to a maximum of \$500, and the violator may not have the
379 provisions of paragraph (4) (a) available to him or her but must
380 appear before the designated official at the time and location
381 of the scheduled hearing.

382 (bb) Section 327.4109, relating to prohibited anchoring or
383 mooring, for which the penalty is:

384 1. For a first offense, up to a maximum of \$50.

385 2. For a second offense, up to a maximum of \$100.

386 3. For a third or subsequent offense, up to a maximum of
387 \$250.



594170

388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416

Any person cited for a violation of any provision of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the boating laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 11. Subsection (4) is added to section 328.09, Florida Statutes, to read:

328.09 Refusal to issue and authority to cancel a certificate of title or registration.-

(4) The department may not issue a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer under s. 823.11. A law enforcement officer must inform the department in writing, which may include facsimile, electronic mail, or other electronic documentation, of the vessel's derelict status and must supply the vessel title number or vessel identification number. The department may issue a certificate of title once a law enforcement officer has verified in writing, which may include facsimile, electronic mail, or other electronic documentation, that the vessel is no longer a derelict vessel.



594170

417 Section 12. Subsection (13) of section 328.72, Florida
418 Statutes, is amended to read:

419 328.72 Classification; registration; fees and charges;
420 surcharge; disposition of fees; fines; marine turtle stickers.-

421 (13) EXPIRED REGISTRATION.-The operation, use, or storage
422 on the waters of this state of a previously registered vessel is
423 subject to the following penalties:

424 (a) The owner or operator of a vessel with an expired
425 registration of 6 months or less commits a noncriminal
426 infraction, punishable as provided in s. 327.73(1)(g)1.

427 (b) The owner or operator of a vessel with an expired
428 registration of more than 6 months commits a noncriminal
429 infraction, punishable as provided in s. 327.73(1)(g)2. and 3
430 after the expiration of the registration period is a noncriminal
431 violation, as defined in s. 327.73. This subsection does not
432 apply to vessels lawfully stored at a dock or in a marina.

433 Section 13. Subsection (2) of section 705.103, Florida
434 Statutes, is amended to read:

435 705.103 Procedure for abandoned or lost property.-

436 (2) Whenever a law enforcement officer ascertains that an
437 article of lost or abandoned property is present on public
438 property and is of such nature that it cannot be easily removed,
439 the officer shall cause a notice to be placed upon such article
440 in substantially the following form:

441
442 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
443 PROPERTY. This property, to wit: ...(setting forth brief
444 description)... is unlawfully upon public property known as
445 ...(setting forth brief description of location)... and must be



594170

446 removed within 5 days; otherwise, it will be removed and
447 disposed of pursuant to chapter 705, Florida Statutes. The owner
448 will be liable for the costs of removal, storage, and
449 publication of notice. Dated this: ...(setting forth the date of
450 posting of notice)..., signed: ...(setting forth name, title,
451 address, and telephone number of law enforcement officer)....

452

453 Such notice shall be not less than 8 inches by 10 inches and
454 shall be sufficiently weatherproof to withstand normal exposure
455 to the elements. In addition to posting, the law enforcement
456 officer shall make a reasonable effort to ascertain the name and
457 address of the owner. If such is reasonably available to the
458 officer, she or he shall mail a copy of such notice to the owner
459 on or before the date of posting. If the property is a motor
460 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
461 327.02, the law enforcement agency shall contact the Department
462 of Highway Safety and Motor Vehicles in order to determine the
463 name and address of the owner and any person who has filed a
464 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
465 or s. 328.15(1). On receipt of this information, the law
466 enforcement agency shall mail a copy of the notice by certified
467 mail, return receipt requested, to the owner and to the
468 lienholder, if any, except that when a law enforcement officer
469 has given the owner of a derelict vessel notice of a violation
470 of s. 823.11 and issued a citation for the violation, the
471 officer is not required to send notice by certified mail to the
472 owner. If, at the end of 5 days after posting the notice and
473 mailing such notice, if required, the owner or any person
474 interested in the lost or abandoned article or articles



594170

475 described has not removed the article or articles from public
476 property or shown reasonable cause for failure to do so, the
477 following shall apply:

478 (a) For abandoned property, the law enforcement agency may
479 retain any or all of the property for its own use or for use by
480 the state or unit of local government, trade such property to
481 another unit of local government or state agency, donate the
482 property to a charitable organization, sell the property, or
483 notify the appropriate refuse removal service.

484 (b) For lost property, the officer shall take custody and
485 the agency shall retain custody of the property for 90 days. The
486 agency shall publish notice of the intended disposition of the
487 property, as provided in this section, during the first 45 days
488 of this time period.

489 1. If the agency elects to retain the property for use by
490 the unit of government, donate the property to a charitable
491 organization, surrender such property to the finder, sell the
492 property, or trade the property to another unit of local
493 government or state agency, notice of such election shall be
494 given by an advertisement published once a week for 2
495 consecutive weeks in a newspaper of general circulation in the
496 county where the property was found if the value of the property
497 is more than \$100. If the value of the property is \$100 or less,
498 notice shall be given by posting a description of the property
499 at the law enforcement agency where the property was turned in.
500 The notice must be posted for not less than 2 consecutive weeks
501 in a public place designated by the law enforcement agency. The
502 notice must describe the property in a manner reasonably
503 adequate to permit the rightful owner of the property to claim



594170

504 it.

505 2. If the agency elects to sell the property, it must do so
506 at public sale by competitive bidding. Notice of the time and
507 place of the sale shall be given by an advertisement of the sale
508 published once a week for 2 consecutive weeks in a newspaper of
509 general circulation in the county where the sale is to be held.
510 The notice shall include a statement that the sale shall be
511 subject to any and all liens. The sale must be held at the
512 nearest suitable place to that where the lost or abandoned
513 property is held or stored. The advertisement must include a
514 description of the goods and the time and place of the sale. The
515 sale may take place no earlier than 10 days after the final
516 publication. If there is no newspaper of general circulation in
517 the county where the sale is to be held, the advertisement shall
518 be posted at the door of the courthouse and at three other
519 public places in the county at least 10 days prior to sale.
520 Notice of the agency's intended disposition shall describe the
521 property in a manner reasonably adequate to permit the rightful
522 owner of the property to identify it.

523 Section 14. This act shall take effect July 1, 2017.

524
525 ===== T I T L E A M E N D M E N T =====

526 And the title is amended as follows:

527 Delete everything before the enacting clause
528 and insert:

529 A bill to be entitled
530 An act relating to vessels; amending s. 253.0347,
531 F.S.; providing an exemption from sovereignty
532 submerged lease fees for grandfathered private



594170

533 residential multifamily docks; amending s. 327.02,
534 F.S.; defining terms; revising the definition of the
535 term "live-aboard vessel"; amending s. 327.391, F.S.;
536 conforming a cross-reference; amending s. 327.4107,
537 F.S.; providing that vessels without an effective
538 means of propulsion are at risk of becoming derelict
539 under certain conditions; authorizing the Fish and
540 Wildlife Conservation Commission to adopt rules;
541 amending s. 327.4108, F.S.; removing the expiration of
542 provisions relating to anchoring of vessels in
543 anchoring limitation areas; creating s. 327.4109,
544 F.S.; prohibiting anchoring or mooring of vessels and
545 floating structures in certain areas; providing
546 exceptions and penalties; authorizing the commission
547 to adopt rules; amending s. 327.46, F.S.; providing
548 for boating-restricted areas to protect seagrasses on
549 privately owned submerged lands upon application by
550 the owner and commission approval; authorizing the
551 commission to adopt rules; defining the term
552 "seagrass"; amending s. 327.60, F.S.; authorizing a
553 local government to enact and enforce certain
554 regulations for sewage disposal by certain vessels and
555 floating structures; requiring local governments with
556 requirements for sewage disposal to provide adequate
557 sewage pumpout services; requiring the commission to
558 review such requirements and make certain
559 determinations; authorizing the commission to adopt
560 rules; providing applicability; authorizing local
561 governments to remove certain abandoned or lost



594170

562 vessels; amending s. 327.70, F.S.; providing for
563 issuance of uniform boating citations for anchoring or
564 mooring where prohibited; amending s. 327.73, F.S.;
565 providing penalties for anchoring or mooring where
566 prohibited; amending s. 328.09, F.S.; prohibiting the
567 issuance of certificate of title for derelict vessels;
568 amending s. 328.72, F.S.; revising the penalties for
569 operation, use, or storage of a vessel with an expired
570 registration; amending s. 705.103, F.S.; providing an
571 exception for certified mail for a derelict vessel;
572 providing an effective date.

By Senator Book

32-01187A-17

20171338__

1 A bill to be entitled
2 An act relating to vessels; amending s. 327.02, F.S.;
3 defining the term "effective means of propulsion for
4 safe navigation"; revising the definition of the term
5 "live-aboard vessel"; amending s. 327.391, F.S.;
6 making a conforming change; amending s. 327.4107,
7 F.S.; providing an additional condition for a vessel
8 at risk of becoming derelict on waters of this state;
9 amending s. 327.4108, F.S.; removing the expiration
10 for a section relating to anchoring of vessels in
11 anchoring limitation areas; creating s. 327.4109,
12 F.S.; prohibiting anchoring or mooring of vessels or
13 floating structures in certain areas; providing
14 exceptions for certain conditions; providing
15 exceptions for certain vessels; prohibiting vessels or
16 floating structures from affixing to unlawful objects
17 that are on or affixed to the bottom of waters of the
18 state; providing penalties; amending s. 327.60, F.S.;
19 authorizing a local government to enact and enforce
20 regulations related to proof of pumpout in certain
21 areas; requiring the Fish and Wildlife Conservation
22 Commission to review such regulations; amending s.
23 327.70, F.S.; providing for issuance of uniform
24 boating citations for certain violations; amending s.
25 327.73, F.S.; providing penalties; amending s. 328.72,
26 F.S.; providing penalties; providing an effective
27 date.

28
29 Be It Enacted by the Legislature of the State of Florida:

32-01187A-17

20171338__

30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

Section 1. Subsections (11) through (44) of section 327.02, Florida Statutes, are renumbered as subsections (12) through (45), respectively, present subsection (19) of that section is amended, and a new subsection (11) is added to that section, to read:

327.02 Definitions.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(11) "Effective means of propulsion for safe navigation" means the vessel is equipped with:

(a) A functioning motor, controls, and steering system; or
(b) Rigging and sails that are present and in good working order, and a functioning steering system.

(20)~~(19)~~ "Live-aboard vessel" means:

(a) A vessel used solely as a residence and not for navigation;

(b) A vessel represented as a place of business or a professional or other commercial enterprise; ~~or~~

(c) A vessel for which a declaration of domicile has been filed pursuant to s. 222.17; or

(d) A vessel as described in paragraph (a) or paragraph (b) which does not have an effective means of propulsion for safe navigation.

A commercial fishing boat is expressly excluded from the term "live-aboard vessel."

Section 2. Subsection (1) of section 327.391, Florida Statutes, is amended to read:

32-01187A-17

20171338__

59 327.391 Airboats regulated.—

60 (1) The exhaust of every internal combustion engine used on
61 any airboat operated on the waters of this state shall be
62 provided with an automotive-style factory muffler, underwater
63 exhaust, or other manufactured device capable of adequately
64 muffling the sound of the exhaust of the engine as described in
65 s. 327.02(28) ~~s. 327.02(27)~~. The use of cutouts or flex pipe as
66 the sole source of muffling is prohibited, except as provided in
67 subsection (4). Any person who violates this subsection commits
68 a noncriminal infraction punishable as provided in s. 327.73(1).

69 Section 3. Paragraph (e) is added to subsection (2) of
70 section 327.4107, Florida Statutes, to read:

71 327.4107 Vessels at risk of becoming derelict on waters of
72 this state.—

73 (2) An officer of the commission or of a law enforcement
74 agency specified in s. 327.70 may determine that a vessel is at
75 risk of becoming derelict if any of the following conditions
76 exist:

77 (e) The owner or operator of a vessel receives notice from
78 an officer that the vessel does not have an effective means of
79 propulsion for safe navigation and 72 hours after notification
80 by the officer, the vessel still does not have an effective
81 means of propulsion for safe navigation.

82 Section 4. Subsection (7) of section 327.4108, Florida
83 Statutes, is amended to read:

84 327.4108 Anchoring of vessels in anchoring limitation
85 areas.—

86 ~~(7) This section expires upon the Legislature's adoption of~~
87 ~~the commission's recommendations for the regulation of mooring~~

32-01187A-17

20171338__

88 ~~vessels outside of public mooring fields pursuant to s.~~
89 ~~327.4105.~~

90 Section 5. Section 327.4109, Florida Statutes, is created
91 to read:

92 327.4109 Anchoring or mooring prohibited; exceptions;
93 penalties.—

94 (1) A vessel or floating structure may not anchor or moor:

95 (a) Within 150 feet of any marina, boat ramp, or other
96 vessel launching or loading facility; or

97 (b) Within 300 feet of public mooring field boundaries.

98 (2) Notwithstanding subsection (1), an owner or operator of
99 a vessel may anchor or moor within 150 feet of any marina, boat
100 ramp, or other vessel launching or loading facility or within
101 300 feet of public mooring field boundaries:

102 (a) If the vessel suffers a mechanical failure that poses
103 an unreasonable risk of harm to the vessel or the persons
104 onboard unless the vessel anchors or moors. The vessel may
105 anchor or moor for 3 business days or until the vessel is
106 repaired, whichever occurs first.

107 (b) If imminent or existing weather in the vicinity of the
108 vessel poses an unreasonable risk of harm to the vessel or the
109 persons onboard unless the vessel anchors or moors. The vessel
110 may anchor or moor until weather conditions no longer pose such
111 risk. During a hurricane or tropical storm, weather conditions
112 are deemed to no longer pose an unreasonable risk of harm when
113 the hurricane or tropical storm warning affecting the area has
114 expired.

115 (3) Subsection (1) does not apply to:

116 (a) Vessels owned or operated by a governmental entity.

32-01187A-17

20171338__

117 (b) Construction or dredging vessels on an active job site.

118 (c) Vessels actively engaged in commercial fishing.

119 (d) Vessels engaged in recreational fishing and the persons
 120 onboard are actively tending hook and line fishing gear or nets.

121 (4) A vessel or floating structure may not anchor, moor,
 122 tie, or otherwise affix to an unpermitted, unauthorized, or
 123 otherwise unlawful object that is on or affixed to the bottom of
 124 waters of this state. This subsection does not apply to a
 125 private mooring lawfully owned on private submerged lands.

126 (5) A violation of this section is:

127 (a) For a first violation, a noncriminal infraction
 128 punishable as provided in s. 327.73; and

129 (b) For a second or subsequent violation, a misdemeanor of
 130 the second degree punishable as provided in s. 775.082 or s.
 131 775.083.

132 Section 6. Subsection (2) of section 327.60, Florida
 133 Statutes, is amended, and subsection (4) is added to that
 134 section, to read:

135 327.60 Local regulations; limitations.—

136 (2) Nothing in this chapter or chapter 328 shall be
 137 construed to prevent the adoption of any ordinance or local
 138 regulation relating to operation of vessels, except that a
 139 county or municipality shall not enact, continue in effect, or
 140 enforce any ordinance or local regulation:

141 (a) Establishing a vessel or associated equipment
 142 performance or other safety standard, imposing a requirement for
 143 associated equipment, or regulating the carrying or use of
 144 marine safety articles;

145 (b) Relating to the design, manufacture, or installation~~7~~

32-01187A-17

20171338__

146 ~~or use~~ of any marine sanitation device on any vessel, except as
147 authorized in subsection (4);

148 (c) Regulating any vessel upon the Florida Intracoastal
149 Waterway;

150 (d) Discriminating against personal watercraft;

151 (e) Discriminating against airboats, for ordinances adopted
152 after July 1, 2006, unless adopted by a two-thirds vote of the
153 governing body enacting such ordinance;

154 (f) Regulating the anchoring of vessels ~~other than live-~~
155 ~~aboard vessels~~ outside the marked boundaries of mooring fields
156 permitted as provided in s. 327.40, other than live-aboard
157 vessels;

158 (g) Regulating engine or exhaust noise, except as provided
159 in s. 327.65; or

160 (h) That conflicts with any provisions of this chapter or
161 any amendments thereto or rules adopted thereunder.

162 (4) (a) A local government may enact and enforce regulations
163 requiring owners or operators of vessels or floating structures
164 subject to the marine sanitation requirements of s. 327.53 to
165 provide proof of properly disposed of sewage by means of an
166 approved sewage pumpout service, pumpout facility, or waste
167 reception facility within the following areas:

168 1. Marked boundaries of a permitted mooring field under the
169 jurisdiction of the local government; or

170 2. Designated no discharge zones, as provided under 53 F.R.
171 1678, January 21, 1988; 64 F.R. 46390, August 25, 1999; and 67
172 F.R. 35735, May 21, 2002.

173 (b) Before a local government may adopt an ordinance to
174 enact and enforce such regulations, the local government must

32-01187A-17

20171338__

175 provide adequate pumpout services. Any ordinance adopted
176 pursuant to this subsection may not take effect until the
177 commission has reviewed the ordinance and determined the local
178 government provides adequate pumpout services within its
179 jurisdiction to protect public health and the marine
180 environment.

181 (c) This subsection may not be construed to prohibit a
182 local government from enacting or enforcing such pumpout
183 requirements for live-aboard vessels within any areas of its
184 jurisdiction.

185 Section 7. Paragraph (d) is added to subsection (3) of
186 section 327.70, Florida Statutes, to read:

187 327.70 Enforcement of this chapter and chapter 328.—

188 (3)

189 (d) A noncriminal violation of s. 327.4109 may be enforced
190 by a uniform boating citation issued to the operator of a vessel
191 unlawfully anchored, moored, tied, or otherwise affixed where
192 such is prohibited.

193 Section 8. Paragraph (g) of subsection (1) of section
194 327.73, Florida Statutes, is amended, and paragraph (bb) of that
195 subsection, is added to read:

196 327.73 Noncriminal infractions.—

197 (1) Violations of the following provisions of the vessel
198 laws of this state are noncriminal infractions:

199 (g) Section 328.72(13) (a) and (b), relating to operation
200 with an expired registration.

201 (bb) Section 327.4109, relating to anchoring and mooring in
202 a prohibited area.

203

32-01187A-17

20171338__

204 Any person cited for a violation of any provision of this
205 subsection shall be deemed to be charged with a noncriminal
206 infraction, shall be cited for such an infraction, and shall be
207 cited to appear before the county court. The civil penalty for
208 any such infraction is \$50, except as otherwise provided in this
209 section. Any person who fails to appear or otherwise properly
210 respond to a uniform boating citation shall, in addition to the
211 charge relating to the violation of the boating laws of this
212 state, be charged with the offense of failing to respond to such
213 citation and, upon conviction, be guilty of a misdemeanor of the
214 second degree, punishable as provided in s. 775.082 or s.
215 775.083. A written warning to this effect shall be provided at
216 the time such uniform boating citation is issued.

217 Section 9. Subsection (13) of section 328.72, Florida
218 Statutes, is amended to read:

219 328.72 Classification; registration; fees and charges;
220 surcharge; disposition of fees; fines; marine turtle stickers.-

221 (13) EXPIRED REGISTRATION.-The operation, use, or storage
222 on the waters of this state of a previously registered vessel is
223 subject to the following penalty provisions:

224 (a) The owner or operator of a vessel having a registration
225 that has been expired for 6 months or less commits a noncriminal
226 infraction, punishable as provided in s. 327.73;

227 (b) The owner or operator of a vessel having a registration
228 that has been expired for more than 6 months, upon a first
229 offense, commits a noncriminal infraction punishable as provided
230 in s. 327.73;

231 (c) The owner or operator of a vessel having a registration
232 that has been expired for more than 6 months, upon a second or

32-01187A-17

20171338__

233 subsequent offense, commits a misdemeanor of the second degree
234 punishable as provided in s. 775.082 or s. 775.083. ~~after the~~
235 ~~expiration of the registration period is a noncriminal~~
236 ~~violation, as defined in s. 327.73.~~

237

238 This subsection does not apply to vessels lawfully stored at a
239 dock or in a marina.

240 Section 10. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 198

INTRODUCER: Environmental Preservation and Conservation Committee and Senators Stewart and Rodriguez

SUBJECT: Environmental Regulation Commission

DATE: March 23, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Mitchell	Rogers	EP	Fav/CS
2.	_____	_____	EE	_____
3.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 198 requires the Governor to appoint a new member of the Environmental Regulation Commission (ERC) within 90 days after the occurrence of a vacancy. The bill removes language that authorizes the Governor to fill a vacancy at any time for the unexpired term of a commissioner.

The bill also requires a supermajority of 5 votes to approve or modify a proposed rule submitted to the ERC which pertains to air quality standards or water quality and quantity standards.

II. Present Situation:

Environmental Regulation Commission

The Environmental Regulation Commission (ERC) exists within the Department of Environmental Protection (DEP). Seven members appointed by the Governor and approved by the Senate serve on the ERC. When making appointments, the Governor must provide reasonable representation from all sections of the state. Membership of the ERC must be representative of agriculture; the development industry; local government; the environmental community; lay citizens; and members of the scientific and technical community who have substantial expertise in the areas of the fate and transport of water pollutants, toxicology,

epidemiology, geology, biology, environmental sciences, or engineering.¹ The Governor must appoint a chair of the ERC. The members of the ERC may then elect a vice-chair. The ERC members serve for 4 years.²

The secretary of DEP must submit any proposed rule containing a standard to the ERC for approval, modification, or disapproval.³ A “standard” is any DEP rule relating to air and water quality, noise, solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substation facilities. The term “standard” does not include rules of the DEP that relate exclusively to the internal management of the DEP, the procedural processing of applications, the administration of rulemaking or adjudicatory proceedings, the publication of notices, the conduct of hearings, or other procedural matters.⁴

The ERC possess the powers to set standards for the following topics:

- Environmental control, including air quality standards; water quality and water quantity standards; waste regulation and cleanup, including hazardous waste regulation; power plant and transmission line siting; water supply; water treatment plants; and natural gas transmission lines;
- Consumptive use of water permitting;
- Certain aspects of water well construction;
- Criteria for wetlands that receive and treat domestic wastewater;
- Water quality for wetlands;
- Regulation of the construction, operation, alteration, maintenance, abandonment, and removal of stormwater management systems;
- Delineating the extent of wetlands;
- Phosphorus criteria in the Everglades Protection Area and water quality standards applicable to the Everglades Agricultural Area canals; and
- Water quality standards for the Everglades Protection Area.⁵

The ERC does not possess the power to set standards related to total maximum daily load calculations and allocations.⁶ Further, the ERC may not establish DEP policies, priorities, plans, or directives. The ERC may adopt procedural rules governing the conduct of its meetings and hearings.⁷

The following individuals currently serve on the ERC:⁸

Name	Term	From	Represents
Frank Gummey	12/16/16 to 07/01/17	Daytona Beach Shores	Local Governments

¹ Section 20.255(6), F.S.

² *Id.*

³ Section 403.805(1), F.S.

⁴ Section 403.803(13), F.S.

⁵ Section 403.804(1), F.S.

⁶ Section 403.805(1), F.S.

⁷ Section 403.804(1), F.S.

⁸ Department of Environmental Protection, *Environmental Regulation Commission*, <http://www.dep.state.fl.us/legal/ERC/members.htm> (last visited March 18, 2017).

Joe Joyce	10/02/15 to 07/01/19	Gainesville	Agriculture
Adam R. Gelber	10/02/15 to 07/01/19	Miami	Science & Technical
Cari Roth	03/31/10 to 07/01/17	Tallahassee	Development
Sarah S. Walton	03/07/14 to 07/01/17	Pensacola	Lay Citizens
Craig D. Varn	05/10/16 to 03/01/19	Tallahassee	Lay Citizens
Jim McCarthy	12/16/16 to 07/01/19	Jacksonville	Environmental Community

Office Vacancies Filled by the Governor

Unless otherwise provided by the Florida Constitution, the Governor must fill by appointment any vacancy in a state, district, or county office for the remainder of the term of an appointed officer.⁹ For any office that requires Senate confirmation, the appointee may hold an interim term until the Senate takes up their confirmation.¹⁰ When the Senate rejects an officer, they may hold over for no more than 30 days until the Governor appoints their successor, and the successor is qualified.¹¹

If the Senate votes to take no action on a confirmation or otherwise fails to consider an appointee, the seat becomes vacant and the appointee may hold over for no more than 45 days. The Governor may reappoint this appointee.¹² If the Senate votes to take no action or for any other reason fails to consider the reappointment of the same person to the same office during the regular session immediately following the effective date of the reappointment, the reappointment of such person to such office shall be deemed to have been rejected. The office shall become vacant upon the adjournment sine die of the regular session immediately following the effective date of the reappointment and the appointee shall not hold over in that office or be eligible for reappointment in that office for 1 year thereafter.¹³

The Governor may fill a vacancy on the ERC for the unexpired term at any time.¹⁴

Human Health Criteria Rule Changes

During the summer of 2016, the ERC took up a rule proposal to change certain human health based water quality criteria, including the establishment of a new classification of waters. The

⁹ Section 114.04, F.S.

¹⁰ *Id.*

¹¹ Section 114.05(1)(d), F.S.

¹² Section 114.05(1)(e), F.S.

¹³ Section 114.05(1)(f), F.S.

¹⁴ Section 20.255(6), F.S.

DEP used a new methodology to update these standards. Some standards became more protective, while others became less protective.¹⁵

At the time the ERC considered the proposed rule changes, two vacancies existed on the ERC. The vacant seats were those seats on the ERC designated for the representation of local governments and the environmental community. These constituencies were not specifically represented on the ERC when it voted 3-2 to approve the new human health based water quality criteria. Some groups were concerned that the ERC took up the new standards before the Governor filled the two vacancies.¹⁶ The revised rules became effective on November 17, 2016.¹⁷

III. Effect of Proposed Changes:

CS/SB 198 amends the statutory section that establishes the Department of Environmental Protection (DEP) and the Environmental Regulation Commission (ERC),¹⁸ to require the Governor to appoint a new member, subject to confirmation by the Senate, within 90 days after the occurrence of a vacancy. The bill removes language that authorizes the Governor to fill a vacancy at any time for the unexpired term of a commissioner.

The bill also requires a proposed rule containing standards submitted to the ERC for approval, modification, or disapproval to receive a simple majority vote for approval or modification, unless the rule pertains to one of the following, in which case a supermajority of 5 votes is required for approval or modification:

- Air quality standards; or
- Water quality and quantity standards.

The bill provides that proposed rules that fail to receive the votes required for approval or modification are deemed disapproved.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

¹⁵ DEP, *Surface Water Quality Standards*, <http://www.dep.state.fl.us/water/wqssp/> (last visited March 18, 2017); Jeff Burlew, *ERC signs off on controversial water standards*, Tallahassee Democrat (July 26, 2016), <http://www.tallahassee.com/story/news/2016/07/26/erc-signs-off-controversial-water-standards/87585308/> (last visited March 18, 2017).

¹⁶ *Id.*

¹⁷ Fla. Admin. Code R. 62-302.400 and Fla. Admin. Code R. 62-302.530.

¹⁸ Section 20.255, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not provide rulemaking authority or require executive branch rulemaking and is unlikely to result in significant rulemaking by DEP.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 20.255 and 403.805 of the Florida Statutes.

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

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

CS by Environmental Preservation and Conservation on March 22, 2017:

Delete everything amendment that:

- Removes language prohibiting an appointee, if the appointment occurs when the Legislature is in session, from becoming a member of the ERC until Senate confirmation.
- Removes language providing that the appointee, if the appointment occurs when the Legislature is not in session, serves in a provisional capacity and if not confirmed in the next regular session of the Legislature is immediately terminated, the Governor at that point required to make a new appointment.

- Provides that rules containing standards for air quality, water quality, or water quantity require a supermajority of 5 votes to be adopted or modified, but removes from the bill the same requirement for a number of other standards in rule.

The strike-all retains the remaining provisions of the underlying bill, including the requirement that the Governor make a membership appointment within 90 days after the occurrence of a vacancy on the ERC.

B. Amendments:

None.



288378

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) of section 20.255, Florida
Statutes, is amended to read:

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

(6) There is created as a part of the Department of
Environmental Protection an Environmental Regulation Commission.



288378

11 (a) The commission shall be composed of seven residents of
12 this state appointed by the Governor, subject to confirmation by
13 the Senate. In making appointments, the Governor shall provide
14 reasonable representation from all sections of the state.
15 Membership shall be representative of agriculture, the
16 development industry, local government, the environmental
17 community, lay citizens, and members of the scientific and
18 technical community who have substantial expertise in the areas
19 of the fate and transport of water pollutants, toxicology,
20 epidemiology, geology, biology, environmental sciences, or
21 engineering.

22 (b) The Governor shall, within 90 days after the occurrence
23 of a vacancy on the commission, appoint a new member, subject to
24 confirmation by the Senate.

25 (c) The Governor shall appoint the chair, and the vice
26 chair shall be elected from among the membership. All
27 appointments shall be for 4-year terms.

28 (d) ~~The Governor may at any time fill a vacancy for the~~
29 ~~unexpired term.~~ The members of the commission shall serve
30 without compensation, but shall be paid travel and per diem as
31 provided in s. 112.061 while in the performance of their
32 official duties. Administrative, personnel, and other support
33 services necessary for the commission shall be furnished by the
34 department. The commission may employ independent counsel and
35 contract for the services of outside technical consultants.

36 Section 2. Subsection (4) is added to section 403.805,
37 Florida Statutes, to read:

38 403.805 Secretary; powers and duties; review of specified
39 rules.-



288378

40 (4) Any proposed rule containing standards to be submitted
41 to the commission for approval, modification, or disapproval
42 pursuant to subsection (1) requires a simple majority for
43 approval or modification, unless the rule pertains to any of the
44 following, in which case approval or modification must be by a
45 super majority of five votes:

46 (a) Air quality standards.

47 (b) Water quality and quantity standards.

48
49 Proposed rules that fail to receive the votes required for
50 approval or modification pursuant to this subsection are deemed
51 disapproved.

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

53
54 ===== T I T L E A M E N D M E N T =====

55 And the title is amended as follows:

56 Delete everything before the enacting clause
57 and insert:

58 A bill to be entitled
59 An act relating to the Environmental Regulation
60 Commission; amending s. 20.255, F.S.; requiring the
61 Governor to appoint a new member to the commission
62 within a certain timeframe after the occurrence of a
63 vacancy; amending s. 403.805, F.S.; requiring certain
64 proposed rules submitted to the commission to receive
65 specified vote totals for approval or modification;
66 providing an effective date.

By Senator Stewart

13-00340-17

2017198__

1 A bill to be entitled
2 An act relating to the Environmental Regulation
3 Commission; amending s. 20.255, F.S.; requiring the
4 Governor to make appointments to the commission within
5 a certain time frame; allowing for provisional
6 membership under certain circumstances; amending s.
7 403.805, F.S.; requiring certain proposed rules
8 submitted to the commission to receive a certain vote
9 total for approval or modification; providing an
10 effective date.

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

13
14 Section 1. Subsection (6) of section 20.255, Florida
15 Statutes, is amended to read:

16 20.255 Department of Environmental Protection.—There is
17 created a Department of Environmental Protection.

18 (6) There is created as a part of the Department of
19 Environmental Protection an Environmental Regulation Commission.

20 (a) The commission shall be composed of seven residents of
21 this state appointed by the Governor, subject to confirmation by
22 the Senate. In making appointments, the Governor shall provide
23 reasonable representation from all sections of the state.
24 Membership shall be representative of agriculture, the
25 development industry, local government, the environmental
26 community, lay citizens, and members of the scientific and
27 technical community who have substantial expertise in the areas
28 of the fate and transport of water pollutants, toxicology,
29 epidemiology, geology, biology, environmental sciences, or
30 engineering.

31 (b) The Governor shall, within 90 days after the occurrence
32 of a vacancy on the commission, appoint a new member, subject to

13-00340-17

2017198__

33 confirmation by the Senate.

34 1. If the Legislature is in regular session when the
35 appointment occurs, the appointee may not become a member until
36 his or her appointment is confirmed.

37 2. If the Legislature is not in regular session when the
38 appointment occurs, the new member shall serve on the board
39 provisionally until such time as the member can be presented for
40 confirmation during the next legislative session. If the Senate
41 refuses or fails to confirm an appointment during the next
42 regular legislative session, the provisional member's service
43 shall be immediately terminated and the Governor shall make a
44 new appointment subject to the same conditions.

45 (c) The Governor shall appoint the chair, and the vice
46 chair shall be elected from among the membership. All
47 appointments shall be for 4-year terms.

48 ~~(d) The Governor may at any time fill a vacancy for the~~
49 ~~unexpired term.~~ The members of the commission shall serve
50 without compensation, but shall be paid travel and per diem as
51 provided in s. 112.061 while in the performance of their
52 official duties. Administrative, personnel, and other support
53 services necessary for the commission shall be furnished by the
54 department. The commission may employ independent counsel and
55 contract for the services of outside technical consultants.

56 Section 2. Subsection (4) is added to section 403.805,
57 Florida Statutes, to read:

58 403.805 Secretary; powers and duties; review of specified
59 rules.—

60 (4) Any proposed rule containing standards to be submitted
61 to the commission for approval, modification, or disapproval

13-00340-17

2017198__

62 pursuant to subsection (1) shall require a simple majority for
63 approval or modification, unless the rule pertains to any of the
64 following, in which case, approval or modification must be by a
65 supermajority of 5 votes:

- 66 (a) Air pollution.
- 67 (b) Water quality standards.
- 68 (c) Regulation of consumptive usage of water.
- 69 (d) Hazardous substance release notification.
- 70 (e) Ambient air quality standards.
- 71 (f) Emission standards for stationary sources.
- 72 (g) Surface water quality standards.
- 73 (h) Ground water classes, standards, and exemptions.
- 74 (i) Drinking water classes, standards, and exemptions.

75
76 Proposed rules that fail to receive the votes required for
77 approval or modification pursuant to this subsection are deemed
78 disapproved.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

MAR 22 2017
Meeting Date

Bill Number (if applicable)

Topic PLASTIC BAGS

Amendment Barcode (if applicable)

Name JOHN PULSICKI

Job Title _____

Address 411 17th STREET
Street

Phone 215-896-8656

ST. AUGUSTINE FL 32084
City State Zip

Email _____

Speaking: For Against Information

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

Representing St. Johns Demo Party

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/17
Meeting Date

SB 162
Bill Number (if applicable)

Topic Disposable Plastic Bags

Amendment Barcode (if applicable)

Name Tom Larson

Job Title ~~Sierra Club~~ Conservation Chair

Address 887 Marshside Ct

Phone

Street

Jacksonville Beach FL 32250

Email

City

State

Zip

Speaking: For Against Information

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

Representing Sierra Club Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/2017
Meeting Date

SB162
Bill Number (if applicable)

Topic SB162 Plastic Bags

Amendment Barcode (if applicable)

Name MARY O'BRIEN

Job Title FDOT employee - NA

Address 417 N. Gadsden St., #113
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email obrienmm@gmail.com

Speaking: For Against Information

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

Representing myself (citizen)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17

Meeting Date

SB162

Bill Number (if applicable)

Topic Disposable Plastic Bags

Amendment Barcode (if applicable)

Name Jessica Lewis

Job Title Blue Ocean Film Festival organizer

Address _____
Street

Phone _____

St Petersburg
City

FL
State

33704
Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SB 162

Bill Number (if applicable)

Topic Plastic bag bill

Amendment Barcode (if applicable)

Name Aliki Moncrief (ah-lee-key)

Job Title Exec. Director

Address 1700 N. Monroe St # 11-286

Phone 850 629 4656

Street

Tallah

City

FL

State

32303

Zip

Email contact@evokers.org

Speaking: For Against Information

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

Representing Florida Conservation Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/17

Meeting Date

162

Bill Number (if applicable)

Topic Disposable Plastic BAGS

Amendment Barcode (if applicable)

Name Jim Spratt

Job Title

Address PO Box 10011

Street

Phone 850-228-1296

TL4 FL 32302

City

State

Zip

Email Jim@magnumstrategiesllc.com

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 22 2017

Meeting Date

162

Bill Number (if applicable)

Topic Plastic Bags

Amendment Barcode (if applicable)

Name David Childs

Job Title Counsel

Address 119 S. Monroe St Suite 300

Phone 850 222-7500

Street

Tallahassee

FL

32301

City

State

Zip

Email DAVIDC@H6SLAW.COM

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/22/17

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

Meeting Date

162

Bill Number (if applicable)

Topic Disposable Plastic Bags

Amendment Barcode (if applicable)

Name Craig Leen

Job Title City Attorney, City of Coral Gables

Address 405 Biltmore Way

Phone 305-460-5218

Street

Coral Gables

City

FL

State

33134

Zip

Email cleen@coralgables.com

Speaking: For Against Information

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

Representing City of Coral Gables

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

162
Bill Number (if applicable)

Topic Disposable Plastic Bags

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title Vice President & General Counsel

Address 227 S. Adams St.
Street

Phone 222-4082

Tallahassee FL 32301
City State Zip

Email samantha@frf.org

Speaking: For Against Information

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

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

22 MAR 17

Meeting Date

SB 162

Bill Number (if applicable)

Topic Plastic Bag Bill

Amendment Barcode (if applicable)

Name David Connor

Job Title Citizen

Address 2451 2nd Ave N.

Phone 718 407 4706

Street

St. Petersburg FL 33713

City

State

Zip

Email Joealamode@gmail.com

Speaking: For Against Information

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

Representing Surfrider Foundation - FL chapter

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/17

Meeting Date

162

Bill Number (if applicable)

Topic Plastic Bag Ban

Amendment Barcode (if applicable)

Name Sarah Gledhill

Job Title Planning Director

Address 2545 Blainstone Pines Drive

Phone 850-656-7113

Tallahassee FL 32301

Email sgledhill@fwfonline.org

Speaking: For Against Information

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

Representing Florida Wildlife Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/2017
Meeting Date

SB 162
Bill Number (if applicable)

Topic Disposable Plastic Bags

Amendment Barcode (if applicable)

Name Shalah Romine

Job Title

Address 608 W 16th St
Street

Phone 904-651-1306

Email shalah@localawfirm.com

City

State

Zip

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Bill Number (if applicable) _____

Topic Disposal Plastic Bags

Amendment Barcode (if applicable) _____

Name Pete Ackerman

Job Title Rigger

Address 11719 N Williams St

Phone 954 939 1706

Street

Dunnellor

City

FL

State

33342

Zip

Email pete

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Ban Plastic Bags

Name Raithleen Hernandez

Job Title Student - Sustainability Major

Address 813 Last Creek Ct Phone _____

Kissimmee FL 34743 Email _____

Street City State Zip

Bill Number (if applicable)
SB 162

Amendment Barcode (if applicable)

Speaking: For Against Information

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

Representing Duff Santa Fe River

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

SV 132

Bill Number (if applicable)

SB 162

Amendment Barcode (if applicable)

Meeting Date _____

Topic Plastic bags ban

Name Michael Tintner

Job Title student

Address 1705 Ellis+ street
Street

Phone _____

Gainesville FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/22/17

Meeting Date

162

Bill Number (if applicable)

Topic Disposable Plastic Bags Pilot Program

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 850-339-6211

Street

Tallahassee

FL

32302-1757

Email rohara@flcities.com

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing Florida League of Cities

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

162

Bill Number (if applicable)

Topic Disposable Plastic Bags

Amendment Barcode (if applicable)

Name Marty Cassini

Job Title Legislative Counsel

Address 115 S. Andrews Ave

Phone 954-357-7575

Street

Fort Lauderdale FL 33301

City

State

Zip

Email mcassini@broward.org

Speaking: For Against Information

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

Representing Broward County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22
Meeting Date

162
Bill Number (if applicable)

Topic DISPOSABLE PLASTIC BAGS

Amendment Barcode (if applicable)

Name RAMON MAURY

Job Title _____

Address PO BOX 10245

Phone 250 222 1568

Street

TALL FL 32302

Email maxgroff@aol

City

State

Zip

Speaking: For Against Information

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

Representing CHAMBER SOUTH - MIAMI DADE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

162
Bill Number (if applicable)

Topic PLASTIC BOYS

Amendment Barcode (if applicable) _____

Name LARRY SANSON

Job Title _____

Address PO Box 58

Phone 322-697-4400

Coconut FL. 32923
City State Zip

Email FISHAWA@AFL.COM

Speaking: For Against Information

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

Representing CITY OF COPELAND

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/2017
Meeting Date

SB-162
Bill Number (if applicable)

Topic PLASTIC BAGS

Amendment Barcode (if applicable)

Name DOMINICK MONTANARO

Job Title COUNCILMAN

Address 565 CASSIA BLVD S
Street

Phone 321-501-4316

SATELLITE BEACH FL 32937
City State Zip

Email DMONTANARO@SATELLITEBEACH.FL.GOV

Speaking: For Against Information

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

Representing CITY OF SATELLITE BEACH

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

SB 162
Bill Number (if applicable)

Topic Plastic bag

Amendment Barcode (if applicable)

Name Adam Morley

Job Title Captain

Address 1205 SR 206 E
Street

Phone 904-540-7245

St. Augustine FL 32086
City State Zip

Email Capt_Morley

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17

Meeting Date

162

Bill Number (if applicable)

Topic Plastic Bags

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 1674 UNIVERSITY PARKWAY #296

Phone 941-323-2404

SARASOTA FL 34243

Email cullenrosea@aol.com

Speaking: For Against Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SB 162

Bill Number (if applicable)

Topic DISPOSABLE PLASTIC BAG BILL

Amendment Barcode (if applicable)

Name Jennifer Rubiello

Job Title Director

Address 3110 1ST AVENUE, ST 21K

Phone 927 327 3138

Street

St Petersburg FL 33713

City

State

Zip

Email jennifer@environmentflorida.org

Speaking: For Against Information

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

Representing ENVIRONMENT FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/22/17

Meeting Date

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

SB 162

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Jamela Diana Zimmerman

Job Title

352-871-0012

Address

26 Sand Dollar Dr.
Ormond Beach, FL 32176

Phone

Street

City

State

Zip

Email

PDZIMMER@ AOL.COM

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

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

Representing

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SB 162

Bill Number (if applicable)

Topic PLASTIC BAG BAN

Amendment Barcode (if applicable)

Name STEVE LOWE

Job Title _____

Address 8140 CA 304 1

Phone 386 597 9335

Street BONNELL

Email EQUUSMUSIC@AOL.COM

City FL State 32110 Zip

Speaking: For Against Information

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

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-22-17

Meeting Date

198

Bill Number (if applicable)

Topic ERC

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 1674 UNIVERSITY PKWY # 296

Phone 941-323-2404

Street

SARASOTA FL 34243

City

State

Zip

Email sullencullen@aol.com

Speaking: For Against Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

SB 198
Bill Number (if applicable)

Topic Environmental Regulation Commission

Amendment Barcode (if applicable)

Name Teri Cleeland

Job Title Volunteer

Address 5624 Burnside Circle
Street

Phone 703-201-1391

Tallahassee FL 32312
City State Zip

Email tcleeland@emb.org

Speaking: For Against Information

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

Representing League of Women Voters Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

782

Meeting Date _____

Bill Number (if applicable) _____

Topic Amendment / Implementation

Amendment Barcode (if applicable) _____

Name ERRY SANSON

Job Title _____

Address PO Box 98
Street

Phone 321-698-4400

Cocoa FL 32923
City State Zip

Email FISHAWA @ AOL.COM

Speaking: For Against Information

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

Representing Organized Fishermen of FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/2017
Meeting Date

SB-982
Bill Number (if applicable)

Topic AMENDMENT TO IMPLEMENT WATER + LAND CONSERVATION Amendment Barcode (if applicable)

Name DOMINICK MONTANARO

Job Title COUNCILMAN CITY OF SATELLITE BEACH

Address 565 CASSIA BLVD Street Phone 321-501-4316

SATELLITE BEACH City State Zip Email DMONTANARO@SATELLITEBEACH.ORG

Speaking: For Against Information

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

Representing CITY OF SATELLITE BEACH

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17

Meeting Date

982

Bill Number (if applicable)

Topic ENVIRONMENTAL PRESERVATION / CORRECTION Amendment Barcode (if applicable)

Name TIM ZORC

Job Title COUNTY COMMISSIONER INDIAN RIVER COUNTY

Address 1801 27TH STREET

Street

Phone 772-226-1492

VERO BEACH FL 32960

City

State

Zip

Email TZORC@INEGOV.CA

Speaking: For Against Information

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

Representing INDIAN RIVER COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/23/17
Meeting Date

1338
Bill Number (if applicable)

Topic Anchoring

594170
Amendment Barcode (if applicable)

Name Bonnie Basham

Job Title _____

Address 133 Oak St #15

Phone 850 933 7277

Street

TLH FL 32301

City

State

Zip

Email CapitalIdeas@fl.net

Speaking: For Against Information

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

Representing Bonnie U.S.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17
Meeting Date

1338
Bill Number (if applicable)

#594170
Amendment Barcode (if applicable)

Topic VESSELS

Name JERRY PAUL

Job Title _____

Address 310 W. COLLEGE AVE
Street

Phone 850-386-5267

TLH 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing 1. "MARINE TRAWLER OWNERS ASSOCIATION"
2. "7 SEAS CRUISING ASSOCIATION"

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

1338

Bill Number (if applicable)

Topic Vessels

Amendment Barcode (if applicable)

Name Marty Cassini

Job Title Legislative Counsel

Address 115 S. Andrews Ave

Phone 954-357-7575

Street

Ft Lauderdale

State

FL

Zip

33301

Email mcassini@broward.org

Speaking: For Against Information

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

Representing Broward County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

Rm 37

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-22-17

Meeting Date

1338

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title _____

Address 106 E College Ave #1200

Phone _____

Street

Tallahassee

FL

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Rybovich Marine

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 22 2017
Meeting Date

1338
Bill Number (if applicable)

Topic Vessels

Amendment Barcode (if applicable)

Name David Childs

Job Title Counsel

Address 119 S. Monroe St Suite 300

Phone 850 222-7500

Callahan FL 3301
City State Zip

Email DAVIDC@HGSUNION

Speaking: For Against Information

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

Representing National Marine Manufacturers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17
Meeting Date

1338
Bill Number (if applicable)

Topic VESSELS

Amendment Barcode (if applicable)

Name JERRY PAUL

Job Title _____

Address 310 W. COLLEGE AVE
Street
JLH 32301
City State Zip

Phone 850-386-5267

Email _____

Speaking: For Against Information

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

Representing I. MARINE TRAWLER OWNERS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17

Meeting Date

SB 1338

Bill Number (if applicable)

Topic Vessels

Amendment Barcode (if applicable)

Name Missy Timmins (Margaret)

Job Title

Address 2910 Kerry Forest Pkwy D4-368

Phone 850-668-8000

Street

ILH

City

FL

State

32309

Zip

Email Missy@timminsconsulting.com

Speaking: For Against Information

Waive Speaking: In Support Against

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

Marine Industries Assoc of FLA

Representing Marine Industries Assoc. of Palm Beach

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/20/2017

Meeting Date

1590

Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name Rebecca De La Rosa

Job Title Director

Address 301 N. Olive Ave

Phone 561-355-3451

Street

West Palm Bach

FL

33401

Email rdelarosa@pbcgov.org

City

State

Zip

Speaking: For Against Information

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

Representing Palm Beach County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

SB 1590
Bill Number (if applicable)

Topic Beach Management

Amendment Barcode (if applicable)

Name Deborah Flack

Job Title President

Address 1961 Chatsworth

Phone 850/510-5409

Street

Jallahassee

FL

32309

Email florida beaches@fsbpa.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Shore and Beach Preservation Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/22/17

Meeting Date

1590

Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 850-339-6211

Street

Tallahassee

FL

32302-1757

Email rohara@flcities.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

5/22/2017

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

Meeting Date

1590

Bill Number (if applicable)

Topic Coastal Mgmt

Amendment Barcode (if applicable)

Name DAWN PARDO

Job Title Council Woman - City of Riviera Beach

Address 600 W Blue Heron Blvd

Phone 561 845 3683

Street

Riviera Beach, FL 33404

Email dpardo@rivierabch.com

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing City of Riviera Beach

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/17

Meeting Date

1590

Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name Marty Cassini

Job Title Legislative Counsel

Address 115 S. Andrews Ave

Phone 954-357-7575

Street

Fort Lauderdale FL 33301

City

State

Zip

Email mcassini@broward.org

Speaking: [] For [] Against [] Information

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

Representing Broward County

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

1590
Bill Number (if applicable)

Topic COASTAL MANAGEMENT

Amendment Barcode (if applicable)

Name MARTIN COUNTY COMMISSIONER DOUG SMITH

Job Title COUNTY COMMISSIONER

Address 2401 SR. MONTANEY RD
Street

Phone 772-221-2359

STUART FL. 34986
City State Zip

Email DSMITH@MARTIN.FL.GS.

Speaking: For Against Information

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

Representing MARTIN COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22

Meeting Date

1590

Bill Number (if applicable)

Topic COASTAL MANAGEMENT

Amendment Barcode (if applicable)

Name RAMON MAURY

Job Title _____

Address PO BOX 10245

Phone 8502221568

Street

TALL FL 32302

Email mmg@pwp.com

City

State

Zip

Speaking: For Against Information

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

Representing AAWR - FLORIDA & CHAMBER SOUTH

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SB 15 90

Bill Number (if applicable)

Topic SB 1590

Amendment Barcode (if applicable)

Name Brett Bacot

Job Title Government Relations

Address 101 N Monroe St.

Phone 850-445-1465

Street

Tallahassee

City

FL

State

32301

Zip

Email brett.bacot@bipec.com

Speaking: For Against Information

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

Representing Collier County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

SB 1590
Bill Number (if applicable)

Topic SB 1590 - Beach Bill

Amendment Barcode (if applicable)

Name Gary Appelton

Job Title Policy Coordinator

Address 4424 13th St.

Phone 352-317-2870

Street

Gainesville, FL

City

State

Zip

Email Gary@conserveturtles.org

Speaking: For Against Information

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

Representing Sea Turtle Conservancy, Gainesville FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22

Meeting Date

1596

Bill Number (if applicable)

Topic Coastal management

Amendment Barcode (if applicable)

Name Susan Harbin

Job Title Associate Director, Public Policy

Address 126 S. Monroe

Phone 770-546-8845

Street

Tallahassee
City

FL
State

32301
Zip

Email sharbin@fl-counties.com

Speaking: For Against Information

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

Representing Florida Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17
Meeting Date

1590
Bill Number (if applicable)

Topic ENVIRONMENTAL PRESERVATION

Amendment Barcode (if applicable)

Name TIM ZORC

Job Title COUNTY COMMISSIONER

Address 1801 27TH STREET
Street
VERO BEACH FL 32960
City State Zip

Phone 772.226.1492

Email TZORC@IRCGOV.GOV

Speaking: For Against Information

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

Representing INDIAN RIVER COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22
Meeting Date

1590
Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name JOE MOBLEY

Job Title Principal ~ The Florida Group

Address 200 W College

Phone 850-222-1959

Street Jallahussan
City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing St. Johns County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

3.22.17
Meeting Date

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

1590
Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name Sarah Busk

Job Title

Address 204 S. Monroe St

Phone 850.222.8100

Street TLH
City FL State Zip 32301

Email sjb@cardenaspartners.com

Speaking: For Against Information

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

Representing Okaloosa County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17
Meeting Date

1590
Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name Joseph Flescher

Job Title Chairman of Indian River County Board of County Commissioners

Address 1801 27th Street

Phone _____

Vero Beach FL 32960
City State Zip

Email _____

Speaking: For Against Information

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

Representing Indian River County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17

Meeting Date

SB1590

Bill Number (if applicable)

Topic Coastal Mgmt

Amendment Barcode (if applicable)

Name Missy Timmins

Job Title _____

Address 2910 Kerry Forest Pkwy D4-368

Phone 850-668-8000

Street

TLH

City

FL

State

32309

Zip

Email _____

Speaking: For Against Information

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

Representing Pinellas County Board of County Commissioners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

1590
Bill Number (if applicable)

Topic Beach/Coastal Management

Amendment Barcode (if applicable)

Name frannie Hutchinson

Job Title St Lucie County Board of Commissioners

Address 2300 Virginia Ave

Phone _____

Pierce FL 34982
City State Zip

Email _____

Speaking: For Against Information

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

Representing frannie Hutchinson - St. Lucie County Commission

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

1590

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jess McLarty

Job Title Attorney

Address 1A S Monroest St 202

Phone 950-681-4888

Jade FL 32301

Email jmm2@miamidade.gov

Speaking: For Against Information

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

Representing Miami-Dade County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SB 1590

Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name David Shepp

Job Title Lobbyist

Address P.O. Box 3739

Phone 863 581-4250

Street

Lakeland FL 33802

City

State

Zip

Email shepp@strategy.com

Speaking: For Against Information

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

Representing Sarasota County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17

Meeting Date

1686

Bill Number (if applicable)

Topic Reclaimed Water

Amendment Barcode (if applicable)

Name Lane Stephens

Job Title _____

Address 111 N Calhoun St. Ste 6

Phone 513-0004

Street

Tallahassee A

32301

Email lane@scgssou.com

City

State

Zip

Speaking: For Against Information

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

Representing Nestle Waters N.A.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:
Judge:

Caption: Senate Committee Environmental Preservation

Started: 3/22/2017 4:05:32 PM

Ends: 3/22/2017 4:50:22 PM

Length: 00:44:51

4:05:31 PM Meeting called to order
4:05:34 PM Roll call
4:05:35 PM Quorum present
4:05:43 PM Tab 1
4:06:34 PM Senator Mayfield on SB 982
4:07:25 PM Amendment barcode 407870
4:07:35 PM amendment favored
4:07:43 PM Jerry Sansom, Organized Fisherman of Florida
4:07:52 PM Domick Montanaro, City of Satellite Beach
4:07:54 PM Tim Zorc, Indian River County
4:08:09 PM No debate
4:08:10 PM Senator Mayfield closes on SB 982
4:08:23 PM SB 982 reported favorably
4:08:35 PM Tab 3
4:08:37 PM SB 1590
4:08:43 PM Senator Latvala on SB 1590
4:09:24 PM Senator Simmons
4:11:06 PM Senator Lavala
4:12:05 PM Amendment 787478
4:12:29 PM Questions?
4:12:42 PM Senator Lavala closes on amendment
4:12:51 PM Amendment is adopted
4:12:56 PM Back on bill as amended
4:13:01 PM Appearance cards
4:13:05 PM Rebecca De La Rosa, Palm Beach County
4:13:16 PM Deborah Flack, Florida Shore and Beach Preservation Association
4:13:19 PM Rebecca O'Hara, Florida League of Cities
4:13:24 PM Dawn Pardo, City of Rivera Beach
4:14:10 PM Marty Cassini, Broward County
4:15:14 PM Douglas Smith, Martin County
4:15:18 PM Ramon Maury, AANR-Florida & Chamber South
4:15:21 PM Brett Bacot, Collier County
4:15:24 PM Gary Appelson, Sea Turtle Conservancy, Gainesville FL
4:15:34 PM Susen Harbin, Florida Association of Counties
4:15:37 PM Tim Zorc, Indian River County
4:15:42 PM Joe Mobley, St.Johns County
4:15:44 PM Sarah Busk, Okaloosa County
4:15:51 PM Joseph Fleshen, Indian River County
4:15:55 PM Missy Timmins, Pinellas County Board of County Commissioners
4:15:56 PM Frannie Hutchinson, St.Lucie County Commission
4:16:03 PM Jess McCarty, Miami-Dade County
4:16:08 PM David Shepp, Sarasota County
4:16:14 PM Debate?
4:17:06 PM Senator Farmer
4:17:10 PM Senator Hutson
4:17:13 PM Senator Latvala closes on bill as amended
4:18:21 PM Roll call on SB 1590
4:19:21 PM SB 1590 reported favorably
4:19:32 PM Senator Bradley assumes Chair
4:20:02 PM Senator Book on SB 1338
4:20:12 PM Amendment 594170
4:21:48 PM Jerry Paul, Marine Traveler Owners Association

4:22:47 PM Bonnie Bashem, Boat U.S.
4:22:51 PM Debate?
4:23:08 PM Senator Book closes on amendment
4:23:18 PM Back on bill as amended
4:23:22 PM Marty Cassini, Broward County
4:23:43 PM Richard Pinsky, Rybovich Marine
4:23:51 PM David Childs, National Marine Manufacturers Association
4:23:58 PM Lane Stephens, Nestle Waters N.A.
4:24:09 PM Missy Timmins, Marine Industries Association of FL
4:24:13 PM Debate?
4:24:25 PM Senator Book closes on SB 1338
4:24:37 PM Roll call on SB 1338
4:24:42 PM SB 1338 reported favorably
4:24:54 PM Senator Book resumes chair
4:25:01 PM Tab 4
4:25:04 PM Senator Simmons moves we temporarily postpone
4:25:21 PM Short recess
4:34:16 PM Back to order
4:35:15 PM Tab 2
4:35:24 PM Senator Farmer, Co-Sponsor on SB 162
4:35:52 PM Alike Moncrief, Florida Conservation Voters
4:36:51 PM Jesicca Lewis, self
4:36:55 PM Mary O'Brien, self
4:36:58 PM Tom Larson, Sierra Club Florida
4:37:04 PM John Pileski, St.Johns Demo Parts
4:37:07 PM Steve Lowe, self
4:37:10 PM Pamela Diana Zimmerman
4:37:12 PM Jennifer Rubiello, Environment Florida
4:37:15 PM David Cullen, Sierra Club Florida
4:37:18 PM Adam Morley, self
4:37:21 PM Dominick Montaro, City of Satillite Beach
4:37:24 PM Jerry Sansom, City of Cape Canavaral
4:37:28 PM Shalah Romone, self
4:37:29 PM Marty Cassini, Broward County
4:37:35 PM Rebecca O'Hara, Florida League of Cities
4:37:42 PM Michael Tinner, self
4:37:57 PM Pete Ackermar, self
4:37:59 PM Kathleen Hernandez, Our Santa Fe River
4:38:02 PM Ramon Maury, Chamber South- Miami Dade
4:38:02 PM Samantha Padgett, Florida Retain Federation
4:38:04 PM David Childs, Florida Chamber of Commerce
4:38:14 PM Jim Spratt, Associated Industries of Florida
4:38:22 PM Craig Leen, City of Coral Gables
4:42:31 PM
4:43:08 PM Sarah Gledhill, Florida Wildlife Federation
4:44:08 PM David Connor, Surfrider Foundation- FL Chapter
4:46:36 PM Debate on bill?
4:46:42 PM Senator Rodriguez closes on SB 162
4:46:53 PM Roll call on SB 162
4:46:58 PM SB 162 reported favorably
4:47:15 PM Tab 6
4:47:20 PM SB 198
4:47:33 PM Senator Stewart on SB 198
4:47:44 PM Delete all amendment on the desk barcode 288378
4:48:14 PM Questions on amendment
4:48:26 PM Senator Stewart closes on amendment
4:48:37 PM Back on the bill as amended
4:48:45 PM Terry Cleeland, League of Women Voters Florida
4:48:59 PM David Cullen, Sierra Club Florida
4:49:11 PM Senator Stewart closes on SB 198
4:49:19 PM SB 198 reported favorably
4:49:34 PM Senator Hutson moves to adjourn

4:50:12 PM Meeting Adjourned