

By Senator Simpson

18-01156C-14

20141464__

1 A bill to be entitled
2 An act relating to environmental regulation; amending
3 s. 163.3162, F.S.; limiting the authority of a county
4 to enforce certain modifications, readoptions, or
5 amendments of certain wetlands, springs protection,
6 and stormwater ordinances, regulations, and rules;
7 amending s. 163.3184, F.S.; revising procedures for
8 the transmittal and adoption of a comprehensive plan
9 or plan amendment; amending s. 163.3194, F.S.;
10 prohibiting a local government from rescinding certain
11 land use approvals; amending s. 253.0347, F.S.;
12 exempting certain lessees of sovereignty submerged
13 lands from permit fees for certain areas; amending s.
14 298.225, F.S.; exempting certain facilities,
15 structures, or improvements from additional local
16 government authorizations or permits; amending s.
17 373.236, F.S.; authorizing consumptive use permits for
18 certain projects and developments; authorizing
19 multiple commencement dates for certain consumptive
20 use permits; amending s. 373.308, F.S.; requiring
21 delegated local governments to adhere to certain
22 criteria and standards for water well construction;
23 preempting permitting of water well construction by a
24 delegated local government; amending s. 373.323, F.S.;
25 revising requirements to take the water well
26 contractor licensure examination; amending s.
27 373.4136, F.S.; providing that proof of insurance
28 satisfies a specified requirement to obtain a
29 mitigation bank permit; requiring the Department of

18-01156C-14

20141464__

30 Environmental Protection and water management
31 districts to adopt certain rules by a specified date;
32 amending s. 373.414, F.S.; requiring certain water
33 control districts to obtain certain permits for
34 facilities, structures, or improvements; specifying
35 standards applicable to such permits; amending s.
36 373.709, F.S.; requiring that certain criteria be
37 incorporated into a regional water supply plan;
38 exempting such additional criteria from specified
39 analyses; amending s. 403.201, F.S.; providing that
40 the prohibition against certain variances from
41 regulations concerning discharges of waste into waters
42 of the state or concerning hazardous waste management
43 does not include the issuance of moderating
44 provisions; amending s. 403.709, F.S.; establishing a
45 solid waste landfill closure account within the Solid
46 Waste Management Trust Fund for specified purposes;
47 requiring the Department of Environmental Protection
48 to deposit specified funds into the account; amending
49 s. 633.202, F.S.; exempting certain tents from the
50 Florida Fire Prevention Code; extending and renewing
51 certain permits issued by the Department of
52 Environmental Protection or a water management
53 district, including any local government-issued
54 development order or building permit issued pursuant
55 thereto; providing exceptions; limiting certain permit
56 extensions to a specified period of time; providing
57 that extended permits be governed by certain rules;
58 extending commencement and completion dates for

18-01156C-14

20141464__

59 required mitigation associated with a phased
60 construction project; providing applicability;
61 requiring the holder of an extended permit or
62 authorization to provide notice to the authorizing
63 agency; prohibiting a county or municipality from
64 assessing fees to extend such permits; providing an
65 effective date.

66
67 Be It Enacted by the Legislature of the State of Florida:

68
69 Section 1. Paragraph (i) of subsection (3) of section
70 163.3162, Florida Statutes, is amended to read:

71 163.3162 Agricultural Lands and Practices.—

72 (3) DUPLICATION OF REGULATION.—Except as otherwise provided
73 in this section and s. 487.051(2), and notwithstanding any other
74 law, including any provision of chapter 125 or this chapter:

75 (i) 1. This subsection does not limit a county's powers to:

76 a.1. Enforce wetlands, springs protection, or stormwater
77 ordinances, regulations, or rules adopted before July 1, 2003,
78 excluding any modification, readoption, or amendment thereof
79 approved on or after July 1, 2003.

80 b.2. Enforce wetlands, springs protection, or stormwater
81 ordinances, regulations, or rules pertaining to the Wekiva River
82 Protection Area.

83 c.3. Enforce ordinances, regulations, or rules as directed
84 by law or implemented consistent with the requirements of a
85 program operated under a delegation agreement from a state
86 agency or water management district.

87 2. As used in this paragraph, the term "wetlands" has the

18-01156C-14

20141464__

88 same meaning as defined in s. 373.019.

89 Section 2. Paragraph (a) of subsection (11) of section
90 163.3184, Florida Statutes, is amended to read:

91 163.3184 Process for adoption of comprehensive plan or plan
92 amendment.—

93 (11) PUBLIC HEARINGS.—

94 (a) The procedure for transmittal of a complete proposed
95 comprehensive plan or plan amendment pursuant to subparagraph
96 (3) (b) 1. and paragraph (4) (b) and for adoption of a
97 comprehensive plan or plan amendment pursuant to subparagraphs
98 (3) (c) 1. and (4) (e) 1. shall be by affirmative vote requiring ~~of~~
99 not less nor more than a simple majority of the members of the
100 governing body present at the hearing. The adoption of a
101 comprehensive plan or plan amendment shall be by ordinance. For
102 the purposes of transmitting or adopting a comprehensive plan or
103 plan amendment, the notice requirements in chapters 125 and 166
104 are superseded by this subsection, except as provided in this
105 part.

106 Section 3. Subsection (5) of section 163.3194, Florida
107 Statutes, is amended to read:

108 163.3194 Legal status of comprehensive plan.—

109 (5) (a) The tax-exempt status of lands classified as
110 agricultural under s. 193.461 may ~~shall~~ not be affected by any
111 comprehensive plan adopted under this act as long as the land
112 meets the criteria set forth in s. 193.461.

113 (b) A local government may not rescind a prior land use
114 approval solely because the underlying land continues to be used
115 for bona fide agricultural purposes in a manner which qualifies
116 for an agricultural classification under s. 193.461.

18-01156C-14

20141464__

117 Section 4. Paragraph (f) of subsection (2) of section
118 253.0347, Florida Statutes, is amended to read:

119 253.0347 Lease of sovereignty submerged lands for private
120 residential docks and piers.—

121 (2)

122 (f) A lessee of sovereignty submerged lands for a private
123 residential multifamily dock designed to moor boats up to the
124 number of units within the multifamily development is not
125 required to pay lease or permit fees for a preempted area equal
126 to or less than 10 times the riparian shoreline along
127 sovereignty submerged land on the affected waterbody times the
128 number of units with docks in the private multifamily
129 development.

130 Section 5. Subsection (6) of section 298.225, Florida
131 Statutes, is amended to read:

132 298.225 Water control plan; plan development and
133 amendment.—

134 (6) The review or approval of the water control plan by the
135 applicable water management district shall not constitute the
136 granting of any permit necessary for the construction or
137 operation of any water control district work and cannot be
138 relied upon as any future agency action on a permit application.
139 Notwithstanding any other provision of law, if any of the
140 facilities, structures, or improvements, including, but not
141 limited to, ditches, dikes, water control structures, canals, or
142 pump stations, included within a water control plan have been
143 issued an environmental resource permit pursuant to part IV,
144 chapter 373, or a permit has been issued pursuant to s. 404 of
145 the Federal Clean Water Act, 33 U.S.C. s. 1344, and such

18-01156C-14

20141464__

146 structures are incorporated in a plat of the county or
147 municipality within which the water control district lies,
148 additional local government authorizations or permits are not
149 required to implement, construct, or maintain the permitted
150 facilities, structures, or improvements.

151 Section 6. Subsection (6) of section 373.236, Florida
152 Statutes, is amended, and subsection (8) is added to that
153 section, to read:

154 373.236 Duration of permits; compliance reports.-

155 (6) (a) The Legislature finds that the need for alternative
156 water supply development projects to meet anticipated public
157 water supply demands of the state is so important that it is
158 essential to encourage participation in and contribution to
159 these projects by private-rural-land owners who
160 characteristically have relatively modest near-term water
161 demands but substantially increasing demands after the 20-year
162 planning period in s. 373.709.

163 1. If ~~Therefore, where~~ such landowners make extraordinary
164 contributions of lands or construction funding to enable the
165 expeditious implementation of such projects, water management
166 districts and the department may grant permits for such projects
167 for a period of up to 50 years to municipalities, counties,
168 special districts, regional water supply authorities,
169 multijurisdictional water supply entities, and publicly or
170 privately owned utilities, with the exception of any publicly or
171 privately owned utilities created for or by a private landowner
172 after April 1, 2008, which have entered into an agreement with
173 the private landowner for the purpose of more efficiently
174 pursuing alternative public water supply development projects

18-01156C-14

20141464__

175 identified in a district's regional water supply plan and
176 meeting water demands of both the applicant and the landowner.

177 2. If such landowners, individually or collectively, make
178 available lands to enable the expeditious development of
179 projects involving dispersed surface water storage and release
180 or surface water storage and recharge which provide water
181 resource benefits and alternative water supply development, the
182 water management districts and the department may grant permits
183 for such projects for a period of up to 50 years.

184 (b) A permit under paragraph (a):

185 1. May authorize the uses of the individual project
186 participants to begin on different dates.

187 2. May be granted only for that period for which there is
188 sufficient data to provide reasonable assurance that the
189 conditions for permit issuance will be met.

190 3. Must ~~Such a permit shall~~ require a compliance report by
191 the permittee every 5 years during the term of the permit. The
192 report must ~~shall~~ contain sufficient data to maintain reasonable
193 assurance that the conditions for permit issuance applicable at
194 the time of district review of the compliance report are met.
195 After review of the ~~this~~ report, the governing board or the
196 department may modify the permit to ensure that the use meets
197 the conditions for issuance.

198 (c) This subsection does not limit the existing authority
199 of the department or the governing board to modify or revoke a
200 consumptive use permit.

201 (8) Water management districts and the department may grant
202 a permit for a period of up to 30 years for a development of
203 regional impact that is approved pursuant to s. 380.06 and

18-01156C-14

20141464__

204 located in a rural area of critical economic concern as defined
205 in s. 288.0656.

206 Section 7. Subsection (5) is added to section 373.308,
207 Florida Statutes, to read:

208 373.308 Implementation of programs for regulating water
209 wells.—

210 (5) Delegated local governments must adhere to well
211 construction criteria and applicable standards adopted by the
212 department or water management district. Such criteria and
213 standards preempt additional local government well construction
214 permitting regulations.

215 Section 8. Paragraph (b) of subsection (3) of section
216 373.323, Florida Statutes, is amended to read:

217 373.323 Licensure of water well contractors; application,
218 qualifications, and examinations; equipment identification.—

219 (3) An applicant who meets the following requirements shall
220 be entitled to take the water well contractor licensure
221 examination:

222 (b) Has at least 2 years of experience in constructing,
223 repairing, or abandoning water wells. Satisfactory proof of such
224 experience shall be demonstrated by providing:

225 1. Evidence of the length of time the applicant has been
226 engaged in the business of the construction, repair, or
227 abandonment of water wells as a major activity, as attested to
228 by a letter from three of the following persons:

229 a. A water well contractor.

230 ~~b. A water well driller.~~

231 ~~c. A water well parts and equipment vendor.~~

232 ~~b.d.~~ A water well inspector employed by a governmental

18-01156C-14

20141464__

233 agency.

234 2. A list of at least 10 water wells that the applicant has
235 constructed, repaired, or abandoned within the preceding 5
236 years. Of these wells, at least seven must have been
237 constructed, as defined in s. 373.303(2), by the applicant. The
238 list shall also include:

239 a. The name and address of the owner or owners of each
240 well.

241 b. The location, primary use, and approximate depth and
242 diameter of each well that the applicant has constructed,
243 repaired, or abandoned.

244 c. The approximate date the construction, repair, or
245 abandonment of each well was completed.

246 Section 9. Subsection (1) of section 373.4136, Florida
247 Statutes, is amended to read:

248 373.4136 Establishment and operation of mitigation banks.—

249 (1) MITIGATION BANK PERMITS.—The department and the water
250 management districts may require permits to authorize the
251 establishment and use of mitigation banks. A mitigation bank
252 permit shall also constitute authorization to construct, alter,
253 operate, maintain, abandon, or remove any surface water
254 management system necessary to establish and operate the
255 mitigation bank. To obtain a mitigation bank permit, the
256 applicant must provide reasonable assurance that:

257 (a) The proposed mitigation bank will improve ecological
258 conditions of the regional watershed;

259 (b) The proposed mitigation bank will provide viable and
260 sustainable ecological and hydrological functions for the
261 proposed mitigation service area;

18-01156C-14

20141464__

262 (c) The proposed mitigation bank will be effectively
263 managed in perpetuity;

264 (d) The proposed mitigation bank will not destroy areas
265 with high ecological value;

266 (e) The proposed mitigation bank will achieve mitigation
267 success;

268 (f) The proposed mitigation bank will be adjacent to lands
269 that will not adversely affect the perpetual viability of the
270 mitigation bank due to unsuitable land uses or conditions;

271 (g) Any surface water management system to be constructed,
272 altered, operated, maintained, abandoned, or removed within the
273 mitigation bank will meet the requirements of this part and the
274 rules adopted thereunder;

275 (h) It has sufficient legal or equitable interest in the
276 property to ensure perpetual protection and management of the
277 land within a mitigation bank; and

278 (i) It can meet the financial responsibility requirements
279 prescribed for mitigation banks. The applicant may satisfy this
280 requirement by submitting proof of insurance in a form approved
281 by the department or water management district.

282 Section 10. By January 1, 2015, the Department of
283 Environmental Protection and each water management district
284 shall adopt rules to implement the amendment made by this act to
285 s. 373.4136(1)(i), Florida Statutes.

286 Section 11. Paragraph (d) is added to subsection (1) of
287 section 373.414, Florida Statutes, to read:

288 373.414 Additional criteria for activities in surface
289 waters and wetlands.—

290 (1) As part of an applicant's demonstration that an

18-01156C-14

20141464__

291 activity regulated under this part will not be harmful to the
292 water resources or will not be inconsistent with the overall
293 objectives of the district, the governing board or the
294 department shall require the applicant to provide reasonable
295 assurance that state water quality standards applicable to
296 waters as defined in s. 403.031(13) will not be violated and
297 reasonable assurance that such activity in, on, or over surface
298 waters or wetlands, as delineated in s. 373.421(1), is not
299 contrary to the public interest. However, if such an activity
300 significantly degrades or is within an Outstanding Florida
301 Water, as provided by department rule, the applicant must
302 provide reasonable assurance that the proposed activity will be
303 clearly in the public interest.

304 (d) Any dependent water control district created by
305 ordinance or special act must obtain an environmental resource
306 permit pursuant to part IV of this chapter and a permit or other
307 authorization from the applicable general purpose government for
308 any facilities, structures, or improvements. Any local
309 government authorization must apply the same mitigation criteria
310 and costs as are applied under chapter 298 for a water control
311 district in the same jurisdiction.

312 Section 12. Present subsection (9) of section 373.709,
313 Florida Statutes, is redesignated as subsection (10), and a new
314 subsection (9) is added to that section, to read:

315 373.709 Regional water supply planning.—

316 (9) The water needs, water sources, water resource
317 development projects, and water supply development projects
318 identified in a long-term master plan adopted pursuant to s.
319 163.3245 or a master plan development order issued under s.

18-01156C-14

20141464__

320 380.06(21) must be incorporated into a regional water supply
321 plan adopted pursuant to this section and are exempt from the
322 analyses required under subsection (2).

323 Section 13. Subsection (2) of section 403.201, Florida
324 Statutes, is amended to read:

325 403.201 Variances.—

326 (2) A ~~no~~ variance may not ~~shall~~ be granted from any
327 provision or requirement concerning discharges of waste into
328 waters of the state or hazardous waste management which would
329 result in the provision or requirement being less stringent than
330 a comparable federal provision or requirement, except as
331 provided in s. 403.70715. However, this subsection does not
332 prohibit the issuance of moderating provisions under state law.

333 Section 14. Subsection (5) is added to section 403.709,
334 Florida Statutes, to read:

335 403.709 Solid Waste Management Trust Fund; use of waste
336 tire fees.—There is created the Solid Waste Management Trust
337 Fund, to be administered by the department.

338 (5) (a) Notwithstanding subsection (1), a solid waste
339 landfill closure account is established within the Solid Waste
340 Management Trust Fund to provide funding for the closing and
341 long-term care of solid waste management facilities. The
342 department may use funds from the account to contract with a
343 third party for the closing and long-term care of a solid waste
344 management facility if:

345 1. The facility has or had a department permit to operate
346 the facility.

347 2. The permittee provided proof of financial assurance for
348 closure in the form of an insurance certificate.

18-01156C-14

20141464__

349 3. The facility is deemed to be abandoned or was ordered to
350 close by the department.

351 4. Closure is accomplished in substantial accordance with a
352 closure plan approved by the department.

353 5. The department has written documentation that the
354 insurance company issuing the closure insurance policy will
355 provide or reimburse the funds required to complete closing and
356 long-term care of the facility.

357 (b) The department shall deposit funds received from an
358 insurance company as reimbursement for the costs of closing and
359 long-term care of a facility into the solid waste landfill
360 closure account.

361 Section 15. Subsection (15) of section 633.202, Florida
362 Statutes, is amended to read:

363 633.202 Florida Fire Prevention Code.—

364 (15) ~~(a)~~ For one-story or two-story structures that are less
365 than 10,000 square feet, whose occupancy is defined in the
366 Florida Building Code and the Florida Fire Prevention Code as
367 business or mercantile, a fire official shall enforce the wall
368 fire-rating provisions for occupancy separation as defined in
369 the Florida Building Code.

370 (16) (a) ~~(b)~~ A structure, located on property that is
371 classified for ad valorem purposes as agricultural, which is
372 part of a farming or ranching operation, in which the occupancy
373 is limited by the property owner to no more than 35 persons, and
374 which is not used by the public for direct sales or as an
375 educational outreach facility, is exempt from the Florida Fire
376 Prevention Code, including the national codes and Life Safety
377 Code incorporated by reference. This paragraph does not include

18-01156C-14

20141464__

378 structures used for residential or assembly occupancies, as
379 defined in the Florida Fire Prevention Code.

380 (b) A tent up to 30 feet by 30 feet is exempt from the
381 Florida Fire Prevention Code, including the national codes
382 incorporated by reference.

383 Section 16. (1) Any building permit, and any permit issued
384 by the Department of Environmental Protection or by a water
385 management district pursuant to part IV of chapter 373, Florida
386 Statutes, which has an expiration date from January 1, 2012,
387 through January 1, 2015, is extended and renewed for a period of
388 2 years after its previously scheduled date of expiration. This
389 extension includes any local government-issued development order
390 or building permit including certificates of levels of service.
391 This section does not prohibit conversion from the construction
392 phase to the operation phase upon completion of construction.
393 This extension is in addition to any existing permit extension,
394 including extensions provided under s. 252.363, Florida
395 Statutes, due to the declaration of a state of emergency by the
396 Governor. Extensions granted pursuant to this section; section
397 14 of chapter 2009-96, Laws of Florida, as reauthorized by
398 section 47 of chapter 2010-147, Laws of Florida; section 46 of
399 chapter 2010-147, Laws of Florida; or section 74 or section 79
400 of chapter 2011-139, Laws of Florida, are limited to a total of
401 5 years. Further, specific development order extensions granted
402 pursuant to s. 380.06(19)(c)2., Florida Statutes, may not be
403 further extended by this section.

404 (2) The commencement and completion dates for any required
405 mitigation associated with a phased construction project are
406 extended so that mitigation takes place in the same timeframe

18-01156C-14

20141464__

407 relative to the phase as originally permitted.

408 (3) The extension provided under subsection (1) does not
409 apply to:

410 (a) A permit or other authorization under any programmatic
411 or regional general permit issued by the Army Corps of
412 Engineers.

413 (b) A permit or other authorization held by an owner or
414 operator determined to be in significant noncompliance with the
415 conditions of the permit or authorization as established through
416 the issuance of a warning letter or notice of violation, the
417 initiation of formal enforcement, or other equivalent action by
418 the authorizing agency.

419 (c) A permit or other authorization, if granted an
420 extension, that would delay or prevent compliance with a court
421 order.

422 (4) Permits extended under this section shall continue to
423 be governed by the rules in effect at the time the permit was
424 issued, except if it is demonstrated that the rules in effect at
425 the time the permit was issued would create an immediate threat
426 to public safety or health. This provision applies to any
427 modification of the plans, terms, and conditions of the permit
428 which lessens the environmental impact, except that any such
429 modification does not extend the time limit beyond 2 additional
430 years.

431 (5) This section does not impair the authority of a county
432 or municipality to require a property owner that has notified
433 the county or municipality of the owner's intent to receive the
434 extension of time granted pursuant to this section to maintain
435 and secure his or her property in a safe and sanitary condition

18-01156C-14

20141464__

436 in compliance with applicable laws and ordinances.

437 (6) The holder of a valid permit or other authorization
438 that is extended by operation of this section shall notify the
439 authorizing agency in writing by December 31, 2014, identifying
440 the specific authorization or permit to which the extension
441 applies and notifying the local government of the anticipated
442 timeframe for acting on the authorization or permit. The
443 extension granted by this section is self-executing, subject
444 only to the holder providing the notice required by this
445 section. Accordingly, a county or municipality may not assess a
446 fee or processing charge as a condition of receipt of the
447 extension.

448 Section 17. This act shall take effect July 1, 2014.