

Tab 1	SB 244 by Brandes; (Similar to CS/H 00837) Domestic Wastewater Collection System Assessment and Maintenance						
381734	D	S	RCS	EP, Brandes	Delete everything after	02/05 06:17 PM	
Tab 2	SB 808 by Baxley; (Similar to CS/CS/H 00705) Public Records/Surplus Lands						
647560	A	S	RCS	EP, Baxley	Delete L.31 - 62:	02/05 06:20 PM	
243004	AA	S	RCS	EP, Baxley	Delete L.5 - 6:	02/05 06:20 PM	
Tab 3	SB 992 by Book; (Compare to H 07063) C-51 Reservoir Project						
Tab 4	SB 1622 by Flores; (Similar to CS/H 01173) Lands Used for Governmental Purposes						
357140	A	S	L RCS	EP, Flores	Delete L.71 - 162:	02/05 06:17 PM	
Tab 5	SB 462 by Young (CO-INTRODUCERS) Mayfield, Book, Steube, Montford, Stewart, Perry, Taddeo, Rouson, Campbell, Flores, Garcia, Farmer, Rodriguez; (Identical to H 00237) Advanced Well Stimulation Treatment						

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

MEETING DATE: Monday, February 5, 2018

TIME: 4:30—6:00 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Bradley, Chair; Senator Stewart, Vice Chair; Senators Bean, Book, Farmer, Flores, Hukill, Hutson, Simmons, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 244 Brandes (Similar CS/H 837)	Domestic Wastewater Collection System Assessment and Maintenance; Establishing the blue star collection system assessment and maintenance program and providing its purpose; requiring the Department of Environmental Protection to review and approve program applications for certification; creating a presumption of compliance for certain total maximum daily load requirements for certified utilities; requiring the department to provide extended operating permits when a certified utility applies for permit renewal, etc. EP 02/05/2018 Fav/CS CU AP RC	Fav/CS Yeas 10 Nays 0
2	SB 808 Baxley (Similar CS/CS/H 705, Compare H 703, Linked S 806)	Public Records/Surplus Lands; Providing an exemption for valuations, certain records, and sales offers for sales related to surplus lands; authorizing disclosure of such records under certain circumstances; providing a statement of public necessity, etc. EP 01/16/2018 Temporarily Postponed EP 02/05/2018 Fav/CS GO RC	Fav/CS Yeas 10 Nays 0
3	SB 992 Book (Compare H 7063)	C-51 Reservoir Project; Revising requirements related to the operation of water storage and use for Phase I and Phase II of the C-51 reservoir project if state funds are appropriated for such phases; authorizing the South Florida Water Management District to enter into certain capacity allocation agreements and to request a waiver for repayment of certain loans; authorizing the Department of Environmental Protection to waive such loan repayment under certain conditions, etc. EP 02/05/2018 Favorable AEN AP	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation

Monday, February 5, 2018, 4:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1622 Flores (Similar CS/H 1173)	Lands Used for Governmental Purposes; Specifying the authority of the Division of State Lands within the Department of Environmental Protection to acquire lands from an annual list provided by the Department of Economic Opportunity and the Florida Defense Support Task Force for the purpose of buffering military installations against encroachment; authorizing land authorities to contribute tourist impact tax revenues to counties for the construction, redevelopment, and preservation of certain affordable housing, etc. EP 02/05/2018 Fav/CS MS AP	Fav/CS Yeas 10 Nays 0
5	SB 462 Young (Identical H 237, Compare S 834)	Advanced Well Stimulation Treatment; Prohibiting the performance of advanced well stimulation treatments; clarifying that permits for drilling or operating a well do not authorize the performance of advanced well stimulation treatments, etc. EP 02/05/2018 Favorable AEN AP	Favorable Yeas 10 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 244

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Brandes

SUBJECT: Domestic Wastewater Collection System Assessment and Maintenance

DATE: February 6, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Rogers</u>	<u>EP</u>	Fav/CS
2.	<u> </u>	<u> </u>	<u>CU</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 244 creates the blue star collection system assessment and maintenance program for domestic sewer systems. The Department of Environmental Protection (DEP) will administer the program and codify program certification standards. Certification requires a demonstration of:

- An adequate rate of reinvestment;
- Periodic structural condition assessments, and as-needed maintenance and replacements;
- A program designed to limit fats, roots, oils, and grease in its collection system;
- For public utilities, a local requirement that the private pump stations and lateral lines connecting to the public system be free of defects and direct stormwater connections; and
- A power outage contingency plan.

Public and private utilities certified under the program could receive the following incentives:

- Publication on DEP's website;
- Participation in the Clean Water State Revolving Loan Fund Program;
- Reduced penalties for a sanitary sewer overflow;
- Ten-year operating permits; and
- A presumption of compliance with state water quality standards for pathogens.

The bill expands the Small Community Sewer Construction Assistance Grant Program to include private utilities and expands the uses of the grants.

II. Present Situation:

Domestic wastewater is wastewater derived principally from dwellings, business buildings, and institutions, commonly referred to as sanitary wastewater or sewage.¹ Domestic wastewater leaves these structures through a domestic wastewater collection system² for treatment at a domestic wastewater treatment facility.³ There are approximately 1,900 domestic wastewater treatment facilities in the state serving roughly two-thirds of the state's population.⁴ Treated effluent⁵ and reclaimed water⁶ from these facilities is over 1.5 billion gallons per day and includes disposal of through surface water outfalls, deep aquifer injection wells, and other groundwater disposal such as percolation ponds and spray fields.⁷

Wastewater Treatment Facility Permits

Domestic wastewater facilities that discharge to surface waters⁸ must obtain a National Pollutant Discharge Elimination System (NPDES) permit. The NPDES program is a federal program established by the Clean Water Act (CWA) to control point source discharges.⁹ NPDES permit requirements for most domestic wastewater facilities are incorporated into a state-issued permit, giving the permittee one set of permitting requirements rather than separate requirements for each the state and federal permit.¹⁰

A domestic wastewater system is a stationary installation that is reasonably expected to be a source of water pollution¹¹ and must not be operated, maintained, constructed, expanded or modified without an appropriate and currently valid permit issued by the Department of Environmental Protection (DEP), unless otherwise exempted by law.¹² A domestic wastewater treatment plant operating permit is issued for a term of five years.¹³ As an incentive, certain

¹ Fla. Admin. Code R. 62-600.200(21).

² Section 403.866(1), F.S., defines "domestic wastewater collection system" to mean pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.

³ Section 403.866(2), F.S., defines a "domestic wastewater treatment plant" to mean any plant or other works used for the purpose of treating, stabilizing, or holding domestic wastes.

⁴ DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Jan. 27, 2018); The remainder of the state is served by on-site treatment and disposal systems regulated by the Department of Health.

⁵ Fla. Admin. Code R. 62-600.200(22), defines "effluent" to mean, unless specifically stated otherwise, water that is not reused after flowing out of any plant or other works used for the purpose of treating, stabilizing, or holding wastes.

⁶ Fla. Admin. Code R. 62-600.200(54), Reclaimed water means water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.

⁷ DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Jan. 27, 2018).

⁸ Section 403.031(13), F.S., defines "waters" to mean rivers, lakes, streams, springs, impoundments, wetlands, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters; Fla. Admin. Code R. 62-620.200(56).

⁹ 33 U.S.C. §1342.

¹⁰ Section 403.0885, F.S.; Fla. Admin. Code R. Ch. 62-620; DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last accessed Jan. 28, 2018); DEP, *Types of Permits*, <http://flwaterpermits.com/typesofpermits.html> (last assessed Jan. 28, 2018).

¹¹ Section 403.031(7), F.S., defines "pollution."

¹² Section 403.087(1), F.S.

¹³ Section 430.087(1), F.S.; Fla. Admin. Code R. 62-620.320(8).

wastewater treatment facilities that are not required to have a NPDES permit may request renewal of an operation permit for a term of up to 10 years for the same fee and under the same conditions as a five-year permit. These facilities must meet the following criteria:

- The waters from the treatment facility are not discharged to Class I municipal injection wells or the treatment facility is not required to comply with the federal standards under the Underground Injection Control Program;
- The treatment facility is not operating under a temporary operating permit or a permit with an accompanying administrative order and does not have any enforcement action pending against it by the United States Environmental Protection Agency (EPA), DEP, or an approved local program;
- The treatment facility has operated under an operation permit for five years and, for at least the preceding two years, has generally operated in conformance with the limits of permitted flows and other conditions specified in the permit;
- DEP has reviewed the discharge monitoring reports required by DEP rule and is satisfied that the reports are accurate;
- The treatment facility has generally met water quality standards in the preceding two years, except for violations attributable to events beyond the control of the treatment plant or its operator (e.g., destruction of equipment by fire, wind, or other abnormal events that could not reasonably be expected to occur); and
- DEP or an approved local program has conducted, in the preceding 12 months, an inspection of the facility and has verified in writing to the operator of the facility that it is not exceeding the permitted capacity and is in substantial compliance.¹⁴

Disinfection

Disinfection is the selective destruction of disease-producing organisms (pathogens)¹⁵ in wastewater effluent, reclaimed water, and biosolids.¹⁶ Most domestic wastewater treatment facilities must meet either basic disinfection for discharges to surface water or high-level disinfection for reuse systems.¹⁷

Basic disinfection essentially requires that the effluent after disinfection contain less than 200 fecal coliform values per 100 microgram per milliliter.¹⁸ High-level disinfection, which is used in conjunction with some types of reuse projects, including use to irrigate residential lawns, areas accessible to the public, and edible food crops, essentially requires that fecal coliforms be reduced below detection.¹⁹ Filtration is required ahead of the disinfection process and serves as an important and integral part of the overall high-level disinfection process.²⁰

¹⁴ Section 403.087(3), F.S.

¹⁵ Fla. Admin. Code R. 62-600.200(47).

¹⁶ Fla. Admin. Code R. 62-600.200(18).

¹⁷ DEP, *Ultraviolet Disinfection for Domestic Wastewater*, <https://floridadep.gov/water/domestic-wastewater/content/ultraviolet-uv-disinfection-domestic-wastewater> (last accessed Jan. 27, 2018).

¹⁸ Fla. Admin. Code R. 62-600.440(5).

¹⁹ Fla. Admin. Code R. 62-600.440(6).

²⁰ DEP, *Ultraviolet Disinfection for Domestic Wastewater*, <https://floridadep.gov/water/domestic-wastewater/content/ultraviolet-uv-disinfection-domestic-wastewater> (last accessed Jan. 27, 2018).

Total Maximum Daily Loads

A total maximum daily load (TMDL), which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.²¹ Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water Act, DEP is required to establish a TMDL for impaired waterbodies.²² A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.²³ Waste load allocations are pollutant loads attributable to existing and future point sources. Load allocations are pollutant loads attributable to existing and future nonpoint sources. Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.²⁴

Basin Management Action Plans and Best Management Practices

DEP is the lead agency in coordinating the development and implementation of TMDLs. Basin management action plans (BMAPs) are one of the primary mechanisms DEP uses to achieve TMDLs. BMAPs are plans that use existing planning tools to address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Non-regulatory and incentive-based programs, including best management practices (BMPs), cost sharing, waste minimization, pollution prevention, agreements, and public education;²⁵
- Public works projects, including capital facilities; and
- Land acquisition.²⁶

DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.²⁷ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for

²¹ Section 403.067, F.S.

²² *Id.*

²³ Section 403.031(21), F.S.

²⁴ Fla. Admin. Code R. 62-620.200(37). Point source means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are essentially sources of pollution that are not point sources. They can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

²⁵ Section 403.061, F.S., grants the Department of Environmental Protection (DEP) the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

²⁶ Section 403.067(7), F.S.

²⁷ *Id.*

local stakeholders, local government and community leaders, and the public to collectively determine and share water quality clean-up responsibilities.²⁸

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every 5 years and revisions to the BMAP must be made as appropriate.²⁹

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.³⁰ A nonpoint source discharger may be subject to enforcement action by DEP or a water management district (WMD) based on a failure to implement these requirements.³¹ BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, silviculture (forestry) operations, and stormwater management.³²

Presumption of Compliance

Where interim measures, BMPs, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction or in voluntary BMP programs implemented must be verified at representative sites by DEP.³³ Implementation of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites by DEP, provide a presumption of compliance with water quality standards (WQS) and DEP is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants.³⁴

Penalties

It is a violation of state law for any person to cause pollution that harms or injures human health or welfare, animal, plant, or aquatic life or property.³⁵ Whoever commits such a violation is liable to the state for any damage caused and for civil penalties.³⁶ Any person who willfully commits such violation is guilty of a felony of the third degree, punishable by a fine of not more than \$50,000 or by imprisonment for five years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.³⁷ It is the Legislature's

²⁸ DEP, *Basin Management Action Plans (BMAPs)*, available at <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Jan. 31, 2018).

²⁹ Section 403.067(7)(a)5., F.S.

³⁰ Section 403.067(7)(b)2.g., F.S. BMPs for agriculture, for example, include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

³¹ Section 403.067(7)(b)2.h., F.S.

³² DEP, *NPDES Stormwater Program*, <https://floridadep.gov/Water/Stormwater> (last visited Jan. 31, 2018).

³³ Sections 403.067(7)(c)3., and (12)(b), F.S.

³⁴ Section 403.067(7)(c)3., F.S.

³⁵ Section 403.161(1)(a), F.S.

³⁶ Section 403.161(2), F.S.; see s. 403.141, F.S., for civil penalties.

³⁷ Section 403.161(3), F.S.; ss. 775.082(3)(e) and 775.083(1)(g), F.S.

intent that the civil penalties and criminal fines imposed by the court be of such amount as to ensure immediate and continued compliance.³⁸

Sanitary Sewer Overflows

Although domestic wastewater treatment facilities are permitted and designed to safely and properly collect and manage a specified wastewater capacity, obstructions or extreme conditions can cause a sanitary sewer overflow (SSO). Any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system is a SSO.³⁹

Contributing factors may include:

- Build-up of solids and fats, oils and greases, in the wastewater collection system impeding flow;
- Too much rainfall infiltrating through the ground into leaky sanitary sewers, which are not intended to hold rainfall. Excess water also can flow through roof drains connected to sewers or poorly connected sewer lines;
- Blocked, broken, or cracked pipes and other equipment or power failures that keep the system from properly functioning. Tree roots can grow into the sewer. Sections of pipe can settle or shift so that pipe joints no longer match. Sediment and other material can build up and cause pipes to break or collapse; and
- A deteriorating or aging sewer system that can be expensive to repair. Some municipalities have found severe problems, necessitating costly correction programs.⁴⁰

A key concern with SSOs entering rivers, lakes or streams is their negative effect on water quality. In addition, because SSOs contain partially treated or potentially untreated domestic wastewater, ingestion or similar contact may cause illness. People can be exposed through direct contact in areas of high public access; food that has been contaminated; and inhalation and skin absorption. The Department of Health issues health advisories when bacteria levels present a risk to human health, and may post warning signs when bacteria affect public beaches or other areas where there is the risk of human exposure.⁴¹

Reduction of SSOs can occur through:

- Cleaning and maintaining the sewer system;
- Reducing infiltration and inflow through rehabilitation and repairing broken or leaking lines;
- Enlarging or upgrading sewer pump station or sewage treatment plant capacity and/or reliability; and
- Constructing wet weather storage and treatment facilities to treat excess flows.⁴²

³⁸ Section 403.161(6), F.S.

³⁹ DEP, *Sanitary Sewer Overflows (SSOs)*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last accessed Jan. 31, 2018).

⁴⁰ DEP, *Preventing SSOs*, available at <https://floridadep.gov/sites/default/files/preventing-sanitary-sewer-overflows.pdf> (last accessed Jan. 27, 2018); DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last accessed Jan. 26, 2018).

⁴¹ DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last accessed Jan. 31, 2018).

⁴² *Id.*

After an SSO event, DEP reviews the data from the utilities to assess the overall impact to the environment in deciding whether to take additional action. DEP looks at how serious the violation was; whether this was a first-time violation or a repeated violation; whether the violation was inadvertent or beyond reasonable control; and whether the damage to the environment can be undone or remediated quickly.⁴³ DEP also takes into account the severity of the rain event (e.g., was it a hurricane or a storm, or if the area had received an unusually large amount of rainfall beyond historical averages). If the discharge was caused by an operator error or lack of a certified operator on-site at the time, then DEP may consider additional training for operators to prevent similar errors from occurring in the future. In some circumstances, DEP will meet with utilities to discuss infrastructure repairs and process improvements the utility is making and planning to implement in order to avoid further SSOs.⁴⁴

Financing Wastewater Treatment Facilities

Asset Management

Renewing and replacing domestic wastewater treatment infrastructure is an ongoing task. Asset management can help a utility maximize the value of its capital as well as its operations and maintenance dollars. Asset management provides utility managers and decision makers with critical information on capital assets and timing of investments. Some key steps for asset management are making an inventory of critical assets, evaluating the condition and performance of such assets, and developing plans to maintain, repair and replace assets and to fund these activities.⁴⁵ EPA provides guidance and reference manuals for utilities to aid in developing asset management plans (AMPs).⁴⁶

Many states, including Florida, provide financial incentives for the development and implementation of an AMP when requesting funding under a State Revolving Fund (SRF) or other state funding mechanism.⁴⁷ Florida's incentives include priority scoring,⁴⁸ reduction of interest rates,⁴⁹ principal forgiveness for financially disadvantaged small communities,⁵⁰ and eligibility for small community wastewater facilities grants.⁵¹

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ EPA, *Sustainable Water Infrastructure - Asset Management for Water and Wastewater Utilities*, <https://www.epa.gov/sustainable-water-infrastructure/asset-management-water-and-wastewater-utilities> (last visited Jan. 31, 2018).

⁴⁶ EPA, *Asset Management: A Best Practices Guide*, <https://nepis.epa.gov/Exe/ZyPDF.cgi/P1000LP0.PDF?Dockkey=P1000LP0.PDF>; EPA, *Reference Guide for Asset Management Tools/Asset Management Plan Components and Implementation Tools for Small and Medium Sized Drinking Water and Wastewater Systems*, (May 2014) https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf (last visited Jan. 31, 2018).

⁴⁷ EPA, *State Asset Management Initiatives*, (August 2012), https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf (last visited Jan. 31, 2018).

⁴⁸ Fla. Admin. Code R. 62-503.300(e).

⁴⁹ Fla. Admin. Code R. 62-503.300(5)(b)1., 62-503.700(7).

⁵⁰ Fla. Admin. Code R. 62-503.500(4).

⁵¹ Fla. Admin. Code R. 62-505.300(d), and 62-505.350(5)(c).

Water and Wastewater Utility Reserve Fund

In 2016, the Legislature authorized the Public Service Commission (PSC) to allow a utility to create a utility reserve fund for repair and replacement of existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. The utility reserve fund would be funded by a portion of the rates charged by the utility, by a secured escrow account or through a letter of credit.

The PSC, as required, adopted rules⁵² governing the implementation, management, and use of the fund, including expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for PSC authorization before fund disbursements.⁵³ The PSC requires an applicant to provide a capital improvement plan or an AMP in seeking authorization to create a utility reserve fund.⁵⁴

The Clean Water State Revolving Fund (CWSRF) Program

Florida's Clean Water State Revolving Fund is funded through money received from federal grants as well as state contributions. These funds then "revolve" through the repayment of previous loans and interest earned. While these programs offer loans, grant-like funding is also available for qualified small, disadvantaged communities, which reduces the amount owed on loans by the percentage that the community qualifies. The Clean Water State Revolving Fund Program provides low-interest loans to local governments to plan, design, and build or upgrade wastewater, stormwater, and nonpoint source pollution prevention projects. Certain agricultural best management practices may also qualify for funding. Very low interest rate loans, grants and other discounted assistance for small communities is available. Interest rates on loans are below market rates and vary based on the economic wherewithal of the community. Generally, local governments and special districts are eligible loan sponsors.⁵⁵ EPA classifies eleven types of projects that are eligible to receive CWSRF assistance. They include projects:

- For a municipality or inter-municipal, interstate, or state agency to construct a publicly owned treatment works;
- For a public, private, or nonprofit entity to implement a state nonpoint source pollution management program;
- For a public, private, or nonprofit entity to develop and implement a conservation and management plan;
- For a public, private, or nonprofit entity to construct, repair, or replace decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage;
- For a public, private, or nonprofit entity to manage, reduce, treat, or recapture stormwater or subsurface drainage water;
- For a municipality or inter-municipal, interstate, or state agency to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse;
- For a public, private, or nonprofit entity to develop and implement watershed projects;
- For a municipality or inter-municipal, interstate, or state agency to reduce the energy consumption needs for publicly owned treatment works;

⁵² Fla. Admin. Code R. 25-30.444.

⁵³ Section 367.081(2)(c), F.S.

⁵⁴ Fla. Admin. Code R. 25-30.444(2)(e) and (m).

⁵⁵ DEP, *State Revolving Fund*, available at <https://floridadep.gov/wra/srf> (last visited January 18, 2018).

- For a public, private, or nonprofit entity for projects for reusing or recycling wastewater, stormwater, or subsurface drainage water;
- For a public, private, or nonprofit entity to increase the security of publicly owned treatment works; and
- For any qualified nonprofit entity, to provide technical assistance to owners and operators of small and medium sized publicly owned treatment works to plan, develop, and obtain financing for CWSRF eligible projects and to assist each treatment works in achieving compliance with the CWA.⁵⁶

Small Community Sewer Construction

The Small Community Sewer Construction Assistance Act requires DEP to award grants to assist financially disadvantaged small communities with their needs for adequate sewer facilities.⁵⁷ In accordance with rules adopted by the Environmental Regulation Commission (ERC), DEP may provide grants, for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.⁵⁸ The rules of the ERC must also:

- Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable;
- Require appropriate user charges, connection fees, and other charges to ensure the long-term operation, maintenance and replacement of the facilities constructed under each grant;
- Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained;
- Establish a system to determine eligibility of grant applications;
- Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution abatement;
- Establish requirements for competitive procurement of engineering and construction services, materials and equipment; and
- Provide for termination of grants when program requirements are not met.⁵⁹

Plant Operations Excellence Awards

Each year, DEP presents awards to domestic wastewater and drinking water facilities around the state that demonstrate excellence in operation, maintenance, innovative treatment, waste reduction, pollution prevention, recycling or other achievements. These awards recognize facilities that demonstrate a special commitment to excellence in management through dedicated professionalism and that have an impeccable history of record-keeping compliance.⁶⁰

⁵⁶ EPA, *Learn about the CWSRF*, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Jan. 26, 2018).

⁵⁷ Section 403.1838(2), F.S.

⁵⁸ Section 403.1838(3)(a), F.S.

⁵⁹ Section 403.1838(3)(b), F.S.; Fla. Admin. Code R. Ch. 62-505.

⁶⁰ DEP, *DEP Presents 2017 Plant Excellence Award to Three South Florida Water Facilities* (Jan. 25, 2018) available at <https://content.govdelivery.com/accounts/FLDEP/bulletins/1d59e36> (last visited Feb. 1, 2018).

III. Effect of Proposed Changes:

Section 1 creates s. 403.1839, F.S., creating the blue star collection system assessment and maintenance program.

The bill defines terms and provides the following legislative findings:

- The implementation of domestic wastewater collection system assessment and maintenance practices has been shown to effectively limit sanitary sewer overflows and the unauthorized discharge of pathogens.
- The voluntary implementation of domestic wastewater collection system assessment and maintenance practices beyond those required by law has the potential to further limit sanitary sewer overflows.
- The unique geography, community, growth, size, and age of domestic wastewater collection systems across the state require diverse responses, using the best professional judgment of local utility operators, to ensure that programs designed to limit sanitary sewer overflows are effective.

The bill establishes in the Department of Environmental Protection (DEP) a blue star collection system assessment and maintenance program and states that the purpose of this voluntary incentive program is to assist public and private utilities in limiting sanitary sewer overflows and the unauthorized discharge of pathogens.

DEP must adopt rules to administer the program, including program certification standards, and must review and, if appropriate, approve public and private domestic wastewater utilities that apply for certification under the program or that demonstrate continued compliance with program certification requirements. A utility must provide reasonable documentation that it meets the following certification standards:

- Implementation of periodic collection system and pump station structural condition assessments and the performance of as-needed maintenance and replacement.
- Adequate reinvestment by the utility in its collection system and pump station structural condition assessment and maintenance and replacement program to reasonably maintain the working integrity of the system and station.
- Implementation of a program designed to limit the presence of fats, roots, oils, and grease in the collection system.
- If the applicant is a public utility, the existence of a local law or building code requiring the private pump stations and lateral lines connecting to the public system to be free of:
 - Cracks, holes, missing parts, or similar defects; and
 - Direct stormwater connections that allow the direct inflow of stormwater into the private system and the public domestic wastewater collection system.
- Adoption of a power outage contingency plan that addresses mitigation of the impacts of power outages on the utility's collection system and pump stations.

Program certifications expire after 5 years. During the 5-year certification period, a utility must annually provide documentation to DEP on the status of its implementation of the program and must demonstrate that it meets all program criteria in order to maintain its program certification.

DEP must annually publish on its website a list of certified blue star utilities beginning on January 1, 2020 and must allow public and private, non-profit utilities to participate in the Clean Water State Revolving Fund Program for any purpose of the blue star collection system assessment and maintenance program which is consistent with federal requirements for participating in the Clean Water State Revolving Fund Program.

In the calculation of penalties for a sanitary sewer overflow, DEP may reduce the penalty based on a utility's status as a certified blue star utility. DEP may also reduce a penalty based on a certified blue star utility's investment in assessment and maintenance activities to identify and address conditions that may cause sanitary sewer overflows or interruption of service to customers due to a physical condition or defect in the system.

Section 2 amends s. 403.067(7)(c), F.S., relating to best management practices. The bill requires DEP to provide a domestic wastewater utility that implements and maintains a program as a certified blue star utility a presumption of compliance with state water quality standards for pathogens when the utility demonstrates a history of compliance with wastewater disinfection requirements incorporated in the utility's operating permit for any discharge into the impaired surface water.

Section 3 amends s. 403.087, F.S., to require, subject to National Pollutant Discharge Elimination System (NPDES) permit duration limits for a utility, DEP to issue 10-year permits to blue star certified utilities for the same fee and under the same conditions that apply to a 5-year permit, upon approval of its application for renewal, if the certified blue star utility demonstrates that it:

- Is in compliance with any consent order or an accompanying administrative order related to its permit;
- Does not have any pending enforcement action against it by the United States Environmental Protection Agency (EPA), DEP, or a local program; and
- If applicable, has submitted annual program implementation reports demonstrating progress in the implementation of the program.

Section 4 amends s. 403.161, F.S., to authorize, notwithstanding any other law, DEP to reduce a penalty based on the person's investment in the assessment, maintenance, rehabilitation, or expansion of the permitted facility.

Section 5 amends s. 403.1838, F.S., to expand the eligibility for and uses of the Small Community Sewer Construction Grants. Under the bill, private, non-profit utilities serving financially disadvantaged small communities may also receive grants for up to 100 percent of the costs of planning, assessing, designing, constructing, upgrading, or replacing wastewater facilities. The use of grant funds for assessments is added to the section. The bill also provides that Small Community Sewer Construction Grants may also be used for planning and implementing domestic wastewater collection system assessment programs to identify conditions that may cause sanitary sewer overflows or interruption of service to customers due to a physical condition or defect in the system.

Section 6 provides an effective date of July 1, 2018.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill may have a positive, indeterminate impact on private utilities that will now be eligible for CWSRF funds and Small Community Sewer Construction Assistance Grants.

C. Government Sector Impact:

The bill may have a negative fiscal impact on DEP associated with the rulemaking requirements of the bill, and in the implementation of the blue star collection system assessment and maintenance program, including review of annual reports and annual posting of blue star certified facilities on its website. The incentives associated with being blue star certified (e.g., reduced penalties, in-kind penalties, and 10-year operating permits) may reduce the amount of revenue generated from these activities.

The bill may have a positive, indeterminate impact on local governments as it increases the eligible uses for Small Community Sewer Construction Assistance Grants.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The revisions to the Small Community Sewer Construction Assistance Act are not linked to the blue star program. It is unclear if this is the intent or not.

Wastewater facilities are a traditional type of “point source” pollution and are subject to NPDES permits. Generally, BMPs are applicable to nonpoint sources. It is unclear how the presumption of compliance in the BMP paragraph will affect how these utilities are regulated.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.067, 403.087, 403.161, 403.1838.

This bill creates section 403.1839 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 February 5, 2018:

- Requires DEP to adopt rules to administer the blue star collection system assessment and maintenance program, including program certification standards. The underlying bill did not require DEP rulemaking, but, instead, required the Environmental Regulation Commission to adopt certification standards for the program.
- Requires DEP to review and, if appropriate, approve public and private domestic wastewater utilities that demonstrate continued compliance with program certification requirements during a 5-year certification period that follows the initial approval of certification.
- Adds the following certification standards, requiring a utility to:
 - Adequately reinvest in its collection system and pump station structural condition assessment and maintenance and replacement program to reasonably maintain the working integrity of the system and station; and
 - Adopt a power outage contingency plan that addresses mitigation of the impacts of power outages on the utility’s collection system and pump stations.
- Removes the authorization from the underlying bill for DEP to waive certification standards for utilities that regularly serve populations of 10,000 or less.
- Provides that program certifications expire after 5 years, rather than after 10 years as provided in the underlying bill.
- Requires a utility, during the 5-year certification period following initial approval of certification, to provide documentation annually to DEP on the status of its implementation of the program and to demonstrate that it meets all program criteria, in order to maintain its program certification.
- Changes the deadline set out in the underlying bill for DEP to publish on its website a list of certified blue star utilities from January 1, 2019 to January 1, 2020.
- Clarifies that DEP, when allowing public and private, non-profit utilities to participate in the Clean Water State Revolving Fund Program it may only be for purposes of the program which are consistent with federal requirements for participating in the program.
- Authorizes DEP to reduce a penalty for a sanitary sewer overflow based on a certified blue star utility’s investment in assessment and maintenance activities.

- Provides that, following the 5-year certification period and subject to NPDES permit duration limits, DEP must issue a certified blue star utility a 10-year permit, for the same fee and under the same conditions that apply to a 5-year permit, if the certified blue star utility demonstrates that it:
 - Is in compliance with any consent order or administrative order related to its permit;
 - Does not have any pending enforcement action against it by EPA, DEP, or a local program; and
 - If applicable, has submitted annual program implementation reports demonstrating progress in the implementation of the program.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 403.1839, Florida Statutes, is created
to read:

403.1839 Blue star collection system assessment and
maintenance program.—

(1) DEFINITIONS.—As used in this section, the terms:

(a) "Domestic wastewater" has the same meaning as in s.



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11 367.021.

12 (b) "Domestic wastewater collection system" has the same
13 meaning as in s. 403.866.

14 (c) "Program" means the blue star collection system
15 assessment and maintenance program created pursuant to this
16 section.

17 (d) "Sanitary sewer overflow" means the unauthorized
18 overflow, spill, release, discharge or diversion of untreated or
19 partially treated domestic wastewater.

20 (2) LEGISLATIVE FINDINGS.—The Legislature finds that:

21 (a) The implementation of domestic wastewater collection
22 system assessment and maintenance practices has been shown to
23 effectively limit sanitary sewer overflows and the unauthorized
24 discharge of pathogens.

25 (b) The voluntary implementation of domestic wastewater
26 collection system assessment and maintenance practices beyond
27 those required by law has the potential to further limit
28 sanitary sewer overflows.

29 (c) The unique geography, community, growth, size, and age
30 of domestic wastewater collection systems across the state
31 require diverse responses, using the best professional judgment
32 of local utility operators, to ensure that programs designed to
33 limit sanitary sewer overflows are effective.

34 (3) ESTABLISHMENT AND PURPOSE.—There is established in the
35 department a blue star collection system assessment and
36 maintenance program. The purpose of this voluntary incentive
37 program is to assist public and private utilities in limiting
38 sanitary sewer overflows and the unauthorized discharge of
39 pathogens.



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(4) APPROVAL AND STANDARDS.—

(a) The department shall adopt rules to administer the program, including program certification standards, and shall review and, if appropriate, approve public and private domestic wastewater utilities that apply for certification under the program or that demonstrate continued compliance with program certification requirements pursuant to subsection (4) (c).

(b) In order to be certified under the program, a utility must provide reasonable documentation that demonstrates that it meets the following certification standards:

1. Implementation of periodic collection system and pump station structural condition assessments and the performance of as-needed maintenance and replacement.

2. Adequate reinvestment by the utility in its collection system and pump station structural condition assessment and maintenance and replacement program to reasonably maintain the working integrity of the system and station.

3. Implementation of a program designed to limit the presence of fats, roots, oils, and grease in the collection system.

4. If the applicant is a public utility, the existence of a local law or building code requiring the private pump stations and lateral lines connecting to the public system to be free of:

a. Cracks, holes, missing parts, or similar defects; and

b. Direct stormwater connections that allow the direct inflow of stormwater into the private system and the public domestic wastewater collection system.

5. Adoption of a power outage contingency plan that addresses mitigation of the impacts of power outages on the



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utility's collection system and pump stations.

(c) Program certifications expire after 5 years. During the 5-year certification period, a utility must annually provide documentation to the department on the status of its implementation of the program and must demonstrate that it meets all program criteria in order to maintain its program certification.

(5) PUBLICATION.—Beginning on January 1, 2020, the department shall annually publish on its website a list of certified blue star utilities.

(6) FEDERAL PROGRAM PARTICIPATION.—The department shall allow public and private, nonprofit utilities to participate in the Clean Water State Revolving Fund Program for any purpose of the program which is consistent with federal requirements for participating in the Clean Water State Revolving Fund Program.

(7) REDUCED PENALTIES.—In the calculation of penalties for a sanitary sewer overflow pursuant to s. 403.161, the department may reduce the penalty based on a utility's status as a certified blue star utility in accordance with this section. The department may also reduce a penalty based on a certified blue star utility's investment in assessment and maintenance activities to identify and address conditions that may cause sanitary sewer overflows or interruption of service to customers due to a physical condition or defect in the system.

Section 2. Paragraph (c) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND



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IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(c) *Best management practices.*—

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

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services must ~~shall~~ consult with the department, the Department of Health, the water management districts, representatives from



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affected farming groups, and environmental group
representatives. Such rules must also incorporate provisions for
a notice of intent to implement the practices and a system to
assure the implementation of the practices, including site
inspection and recordkeeping requirements.

3. Where interim measures, best management practices, or
other measures are adopted by rule, the effectiveness of such
practices in achieving the levels of pollution reduction
established in allocations developed by the department pursuant
to subsection (6) and this subsection or in programs implemented
pursuant to paragraph (12)(b) must be verified at representative
sites by the department. The department shall use best
professional judgment in making the initial verification that
the best management practices are reasonably expected to be
effective and, where applicable, must notify the appropriate
water management district or the Department of Agriculture and
Consumer Services of its initial verification before the
adoption of a rule proposed pursuant to this paragraph.
Implementation, in accordance with rules adopted under this
paragraph, of practices that have been initially verified to be
effective, or verified to be effective by monitoring at
representative sites, by the department, shall provide a
presumption of compliance with state water quality standards and
release from the provisions of s. 376.307(5) for those
pollutants addressed by the practices, and the department is not
authorized to institute proceedings against the owner of the
source of pollution to recover costs or damages associated with
the contamination of surface water or groundwater caused by
those pollutants. Research projects funded by the department, a



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water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from the provisions of s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

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

5. Agricultural records relating to processes or methods of



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

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

7. The department must provide a domestic wastewater utility that implements and maintains a program as a certified blue star utility in accordance with s. 403.1839 with a presumption of compliance with state water quality standards for pathogens when the utility demonstrates a history of compliance with wastewater disinfection requirements incorporated in the utility's operating permit for any discharge into the impaired surface water.

Section 3. Subsection (11) is added to section 403.087, Florida Statutes, to read:



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403.087 Permits; general issuance; denial; revocation;
prohibition; penalty.—

(11) Subject to the permit duration limits for a utility permitted pursuant to s. 403.0885, the department must issue a blue star utility certified pursuant to s. 403.1839 a 10-year permit, for the same fee and under the same conditions that apply to a 5-year permit, upon approval of its application for permit renewal, if the certified blue star utility demonstrates that it:

(a) Is in compliance with any consent order or an accompanying administrative order related to its permit;

(b) Does not have any pending enforcement action against it by the Environmental Protection Agency, the department, or a local program; and

(c) If applicable, has submitted annual program implementation reports demonstrating progress in the implementation of the program.

Section 4. Subsection (6) of section 403.161, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

403.161 Prohibitions, violation, penalty, intent.—

(6) Notwithstanding any other law, the department may reduce a penalty based on the person's investment in the assessment, maintenance, rehabilitation, or expansion of the permitted facility.

Section 5. Paragraphs (a) and (b) of subsection (3) of section 403.1838, Florida Statutes, are amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—



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(3) (a) In accordance with rules adopted by the Environmental Regulation Commission under this section, the department may provide grants, from funds specifically appropriated for this purpose, to financially disadvantaged small communities and to private, nonprofit utilities serving financially disadvantaged small communities for up to 100 percent of the costs of planning, assessing, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses. Grants issued pursuant to this section may also be used for planning and implementing domestic wastewater collection system assessment programs to identify conditions that may cause sanitary sewer overflows or interruption of service to customers due to a physical condition or defect in the system.

(b) The rules of the Environmental Regulation Commission must:

1. Require that projects to plan, assess, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.

2. Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.

3. Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.



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4. Establish a system to determine eligibility of grant applications.

5. Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution abatement.

6. Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.

7. Provide for termination of grants when program requirements are not met.

Section 6. This act shall take effect July 1, 2018.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to domestic wastewater collection
system assessment and maintenance; creating s.
403.1839, F.S.; defining terms; providing legislative
findings; establishing the blue star collection system
assessment and maintenance program; specifying the
purpose of the program; requiring the Department of
Environmental Protection to adopt rules and review
and, if appropriate, approve applications for
certification under the program; requiring utilities
applying for certification to provide reasonable
documentation demonstrating that it meets specified
certification standards; providing that certifications
expire after a specified period of time; specifying



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requirements to maintain program certification;
requiring the department to annually publish a list of
certified blue star utilities, beginning on a
specified date; requiring the department to allow
public and private, nonprofit utilities to participate
in the Clean Water State Revolving Fund Program for
certain purposes; authorizing the department to reduce
certain penalties for a certified utility under
specified conditions; amending s. 403.067, F.S.;
creating a presumption of compliance with certain
total maximum daily load requirements for certified
blue star utilities; amending s. 403.087, F.S.;
requiring the department to provide extended operating
permits when a certified blue star utility applies for
permit renewal under certain conditions; amending s.
403.161, F.S.; authorizing the department to reduce a
penalty based on certain system investments for
permitted facilities; amending s. 403.1838, F.S.;
allowing for additional recipients and uses of Small
Community Sewer Construction grants; providing an
effective date.

By Senator Brandes

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A bill to be entitled
An act relating to domestic wastewater collection
system assessment and maintenance; creating s.
403.1839, F.S.; defining the terms "commission" and
"program"; providing legislative findings;
establishing the blue star collection system
assessment and maintenance program and providing its
purpose; requiring the Department of Environmental
Protection to review and approve program applications
for certification; requiring the Environmental
Regulation Commission to adopt certification standards
for the program; specifying the documentation a
utility must submit to qualify for certification;
authorizing the department to waive certain
requirements for utilities for certain smaller
populations; providing for certification expiration
and renewal; requiring the department to publish an
annual list of certified blue star utilities;
requiring the department to allow public and not-for-
profit utilities to participate in the Clean Water
State Revolving Fund Program; authorizing the
department to reduce penalties for a certified utility
and allow the utility to apply the amount of a penalty
toward certain system investments; amending s.
403.067, F.S.; creating a presumption of compliance
for certain total maximum daily load requirements for
certified utilities; amending s. 403.087, F.S.;
requiring the department to provide extended operating
permits when a certified utility applies for permit

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renewal; amending s. 403.1838, F.S.; allowing for additional recipients and uses of Small Community Sewer Construction grants; providing an effective date.

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

Section 1. Section 403.1839, Florida Statutes, is created to read:

403.1839 Blue star collection system assessment and maintenance program.—

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

(a) "Commission" means the Environmental Regulation Commission.

(b) "Program" means the blue star collection system assessment and maintenance program.

(2) LEGISLATIVE FINDINGS.—The Legislature finds that the implementation of sewer collection system assessment and maintenance practices has been shown to effectively limit the unauthorized releases or spills of treated or untreated domestic wastewater, generally referred to as sanitary sewer overflows, and the unauthorized discharge of pathogens. The disparate nature of inputs into a collection system, third-party activities, severe storm events, and other factors beyond the reasonable control of the utility operator make it infeasible to completely eliminate sewer overflows. However, the voluntary implementation of advanced sewer collection system assessment and maintenance practices beyond those required by law has the potential to further limit sanitary sewer overflows. The unique

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geography, community, growth, and size and age of sewer collection systems across the state require diverse responses, using the best professional judgment of local utility operators, to ensure that programs designed to limit sanitary sewer overflows are effective.

(3) ESTABLISHMENT AND PURPOSE.—There is established in the department a blue star collection system assessment and maintenance program. The purpose of this voluntary incentive program is to assist public and private utilities in limiting sanitary sewer overflows and the unauthorized discharge of pathogens.

(4) APPROVAL AND STANDARDS.—

(a) The department shall review and approve public and private sewer utilities applying for certification under the program based upon the certification standards adopted by the commission.

(b) The commission shall adopt certification standards for the program. A utility must provide reasonable documentation of the following in order to be certified under the program:

1. The rate of reinvestment determined necessary by the utility for its collection system and pump station structural condition assessment and maintenance and replacement program.

2. A program of periodic collection system and pump station structural condition assessments and the performance of as-needed maintenance and replacements.

3. A program designed to limit the presence of fats, roots, oils, and grease in the collection system.

4. If the applicant is a public utility, a local law or building code requiring the private pump stations and lateral

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lines connecting to the public system to be free of:

a. Cracks, holes, missing parts, or similar defects; and

b. Direct stormwater connections that allow the direct inflow of stormwater into the private system and the public domestic wastewater collection system.

The department may waive one or more of these requirements for a utility that regularly serves a population of 10,000 or less if the utility adequately demonstrates to the department that its assessment and maintenance activities achieve the goals of the blue star collection system assessment and maintenance program.

The utility may cite assessment projects funded pursuant to a grant under s. 403.1838 as evidence of such achievement.

(5) EXPIRATION AND RENEWAL.—Program certifications shall expire after 10 years. A utility applying for renewal must meet all program criteria existing at the time of its application for renewal in order to maintain its program certification.

(6) PUBLICATION.—The department shall annually publish on its website a list of certified blue star utilities beginning on January 1, 2019.

(7) FEDERAL PROGRAM PARTICIPATION.—The department shall allow public and not-for-profit private utilities to participate in the Clean Water State Revolving Fund Program for any purpose consistent with federal law, including to plan and implement sanitary sewer assessment programs to identify conditions that may cause unauthorized releases or spills of treated or untreated domestic wastewater, pipe leakage, or interruption of service to customers due to a physical condition or defect in the system, as well as any assessment, maintenance, or

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117 construction activities associated with becoming certified or
118 maintaining status as a certified blue star utility in
119 accordance with this section.

120 (8) REDUCED PENALTIES.—In the calculation of penalties
121 pursuant to s. 403.161 for a sanitary sewer overflow, the
122 department may reduce the penalty based on a utility's status as
123 a certified blue star utility in accordance with this section.
124 The department may allow any certified blue star utility to
125 apply the amount of a penalty toward investment in assessment
126 and maintenance activities to identify and address conditions
127 that may cause unauthorized releases or spills of treated or
128 untreated domestic wastewater, pipe leakage, or interruption of
129 service to customers due to a physical condition defect in the
130 system.

131 Section 2. Paragraph (c) of subsection (7) of section
132 403.067, Florida Statutes, is amended to read:

133 403.067 Establishment and implementation of total maximum
134 daily loads.—

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

137 (c) *Best management practices.*—

138 1. The department, in cooperation with the water management
139 districts and other interested parties, as appropriate, may
140 develop suitable interim measures, best management practices, or
141 other measures necessary to achieve the level of pollution
142 reduction established by the department for nonagricultural
143 nonpoint pollutant sources in allocations developed pursuant to
144 subsection (6) and this subsection. These practices and measures
145 may be adopted by rule by the department and the water

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146 management districts and, where adopted by rule, shall be
147 implemented by those parties responsible for nonagricultural
148 nonpoint source pollution.

149 2. The Department of Agriculture and Consumer Services may
150 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
151 suitable interim measures, best management practices, or other
152 measures necessary to achieve the level of pollution reduction
153 established by the department for agricultural pollutant sources
154 in allocations developed pursuant to subsection (6) and this
155 subsection or for programs implemented pursuant to paragraph
156 (12)(b). These practices and measures may be implemented by
157 those parties responsible for agricultural pollutant sources and
158 the department, the water management districts, and the
159 Department of Agriculture and Consumer Services shall assist
160 with implementation. In the process of developing and adopting
161 rules for interim measures, best management practices, or other
162 measures, the Department of Agriculture and Consumer Services
163 shall consult with the department, the Department of Health, the
164 water management districts, representatives from affected
165 farming groups, and environmental group representatives. Such
166 rules must also incorporate provisions for a notice of intent to
167 implement the practices and a system to assure the
168 implementation of the practices, including site inspection and
169 recordkeeping requirements.

170 3. Where interim measures, best management practices, or
171 other measures are adopted by rule, the effectiveness of such
172 practices in achieving the levels of pollution reduction
173 established in allocations developed by the department pursuant
174 to subsection (6) and this subsection or in programs implemented

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pursuant to paragraph (12) (b) must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from the provisions of s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water

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204 management district, or the Department of Agriculture and
205 Consumer Services have entered into a contract or other
206 agreement that, at a minimum, specifies the research objectives,
207 the cost-share responsibilities of the parties, and a schedule
208 that details the beginning and ending dates of the project.

209 4. Where water quality problems are demonstrated, despite
210 the appropriate implementation, operation, and maintenance of
211 best management practices and other measures required by rules
212 adopted under this paragraph, the department, a water management
213 district, or the Department of Agriculture and Consumer
214 Services, in consultation with the department, shall institute a
215 reevaluation of the best management practice or other measure.
216 Should the reevaluation determine that the best management
217 practice or other measure requires modification, the department,
218 a water management district, or the Department of Agriculture
219 and Consumer Services, as appropriate, shall revise the rule to
220 require implementation of the modified practice within a
221 reasonable time period as specified in the rule.

222 5. Agricultural records relating to processes or methods of
223 production, costs of production, profits, or other financial
224 information held by the Department of Agriculture and Consumer
225 Services pursuant to subparagraphs 3. and 4. or pursuant to any
226 rule adopted pursuant to subparagraph 2. are confidential and
227 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
228 Constitution. Upon request, records made confidential and exempt
229 pursuant to this subparagraph shall be released to the
230 department or any water management district provided that the
231 confidentiality specified by this subparagraph for such records
232 is maintained.

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233 6. The provisions of subparagraphs 1. and 2. do not
234 preclude the department or water management district from
235 requiring compliance with water quality standards or with
236 current best management practice requirements set forth in any
237 applicable regulatory program authorized by law for the purpose
238 of protecting water quality. Additionally, subparagraphs 1. and
239 2. are applicable only to the extent that they do not conflict
240 with any rules adopted by the department that are necessary to
241 maintain a federally delegated or approved program.

242 7. The department must provide a domestic wastewater
243 utility with a presumption of compliance with state water
244 quality standards for pathogens when the utility demonstrates a
245 history of compliance with wastewater disinfection requirements
246 incorporated in the utility's operating permit for any discharge
247 into the impaired surface water, and the utility is a certified
248 blue star utility in accordance with s. 403.1839.

249 Section 3. Subsection (11) is added to section 403.087,
250 Florida Statutes, to read:

251 403.087 Permits; general issuance; denial; revocation;
252 prohibition; penalty.—

253 (11) A blue star utility certified pursuant to s. 403.1839
254 shall be issued a 10-year permit upon approval of its
255 application for renewal by the department in accordance with
256 this section.

257 Section 4. Subsection (3) of section 403.1838, Florida
258 Statutes, is amended to read:

259 403.1838 Small Community Sewer Construction Assistance
260 Act.—

261 (3) (a) In accordance with rules adopted by the

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Environmental Regulation Commission under this section, the department may provide grants, from funds specifically appropriated for this purpose, to financially disadvantaged small communities and to private, not-for-profit utilities serving financially disadvantaged small communities for up to 100 percent of the costs of planning, assessing, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses. Grants issued pursuant to this section may also be used for planning and implementing sanitary sewer assessment programs to identify conditions that may cause unauthorized releases or spills of treated or untreated domestic wastewater, pipe leakage, or interruption of service to customers due to a physical condition or defect in the system.

(b) The rules of the Environmental Regulation Commission must:

1. Require that projects to plan, assess, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.

2. Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.

3. Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.

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291 4. Establish a system to determine eligibility of grant
292 applications.

293 5. Establish a system to determine the relative priority of
294 grant applications. The system must consider public health
295 protection and water pollution abatement.

296 6. Establish requirements for competitive procurement of
297 engineering and construction services, materials, and equipment.

298 7. Provide for termination of grants when program
299 requirements are not met.

300 Section 5. This act shall take effect July 1, 2018.

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 808

INTRODUCER: Committee on Environmental Preservation and Conservation and Senator Baxley

SUBJECT: Public Records/Surplus Lands

DATE: February 6, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 808 designates the following information as confidential and exempt from the disclosure requirements under the Public Records Act and Art. I, s. 24(a) of the Florida Constitution:

- A written valuation of land determined to be surplus by the governing board of a water management district (WMD);
- Related documents used to form, or which pertain to, such valuation; and
- Written offers to purchase surplus lands.

The bill provides for when the exemption expires, which is two weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the WMD. The bill authorizes the WMD to disclose the information to potential purchasers under certain circumstances to facilitate the successful or expedited closure of the sale of surplus lands.

In accordance with the Open Government Sunset Review Act, the exemption automatically repeals on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a statement of public necessity as required by the Florida Constitution.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

In addition to the Florida Constitution, the primary statutory requirements for executive branch agencies are found in ch. 119, F.S., which is known as the Public Records Act. The Public Records Act states that:

It is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.³

According to the Public Records Act, every person who has custody of a public record is required to permit that record to be inspected or copied unless that record is exempted by law.⁴ A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁵ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁶ A violation of the Public Records Act may result in civil or criminal penalties.⁷

Public Records Exemptions

By general law, the Legislature may create an exemption to the public records requirements.⁸ An exemption must pass by a two-thirds vote of the House and the Senate.⁹ In addition, an exemption must explicitly state the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰ A

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Section 119.01(1), F.S.

⁴ *Id.*

⁵ Section 119.011(12), F.S., defines the term “public records” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines the term “agency” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.10, F.S.

⁸ FLA. CONST., art. I, s. 24(c).

⁹ *Id.*

¹⁰ *Id.*

statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹¹

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹² Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances specifically designated by law. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.¹³

Valuation of state lands for sale

Pursuant to s. 253.0341(8)(a), F.S., a written valuation of land determined to be surplus by the Board of Trustees of the Internal Improvement Trust Fund (BOT) and related documents used to form the valuation or which pertain to the valuation are confidential and exempt from disclosure.¹⁴ This exemption expires two weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the BOT.¹⁵

The Division of State Lands within the Department of Environmental Protection is authorized to disclose the confidential and exempt appraisals, valuations, or valuation information regarding the surplus land:

- During negotiations for the sale or exchange of the land;
- During the marketing effort or bidding process associated with the sale disposal or exchange of the land to facilitate closure of such effort or process;
- When the passage of time has made the conclusions of value invalid; or
- When negotiations or marketing efforts concerning the land are concluded.¹⁶

While a public records exemption exists for written valuations of land determined to be surplus by the BOT, a similar exemption does not exist for written valuations of land determined to be surplus by a WMD.

Appraisals and written offers for lands the state is purchasing

There are public records exemptions for appraisals and written offers when the state is seeking to purchase land. When an agency of the executive branch of state government seeks to acquire real property by purchase or through the exercise of the power of eminent domain all appraisals, other reports relating to value, and written offers and counteroffers are exempt until the execution of a valid option contract or a written offer to sell that has been conditionally accepted by the agency.¹⁷ If the parties do not execute a valid option contract or the agency does not

¹¹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). See also *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004).

¹² If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹³ *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991).

¹⁴ Section 253.0341(8)(a), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 119.0711, F.S.

conditionally accept a written offer to sell, then the exemption expires at the conclusion of the condemnation litigation of the subject property.¹⁸

Similarly, when a WMD is seeking to purchase land, all appraisal reports, offers, and counteroffers are exempt until an option contract is executed or if no option contract is executed, until 30 days before a contract of agreement for purchase is considered for approval by the governing board.¹⁹

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.²⁰ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.²¹

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²² An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²³
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²⁴ or
- It protects trade or business secrets.²⁵

The OGSR also requires specified questions to be considered during the review process.²⁶ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption. If, in reenacting an exemption, the exemption is

¹⁸ *Id.*

¹⁹ Section 373.139, F.S.

²⁰ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to section 119.15(2), F.S.

²¹ Section 119.15(3), F.S.

²² Section 119.15(6)(b), F.S.

²³ Section 119.15(6)(b)1., F.S.

²⁴ Section 119.15(6)(b)2., F.S.

²⁵ Section 119.15(6)(b)3., F.S.

²⁶ Section 119.15(6)(a), F.S. The specified questions are:

1. What specific records or meetings are affected by the exemption?
2. Whom does the exemption uniquely affect, as opposed to the general public?
3. What is the identifiable public purpose or goal of the exemption?
4. Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
5. Is the record or meeting protected by another exemption?
6. Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁷ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁸

III. Effect of Proposed Changes:

CS/SB 808 designates the following information as confidential and exempt from the disclosure requirements under the Public Records Act and Art. I, s. 24(a) of the Florida Constitution:

- A written valuation of land determined to be surplus by the governing board of a water management district (WMD);
- Related documents used to form, or which pertain to, the valuation; and
- Written offers to purchase such surplus lands.

The bill provides that the exemption expires, thus the specified information may be disclosed, two weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the WMD.

Additionally, the bill authorizes a WMD, before the expiration of the exemption, to disclose confidential and exempt valuations and valuation information that are related to the surplus lands or written offers to purchase such surplus lands, to potential purchasers in order to facilitate successful or expedited closure of the sale of such lands:

- During the negotiations for the sale or exchange of the land;
- During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land;
- When the passage of time has made the conclusions of value invalid; or
- When negotiations or marketing efforts concerning the land are concluded.

In accordance with the Open Government Sunset Review Act, the exemption shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

As required by the Florida Constitution, the bill provides a statement of public necessity.²⁹ This statement is based on the following findings:

- The exemption is necessary in order to facilitate successful or expedited closure of the sale of surplus lands; and
- The public availability of such valuations, related documents, and written offers can negatively impact the ability of WMDs to negotiate with potential purchasers and potentially places WMDs at a disadvantage in attempting to maximize the return on the sale of surplus land.

²⁷ FLA. CONST. art. I, s. 24(c).

²⁸ Section 119.15(7), F.S.

²⁹ FLA. CONST. art. I, s. 24(c).

The bill takes effect on the same date that SB 806 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. As the bill creates a new public record exemption, it requires a two-thirds vote for final passage.

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created public record exemption. The bill creates a public record exemption and includes a public necessity statement.

Article I, s. 24(c) of the Florida Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill specifically exempts written valuations of land determined to be surplus, any related documents, and written offers and provides for the expiration of such exemption upon the contract or agreement being approved, at the conclusion of negotiations or marketing efforts, or the passage of a year. Thus, the bill appears to be no broader than necessary to accomplish the public necessity for this public record exemption.

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 has a negative, indeterminate fiscal impact to the water management districts (WMDs) as they will incur additional costs related to training staff regarding the new public records exemption and redacting the information prior to the release of the record. However, these costs likely can be absorbed as part of the day-to-day responsibilities of the WMD.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 373.089 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 February 5, 2018:

The Committee Substitute:

- Revises the conditions upon when the exemption expires and when a WMD, at its discretion, is authorized to disclose the exempted information.
- Adds the automatic repeal of the exemption as required by the Open Government Sunset Review Act; and
- Makes conforming changes to the public necessity statement.

B. Amendments:

None.



647560

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2018	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 31 - 62
and insert:
expires upon the contract or agreement regarding the purchase,
exchange, or disposal of the surplus land being approved by the
district.

(b) Before expiration of the exemption established in
paragraph (a), and in order to facilitate successful or
expedited closure of the sale of surplus land, the district may



647560

disclose confidential and exempt valuations and valuation information which are related to surplus land, or written offers to purchase such surplus land, to potential purchasers:

1. During negotiations for the sale or exchange of the land;

2. During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land;

3. When the passage of time has made the conclusions of value invalid; or

4. When negotiations or marketing efforts concerning the land are concluded.

(c) Paragraphs (a) and (b) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

If the Board of Trustees of the Internal Improvement Trust Fund declines to accept title to the lands offered under this section, the land may be disposed of by the district under the provisions of this section.

Section 2. The Legislature finds that it is a public necessity that written valuation of land determined to be surplus pursuant to s. 373.089, Florida Statutes, related documents used to form the valuation or which pertain to the valuation, and written offers to purchase surplus land, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution until the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is approved by the district in order to



243004

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2018	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (647560)

Delete lines 5 - 6
and insert:
expires 2 weeks before the contract or agreement regarding the
purchase, exchange, or disposal of the surplus land is first
considered for approval by the

Delete lines 37 - 39
and insert:
s. 24(a), Article I of the State Constitution until 2 weeks



243004

11 before the contract or agreement regarding the purchase,
12 exchange, or disposal of the surplus land is first considered
13 for approval by the district in order to

By Senator Baxley

12-00737-18

2018808__

A bill to be entitled
An act relating to public records; amending s.
373.089, F.S.; providing an exemption for valuations,
certain records, and sales offers for sales related to
surplus lands; authorizing disclosure of such records
under certain circumstances; providing a statement of
public necessity; providing a contingent effective
date.

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

Section 1. Subsection (1) of section 373.089, Florida
Statutes, is amended to read:

373.089 Sale or exchange of lands, or interests or rights
in lands.—The governing board of the district may sell lands, or
interests or rights in lands, to which the district has acquired
title or to which it may hereafter acquire title in the
following manner:

(1) Any lands, or interests or rights in lands, determined
by the governing board to be surplus may be sold by the
district, at any time, for the highest price obtainable;
however, ~~in no case shall~~ the selling price may not be less than
the appraised value of the lands, or interests or rights in
lands, as determined by a certified appraisal obtained within
360 days before the effective date of a contract for sale.

(a) A written valuation of land determined to be surplus
pursuant to this section; related documents used to form, or
which pertain to, the valuation; and written offers to purchase
such surplus land are confidential and exempt from s. 119.07(1)

12-00737-18

2018808__

and s. 24(a), Art. I of the State Constitution. This exemption expires upon:

1. The contract or agreement regarding the purchase, exchange, or disposal of the surplus land being approved by the district;

2. In the sole discretion of the district, the conclusion of negotiations or marketing efforts related to the surplus land; or

3. The passage of 1 year from the date of the completion of the valuation.

(b) Before expiration of the exemption established in paragraph (a), and in order to facilitate successful or expedited closure of the sale of surplus land, the district may disclose confidential and exempt appraisals, valuations, and valuation information which are related to surplus land, or written offers to purchase such surplus land:

1. During negotiations for the sale or exchange of the land; or

2. During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land.

If the Board of Trustees of the Internal Improvement Trust Fund declines to accept title to the lands offered under this section, the land may be disposed of by the district under the provisions of this section.

Section 2. The Legislature finds that it is a public necessity that written valuation of land determined to be surplus pursuant to s. 373.089, Florida Statutes, related documents used to form the valuation or which pertain to the

12-00737-18

2018808__

59 valuation, and written offers to purchase surplus land, be made
60 confidential and exempt from s. 119.07(1), Florida Statutes, and
61 s. 24(a), Article I of the State Constitution for up to 1 year
62 at a water management district's discretion in order to
63 facilitate successful or expedited closure of the sale of
64 surplus lands. The public availability of such valuations,
65 related documents, and written offers can negatively impact the
66 ability of water management districts to negotiate with
67 potential purchasers and potentially places water management
68 districts at a disadvantage in attempting to maximize the return
69 on the sale of surplus land.

70 Section 3. This act shall take effect on the same date that
71 SB ____ or similar legislation takes effect, if such legislation
72 is adopted in the same legislative session or an extension
73 thereof and becomes 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: SB 992

INTRODUCER: Senator Book

SUBJECT: C-51 Reservoir Project

DATE: February 2, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Favorable
2.			AEN	
3.			AP	

I. Summary:

SB 992 revises provisions relating to the C-51 reservoir project, which is located in western Palm Beach County. Specifically, the bill:

- Adds the phrase “to the extent practicable” to the requirement that the South Florida Water Management District (SFWMD) operate the reservoir project to maximize the reduction of high-volume Lake Okeechobee regulatory releases to the St. Lucie or Caloosahatchee estuaries;
- Requires the operation of Phase I of the reservoir project to be in accordance with any operation and maintenance agreement adopted by the SFWMD;
- Requires that permitted amounts of water supply from water made available by Phase I or Phase II of the reservoir project be issued in accordance with executed capacity allocation agreements;
- Provides that water received from Lake Okeechobee may only be available to support consumptive use permits if such use is in accordance with the rules for the applicable restricted allocation area; and
- Authorizes the SFWMD to enter into a capacity allocation agreement with a water supply entity for a pro rata share of unreserved capacity in the water storage facility and request the Department of Environmental Protection (DEP) to waive repayment of all or a portion of the loan issued through the water storage facility revolving loan fund.

II. Present Situation:

Water Storage Reservoirs

It is the policy of the state that waters in the state are among its basic resources and the Legislature promote the conservation, replenishment, capture, enhancement, development, and proper utilization of surface and groundwater; and develop and regulate dams, impoundments,

reservoirs, and other works to provide water storage for beneficial purposes.¹ Storing water is a commonly used technique for optimizing the use of water supplies by collecting water during times of plenty for use during dry or peak use times.²

Water storage reservoirs are constructed to improve the quality, timing, and distribution of water within a system. Water storage reservoirs can be used to store raw water prior to treatment at municipal water treatment facilities, to store treated water prior to distribution and use, and to store water for power generation facilities and agricultural uses.³ Reservoirs can also be used to store water for environmental enhancement, including maintaining minimum flows and levels within a waterbody, as well as reducing the rates and volumes of freshwater discharges into estuaries.⁴

C-51 reservoir project

The C-51 reservoir project is located in western Palm Beach County on land owned by Palm Beach Aggregates, LLC (PBA). The project consists of in-ground reservoirs and conveyance structures that will provide water supply and water management benefits to participating water supply utilities. The project will also provide environmental benefits by reducing freshwater discharges to tide⁵ and making additional water available for natural systems.

Phase I of the project will provide 14,000 acre-feet of water storage and costs approximately \$161 million.⁶ The SFWMD has declared Phase I of the C-51 reservoir project as one of its alternative water supply pilot projects as it is located in the Lower East Coast Regional Planning Area, which is a restricted allocation area.⁷ The water will be used to provide direct aquifer recharge to offset withdrawals from the Biscayne Aquifer. The Broward County Water and Wastewater Services, the City of Sunrise, the City of Lauderhill, and the City of Dania Beach have submitted letters of intent to utilize water made available by Phase I of the C-51 reservoir project.

Phase I of the reservoir project is designed to hydraulically connect to the L-8 Flow Equalization Basin and is dependent upon the SFWMD's regional system. Because of the interconnectedness, the SFWMD agreed to operate, maintain, repair, replace, and rehabilitate Phase I of the project provided PBA pays the SFWMD for such operation, maintenance, repair, replacement, and rehabilitation.⁸ On February 20, 2017, the SFWMD and PBA entered into an Operation and

¹ Section 373.016, F.S.

² Office of Water Policy, Department of Environmental Protection (DEP), *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater, and Excess Surface Water (Senate Bill 536)*, 76 (Dec. 1, 2015), available at <https://floridadep.gov/sites/default/files/SB536%20Final%20Report.pdf> (last visited Jan 29, 2018).

³ *Id.* at 78.

⁴ *Id.*

⁵ The C-51 Canal contributes about 50 percent of the freshwater runoff to the Lake Worth Lagoon.

⁶ See Lenhart J. Lindahl, P.E., Assistant Executive Director, South Florida Water Management District (SFWMD), Governing Board Meeting, *C-51 Reservoir O&M Agreement*, slide 3 (Feb. 9, 2017), available at <http://my.sfwmd.gov/webapps/publicMeetings/viewFile/10427> (last visited Jan. 29, 2018).

⁷ Resolution No. 2017-0210, *Enter into an Operation & Maintenance Agreement with Palm Beach Aggregates, LLC for Phase 1 of the C-51 Reservoir Project*, available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/10423> (last visited Jan. 29, 2018).

⁸ *Id.*

Maintenance Agreement which details the rights and responsibilities of each party and requires the SFWMD to operate and maintain the project upon completion.⁹

Phase II of the C-51 reservoir project is estimated to provide 46,000 acre-feet of water storage and cost approximately \$286 million.¹⁰ Phase II of the project is being considered under some of the alternatives that are being modeled for the Loxahatchee River Watershed Restoration project, which is a project component of the Comprehensive Everglades Restoration Program.¹¹

The SFWMD is authorized to negotiate with the owners of the C-51 reservoir project site for the acquisition of the project site for Phase II of the project or to enter into a public-private partnership.¹² The SFWMD is authorized to acquire land near the C-51 reservoir through the purchase or exchange of land that is owned by the SFWMD or the state as necessary to implement Phase II of the project.¹³ The state and the SFWMD are authorized to consider potential swaps of land that is owned by the state or the SFWMD to achieve the optimal combination of water quality and water storage. The SFWMD is prohibited from exercising eminent domain for the purpose of implementing the C-51 reservoir project.¹⁴

State law requires that if state funds are appropriated for Phase I or Phase II of the C-51 reservoir project:

- The SFWMD must operate the reservoir to maximize the reduction of high-volume Lake Okeechobee regulatory releases to the St. Lucie or Caloosahatchee estuaries in addition to providing relief to the Lake Worth Lagoon;
- Water made available by the reservoir must be used for natural systems in addition to any allocated amounts for water supply; and
- Any water received from Lake Okeechobee may not be made available to support consumptive use permits.¹⁵

Phase I of the C-51 reservoir project is authorized to be funded through specific appropriation or through the water storage facility revolving loan fund, as provided in s. 373.475, F.S.¹⁶ For the 2017-2018 Fiscal Year, the sum of \$30 million was appropriated to the Water Resource Protection and Sustainability Trust Fund for the purpose of providing a loan to implement Phase I of the C-51 reservoir project.¹⁷ The loan is required to have a 30-year term, may be prepaid at any time, and accrues interest until repayment. The loan is required to be repaid from the proceeds of the sale of unreserved capacity in the water storage facility, or other appropriate payment, at the time of receipt less reasonable expenses. The loan is secured by a first mortgage lien on the water storage facility and a collateral assignment of unreserved capacity as adequate

⁹ *Id.*

¹⁰ *Id.*

¹¹ See United States Army Corps of Engineers, *Read-Ahead and Reference Document for Loxahatchee River Watershed Restoration Protect, Array of Alternative Plans to be Evaluated* (Dec. 13, 2017) available at <http://cdm16021.contentdm.oclc.org/utis/getfile/collection/p16021coll7/id/6006> (last visited Jan. 29, 2018).

¹² Section 373.4598, F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Chapter 2017-10, s. 12, Laws of Fla.

security for the loan. The loan does not reserve for use by the state or the SFWMD any capacity authorized pursuant to the consumptive use permit for Phase I of the C-51 reservoir.¹⁸

Phase II of the C-51 reservoir project is authorized to be funded using Florida Forever bonds, pursuant to the water storage revolving loan fund, or as a project component of the Comprehensive Everglades Restoration Program pursuant to s. 375.041(3)(b)4., F.S.¹⁹

Restricted Allocation Areas

The term “restricted allocation area” is defined in s. 373.037, F.S., to mean an area within a water supply planning region of the Southwest Florida Water Management District, the South Florida Water Management District, or the St. Johns River Water Management District where the governing board of the water management district has determined that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period pursuant to ss. 373.036 and 373.709, F.S., and where the governing board of the water management district has applied allocation restrictions with regard to the use of specific sources of water.

Due to concerns regarding water availability, the SFWMD has declared the Lake Okeechobee Basin a restricted allocation area. Therefore, additional restrictions apply when allocating surface water derived from the Lake Okeechobee Waterbody for consumptive use within the Lake Okeechobee Basin. This rule is a component of the recovery strategy for minimum flows and levels for Lake Okeechobee, as set forth in Chapter 40E-8 of the Florida Administrative Code, to address lower lake management levels and storage under the U.S. Army Corps of Engineers’ Lake Okeechobee Regulation Schedule.²⁰

Another restricted allocation area within the SFWMD’s planning region is the Lower East Coast Regional Planning Area. As a component of the recovery strategy for the minimum flows and levels for the Everglades and the Northwest Fork of the Loxahatchee River additional restrictions have been adopted for the permitted allocations of water use withdrawals. These restrictions assist in implementing the objective of the SFWMD to ensure that water necessary for Everglades restoration and the restoration of the Loxahatchee River Watershed is not allocated for consumptive use upon permit renewal or modification.²¹

III. Effect of Proposed Changes:

SB 992 adds the phrase “to the extent practicable” to the requirement that the South Florida Water Management District (SFWMD) operate the reservoir project to maximize the reduction of high-volume Lake Okeechobee regulatory releases to the St. Lucie or Caloosahatchee estuaries. The bill requires the operation of Phase I of the reservoir project to be in accordance

¹⁸ *Id.*

¹⁹ Section 373.4598, F.S.

²⁰ SFWMD, *Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District*, 63 (Sept. 7, 2015), available at https://www.sfwmd.gov/sites/default/files/documents/wu_applicants_handbook.pdf (last visited Jan. 30, 2018).

²¹ *Id.* at 55.

with any operation and maintenance agreement adopted by the SFWMD. An agreement between the SFWMD and Palm Beach Aggregates, LLC, was adopted in February of 2017.

The bill requires that the permitted amounts of water supply from water made available by Phase I or Phase II of the reservoir project must be issued in accordance with executed capacity allocation agreements. The bill provides that water received from Lake Okeechobee may only be available to support consumptive use permits if such use is in accordance with the rules for the applicable restricted allocation area, which, in this instance, is the Lake Okeechobee basin.

The bill authorizes the SFWMD to enter into a capacity allocation agreement with a water supply entity for a pro rata share of unreserved capacity in the water storage facility and request the Department of Environmental Protection (DEP) to waive repayment of all or a portion of the loan issued through the water storage facility revolving loan fund pursuant to s. 373.475, F.S. The DEP may only authorize such waiver if, at its determination, it has received reasonable value for such waiver.

The bill takes effect July 1, 2018.

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:

Depending on if the Department of Environmental Protection (DEP) approves of a waiver of the loan amount and what reasonable value the DEP deems appropriate, the loan recipient may receive a positive fiscal impact.

C. Government Sector Impact:

If the loan is waived, there will be a negative fiscal impact to the DEP of up to \$30 million from the water storage facility revolving loan fund depending on what reasonable value the DEP deems appropriate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 373.4598 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 Book

32-00203B-18

2018992__

A bill to be entitled
An act relating to the C-51 reservoir project;
amending s. 373.4598, F.S.; revising requirements
related to the operation of water storage and use for
Phase I and Phase II of the C-51 reservoir project if
state funds are appropriated for such phases;
authorizing the South Florida Water Management
District to enter into certain capacity allocation
agreements and to request a waiver for repayment of
certain loans; authorizing the Department of
Environmental Protection to waive such loan repayment
under certain conditions; providing an effective date.

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

Section 1. Paragraph (d) of subsection (9) of section
373.4598, Florida Statutes, is amended, and paragraph (f) is
added to that subsection, to read:

373.4598 Water storage reservoirs.—

(9) C-51 RESERVOIR PROJECT.—

(d) If state funds are appropriated for Phase I or Phase II
of the C-51 reservoir project:

1. The district, to the extent practicable, shall operate
either Phase I or Phase II of the reservoir project to maximize
the reduction of high-volume Lake Okeechobee regulatory releases
to the St. Lucie or Caloosahatchee estuaries, in addition to
maximizing the reduction of harmful discharges ~~providing relief~~
to the Lake Worth Lagoon. However, the operation of Phase I of
the C-51 reservoir project must be in accordance with any

32-00203B-18

2018992__

30 operation and maintenance agreement adopted by the district;

31 2. Water made available by Phase I or Phase II of the
32 reservoir shall be used for natural systems in addition to any
33 permitted allocated amounts for water supply issued in
34 accordance with executed capacity allocation agreements; and

35 3. ~~Any~~ Water received from Lake Okeechobee may only ~~not~~ be
36 available to support consumptive use permits if such use is in
37 accordance with the rules for the applicable restricted
38 allocation area as defined in s. 373.037(1).

39 (f) The South Florida Water Management District may enter
40 into a capacity allocation agreement with a water supply entity
41 for a pro rata share of unreserved capacity in the water storage
42 facility and may request the department to waive repayment of
43 all or a portion of the loan issued pursuant to s. 373.475. The
44 department may authorize such waiver if, at its determination,
45 it has received reasonable value for such waiver.

46 Section 2. This act shall take effect July 1, 2018.

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 1622

INTRODUCER: Committee on Environmental Preservation and Conservation and Senator Flores

SUBJECT: Lands Used for Governmental Purposes

DATE: February 6, 2018

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1622 revises the procedures the Department of Economic Opportunity (DEO) must follow for the acquisition of nonconservation lands¹ for the purpose of military base buffering.

The bill revises the procedures the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) must use when acquiring land on an immediate basis by:

- Authorizing the acquisition of lands that will prevent or satisfy private property rights claims resulting from the limitations imposed by the designation of an area of critical state concern, and, if such lands are eligible to receive Florida Forever funding, authorizes up to 15 percent of Florida Forever funds distributed for the purchase such lands;
- Authorizing the waiver or modification of all land acquisition procedures and all competitive bid procedures for the acquisition of such lands; and
- Authorizing the use of reasonably prudent procedures to estimate the value of such lands, if the parcel of land is estimated to be worth \$500,000 or less and the director of the Division of State Lands (DSL) finds that the cost of an outside appraisal is not justified.

The bill authorizes a land authority to contribute tourist impact tax revenues to the county in which it is located for affordable housing and authorizes a land authority to pay certain costs related to affordable housing projects.

¹ The bill redefines the term “nonconservation lands” to mean lands acquired for uses other than conservation, outdoor resource based recreation, or archaeological or historic preservation.

II. Present Situation:

Board of Trustees of the Internal Improvement Trust Fund

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) holds state lands in trust for the use and benefit of the people of the state pursuant to Art. II, s. 7 and Art. X, s. 11 of the State Constitution. The Governor, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture constitute the trustees of the internal improvement trust fund.² The Department of Environmental Protection (DEP) performs all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees.³

Section 253.025, F.S., outlines the procedures the state must follow when acquiring lands. Prior to the acquisition of land, a state agency is required to coordinate with the Division of State Lands (DSL) within the DEP to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed.⁴ Additionally, each parcel of land that is to be acquired must have at least one appraisal.⁵ If the cost of land exceeds \$1 million then two appraisals are required. If a parcel is estimated to be worth \$100,000 or less and the director of the DSL finds that the cost of an outside appraisal is not justified, a comparable sales analysis, an appraisal prepared by the DSL, or other reasonably prudent procedures may be used by the DSL to estimate the value of the parcel, provided the public's interest is reasonably protected.⁶ The maximum amount that the state may pay for a parcel to be acquired is the value indicated in a single approved appraisal if only one appraisal is required.⁷ If two appraisals are required and their values do not differ significantly the maximum amount that may be paid is the higher value indicated.⁸

The Board of Trustees, by an affirmative vote of at least three members, may direct the DEP to purchase lands on an immediate basis using up to 15 percent of Florida Forever funds allocated to the DEP for the acquisition of lands that:

- Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;
- Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or
- Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.

For such acquisitions, the Board of Trustees may waive or modify all land acquisition procedures and all competitive bid procedures. Additionally, lands acquired must, at the time of purchase, be on one of the acquisition lists established pursuant to ch. 259, or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural

² FLA. CONST. Art. IV s. 4.

³ Section 253.002, F.S.

⁴ Section 253.025(2), F.S.

⁵ Section 253.025(8), F.S. Appraisals are not required for lands donated to the state.

⁶ Section 253.025(8), F.S.

⁷ Fla. Admin. Code R. 18-1.006.

⁸ *Id.*

communities or plant or animal species that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.

Military Base Protection Program

The Board of Trustees is authorized to acquire, pursuant to s. 288.980(2)(b), F.S., nonconservation lands⁹ from the annual list submitted by the Department of Economic Opportunity (DEO) for the purpose of buffering a military installation against encroachment.¹⁰ Encroachment includes any external factor that inhibits military readiness, including but not limited to, growing competition for land, airspace, waterfront access, and frequency spectrum.¹¹ Encroachment can be detrimental to the current and future missions of military installations due to the incompatible use of adjacent land. In recognition of this threat, the Military Base Protection Program was created to:

- Secure nonconservation lands to serve as a buffer to protect military installations against encroachment; and
- Support local community efforts to engage in service partnerships with military installations.¹²

The DEO is authorized to annually submit a list of nonconservation lands to the Board of Trustees to acquire, subject to a specific appropriation, through fee simple purchase or through perpetual, less-than-fee interest purchase, for the purpose of buffering a military installation.¹³ The Board of Trustees is required to consider the recommendations of the Florida Defense Support Task Force when selecting nonconservation lands to purchase.¹⁴ The Florida Defense Support Task Force consists of the Governor and 12 appointed members and was created to make recommendations to preserve and protect military installations.¹⁵ All funds appropriated for the purposes of the Military Base Protection Program are eligible to be used for matching federal funds.

Florida Forever Program

As a successor to Preservation 2000, the Legislature created the Florida Forever program in 1999 as the blueprint for conserving Florida's natural resources.¹⁶ The Florida Forever Act reinforced the state's commitment to conserve its natural and cultural heritage, provide urban open space, and better manage the land acquired by the state.¹⁷ Florida Forever encompasses a wide range of goals including: land acquisition; environmental restoration; water resource development and

⁹ The term "nonconservation lands" is defined to mean "lands not subject to acquisition by the Florida Forever Program."

¹⁰ Section 253.025(21), F.S.

¹¹ Enterprise Florida, Inc., *Florida Programs to Mitigate Encroachment to Military Installations*, 3 (July 2017), available at <https://www.enterpriseflorida.com/wp-content/uploads/Florida-Programs-to-Mitigate-Encroachment-to-Military-Installations-FINAL-July-12.pdf> (last visited Jan. 29, 2018).

¹² Section 288.980, F.S.

¹³ Section 288.980, F.S.

¹⁴ *Id.*

¹⁵ Section 288.987, F.S.

¹⁶ Chapter 99-247, Laws of Fla.

¹⁷ Department of Environmental Protection (DEP), *Florida Forever Five Year Plan* (2017), available at http://publicfiles.dep.state.fl.us/DSL/OES/FloridaForeverAnnualRpts/FLDEP_DSL_OES_FloridaForeverAnnualReport2017_20170920.pdf (last visited Oct. 31, 2017).

supply; increased public access; public lands management and maintenance; and increased protection of land through the purchase of conservation easements.¹⁸

The DSL oversees the Florida Forever program, under which the state has protected over 737,117 acres of land purchased with \$2.9 billion in Florida Forever funds.¹⁹ Florida Forever projects and acquisitions are required to contribute to the achievement of one or more of the following program goals:

- Enhance the coordination and completion of land acquisition projects.
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels.
- Protect, restore, and maintain the quality and natural functions of land, water, and wetlands systems of the state.
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state.
- Increase natural resource-based public recreational and educational opportunities.
- Preserve significant archaeological or historic sites.
- Increase the amount of forestland available for sustainable management of natural resources.
- Increase the amount of open space available in urban areas.²⁰

The Acquisition and Restoration Council (ARC) is a 10-member body that makes recommendations on the acquisition, management, and disposal of state-owned lands.²¹ The ARC accepts applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and individuals for project proposals eligible for Florida Forever funding. In evaluating each application, the ARC is required to consider whether the project:

- Meets multiple program goals.
- Is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.
- Enhances or facilitates management of properties already under public ownership.
- Has significant archaeological or historic value.
- Contributes to the solution of water resource problems on a regional basis.
- Has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision that would result in multiple ownership and make acquisition of the project more costly or less likely to be accomplished.
- Implements an element from a plan developed by an ecosystem management team.
- Is one of the components of Everglades restoration efforts.
- May be purchased at 80 percent of appraised value.
- May be acquired, in whole or in part, using alternatives to fee simple.
- Is a joint acquisition.²²

¹⁸ Section 259.105, F.S.

¹⁹ DEP, *Florida Forever Five Year Plan* (2017).

²⁰ Section 259.105(4), F.S.

²¹ DEP, *Florida Forever Five Year Plan* (2017).

²² Section 259.105(9), F.S.

The ARC is required to give higher priority to: projects for which matching funds are available; project elements previously identified on an acquisition list, which can be acquired at 80 percent or less of appraised value; projects that can be acquired in less-than-fee ownership; projects that contribute to improving the quality or quantity of surface water or groundwater; projects that contribute to improving the water quality and flow of springs; and projects for which the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions.²³

Using the established criteria, the ARC develops a priority list of applications submitted. An affirmative vote of at least five members of the ARC is required to place a proposed project on the priority list. The ARC evaluates and selects projects twice per year, in June and December, and ranks the projects annually.²⁴ Each project on the priority list is placed in one of the following categories of expenditure for land conservation projects: climate change, critical natural, less-than-fee, partnerships, greater than 85 percent complete, and critical historical.²⁵ Projects are ranked within each category from highest to lowest priority. The priority list is presented to the Board of Trustees.²⁶ The Board of Trustees is responsible for acting on the ARC's recommendations by approving the acquisition of each parcel.²⁷ While the Board of Trustees is authorized to remove projects from the priority list, the Board of Trustees may not add or rearrange projects on the priority list.²⁸

The DSL prepares an annual work plan based on the priority list developed by the ARC, which outlines the specific projects and acquisitions within projects that will be negotiated for purchase with Florida Forever funds available for that fiscal year for land acquisition.²⁹ As of 2017, there were 43 projects, totaling approximately 1.4 million acres, in the work plan.³⁰

At least \$5 million of the funds allocated to the DSL under the Florida Forever program, beginning in the 2017-2018 Fiscal Year and continuing through the 2026-2027 Fiscal Year, are required to be spent on land acquisition within the Florida Keys area of critical state concern as authorized in s. 259.045, F.S.³¹ Section 259.045, F.S., requires the DEP to make recommendations for the acquisition of certain lands to the Board of Trustees.³²

Areas of Critical State Concern

The Areas of Critical State Concern Program was created in the "Florida Environmental Land and Water Management Act of 1972."³³ The purpose of the program is to ensure that the state, in

²³ Section 259.105(10), F.S.

²⁴ DEP, *Frequently Asked Questions about Florida Forever*.

²⁵ Section 259.105(17), F.S.

²⁶ Section 259.105(14), F.S.

²⁷ DEP, *Florida Forever Five Year Plan* (2017).

²⁸ Section 259.105(14), F.S.

²⁹ Section 259.105(17), F.S.

³⁰ DEP, *Focused on Florida's Future, Florida Forever Program*, 7, presentation before the Senate Appropriations Subcommittee on the Environment and Natural Resources (Oct. 25, 2017), available at <https://www.flsenate.gov/Committees/Show/AEN/Meeting%20Packet/3992> (last visited Oct. 31, 2017).

³¹ Section 259.105(3)(b), F.S.

³² Section 259.045, F.S.

³³ Chapter 72-317, s. 1, Laws of Fla.

accordance with s. 7, Art. II of the State Constitution, ensures a water management system that will reverse the deterioration of water quality and provide optimum utilization of the state's limited water resources, facilitate orderly and well-planned development, and protect the health, welfare, safety, and quality of life of residents of this state.³⁴

An area of critical state concern³⁵ may only be designated for an area:

- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, of which the uncontrolled private or public development would cause substantial deterioration of such resources;
- Containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, of which the private or public development would cause substantial deterioration or complete loss of such resources, sites, or districts; or
- An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment including, but not limited to, highways, ports, airports, energy facilities, and water management projects.³⁶

Within 45 days after an area is designated an area of critical state concern, and annually thereafter, the DEP is required to consider the recommendations of the DEO, relating to the purchase of lands within an area of critical state concern or lands outside an area of critical state concern that directly impact such area, which may include lands used to preserve and protect water supply.³⁷ Pursuant to s. 259.045, F.S., the DEP is required to make recommendations to the Board of Trustees with respect to the purchase of any such lands that are:

- Environmentally endangered lands;
- Outdoor recreation lands;
- Lands that conserve sensitive habitat;
- Lands that protect, restore, or enhance nearshore water quality and fisheries;
- Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or
- Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern if the acquisition of such lands fulfills a public purpose listed in s. 259.032(2), F.S., relating to conservation and recreation lands.³⁸

Within 180 days after an area is designated an area of critical state concern, the applicable local government may submit to the DEO, as the state land planning agency, its existing land development regulations and local comprehensive plan for the area taking into consideration the

³⁴ Section 380.021, F.S.

³⁵ The designated Areas of Critical State Concern are the Apalachicola Bay Area, the Green Swamp Area, the Big Cypress Area, and the Florida Keys Area and the City of Key West Area.

³⁶ Section 380.05(2), F.S.

³⁷ Section 259.045, F.S.

³⁸ *Id.*

rules and principles adopted guiding development in the area of critical state concern.³⁹ If the DEO determines that the administration of the local land development regulations or the local comprehensive plan within the area is inadequate to protect state or regional interests, the agency may institute appropriate judicial proceedings to complete proper enforcement of the land development regulations or plans.⁴⁰

In recognition of the difficulty of dealing with challenges implementing comprehensive land use plans pursuant to the Areas of Critical State Concern Program, each county in which one or more areas of critical state concern are located is authorized to create, by ordinance, a land authority.⁴¹ A land authority is governed by the governing board of the county and has the flexibility to address plan implementation innovatively and act as an intermediary between individual landowners and the governmental entities regulating land use within the county.⁴²

Additionally, any county creating a land authority is authorized to levy by ordinance, a tourist impact tax on the taxable privileges on proceeds received from every person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, condominium, or timeshare resort for a term of 6 months or less, unless such establishment is exempt.⁴³ Revenues received are required to be distributed as follows:

- Fifty percent to the land authority to be used in accordance with s. 380.0666, F.S., in the area of critical state concern for which the revenue is generated, with up to 5 percent authorized to be used for administration and other costs incident to the exercise of said powers; and
- Fifty percent to the governing body of the county where the revenue was generated. Such proceeds shall be used to offset the loss of ad valorem taxes due to acquisitions provided for by this act.⁴⁴

Section 380.0666, F.S., authorizes a land authority to contribute tourist impact tax revenues to its most populous municipality or housing authority of such municipality at the request of the commission or council of such municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality.

The Florida Keys and the City of Key West areas of state concern

The Legislature designated the Florida Keys (Monroe County and its municipalities) and the City of Key West as areas of critical state concern in 1975 due to the area's environmental sensitivity and mounting development pressures.⁴⁵ The legislative intent was to establish a land use management system for the Florida Keys that would achieve the following:

- Protect the natural environment and improve the nearshore water quality;

³⁹ Section 380.05(5), F.S.

⁴⁰ Section 380.05(13), F.S.

⁴¹ Section 380.0661, F.S.

⁴² *Id.*

⁴³ Section 125.0108, F.S. See s. 212.03, F.S. for exemptions from the tourist impact tax.

⁴⁴ Section 125.0108, F.S.

⁴⁵ Department of Economic Opportunity (DEO), *Florida Keys Area of Critical State Concern 2015 Annual Report*, 1 (Nov. 30, 2014), available at <http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/2015-florida-keys-area-of-critical-state-concern-annual-report.pdf?sfvrsn=2> (last visited Jan. 26, 2018).

- Support a diverse economic base that promotes balanced growth in accordance with the capacity of public facilities;
- Promote public land acquisition and ensure that the population of the Florida Keys can be safely evacuated;
- Provide affordable housing in close proximity to places of employment; and
- Protect property rights and promote coordination among governmental agencies that have permitting jurisdiction.⁴⁶

Land development in the Keys has displaced nearly 50 percent of all upland habitats and created a patchwork of land cover resulting in reduced ecological functions such as lower biodiversity, increased vulnerability to invasion by exotic plant and animal species, and decreased gene flow among species.⁴⁷ Land development in the Florida Keys is limited because the Florida Keys are home to many endangered and threatened species, and all permanent residents of the Florida Keys Area are required to be evacuated within a 24 hour clearance time.⁴⁸

In 1992, Monroe County created and implemented the Rate of Growth Ordinance (ROGO) to be consistent with the 1985 Growth Management Act.⁴⁹ The ROGO is designed to control growth in a manner that is beneficial to the local environment, as well as the local residents, and establishes rules and procedures for the competitive process to obtain a building permit. The ROGO drew legal challenges from numerous parties with litigation lasting several years. To simplify the ROGO process, a tiered system was adopted in 2006, which includes a built in method of directing growth to acceptable areas and allowing conservation in areas with environmental sensitivity.⁵⁰ The process is based on a point system that allows everyone applying for a new residential or commercial building permit to compete against each other for the limited number of allocations issued each year.⁵¹

Based upon current development trends and hurricane evacuation modeling, it is anticipated that by 2023 there will remain more than 7,000 undeveloped, privately owned parcels that would be prohibited from development within Monroe County at an estimated acquisition value of \$322 million.⁵² The prohibition on land development could potentially result in litigation under the Takings Clause of the United States Constitution,⁵³ which requires the government to compensate a property owner when it takes his or her property for public use or when the state excessively regulates his or her property.

The state of Florida has purchased 10,501 acres in the Keys at a cost of \$243.9 million for natural resource protection.⁵⁴ Monroe County developed a ranking tool to prioritize land for

⁴⁶ DEO, *Florida Keys Area of Critical State Concern Annual Report*, 2 (Nov. 30, 2014).

⁴⁷ *Id.*

⁴⁸ Section 380.0552 (9)(a)2., F.S.

⁴⁹ Monroe County Growth Management Division, *A New Era in Growth Management: The Tier System, A Layman's Guide to Residential ROGO*, available at <http://www.floridakeyskeywestrealestate.com/pdf/laymansguideROGO.pdf> (last visited Jan. 29, 2018).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ U.S. Const. amend. V.

⁵⁴ DEO, *Florida Keys Area of Critical State Concern Annual Report*, 12 (Nov. 30, 2014).

acquisition, which is weighted to consider attributes for conservation lands, listed species focus areas, military influence areas, and lands targeted for acquisition through the Florida Forever program.⁵⁵ The evaluation resulted in a report that indicates a need for acquisition of 4,269 conservation parcels at an estimated cost of \$82.7 million and a potential purchase of over 900 vacant developable privately owned parcels with an acquisition cost of \$29 million.⁵⁶ Additionally, there are an estimated 2,339 parcels in Marathon and Islamorada valued at \$127 million which may be in need of acquisition or other appropriate strategies to reduce or otherwise account for platted lots.⁵⁷

III. Effect of Proposed Changes:

Section 1 amends s. 253.025(21), F.S. to revise the procedures the Department of Economic Opportunity (DEO) must follow in relation to the acquisition of nonconservation lands for the purpose of military base buffering. The bill clarifies that the Division of State Lands (DSL) within the Department of Environmental Protection (DEP) is the agent of the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and is authorized to acquire nonconservation lands from the annual list submitted by the DEO. The DEO is required to request all military installations in the state to provide the agency with a list of base buffering encroachment lands for fee simple or less-than-fee simple acquisitions by October 1 of each year.

The Florida Defense Support Task Force is required to analyze the list and provide its recommendations for ranking the lands to the DEO. The DEO is required to submit the final list to the DSL, which must contain the following information for each parcel:

- A legal description of the land and its property identification number;
- A detailed map of the land; and
- A management and monitoring agreement to ensure the land serves a base buffering purpose.

If federal partnership funds are available before the land is acquired, Yellow Book appraisal standards⁵⁸ must be applied and the appraised value must be disclosed to the seller.

In agreement with the benefitting military installation and as authorized by the DSL, the land acquired may be leased or conveyed at less than appraised value to the installation after its acquisition in accordance with the installation's procedures and state law. The management and monitoring of the land must be provided by the installation or another governmental entity. A conveyance at less than appraised value must state that the land will revert to the Board of Trustees if the land is not used for its intended purpose as a military installation buffer or if the military installation closes.

Section 253.025(22), F.S., is amended and subsection (23) is created to authorize the Board of Trustee by an affirmative vote of at least three members to direct the DEP to purchase lands on an immediate basis which will prevent or satisfy private property rights claims resulting from the limitations imposed by the designation of an area of critical state concern. The Board of Trustees

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* at 13.

⁵⁸ Yellow Book appraisal standards refer to the uniform appraisal standards for federal land acquisitions.

is authorized to use up to 15 percent of the funds allocated to the DEP through the Florida Forever Trust Fund for the acquisition of such lands, if the lands acquired are, at the time of purchase, on one of the acquisition lists established pursuant to ch. 259, or essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.⁵⁹ The Board of Trustees is authorized to waive or modify all land acquisition procedures and all competitive bid procedures for the acquisition of such lands.

Additionally, if a parcel that is to be acquired by the Board of Trustees on an immediate basis is estimated to be worth \$500,000 or less and the director of the DSL finds that the cost of an outside appraisal is not justified, a comparable sales analysis, an appraisal prepared by the DSL, or other reasonably prudent procedures may be used by the DSL to estimate the value of the land, provided the public's interest is reasonably protected.

Section 2 amends s. 288.980, F.S., to redefine the term “nonconservation lands” to mean lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation. Under current law, the term is defined to mean lands not subject to acquisition by the Florida Forever Program.⁶⁰ The revised definition attempts to conform the definition in ch. 288, F.S., with the definition of conservation lands⁶¹ in ch. 253, F.S.

Section 3 amends s. 380.0666, F.S., to authorize a land authority to contribute tourist impact tax revenues to the county in which it is located, instead of just its most populous municipality or housing authority of such municipality, at the request of the county commission for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality or any other area of the county.

The bill authorizes land authority funds to be used to pay costs related to the development and construction of affordable housing projects, including, but not limited to, site improvements; site amenities; site infrastructure, such as roads, water, wastewater, and utilities; any fees associated with gaining development approval, including, but not limited to, building permit and impact fees, and utility fees; easements; energy efficiency and sustainable design features; environmental mitigation; any related land acquisition, land improvement, design, and engineering costs; and all other professional and related costs required to bring an affordable housing project into service.

⁵⁹ Section 253.025(22), F.S.

⁶⁰ Section 288.980(2)(c), F.S.

⁶¹ The term “conservation lands” is defined in s. 253.034, F.S., to mean lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands. Lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation may not be designated conservation lands except as otherwise authorized under this section. These lands shall include, but not be limited to, the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or Florida College System institution campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that do not possess significant natural or historical resources. However, lands acquired solely to facilitate the acquisition of other conservation lands, and for which the land management plan has not yet been completed or updated, may be evaluated by the Board of Trustees of the Internal Improvement Trust Fund on a case-by-case basis to determine if they will be designated conservation lands.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will likely have a positive fiscal impact on property owners whose property is purchased.

C. Government Sector Impact:

The bill may have an negative, indeterminate fiscal impact on the Department of Economic Opportunity by requiring the agency to follow additional procedures and create a list of lands to acquire for military base buffering.

The bill may have a positive, indeterminate impact on the Department of Environmental Protection by authorizing the agency to use alternative valuation methods to ascertain the value of certain lands, which may cost less than a certified appraisal.

The bill may shift some affordable housing funds generated by the tourist development tax from municipalities to the county, if the land authority chooses to contribute the tourist impact tax revenues directly to the county as authorized under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 288.980, F.S., authorizes the Department of Economic Opportunity to submit a list to the Board of Trustees of nonconservation lands to acquire for the purpose of buffering a military installation against encroachment and requires the Board of Trustees to consider the recommendations of the Florida Defense Support Task Force. Having two sections of law that outline conflicting processes for the creation and submission of a list of the same lands for acquisition is duplicative and may lead to confusion.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.025, 288.980, and 380.0666.

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 Conservation and Preservation on February 5, 2018:

The Committee Substitute:

- Removes the authorization for the use of Florida Forever funds for the acquisition of lands that will satisfy private property rights claims within an area of critical state concern generally. Florida Forever funds may be used to acquire such lands but only if the lands are otherwise eligible for Florida Forever funding.
- Redefines the term “nonconservation lands” to mean lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation.
- Authorizes a land authority to pay certain costs related to affordable housing projects.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Delete lines 71 - 162

and insert:

(22) The board of trustees, by an affirmative vote of at least three members, may direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department pursuant to s. 259.105 for the acquisition of lands that:

(a) Are listed or placed at auction by the Federal



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Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;

(b) Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; ~~or~~

(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition; or

(d) Will prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern pursuant to chapter 380.

~~For such acquisitions, the board of trustees may waive or modify all procedures required for land acquisition pursuant to this chapter and all competitive bid procedures required pursuant to chapters 255 and 287. Lands acquired pursuant to this subsection must, at the time of purchase, be on one of the acquisition lists established pursuant to chapter 259, or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.~~

(23) The board of trustees, by an affirmative vote of at least three members, may direct the department to purchase lands on an immediate basis that will prevent or satisfy private property rights claims resulting from limitations imposed by the



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40 designation of an area of critical state concern pursuant to
41 chapter 380.

42 (24) For acquisitions directed pursuant to subsection (22)
43 or subsection (23):

44 (a) The board of trustees may waive or modify all
45 procedures required for land acquisition pursuant to this
46 chapter and all competitive bid procedures required pursuant to
47 chapters 255 and 287; and

48 (b) If a parcel is estimated to be worth \$500,000 or less
49 and the director of the Division of State Lands finds that the
50 cost of an outside appraisal is not justified, a comparable
51 sales analysis, an appraisal prepared by the division, or other
52 reasonably prudent procedure may be used by the division to
53 estimate the value of the land, provided the public interest is
54 reasonably protected.

55 (25)(23) Title to lands to be held jointly by the board of
56 trustees and a water management district and acquired pursuant
57 to s. 373.139 may be deemed to meet the standards necessary for
58 ownership by the board of trustees, notwithstanding this section
59 or related rules.

60 Section 2. Paragraph (c) of subsection (2) of section
61 288.980, Florida Statutes, is amended to read:

62 288.980 Military base retention; legislative intent; grants
63 program.—

64 (2)

65 (c) As used in this subsection, the term "nonconservation
66 lands" means lands acquired for uses other than conservation,
67 outdoor resource-based recreation, or archaeological or historic
68 preservation not subject to acquisition by the Florida Forever



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~~Program.~~

Section 3. Subsection (3) of section 380.0666, Florida Statutes, is amended to read:

380.0666 Powers of land authority.—The land authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers, which are in addition to all other powers granted by other provisions of this act:

(3) To acquire and dispose of real and personal property or any interest therein when such acquisition is necessary or appropriate to protect the natural environment, provide public access or public recreational facilities, preserve wildlife habitat areas, provide affordable housing to families whose income does not exceed 160 percent of the median family income for the area, prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern, or provide access to management of acquired lands; to acquire interests in land by means of land exchanges; to contribute tourist impact tax revenues received pursuant to s. 125.0108 to the county in which it is located and its most populous municipality or the housing authority of such county or municipality, at the request of the county commission or the commission or council of such municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality or any other area of the county; to contribute funds to the Department of Environmental Protection for the purchase of lands by the department; and to enter into all alternatives to the acquisition of fee interests in land,



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including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback arrangements. However, the land authority shall make an acquisition or contribution only if:

(a) Such acquisition or contribution is consistent with land development regulations and local comprehensive plans adopted and approved pursuant to this chapter;

(b) The property acquired is within an area designated as an area of critical state concern at the time of acquisition or is within an area that was designated as an area of critical state concern for at least 20 consecutive years before ~~prior to~~ removal of the designation;

(c) The property to be acquired has not been selected for purchase through another local, regional, state, or federal public land acquisition program. Such restriction does ~~shall~~ not apply if the land authority cooperates with the other public land acquisition programs which listed the lands for acquisition, to coordinate the acquisition and disposition of such lands. In such cases, the land authority may enter into contractual or other agreements to acquire lands jointly or for eventual resale to other public land acquisition programs; and

(d) The acquisition or contribution is not used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

(e) Land authority funds may be used to pay costs related to the development and construction of affordable housing projects, including but not limited to, site improvements; site amenities; site infrastructure, such as roads, water, wastewater, and utilities; any fees associated with gaining



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development approval, including but not limited to building permit and impact fees, and utility fees; easements; energy efficiency and sustainable design features; environmental mitigation; any related land acquisition, land improvement, design, and engineering costs; and all other professional and related costs required to bring an affordable housing project into service.

=====
D I R E C T O R Y C L A U S E A M E N D M E N T
=====

And the directory clause is amended as follows:

Delete lines 28 - 29

and insert:

Section 1. Present subsection (23) of section 253.025, Florida Statutes, is redesignated as subsection (25), subsections (21) and (22) of that section are amended, and a new subsection (23) and subsection (24) are added to that section, to read:

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

And the title is amended as follows:

Delete lines 18 - 24

and insert:

within areas of critical state concern; authorizing the Board of Trustees of the Internal Improvement Trust Fund to direct the department to purchase lands on an immediate basis to satisfy private property rights claims resulting from certain limitations; authorizing the board to waive certain procedures; providing procedures for estimating the value of lands



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under a certain value under certain conditions;
amending s. 288.980, F.S.; redefining the term
"nonconservation lands"; amending s. 380.0666, F.S.;
authorizing land authorities to contribute tourist
impact tax revenues to certain counties for the
construction, redevelopment, and preservation of
certain affordable housing; authorizing land authority
funds to be used to pay costs related to the
development and construction of affordable housing
projects; providing an effective date.

By Senator Flores

39-00920B-18

20181622__

A bill to be entitled

An act relating to lands used for governmental purposes; amending s. 253.025, F.S.; specifying the authority of the Division of State Lands within the Department of Environmental Protection to acquire lands from an annual list provided by the Department of Economic Opportunity and the Florida Defense Support Task Force for the purpose of buffering military installations against encroachment; providing requirements for the annual list; providing conditions under which specified appraisal standards are required for such lands; authorizing such lands to be leased or conveyed for less than appraised value to military installations; providing requirements for such leasing and conveyance; authorizing the use of certain funding sources for the immediate acquisition of lands that prevent or satisfy private property rights claims within areas of critical state concern; providing procedures for estimating the value of such lands under certain conditions; amending s. 380.0666, F.S.; authorizing land authorities to contribute tourist impact tax revenues to counties for the construction, redevelopment, and preservation of certain affordable housing; providing an effective date.

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

Section 1. Subsections (21) and (22) of section 253.025, Florida Statutes, are amended to read:

39-00920B-18

20181622__

253.025 Acquisition of state lands.—

(21) (a) The board of trustees, through its agent, the Division of State Lands within the Department of Environmental Protection, may acquire, pursuant to s. 288.980(2)(b), nonconservation lands from the annual list submitted by the Department of Economic Opportunity for the purpose of buffering a military installation against encroachment.

(b) The Department of Economic Opportunity shall annually by October 1 request military installations in the state to provide the department with a list of base buffering encroachment lands for fee simple or less-than-fee simple acquisitions.

(c) The Florida Defense Support Task Force shall analyze the list of base buffering encroachment lands submitted by the military installations and provide its recommendations for ranking the lands to the Department of Economic Opportunity.

(d) The Department of Economic Opportunity shall submit the final list of base buffering encroachment lands to the Division of State Lands, which may acquire the lands pursuant to this section. At a minimum, the annual list must contain for each land:

1. A legal description of the land and its property identification number;

2. A detailed map of the land; and

3. A management and monitoring agreement to ensure the land serves a base buffering purpose.

(e) If federal partnership funds are available before the land is acquired, Yellow Book appraisal standards must be applied and the appraised value must be disclosed to the seller.

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59 (f) As authorized by the Division of State Lands on behalf
60 of the board of trustees, and in agreement with the benefiting
61 military installation, the land may be leased or conveyed at
62 less than appraised value to the installation after its
63 acquisition in accordance with the installation's procedures and
64 the laws of this state. The management and monitoring of the
65 land must be provided by the installation or another
66 governmental entity.

67 (g) A conveyance at less than appraised value must state
68 that the land will revert to the board of trustees if the land
69 is not used for its intended purposes as a military installation
70 buffer or if the military installation closes.

71 (22) (a) The board of trustees, by an affirmative vote of at
72 least three members, may direct the department to purchase lands
73 on an immediate basis using up to 15 percent of the funds
74 allocated to the department pursuant to s. 259.105 or using
75 other appropriate funding sources for the acquisition of lands
76 that:

77 1. (a) Are listed or placed at auction by the Federal
78 Government as part of the Resolution Trust Corporation sale of
79 lands from failed savings and loan associations;

80 2. (b) Are listed or placed at auction by the Federal
81 Government as part of the Federal Deposit Insurance Corporation
82 sale of lands from failed banks; ~~or~~

83 3. (c) Will be developed or otherwise lost to potential
84 public ownership, or for which federal matching funds will be
85 lost, by the time the land can be purchased under the program
86 within which the land is listed for acquisition; or

87 4. Will prevent or satisfy private property rights claims

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88 resulting from limitations imposed by the designation of an area
89 of critical state concern pursuant to chapter 380.

90
91 For such acquisitions, the board of trustees may waive or modify
92 all procedures required for land acquisition pursuant to this
93 chapter and all competitive bid procedures required pursuant to
94 chapters 255 and 287. Lands acquired pursuant to this subsection
95 must, at the time of purchase, be within an area of critical
96 state concern designated pursuant to chapter 380, be on one of
97 the acquisition lists established pursuant to chapter 259, or be
98 essential for water resource development, protection, or
99 restoration, or a significant portion of the lands must contain
100 natural communities or plant or animal species that are listed
101 by the Florida Natural Areas Inventory as critically imperiled,
102 imperiled, or rare, or as excellent quality occurrences of
103 natural communities.

104 (b) For the purposes of this subsection, if a parcel is
105 estimated to be worth \$500,000 or less and the director of the
106 Division of State Lands finds that the cost of an outside
107 appraisal is not justified, a comparable sales analysis, an
108 appraisal prepared by the division, or other reasonably prudent
109 procedure may be used by the division to estimate the value of
110 the land, provided the public interest is reasonably protected.

111 Section 2. Subsection (3) of section 380.0666, Florida
112 Statutes, is amended to read:

113 380.0666 Powers of land authority.—The land authority shall
114 have all the powers necessary or convenient to carry out and
115 effectuate the purposes and provisions of this act, including
116 the following powers, which are in addition to all other powers

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117 granted by other provisions of this act:

118 (3) To acquire and dispose of real and personal property or
119 any interest therein when such acquisition is necessary or
120 appropriate to protect the natural environment, provide public
121 access or public recreational facilities, preserve wildlife
122 habitat areas, provide affordable housing to families whose
123 income does not exceed 160 percent of the median family income
124 for the area, prevent or satisfy private property rights claims
125 resulting from limitations imposed by the designation of an area
126 of critical state concern, or provide access to management of
127 acquired lands; to acquire interests in land by means of land
128 exchanges; to contribute tourist impact tax revenues received
129 pursuant to s. 125.0108 to the county in which it is located and
130 its most populous municipality or the housing authority of such
131 county or municipality, at the request of the county commission
132 or the commission or council of such municipality, for the
133 construction, redevelopment, or preservation of affordable
134 housing in an area of critical state concern within such
135 municipality or any other area of the county; to contribute
136 funds to the Department of Environmental Protection for the
137 purchase of lands by the department; and to enter into all
138 alternatives to the acquisition of fee interests in land,
139 including, but not limited to, the acquisition of easements,
140 development rights, life estates, leases, and leaseback
141 arrangements. However, the land authority shall make an
142 acquisition or contribution only if:

143 (a) Such acquisition or contribution is consistent with
144 land development regulations and local comprehensive plans
145 adopted and approved pursuant to this chapter;

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20181622__

146 (b) The property acquired is within an area designated as
147 an area of critical state concern at the time of acquisition or
148 is within an area that was designated as an area of critical
149 state concern for at least 20 consecutive years before ~~prior to~~
150 removal of the designation;

151 (c) The property to be acquired has not been selected for
152 purchase through another local, regional, state, or federal
153 public land acquisition program. Such restriction does ~~shall~~ not
154 apply if the land authority cooperates with the other public
155 land acquisition programs which listed the lands for
156 acquisition, to coordinate the acquisition and disposition of
157 such lands. In such cases, the land authority may enter into
158 contractual or other agreements to acquire lands jointly or for
159 eventual resale to other public land acquisition programs; and

160 (d) The acquisition or contribution is not used to improve
161 public transportation facilities or otherwise increase road
162 capacity to reduce hurricane evacuation clearance times.

163 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: SB 462

INTRODUCER: Senator Young and others

SUBJECT: Advanced Well Stimulation Treatment

DATE: February 2, 2018

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Istler	Rogers	EP	Favorable
2. _____	_____	AEN	_____
3. _____	_____	AP	_____

I. Summary:

SB 462 prohibits the performance of advanced well stimulation treatments on oil or gas wells in the state. The bill defines the term “advanced well stimulation treatment” to include all stages of well intervention performed by injecting fluids into a rock formation:

- At pressure that is at or exceeds the fracture gradient of the rock formation and the purpose or effect is to fracture the formation to increase production or recovery from an oil or gas well, such as hydraulic fracturing or acid fracturing; or
- At pressure below the fracture gradient of the rock formation and the purpose or effect is to dissolve the formation to increase production or recovery from an oil or gas well, such as matrix acidizing.

The definition explicitly excludes techniques used for routine well cleanout work, well maintenance, or removal of formation damage due to drilling or production; or acidizing techniques used to maintain or restore the natural permeability of the formation near the wellbore.

II. Present Situation:

Production of conventional versus unconventional oil and gas resources: the use of well stimulation techniques

Conventional oil and gas resources are found in permeable sandstone and carbonate reservoirs.¹ Wells have historically been drilled vertically, straight down into a rock formation to extract conventional resources. Whereas conventional resources are found in concentrated underground locations, unconventional resources are highly dispersed through impermeable or “tight” rock

¹ Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, 2 (Apr. 22, 2015), available at <https://www.fas.org/sgp/crs/misc/R43148.pdf> (last visited Jan. 29, 2018).

formations, such as shales and tight sands. To extract unconventional resources, drilling has shifted from vertical to horizontal or directional away from the reservoir and toward the source rock.

Well stimulation techniques are used in the production of both conventional and unconventional resources. The techniques can be focused solely on the wellbore for maintenance and remedial purposes or can be used to increase production from the reservoir.² The relatively recent development of horizontal or directional drilling in conjunction with the expanded use of well stimulation techniques has increased the production at oil or gas wells and has led to the profitable extraction of unconventional resources.³ The three main well stimulation techniques are hydraulic fracturing, acid fracturing, and matrix acidizing.⁴

Hydraulic Fracturing

Hydraulic fracturing was developed in the 1940s to increase the production of conventional oil and gas resources. While the technique is not new, the composition of the fracturing fluids used in the process has evolved over time. Initially the fracturing fluids were oil-based and relied on a mixture of petroleum compounds, such as napalm and diesel fuels.⁵ Modern hydraulic fracturing involves a fracturing fluid that is composed of a base fluid, in most cases water; additives, each designed to serve a particular function; and a proppant, such as sand. The composition of the fracturing fluid varies depending on the permeability and brittleness of the reservoir rock.⁶ A hydraulic fracturing operation at a horizontal well involves four stages. The first is the “stage,” during which a portion of the well is isolated to focus the fracture fluid pressure. The second is the “pad,” during which fracture fluid is injected without proppant to initiate and propagate the fracture. The proppant is then added to keep the fractures open. The third stage is the “flush,” during which fluid is injected without proppant to push any remaining proppant into the fractures. The fourth state is the “flowback,” during which the hydraulic fracturing fluids are removed and the fluid pressure dissipates.⁷

The Environmental Protection Agency (EPA) estimates that 25,000-30,000 new wells were drilled and hydraulically fractured annually in the United States between 2011 and 2014.⁸ In 2016, hydraulically fractured horizontal wells accounted for 69 percent of all oil and natural gas

² California Council on Science and Technology Lawrence Berkeley National Laboratory, *An Independent Assessment of Well Stimulation in California, vol. 1, Well stimulation technologies and their past, present, and potential future use in California*, 14 (January 2015) [hereinafter *CA Study*], available at <http://ccst.us/publications/2015/2015SB4-v1.php> (last visited Jan. 29, 2018).

³ *Id.* at 2.

⁴ *Id.* at 28.

⁵ Gallegos, T.J., and Varela, B.A., United States Geological Survey, *Trends in Hydraulic Fracturing Distributions and Treatment Fluids, Additives, Proppants, and Water Volumes Applied to Wells Drilled in the United States from 1947 through 2010—Data Analysis and Comparison to the Literature*, Scientific Investigations Report 2014–5131, 7 (2015), available at <http://pubs.usgs.gov/sir/2014/5131/pdf/sir2014-5131.pdf> (last visited Jan. 29, 2018).

⁶ *CA Study* at 48.

⁷ *Id.* at 42.

⁸ U.S. Environmental Protection Agency (EPA), *Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States*, 3-1 (Dec. 2016) [hereinafter *EPA Study*], available at <https://cfpub.epa.gov/ncea/hfstudy/recordisplay.cfm?deid=332990> (last visited Jan. 29, 2018).

wells drilled in the U.S.⁹ Hydraulic fracturing in conjunction with horizontal or directional drilling techniques has led to a surge in domestic production of oil and gas resources in the last decade and, in 2012, the United States became the world's top producer of petroleum and natural gas hydrocarbons.¹⁰ The combination of horizontal drilling and hydraulic fracturing has contributed to increase in oil and natural gas production in the U.S., which are both expected to reach record levels in 2018.¹¹

Acid Fracturing

Well stimulation techniques that use acid-based formulas are sometimes preferred in carbonate reservoirs.¹² Acid fracturing is a well stimulation technique that uses acidic fluids. Well operators pump the acidic fluids into a well at a pressure that exceeds the fracture gradient and, thus, fractures the rock. The acid etches the walls of the fracture and eliminates the need to use a proppant because the fractures remain open after pressure is released.¹³ The produced fluids have a much lower acid content than the injected fluids because most of the acid that is injected is neutralized through a reaction with the rock.¹⁴ As compared to hydraulic fracturing, acid fracturing is generally more successful in carbonate reservoirs because of the relatively high degree of natural fractures present.¹⁵

The purpose of an acid fracturing treatment is to create new or open existing fractures and dissolve formation material to create an irregular fracture surface that opens up new flow paths or enhances existing flow paths into the wellbore.¹⁶ As compared to hydraulic fracturing, acid fracturing results in fractures that are relatively short in length.¹⁷ One of the main factors that adversely affects acid fracture growth is fluid loss or acid leakoff. Acid leakoff can result in the enlargement of wormholes and natural fractures and can greatly increase the area from which fluid loss occurs, making fluid-loss control difficult and preventing acid from reaching untreated parts of the fracture.¹⁸

Matrix Acidizing

Dating back to 1895, well operators have been using matrix acidizing for over 100 years.¹⁹ Drilling and production operations lead to formation damage.²⁰ Formation damage can include the plugging of perforations or the plugging of the rock matrix by debris from the well and well

⁹ U.S. Energy Information Administration (EIA), *Hydraulically fractured horizontal wells account for most new oil and natural gas wells* (Jan. 30, 2018) <https://www.eia.gov/todayinenergy/detail.php?id=34732> (last visited Jan. 30, 2018).

¹⁰ EIA, *Today in Energy, U.S. remained the world's largest producer of petroleum and natural gas hydrocarbons in 2014*, (Apr. 7, 2015) <http://www.eia.gov/todayinenergy/detail.cfm?id=20692> (last visited Jan. 29, 2018).

¹¹ EIA, *Hydraulically fractured horizontal wells account for most new oil and natural gas wells* (Jan. 30, 2018).

¹² *CA Study* at 56.

¹³ *Id.* at 28.

¹⁴ *Id.* at 14.

¹⁵ *Id.* at 56.

¹⁶ American Petroleum Institute, *Acidizing: Treatment in Oil and Gas Operations*, 3 (2014), available at <http://www.api.org/~media/files/oil-and-natural-gas/hydraulic-fracturing/acidizing-oil-natural-gas-briefing-paper-v2.pdf> (last visited Jan. 29, 2018).

¹⁷ *CA Study* at 56.

¹⁸ Middle East & Asia Reservoir Review, vol. 4, *Stimulate the Flow*, 46 (Jan. 2003), available at https://www.slb.com/resources/publications/industry_articles/mearr/num4_stimulate_flow.aspx (last visited Jan. 29, 2018).

¹⁹ *CA Study* at 69.

²⁰ Middle East & Asia Reservoir Review, vol. 4, *Stimulate the Flow*, 42 (Jan. 2003).

operations which restricts the flow of hydrocarbons into the wellbore.²¹ Matrix acidizing is performed by pumping acidic fluids into a well at a pressure that does not exceed the fracture gradient.²² Acidizing is often used for well maintenance and to remediate damage caused by well operation and drilling.²³ Operators use acid, which is very effective at dissolving carbonate minerals, to bypass formation damage around the well.²⁴ The acid is mostly neutralized because it reacts quickly with the limestone. Additionally, various acids are used to clean residential water wells to loosen or dissolve debris so that it can be pumped out of the well.²⁵

If large volumes of acid are injected into carbonate formations, matrix acidizing can be used to increase the permeability of the formation beyond the zone impacted by drilling or production activities.²⁶ Matrix acidizing can result in limited stimulation of carbonate reservoir permeability beyond the near-wellbore region.²⁷ This technique is not commonly used for stimulation in unconventional reservoirs because it does not increase recovery enough in low permeability reservoirs to make production viable.²⁸ The penetration into the formation caused by matrix acidizing is less extensive than after use of a fracturing technique. However, in carbonate reservoirs matrix acidizing can create deeply penetrating channels, known as wormholes, and lead to deeper acid penetration into more permeable fractures of a naturally fractured reservoir.²⁹ To minimize the probability of acid entering into highly permeable sections of the formation, which could create channels into water-producing zones, careful treatment, design, and execution is required when performing a matrix acidizing treatment.³⁰

Production of oil and gas resources in Florida

Northwest and South Florida are the major oil and gas producing areas in the state. The first producing oil well was discovered in 1943 at a wellsite located in the Big Cypress Preserve in South Florida.³¹ Oil and gas resources were first discovered in Northwest Florida in 1970. There are two active oil and gas fields in Northwest Florida in Escambia and Santa Rosa counties, and five active oil and gas fields in South Florida in Lee, Hendry, Collier, and Miami-Dade counties.³² While geologists believe that there may be large oil and natural gas deposits off Florida's western coast, the state enacted a drilling ban for state waters in 1990 and, in 2006, Congress banned the leasing of federal offshore blocks within 125 miles of Florida's western

²¹ *Id.*

²² *CA Study* at 69.

²³ *Id.* at 14.

²⁴ *Id.* at 69.

²⁵ National Groundwater Association, *Residential Well Cleaning* (2016), available at <http://www.ngwa.org/Documents/ClipCopy/Res-Well-Cleaning.pdf> (last visited Jan. 30, 2018).

²⁶ *CA Study* at 14.

²⁷ *Id.* at 28.

²⁸ *Id.* at 14.

²⁹ *Id.* at 30.

³⁰ Middle East & Asia Reservoir Review, vol. 4, *Stimulate the Flow*, 44 (Jan. 2003).

³¹ American Oil & Gas Historical Society, *First Florida Oil Well*, <http://aoghs.org/states/first-florida-oil-well/> (last visited Jan. 29, 2018).

³² Florida Department of Environmental Protection (FDEP), *State Production Data* (2017), available at <https://floridadep.gov/water/oil-gas/documents/state-production-data> (last visited Jan. 29, 2018).

coast until at least 2022.³³ Additionally, federal law gives priority use of much of the area to the military for training.³⁴

As of 2017, there were approximately 64 active producer wells in Florida.³⁵ The Florida Department of Environmental Protection's (FDEP) 2017 Annual Production Report totaled natural gas production at 773,864 million cubic feet and oil production at 618,891 thousand barrels in the state.³⁶ Proven oil and gas reserves both in Northwest and South Florida are composed of carbonate formations and reservoirs that have relatively high permeability.³⁷ Rather than hydraulic fracturing, well operators in the state prefer washing or flushing the formations to open carbonate pathways to enhance recovery of oil and gas resources.³⁸

Regulation of Well Stimulation Techniques

Federal

There is limited direct federal regulation over oil and gas activities. In 2005, Congress passed the Energy Policy Act amending, in part, the Safe Drinking Water Act (SDWA) and the Clean Water Act (CWA).³⁹ The SDWA was amended to revise the definition of the term “underground injection” to specifically exclude the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations. The CWA was amended to characterize oil and gas exploration and production as “construction activities,” thereby removing these operations from the scope of the CWA.⁴⁰ Thus, the Energy Policy Act effectively exempted non-diesel hydraulic fracturing from federal regulation.⁴¹

In an attempt to regulate hydraulic fracturing on federal and tribal lands, the Bureau of Land Management (BLM) in March of 2015, published final rules governing hydraulic fracturing.⁴² The rules were to take effect on June 24, 2015; however, the United States District Court for the

³³ EIA, Florida, *Profile Analysis: Petroleum*, <http://www.eia.gov/state/analysis.php?sid=FL> (last visited Jan. 29, 2018); see s. 377.242(1), F.S.

³⁴ EIA, Florida, *Profile Analysis: Petroleum*, <http://www.eia.gov/state/analysis.php?sid=FL> (last visited Jan. 29, 2018).

³⁵ FDEP, *State Production Data* (2017), available at <https://floridadep.gov/water/oil-gas/documents/state-production-data> (last visited Jan. 29, 2018).

³⁶ *Id.*

³⁷ FDEP, *Hydraulic Fracturing Background and Recommendations* (Sept. 29, 2015) available at http://news.caloosahatchee.org/docs/Dep_Fracturing_Response_130118.pdf (last visited Jan. 29, 2018).

³⁸ *Id.*

³⁹ Energy Policy Act of 2005, H.R. 6, 109th Cong. (2005-2006).

⁴⁰ The EPA rule implementing the CWA amendment was challenged and the Ninth Circuit Court of Appeals vacated the rule. Oil and gas construction facilities remain subject to stormwater permitting requirements, as well as, NPDES permit requirements; see William J. Brady, *Hydraulic Fracturing Regulation in the United States: The Laissez-faire approach of the Federal government and varying state regulations*, 8 (Unv. of Denver Sturm College of Law), available at <http://www.law.du.edu/documents/faculty-highlights/Intersol-2012-HydroFracking.pdf> (last visited Jan. 29, 2018).

⁴¹ Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009), available at <http://law.uh.edu/faculty/thester/courses/Emerging%20Tech%202011/Wiseman%20on%20Fracking.pdf> (last visited Jan. 29, 2018).

⁴² Under the final BLM regulations, the term “hydraulic fracturing” is defined as “those operations conducted in an individual wellbore designed to increase the flow of hydrocarbons from the rock formation to the wellbore through modifying the permeability of reservoir rock by applying fluids under pressure to fracture it. Hydraulic fracturing does not include enhanced secondary recovery such as water flooding, tertiary recovery, recovery through steam injection, or other types of well stimulation operations such as acidizing.”

District of Wyoming granted a preliminary injunction and the rule was stayed.⁴³ In June of 2016, the court held that the BLM lacked authority to regulate hydraulic fracturing and set aside the final rules.⁴⁴ The court's ruling was appealed to the United States Court of Appeals Tenth Circuit which dismissed the appeal and remanded with directions to vacate the district court's opinion and dismiss the action without prejudice in light of the Bureau of Land Management's decision to rescind the final rules.⁴⁵

While direct regulation over well stimulation techniques at the federal level is limited, there are several federal statutes that regulate the indirect impacts of oil and gas extraction. The EPA's Oil and Gas Extraction Effluent Guidelines and Standards regulate wastewater discharges from field exploration, drilling, production, well treatment, and well completion activities.⁴⁶ The regulations apply to conventional and unconventional extraction with the exception of extractions of coalbed methane.⁴⁷ These standards are incorporated into the National Pollutant Discharge Elimination System (NPDES) regulatory framework.⁴⁸

Because oil and gas activities may result in the release of hazardous substances into the environment at or under the surface in a manner that may endanger public health or the environment, these activities are regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).⁴⁹ While recovered petroleum or natural gas is exempt from the act, other hazardous substances that result from oil or gas production, such as fracturing fluids, fall under the act. If a release of such fluids occurs, the facility owner and operator could face liability under CERCLA.⁵⁰

To ensure that employees who may be exposed to hazardous chemicals in the workplace are aware of the chemicals' potential dangers, manufacturers and importers must obtain or develop Material Safety Data Sheets (MSDS) for hydraulic fracturing chemicals that are hazardous according to the Occupational Safety and Health Administration (OSHA) standards. MSDS sheets must be maintained for hazardous chemicals at each job site and must, at a minimum, include the chemical names of substances that are considered hazardous under OSHA regulations.⁵¹

⁴³ *State of Wyo. vs. U.S. Dept. of the Int.*, No. 2: 15-CB-043-SWS (D. Wyo. Sept. 30, 2015) (order granting preliminary injunction), available at <http://www.wyd.uscourts.gov/pdfforms/orders/15-cv-043%20130%20order.pdf> (last visited Jan. 29, 2018).

⁴⁴ *State of Wyo. vs. U.S. Dept. of the Int.*, No. 2: 15-CV-043-SWS (D. Wyo. June 21, 2016) (order on petitions for review of final agency action), available at <http://www.wyd.uscourts.gov/pdfforms/orders/15-cv-043-S%20Order.pdf> (last visited Jan. 29, 2018).

⁴⁵ *State of Wyo. vs. U.S. Dept. of the Int.*, No. 16-8068 (10th Cir. Sept. 21, 2017), available at <https://www.ca10.uscourts.gov/opinions/16/16-8068.pdf> (last visited Jan. 30, 2018).

⁴⁶ EPA, *Oil and Gas Extraction Effluent Guidelines, Rule Summary*, <http://www.epa.gov/eg/oil-and-gas-extraction-effluent-guidelines> (last visited Jan. 29, 2018).

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Adam Vann, Brandon J. Murrill, & Mary Tiemann, Cong. Research Serv., R 43152, *Hydraulic Fracturing: Selected Legal Issues*, 12 (Sept. 26, 2014), available at <https://www.fas.org/sgp/crs/misc/R43152.pdf> (last visited Jan. 29, 2018).

⁵⁰ *Id.* at 13.

⁵¹ *Id.* at 22.

State

States have primary jurisdiction and authority over the regulation of oil and gas activities. Almost all states with economically viable production wells have extensive regulatory programs in place for permitting and monitoring oil and gas activities. Recent advances in technology and the widespread use of well stimulation techniques, particularly hydraulic fracturing, have motivated some states to update and revise their oil and gas regulations to specifically address such techniques or to ban certain techniques altogether.⁵² In 2012, Vermont became the first state to ban hydraulic fracturing.⁵³

The Governor of New York in December of 2010 issued an executive order directing the New York State Department of Environmental Conservation (NDEC) to publish a revised Generic Environmental Impact Statement to consider if and under what conditions high-volume hydraulic fracturing should be allowed in the state of New York and which prohibited the issuance of permits to drill wells using such method until the statement was completed.⁵⁴ The NDEC published its final findings statement in 2015, which concluded that there were “no feasible or prudent alternatives [other than a ban which] would adequately avoid or minimize adverse environmental impacts and that address the scientific uncertainties and risks to public health from [high-volume hydraulic fracturing.]” The NDEC’s Findings Statement effectively banned high-volume hydraulic fracturing in the state of New York.⁵⁵

In 2015, Maryland passed a two-year moratorium on hydraulic fracturing, which included a requirement that the Maryland Department of the Environment (MDE) adopt regulations for the hydraulic fracturing of a well for the exploration or production of natural gas.⁵⁶ MDE proposed rules, including a suite of best practices to be followed for oil and gas exploration and production in Maryland, which were intended to protect public health, safety, natural resources, and the environment. The MDE published rules in November of 2016, and the rules were reviewed by the Maryland General Assembly’s Joint Committee on Administrative, Executive, and

⁵² Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009); see *State of Wyo. vs. U.S. Dept. of the Int.*, No. 2: 15-CB-043-SWS at 40 (D. Wyo. Sept. 30, 2015), for a list of states with regulations that address hydraulic fracturing.

⁵³ 29 V.S.A. § 571; 29 V.S.A. § 503, defines the “hydraulic fracturing” as “the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for the purpose of the production or recovery of oil or gas.”

⁵⁴ Governor Paterson, *Executive Order No. 41: Requiring Further Environmental Review of High-Volume Hydraulic Fracturing in the Marcellus Shale*, 9 CRR-NY 7.41 (Dec. 13, 2010), available at [https://govt.westlaw.com/nycrr/Document/Ib2187f04646111e09f330000845b8d3e?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/nycrr/Document/Ib2187f04646111e09f330000845b8d3e?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1) (last visited Jan. 29, 2018).

⁵⁵ NY Department of Environmental Conservation, *Final Supplemental Generic Environmental Impact Statement on the Oil, Gas, and Solution Mining Regulatory Program: Regulatory Program for Horizontal Drilling and High-Volume Hydraulic Fracturing to Develop the Marcellus Shale and other Low-Permeability Gas Reservoirs*, 42 (June 2015), available at <http://www.dec.ny.gov/energy/75370.html> (last visited Jan. 29, 2018); under New York law, the term “high-volume hydraulic fracturing” is defined as “the stimulation of a well using 300,000 or more gallons of water as the base fluid for hydraulic fracturing for all stages in a well completion, regardless of whether the well is vertical or directional, including horizontal.”

⁵⁶ Maryland Code § 14-107.1 (2015).

Legislative Review.⁵⁷ In 2017, Maryland passed a ban on hydraulic fracturing⁵⁸ for the exploration or production of oil or natural gas in the state and became the third state to ban the well stimulation technique.⁵⁹

In the state of Florida, the FDEP has regulatory authority over oil and gas resources. The Division of Water Resource Management (division) within the FDEP oversees the permitting process for drilling production and exploration. The FDEP adopted Chapters 62C-25 through 62C-30 of the Florida Administrative Code to implement and enforce the regulation of oil and gas resources. The division has jurisdiction and authority over all persons and property necessary to administer and enforce all laws relating to the conservation of oil and gas.⁶⁰ Drilling and exploration is not authorized or is subject to local governmental approval in tidal waters, near improved beaches, and within municipal boundaries.⁶¹

When issuing permits for oil and gas exploration or extraction, the division is required to consider the nature, character, and location of the lands involved; the nature, type, and extent of ownership of the applicant; and the proven or indicated likelihood of the presence of oil, gas, or related minerals on a commercially viable basis.⁶² The FDEP is required to ensure that all precautions are taken to prevent the spillage of oil or other pollutants in all phases of drilling for and extracting oil, gas, or other petroleum products.⁶³ Additionally, the FDEP is authorized to issue rules requiring the drilling, casing, and plugging of wells in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.⁶⁴

Before any person begins work other than environmental assessments or surveying at the site of a proposed drilling operation, a permit to drill is required and a preliminary site inspection must be conducted by the FDEP.⁶⁵ An application for a permit to drill must include a proposed casing and cementing program and a location plat survey.⁶⁶ Each drilling permit is valid for one year and may be extended for an additional year.⁶⁷ Before a permit is granted, the owner or operator is required to post a bond or other form of security for each well. The bond or security amounts vary depending upon well depth.⁶⁸ In lieu of posting a bond or security for each well, the owner or operator may file a blanket bond for the coverage of multiple operations, up to ten wells, in the amount of \$1 million.⁶⁹

⁵⁷ Letter from Joint Cmte. to Secretary of the Department of the Environment (Dec. 29, 2016), *available at* http://mde.maryland.gov/programs/Land/mining/marcellus/Documents/16-232P_to_Sec.pdf (last visited Jan. 29, 2018).

⁵⁸ Under Maryland law, the term “hydraulic fracturing” is defined as a stimulation treatment performed on oil and natural gas wells in low-permeability oil or natural gas reservoirs through which specially engineered fluids are pumped at high pressure and rate into the reservoir interval to be treated, causing fractures to open.

⁵⁹ Maryland Code § 14-107.1.

⁶⁰ Section 377.21(1), F.S.

⁶¹ Section 377.24, F.S.

⁶² Section 377.241, F.S.

⁶³ Section 377.22, F.S.

⁶⁴ *Id.*

⁶⁵ Fla. Admin. Code R. 62C-26.003.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Fla. Admin. Code R. 62C-26.002.

⁶⁹ *Id.*

Before a well is used for its intended purpose, a permit to operate the well must be obtained.⁷⁰ Operating permits are valid for the life of the well; however, every five years the FDEP is required to perform a comprehensive field inspection and the permit must be re-certified.⁷¹ Each application and subsequent re-certification must include the appropriate fee; bond or security coverage; a spill prevention and cleanup plan; flowline specifications and an installation plan; containment facility certification; and additional reporting and data submissions, such as driller's logs and monthly well reports.⁷²

A separate permit is not required for the performance of well stimulation techniques. Such techniques are regulated as workovers.⁷³ Rule 62C-25.002(61) of the Florida Administrative Code defines the term "workover" as "an operation involving a deepening, plug back, repair, cement squeeze, perforation, hydraulic fracturing, acidizing, or other chemical treatment which is performed in a production, disposal, or injection well in order to restore, sustain, or increase production, disposal, or injection rates." An operator is required to notify the FDEP before commencing a workover procedure and must submit a revised Well Record⁷⁴ to the FDEP within 30 days after the workover.⁷⁵ In December of 2013, the FDEP received a workover notice proposing use of an enhanced extraction procedure and requested that the company that submitted the notice not complete the procedure until the FDEP could review the procedure.⁷⁶ The company ignored the FDEP's request and commenced with the procedure. Consequently, the FDEP issued a cease and desist order.⁷⁷ The FDEP fined the company \$25,000 for violating the cease and desist order.⁷⁸

A person that violates any statute, rule, regulation, order, or permit of the division relating to the regulation of oil or gas resources or who refuses inspection by the division is liable for damages caused to the air, waters, or property of the state; for the reasonable costs of tracing the source of the discharge and for controlling and abating the source and the pollutants; and for the costs of restoring the air, waters, and property.⁷⁹ Such persons are also subject to judicial imposition of a civil penalty of up to \$10,000 for each offense.⁸⁰ Each day during any portion of which a violation occurs constitutes a separate offense.⁸¹

⁷⁰ Fla. Admin. Code R. 62C-26.008.

⁷¹ Fla. Admin. Code R. 62C-25.006 and R. 62C-26.008.

⁷² Fla. Admin. Code R. 62C-26.008.

⁷³ See, e.g., s. 377.22, F.S., requiring the division to adopt rules to "regulate the shooting, perforating, and chemical treatment of wells" and to "regulate secondary recovery methods, in the introduction of gas, air, water, or other substance in producing formations;" and s. 377.26, F.S., requiring the division to "take into account technological advances in drilling and production technology, including, but not limited to, horizontal well completions in the producing formation using directional drilling methods."

⁷⁴ Fla. Admin. Code R. 62C-26.008.

⁷⁵ Fla. Admin. Code R. 62C-29.006.

⁷⁶ *State of Florida Department of Environmental Protection vs. Dan A. Hughes Company, L.P.* OGC File No. 14-0012 (April 8, 2014), available at https://www.doah.state.fl.us/FLAID/DEP/2014/DEP_14-0012_05162014_014716.pdf (last visited Jan. 30, 2018).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Section 377.37(1)(a), F.S.

⁸⁰ *Id.*

⁸¹ *Id.*

Local

As most states with oil and gas resources have extensive regulatory programs governing oil and gas activities, the issue as to what extent the local governments within those states may regulate oil and gas activities within their boundaries has arisen. In some states, local governments have banned or limited the use of certain well stimulation techniques with varying degrees of success. In Colorado a number of municipalities passed bans on hydraulic fracturing within their city limits, but the Colorado Supreme Court, finding that the cities' regulations were preempted by state law, overturned the city of Longmont's ban and the city of Fort Collins's 5-year moratorium on fracking and the storage and disposal of fracking wastes within city limits.⁸² In Pennsylvania similar bans were passed, and Pennsylvania state courts held that municipalities retain their authority to limit oil and gas development within their borders, effectively authorizing local governments to regulate the “where, but not the how, of hydrocarbon recovery.”⁸³

While cities and counties do not operate oil and gas permitting programs in Florida, some through their land use regulations or zoning ordinances require special exceptions for oil and gas activities or limit oil and gas activities to certain zoning classifications.⁸⁴ When authorizing oil and gas activities, local governments consider factors such as consistency with their comprehensive plan, injuries to communities or the public welfare, and compliance with zoning ordinances.⁸⁵ Section 377.24(5), F.S., restricts the FDEP from issuing a permit for drilling within the corporate limits of a municipality unless the municipality adopts a resolution approving the permit. Six municipalities, Estero, Bonita Springs, Coconut Creek, Cape Coral, Dade, and Zephyrhills, and thirteen counties, Alachua, Bay, Brevard, Broward, Citrus, Indian River, Martin, Miami-Dade, Osceola, Pinellas, St. Lucie, Volusia, Wakulla, and Walton, have banned one or more forms of well stimulation techniques by ordinance.⁸⁶ Additionally, many other

⁸² See *City of Longmont, et. al v. Colo. Oil and Gas Ass'n*, No. 15SC667 (May 2, 2016); see *City of Fort Collins v. Colo. Oil and Gas Ass'n*, No. 15SC668 (May 2, 2016), available at https://www.courts.state.co.us/Courts/Supreme_Court/Case_Announcements/ (last visited Jan. 29, 2018).

⁸³ David L. Schwan, *Preemption Update: Local Attempts to Preempt State Regulation of Hydraulic Fracturing*, 6 (Jan. 2015), available at http://www.americanbar.org/content/dam/aba/administrative/litigation/materials/2015-joint-cle/written_materials/01_fracked_up_preemption_update.authcheckdam.pdf (last visited Jan. 29, 2018).

⁸⁴ See, e.g., Lee County's Land Development Code §§ 34-1651 and 34-145(c).

⁸⁵ *Id.*

⁸⁶ Ordinance No. 2015-19 bans well stimulation within and below the corporate boundaries of the Village of Estero; Chapter 4, Article VI, Division 15, Section 4-1380 of Bonita Spring's Land Development Code bans well stimulation; Article IV, Section 13-1000 of Coconut Creek's Land Development Code bans well stimulation; Ordinance §3.23 prohibits well stimulations within the City of Cape Coral's corporate limits; Ordinance No. 2016-08 prohibits extreme well stimulation within the City of Dade; Ordinance No. 1310-16 prohibits the use of land for hydraulic fracturing within the City of Zephyrhills; §77.13.5 of Alachua County's Code of Ordinances prohibits extraction of oil and natural gas; §311 of Bay County's Land Development Regulation prohibits hydraulic fracturing in all zone districts in unincorporated Bay County; §46-375 of Brevard County's Code of Ordinances prohibits well stimulations; §66-133 of Citrus County's Code of Ordinances bans any form of well stimulation; §317.03 of Indian River County's Code of Ordinances prohibits well stimulations; §4.12.3 of Osceola County's Land Development Code prohibits oil and gas exploration that uses well stimulation; §27-193 of Broward County's Code of Ordinances prohibits extreme well stimulation; §67.441 of Martin County's Code of Ordinances prohibits high-pressure well stimulation; §33-437 of Miami-Dade County's Code of Ordinances prohibits well stimulations; §58-489 of Pinellas County's Code of Ordinances prohibits well stimulation; Policy 6.1.5.7 of St. Lucie County's Code of Ordinances prohibits high-intensity petroleum operations; §50-42 of Volusia County's Code of Ordinances prohibits high-pressure well stimulation; §6-34 of Wakulla County's Code of Ordinances prohibits high intensity petroleum operations; §9-156 of Walton County's Code of Ordinances prohibits extreme well stimulation.

counties and cities have passed resolutions supporting various types of bans and moratoriums relating to well stimulation techniques.⁸⁷

Environmental Concerns

There are a variety of environmental concerns relating to well stimulation techniques. Potential impacts and concerns include: groundwater or surface water contamination; stress on water supplies; inadequate wastewater management and disposal; and air quality degradation.⁸⁸ Because well stimulation techniques are applied to so many types of underground formations using a variety of methods and fluids, environmental impacts vary depending on factors such as the toxicity of the fluid used; the closeness of the fracture zone to underground drinking water; the existence of a barrier between the fracture formation and other formations; and how wastewater is disposed.⁸⁹

Water Quality

The EPA estimated that of the approximately 275,000 wells that have been hydraulically fractured in 25 states between 2000 and 2013, an estimated 21,900 or eight percent were within one mile of at least one public water system groundwater well or surface water intake.⁹⁰ As a result of fracturing, sources of drinking water may be contaminated through the release of gas-phase hydrocarbons, in what is known as stray gas migration, as a result of the movement of liquid or gases out of the well if the well casing or cementing is too weak or if it fails.⁹¹ The EPA concluded that “the injection of hydraulic fracturing fluids into wells with inadequate mechanical integrity [allowed for] gases or liquids to move to groundwater sources.”⁹² While concerns related to inadequate well casing or cementing, are not unique to hydraulic fracturing, horizontally drilled, hydraulically fractured wells pose more production challenges because the well casing is subject to greater pressures.⁹³ The National Ground Water Association recommends water well owners test their water wells prior to the operation of oil and gas well installations to provide a baseline for comparison after oil and gas production.⁹⁴

Mitigating measures, such as extending the casing farther below groundwater resources and pressure testing the well casing before the injection of fluids, may work to prevent well casing failures. Blowout preventers also help control and prevent pressure build-ups. Furthermore,

⁸⁷ See Food & Water Watch, *Local Regulations Against Fracking*, <http://www.foodandwaterwatch.org/insight/local-resolutions-against-fracking#florida>, for a list of local governments that passed resolutions against fracking.

⁸⁸ EPA, *Natural Gas Extraction-Hydraulic Fracturing, Providing Regulatory Clarity and Protections Against Known Risks*, <http://www.epa.gov/hydraulicfracturing> (last visited Jan. 29, 2018).

⁸⁹ Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009).

⁹⁰ EPA Study at 2-14.

⁹¹ Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Technol. 8334-8348, 8336 (Mar. 2014), available at <http://pubs.acs.org/doi/abs/10.1021/es405118y> (last visited Jan. 29, 2018).

⁹² EPA Study at 10-3.

⁹³ Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, 8 (Apr. 22, 2015).

⁹⁴ National Ground Water Association, *Water Wells in Proximity to Natural Gas or Oil Development* (2016), available at <http://www.ngwa.org/Documents/ClipCopy/Water-Wells-Proximity.pdf> (last visited Jan. 30, 2018).

hydraulically fractured wells in shale formations are usually drilled deeper than vertical wells and, therefore, the vertical separation between the formation and the drinking water resource is usually greater.⁹⁵ Thousands of feet of rock layers typically overlay the produced portion of shale and serve as a barrier to contamination.⁹⁶ The vast majority of Florida's public water supply is obtained from groundwater sources, specifically from the Floridan aquifer system that underlies the state of Florida.⁹⁷ Areas in which oil and gas have been extracted have an upper confining unit that is generally greater than 100 feet, which may serve as a barrier to contamination.⁹⁸

Fractures created during hydraulic fracturing can intersect nearby wells or their fracture networks, resulting in the flow of fluids into those wells and to underground drinking water resources. These "frac-hits" are more likely to occur if wells are close to each other or are on the same well pad.⁹⁹ The likelihood of a frac-hit is less than 10 percent in hydraulically fractured wells more than 4,000 feet apart, while likelihood is nearly 50 percent in wells that are less than 1,000 feet apart.¹⁰⁰ In Florida, horizontal wells and associated drilling units that are deeper than 7,000 feet have more stringent spacing requirements.¹⁰¹

Surface water contamination may occur because of the inadequate storage and disposal of produced water. Produced water is the water that comes to the surface naturally as part of the oil and gas production process. For a hydraulically fractured well the produced water includes the fracturing fluids or flowback. Approximately 10-40 percent of the volume of injected fracturing fluids returns to the surface after hydraulic fracturing.¹⁰² In most produced waters, the concentrations of toxic elements, such as radioactive radium, are positively correlated with salinity, which suggests that many of the potential water quality issues associated with produced waters may be attributable to the geochemistry of the brines within the shale formations.¹⁰³

As the use of hydraulic fracturing has increased, so has the volume of wastewater generated. Spills of produced water do occur and can result in large volumes or high concentrations of chemicals reaching groundwater sources.¹⁰⁴ The EPA concluded that spills generally occur at 1 to 10 percent of hydraulically fractured or active wells, with about 7 percent of such spills reaching surface water or groundwater.¹⁰⁵ In Florida, any spill of waste material must be immediately reported to the division and the appropriate federal agencies, and the owner or operator is responsible for the costs of cleanup or other damage incurred.¹⁰⁶

⁹⁵ Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, 7 (Apr. 22, 2015).

⁹⁶ *Id.*

⁹⁷ DEP, *Aquifers*, <https://fldep.dep.state.fl.us/swapp/Aquifer.asp> (last visited Jan. 29, 2018).

⁹⁸ U.S. Geological Survey (USGS), *Conceptual Model of the Floridan*, <http://fl.water.usgs.gov/floridan/conceptual-model.html> (last visited Jan. 29, 2018).

⁹⁹ *EPA Study* 6-71.

¹⁰⁰ *Id.* 10-18.

¹⁰¹ Fla. Admin. Code R. 62C-26.004(5).

¹⁰² Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8334-8348, 8340 (2014).

¹⁰³ *Id.*

¹⁰⁴ *EPA Study* at 10-3.

¹⁰⁵ *Id.* at 10-9.

¹⁰⁶ Section 377.371, F.S.

Water Supply

The amount of water used during the performance of a hydraulic fracturing treatment depends on the well depth, formation geology, and the composition of the fluids injected. In some cases, over 90 percent of the fracturing fluid is water and each hydraulically fractured well can require thousands to millions of gallons of water.¹⁰⁷ While the total water use for hydraulic fracturing is relatively low compared to other water users,¹⁰⁸ wells that are good candidates for such techniques are usually located near the same water source and, as a result, the collective impact of water withdrawals may result in increased competition among users.¹⁰⁹ To decrease the competition among users, some states have implemented pilot projects evaluating the feasibility of reusing produced waters or other brackish or wastewaters.¹¹⁰ The reuse of wastewater, however, is often limited by the amount of wastewater that is available.¹¹¹ The volume of produced water from a single well is relatively small compared to the volume of water needed to fracture a well.¹¹²

Wastewater Management and Disposal

The vast majority of produced water is disposed of using injection wells. Injection wells are permitted under the Underground Injection Control (UIC) program.¹¹³ The goal of the UIC program is the effective isolation of injected fluids from underground sources of drinking water.¹¹⁴ Class II injection wells are designed to inject fluids associated with the production of oil and natural gas or fluids used to enhance hydrocarbon recovery. While the injection of fracturing fluids, unless the fluid contains diesel, is exempt from the UIC program, the wastewater from oil and gas operations is not exempt.¹¹⁵ As unconventional oil and gas wells are being drilled at rapid rates, space for underground injection wells is becoming limited in some areas. In Florida there are 14 active Class II disposal wells, with an average disposal rate per well of 246,000 gallons per day.¹¹⁶

Another issue that is developing with the increase in the number of injection wells is the concern that the deep-well disposal of oil and gas production wastewater is responsible for seismic activity in certain areas.¹¹⁷ The Oklahoma Geological Survey determined that the primary

¹⁰⁷ EPA Study at ES-6.

¹⁰⁸ Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8334-8348, 8343 (2014).

¹⁰⁹ Hannah Wiseman, *Risk and Response in Fracturing Policy*, 84 Univ. of Col. L. Rev. 729-817, 776 (2009), available at http://lawreview.colorado.edu/wp-content/uploads/2013/11/11.-Wiseman_For-Printer_s.pdf (last visited Jan. 29, 2018).

¹¹⁰ *Id.* at 770.

¹¹¹ EPA Study at 10-6.

¹¹² *Id.*

¹¹³ EPA, Underground Injection Control Program, <http://water.epa.gov/type/groundwater/uic/> (last visited Jan. 29, 2018).

¹¹⁴ *Id.*

¹¹⁵ EPA, *Natural Gas Extraction-Hydraulic Fracturing, Underground injection of waste disposal fluids from oil and gas wells (Class II wells)*, <http://www.epa.gov/hydraulicfracturing> (last visited Jan. 29, 2018).

¹¹⁶ EPA Study at 8-24.

¹¹⁷ See Peter Folger & Mary Tiemann, Cong. Research Serv., R 43836, *Human-Induced Earthquakes from Deep-Well Injection: A Brief Overview*, (Sept. 30, 2016), available at <https://www.fas.org/sfp/crs/misc/R43836.pdf> (last visited Jan. 29, 2018).

suspected source of triggered seismicity is from the injection of produced water associated with oil and gas production in disposal wells.¹¹⁸

Additionally, in some states the produced water is being sent to treatment facilities that are not equipped to treat wastewater from hydraulically fractured wells.¹¹⁹ In June of 2016, the EPA, under the authority of the Clean Water Act, published final rules for the oil and gas extraction category. The rules establish pretreatment standards that prevent the discharge of pollutants in wastewater from onshore unconventional oil and gas facilities to publicly owned treatment works.¹²⁰

Air Quality

The key emissions associated with unconventional oil and natural gas production include methane, volatile organic compounds (VOCs), nitrogen oxides, sulfur dioxide, particulate matter, and various hazardous air pollutants.¹²¹ In 2012, the EPA issued the first federal air standards for hydraulically fractured natural gas wells.¹²² The New Source Performance Standards required reductions in VOC emissions from hydraulically fractured natural gas wells.¹²³

In May of 2016, the EPA issued three rules which together seek to curb emissions of methane, VOCs, toxins, and air pollutants, such as benzene, from new, reconstructed, and modified oil and gas sources.¹²⁴ The final rule requires compressor stations to monitor leaks, also known as “fugitive emissions,” four times a year and requires owners or operators to find and repair such leaks, which can be a significant source of both methane and VOC pollution.¹²⁵ The rule phases in requirements for a process known as “green completion” to capture emissions from hydraulically fractured wells. The EPA expects that implementation of the rule will reduce air pollutants and toxins, as well as, provide health benefits related to reductions in fine particle pollution and ozone toxics, along with improvements in visibility.¹²⁶ In June of 2017, the EPA proposed to stay the requirements relating to fugitive emissions, well site pneumatic pump standards, and certification of closed vent systems by a professional engineer for two years.¹²⁷

¹¹⁸ Oklahoma Geological Survey, *Statement on Oklahoma Seismicity* (Apr. 21, 2015), http://wichita.ogs.ou.edu/documents/OGS_Statement-Earthquakes-4-21-15.pdf (last visited Jan. 29, 2018).

¹¹⁹ Hannah Wiseman, *Risk and Response in Fracturing Policy*, 84 *Unv. of Col. L. Rev.* 729-817, 768-769 (2009).

¹²⁰ EPA, *Unconventional Extraction in the Oil and Gas Industry*, <http://www2.epa.gov/eg/unconventional-extraction-oil-and-gas-industry> (last visited Jan. 29, 2018).

¹²¹ Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, 9 (Apr. 22, 2015).

¹²² *Id.*

¹²³ EPA, *Controlling Air Pollution from the Oil and Natural Gas Industry*, <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry> (last visited Jan. 29, 2018).

¹²⁴ EPA, *EPA's Actions to Reduce Methane Emissions from the Oil and Gas Industry: Final Rules and Draft Information Collection Request*, <https://www.epa.gov/sites/production/files/2016-09/documents/nsps-overview-fs.pdf> (last visited Jan. 29, 2018).

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements, 82 *Fed. Reg.* 27,645 (June 16, 2017), available at <https://www.gpo.gov/fdsys/pkg/FR-2017-06-16/pdf/2017-12698.pdf> (last visited Jan. 30, 2018).

III. Effect of Proposed Changes:

SB 462 bans the performance of advanced well stimulation treatments in the state and clarifies that a permit for drilling or operating a well does not authorize the performance of advanced well stimulation treatments.

The bill defines the term “advanced well stimulation treatment” to include all stages of well intervention performed by injecting fluids into a rock formation:

- At pressure that is at or exceeds the fracture gradient of the rock formation and the purpose or effect is to fracture the formation to increase production or recovery from an oil or gas well, such as hydraulic fracturing or acid fracturing; or
- At pressure below the fracture gradient of the rock formation and the purpose or effect is to dissolve the formation to increase production or recovery from an oil or gas well, such as matrix acidizing.

The definition explicitly excludes techniques used for routine well cleanout work, well maintenance, or the removal of formation damage due to drilling or production, or acidizing techniques used to maintain or restore the natural permeability of the formation near the wellbore.

The bill clarifies that the ban only applies to oil and gas wells.

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:

The bill bans certain techniques used to increase production or recovery from an oil or gas well. The fiscal impact of the ban is indeterminate at this time.

C. Government Sector Impact:

The Department of Environmental Protection (FDEP) may incur additional costs related to amending Rules 62C-25 through 30 of the Florida Administrative Code to implement the ban provided in the bill. Such costs most likely can be absorbed within FDEP's existing budget.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 377.19 of the Florida Statutes.

This bill creates section 377.2405 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 Young

18-00084-18

2018462__

A bill to be entitled
An act relating to advanced well stimulation
treatment; amending s. 377.19, F.S.; defining the term
"advanced well stimulation treatment"; conforming a
cross-reference; creating s. 377.2405, F.S.;
prohibiting the performance of advanced well
stimulation treatments; clarifying that permits for
drilling or operating a well do not authorize the
performance of advanced well stimulation treatments;
providing applicability; providing an effective date.

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

Section 1. Present subsections (1) through (32) of section
377.19, Florida Statutes, are redesignated as subsections (2)
through (33), respectively, present subsection (5) of that
section is amended, and a new subsection (1) is added to that
section, to read:

377.19 Definitions.—As used in ss. 377.06, 377.07, and
377.10-377.40, the term:

(1) "Advanced well stimulation treatment" means all stages
of a well intervention performed by injecting fluids into a rock
formation:

(a) At pressure that is at or exceeds the fracture gradient
of the rock formation and the purpose or effect is to fracture
the formation to increase production or recovery from an oil or
gas well, such as hydraulic fracturing or acid fracturing; or

(b) At pressure below the fracture gradient of the rock
formation and the purpose or effect is to dissolve the formation

18-00084-18

2018462__

to increase production or recovery from an oil or gas well, such
as matrix acidizing.

The term does not include techniques used for routine well
cleanout work, well maintenance, or removal of formation damage
due to drilling or production, or acidizing techniques used to
maintain or restore the natural permeability of the formation
near the wellbore.

(6) ~~(5)~~ "Gas" means all natural gas, including casinghead
gas, and all other hydrocarbons not defined as oil in subsection
(16) ~~(15)~~.

Section 2. Section 377.2405, Florida Statutes, is created
to read:

377.2405 Advanced well stimulation treatments.—

(1) BAN.—The performance of advanced well stimulation
treatments is prohibited in this state. A permit for drilling or
operating a well does not authorize the performance of advanced
well stimulation treatments.

(2) APPLICABILITY.—This section only applies to wells
regulated pursuant to chapter 377.

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

APPEARANCE RECORD

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

2/6/18

SB 1622

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Robert Reyes

Job Title

Address 417 Ingleside Ave

Phone 850 509 1802

Street

City

State

Zip

PAH

FL

32303

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Monroe 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

2/5/2018

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

SB 992

Meeting Date

Bill Number (if applicable)

Topic C-51 Reservoir

Amendment Barcode (if applicable)

Name Pepper Uchino

Job Title Member

Address 201 W. Park Ave., Suite 100

Phone (850) 727-9040

Street

Tallahassee

FL

32301

City

State

Zip

Email pepper@anfieldflorida.com

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.

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/18

Meeting Date

992

Bill Number (if applicable)

Topic C-51 Reservoir

Amendment Barcode (if applicable)

Name Frank BernardinoJob Title MemberAddress 201 West Park Ave., Suite 100Phone 561/718-2345

Street

TallahasseeFL32301

City

State

Zip

Email franke@cnfieldflorida.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Broward CountyAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

Feb. 5, 2018

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

244

Meeting Date

Bill Number (if applicable)

Topic

DOMESTIC WASTEWATER

Amendment Barcode (if applicable)

Name David Cullen

Job Title _____

Address 1674 University Pkwy #296Phone 941-323-2404

Street

Sarasota

FL

34243Email cullenasea@aol.com

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing Sierra Club FloridaAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/18

Meeting Date

244

Bill Number (if applicable)

Topic Domestic Wastewater

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Ballard Partners

Address 201 E. Park Ave

Phone 850/577-0444

Tallahassee FL 32301

Email chansen@ballardfl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Rural Water Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

Feb 5 2018

Meeting Date

244

Bill Number (if applicable)

Topic Domestic Wastewater Collection

Amendment Barcode (if applicable)

Name DAVID CHILDS

Job Title Legal Counsel

Address 119 S. Monroe St Suite 300

Phone 850 222-7500

Street

Tallahassee

FL

32301

City

State

Zip

Email DAVID@HESLINC

WAIVE

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing FWEA Utility Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18
Meeting Date

244
Bill Number (if applicable)

Topic Wastewater Facilities

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Deputy General Counsel

Address PO Box 1757
Street

Phone 222 9684

Tallahassee FL 32301
City State Zip

Email rohara@flcities.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fla League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

462
Bill Number (if applicable) _____

Topic HYDROLOGIC FRACTURING

Amendment Barcode (if applicable) _____

Name GAIL MARIE PERRY

Job Title CHAIR

Address PO BOX 1766

Phone 954 850 4035

Street

City

State

Zip

Email workingpork@hotmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing COMMUNICATIONS WORKERS OF AMERICA COUNCIL OF FLORIDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/18

Meeting Date

462

Bill Number (if applicable)

Topic Advanced Well Stimulation Treatment

Amendment Barcode (if applicable)

Name Brewster BevisJob Title Senior Vice PresidentAddress 516 N Adams StPhone 224-7173

Street

Tallahassee

FL

32301Email bbevis@aif.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)Representing Associated Industries of FloridaAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

SB 462

Meeting Date

Bill Number (if applicable)

Topic SB 462 - Fracking

Amendment Barcode (if applicable)

Name Randall Denker

Job Title attorney

Address 552 E. Georgia St.

Phone 850-893-6753

Street

Tallahassee, FL - 32303

City

State

Zip

Email randalldenkerg@gmail.com

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

February 5, 2018

Meeting Date

SB 462

*Bill Number (if applicable)*Topic SB 462 - Advanced Well Stimulation Treatment*Amendment Barcode (if applicable)*Name Eric HamiltonJob Title Associate DirectorAddress 215 South Monroe StreetPhone 850.561.6300*Street*Tallahassee, FL 32301Email hamiltone@api.org*City**State**Zip*Speaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Petroleum CouncilAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18
Meeting Date

SB 462
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Brian Lee

Job Title Legislative Director

Address 1203 Buckingham Dr
Street

Phone 850-766-7309

Tallahassee FL 32308
City State Zip

Email brian@rethinkenergyflorida.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Floridians Against Fracking

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/2018
Meeting Date

SB 462
Bill Number (if applicable)

Topic ADVANCED WELL STIMULATION TREATMENT

Amendment Barcode (if applicable)

Name JOHN DICKERT

Job Title RETIRED ENGINEER

Address 193 NW HAMILTON AVE
Street

Phone 850-973-3699

MADISON FL 32340
City State Zip

Email JohnW512@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing MADISON COUNTY CITIZENS FOR CLEAN WATER

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

462
Bill Number (if applicable)

Topic SB 462 (in favor)

Amendment Barcode (if applicable)

Name TODD SACK MD

Job Title Physician

Address 6326 San Jose Blvd W

Phone 904-403-6446

Street

Jacksonville FL 32217

City

State

Zip

Email sack8@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Physicians for Social Responsibility + AMA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 05, 2018
Meeting Date

SB 462
Bill Number (if applicable)

Topic Advanced well stimulation Treatment

Amendment Barcode (if applicable)

Name Dale DICKERT

Job Title Representing FL Federation of Garden Clubs (776C)

Address 193 NW Hamilton Ave
Street

Phone 850-973-3699

Madison FL 32301
City State Zip

Email johaw512@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Fed of Garden Clubs (13,000 ~~members~~ members in 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.

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/15/18

Meeting Date

462

Bill Number (if applicable)

Topic Advanced Waste Stimulation ("Fracking")

Amendment Barcode (if applicable)

Name Rosalyn KilcollinsJob Title Consultant (semi-retired)Address 2505 Arthurs Court Lane

Street

Phone 850-570-8889Tallahassee FL 32301

City

State

Zip

Email RoeTally@embargo.mail.comSpeaking: ☒ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

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

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/18

Meeting Date

SB 462

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Mary-Lynn CullenJob Title Legislative LiaisonAddress 1674 University Pkwy.

Street

Sarasota

City

FL

State

34243

Zip

Phone 941-928-0278Email archildney@aol.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Advocacy Institute For ChildrenAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

2-5-18

Meeting Date

SB 462

Bill Number (if applicable)

Topic Advanced Well Stimulation

Amendment Barcode (if applicable)

Name Amy DatzJob Title Environmental Advocate/Activist (850)Address 1130 Crestview Ave.

Street

Phone 322-7599Tallahassee FL 32303

City

State

Zip

Email amalielatz@gmail.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Physicians for Social ResponsibilitiesAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

Feb. 5, 2018

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

462

Meeting DateBill Number (if applicable)Topic FRACKINGAmendment Barcode (if applicable)Name David Cullen

Job Title _____

Address 1674 University Pkwy #296Phone 941-323-2404StreetSarasotaFL34243CityStateZipEmail cullenasea@aol.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Sierra Club FloridaAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.****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)

5-Feb-2018

Meeting Date

SB-462

Bill Number (if applicable)

Topic Fracking Ban

Amendment Barcode (if applicable)

Name Ken Hays

Job Title retired

Address 1935 Nanticoke Circle

Phone _____

Street

Tallahassee

FL

32303

Email _____

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing citizens in favor of potable drinking water

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-2018

Meeting Date

462

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Phyllis Garrett

Job Title Legislative Political Coordinator

Address 135 S Monroe St.

Phone 850-224-6926

Street

City

Tallahassee FL

State

Zip

Email pgarrett@flaflcio.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18

Meeting Date

SB 462

Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name Joanne Cannon

Job Title _____

Address 3410 50th Stw.

Phone 941-812-7113

Street

Bradenton, FL

34209

City

State

Zip

Email jcann24@aol.com

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-18
Meeting Date

SB 462
Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name ALBERT E. Cannoll

Job Title _____

Address 4945 37th AVE N
Street

Phone 727-742-1640

ST. PETERSBURG FL 33710
City State Zip

Email ELMMLMNA3@AOL.COM

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/5/18
Meeting Date

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

SB 462
Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name KEVIN BYRNE

Job Title _____

Address 256 SE TODD AVENUE

Phone 772-979-5899

Street

PORT ST. LUCIE

City

State

Zip

Email Kevinjbyrne54@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing MYSELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/2018

Meeting Date

462

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name THEO F. PARSONS

Job Title Retired

Address 221 Maplecrest Cir
Street

Phone 561-346-5241

Jupiter FL 33458
City State Zip

Email ted@cybercoast.com

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

02/05/2018
Meeting Date

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

SB- 462
Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name STARR L. HUNTER

Job Title _____

Address 702 Crosswinds Dr.

Phone 561-818-3123

Green Acres FL 33413
City State Zip

Email starrstime@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing STARR L. HUNTER (myself)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-18

Meeting Date

462

Bill Number (if applicable)

Topic

FRACKING

Amendment Barcode (if applicable)

Name

Luis Suenillo

Job Title

Address

3543 RODRICK CIRCLE

Phone

407 952 7810

Street

ORLANDO

FL

32824

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

MYSELF

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2-5-18

Meeting Date

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

462

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Adam Campbell

Job Title _____

Address 3738 Kenyon Road

Phone _____

Street

Lake Worth

FL

33461

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing my kids

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-18

Meeting Date

462

Bill Number (if applicable)

Topic Fraeking

Amendment Barcode (if applicable)

Name Richard A Starling

Job Title _____

Address 6851 NE CR 337
Street

Phone 352-318-5410

Bronson FL 32621
City State Zip

Email andystarling84@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2-5-2018

Meeting Date

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

462

Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name SHAWN M'DONNELL

Job Title HUMAN RESOURCES

Address 3312 April Lane

Phone 727-423-0055

Street

Palm Harbor

FL

34684

City

State

Zip

Email SHAWN@IBEW915.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

FEB. 5, 2018

Meeting Date

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

SB-462

Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name DAVID GATES

Job Title _____

Address 1444 MENLO

Street

Phone 904-322-3995

JACKSONVILLE

City

FL.

State

32218

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing MYSELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb. 05, 2018
Meeting Date

SB 0462
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Kevin L. Gibbs

Job Title _____

Address 33 General Doolittle Rd.
Street

Phone 386 481 7489

Daytona Beach, FL 32124
City State Zip

Email snapper0756@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-18

Meeting Date

SB 462

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Jayne Walker

Job Title _____

Address 1437 Quail St
Street

Phone _____

Orlando FL 32804
City State Zip

Email Jaywanne@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-18

Meeting Date

462

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name EVELYN NAZARIO

Job Title

Address 1935 CONWAY RD R-5

Phone (321) 946-9490

Street

ORLANDO FL 32812

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-18

Meeting Date

SB 462

Bill Number (if applicable)

Topic Advanced Well Stimulation

Amendment Barcode (if applicable)

Name Kathy Smith

Job Title Self Employed Consultant

Address 3746 McNemar Court

Phone 850-830-3369

Street

Gulf Breeze

City

State

FL

Zip

32563

Email krmh1@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing myself & Santa Rosa County Women's Democratic Club

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18
Meeting Date

SB 462
Bill Number (if applicable)

Topic Advanced well Stimulation

Amendment Barcode (if applicable)

Name Bill Sagues

Job Title _____

Address 220 Crepe Myrtle Ln
Street
Monticello FL 32344
City State Zip

Phone 321-662-9349

Email Saguesw@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Jefferson County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Feb. 5, 2018

Meeting Date

SB462

Bill Number (if applicable)

Topic Fracking Ban

Amendment Barcode (if applicable)

Name Jean Snodgrass

Job Title Retired

Address 4310 Corey Rd.

Street

City

State

Zip

Grant Valkaria, FL 32930

Phone 321-307-2251

Email snodgrass8404@att.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing South Brevard Dem. Women's Club

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

Meeting Date _____

Bill Number (if applicable) SB 462Topic Fracking

Amendment Barcode (if applicable) _____

Name Merrilee Malwitz TipsonJob Title residentAddress 460 SW Riverland Ct.
StreetPhone 352-222-8893Fort White FL 32038
City State ZipEmail Merrilleart@aol.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing SelfAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18

Meeting Date

5B 462

Bill Number (if applicable)

Topic Dracking - Advanced Well Stimulation

Amendment Barcode (if applicable)

Name Choice Comm

Job Title CEO BeKind to All LLC

Address 17680 Front Beach Rd

Street

Phone 214-679-8507

PCB

City

FL

State

32413

Zip

Email Ree78@sbccglobal.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Democrat Women's Club / Indivisible

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/5/18

Meeting Date

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

SB 462

Bill Number (if applicable)

Topic advanced well stimulation

Amendment Barcode (if applicable)

Name Elizabeth Bevington

Job Title Retired attorney

Address 1398 Freeman Rd.

Street

Phone 850 545 9320

LAMONT FL 32336

City

State

Zip

Email donkimbrell@yahoo.com

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

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S-001 (10/14/14)

APPEARANCE RECORD

2/5

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

SB 462

Meeting Date

Bill Number (if applicable)

Topic Advanced Well Simulation

Amendment Barcode (if applicable)

Name Christopher Emmanuel

Job Title Policy Director

Address 136 S. Brewster Street

Phone

Street

City

State

Zip

Email cemmanuel@fchamber.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

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S-001 (10/14/14)

APPEARANCE RECORD

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

SB 462

Bill Number (if applicable)

Meeting Date

Topic BAN FRACKING

Amendment Barcode (if applicable)

Name Jim Tatum

Job Title retired Professor

Address 914 SW Riverland Ct

Phone 386-754-1916

Street

Fort White FL 32038

City

State

Zip

Email jim@jimtatum.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Our Santa Fe River, Inc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

2/5/2018

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

SB462

Meeting Date

Bill Number (if applicable)

Topic

Advanced Well Simulation for Trachley

Amendment Barcode (if applicable)

Name

Kristin Rubin

Job Title

Retired Deputy Clerk

Address

26280 NW 206 PL

Phone

305 582 3800

Street

High Springs FL 32643

Email

rubinka2891@gmail.com

City

State

Zip

Speaking:

☒ For

☐ Against

☐ Information

Waive Speaking:

☒ In Support

☐ Against

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

Representing

Our 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.

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/18

Meeting Date

SB 462

Bill Number (if applicable)

Topic Fracclin

Amendment Barcode (if applicable)

Name FRED CALDER

Job Title Retired

Address 3740 RAVINE DR.

Phone 850-228-4900

Street

Tallahassee FL

32312

City

State

Zip

Email calder@nettelly.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Rethink Energy Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/18

Meeting Date

SB 462

Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name META CALDER

Job Title RETIRED

Address 3740 RAVINE DR
Street

Phone 850-228-5900

City

State

Zip

Email metacalder@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ~~Meta~~ + ReThink Energy Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/2018

Meeting Date

SB 462

Bill Number (if applicable)

Topic Against advanced well stimulation

Amendment Barcode (if applicable)

Name Mary WinnJob Title -Address 1006 Brookwood Dr.Phone (850) 766-2612

Street

TallahasseeFL32308

City

State

Zip

Email kathy.winnclan@
embargo@mail.comSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing League of Women VotersAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/18

Meeting Date

462

Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name JONATHAN WebberJob Title Deputy DirectorAddress 308 North Monroe St.Phone 954-593-4449

Street

TallahasseeFL32301

City

State

Zip

Email JWEBBER@FCVOTERS.orgSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing FLORIDA CONSERVATION VOTERSAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/16
Meeting Date

SB 462
Bill Number (if applicable)

Topic FLA ANTI - FRACKING BILL

Amendment Barcode (if applicable)

Name PATRICIA T THOMAS

Job Title VOLUNTEER

Address 2985 TETON TRL

Phone 386-9475

TALLAHASSEE, FL 32303
City State Zip

Email on-fil

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ENVIRONMENTAL CAUCUS

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

04/05/2018
Meeting Date

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

SB 462

Bill Number (if applicable)

Topic FLA Anti-FRACKING BILL

Amendment Barcode (if applicable)

Name Lee Edward Davis

Job Title ENGINEER

Address 2985 Teton Trail

Phone 850-321-9296

Street

Tallahassee FL 32303

City

State

Zip

Email edward.davis475@yaho.com

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

Representing ENVIRONMENTAL CAUCUS

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/2018

462

Meeting Date

Bill Number (if applicable)

Topic Ban Fracking Bill

Amendment Barcode (if applicable)

Name Yvonne Hinson

Job Title Retired

Address 1104 SE 13th Ave

Phone 352 264-7853

Street

Gainesville

Florida

32641

City

State

Zip

Email yhinison@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing DWCF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

APPEARANCE RECORD

2/5/2018

Meeting Date

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

462

Bill Number (if applicable)

Topic Ban Fracking Bill

Amendment Barcode (if applicable)

Name JENNIFER RUBIELLO

Job Title Director

Address 3110 1st AVE N
Street

Phone 727 327 3138

St. Petersburg FL 33719
City State Zip

Email jennifer@environment
Florida.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ENVIRONMENT AMERICA DBA 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-2018

Meeting Date

Bill Number (if applicable)

Topic SB 462

Amendment Barcode (if applicable)

Name Anna Angell

Job Title Retired Probation Officer

Address 13200 W Newberry Rd EE 177

Street

Newberry FL 32669

City

State

Zip

Phone 352-665-3947

Email anna.home@hotmail.co.uk

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Democratic Womens Club of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

02/05/18

Meeting Date

SB 462

Bill Number (if applicable)

Topic SB 462 - BAN FRACKING

Amendment Barcode (if applicable)

Name CLIFF THAELL

Job Title

Address 9601 Milwaukee Road

Street

Phone

Tallahassee, FL 32309

City

State

Zip

Email

cthae11@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Citizens of Leon County opposed to Fracking

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/2018

462

Meeting Date

Bill Number (if applicable)

Topic Ban Fracking Bill

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

City

Florida

State

Zip

Phone

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/18

Meeting Date

4602

Bill Number (if applicable)

Topic Hydraulic Fracturing/Well Stimulation

Amendment Barcode (if applicable)

Name Jennifer Wilson

Job Title Attorney/Lobbyist

Address 101 E. Kennedy Blvd., Ste 4000

Phone 813-407-0203

Street

Tampa FL 33602

City

State

Zip

Email Jennifer.Wilson@artlaw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Conservancy of Southwest Florida

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/18

Meeting Date

462

Bill Number (if applicable)

Topic BAN FRACKING BILL

Amendment Barcode (if applicable)

Name JOHN RICE

Job Title

Address 1120 CLARK AVE

Phone

Street

City

TULSA

State

FL

Zip

32301

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18

Meeting Date

462

Bill Number (if applicable)

Topic FL Fracking Ban Bill

Amendment Barcode (if applicable)

Name Sara Rice

Job Title pastoral counselor

Address 1120 Clark Ave
Street

Phone 850.728.7874

Tallah FL 32301
City State Zip

Email se_rice@comcast.net

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18

Meeting Date

462

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Diana Ferguson

Job Title Attorney

Address 119 S Monroe St Ste 202
Street

Phone 850-681-6788

Tall FL 32301
City State Zip

Email dferguson@utledge-ellenia.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Audubon Florida

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-5-18

Meeting Date

462

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Jess McCarty

Job Title Assistant County Attorney

Address 111 NW 1st Street, Suite 2810

Phone 305-979-7110

Street

Miami

FL

33128

Email jmm2@miamidade.gov

City

State

Zip

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/18

Meeting Date

462

Bill Number (if applicable)

Topic Advanced Well Stimulation Treatment

Amendment Barcode (if applicable)

Name Devon West

Job Title Policy Advisor

Address 115 S. Andrews Ave
Street

Phone 954.789.9293

Ft. Lauderdale FL 33301
City State Zip

Email dewest@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

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/2018

Meeting Date

SB 462

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Karen Pelham

Job Title retired

Address 3433 Welwyn Way

Street

Tallahassee

City

FL

State

32309

Zip

Phone 850-668-5930

Email Kbpelham@gmail.com

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

Representing Sustainable Tallahassee

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18

Meeting Date

462

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Jeremy Zain

Job Title _____

Address 172 Tuscan Bend Street

Phone 386-679-4636

Street

Daytona Beach

FL

State

32117

Zip

Email j.zain@live.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/2018

462

Meeting Date

Bill Number (if applicable)

Topic Ban Fracking Bill

Amendment Barcode (if applicable)

Name

Michelle Allen

Job Title

Senior Florida Organizer

Address

2155 6th Ave South

Phone

678-628-8386

Street

St Petersburg

Florida

33712

Email

mallen@fwwatch

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Food and water watch

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/2018

Meeting Date

462

Bill Number (if applicable)

Topic Ban Fracking Bill

Amendment Barcode (if applicable)

Name Kathryn White

Job Title _____

Address 18 Stewart Circle

Street

Ft Walton Beach

City

Florida

State

32547

Zip

Phone 850-862-0416

Email KathrynFosterwhite@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against

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

Representing Democratic Women's Club 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/2018

462

Meeting Date

Bill Number (if applicable)

Topic Ban Fracking Bill

Amendment Barcode (if applicable)

Name

POMI PENTECOSTAL TEAM

Job Title

N/A RETIRED

Address

272 DIAMOND COVE

Street

DESTIN

City

Florida

State

32541

Zip

Phone

404 906 4224

Email

pentecostteam@gmail.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/2018

Meeting Date

462

Bill Number (if applicable)

Topic Ban Fracking Bill

Amendment Barcode (if applicable)

Name Milly Krause

Job Title

DWCF Member

Address

800 S. Brevard Ave #222

Phone 321-412-0914

Street

Cocoa Beach

Florida

32931

Email millykrause@gmail.com

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Democratic Women's Club of Florida

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-5-18

Meeting Date

SB462

Bill Number (if applicable)

Topic

Fracking

Amendment Barcode (if applicable)

Name

Brenda Lee Lennick (Smith)

Job Title

Retired USN

Address

420 E Park Ave

Phone

850-665-8456

Street

Tally

FL

32301

City

State

Zip

Email

mrs.sapienza@gmail

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

APPEARANCE RECORD

APPEARANCE RECORD

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

2-5-18

Meeting Date

SB462

Bill Number (if applicable)

Topic SB462 FRACKING

Amendment Barcode (if applicable)

Name JOHN E. LORENZ

Job Title RETIRED

Address 2517 ARTHUR'S COURT LN.

Phone

Street

TALLAHASSEE, FL

State

32301

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing RETHINK ENERGY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

205-18

Meeting Date

SB 462

Bill Number (if applicable)

Topic Ban tracking

Amendment Barcode (if applicable)

Name Dell Cates

Job Title

Address 204 Laureland Ln
Street

Phone

TLH
City

FL
State

32308
Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Rethink Energy 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.

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APPEARANCE RECORD

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

2-5-2018

Meeting Date

SB 462

Bill Number (if applicable)

Topic BAN FRACKING

Amendment Barcode (if applicable)

Name HOWARD KESSLER

Job Title RETIRED

Address 251 LEVY BAY RD

Street

Phone 850-597 3856

PANACEA, FL 32346

City

State

Zip

Email howard@howardkessler.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing PSR Physicians For Social Responsibility

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

S-001 (10/14/14)

APPEARANCE RECORD

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

2-5-18

Meeting Date

SB 462

Bill Number (if applicable)

Topic Ban Fracking

Amendment Barcode (if applicable)

Name Anne Van Meter

Job Title _____

Address 251 Levy Bay Rd

Phone 850-228-9641

Street

City

State

Zip

Panacea, FL 32346

Email vanmeteranne@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/18

Meeting Date

462

Bill Number (if applicable)

Topic Advanced Well Stimulation

Amendment Barcode (if applicable)

Name Susan Harbin Alford

Job Title Sr. Associate Director, Public Policy

Address 100 S. Monroe

Phone 770 546-8845

Street

Tallahassee FL 32301

City

State

Zip

Email sharbin@fl-counties

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Counties

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/18

Meeting Date

462

Bill Number (if applicable)

Topic Ban fracking Bill

Amendment Barcode (if applicable)

Name Doug Miller

Job Title Campaign Director Rethink Energy FL

Address # 3034 O'Brien Dr

Phone 880-766-6867

Tallahassee FL 32302

City State Zip

Email doug@rethinkenergy.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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APPEARANCE RECORD

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

February 5, 2018
Meeting Date462
Bill Number (if applicable)Topic fracking

Amendment Barcode (if applicable)

Name Thomas HawkinsJob Title Policy & Planning DirectorAddress 308 N Monroe StPhone 352 377 3141

Street

TallahasseeFL32301

City

State

Zip

Email thawkins@1000ff.orgSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing 1000 Friends of FloridaAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

Phone

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-18

Meeting Date

462

Bill Number (if applicable)

Topic Advanced Well Stimulation Treatment

Amendment Barcode (if applicable)

Name Susan Smith

Job Title _____

Address 16111 Vanderbilt Drive

Street

Phone 813-926-2768

Odessa

City

FL

State

33556

Zip

Email stsmith222@aol.com

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

F-5-2018

Meeting Date

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

462

Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name Jasmima Forean

Job Title Retired

Address 100 Hampton Rd # 203

Street

Phone

City

CLEARWATER

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SIERRA CLUB

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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

Amendment Barcode (if applicable)

Name

Job Title

Address

Phone

Street

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-5-18
Meeting Date

5B 462
Bill Number (if applicable)

Topic Fracking Ban

Amendment Barcode (if applicable)

Name Sarah Tso

Job Title Substance Abuse Counselor

Address 5178 West 4th Ave
Street

Phone 850-980-1162

Palmdale FL 32803
City State Zip

Email Sarah.m.tso@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Rethink Energy FL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18

Meeting Date

SB462

Bill Number (if applicable)

Topic

SB462 / Fracking

Amendment Barcode (if applicable)

Name

Christina Mbuya

Job Title

Graduate Assistant

Address

4918 Vernon Road

Phone

800-507-3624

Street

Tallahassee

FL

32317

City

State

Zip

Email

christina1.mbuya@gmail.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

ReThink Energy Florida

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

02/05/18

Meeting Date

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

462

Bill Number (if applicable)

Topic Ban Tracking Bill

Amendment Barcode (if applicable)

Name Alberto De Los Rios

Job Title Sustainable Campus FSD staff

Address 1319 S Bronough St

Street

Tallahassee FL 32301

City

State

Zip

Phone (305) 449-4311

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

2/5/2018

Meeting Date

462

Bill Number (if applicable)

Topic BAN FRACKING BILL (SB462)

Amendment Barcode (if applicable)

Name GABRIELLE MAYNARD

Job Title SUSTAINABLE CAMPUSES

Address 311 WESTWOOD DR.

Street

TALLAHASSEE

City

FL

State

32304

Zip

Phone (386) 984-2002

Email

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

Representing ReThink Energy Florida

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/18

Meeting Date

SB 462

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Judith P. Felder

Job Title Concerned Citizen

Address 9601 Miccosukee Rd.

Street

Tallahassee

City

FL

State

Zip

Phone 850-408-5365

Email felderjudy@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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/2018
Meeting Date

SB 462
Bill Number (if applicable)

Topic Fracking Ban

Amendment Barcode (if applicable)

Name David W. Felder

Job Title retired

Address 9601-30 Miccosukee Rd
Street

Phone 850 878-6500

Tallahassee FL 32309
City State Zip

Email felderdave@aol.com

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/5/18

Meeting Date

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

SB 462

Bill Number (if applicable)

Topic Fracking Ban

Amendment Barcode (if applicable)

Name Neil Jones

Job Title _____

Address 9507 Mt. Everett Ln

Phone 850-558-5114

Street

Jalghassee

City

State

FL

Zip

Email njones19@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/5/18

Meeting Date

SB 462

Bill Number (if applicable)

Topic SB 462 Flocking Don

Amendment Barcode (if applicable)

Name Jean Huffman

Job Title _____

Address 9507 Mt. Everest Lane

Phone 850 692-2907

Street
City Tallahassee State FL Zip 32309

Email jhuffman@gtcom.net

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

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S-001 (10/14/14)

CourtSmart Tag Report

Room: LL 37
Caption: Senate Committee On Environmental Preservation Committee

Case No.:

Type:
Judge:

Started: 2/5/2018 4:32:28 PM
Ends: 2/5/2018 5:37:41 PM **Length:** 01:05:14

4:32:53 PM Meeting called to order
4:33:03 PM Roll Call
4:33:23 PM Opening comments
4:33:49 PM Tab 2 SB 808 by Senator Baxley - Public Records/Surplus Lands
4:34:02 PM Senator Baxley explaining SB 808
4:34:29 PM Procedural Matter to get amendments in correct posture
4:34:37 PM Reconsider vote by which barcode 647560 passed
4:34:46 PM motion considered
4:34:54 PM senator Baxley explaining
4:35:35 PM Amendment to amendment 243004
4:36:00 PM Amendment adopted
4:36:20 PM Amendment 647560 as amended passes
4:36:27 PM Back on Bill as amended
4:36:52 PM Senator Farmer in debate
4:37:33 PM Roll Call
4:37:39 PM SB 808 passes
4:38:02 PM Tab 3 SB 992 by Senator Book , C51 Reservior Project
4:38:19 PM Senator Book explaining the bill
4:39:37 PM Questions on the bill
4:39:43 PM Frank Bernardino waives in support
4:39:46 PM Pepper Uchino wavier in support
4:40:04 PM Sen. Book waives close
4:40:19 PM SB 992 passes favorably
4:40:48 PM Tab 4 SB 1622 by Senator Flores - Land Used for Governmental Purposes
4:40:55 PM Sen. Flores explaining bill
4:41:49 PM Sen. Flores explaining bill
4:42:00 PM Late filed amendment 357140 introduced
4:42:13 PM Amendment 357140 by Sen. Flores
4:42:20 PM Senator Flores explaining amendment
4:42:49 PM Amendment 357140 by Sen. Flores adopted
4:43:02 PM Back on SB 1622 as amended
4:43:20 PM Senator Flores closing on SB 1622
4:43:51 PM SB 1622 passes as CS
4:44:26 PM Senator Hukill motion to vote yea for SB 808
4:44:37 PM Recording Paused
4:45:18 PM Recording Resumed
4:45:25 PM
4:46:15 PM Tab 5 SB 462 by Senator Young, Adanced Stimulation Treatment
4:46:32 PM Senator Young explaining SB 462
4:48:04 PM Senator Bradley taking comments from public
4:48:57 PM Gail Marie Perry waives in support
4:49:11 PM Brewster Bevis waives in opposition
4:50:49 PM Randall Denker, Attorney, Speaking in support
4:54:35 PM Eric Hamilton, Florida Petroleum Council
4:59:23 PM Senator Farmer with a question
4:59:40 PM Eric Hamilton responding
4:59:49 PM Senator Farmer with follow up
4:59:55 PM Eric Hamilton responding
5:00:20 PM Senator Farmer with followup
5:00:33 PM Eric Hamilton responding
5:01:14 PM Senator Farmer with follow up
5:01:22 PM Eric Hamilton responding

5:02:16 PM Senator Bradley with comments
5:02:53 PM Senator Bradley limits comments to 3 minutes
5:03:23 PM Brian Lee waives in support
5:03:50 PM John Dickert, waives in support
5:04:06 PM Todd Sack. Physicans for Social Responsibility and FMA
5:07:18 PM SB 462 is TP'd
5:07:30 PM Tab 1 SB 244 by Senator Brandes - Domestic Wastewater Collection System Assessment
5:07:39 PM Senator Brandes explaining the bill
5:08:14 PM Amendment 381734 by Senaotr Brandes
5:08:28 PM Amendment 381734 passes
5:08:35 PM Back on bill as amended
5:08:45 PM David Cullen waives in support
5:08:52 PM Chris Hansen waives in support
5:09:09 PM Rebecca O'Hara waives in support
5:09:17 PM Senator Brandes waives close
5:09:27 PM SB 244 Passes as CS
5:09:38 PM Back on Tab 5, SB 462
5:10:13 PM Gail Dickeret, Florida Federation of Garden Clubs
5:13:15 PM Roslyn Kilcollins waives in support
5:13:33 PM Mary Lynn Cullen, Advocacy Institute for Children
5:15:25 PM Amy Dax, Environmental Advocate/Activist
5:16:05 PM David Cullen with Sieera Club Florida
5:16:26 PM
5:16:52 PM Chairman reading Appearance cards waiving in support
5:19:12 PM Jim Tatum waives in support
5:23:53 PM Debate on Bill
5:24:02 PM Senator Farmer in debate
5:26:27 PM Senator Taddeo in debate
5:28:07 PM Senator Flores in debate
5:29:01 PM Senator Simmons in debate
5:33:47 PM Senator Book in debate
5:34:39 PM Senator Stewart in debate
5:35:44 PM Senator Young in closing remarks
5:37:20 PM SB 462 passes favorably
5:37:29 PM Meeting Adjourned