By Senator Argenziano

3-1501-05

A bill to be entitled

An act relating to springs protection; creating part IV of ch. 369, F.S.; providing legislative intent; providing definitions; providing for delineation of the springshed and protection zone of certain springs by the Department of Environmental Protection with the cooperation of the water management districts; establishing criteria and schedule; providing for inclusion of certain springs whose water quality is impaired in the total maximum daily loads program implemented by the department; providing for criteria to determine the impairment of springs; requiring the department, in conjunction with water management districts, to develop and implement a basin management plan relating to protection of the springshed; providing for allocation of a portion of the nonagricultural, nonpoint pollutant load calculated under the program to certain local governments; requiring a local government having jurisdiction over the springshed or protection zones of certain high-magnitude springs to review its comprehensive plan and prepare a report for consideration by its governing body; providing for amendment of such comprehensive plan if necessary to meet certain criteria relating to springs protection; providing for guidance by the department, the Department of Community Affairs, the Department of Health, and the

water management districts; providing for the prohibition or restriction of certain activities within the primary protection zone of a spring; providing an effective date.

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

Section 1. Part IV of chapter 369, Florida Statutes, consisting of sections 369.401, 369.403, 369.405, 369.407, 369.411, 369.413, and 369.415, Florida Statutes, is created to read:

CHAPTER 369

PART IV

SPRINGS PROTECTION

369.401 Short title.--This part may be cited as the "Florida Springs Protection Act."

369.403 Legislative intent.--

(1) The Legislature recognizes that Florida's springs are a precious and fragile natural resource that must be protected. Flow and water quality at springs are indicators of local conditions in the Floridan Aquifer and other major aquifers that are also drinking-water sources for many Floridians. Florida's springs also provide recreational opportunities for swimmers, boaters, wildlife watchers, and cave divers. Because of these recreational opportunities, and accompanying tourism, many of Florida's springs provide great financial benefits to local economies. In addition, springs provide critical habitat for numerous endangered or threatened species of plants and animals and serve as general indicators of the quality of groundwater resources.

(2) The Legislature recognizes that a spring is only as healthy as its springshed. The groundwater that supplies springs is derived from rainfall that recharges aquifer systems in the form of seepage from the land surface and through direct conduits such as sinkholes. As a result, the hydrologic and environmental condition of a spring or spring run is directly influenced by activities and land uses within the springshed.

(3) The Legislature recognizes that a number of Florida's springs including Crystal Springs, De Leon Springs, Fanning Springs, Lithia Springs, Manatee Springs, Ponce De Leon Springs, Rainbow Springs, Silver Springs, Wakulla Springs, Weeki Wachee Springs, and Wekiwa Springs currently have elevated nutrient concentrations, as determined by Florida Department of Environmental Protection bioassessments. Elevated nutrient concentrations may lead to increases in algae growth which decrease water clarity and change both the aesthetic qualities and the natural ecology of springs.

(4) The Legislature recognizes that Florida's standards regulating nutrient concentrations in ground water, including minimum criteria, are intended to protect human health and are not based on protection of the complex biological and ecological systems that contribute to the integrity of Florida's springs.

(5) The Legislature recognizes that springshed boundaries and areas of high vulnerability within springsheds often have not been identified and that to adequately protect springs, these areas must be delineated and characterized using the best available data.

(6) The Legislature recognizes that because springsheds cross local government jurisdictional boundaries, a coordinated, statewide springs-protection plan is required.

(7) It is the intent of the Legislature that local governments whose jurisdictions are within springsheds emphasize the importance of this state resource in their planning and regulation efforts.

(8) It is the intent of the Legislature that future amendments to comprehensive plans adopted by local governments whose jurisdictions are within the springsheds of first and second magnitude and other locally significant springs include land-development regulations that protect the water quantity and quality of those springs.

(9) It is the intent of the Legislature that state agencies and water management districts work together with local governments to provide the data necessary to delineate springsheds and protection zones, and to develop comprehensive plans and land-development regulations that protect Florida springs. The Legislature recognizes that urgent action is needed and can be reasonably based on best available data.

369.405 Definitions.--As used in this part, the term:

(1) "Department" means the Department of Environmental Protection, which includes the Florida Geological Survey.

(2) "First and second magnitude springs" means the springs identified as first or second magnitude by the Florida Geological Survey in Florida Geological Survey Bulletin No. 1966 (2004), "Springs of Florida".

(3) "Karst" means a landform that has been modified by dissolution of soluble rock such as limestone or dolostone.

(4) "Karst terrain" means a terrain, generally underlain by limestone or dolostone, in which the topography

is chiefly formed by the dissolution of rock, and which may be characterized by such karst features as sinkholes, sinking streams, closed depressions, subterranean drainage, and caves.

(5) "Local comprehensive plan" means a comprehensive plan adopted pursuant to ss. 163.3164-163.3215.

(6) "Local government" means a local government whose jurisdiction includes a first or second magnitude spring, or any part of a primary or secondary protection zone for a first or second magnitude spring.

(7) "Primary protection zone" means the geographic area within a springshed, identified by the department under s. 369.407, that, because of its proximity or connectivity to the spring or its karst features, or both, contributes directly to the spring's flow or water quality.

(8) "Reclaimed water" means wastewater that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.

(9) "Reuse" means the deliberate application of reclaimed water, in compliance with the rules adopted by the department or by a water management district rules, for a beneficial purpose.

(10) "Secondary protection zone" means the geographic area within a springshed, identified by the department under s. 369.407, that is located within the springshed but outside the primary protection zone.

(11) "Spring" means a point where ground water emerges onto the earth's surface, including under any surface water of the state, excluding seeps. The term includes a spring run or a "karst window," which is a depression opening in karst

terrain which reveals a portion of a subterranean flow or the unroofed portion of a cave.

(12) "Spring run" means a body of flowing water that originates from a spring or whose primary source of water is from a spring or springs under average rainfall conditions.

(13) "Springshed" or "spring recharge basin" means the areas within the ground water or surface water basins which contribute to the discharge of a spring. The position of the divide is orthogonal to isopotential lines.

(14) "Travel time" means the time required for water to travel horizontally, vertically, or a combination thereof, from any point in the springshed to the point at which it emerges from the ground and contributes to the flow of a spring or spring run.

369.407 Delineation of springsheds and primary protection zones.--

(1) The department, in cooperation with the water management districts, shall delineate springsheds and primary protection zones for first and second magnitude springs.

(2) Such delineation of springsheds and primary protection zones shall be accomplished using best available data from the water management districts, the Florida Geological Survey, and other credible sources. The delineation of protection zones must be based on a consideration of the following:

(a) Proximity or connectivity to the spring.

(b) Travel time.

(c) Proximity to karst features.

(d) Hydrogeologic characteristics of the springshed such as the nature and extent of confining units within the groundwater flow system and the location of recharge areas.

(e) Areas that contribute surface water drainage or overland flow to the spring and its springshed.

(f) Data from Florida Geological Survey's Florida Aquifer Vulnerability Assessment.

(g) Other objective and credible data.

(3) Because of the urgent need for a consistent mapping that can be used by state agencies and local governments, the department shall begin the delineation of such springsheds and primary protection zones on July 1, 2005. By July 1, 2008, the department shall propose, for adoption as a rule, a statewide map that delineates the springshed and protection zone of the first and second magnitude springs. Prior to final adoption of the statewide map by rule, the department may adopt, by rule, maps that delineate the springshed and protection zone of one or more first and second magnitude springs. The department may also establish, by rule, interim primary protection zones, using simple distance criteria from a spring, spring run, sinkhole, conduit, or other feature significant to spring discharge. The interim zones may be established before or after the department proposes adoption of the statewide map and will apply until the statewide map is adopted in a final rule of the department.

(4) The springsheds and primary zones delineated under this section must be periodically reviewed and amended as necessary.

369.409 Establishment and implementation of total maximum pollutant daily loads for impaired springs.--

(1) By July 1, 2007, the department shall establish criteria for determining the impairment of springs to supplement the standards used to assess the impairment of

waters under s. 403.067. In determining such impairment, the department shall consider, without limitation, all of the following:

(a) Existing water quality and water quality trends including, but not limited to, nutrient and chlorophyll concentrations.

(b) The presence of attached algae that may affect contact recreation or planktonic algae that may diminish water quality.

(c) Imbalance in flora and fauna.

(d) Aesthetics as they affect the recreational use or economic value of a particular spring.

(2) Following establishment of the criteria under subsection (1), the department shall develop a list of impaired first and second magnitude springs and add impaired springs to the list of impaired waters that is developed under and subject to s. 403.067. A spring may be designated and listed as impaired if, in the judgment of the department, it is likely to become impaired.

(3) In establishing and implementing the total maximum daily loads of nutrients for springs under this section and s. 403.067, the department, or the department in conjunction with the appropriate water management districts, shall develop a watershed or basin management plan, as specified in s. 403.067(7)(b), which addresses protection of the quality of water in the springshed.

(4) The establishment and implementation of total maximum daily loads of nonagricultural, nonpoint pollutant sources of nutrients must include a reasonable and equitable allocation of the total maximum daily load to each local government that is authorized to control activities that

impact the quality or quantity of water in the impaired spring.

(5) On or before July 1, 2007, the department shall establish the schedule by which it will first determine, under s. 403.067, the total maximum daily loads for the impaired springs identified and listed pursuant to this section.

369.411 Review and amendment of local comprehensive plans to protect spring water recharge and quality.--

(1) Within 1 year after the department adopts, by final rule, a delineation of springshed and protection zones pursuant to s. 369.407, each local government having jurisdiction over the delineated area shall prepare, and submit to its governing body, a report that evaluates the degree of springs protection provided in its local comprehensive plan. The report must include recommendations, for the consideration of the governing board of the local government, to amend the comprehensive plan to ensure that it contains goals, objectives, and policies that result in the protection of the quantity and quality of water discharged from each first or second magnitude spring whose springshed or protection zone is located wholly or partly within the jurisdiction of the local government.

(2) Within 1 year after submittal of the report specified in subsection (1), each local government shall adopt plan amendments to ensure that land use activities within its jurisdiction:

(a) Do not diminish the quality of waters that recharge the ground waters within the springshed;

(b) Do not reduce groundwater recharge capability within the springshed; and

(c) Implement the total maximum daily load of nonagricultural nonpoint pollutant sources allocated to the local government pursuant to s. 369.409(4).

(3) The Department of Community Affairs, water management districts, the Department of Health, and the department shall provide the local government with guidance and technical support during the review, amendment, and implementation of local comprehensive plans to protect spring water recharge and quality.

369.413 Prohibited activities within primary protection zone.--Each local government shall, to the extent of its existing authority, prohibit the conduct of any of the following activities within primary protection zones:

(1) New industrial wastewater disposal systems.

(2) New landfills, including lined landfills.

(3) New rapid infiltration basins.

369.415 Limited or conditional uses within primary protection zones.--

(1) Each local government, to the extent of its existing authority, may allow the conduct of the following activities in a primary protection zone created under s. 369.407 only by special use permit in accordance with local ordinance:

(a) New slow-rate land application systems, excluding the reuse of reclaimed water;

(b) New onsite sewage disposal systems at a density of greater than 1 per 5 acres, excluding systems that use advanced, low-nutrient output, designs that are approved by the Department of Health.

(c) New facilities for the transfer, storage, or disposal of hazardous materials or waste, including SARA 302 facilities.

(d) Other land uses may be prohibited in the local comprehensive plan at the discretion of a local government, after considering existing land-use patterns and the potential for damage to a particular spring.

(2) A local government shall ensure that its comprehensive plan includes provisions that reflect the limited or conditional uses in subsection (1) and that such provisions are implemented through passage of a local ordinance.

Section 2. This act shall take effect July 1, 2005.

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SENATE SUMMARY

Creates the Florida Springs Protection Act. Provides definitions and legislative intent. Provides for delineation of the springshed and protection zone of certain springs by the Department of Environmental Protection with the cooperation of the water management districts. Provides for inclusion of certain springs whose water quality is impaired in the total maximum daily loads program implemented by the department. Requires the department, in conjunction with water management districts, to develop and implement a basin management plan relating to protection of the springshed. Provides for allocation of a portion of the nonagricultural, nonpoint pollutant load calculated under the program to certain local governments. Requires a local government with jurisdiction over the springshed or protection zones of certain high-magnitude springs to review its comprehensive plan and prepare a report for consideration by its governing board. Provides for amendment of such comprehensive plan if necessary to meet certain criteria relating to springs protection. Provides for guidance by the department, the Department of Community Affairs, the Department of Health, and the water management districts. Provides for the prohibition or restriction of certain activities within the primary protection zone of a spring.