

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 153 Indian River Lagoon State Matching Grant Program

SPONSOR(S): Fine and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 640

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Melkun	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The National Estuary Program (NEP) is a United States Environmental Protection Agency (EPA) place-based program to protect and restore the water quality and ecological integrity of estuaries of national significance. NEPs develop and implement Comprehensive Conservation and Management Plans (CCMPs), which are long-term plans that contain actions to address water quality and living resource challenges and priorities. The NEP challenges and priorities are defined by local, city, state, federal, private, and non-profit stakeholders. The Indian River Lagoon (IRL) was nominated as an estuary of national significance and joined the NEP in 1990 under the sponsorship of the St. Johns River Water Management District (SJRWMD) and the South Florida Water Management District (SFWMD). The IRL's CCMP was published in 1997 and updated in 2008.

The IRL is a biologically diverse estuary that is home to a variety of fish and wildlife. Development has led to harmful levels of nutrients and sediments entering the lagoon as a result of stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, septic systems, and excess fertilizer applications. SJRWMD and local governments have been implementing projects that address water quality issues in the IRL.

The bill establishes the Indian River Lagoon State Matching Grant Program (program) and directs the Department of Environmental Protection (DEP) to use funds received for the program to provide cost-share grants for certain projects identified in the IRL CCMP. Such projects include the upgrade of existing wastewater treatment facilities that provide advanced waste treatment, the expansion of existing wastewater treatment facilities, and the connection of onsite sewage treatment and disposal systems to a central sewer system.

The bill requires each grant to have a minimum 50 percent local match and requires DEP to coordinate with SFWMD and SJRWMD to identify eligible projects and grant recipients.

Beginning January 1, 2021, the bill requires DEP to submit an annual report regarding the projects proposed for or receiving state funding under the program to the Governor, the President of the Senate, the Speaker of the House of Representatives, and each state senator and state representative for the IRL CCMP.

The bill further requires a county or municipal government to submit an annual status report on each project receiving state funding under the program to DEP and the appropriate WMD for inclusion in the consolidated WMD annual report.

The bill may have an insignificant negative fiscal impact on DEP and an indeterminate fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

National Estuary Program (NEP)

The National Estuary Program (NEP) is a United States Environmental Protection Agency (EPA) place-based program to protect and restore the water quality and ecological integrity of estuaries of national significance. Currently, 28 estuaries located along the Atlantic, Gulf, and Pacific coasts and in Puerto Rico are designated as estuaries of national significance. Each NEP focuses within a study area that includes the estuary and surrounding watershed.¹

The 28 NEPs develop and implement Comprehensive Conservation and Management Plans (CCMPs), which are long-term plans that contain actions to address water quality and living resource challenges and priorities. The NEP challenges and priorities are defined by local, city, state, federal, private, and non-profit stakeholders.²

The Indian River Lagoon (IRL) was nominated as an estuary of national significance and joined the NEP in 1990 under the sponsorship of the St. Johns River Water Management District (SJRWMD) and the South Florida Water Management District (SFWMD). The IRL's CCMP was published in 1997 and updated in 2008.³

The Indian River Lagoon

The IRL system runs along 156 miles of Florida's east coast, extending from Ponce de Leon Inlet near New Smyrna Beach in Volusia County to Jupiter Inlet in Martin County.⁴ The IRL system is composed of three main waterbodies: the Mosquito Lagoon, the Banana River, and the Indian River Lagoon.⁵ More than 71 percent of its area and nearly half its length is within Brevard County.⁶ The IRL system is an estuary in which freshwater from uplands and tributaries meets and mixes with saltwater from the ocean to create an estuarine environment.⁷

The IRL is a biologically diverse estuary that is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.⁸ The estimated economic value received from the IRL in 2014 was approximately \$7.6 billion, \$1.57 billion of which was attributable to recreation and visitor-related activity.⁹ Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.¹⁰

Much of the IRL ecosystem has been disturbed by increased development in the area. Development has led to harmful levels of nutrients and sediments entering the lagoon as a result of stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, septic systems, and excess

¹ EPA, *Overview of the National Estuary Program*, available at <https://www.epa.gov/nep/overview-national-estuary-program> (last visited Oct. 2, 2019).

² *Id.*

³ IRL Council, *About the Indian River Lagoon*, available at <http://www.irlcouncil.com/> (last visited Oct. 2, 2019).

⁴ *Id.*

⁵ *Id.*

⁶ Tetra Tech, Inc. & Closewaters, LLC, *Save Our Lagoon Project Plan for Brevard County, Florida* (April 2018), 1, available at <https://www.brevardfl.gov/docs/default-source/save-our-lagoon-documents/final-2018-save-our-indian-river-lagoon-project-plan-update-041218.pdf?sfvrsn=2> (last visited Oct. 2, 2019) (herein *Save Our Lagoon*).

⁷ IRL Council, *About the Indian River Lagoon*, available at <http://www.irlcouncil.com/> (last visited Oct. 2, 2019).

⁸ *Id.*

⁹ Treasure Coast Regional Planning Council, *IRL Economic Valuation Update* (Aug. 26, 2016), ix, available at http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf (last visited Nov. 13, 2019).

¹⁰ IRL National Estuary Program, *Annual Report 2017* (Feb. 26, 2018), 4, available at http://www.irlcouncil.com/uploads/7/9/2/7/79276172/annrpt_final_2-26-18.pdf (last visited Oct. 2, 2019).

fertilizer applications.¹¹ In recent years, there have been recurring brown tides; unusual mortalities of dolphins, manatees, and shorebirds; and large fish kills due to low dissolved oxygen from decomposing algae.¹² In 2011, a phytoplankton algae bloom occurred throughout most of the IRL system, extending from Southern Mosquito Lagoon to just north of the Ft. Pierce Inlet.¹³ This “2011 Superbloom” lasted for seven months and resulted in a massive loss of seagrass coverage.¹⁴

The SJRWMD and local governments have been working to implement projects that address water quality issues in the IRL. Brevard County established the Save Our Indian River Lagoon Project Plan (plan), which outlines local projects planned with the intent to meet water quality restoration targets and improve the health, productivity, aesthetic appeal, and economic value of the lagoon.¹⁵ In 2016, Brevard County passed a referendum, approved by 62.4 percent of voters, to authorize the issuance of a half-cent infrastructure sales tax to pay for a portion of the plan.¹⁶ The sales tax is estimated to generate \$32 million per year.¹⁷

Consolidated Annual Reports

By March 1 of each year, each water management district (WMD) must submit a consolidated annual report to the Governor, the Legislature, and the Department of Environmental Protection (DEP). The WMDs must also provide copies of the report to the chairs of the legislative committees having substantive or fiscal jurisdiction over the WMDs and the governing boards of all county entities having jurisdiction or deriving any funds for operations of the district. The report must also be made available to the public in either a printed or an electronic format.¹⁸

The consolidated annual report includes several legislatively mandated plans and reports regarding the status of water resource programs. The consolidated annual report includes: the Strategic Water Management Plan Annual Work Plan Report; the Minimum Flows and Minimum Water Levels Annual Priority List and Schedule; the Annual Five-Year Capital Improvement Plan; the Alternative Water Supplies Annual Report; the Five-Year Water Resource Development Work Program; the Florida Forever WMD Work Plan Annual Report; the Mitigation Donation Annual Report; the Water Projects in the Five-Year Water Resources Development Work Program; and the Surface Water Improvement and Management Program Annual Report.¹⁹

Effect of the Bill

The bill establishes the Indian River Lagoon State Matching Grant Program (program) and directs DEP to use funds received for the program to provide cost-share grants for certain projects identified in the IRL CCMP. Such projects include the upgrade of existing wastewater treatment facilities that provide advanced waste treatment, the expansion of existing wastewater treatment facilities, and the connection of onsite sewage treatment and disposal systems to a central sewer system. The bill requires each grant to have a minimum 50 percent local match. The bill further requires DEP to coordinate with SFWMD and SJRWMD to identify eligible projects and grant recipients.

¹¹ *Save Our Lagoon* at ix.

¹² *Id.*

¹³ *Id.*

¹⁴ Brian E. Lapointe, Laura W. Herren, David D. Debortoli, Margaret A. Vogel, *Evidence of sewage-driven eutrophication and harmful algae blooms in Florida’s Indian River Lagoon*, (Jan. 28, 2015), available at <http://static.politico.com/27/4c/d449d31440529b9d75d8ac3bb461/2015-study-of-indian-river-lagoon-algae.%202015.pdf> (last visited Oct. 2, 2019).

¹⁵ *Save Our Lagoon* at ix.

¹⁶ Brevard County Supervisor of Elections, *2016 General Election Official Results*, available at <https://enr.electionsfl.org/BRE/1616/Summary/> (last visited Oct. 2, 2019); Brevard County Ordinance 2016-15, *Placing a Referendum on November 8, 2016 Ballot for One-Half Cent Infrastructure Sales Tax to Fund Implementation of the Save Our Lagoon Project Plan* (August 23, 2016), available at <https://www.brevardfl.gov/docs/default-source/countymanager/save-our-lagoon-referendum-election-2016-ordinance-august-23-2016.pdf?sfvrsn=2&sfvrsn=2> (last visited Oct. 2, 2019).

¹⁷ *Save Our Lagoon* at 101.

¹⁸ Northwest Florida WMD, *Consolidated Annual Reports*, available at <https://www.nwfwater.com/Data-Publications/Reports-Plans/Consolidated-Annual-Reports> (last visited Oct. 2, 2019).

¹⁹ Section 373.036(7), F.S.

Beginning January 1, 2021, the bill requires DEP to submit an annual report regarding the projects proposed for or receiving state funding under the program to the Governor, the President of the Senate, the Speaker of the House of Representatives, and each state senator and state representative for the IRL CCMP areas. The projects identified for state funding consideration must include a priority ranking based on the most cost-effective pollutant reduction projects for each listed project, the estimated cost of each listed project, the estimated completion date of each listed project, and the source and amount of financial assistance to be provided for the project. The report must also include the implementation status of each project receiving state funding.

The bill requires a county or municipal government to submit an annual status report on each project receiving state funding under the program to DEP and the appropriate WMD for inclusion in the consolidated WMD annual report.

B. SECTION DIRECTORY:

Section 1 Creates s. 373.4594, F.S., to create the program.

Section 2 Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an insignificant negative fiscal impact on DEP that can be absorbed within existing resources for administering the program and providing an annual report to the Governor and the Legislature.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on local governments that receive grants to upgrade existing facilities, expand existing facilities, and connect onsite sewage treatment and disposal systems to central sewer systems.

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on local governments that apply for grants due to the requirement that each grant received be supported by a minimum 50 percent local match.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.