

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 Appropriations

BILL: CS/CS/SB 976

INTRODUCER: Appropriations Committee; Environment and Natural Resources Committee; and Senator Brodeur

SUBJECT: Protection of Ecological Systems

DATE: April 21, 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>Reagan</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 976 creates “The Florida Wildlife Corridor Act” and provides legislative findings and purposes, and defines terms, for the act. The bill requires the Department of Environmental Protection (DEP) to encourage and promote various measures of investing in and protecting the Florida Wildlife Corridor.

The bill requires the St. Johns River Water Management District (SJRWMD), in consultation with the DEP, 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, that includes information and updates regarding the implementation of recommendations from the Little Wekiva Watershed Management Plan Final Report. The bill identifies what information is to be included in the report.

The bill requires the DEP and the SJRWMD to review any permits north of State Road 436 to assess whether a permittee is in violation of permit conditions and take appropriate action to resolve compliance issues.

The DEP and the SJRWMD shall review known permit violations that have occurred since 2018 and attempt to determine what effects such violations may have had on sediment accumulation in 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:

Wildlife Corridors

Wildlife corridors enable animals to safely travel in order to find mates, food, and shelter. This mobility results in increased genetic diversity within the species population and ensures a species' resistance to issues such as disease, genetic mutations due to inbreeding, and potential extinction.¹ Human development has resulted in many habitats becoming fragmented, creating blockades such as residential areas, industrial parks, and roads.² Wildlife corridors are sections of land that connect two or more wildlife habitats together and allow animals to avoid roads and other developments.³ Florida's wildlife corridor encompasses about 17 million acres, including almost 10 million acres of conservation lands.⁴

Wekiva River System

The Wekiva River begins at the junction of Wekiwa Spring Run and Rock Springs Run and runs north for 15 miles.⁵ It is a Florida and National Scenic and Wild River,⁶ an Outstanding Florida Water,⁷ and a state designated paddling trail.⁸ The Little Wekiva River, Blackwater Creek, and more than 30 springs contribute their waters to the Wekiva River as it winds its way north.⁹ 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.¹⁰ 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.¹¹

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.¹² Its stream course consists of a combination of channelized ditches, lakes, incised channel reaches and meandering wetland flow

¹ Ersi, *Importance of Wildlife Corridors*,

<https://www.arcgis.com/apps/Cascade/index.html?appid=6b87112414f84c8392c842dabab9f9a1> (last visited Apr. 18, 2021).

² *Id.*

³ University of Florida, *Connecting Nature to Nature: Wildlife Corridors*, <http://blogs.ifas.ufl.edu/pinellasco/2015/04/03/connecting-nature-to-nature-wildlife-corridors/> (last visited Apr. 18, 2021).

⁴ Florida Wildlife Corridor, *What's at Stake?*, <https://florida.wildlifecorridor.org/> (last visited Apr. 18, 2021).

⁵ 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).

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

⁷ Section 258.39(30), F.S.; Fla. Admin. Code. R. 62-302.700.

⁸ DEP, *Florida's Designated Paddling Trails*, <https://floridadep.gov/PaddlingTrails> (last visited Feb. 18, 2021).

⁹ DEP, *Wekiva River Aquatic Preserve*, <https://floridadep.gov/rcp/aquatic-preserve/locations/wekiva-river-aquatic-preserve> (last visited Feb. 18, 2021).

¹⁰ National Wild and Scenic Rivers System, *Wekiva River, Florida*, <https://www.rivers.gov/wekiva.php> (last visited Feb. 18, 2021).

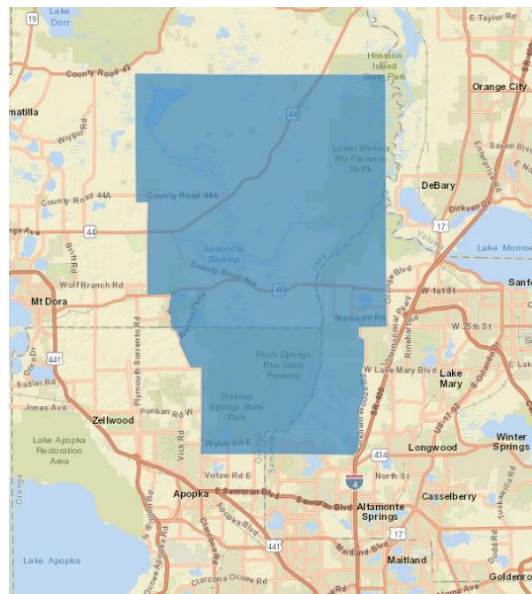
¹¹ *Id.*

¹² Seminole County, *Seminole County Water Atlas*, <http://www.seminole.wateratlas.usf.edu/macro/waterbody.aspx?wbodyid=1013> (last visited Feb. 18, 2021).

until its confluence with the Wekiva River.¹³ 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.¹⁴

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.¹⁵ The act requires the river's surrounding counties to amend their comprehensive plans and land development rules to deter wetlands losses, promote protection of wildlife and their habitats, and provide long-term protection for the area.¹⁶ 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.¹⁷ The map below shows the Wekiva River Protection Area.¹⁸



¹³ 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.

¹⁴ *Id.* at ES-3.

¹⁵ Sections 369.301-369.309, F.S. See 369.307(3), F.S.

¹⁶ 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.

¹⁷ *Id.*

¹⁸ 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).

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.¹⁹ 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.²⁰

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.²¹

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.²²



Environmental Resource Permits

Florida's environmental resource permit (ERP) program regulates activities involving the alteration of surface water flows.²³ An ERP authorizes new development or construction

¹⁹ *Seminole County*, Little Wekiva River Restoration Project (undated memo) (on file with the Senate Committee on Environment and Natural Resources).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ DEP, *Environmental Resource Permitting Online Help*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/environmental-resource-0> (last visited Mar. 2, 2021).

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.²⁴ 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.²⁵ Construction requiring an ERP includes dredging or filling; dams, impoundments, docks or other structures; and stormwater management systems.²⁶

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:

- 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.²⁷

If wetland or other surface water impacts will occur, mitigation is usually required to offset adverse impacts to wetland or other surface water functions.²⁸ 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:

Section 1 of the bill creates s. 259.1055, F.S., and titles it the “Florida Wildlife Corridor Act.” It provides legislative findings that Florida’s population is growing rapidly and that vital wildlife habitat needs to be preserved. The bill provides further legislative findings that the Florida wildlife corridor is an existing physical, geographically defined area that encompasses more than 18 million acres of land, 10 million of which are conservation lands.

The bill provides that the purpose of this act is to create incentives for conservation and sustainable development while sustaining and conserving green infrastructure by doing all of the following:

- Maintaining wildlife access to the habitats needed to allow for migration of and genetic exchange amongst regional wildlife populations.
- Preventing fragmentation of wildlife habitats.

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

²⁵ *Id.*

²⁶ MyFlorida.com, *Florida’s Water Permitting Portal*, <http://flwaterpermits.com/typesofpermits.html> (last visited Mar. 2, 2021).

²⁷ 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.

²⁸ St. Johns River Water Management District, *Permitting*, <https://www.sjrwmd.com/permitting/#about-erps> (last visited Mar. 2, 2021).

- Protecting the headwater of major watershed, including the Everglades and the St. Johns River.
- Providing ecological connectivity of the lands needed for flood and sea-level rise resiliency and large-scale ecosystem function, such as water management and prescribed burns essential for land management and restoration.
- Preserving and protecting land and waters that are critical to wildlife and the state's groundwater recharge that provide drinking water to most Floridians and maintain the health of downstream estuaries.
- Provide wildlife crossings for the protection and safety of wildlife and the traveling public.
- Help to sustain the state's working ranches, farms, and forests that provide compatible wildlife habitats while sustaining rural prosperity and agricultural production.

The bill provides definitions for:

- "Conserved lands" means federal, state, or local lands owned or managed for conservation purposes, including, but not limited to, federal, state, and local parks; federal and state forests; wildlife management areas' wildlife refuges' military bases and airports with conservation lands; properties owned by land trusts and managed for conservation; and privately owned land with a conservation easement, including, but not limited to, ranches, forestry operations, and groves.
- "Department" means the Department of Environmental Protection.
- "Florida Ecological Greenways Network" (FEGN) is a periodically updated model developed to delineate large connected areas of statewide ecological significance.
- "Florida wildlife corridor" means the conserved lands and opportunity areas defined by the Department of Environmental Protection (DEP) as priority one, two, and three categories of the FEGN.
- "Opportunity area" means those lands and waters within the Florida wildlife corridor which are not conserved lands and the green spaces within the Florida wildlife corridor which lack conservation status, are contiguous to or between conserved lands, and provide an opportunity to develop the Florida wildlife corridor into a statewide conservation network.
- "Wildlife" has the same meaning as in the Wildlife Violator Compact, s. 379.2255, F.S.
- "Wildlife corridor" means a network of connected wildlife habitats required for the long-term survival of and genetic exchange amongst regional wildlife populations which serves to prevent fragmentation by providing ecological connectivity of the land needed to furnish adequate habitats and allow safe movement and dispersal.
- "Wildlife crossing" means a landscape design element that connects two or more patches of wildlife habitat and functions as a safe conduit for wildlife travel.

The bill requires the DEP to:

- Encourage all state, regional, and local agencies that acquire lands, including, but not limited to, the Fish and Wildlife Conservation Commission (FWCC) and the Department of Transportation (DOT), to include in their land buying efforts the acquisition of sufficient legal interest in opportunity areas to ensure the continued viability of the Florida wildlife corridor.
- Encourage investment in conservation easements voluntarily entered into by private landowners to conserve opportunity areas.

- Encourage state land-buying agencies and state land management agencies to consider the conservation of opportunity areas as a multi-phased project for the purpose of listing, acquisition, and management.
- Consider the inclusion of private funds to supplement the state's contribution in its efforts to acquire a fee or less-than-fee interest in lands that contain recognized opportunity areas and conserved lands in the Florida wildlife corridor.
- Seek opportunities to attract new sources of federal funding and to strengthen existing programs to protect and conserve the Florida wildlife corridor.
- Encourage private landowners, through existing and future incentives and liability protections, to continue to allow their private property to be used for the preservation and enhancement of the Florida wildlife corridor.
- Encourage new approaches and novel financing mechanisms for long-term protection of the Florida wildlife corridor, including, but not limited to, public-private partnerships; payments for ecosystem services; blended financing for growth, resilience, and green infrastructure; and support for the sustainable growth of agriculture.
- Encourage state and local agencies with economic and ecotourism development responsibilities to recognize the importance of the Florida wildlife corridor in encouraging public access to wildlife areas and bringing nature-based tourism to local communities and to support acquisition and development activities for preservation and enhancement of the Florida wildlife corridor.
- Encourage private investment in ecotourism focused on the Florida wildlife corridor.
- Encourage the protection, preservation, and enhancement of the natural value of the Florida wildlife corridor for current and future residents of Florida.

The bill provides that this act may not be construed to authorize or affect the use of private property.

Section 2 requires the St. Johns River Water Management District (SJRWMD), in consultation with the DEP, Seminole County, the FWCC, and the DOT, to conduct a study and issue a report by December 31, 2021, that includes information and updates regarding the implementation of recommendations from the Little Wekiva Watershed Management Plan Final Report dated November 2005. The report must include a description of all projects or recommendations included in the report that have been implemented and their completion dates, an analysis of how the projects or recommendations achieved the results included in the report, an analysis of costs for ongoing operation and maintenance of the constructed projects completed, a list of permit violations which may have contributed to sediment buildup north of State Road 436, an analysis of any new projects that may benefit the watershed, and recommendations and cost estimates for future studies or projects that may be necessary to identify new or potentially significant contributors of sediment accumulation in the Little Wekiva River.

The bill requires the DEP and the SJRWMD to immediately review, with the goal of identifying significant contributors of sediment accumulation, any permits which the water management district has determined may have contributed to sediment buildup north of State Road 436 to assess whether the permittee is in violation of any permit conditions.

The bill requires, as part of the review, the DEP and the water management district shall review known violations of such permits since 2018 and attempt to determine, using existing information, what effects such violations may have had on sediment accumulation in the Little Wekiva River.

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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/CS by Appropriations on April 19, 2021:

The committee substitute:

- Revises the title of the bill to be “an act relating to the protection of ecological systems.”
- Creates a new section of the bill, entitled “The Florida Wildlife Corridor Act.”
- Provides legislative findings and purposes, and defines terms, for the act.
- Requires the Department of Environmental Protection (DEP) to take certain actions to encourage support of the Florida wildlife corridor.
- Prohibits a local or state governmental entity from restricting proposed future activities on private property designated within the Florida wildlife corridor boundaries based upon the property’s inclusion in the Florida wildlife corridor area.
- Provides that the Florida Wildlife Corridor Act may not be construed to authorize or affect the use of private property.
- Revises the report required under the bill and requires the St. Johns River Water Management District (SJRWMD) to issue the report.
- Provides that the permit review by the DEP and the SJRWMD be conducted with the goal of identifying significant contributors of sediment accumulation.
- Requires a review of known permit violations as part of the permit review.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
