

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 976

INTRODUCER: Environment and Natural Resources Committee and Senator Brodeur

SUBJECT: Study of the Little Wekiva River

DATE: March 23, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Anderson</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 976 requires the Department of Environmental Protection (DEP), in consultation with the St. Johns River Water Management District (SJRWMD), Seminole County, the Fish and Wildlife Conservation Commission (FWCC), and the Department of Transportation (DOT), to conduct a study and issue a report by December 31, 2021, to identify the source of sediment accumulation in the Little Wekiva River and detail improvements to the water quality and ecology of the area which might be achieved by efforts to remove accumulated sediments by appropriate means, restore the natural river channel, remove invasive plants, and implement protective measures. The report must include an estimated cost for each improvement and potential funding sources. The bill authorizes local or state agencies or their contractors to conduct restoration efforts during the study period.

The bill requires the DEP and the SJRWMD to review any permits north of State Road 436 where the Little Wekiva River is identified as the “receiving waters” to assess whether a permittee is in violation of permit conditions, take appropriate action to resolve compliance issues, and remediate any impacts related to sedimentation in the Little Wekiva River and its adjacent wetland habitat.

The bill requires permitting agencies to levy all fines authorized by law commensurate with restoration costs if a permittee or their contractors is found to be in violation of a permit condition for a project that has had an accumulation of sediments or caused ecological harm to the Little Wekiva River.

The DEP has estimated the cost of the study to be approximately \$500,000.

The bill is effective July 1, 2021.

II. Present Situation:

Wekiva River System

The Wekiva River begins at the junction of Wekiwa Spring Run and Rock Springs Run and runs north for 15 miles.¹ It is a Florida and National Scenic and Wild River,² an Outstanding Florida Water,³ and a state designated paddling trail.⁴ The Little Wekiva River, Blackwater Creek, and more than 30 springs contribute their waters to the Wekiva River as it winds its way north.⁵ The Wekiva River Basin is a complex ecological system of rivers, springs, seepage areas, lakes, streams, sinkholes, wetland prairies, hardwood hammocks, pine flatwoods, and sand pine scrub communities.⁶ The superb ecological condition of the Wekiva River Basin supports many species of plant and animal life, some of which are endangered, threatened, or of special concern.⁷

The Little Wekiva River is a tributary to the Wekiva River. It is approximately 15 miles long, and its main stem flows northward from Lake Lawne in Orlando.⁸ Its stream course consists of a combination of channelized ditches, lakes, incised channel reaches and meandering wetland flow until its confluence with the Wekiva River.⁹ According to the 2005 Little Wekiva River Watershed Management Plan, the Little Wekiva River has experienced chronic occurrences of sedimentation from the urbanization of the river's watershed which has overtaxed the conveyance and sediment transport capacity of the river.¹⁰

Wekiva River Protection Act

In 1988, the Florida Legislature passed the Wekiva River Protection Act and declared the Wekiva River Protection Area as a natural resource of state and regional importance.¹¹ The act requires the river's surrounding counties to amend their comprehensive plans and land

¹ Department of Environmental Protection (DEP), *Wekiva River Aquatic Preserve*, <https://floridadep.gov/rcp/aquatic-preserve/locations/wekiva-river-aquatic-preserve> (last visited Feb. 18, 2021).

² National Wild and Scenic Rivers System, *Florida*, <https://www.rivers.gov/florida.php> (last visited Feb. 18, 2021).

³ Section 258.39(30), F.S.; Fla. Admin. Code R. 62-302.700.

⁴ DEP, *Florida's Designated Paddling Trails*, <https://floridadep.gov/PaddlingTrails> (last visited Feb. 18, 2021).

⁵ DEP, *Wekiva River Aquatic Preserve*, <https://floridadep.gov/rcp/aquatic-preserve/locations/wekiva-river-aquatic-preserve> (last visited Feb. 18, 2021).

⁶ National Wild and Scenic Rivers System, *Wekiva River, Florida*, <https://www.rivers.gov/wekiva.php> (last visited Feb. 18, 2021).

⁷ *Id.*

⁸ Seminole County, *Seminole County Water Atlas*, <http://www.seminole.wateratlas.usf.edu/macro/waterbody.aspx?wbodyid=1013> (last visited Feb. 18, 2021).

⁹ St. Johns River Water Management District (SJRWMD), *Little Wekiva River Watershed Management Plan* (Nov. 2005), available at http://www.orange.wateratlas.usf.edu/upload/documents/Basinreport_LittleWekiva_ExecSumm.pdf.

¹⁰ *Id.* at ES-3.

¹¹ Sections 369.301-369.309, F.S. See 369.307(3), F.S.

development rules to deter wetlands losses, promote protection of wildlife and their habitats, and provide long-term protection for the area.¹² A small portion of the Little Wekiva River Basin is within this protection area, namely the area of the basin that is to the north of State Road 434 and to the west of Markham Woods Road.¹³ The map below shows the Wekiva River Protection Area.¹⁴



Seminole County Little Wekiva River Restoration Project

Seminole County has proposed a project to maintain and restore the Little Wekiva River in a proposed area that is approximately 7,000 linear feet in length and 20 acres.¹⁵ The proposed area is shown in the map below. The project is intended to address excess accumulated sediments and vegetation that are causing the river to expand into the flood plain. Proposed project activities include harvesting invasive plant islands, removing deposited sediments within the river, re-contouring historic meanders, and replanting with beneficial native plant species.¹⁶

Seminole County is leading the project and coordinating with local residents, the St. Johns River Water Management District, the DEP, the FWCC, the DOT, Orange County, the City of Altamonte Springs, United States Representative Stephanie Murphy, Florida Audubon, and the Friends of the Wekiva River.¹⁷

¹² Sections 369.301-369.309, F.S. See SJRWMD, *Little Wekiva River Watershed Management Plan* (Nov. 2005), available at http://www.orange.wateratlas.usf.edu/upload/documents/Basinreport_LittleWekiva_ExecSumm.pdf.

¹³ *Id.*

¹⁴ SJRWMD, *Wekiva River Protection Area*, <https://data-floridaswater.opendata.arcgis.com/maps/edit?content=floridaswater%3A%3Awekiva-river-protection-area-sjrwmd> (last visited Feb. 18, 2021).

¹⁵ *Seminole County*, *Little Wekiva River Restoration Project* (undated memo) (on file with the Senate Committee on Environment and Natural Resources).

¹⁶ *Id.*

¹⁷ *Id.*

Seminole County estimates that the project will cost \$1,650,000 and is seeking matching funds for the restoration project with local and state partners, the DEP and water management district grants, and local sales tax funding.¹⁸



Environmental Resource Permits

Florida's environmental resource permit (ERP) program regulates activities involving the alteration of surface water flows.¹⁹ An ERP authorizes new development or construction activities to occur in a manner that will prevent flooding, manage surface water, and protect water quality, wetlands, and other surface waters from stormwater pollution.²⁰ Unless specifically exempt or below permitting thresholds, anyone proposing construction of new facilities, such as residential, commercial, governmental or institutional, or anyone proposing work in, on, or over wetlands or other surface waters, must obtain an ERP prior to beginning construction.²¹ Construction requiring an ERP includes dredging or filling; dams, impoundments, docks or other structures; and stormwater management systems.²²

The ERP program is implemented by the DEP, the water management districts, and certain delegated local government programs. The ERP rule criteria are designed to protect water quantity, water quality, and wetland functions. An applicant must:

¹⁸ *Id.*

¹⁹ DEP, *Environmental Resource Permitting Online Help*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/environmental-resource-0> (last visited Mar. 2, 2021).

²⁰ St. Johns River Water Management District, *Permitting*, <https://www.sjrwmd.com/permitting/#about-erps> (last visited Mar. 2, 2021).

²¹ *Id.*

²² MyFlorida.com, *Florida's Water Permitting Portal*, <http://flwaterpermits.com/typesofpermits.html> (last visited Mar. 2, 2021).

- Provide reasonable assurance that state water quality standards will not be violated and the activity is not contrary to public interest;
- Demonstrate that the development is not harmful to the water resources or inconsistent with the overall objectives of the appropriate water management district or the DEP; and
- Have a plan for implementing performance-based erosion and sediment control BMPs, which must be installed and maintained in accordance with specified manuals.²³

If wetland or other surface water impacts will occur, mitigation is usually required to offset adverse impacts to wetland or other surface water functions.²⁴ The DEP is authorized to issue administrative penalties under s. 403.121, F.S., for violations of the ERP permitting process.

III. Effect of Proposed Changes:

The bill requires the DEP, in consultation with the St. Johns River Water Management District, Seminole County, the FWCC, and the DOT, to conduct a study and issue a report by December 31, 2021, to identify the source of sediment accumulation in the Little Wekiva River and detail improvements to the water quality and ecology of the area which might be achieved by efforts to remove accumulated sediments by appropriate means, restore the natural river channel, remove invasive plants, and implement protective measures. The report must include an estimated cost for each improvement and potential funding sources.

The bill authorizes local or state agencies or their contractors to conduct restoration efforts during the study period.

The bill requires the DEP and the St. Johns River Water Management District to review any permits north of State Road 436 where the Little Wekiva River is identified as the “receiving waters” to assess whether any permittee is in violation of permit conditions, take appropriate action to resolve compliance issues, and remediate any impacts related to sedimentation in the Little Wekiva River and its adjacent wetland habitat.

The bill requires permitting agencies to levy all fines authorized by law commensurate with restoration costs if a permittee or their contractors is found to be in violation of a permit condition for a project that has had an accumulation of sediments or caused ecological harm to the Little Wekiva River.

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²³ Fla. Admin. Code R. 62-330.301 and 62-330.302; see also DEP, *Environmental Resource Permit Applicant's Handbook Volume 1 (General and Environmental)* (eff. June 1, 2018), available at https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf.

²⁴ St. Johns River Water Management District, *Permitting*, <https://www.sjrwmd.com/permitting/#about-erps> (last visited Mar. 2, 2021).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Environmental Protection estimates the cost of the study to be approximately \$500,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of law.

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 Environment and Natural Resources on March 2, 2021:

- Revises the purpose of the study required under the bill to detail improvements to the water quality and ecology of the Little Wekiva River area which might be achieved by certain efforts.
- Authorizes local or state agencies or their contractors to conduct restoration efforts during the time the study is being completed.
- Requires the DEP and the water management districts to review permits north of State Road 436 where the Little Wekiva River is identified as the receiving waters to assess whether the permittee is in violation of any permit conditions, take appropriate action to resolve compliance issues, and remediate any impacts from sedimentation.
- Authorizes permitting agencies to levy all fines authorized by law commensurate with restoration costs on a permittee or contractors found to be in violation of a permit condition for a project that has had an accumulation of sediments or caused ecological harm to the Little Wekiva River.

B. Amendments:

None.