

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 230

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Artiles

SUBJECT: Nonnative Animals

DATE: February 21, 2017 REVISED: _____

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

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 230 requires the Fish and Wildlife Conservation Commission (commission) to establish a pilot program to mitigate the impact of priority invasive species on public lands or waters of the state. The commission is required to submit a report of its recommendations and findings regarding the pilot program by January 1, 2020.

Additionally, the commission is required to identify nonnative animals that threaten the state's wildlife habitats. A pet dealer before any animal identified by the commission is sold, resold, or offered for sale must implant such animal with a passive integrated transponder tag.

The bill provides for an appropriation from the Land Acquisition Trust Fund of \$300,000 annually during both the 2017-2018 Fiscal Year and the 2018-2019 Fiscal Year, for a total appropriation of \$600,000.

II. Present Situation:

Nonnative Species

Pursuant to s. 9, Art. IV of the State Constitution, the commission exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.¹ These powers include authority with respect to the control and management of nonnative

¹ Fla. Const. Art. IV, s. 9.

species.² Nonnative species are animals living outside captivity and which are not historically present in the state.³ More than 500 fish and wildlife nonnative species have been observed in Florida.⁴ Some nonnative species cause harm to native species, pose a threat to human health and safety, and cause economic damage.⁵

It is unlawful to import for sale or use, or to release within the state, any species not native to Florida unless authorized by the commission.⁶ Section 379.372, F.S., prohibits the following species from being kept, possessed, imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use:

- Burmese or Indian python;
- Reticulated python;
- Northern African python;
- Southern African python;
- Amethystine or scrub python;
- Green Anaconda;
- Nile Monitor; and
- Any other reptile designated as a conditional or prohibited species by the commission.⁷

The commission has designated by rule the red-eared turtle as a conditional species and the sea snake as a prohibited species.⁸ Conditional nonnative snakes and lizards are not authorized to be acquired for personal possession.⁹ A reptile dealer, public exhibitor, researcher, or nuisance trapper may apply for a permit to import or possess conditional nonnative snakes and lizards.¹⁰ Conditional nonnative snakes and lizards must be kept indoors or in outdoor enclosures with a fixed roof and must be permanently identified with a passive integrated transponder (PIT) tag, also known as a microchip.¹¹ Owners of such species must submit a Captive Wildlife Disaster and Critical Incident Plan to the commission and must maintain records of their inventory.¹²

The Argentine Black and White Tegu (*Tupinambis merianae*), commonly referred to as a tegu, is a large species of lizard that can grow up to four feet in length and is native to South America.¹³ Tegus are not innately aggressive but have sharp teeth, strong jaws, and sharp claws which they will use to defend themselves if threatened.¹⁴ Tegus are an invasive species and have known

² Fish and Wildlife Conservation Commission (FWC), *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

³ FWC, *What is a nonnative species?*, <http://myfwc.com/wildlifehabitats/nonnatives/what-are-nonnatives/> (last visited Feb. 13, 2017).

⁴ FWC, *Florida's Exotic Fish and Wildlife*, <http://myfwc.com/wildlifehabitats/nonnatives/> (last visited on Feb. 13, 2017).

⁵ *Id.*

⁶ Section 379.231, F.S.

⁷ Section 379.372(2)(a), F.S.

⁸ Fla. Admin. Code R. 68-5.002; Fla. Admin. Code R. 68-5.003.

⁹ FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Feb. 13, 2017).

¹⁰ Fla. Admin. Code R. 68-5.001(3)(e); see FWC, *Conditional Snakes and Lizards*,

<http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Feb. 13, 2017).

¹¹ *Id.*

¹² *Id.*

¹³ FWC, *Tegus in Florida*, <http://myfwc.com/media/2380549/Tegu-brochure.pdf> (Aug. 2015) (last visited Feb. 13, 2017).

¹⁴ *Id.*

breeding populations in Miami-Dade and Hillsborough counties.¹⁵ The tegu causes harm to native species by disturbing alligator and crocodile nests and consuming their eggs, and utilizing gopher tortoise burrows and consuming juvenile gopher tortoises.¹⁶ The tegu is not designated as a conditional or prohibited species.¹⁷ However, a person must possess a license from the commission to sell a tegu.¹⁸ In south Florida tegus are mainly found on private lands and lands managed by other agencies; tegus are not commonly found on lands managed by the commission.¹⁹ In Hillsborough County tegus are found mostly on public conservation land that is managed by the county or in state parks.²⁰

The commission is currently working with other agencies and organizations to assess the threat of the tegu and develop management strategies.²¹ The commission has found that the best method for removing tegus is by trapping.²² One strategy being used by the commission, in coordination with the University of Florida, Miami-Dade County, and the United States Geological Survey, is targeted trapping and removal. The goal of these partnerships is to minimize the impact of tegus on native wildlife and natural areas.²³ Over 4,000 tegus have been removed from the wild in the last five years, primarily in Miami-Dade County.²⁴ A limited number of commercial wildlife operators are available to trap and remove tegus for homeowners or on other private lands.²⁵

The lionfish (*Pterois volitans* and *Pterois miles*) is the only marine nonnative species with an established population in Florida.²⁶ The lionfish population has rapidly grown since their introduction into the coastal waters of southern Florida around 30 years ago.²⁷ Lionfish do not have any significant predators off Florida's coasts and can tolerate a wide range of temperatures, salinities, and depths.²⁸ They are able to consume prey that is more than half of their own length and have venomous spines they use for defense.²⁹ Lionfish consume a wide variety of fish and invertebrates, which greatly alters the populations of native marine species and impacts recreational and commercial fishing in Florida.³⁰

¹⁵ *Id.*

¹⁶ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁷ *Id.*

¹⁸ *Id.*; see s. 379.3761, F.S.

¹⁹ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

²⁰ *Id.*

²¹ FWC, *Tegus in Florida*, <http://myfwc.com/media/2380549/Tegu-brochure.pdf> (Aug. 2015) (last visited Feb. 13, 2017).

²² *Id.*

²³ *Id.*

²⁴ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

²⁵ *Id.*

²⁶ FWC, *Nonnative Marine Species*, <http://myfwc.com/wildlifehabitats/nonnatives/marine-species/> (last visited Feb. 21, 2017).

²⁷ FWC, *Lionfish: Be the Predator!*, available at <http://myfwc.com/media/4039504/LionfishBrochure.pdf> (last visited Feb. 21, 2017).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

The importation of live lionfish or hybrids or eggs thereof is prohibited.³¹ Live lionfish imported from outside the state after August 1, 2014, may not be sold, offered, for sale, bartered, or otherwise exchanged.³² A recreational fishing license is not required for harvesting lionfish by divers if the following gear is used:

- Hand-held net;
- Pole spear;
- Hawaiian sling; or
- Any other spearing device specifically designed and exclusively marketed for lionfish.³³

Additionally, there is no minimum size limits, closed seasons, or bag limits for harvesting lionfish.³⁴

Nonnative Species Management

Removal Permit Program

Pursuant to Rule 68A-9.002, F.A.C., the commission authorizes individuals to remove Burmese pythons and other conditional reptiles on the Holey Land, Rotenberger, and Everglades and Francis S. Taylor wildlife management areas.³⁵ Under the year-round program, qualified applicants may obtain a removal permit at no cost to eradicate nonnative reptiles from these wildlife management areas.³⁶ To qualify an applicant must successfully complete an online training course.³⁷ One hundred and twenty-nine individuals have obtained this permit.³⁸ The program is not considered a hunting program, rather it is a management tool that aims to collect data on the locations of such reptiles.³⁹

All conditional reptiles and tegus are authorized to be collected under the permit.⁴⁰ Snakes may be captured by hand or with hand-held equipment, such as tongs or snake hooks. When a permit holder captures a reptile under the program he or she must report the location and take a digital picture of the animal. Captured reptiles may be euthanized onsite by legal and humane means or deposited alive at a drop off site designated by the commission. Any captured reptile is taken to the University of Florida Research and Education Center, where the stomach contents are

³¹ Fla. Admin. Code R. 68-5.005.

³² *Id.*

³³ Fla. Admin. Code R. 68B-5.006.

³⁴ *Id.*; FWC, *Lionfish: Be the Predator!*, available at <http://myfwc.com/media/4039504/LionfishBrochure.pdf> (last visited Feb. 21, 2017).

³⁵ Fla. Admin. Code R. 68A-15.064; FWC, *Burmese Python Removal Program*, <http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/> (last visited Feb. 13, 2017); and FWC, *Python Permit Program, Frequently Asked Questions*, <http://myfwc.com/wildlifehabitats/nonnatives/python/faqs/permit-faqs/> (last visited Feb. 13, 2017).

³⁶ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁷ FWC, *Burmese Python Removal Program*, <http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/> (last visited Feb. 13, 2017).

³⁸ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁹ FWC, *Burmese Python Removal Program*, <http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/> (last visited Feb. 13, 2017).

⁴⁰ FWC, *Python Permit Program, Frequently Asked Questions*, <http://myfwc.com/wildlifehabitats/nonnatives/python/faqs/permit-faqs/> (last visited Feb. 13, 2017).

analyzed. All data collected is used by the commission to help control and stop the spread of these invasive species.

Hunting in Wildlife Management Areas

The commission authorizes licensed hunters to harvest conditional nonnative snakes and lizards in the Holey Land, Rotenberger, Everglades and Francis S. Taylor, and the Big Cypress wildlife management areas during hunting seasons established for the taking of game animals or alligators on those areas or during seasons specific for conditional reptiles.⁴¹ The hunters must have a valid hunting license and a wildlife management area permit, and adhere to the regulations specific to each wildlife management area.⁴² To be considered a resident of the state for purposes of hunting a conditional reptile, a person must be a United States citizen who has continuously resided in the state for six months prior to applying for a hunting license.⁴³ Live pythons are not authorized to be removed from the wildlife management areas, but hunters are authorized to keep or sell the skins and meat of the reptiles. The Big Cypress Wildlife Management Area is the only federally owned land where hunting for conditional reptiles is authorized.⁴⁴ Hunting within the Everglades National Park is prohibited by federal law.⁴⁵

The Python Challenge and Python Removal Training

The commission, in coordination with the Fish and Wildlife Foundation of Florida, conducted a Python Challenge in 2013 and 2016. The challenge is designed to raise awareness concerning the potential impacts of nonnative animals, while engaging the public in conservation through invasive species removal. Each participant is required to complete an online training module designed to teach him or her how to identify, locate, and safely and humanely capture Burmese pythons. In the 2016 Python Challenge more than 1,000 people from 29 states registered to take part in the month-long challenge.⁴⁶ One hundred and six snakes were turned in as a result of the 2016 challenge.⁴⁷

Additionally, the commission provides a training program to teach individuals about the control and management of Burmese pythons in the state.⁴⁸ The program provides information related to rules and regulations, permits, python detection, species identification, data reporting, and safe capture techniques. The participants receive a hands-on experience catching wild Burmese pythons. These training programs are held in south and southwest Florida and are free of charge.

⁴¹ Fla. Admin. Code R. 68A-15.064.

⁴² *Id.*

⁴³ Section 379.101(30)(a), F.S.

⁴⁴ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁴⁵ *Id.* at 2.

⁴⁶ Press release, FWC, *With 106 snakes removed, 2016 Python Challenge a success*, Feb. 27, 2016, available at <http://myfwc.com/news/news-releases/2016/february/27/python-awards/> (last visited Feb. 12, 2017).

⁴⁷ *Id.*

⁴⁸ FWC, *Python Patrol*, <http://myfwc.com/wildlifehabitats/nonnatives/python/patrol/> (last visited Feb. 13, 2017).

Lionfish Derby Days and Tournaments

The commission, in coordination with the Fish and Wildlife Foundation of Florida, annually celebrates a weekend of Lionfish Removal and Awareness.⁴⁹ Several festivals and events are held around the state.⁵⁰ In 2016, more than 111,000 lionfish were removed.⁵¹ The FWC is coordinating a Lionfish Challenge and Panhandle Pilot program from May 14, 2016, through May 20, 2017, in Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, and Franklin counties.⁵² For each 100 lionfish harvested, an individual receives a tag to take either a legal-sized red grouper or a legal-sized cobia over the bag limit from state waters.⁵³ As of December 6, 2016, 39 divers have removed 8,975 lionfish under the pilot program.⁵⁴

Public Reporting and Exotic Pet Amnesty

To raise awareness of invasive species the commission provides the public with a reporting hotline, website, and smartphone application. To report nonnative fish or wildlife to the commission, call the invasive species hotline at 888-IVE-GOT1, go to IVEGOT1.org, or download the IVEGOT1 smartphone application.

Additionally, the commission sponsors the Exotic Pet Amnesty Program which is an effort to reduce the number of nonnative species being released into the wild by pet owners who can no longer care for their pets or no longer wish to keep them.⁵⁵ Exotic Pet Amnesty Days are held periodically around the state to provide the opportunity for individuals to surrender their exotic pets free of charge and with no penalty.⁵⁶

Year	Number of Events	Number of Animals surrendered			Running totals
		Events	Hotline	Total	
2006	1	6		6	6
2007	1	50		50	56
2008	2	203		203	259
2009	3	252		252	511
2010	3	132		132	643
2011	2	126	90	216	859
2012	6	279	227	506	1365
2013	7	188	152	340	1705
2014	5	234	235	469	2174
2015	3	223	133	356	2530

⁴⁹ See Reef Rangers, *Lionfish Removal and Awareness Day*, <http://reefrangers.com/event-info/> (last visited Feb. 21, 2017).

⁵⁰ *Id.*; For a list of 2017 Derby Events, see FWC, *Lionfish Derby and Event Calendar*, <http://myfwc.com/fishing/saltwater/recreational/lionfish/events/> (last visited Feb. 21, 2017).

⁵¹ *Id.*

⁵² FWC, *2016 Lionfish Challenge and Panhandle Pilot Program*, <http://myfwc.com/fishing/saltwater/recreational/lionfish/challenge/> (last visited Feb. 21, 2017).

⁵³ *Id.*

⁵⁴ FWC, *Lionfish Challenge Hall of Fame*, <http://myfwc.com/fishing/saltwater/recreational/lionfish/challenge/fame/> (last visited Feb. 21, 2017).

⁵⁵ Fla. Admin. Code R. 68-5.004; see FWC, *Exotic Amnesty Program*, <http://myfwc.com/wildlifehabitats/nonnatives/amnesty-program/> (last visited Feb. 13, 2017).

⁵⁶ *Id.*

Since its creation in 2006, the Exotic Pet Amnesty Program has successfully found adoptive homes for hundreds of surrendered exotic pets.⁵⁷ Finding homes for these animals with pre-approved adopters helps to ensure that they are not released into Florida's natural areas.⁵⁸

Public Procurement Process

Chapter 287, F.S., governs the public procurement of personal property and services. The Florida Department of Management Services is responsible for overseeing state purchasing activity, including professional and commodity and contractual services needed to support agency activities.⁵⁹ The Division of State Purchasing within the Department of Management Services establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.⁶⁰

Contracts for commodities or contractual services in excess of \$35,000 must be procured through a competitive solicitation process.⁶¹ Section 287.058, F.S., outlines the provisions and conditions that must be present in contractual agreements for competitively procured services. The section also provides that a contract may be renewed for a period of time upon satisfactory performance evaluations by the agency and subject to the availability of funds.⁶²

III. Effect of Proposed Changes:

CS/SB 230 requires the Fish and Wildlife Conservation Commission (commission) to establish a pilot program to mitigate the impacts of priority invasive species on the public lands or waters of the state. The bill defines the term "priority invasive species" to include:

- Lizards of the genus *Tupinambis*, also known as Tegu lizards;
- Species listed in s. 379.372(2), F.S., which includes the:
 - Burmese or Indian python;
 - Reticulated python;
 - Northern African python;
 - Southern African python;
 - Amethystine or scrub python;
 - Green Anaconda;
 - Nile Monitor; and
 - Any other reptile designated as a conditional or prohibited species by the commission;⁶³
- *Pterois volitans*, also known as red lionfish; and
- *Pterois miles*, also known as the common lionfish or devil firefish.

⁵⁷ FWC, *Exotic Amnesty Program*, <http://myfwc.com/wildlifehabitats/nonnatives/amnesty-program/> (last visited Feb. 13, 2017).

⁵⁸ *Id.*

⁵⁹ See ss. 287.032 and 287.042, F.S.

⁶⁰ Division of Purchasing rules are published under Chapter 60A of the Florida Administrative Code.

⁶¹ Section 287.057(1), F.S., requires a competitive solicitation process for contracts that exceed the Category Two threshold. Category thresholds are listed in s. 287.017, F.S., which identifies contracts exceeding \$35,000 as Category Two.

⁶² Section 287.058(1)(g), F.S.

⁶³ Section 379.372(2)(a), F.S.

The bill requires the commission to establish a pilot program to mitigate the impact of priority invasive species on the public lands or waters of the state. The goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of these nonnative animals, contain their populations, and eradicate them from the state.

The bill authorizes the commission to enter into contracts, in accordance with the public procurement requirements of the state, with entities or individuals to capture or destroy certain nonnative species found on the public lands or in waters of the state. Any private contracted work performed on public land or in the waters of the state that is not owned or managed by the commission must be performed with the consent of the owner.

Each capture and disposal of a nonnative animal is required to be documented and photographed and the geographic location of the take must be recorded for research purposes. All animals captured but not destroyed in the removal efforts are required to be disposed of at the direction of the commission. The commission is required to submit a report of findings and recommendations regarding the implementation of the pilot program to the Governor and the Legislature by January 1, 2020.

The bill requires the commission to identify by rule nonnative animals that threaten the state's wildlife habitats. Any nonnative animal identified by the commission must be implanted with a passive integrated transponder (PIT) tag before such animal is sold, resold, or offered for sale by a pet dealer. The bill defines the term "pet dealer" to include any person who, in the ordinary course of business, engages in the sale of more than twenty animals per year to the public, including breeders who sell animals directly to the public. The commission is required to establish by rule standards for the types of PIT tags that must be used by pet dealers and the manner in which the tags must be implanted.

The bill provides an appropriation of \$300,000 annually for the next two fiscal years from the Land Acquisition Trust Fund for a total appropriation of \$600,000.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Constitutional Issues:

Section 28, Art. X of the State Constitution requires that 33 percent of net revenues derived from documentary stamp taxes be deposited into the LATF to be used for the acquisition and improvement of land, water areas, and related property interests, together with the management, restoration of natural systems, and enhancement of public access or recreational enjoyment of conservation lands. The bill requires that \$600,000 of the money deposited into the LATF be used to mitigate the impacts of priority invasive species on the public lands or waters of the state. The maintenance and control of exotic and invasive species is a management goal for state-owned lands.⁶⁴

The commission has regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and also regulatory and executive powers of the state with respect to marine life pursuant to s. 9, Art. IV of the State Constitution.⁶⁵ Statutes requiring the commission to regulate nonnative species using certain methods may unconstitutionally usurp the constitutional authority of the commission.

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

None.

B. Private Sector Impact:

The bill authorizes the commission to contract with private entities or individuals to capture or destroy nonnative animals found on public lands or in the waters of the state. This will have a positive indeterminate fiscal impact on the entities or individuals who are awarded such contract bids.

C. Government Sector Impact:

The commission will incur additional costs associated with the pilot program. The commission stated that one or two additional staff positions are necessary to cover the workload required to develop and oversee private contractors and to develop and oversee agreements with other public land managing agencies.⁶⁶ Also, additional staff may be needed for budgeting oversight.⁶⁷ The estimated total cost for the pilot program is indeterminate at this time, but the bill provides an appropriation of \$300,000 over two fiscal years, for a total of \$600,000.

VI. Technical Deficiencies:

None.

⁶⁴ Section 253.034(5), F.S.

⁶⁵ Fla. Const. Art. IV, s. 9; *see Whitehead v. Rogers*, 223 So.2d 330 (Fla. 1969).

⁶⁶ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁶⁷ *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 379.2311 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 21, 2017:

The CS/SB 230 creates a new section of law and expands the pilot program to include lionfish. The CS authorizes rather than requires the commission to contract with entities or private individuals and revises the method of removal from hunting to capturing and destroying. Additionally, the CS/SB 230 requires the commission to adopt rules to identify nonnative species that must have a passive integrated transponder (PIT) tag implanted and establish standards relating to such tags. The CS/SB 230 requires pet dealers to implant any nonnative species identified by the commission with a PIT tag before such animal is sold, resale, or offered for sale.

- B. **Amendments:**

None.