By the Committee on Environmental Preservation and Conservation; and Senator Saunders

592-06009-08 20082394c1

A bill to be entitled

An act relating to the protection of springs; creating part IV of ch. 369, F.S.; providing a short title; providing legislative findings and intent with respect to the need to protect and restore springs and groundwater; providing definitions; requiring the Department of Environmental Protection to delineate the springsheds of specified springs; requiring the department to adopt spring protection zones by secretarial order; requiring that the department adopt total maximum daily loads and basin management action plans; providing effluent requirements for domestic wastewater treatment facilities; providing requirements for onsite sewage treatment and disposal systems; providing requirements for agricultural operations; authorizing the Department of Environmental Protection, the Department of Health, and the Department of Agriculture and Consumer Services to adopt rules; amending s. 163.3177, F.S.; requiring certain local governments to adopt a springs protection element as one of the required elements of the comprehensive plan by a specified date; providing that certain design principles be included in the element; requiring the Department of Environmental Protection and the state land planning agency to make information available concerning best-management practices; prohibiting a local government that fails to adopt a springs protection element from amending its comprehensive plan; amending s. 403.1835, F.S.; including certain areas of critical state concern and the spring protection zones established by the act among

projects that are eligible for certain financial assistance; requiring the Department of Environmental Protection, the Department of Agriculture and Consumer Services, the St. Johns River Water Management District, and the Southwest Florida Water Management District to assess nitrogen loading and begin implementing management plans within the spring protection zones by a specified date; directing the Department of Environmental Protection to establish the Florida Springs Stewardship Task Force; providing for task force membership and duties; requiring a report to the Legislature by a date certain; providing for assistance and support from state agencies and local governments; providing for expiration of the task force by a date certain; 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, 369.402, 369.403, 369.404, 369.405, 369.406, and 369.407, is created to read:

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

369.402 Legislative findings and intent.--The Legislature finds that:

(1) Florida's springs are a precious and fragile natural resource that must be protected. Springs provide recreational opportunities for swimmers, canoeists, wildlife watchers, cave divers, and others. Because of the recreational opportunities and accompanying tourism, many of the state's springs greatly benefit

state and local economies. In addition, springs provide critical habitat for plants and animals, including many endangered or threatened species, and serve as indicators of groundwater and surface water quality.

(2) In general, Florida's springs, whether found in urban or rural settings, or on public or private lands, are threatened by actual, or potential, flow reductions and declining water quality. Many of Florida's springs show signs of ecological imbalance, increased nutrient loading, and lowered water flow. The groundwater sources of spring discharges are recharged by seepage from the surface and through direct conduits such as sinkholes and can be adversely affected by polluted runoff from urban and agricultural lands and discharges resulting from poor wastewater management practices.

(3) Springs and groundwater can be restored through good stewardship, including effective planning strategies, best-management practices, and the appropriate regulatory programs to preserve and protect the springs and their springsheds.

(4) It is the intent of the Legislature to establish a pilot program for the protection of Rainbow Springs and Silver Springs, first-magnitude springs in Marion County, which may serve as a model for other springs in the state.

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

(1) "Cooperating entities" means the Department of Environmental Protection, the Department of Health, the Department of Agriculture and Consumer Services, and the Department of Community Affairs. The term also includes each water management district and local governments and municipalities having jurisdiction in the areas of the springs

identified in s. 369.404(1). These entities may vary depending on the timing of activities associated with any specific spring or spring protection zone.

(2) "Department" means the Department of Environmental Protection.

(3) "Estimated sewage flow" means the quantity of domestic and commercial wastewater in gallons per day which is expected to be produced by an establishment or single-family residence as determined by rule of the Department of Health.

(4) "First-magnitude spring" means a spring that has a median discharge of greater than or equal to 100 cubic feet per second for the period of record, as determined by the department.

(5) "Spring" means a point where groundwater is discharged onto the earth's surface, including under any surface water of the state, excluding seeps. The term includes a spring run.

(6) "Spring protection zone" means the area within the springshed that is vulnerable to contamination and that comprises two zones based on the travel time of groundwater and reduced natural attenuation of contaminants that affect the water quality surfacing at the spring and flowing as the spring run, as follows:

(a) "Primary protection zone," means the area within the springshed that encompasses the 10-year travel time for water discharging from the spring.

(b) "Secondary protection zone," means the area within the springshed that encompasses the 100-year travel time for water discharging from the spring.

(7) "Spring run" means a body of flowing water that originates from a spring and whose primary source of water is

from a spring or springs under average rainfall conditions.

(8) "Springshed" means those areas within the groundwater and surface water basins which contribute to the discharge of a spring.

(9) "Travel time" means the time required for groundwater to travel vertically from land surface to the aquifer, horizontally within the aquifer, or in a combination thereof, to the point at which it is discharged from the ground and contributes to the flow of a spring or spring run.

(10) "Usable property" means the property exclusive of all paved areas and prepared road beds within public or private rights-of-way or easements and excludes surface water bodies.

369.404 Delineation of springsheds and adoption of spring protection zones.--

(1) The department, in consultation with the other cooperating entities, shall delineate the springsheds of the following springs based on accepted scientific methodologies and shall use this information and other scientific data necessary to identify spring protection zones:

(a) Rainbow Springs in Marion County; and

(b) Silver Springs in Marion County.

(2) By July 1, 2009, the department shall adopt the spring protection zones for these springs by secretarial order pursuant to chapter 120. The Legislature recognizes that springsheds and spring protection zones may extend beyond political boundaries. The cooperating entities shall work with affected local governments in developing spring protection zones and measures and basin management action plans that are designed to minimize adverse impacts to the spring protection zone, the spring, and

the spring run.

369.405 Total maximum daily loads and basin management action plans.--Notwithstanding the assessment and listing requirements of s. 403.067, the department shall adopt total maximum daily loads and basin management action plans for the spring systems identified in s. 369.404.

(1) By July 1, 2009, the department shall propose for adoption total maximum daily loads, pursuant to s. 403.067(6), to address nitrogen concerns in the springs.

(2) By December 31, 2010, the department, in conjunction with the cooperating entities, shall propose for adoption basin management action plans, pursuant to s. 403.067(7), for the springs. In developing the basin management action plans, the department shall consider the need to include different actions, projects, and other protection measures based on the primary and secondary protection zones within a spring protection zone.

369.406 Additional spring protection measures.--The following measures apply within a spring protection zone adopted pursuant to s. 369.404:

(1) Domestic wastewater treatment facilities regulated under chapter 403 are subject to the following requirements:

(a) New or expanded surface water discharges are prohibited except as backup to a wastewater reuse system. Surface water discharges serving as backup to a reuse system shall be limited to no more than 30 percent of the permitted wastewater reuse capacity on an annual average basis and shall meet the advanced waste treatment requirements in s. 403.086(4).

(b) Facilities having permitted capacities greater than or equal to 100,000 gallons per day shall meet an annual average

effluent concentration that shall not exceed 3 milligrams per liter total nitrogen. However, facilities of this permitted capacity which are authorized to discharge prior to the adoption of the applicable spring protection zone shall meet the required effluent concentration no later than 4 years after adoption of the spring protection zone.

(c) Facilities having permitted capacities less than 100,000 gallons per day shall meet an annual average effluent concentration that shall not exceed 10 milligrams per liter total nitrogen, and an annual average concentration that shall not exceed 3 milligrams per liter total nitrogen in groundwater monitoring compliance wells. However, facilities of this permitted capacity which are authorized to discharge prior to adoption of the applicable spring protection zone shall meet the required effluent and monitoring well concentrations no later than 4 years after adoption of the spring protection zone.

(d) Land application of Class A or Class B wastewater residuals, as defined by department rule, within the primary protection zone is prohibited. This prohibition does not apply to Class AA residuals that are marketed and distributed as fertilizer products in accordance with department rule.

This subsection does not limit the department's authority to require additional treatment or other actions pursuant to chapter 403, as necessary, to meet surface and groundwater quality standards.

(2) Onsite sewage treatment and disposal systems must comply with the requirements of this subsection.

(a) By December 31, 2009, the Department of Health shall

complete, with the assistance of the affected local government, an inventory of all onsite sewage treatment and disposal systems, as defined in s. 381.0065, which are located within the spring protection zone developed pursuant to s. 369.404.

1. It is the intent of this subsection to reduce nutrient loading in Florida's springs. It is not the intent of this subsection to prohibit onsite sewage treatment and disposal systems that meet the requirements of this subsection.

2. The Department of Health may grant variances in hardship cases to the provisions of this section and any rules adopted under this section in accordance with s. 381.0065(4)(h).

(b) New onsite sewage treatment and disposal systems, as defined in s. 381.0065, which are installed after the date of the adoption of the spring protection zone shall be designed to meet a target annual average groundwater concentration of no more than 3 milligrams per liter total nitrogen at the owner's property line within the primary protection zone and no more than 10 milligrams per liter total nitrogen at the owner's property line within the secondary protection zone. Compliance with these requirements shall not require groundwater monitoring. The Department of Health shall develop and adopt by rule design standards for achieving these target annual average groundwater concentrations. These standards shall, at a minimum, take into consideration the relationship between the treatment level achieved by the onsite sewage treatment and disposal system and the area of usable property available for rainwater dilution.

(c) Prior to adoption of the design standards by the Department of Health, compliance with the requirements in paragraph (b) shall be presumed if one the following conditions

are met:

1. The lot associated with the establishment or a single-family home is served by an onsite treatment and disposal system meeting the baseline system standards as set forth in Department of Health rule, and:

a. The lot is located wholly or partly within the secondary protection zone and the ratio of estimated sewage flow in gallons per day to usable property in acres is 400 to 1 or less; or

b. Any part of the lot is located within the primary protection zone and the ratio of estimated sewage flow in gallons per day to usable property in acres is 100 to 1 or less.

2. The lot associated with the establishment or a single-family home is served by an onsite treatment and disposal system that is a performance-based treatment system meeting at least the advanced secondary treatment standards set forth in Department of Health rule, combined with a drip irrigation system.

(d) Paragraph (b) does not supersede the jurisdictional flow limits established by s. 381.0065(3)(b).

(e) All lots, regardless of plat or record date, are subject to the provisions of this subsection.

(f) Onsite sewage treatment disposal systems shall be evaluated and, if necessary, pumped out at the owner's expense, by a state-licensed septic tank contractor or plumber every 5 years. The contractor or plumber, upon completion of the evaluation, shall submit an application for approval to the Department of Health on a form and for a fee prescribed by rule of the Department of Health and shall also provide a copy to the owner. The Department of Health shall approve the system for continued use or notify the owner of the requirement for a repair

or modification permit.

(g) All systems requiring repair, modification, or reapproval shall meet a 24-inch separation from the wet season water table and the surface water setback requirements in s. 381.0065(4). All treatment receptacles shall be within one size of the requirements in rules of the Department of Health and shall be tested for water-tightness by a state-licensed septic tank contractor or plumber.

(h)1. Each owner of a publicly owned or investor-owned sewerage system shall notify all owners of onsite sewage treatment and disposal systems, excluding approved graywater systems, of the availability of central sewerage facilities for purposes of connection pursuant to s. 381.00655(1) within 60 days following receipt of notification from the department that collection facilities for the central sewerage system have been cleared for use.

2.a. Notwithstanding s. 381.00655(2)(b), a publicly owned or investor-owned sewerage system may not waive the requirement for mandatory onsite sewage disposal connection to an available publicly owned or investor-owned sewerage system, except as provided in sub-subparagraph b.

b. A publicly owned or investor-owned sewerage system may, with the approval of the Department of Health, waive the requirement for mandatory onsite sewage disposal connection for a performance-based treatment system using drip irrigation or low-pressure dosing if it determines that such connection is not required in the public interest due to water quality or public health considerations.

(i) Land application of septage within the primary or

secondary protection zones is prohibited.

(3) Agricultural operations shall implement applicable best-management practices adopted by the Department of Agriculture and Consumer Services to reduce nitrogen impacts to surface and groundwater. By December 31, 2008, the Department of Agriculture and Consumer Services, in cooperation with the other cooperating entities and other stakeholders, shall develop and propose for adoption by rule equine, cow and calf, and forage grass best-management practices to reduce nitrogen impacts on surface and groundwater.

369.407 Rules.--The department, the Department of Health, and the Department of Agriculture and Consumer Services may adopt rules pursuant to ss. 120.536(1) and 210 54 to administer the provisions of this part.

Section 2. Paragraph (l) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.--

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(l) In areas for which a springs protection zone has been adopted by the Department of Environmental Protection, by December 31, 2009, or within 18 months after adoption of the springs protection zone, a springs protection element that ensures the protection and, where necessary, restoration of water quality in springs. The element shall address minimizing human impacts on springs through protecting karst features during and after the development process, ensuring future development

follows low-impact design principles, ensuring that landscaping and fertilizer use are consistent with the Florida Friendly Landscaping program, ensuring adequate open space, and providing for proper management of stormwater and wastewater to minimize their effects on the water quality of springs. The springs protection element shall be based on low-impact design, landscaping, and fertilizer best-management and use practices and principles developed by the department and the state land planning agency, or established in rule. The department and the state land planning agency shall make information concerning such best-management and use practices and principles prominently available on their websites. In addition, all landscape design and irrigation systems shall meet the standards established pursuant to s. 373.228(4). Failure to adopt the springs protection element by the deadline specified in this paragraph shall result in a prohibition on any future plan amendments until the element is adopted.

Section 3. Subsection (7) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.--

(7) Eligible projects must be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or groundwater quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities. The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Eliminate public health hazards;

(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies;

(c) Assist in the implementation of total maximum daily loads and basin management action plans adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

(f) Promote reclaimed water reuse;

(g) Eliminate environmental damage caused by failing onsite sewage treatment and disposal systems, with priority given to systems located within any area designated as an area of critical state concern under s. 380.05 or located in a spring protection area adopted pursuant to s. 369.404 ~~or those that are causing environmental damage~~; or

(h) Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

Section 4. The Department of Environmental Protection, the Department of Agriculture and Consumer Services, the St. Johns River Water Management District, and the Southwest Florida Water Management District shall assess nitrogen loading from lands owned or managed by each respective agency and located within a spring protection zone for Rainbow Springs or Silver Springs using a consistent methodology, evaluate existing management activities, and develop and begin implementing management plans

to reduce adverse impacts to the springs no later than December 31, 2010.

Section 5. Florida Springs Stewardship Task Force.--

(1) The Department of Environmental Protection is directed to establish the Florida Springs Stewardship Task Force that shall consist of nine members as follows:

(a) One representative from the Department of Environmental Protection, to be appointed by the Secretary of Environmental Protection, who shall serve as chair.

(b) One representative from the Department of Agriculture and Consumer Services, to be appointed by the Commissioner of Agriculture.

(c) One representative from the Department of Community Affairs to be appointed by the Secretary of Community Affairs.

(d) One representative from the water management district having the greatest number of first-magnitude springs within its jurisdiction, to be appointed by the executive director of that water management district.

(e) Two members appointed by the President of the Senate, one of whom shall be a representative of the development community and one of whom shall be a representative of a local chamber of commerce.

(f) Two members appointed by the Speaker of the House of Representatives, one of whom shall be a locally elected official of a county or municipality and one of whom shall be a representative of the environmental community.

(g) One member appointed by the Commissioner of Agriculture who shall be a representative of the agricultural community.

(2) Task force members shall be appointed no later than

August 1, 2008, and shall serve without compensation.

(3) The task force shall:

(a) Collect and inventory all existing data identifying zones of influence for the remaining 31 known first-magnitude springs and identifying land uses in these areas.

(b) Identify and compile a list of all existing best-management practices for the identified land uses and other water pollutant controls.

(c) Identify all existing and reasonably expected funding sources available to implement best-management practices and other water pollutant controls for the identified land uses and propose a priority list of projects for the funding.

(d) Take public input and testimony regarding issues related to spring protection and restoration.

(e) Propose a program of increased emphasis on education and outreach which encourages the implementation of best-management practices for agricultural and nonagricultural land uses and other water pollutant controls, including specific provisions for cost-share assistance in implementing best-management practices, as well as recognition of agricultural and nonagricultural landowners who participate in the best-management practices program.

(4) The task force shall submit a report summarizing the data collected, public input and testimony, and findings and recommendations of the task force to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2009.

(5) All state agencies are directed, and all other agencies and local governments are requested, to render assistance to and

cooperate with the task force.

(6) The task force shall expire on January 31, 2009.

Section 6. This act shall take effect upon becoming a law.