

WEEK 6 REPORT

// 2020 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA

FEBRUARY 17-21, 2020



// WEEK 6 REPORT

CONTENTS

SB 606 // HB 417

Anchoring Limitation Areas

SB 826 // HB 1329

Marina Evacuations

SB 1450 // HB 1091

Towing and Immobilizing of Vehicles and Vessels

SB 1378 // HB 1407

Anchoring and Mooring of Vessels Outside of Public Mooring Fields

SB 1360 // HB 1067

Florida Endangered and Threatened Species Act

SB 1414 // HB 777

Fish and Wildlife Activities

SB 1786

Vessel Safety

SB 1788

Boating-restricted Areas

SB 1878

Environmental Protection

SB 712

Water Quality Improvements

SB 1382 // HB 1199

Environmental Resource Management

We only have three weeks left in a nine-week Legislative Session. Committees are winding down, and we are anticipating allocations to be released so we can start the budget conference process. The 2020 Legislative Session cannot come to an end without the passage of a balanced budget for the 2020-2021 Fiscal Year.

Marine Industries Association of Florida has had a busy year fending off numerous bills and amendments that could be harmful to the industry. We have had a seat at the table negotiating language on boating bills, as well. This year has been a very busy defensive year. As we enter the seventh week, MIAF appears to be positioned well. Of course, this is a busy year for any and all amendments to be filed, and we must keep our eyes wide open.

Senate Bill 826 regarding Marina Evacuations passed in the Senate Infrastructure and Security Committee as a Committee Substitute. As expected, a negotiated amendment by Boat US passed in this committee. The Senate bill still has to pass Senate Rules Committee. The bill did not make the Senate Rules Committee this week, but Senate Rules Committee has one more meeting on March 3rd.

House Bill 395 regarding Transportation is the bill to watch the next three weeks. This bill currently has the compromise Marina Evacuation language in it. We anticipate the City of St. Petersburg to try and put negotiated language for Senate Bill 1378 in the bill if it is placed on committee agenda. We are also watching this bill for any and all amendments, as it is the perfect vehicle for all things boating. The Senate companion for this bill appears to be SB 7054 regarding Transportation. The Senate Bill is on agenda this week in Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development. This is the last committee of reference. We will continue to monitor for amendments to be filed for committee.

Language from House Bill 1199 relating to Environmental Protection was included in the Proposed Committee Substitute for 712, regarding Water Quality Improvements. This bill prohibits local governments from granting legal rights to natural environments. The bill is now waiting to be placed on the Special Order calendar. We will now watch to see if this language is added to the House Water

Quality Bill, HB 1342.

SB 606 regarding Anchoring Limitation Areas has not been heard since the first week of Session. The House companion, HB 417, has not been heard in its first committee of reference as of the writing of this report. We will continue to watch as the Senate language is available for amendments.

SB 1378 regarding Vessels by Senator Rouson still has two committees of reference. However, the bill is available to be amended to another bill. Potentially, a negotiated version of this bill could be added to the Senate Transportation package in committee. We will continue to watch as the amendment deadline has yet to pass. We are also watching the House Transportation bill that contains marina evacuation language. House Bill 395 is the perfect vehicle to add the Vessel Language in the House. We will continue to keep you updated as House committee agendas are published and amendments are filed.

We are still waiting on budget allocations to be agreed upon so we can begin the budget conference process. Once the budget conference negotiations are complete, the budget must sit on the Legislators desks for seventy two hours before final passage.

That is just a brief summary for your review. We have highlighted several other bills you might be interested in the report. We have also attached a list of all the bills we are tracking for your information. Many of those bills are tagged so we can review potential filed amendments.

We appreciate the opportunity to be your voice in Tallahassee!

A handwritten signature in dark blue ink, appearing to read 'Margaret Timmins', with a large, stylized flourish extending to the right.

Margaret "Missy" Timmins
President
Timmins Consulting, LLC

// ANCHORING LIMITATION AREAS

Senate Bill 606 // Sen. Aaron Bean // Referred to: Environment and Natural Resources; Community Affairs; Rules

House Bill 417 // Rep. Wyman Duggan // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

CS/Senate Bill 606: SB 606 adds the Ortega and Cedar rivers to the list of designated anchoring limitation areas, which restricts the anchoring of a vessel in such areas at night with certain exceptions.

Most Recent Action: Favorable with CS by Environment and Natural Resources; 3 Yeas, 2 Nays

House Bill 417: HB 417 adds the Ortega and Cedar rivers to the list of designated anchoring limitation areas, which restricts the anchoring of a vessel in such areas at night with certain exceptions.

Most Recent Action: Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

// MARINA EVACUATIONS

Senate Bill 826 // Sen. Debbie Mayfield // Referred to: Environment and Natural Resources; Infrastructure and Security; Rules

House Bill 1329 // Rep. Rene Plasencia // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

House Bill 395 // Rep. Alex Andrade // Referred to: Transportation & Infrastructure Subcommittee; Transportation & Tourism Appropriations Subcommittee; State Affairs Committee

826/1329 RELATIONSHIP: *COMPARE*

826/395 RELATIONSHIP: *COMPARE*

CS/CS/Senate Bill 826: CS/CS/SB 826 prohibits, upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane. The CS requires that vessel owners promptly remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport.

If the Coast Guard Captain of the Port sets the port condition to “Yankee”¹ and a vessel owner has failed to remove his or her vessel from the waterway, a marina owner, operator, employee, or agent, is required to remove the vessel, if reasonable, from its slip. The marina owner may charge the vessel owner a reasonable fee for the service of removing the vessel.

The CS provides that a marina owner, operator, employee, or agent may not be held liable for any damage incurred to the vessel from a hurricane and is held harmless from removing the vessel from the waterways. However, the CS does not provide immunity to the marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence when removing a vessel.

Most Recent Action: Favorable with CS by Infrastructure and Security; 7 Yeas, 0 Nays

House Bill 1329: Prohibits vessels under specified weight from remaining in certain marinas that have been deemed not suitable for refuge during hurricane after issuance of hurricane watch or warning for waters of marina; provides for civil penalties.

Most Recent Action: Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

CS/House Bill 395: The bill amends various statutory provisions relating to transportation. In summary, the bill:

- Revises the statutory definition of autocycle to incorporate a reference to federal safety standards;
- Increases the allowable weight of personal delivery devices;
- Authorizes portable radar speed display units to display flashing red and blue lights under certain circumstances;
- Allows the use of flashing lights on vehicles during periods of extreme low visibility on specified roads;
- Authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to waive commercial driver license skill test requirements for qualifying veterans;
- Revises requirements governing the use of tarpaulins and other covers on vehicles hauling agricultural products;

- Authorizes for-hire vehicles to be insured by certain non-admitted carriers and reduces the number of for-hire vehicles required before an owner or lessee may self-insure;
- Requires certain vessels to be removed from marinas located in deepwater seaports during hurricanes, clarifies the amount of the fine that can be assessed in the event certain vessels are not removed, and authorizes the deepwater seaport issuing the evacuation order to impose and collect assessed fines;
- Revises qualification requirements for contractors desiring to bid on certain Department of Transportation (DOT) contracts, including the submission of specified financial statements; and
- Revises the definition of the term “for-hire vehicle” to exclude a certain vehicle.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

Most Recent Action: Favorable with CS by Transportation & Tourism Appropriations Subcommittee; 11 Yeas, 0 Nays;

Attached documents: CS/CS/SB 826 + staff analysis

// ENVIRONMENTAL ENFORCEMENT

Senate Bill 1450 // Sen. Joe Gruters // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Criminal and Civil Justice; Appropriations

House Bill 1091 // Rep. Randy Fine // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

CS/Senate Bill 1450: PCS/CS/SB 1450 makes numerous changes to the penalties for violating Florida’s environmental laws. The bill increases required or maximum environmental penalties in various sections of the Florida Statutes. Most of the changes increase a penalty by 50 percent.

The bill changes the duration that several penalties may run, so that each day during any portion of which certain violations occur constitutes a separate offense. For civil penalties imposed under chapter 403, Florida Statutes, the bill provides that, if the violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a separate offense until the violation is resolved by order or judgement.

The bill would have an indeterminate positive impact on the various revenue streams impacted by the bill. See Section V.

The bill is effective July 1, 2020.

Most Recent Action: Subcommittee Recommendation: Favorable with CS by Appropriations Subcommittee on Criminal and Civil Justice; 7 Yeas, 1 Nay

House Bill 1091: The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land. In accordance with the state's numerous environmental laws, DEP's responsibilities include compliance and enforcement. Violations of Florida's environmental laws can result in damages and administrative, civil, and/or criminal penalties. Several types of violations impose a penalty for each offense, with each day during which a violation occurs constituting a separate offense.

The bill increases various statutory penalties for violations of environmental laws. For violations that currently impose a penalty for each day during which a violation occurs, the bill specifies that each day the violation occurs or is not remediated constitutes a separate offense until the violation is resolved by order or judgment.

The bill may have an indeterminate fiscal impact on state and local governments.

Most Recent Action: Favorable by Agriculture & Natural Resources Appropriations Subcommittee; 9 Yeas, 0 Nays

Attached documents: PCS for CS/SB 1450 + staff analysis

// VESSELS

Senate Bill 1378 // Sen. Darryl Rouson // Referred to: Environment and Natural Resources; Judiciary; Rules

House Bill 1407 // Rep. Jennifer Webb // Referred to: Local, Federal & Veterans Affairs Subcommittee; Business & Professions Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *COMPARE*

Senate Bill 1378: CS/SB 1378:

- Prohibits a vessel operating at slow speed, minimum wake from proceeding at a speed faster than is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.
- Prohibits vessel operators from operating a vessel faster than slow speed, minimum wake upon approaching certain hazardous conditions, including approaching an emergency or construction vessel.
- Provides requirements for an orange flag displayed by a construction vessel or barge to

indicate that it is actively engaged in construction operations.

- Prohibits an owner or responsible party of a vessel at risk of becoming derelict, who has been issued a citation for a second violation for the same vessel, from anchoring or mooring a vessel to, or within 20 feet of, a mangrove or upland vegetation on public lands. The bill authorizes the Fish and Wildlife Conservation Commission (FWC) and other officers to relocate or cause to be relocated at-risk vessels that violate this provision.
- Increases the civil penalties for a vessel deemed at risk of becoming derelict and increases the maximum civil penalties for anchoring or mooring in a prohibited area.
- Creates civil penalties for vessels creating special hazards as specified in the bill.
- Adds to the list of violations resulting in a noncriminal infraction the display of an orange flag when the vessel or barge is not actively engaged in construction operations, and vessels at risk of becoming derelict that are found to be anchored within 20 feet of a mangrove or upland vegetation on public lands.
- Provides specific procedures, including notice and hearing requirements, for lost or abandoned property that is a derelict vessel, a vessel at risk of becoming derelict, or a vessel anchored or moored in a prohibited area.

Most Recent Action: Favorable with CS by Environment and Natural Resources; 5 Yeas, 0 Nays

House Bill 1407: Prohibits operation of vessels at speeds faster than slow speed, minimum wake in hazardous situations; provides requirements for flags displayed from vessels & barges actively engaged in construction operations; prohibits anchoring or mooring of vessel to mangroves & vegetation on public lands; revises civil penalties.

Most Recent Action: Filed

Attached documents: None

// FLORIDA ENDANGERED AND THREATENED SPECIES ACT

Senate Bill 1360 // Sen. Jose Javier Rodriguez // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 1067 // Rep. Adam Hattersley // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 1360: CS/SB 1360 revises the definitions of “endangered species” and “threatened species” in the Florida Endangered and Threatened Species Act to include the impact of climate change as a factor that may jeopardize the survival of certain species of fish and wildlife. The bill requires the Fish and Wildlife Conservation Commission (FWC) to continue to protect endangered or threatened fish and wildlife species as the FWC determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits the FWC from considering the economic cost of protecting a fish or wildlife species as a factor in designating it as endangered or threatened.

The bill requires the Department of Agriculture and Consumer Services (DACS) to consider the impacts of climate change on plant species as part of its four-year review of the Regulated Plant Index. The bill requires the DACS to continue to protect endangered or threatened plant species as the DACS determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits the DACS from considering the economic cost of protecting a plant species as a factor in designating it as endangered or threatened.

The bill has no fiscal impact on state funds and has an effective date of July 1, 2020.

Most Recent Action: Subcommittee Recommendation: Favorable by Appropriations Subcommittee on Agriculture, Environment and General Government; 8 Yeas, 0 Nays

House Bill 1067: Florida Endangered and Threatened Species Act: Directs FWCC & DACS to protect certain declassified species; revises criteria for placement of species on Regulated Plant Index by DACS; prohibits FWCC & DACS from considering certain costs when designating species as endangered or threatened.

Most Recent Action: Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

Attached documents: CS/SB 1360 (as filed) + staff analysis

// FISH AND WILDLIFE ACTIVITIES

Senate Bill 1414 // Sen. Debbie Mayfield // Referred to: Environment and Natural Resources; Agriculture; Rules

House Bill 777 // Rep. Tommy Gregory // Referred to: Agriculture & Natural Resources Subcommittee; Ways & Means Committee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: COMPARE

CS/CS/Senate Bill 1414: CS/SB 1414 broadens the prohibition on the harassment of hunters, trappers, or fishers to include harassment on any public lands, public waters, or publicly or

privately owned wildlife management and fish management areas.

The bill expands the number of free fishing days from 4 to 6.

The bill adds tegus and iguanas to the conditional nonnative snakes and lizards list and tightens the restrictions on the list from applying to possession of these species for sale or personal use to prohibiting any use except for educational, research, or eradication or control purposes.

Most Recent Action: On Committee agenda - Rules, 02/26/20, 9:00 am

PCS for House Bill 777:

Right to Hunt

Under current law, a person may not intentionally, within a publicly or privately owned wildlife management or fish management area or on any state-owned water body: interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

The bill specifies that a person may not intentionally, within or on any public lands or waters, interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

Free Fishing Days

The Fish and Wildlife Conservation Commission (FWC) is authorized to designate up to four days per year as free freshwater fishing days and up to four days per year as free saltwater fishing days. For each free fishing day, any person may fish without a license or permit.

The bill increases the number of free freshwater fishing days that FWC may designate from four days per year to six days per year and the number of free saltwater fishing days that may be designated from four days per year to six days per year.

Conditional Species

Conditional species are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Species designated as conditional nonnative snakes and lizards are prohibited from being kept, possessed, or imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use.

The bill adds the green iguana and the tegu lizard to the conditional nonnative snakes and lizards list.

The bill prohibits a person or entity from keeping, possessing, importing, selling, bartering,

trading, or breeding a species listed as a conditional nonnative snake or lizard except for educational, research, eradication, or control purposes.

The bill specifies that a person or entity who had a documented inventory of green iguanas or tegus on an application for an exhibition or sale license in 2019 and held such license on January 1, 2020, may continue to exhibit or sell green iguanas and tegus commercially for as long as the license remains active.

The bill may have an indeterminate negative fiscal impact to the state.

Most Recent Action: On Committee agenda - Agriculture & Natural Resources Subcommittee, 02/25/20, 10:00 am

Attached documents: CS/CS/SB 1414 + staff analysis; HB 777 (as filed) + proposed committee substitute + staff analysis

// VESSEL SAFETY

Senate Bill 1786 // Sen. Linda Stewart // Referred to: Environment and Natural Resources; Criminal Justice; Rules

Senate Bill 1786: Prohibiting a vessel operator from endangering the life, limb, or property of another person by allowing passengers to ride on the bow of the vessel; providing that careless operation includes causing wake to law enforcement vessels under certain circumstances, etc.

Most Recent Action: Referred to Environment and Natural Resources; Criminal Justice; Rules

Attached documents: None

// BOATING-RESTRICTED AREAS

Senate Bill 1788 // Sen. Linda Stewart // Referred to: Community Affairs; Environment and Natural Resources; Rules

Senate Bill 1788: Authorizing municipalities and counties to establish certain boating-restricted areas by ordinance for areas within a specified distance of any shoreline, etc.

Most Recent Action: Referred to Community Affairs; Environment and Natural Resources; Rules

Attached documents: None

// ENVIRONMENTAL PROTECTION

Senate Bill 1878 // Sen. Rob Bradley // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

CS/Senate Bill 1878: SB 1878 creates a new section of law that includes an annual appropriation, beginning in fiscal year 2020-2021, of a minimum of \$625 million for the purposes of Everglades restoration and the protection of water resources in the state. The appropriation would be repealed on June 30, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill states that the annual appropriation to the Department of Environmental Protection must provide for the following distributions:

- A minimum of \$236 million for Everglades projects in accordance with the Land Acquisition Trust Fund (LATF).
- \$64 million for the Everglades Agricultural Area reservoir project in accordance with LATF.
- \$50 million for springs restoration in accordance with LATF.
- A minimum of \$40 million for alternative water supplies or water conservation.
- A minimum of \$25 million for projects within the watersheds of the St. Johns, Suwannee, and Apalachicola rivers.
- A minimum of \$10 million for the Florida Resilient Coastline Initiative.
- A minimum of \$50 million to the South Florida Water Management District for the design, engineering, and construction of aquifer storage and recovery wells.
- A minimum of \$4 million as delineated in the 2020-2021 GAA for red tide research.

After the above distributions, any remaining balance must be allocated to fund:

- Targeted water quality improvements.
- Alternative water supplies or water conservation.
- Water quality enhancements and accountability, innovative technologies, and harmful algal bloom prevention and mitigation.
- Land acquisition or easement acquisition, including, but not limited to, lands or easements purchased pursuant to the Florida Forever or Rural and Family Lands Protection programs.
- Coral reef protection and restoration.

- Projects within the watersheds of the Indian River Lagoon.

The bill revises the distribution of funds for Everglades projects under the Land Acquisition Trust Fund to allocate \$236 million for those projects. The bill provides that this revision expires on June 30, 2023, when the statutory text reverts to the current language.

Most Recent Action: Favorable with CS by Environment and Natural Resources; 5 Yeas, 0 Nays;

Attached documents: None

// WATER QUALITY IMPROVEMENTS

Senate Bill 712 // Sen. Debbie Mayfield // Referred to: Community Affairs; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

CS/Senate Bill 712: PCS/CS/SB 712 includes recommendations from the Blue-Green Algae Task Force. The major topics in this bill include onsite sewage treatment and disposal systems (OSTDSs, commonly referred to as septic systems), wastewater, stormwater, agriculture, and biosolids. The bill directs the Department of Environmental Protection (DEP) to make rules relating to most of these topics. Note that rules that cost at least \$1 million over the first five years of implementation require legislative ratification.¹ Therefore, several of these provisions may not be fully effectuated without additional legislation.

The DEP will incur indeterminate additional costs in developing multiple new regulatory programs, updating basin management action plans (BMAPs), promulgating rules, and developing, submitting, and reviewing new reports. The DEP can absorb these costs within existing resources. The implementation of the real-time water quality monitoring and wastewater grant programs will have a negative fiscal impact on the DEP, but these provisions are subject to appropriations. See Section V.

Regarding OSTDSs, the bill:

- Transfers the regulation of OSTDSs from the Department of Health (DOH) to the DEP.
- Directs the DEP to adopt rules to locate OSTDSs by July 1, 2022:
 - These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, OSTDS remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;
 - Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.

- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and the Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within BMAPs if the DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.

Regarding wastewater, the bill:

- Creates a wastewater grant program, subject to appropriation, within the DEP that requires a 50 percent local match of funds. Eligible projects include:
 - Projects to upgrade OSTDSs.
 - Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
 - Projects to connect OSTDSs to central sewer facilities.
- Requires the DEP to submit an annual report to the Governor and the Legislature on the projects funded by the wastewater grant program.
- Provides incentives for wastewater projects that promote efficiency by coordinating wastewater infrastructure expansions with other infrastructure improvements.
- Gives priority in the state revolving loan fund for eligible wastewater projects that meet the additional requirements of the bill to prevent leakage, overflows, infiltration, and inflow.
- Requires the DEP to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.
- Authorizes the DEP to require public utilities seeking a wastewater discharge permit to file reports and other data regarding utility costs:
 - Such reports may include data related to expenditures on pollution mitigation and prevention, including the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration.
 - The DEP is required to adopt rules related to these requirements.
- Requires local governments to develop wastewater treatment plans within BMAPs if the DEP determines that domestic wastewater facilities contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.
- Adds to the DEP's penalty schedule a penalty of \$4,000 for failure to survey an adequate portion of a wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration. Substantial compliance with certain bill requirements is evidence in mitigation for penalty assessment.

- Increases the cap on the DEP's administrative penalties from \$10,000 to \$50,000.
- Doubles the wastewater administrative penalties.
- Prohibits facilities for sanitary sewage disposal from disposing of waste into the Indian River Lagoon and its tributaries without providing advanced waste treatment.
- Requires facilities for sanitary sewage disposal to provide for a power outage contingency plan for collection systems and pump stations.
- Requires facilities for sanitary sewage to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate treatment.
 - The bill requires studies, plans, and reports related to this requirement (the action plan).
 - The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys.
- Authorizes certain facilities for sanitary sewage to receive 10-year permits if they are meeting the goals in their action plan for inflow, infiltration, and leakage prevention.
- Makes the following changes relating to water pollution operation permits:
 - The permit must require the investigation or surveying of the wastewater collection system to determine pipe integrity.
 - The permit must require an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule, including any deviation from annual expenditures related to their action plan.
- Requires the DEP to submit an annual report to the Governor and the Legislature that identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The DEP must include with this report certain utility-specific information for each utility that experienced an overflow.

Regarding stormwater, the bill:

- Requires the DEP and the Water Management Districts (WMDs), by January 1, 2021, to initiate rulemaking to update their stormwater rules.
- Requires the DEP, by January 1, 2021, to evaluate inspection data relating to entities that self-certify their stormwater permits and provide the Legislature with recommendations for improvements to the self-certification program.
- Directs the DEP and the Department of Economic Opportunity to include in their model stormwater management program ordinances that target nutrient reduction practices and use green infrastructure.

Regarding agriculture, the bill:

- Requires the Department of Agriculture and Consumer Services (DACS) to collect and provide to the DEP fertilization and nutrient records from each agriculture producer

enrolled in best management practices.

- Requires the DACS to perform onsite inspections of each agricultural producer that enrolls in a best management practice every two years.
- Authorizes the DACS and institutions of higher education with agricultural research programs to develop research plans and legislative budget requests relating to the evaluation and improvement of agricultural best management practices and agricultural nutrient reduction projects.

Regarding biosolids, the bill:

- Requires the DEP to adopt rules for biosolids management.
- Exempts the biosolids rules from legislative ratification if they are adopted prior to the 2021 legislative session.
- Clarifies that local governments with biosolids ordinances may retain those ordinances until repealed.

The bill also creates a real-time water quality monitoring program, subject to appropriation, within the DEP.

The effective date of the bill is July 1, 2021.

Most Recent Action: Favorable with CS by Appropriations; 20 Yeas, 1 Nay

Attached documents: None

// ENVIRONMENTAL RESOURCE MANAGEMENT

Senate Bill 1382 // Sen. Ben Albritton // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 1199 // Rep. Blaise Ingoglia // Referred to: Civil Justice Subcommittee; Agriculture & Natural Resources Subcommittee; Judiciary Committee

HOUSE/SENATE BILL RELATIONSHIP: *COMPARE*

CS/Senate Bill 1382: CS/SB 1382 authorizes basin management action plans (plans that address water quality on a basin-wide level, BMAPs) to include cooperative agricultural regional water quality improvements (agricultural element) and cooperative urban, suburban, commercial, or regional water quality improvements (nonagricultural element), in addition to existing strategies such as best management practices and interim measures. These agricultural and

nonagricultural elements shall be implemented through a cost-sharing program and may be included in a BMAP during the 5-year update.

The bill requires adoption of nonpoint source best management practices (BMPs), interim measures, or other measures adopted by rule within 5 years of adoption of the BMAP or BMAP amendment.

The bill directs the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACs), and the Institute of Food and Agricultural Sciences (IFAS) of the University of Florida to address certain issues related to enhancing BMPs and the agricultural element.

The bill creates a nutrient reduction cost-share program and requires DEP to prioritize certain projects. DEP must submit an annual report to the Governor and Legislature regarding the projects funded by this program.

The bill creates a definition of “rural homesteads,” which would be parcels of 50 acres or less that act as noncommercial homesites. These parcels would not be subject to the nonpoint source requirements in the BMAP unless they were classified as bona fide agricultural lands.

The bill prohibits local governments from providing legal rights to any plant, animal, body of water, or other part of the natural environment unless otherwise specifically authorized by state law or the State Constitution.

Most Recent Action: Favorable with CS by Environment and Natural Resources; 4 Yeas, 0 Nays

House Bill 1199: Florida authorizes a citizen to assert standing to stop an activity that will affect his or her use or enjoyment of air, water, or natural resources. However, court rulings and legislation in the U.S. and worldwide have suggested that specific legal rights of nature may exist, authorizing a person to assert standing on behalf of natural resources.

While U.S. Supreme Court precedent clearly limits standing for environmental claims to only an action causing injury to a human, dissenting opinions suggesting otherwise have recently garnered the attention of environmental activists attempting to assert standing on behalf of the environment, often resulting in lengthy, yet unsuccessful, litigation.

The bill amends the Florida Environmental Protection Act to prohibit, unless otherwise authorized by law or specifically granted in the State Constitution, a local government regulation, ordinance, code, rule, comprehensive plan, charter, or any other provision of law:

- From recognizing or granting any legal right to a plant, animal, body of water, or any other part of the natural environment that is not a person or political subdivision; or
- From granting a person or political subdivision any specific rights relating to the natural environment.

The bill provides that the prohibition on granting rights to nonpersons may not be interpreted to limit:

- The power of an adversely affected party to challenge the consistency of a development order with a comprehensive plan, or to file an action for injunctive relief to enforce the terms of a development agreement or to challenge compliance of the agreement with the Florida Local Government Development Agreement Act; or
- The standing of the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state to maintain an action for injunctive relief as otherwise provided by the EPA.

The bill may prevent costly litigation related to granting rights to natural resources, when current legal precedent suggests such rights may not be granted at the state or local level.

The bill is effective upon becoming law.

Most Recent Action: Favorable by Judiciary Committee; 13 Yeas, 2 Nays

Attached documents: HB 1199 (as filed) + staff analysis

// BOATING-RELATED APPROPRIATIONS

Finally, the Senate and House released their proposed budgets. Below are just a few of the items we are watching for the association:

Senate Budget - SB 2500

1641C GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
GRANTS AND AIDS - CORAL REEF PROTECTION AND RESTORATION

FROM GENERAL REVENUE FUND 10,000,000

1676 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
BEACH PROJECTS - STATEWIDE

FROM LAND ACQUISITION TRUST FUND 50,000,000

From the funds in Specific Appropriation 1676, any remaining unencumbered surplus funds shall be available for beach and inlet management projects in continued priority order, based on readiness to proceed.

1737 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND 10,000,000

From the funds in Specific Appropriation 1737, \$10,000,000 in recurring funds from the General Revenue Fund are provided for the Florida Resilient Coastline Initiative to assist local governments with storm resiliency, sea level rise planning, coastal resilience projects, and coral reef health.

The department shall perform an analysis for each assessment and planning grant provided to local communities during the 2020-2021 fiscal year. The analysis shall include for each grant; an accounting of grant expenditures, descriptions of goals and objectives, and project recommendations and estimated costs of those projects. The analysis shall be submitted to the chair of the Senate Appropriations Committee, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget by October 1, 2020.

1748 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND 1,000,000

1809 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 625,650

1810 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND 3,900,000

1811 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
DERELICT VESSEL REMOVAL PROGRAM

FROM GENERAL REVENUE FUND 1,000,000

FROM MARINE RESOURCES CONSERVATION TRUST FUND 3,727,800

1813 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 1,756,175

FROM STATE GAME TRUST FUND 1,250,000

1882 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM FEDERAL GRANTS TRUST FUND . . .	300,000	
FROM MARINE RESOURCES CONSERVATION TRUST FUND		300,000

1883 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
GRANTS AND AIDS - INNOVATIVE TECHNOLOGY DEVELOPMENT - LIONFISH

FROM GENERAL REVENUE FUND	400,000
-------------------------------------	---------

1641C GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
GRANTS AND AIDS - CORAL REEF PROTECTION AND RESTORATION

FROM GENERAL REVENUE FUND	10,000,000
-------------------------------------	------------

1737 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND	10,000,000
-------------------------------------	------------

From the funds in Specific Appropriation 1737, \$10,000,000 in recurring funds from the General Revenue Fund are provided for the Florida Resilient Coastline Initiative to assist local governments with storm resiliency, sea level rise planning, coastal resilience projects, and coral reef health.

The department shall perform an analysis for each assessment and planning grant provided to local communities during the 2020-2021 fiscal year. The analysis shall include for each grant; an accounting of grant expenditures, descriptions of goals and objectives, and project recommendations and estimated costs of those projects. The analysis shall be submitted to the chair of the Senate Appropriations Committee, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget by October 1, 2020.

1748 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND . . .	1,000,000
--------------------------------------	-----------

1809 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION	TRUST FUND
------------------------------------	----------------------

625,650

1810 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND . . . 3,900,000

1811 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
DERELICT VESSEL REMOVAL PROGRAM

FROM GENERAL REVENUE FUND 1,000,000

FROM MARINE RESOURCES CONSERVATION TRUST FUND 3,727,800

1813 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 1,756,175

FROM STATE GAME TRUST FUND 1,250,000

1882 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM FEDERAL GRANTS TRUST FUND . . . 300,000

FROM MARINE RESOURCES CONSERVATION TRUST FUND 300,000

1883 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
GRANTS AND AIDS - INNOVATIVE TECHNOLOGY DEVELOPMENT - LIONFISH

FROM GENERAL REVENUE FUND 400,000

House Budget - APC 11641 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
GRANTS AND AIDS - WATER QUALITY IMPROVEMENTS

FROM GENERAL REVENUE FUND 122,000,000

The nonrecurring funds in Specific Appropriation 1641 are provided for a grant program to provide up to a 50 percent matching grant to local governmental agencies as defined in section 403.1835, Florida Statutes, for wastewater and stormwater improvements, including septic conversion and remediation. The program supports the efforts of the Blue-Green Algae Task Force consensus findings to address nutrient loads to impaired waterbodies affected by blue-green algae. The Department of Environmental Protection may contract with local governmental agencies to administer the program.

From the nonrecurring funds in Specific Appropriation 1641, \$15,000,000 is provided for projects in the St. Johns River, Suwannee River, and Apalachicola River watersheds, and \$10,000,000 is provided for coral reef ecosystem protection and restoration.

1737 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND 5,500,353

Funds in Specific Appropriation 1737 are provided for the purpose of assisting local governments with sea level rise planning and coastal resilience projects. Funds may also be used for storm resiliency, including the placement of sand to mitigate erosion and ensure public safety, or for the protection of coral reef health, including restoration and monitoring.

1748 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND . . . 1,000,000

1809 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 625,650

1810 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND . . . 3,900,000

1811 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
DERELICT VESSEL REMOVAL PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 3,496,800

1813 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 756,175
FROM STATE GAME TRUST FUND 1,250,000

1882 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM FEDERAL GRANTS TRUST FUND . . .	300,000	
FROM MARINE RESOURCES CONSERVATION TRUST FUND		300,000

1883 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
GRANTS AND AIDS - INNOVATIVE TECHNOLOGY DEVELOPMENT - LIONFISH

FROM GENERAL REVENUE FUND	400,000
-------------------------------------	---------

1906A GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL
OUTLAY GRANTS AND AIDS - FLORIDA AQUARIUM EXPANSION OF THREATENED CORAL ARCHIVE
AND REPRODUCTION

FROM GENERAL REVENUE FUND	250,000
-------------------------------------	---------

From the funds provided in Specific Appropriation 1906A, \$250,000 in nonrecurring funds from the General Revenue Fund is provided for the Florida Aquarium Coral Research Laboratory and Visitors Center (HB 3115).

2020-2021 Governor's Proposed Budget

1641 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND
NONSTATE ENTITIES - FIXED CAPITAL OUTLAY

GRANTS AND AIDS - WATER QUALITY IMPROVEMENTS

FROM GENERAL REVENUE FUND	150,000,000
-------------------------------------	-------------

Funds in Specific Appropriation 1641 are provided for a grant program to provide up to a 50 percent matching grant to local governmental agencies as defined in section 403.1835, Florida Statutes, for wastewater and stormwater improvements, including septic conversion and remediation. This program supports the efforts of the Blue-Green Algae Task Force consensus findings to address nutrient loads to impaired waterbodies affected by blue-green algae. The Department of Environmental Protection may contract with local governmental agencies to administer the program.

From the funds in Specific Appropriation 1641, \$15,000,000 is provided for projects in the St. Johns River, Suwannee River, and Apalachicola River watersheds, and \$10,000,000 is provided for coral reef ecosystem protection and restoration.

1737 SPECIAL CATEGORIES

FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND 5,500,353

Funds in Specific Appropriation 1737 are provided for the purpose of assisting local governments with sea level rise planning and coastal resilience projects. Funds may also be used for storm resiliency, including the placement of sand to mitigate erosion and ensure public safety, or for the protection of coral reef health, including restoration and monitoring.

1748 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND 1,000,000

1800 SPECIAL CATEGORIES

BOAT RAMP MAINTENANCE CATEGORY

FROM FEDERAL GRANTS TRUST FUND 359,466

FROM MARINE RESOURCES CONSERVATION TRUST FUND 67,048

FROM STATE GAME TRUST FUND 143,750

1804 SPECIAL CATEGORIES

BOATING AND WATERWAYS ACTIVITIES

FROM MARINE RESOURCES CONSERVATION TRUST FUND 2,192,

1809 SPECIAL CATEGORIES

BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 625,650

1810 FIXED CAPITAL OUTLAY

BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND 3,900,000

1811 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY

DERELICT VESSEL REMOVAL PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND	2,135,136
---	-----------

1813 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY

FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND	1,756,175
FROM STATE GAME TRUST FUND	1,250,000

1882 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM FEDERAL GRANTS TRUST FUND	300,000
--	---------

FROM MARINE RESOURCES CONSERVATION TRUST FUND	300,000
---	---------

That is just a brief summary for your review. We have highlighted several other bills you might be interested in the report. We have also attached a list of all the bills we are tracking for your information. Many of those bills are tagged so we can review potential filed amendments.

We appreciate the opportunity to be your voice in Tallahassee!

APPENDIX

// ANCHORING LIMITATION AREAS

No attachments

// MARINA EVACUATION

CS/CS/SB 826 + Staff Analysis

// ENVIRONMENTAL ENFORCEMENT

PCS for CS/SB 1450 + Staff Analysis

// VESSELS

No attachments

// FLORIDA ENDANGERED & THREATENED SPECIES ACT

CS/SB 1360 + Staff Analysis

// FISH AND WILDLIFE ACTIVITIES

CS/CS/SB 1414 + Staff Analysis

HB 777 (as filed) + PCS + Staff Analysis

// VESSEL SAFETY

No attachments

// BOATING-RESTRICTED AREAS

No attachments

// ENVIRONMENTAL PROTECTION

No attachments

// WATER QUALITY IMPROVEMENTS

PCS for CS/SB 712 + Staff Analysis

// ENVIRONMENTAL RESOURCE MANAGEMENT

No attachments

// CURRENT BILL TRACKING LIST

By the Committees on Infrastructure and Security; and
Environment and Natural Resources; and Senator Mayfield

596-03774-20

2020826c2

A bill to be entitled

An act relating to marina evacuations; amending s.
327.59, F.S.; prohibiting vessels under a specified
weight from remaining in certain marinas that have
been deemed unsuitable for refuge during a hurricane
after the issuance of a hurricane watch; requiring a
marina owner, operator, employee, or agent to remove
specified vessels under certain circumstances;
providing that such owner, operator, employee, or
agent may charge the vessel owner a reasonable fee for
such removal and may not be held liable for any
damages as a result of such removal; providing
construction; providing that the owners or operators
of certain vessels may be subject to a fine that the
deepwater seaport issuing an evacuation order is
required to impose and collect; providing an effective
date.

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

Section 1. Subsection (1) of section 327.59, Florida
Statutes, is amended, and subsection (5) is added to that
section, to read:

327.59 Marina evacuations.—

(1) Except as provided in this section ~~After June 1, 1994,~~
marinas may not adopt, maintain, or enforce policies pertaining
to evacuation of vessels which require vessels to be removed
from marinas following the issuance of a hurricane watch or
warning, in order to ensure that protecting the lives and safety

596-03774-20

2020826c2

of vessel owners is placed before interests of protecting property.

(5) Upon the issuance of a hurricane watch affecting the waters of marinas located in a deepwater seaport, vessels under 500 gross tons may not remain in the waters of such marinas that have been deemed not suitable for refuge during a hurricane. Vessel owners shall promptly remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport. If the United States Coast Guard captain of the port sets the port condition to "Yankee" and a vessel owner has failed to remove a vessel from the waterway, the marina owner, operator, employee, or agent, regardless of any existing contractual provisions between the marina owner and the vessel owner, shall remove the vessel, or cause the vessel to be removed, if reasonable, from its slip and may charge the vessel owner a reasonable fee for any such services rendered. A marina owner, operator, employee, or agent may not be held liable for any damage incurred to a vessel from a hurricane and is held harmless as a result of such actions to remove the vessel from the waterways. Nothing in this section may be construed to provide immunity to a marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence when removing a vessel pursuant to this section. After the hurricane watch has been issued, the owner or operator of any vessel that has not been removed from the waterway of the marina, pursuant to an order from the deepwater seaport, may be subject to a fine, which must be imposed and collected by the deepwater seaport that issued the evacuation order if assessed, in an amount not exceeding three times the cost associated with

596-03774-20

2020826c2

59 removing the vessel from the waterway.

60 Section 2. This act shall take effect July 1, 2020.

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 Infrastructure and Security

BILL: CS/CS/SB 826

INTRODUCER: Infrastructure and Security Committee, Environment and Natural Resources Committee
and Senator Mayfield

SUBJECT: Marina Evacuations

DATE: February 18, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	Fav/CS
2.	Proctor	Miller	IS	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 826 prohibits, upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane. The CS requires that vessel owners promptly remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport.

If the Coast Guard Captain of the Port sets the port condition to “Yankee”¹ and a vessel owner has failed to remove his or her vessel from the waterway, a marina owner, operator, employee, or agent, is required to remove the vessel, if reasonable, from its slip. The marina owner may charge the vessel owner a reasonable fee for the service of removing the vessel.

The CS provides that a marina owner, operator, employee, or agent may not be held liable for any damage incurred to the vessel from a hurricane and is held harmless from removing the vessel from the waterways. However, the CS does not provide immunity to the marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence when removing a vessel.

¹ Gale force winds are predicted to arrive within 24 hours, and the port is closed to inbound traffic and vessel traffic control measures are in effect on vessel movements within the port.

The CS provides that after a watch has been issued, if an owner or operator has not removed the vessel pursuant to an order from the seaport, the owner or operator may be subject to a fine, in an amount not exceeding three times the cost associated with removing the vessel from the waterway.

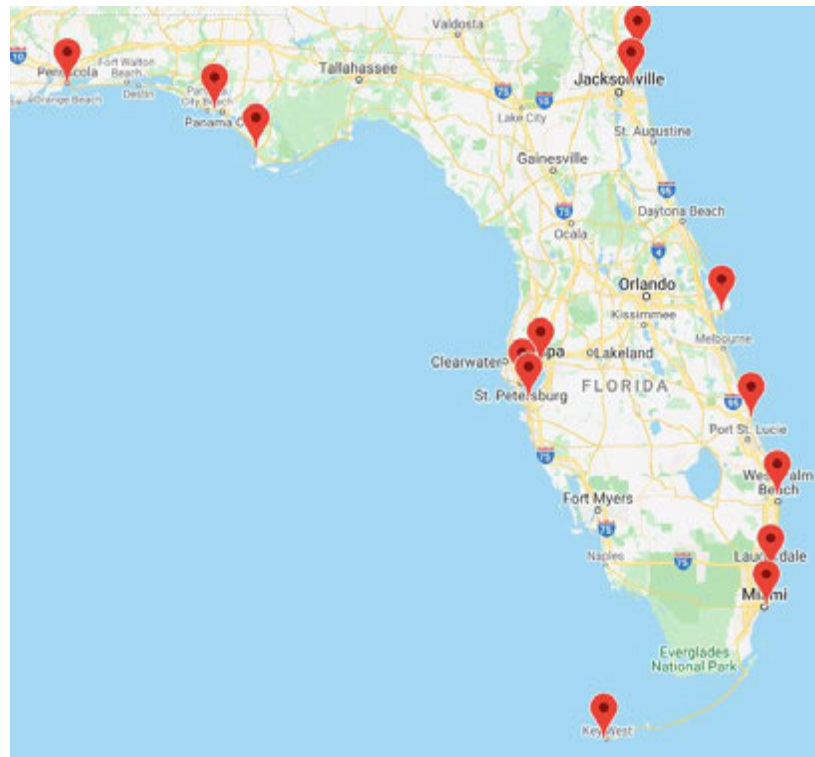
The CS has an effective date of July 1, 2020.

II. Present Situation:

Deepwater Ports in Florida

Under Florida law, a “port” means a port authority or district.² Ports are created by and given authority under general or special law. Each port, in agreement with the United States Coast Guard (Coast Guard), state pilots, and other ports in its operating port area, is required to adopt guidelines for minimum bottom clearance for each berth and channel, for the movement of vessels, and for radio communications of vessel traffic for all commercial vessels entering and leaving its harbor channels.³

There are 14 deepwater seaports in Florida, indicated in the map below:⁴



² Section 313.21, F.S.; *see also* s. 315.02, F.S. “Port authority” means a port authority in Florida created by or pursuant to the provisions of any general or special law or any district or board of county commissioners acting as a port authority under or pursuant to the provisions of any general or special law. “Port district” means any district created by or pursuant to the provisions of any general or special law and authorized to own or operate any port facilities.

³ Section 313.23, F.S.

⁴ Florida Ports Council, *Seaports*, <https://flaports.org/seaports/> (last visited February 12, 2020).

Port Canaveral

One example of a deepwater seaport impacted by the CS is Port Canaveral, which was dedicated on November 4, 1953.⁵ It is a gateway for Central Florida and the world's second busiest cruise port.⁶ Annually, Port Canaveral moves nearly 4 million tons of cargo and sees 4 million cruise passengers.⁷ It also houses United States Army, Navy, and Air Force facilities.⁸ Port Canaveral is a key part of Florida's gasoline supply system. Gasoline and other petroleum products are primarily delivered by marine tankers and barges to the state's ports, including Port Canaveral, where the products are offloaded and later stored and distributed around the state.⁹ Additionally, 200 small businesses ranging from marinas, restaurants, retail, and charter boats currently lease and operate at Port Canaveral.¹⁰

In fiscal year 2018, Port Canaveral reported \$103.8 million in revenues, the highest in its history.¹¹

Canaveral Port Authority

The Canaveral Port District (Port District) was created by the Legislature by special act in 1953, as amended in 2014.¹² It is an independent special taxing district and political subdivision of the state.¹³ The Canaveral Port Authority (Port Authority) has the power to make rules and regulations for the promotion and conduct of navigation, commerce, and industry in the Port District.¹⁴ The Port Authority also has the power to make rules and regulations governing the docking, storing, mooring, and anchoring of vessels within the Port District and to remove all obstacles to navigation, commerce, and industry in the waters of the port.¹⁵

The Port Canaveral Tariff No. 16 provides the current rates, rules, and regulations governing its marine and port services.¹⁶ Anyone who uses the waterways and facilities under the jurisdiction of the Port Authority consents to the terms and conditions of the tariff.¹⁷ According to the tariff, Port Canaveral is not a suitable refuge during hurricanes or tropical storms. All Port Canaveral

⁵ Port Canaveral, *History*, <https://www.portcanaveral.com/About/History> (last visited February 12, 2020).

⁶ Port Canaveral, *Port and Cruise Facts*, <https://www.portcanaveral.com/Cruise/Port-Cruise-Facts> (last visited February 12, 2020).

⁷ *Supra*, note 5.

⁸ Port Canaveral, *About Us*, <https://www.portcanaveral.com/About/> (last visited February 12, 2020).

⁹ Office of Program Policy Analysis and Government Accountability, Florida Legislature, *Feasibility Analysis for Petroleum Distribution Centers*, 11 (Nov. 29, 2018), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/18-PETRO.pdf>.

¹⁰ *Supra*, note 8.

¹¹ Florida Ports Council, *Port Canaveral*, <https://flaports.org/ports/port-canaveral/> (last visited February 12, 2020).

¹² Ch. 2014-241, Laws of Fla. Each special district in existence at the time was required to submit to the Legislature a draft codified charter so that its special acts could be codified into a single act for reenactment by the Legislature.

¹³ Section 189.403(1), F.S., defines a "special district" as a confined local government unit established for a special purpose. The public policy intent of special districts is to provide private and public sectors an alternative governing method to "manage, own, operate, construct and finance basic capital infrastructure, facilities and services."

¹⁴ Art. IV, s. 9 of the Canaveral Port Authority Charter, as amended by Ch. 2014-241, Laws of Fla.

¹⁵ Art. IV, s. 10 of the Canaveral Port Authority Charter, as amended by Ch. 2014-241, Laws of Fla.

¹⁶ Canaveral Port Authority, *Tariff No. 16 – Governing Rates, Rules, & Regulations of the Marine and Port Services*, Rule 520 (Oct. 1, 2019), available at [https://www.portcanaveral.com/getattachment/Tariffs/CPA-Tariff-16-FY20-\(2\).pdf.aspx?lang=en-US](https://www.portcanaveral.com/getattachment/Tariffs/CPA-Tariff-16-FY20-(2).pdf.aspx?lang=en-US).

¹⁷ *Id.*, Rule 100.

waterway tenants and users must comply with evacuation orders and storm preparation directives given by the Port Authority, the Coast Guard, the Brevard County Sheriff's Office, and Canaveral Fire Rescue.¹⁸

The tariff specifically states that recreational and commercial vessels under 500 gross tons are not eligible to remain in Port and must be removed from the waters of the Port, at the expense of the vessel owner or operator, before hurricane condition Zulu is set by the Coast Guard (see discussion below of Hurricane Season Port Conditions and Categories).¹⁹ The Port Authority is authorized to issue penalties to vessel owners or operators in accordance with statutory provisions (see discussion below of Vessel Movements and Penalties for Delay).²⁰

Vessel Movements and Penalties for Delay

Pursuant to Florida law, each port may regulate vessel movements within its jurisdiction, whether involving public or private facilities or areas, by:

- Scheduling vessels for use of berths, anchorages, or other facilities at the port.
- Ordering and enforcing a vessel, at its own expense and risk, to vacate or change position at a berth, anchorage, or facility, whether public or private, in order to facilitate navigation, commerce, protection of other vessels or property, or dredging of channels or berths.
- Designating port facilities for the loading or discharging of vessels.
- Assigning berths at wharves for arriving vessels.²¹

Ports are authorized to establish fees and compensation for the services regulating vessel movements provided by the port.²²

A port may impose and collect a penalty from a vessel that unnecessarily delays in moving under an order to vacate or change position. This penalty may not exceed \$1,000 per hour or fraction thereof, plus 150 percent of the demurrage costs incurred by a waiting vessel, until the order is complied with.²³

Marinas

A marina is a licensed commercial facility that provides secured public moorings or dry storage for vessels on a leased basis.²⁴ There are five marinas within Port Canaveral, with approximately 260 wet slips hosted on Port property for recreational vessels under 500 gross tons.²⁵ This

¹⁸ *Id.*, Rule 520.

¹⁹ *Id.*

²⁰ Section 313.22(3), F.S.

²¹ Section 313.22(1), F.S.

²² Section 313.22(2), F.S.

²³ *Supra*, note 20.

²⁴ Section 327.02(25), F.S.

²⁵ Email from Caitlin Lewis, Government Relations Manager, Canaveral Port Authority, to Senate Environment and Natural Resources Committee (Jan. 22, 2020), available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4857/8671_MeetingPacket_4857.03.20.pdf on page 218-219 (last visited February 12, 2020).

number does not include boats in marina storage within Port property. The map below shows Port Canaveral, including its marina district.²⁶



Marina Evacuations

Storm Condition Effects on Vessels and Marinas

Hurricanes and storm conditions can include high winds, storm surges, wave action, and heavy rainfall.²⁷ These conditions can cause catastrophic damage to marinas and vessels. Vessels that are left in a marina during hurricane and storm conditions can lead to problems in the port, including the inability to secure docks, causing potential damage to infrastructure such as piers, and other harm to persons or property. Weather during a storm event can force a vessel into an obstruction, propel objects into the vessel, or sink or damage a boat.²⁸ A moored vessel can repeatedly collide with a stationary dock, leading to damage to both the vessel and dock. Storm surges can even lift entire floating docks above their pilings or knock boats off their cradles.²⁹

Vessels left in the harbor can also pose navigational issues and cause problems and delays in clearing channels. However, boater preparedness education and preparation can reduce the loss of property for both the vessel owner and others.³⁰ To this end, marinas and ports have an interest in requiring vessel owners to secure their vessels during a storm to prevent damage to persons or property.

Safe Haven

Some marina docking contracts contain “safe haven” or “hurricane” clauses. These clauses provide that, when a hurricane watch is issued, boat owners shall immediately remove their vessels and all personal property from the marina and seek safe haven somewhere else. Failure to

²⁶ *Supra*, note 6.

²⁷ UF/IFAS, *Hurricane Manual for Marine Interest*, available at [https://sfyl.ifas.ufl.edu/media/sfylifasufledu/miami-dade/documents/disaster-preparation/hurricane-and-disaster/HurricaneManual1-\(2\).pdf](https://sfyl.ifas.ufl.edu/media/sfylifasufledu/miami-dade/documents/disaster-preparation/hurricane-and-disaster/HurricaneManual1-(2).pdf) (last visited February 12, 2020).

²⁸ *Id.*; Florida Keys National Marine Sanctuary, *Protect your Boat in a Hurricane: Making a Plan (Part I)*, <https://floridakeys.noaa.gov/whatsnew/around/2015/boathurricane1.html> (last visited February 12, 2020).

²⁹ *Id.*

³⁰ *Supra*, note 27.

comply with this requirement, according to the clauses, will result in the boat owner being liable for all damage to docks, piers, other vessels, or any other property damage directly caused by the owner's vessel or resulting from its presence in the marina.³¹

Marina Evacuation Statute

Florida enacted a law designed to prevent marinas from using safe haven clauses as a basis for recovering their property damage from vessel owners after a hurricane.³² Florida law emphasizes the protection of life over property by prohibiting marinas from requiring vessel owners to remove their vessels from a marina following the issuance of a hurricane watch or warning.³³

However, after a tropical storm or hurricane watch has been issued, a marina owner or operator, or their employee or agent, may take reasonable actions to further secure a vessel within the marina to minimize damage to the vessel and to protect marina property, private property, and the environment.³⁴ The owner or operator may charge a reasonable fee for such services.³⁵ A marina owner may include this in a contractual agreement with a vessel owner.³⁶ Marina owners are not able to be held liable for damage to a vessel from a storm or hurricane, but may be liable for damage due to intentional acts or negligence when removing or securing a vessel.³⁷

Burklow & Associates, Inc. v. Belcher is the only Florida state court decision that specifically mentions Florida's marina evacuation statute.³⁸ A marina owner sued owners of 16 stored vessels for damages allegedly caused by the vessel owners' failure to move their vessels after a hurricane warning was issued as was required by their marina contracts.³⁹ The court upheld the state statute and found that the vessel owners had no duty, contractually or otherwise, to move their vessels following the issuance of a hurricane watch or warning.⁴⁰ The court's analysis pointed to the clear legislative policy "to ensure that protecting lives and safety of vessel owners is placed before interests of protecting property" when a hurricane approaches.⁴¹

Hurricane Season Port Conditions and Categories

Port conditions are set by the Coast Guard Captain of the Port of a sector, or regulated area. Port conditions are explained in the table below.⁴² "Gale force winds" mean winds of 34 knots or 39 miles per hour.

³¹ Mercante, James, *Hurricanes and Act of God: When the Best Defense is a Good Offense*, 18 U.S.F. MAR. L.J. (2006).

³² Ch. 93-211, s. 22, Laws of Fla. (creating s. 327.59, F.S.).

³³ Section 327.59(1), F.S.

³⁴ Ch. 2006-309, s. 2, Laws of Fla. (creating s. 327.59(2), F.S., effective Jul. 1, 2006).

³⁵ *Id.*

³⁶ Ch. 2006-309, s. 2, Laws of Fla. (creating s. 327.59(3), F.S., effective Jul. 1, 2006).

³⁷ Ch. 2006-309, s. 2, Laws of Fla. (creating s. 327.59(4), F.S., effective Jul. 1, 2006).

³⁸ 719 So.2d 31 (Fla. Dist. Ct. App. 1998).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² 33 C.F.R. s. 165.720; 33 C.F.R. 165.781; see also Brazos Pilots Association, *Hurricane Season Port Conditions and Categories*, available at <http://www.brazospilots.com/Hurricane-Season.pdf> (last visited February 12, 2020).

Port Condition	Storm Status	Port Status
Whiskey	Gale force winds are predicted to arrive within 72 hours	Open to all commercial and recreational traffic
X-Ray	Gale force winds are predicted to arrive within 48 hours	Open to all commercial and recreational traffic
Yankee	Gale force winds are predicted to arrive within 24 hours	Closed to inbound traffic and vessel traffic control measures in effect on vessel movements within the port
Zulu	Gale force winds are predicted to arrive within 12 hours	Closed to all inbound and outbound traffic
Recovery	The storm is no longer a threat to the area, but response and recovery operations may be in progress to address damage.	Reopened to outbound traffic at completion of port survey; vessel traffic control measures remain in effect on vessel movements within the port

III. Effect of Proposed Changes:

The CS amends s. 327.59, F.S., to prohibit, upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane.

The CS requires that vessel owners promptly remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport. If the Coast Guard Captain of the Port sets the port condition to “Yankee” and a vessel owner has failed to remove his or her vessel from the waterway, a marina owner, operator, employee, or agent, regardless of any existing contractual provisions between the marina owner and vessel owner, is required to remove the vessel, or cause the vessel to be removed, if reasonable, from its slip. The marina owner may charge the vessel owner a reasonable fee for the service of removing the vessel.

The CS provides that a marina owner, operator, employee, or agent may not be held liable for any damage incurred to the vessel from a hurricane and is held harmless from removing the vessel from the waterways. However, the CS does not provide immunity to the marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence when removing a vessel.

The CS provides that after a hurricane watch has been issued, if an owner or operator of a vessel has not removed the vessel pursuant to an order from the seaport, the owner or operator may be subject to a fine, which must be imposed and collected by the deepwater seaport that issued the evacuation order. The amount of the fine may not exceed three times the cost associated with removing the vessel from the waterway.

The CS provides the bill will take effect July 1, 2020.

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:

Vessel owners may incur increased costs from moving their vessel pursuant to a movement order, from fees charged by a marina owner for the service of moving a vessel, or due to penalties incurred from noncompliance with a movement order.

C. Government Sector Impact:

Ports may see a positive fiscal impact due to increased collection of penalties from vessel owners that do not comply with a movement order and cost savings associated with prevention of damage to port facilities and infrastructure.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This CS substantially amends the following section of the Florida Statutes: 327.59

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 Infrastructure and Security Committee on February 17, 2020:

- Provides that the fine imposed on the vessel owner is limited to three times the removal costs and must be imposed by the deepwater seaport issuing the evacuation order.

CS by Environment and Natural Resources Committee on February 3, 2020:

- Requires that owners of vessels under 500 gross tons remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport;
- Requires a marina owner, operator, employee, or agent to remove a vessel from its slip if the Coast Guard Captain of the Port sets the port condition to “Yankee” and the vessel owner has not removed the vessel from the waterway as required;
- Authorizes the marina owner, operator, employee, or agent to charge the vessel owner a reasonable fee for the service of moving the vessel; and
- Clarifies that a marina owner, operator, employee, or agent may not be held liable for any damage incurred to the vessel from a hurricane or from removing the vessel as required under this section; however, the amendment does not provide immunity to the marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence.

B. Amendments:

None.



594336

576-03905-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to environmental enforcement; amending s. 161.054, F.S.; revising administrative penalties for violations of certain provisions relating to beach and shore construction and activities; making technical changes; amending ss. 258.397, 258.46, and 376.25, F.S.; revising civil penalties for violations of certain provisions relating to the Biscayne Bay Aquatic Preserve, aquatic preserves, and the Clean Ocean Act, respectively; providing that each day that certain violations occur constitutes a separate offense; making technical changes; amending ss. 373.129, 373.209, 376.065, 376.071, 376.16, 377.37, 378.211, 403.086, 403.413, 403.7234, and 403.93345, F.S.; revising civil penalties for violations of certain provisions relating to water resources, artesian wells, terminal facilities, discharge contingency plans for vessels, the Pollutant Discharge Prevention and Control Act, regulation of oil and gas resources, the Phosphate Land Reclamation Act, sewage disposal facilities, dumping litter, small quantity generators, and coral reef protection, respectively; making technical changes; amending ss. 373.430 and 403.161, F.S.; revising criminal penalties for violations of certain provisions relating to pollution and the environment; making technical changes; amending s. 403.121, F.S.; revising civil and



594336

576-03905-20

administrative penalties for violations of certain provisions relating to pollution and the environment; providing that each day that certain violations occur constitutes a separate offense; increasing the amount of penalties that can be assessed administratively; making technical changes; amending s. 403.141, F.S.; revising civil penalties for violations of certain provisions relating to pollution and the environment; providing that each day that the cause of unauthorized discharges of domestic wastewater is not addressed constitutes a separate offense until the violation is resolved by order or judgment; amending ss. 403.726 and 403.727, F.S.; revising civil penalties for violations of certain provisions relating to hazardous waste; making technical changes; creating ss. 125.569 and 166.0481, F.S.; defining the term "sanitary sewer lateral"; encouraging counties and municipalities, respectively, to establish a sanitary sewer lateral inspection program by a specified date; providing parameters for such a program; creating s. 689.301, F.S.; requiring a seller of real property to disclose any known defects in the property's sanitary sewer lateral; defining the term "sanitary sewer lateral"; reenacting s. 823.11(5), F.S., to incorporate the amendment made to s. 376.16, F.S., in a reference thereto; reenacting ss. 403.077(5), 403.131(2), 403.4154(3)(d), and 403.860(5), F.S., to incorporate the amendment made to s. 403.121, F.S., in references thereto; reenacting ss. 403.708(10), 403.7191(7), and



594336

576-03905-20

403.811, F.S., to incorporate the amendment made to s.
403.141, F.S., in references thereto; reenacting s.
403.7255(2), F.S., to incorporate the amendment made
to s. 403.161, F.S., in a reference thereto;
reenacting s. 403.7186(8), F.S., to incorporate the
amendments made to ss. 403.141 and 403.161, F.S., in
references thereto; providing an effective date.

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

Section 1. Subsection (1) of section 161.054, Florida
Statutes, is amended to read:

161.054 Administrative fines; liability for damage; liens.—

(1) In addition to the penalties provided for in ss.
161.052, 161.053, and 161.121, any person, firm, corporation, or
governmental agency, or agent thereof, refusing to comply with
or willfully violating ~~any of the provisions of~~ s. 161.041, s.
161.052, or s. 161.053, or any rule or order prescribed by the
department thereunder, shall incur a fine for each offense in an
amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected
by the department. Each day during any portion of which such
violation occurs constitutes a separate offense.

Section 2. Subsection (7) of section 258.397, Florida
Statutes, is amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(7) ENFORCEMENT. ~~The provisions of~~ This section may be
enforced in accordance with ~~the provisions of~~ s. 403.412. In
addition, the Department of Legal Affairs may ~~is authorized to~~
bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day



594336

576-03905-20

86 against any person, natural or corporate, who violates ~~the~~
87 ~~provisions of~~ this section or any rule or regulation issued
88 hereunder. Each day during any portion of which such violation
89 occurs constitutes a separate offense. Enforcement of applicable
90 state regulations shall be supplemented by the Miami-Dade County
91 Department of Environmental Resources Management through the
92 creation of a full-time enforcement presence along the Miami
93 River.

94 Section 3. Section 258.46, Florida Statutes, is amended to
95 read:

96 258.46 Enforcement; violations; penalty. ~~The provisions of~~
97 This act may be enforced by the Board of Trustees of the
98 Internal Improvement Trust Fund or in accordance with ~~the~~
99 ~~provisions of~~ s. 403.412. However, any violation by any person,
100 natural or corporate, of ~~the provisions of~~ this act or any rule
101 or regulation issued hereunder is shall be further punishable by
102 a civil penalty of not less than \$750 ~~\$500~~ per day or more than
103 \$7,500 ~~\$5,000~~ per day of such violation. Each day during any
104 portion of which such violation occurs constitutes a separate
105 offense.

106 Section 4. Subsections (5) and (7) of section 373.129,
107 Florida Statutes, are amended to read:

108 373.129 Maintenance of actions.—The department, the
109 governing board of any water management district, any local
110 board, or a local government to which authority has been
111 delegated pursuant to s. 373.103(8), is authorized to commence
112 and maintain proper and necessary actions and proceedings in any
113 court of competent jurisdiction for any of the following
114 purposes:



594336

576-03905-20

(5) To recover a civil penalty for each offense in an amount not to exceed \$15,000 ~~\$10,000~~ per offense. Each date during which such violation occurs constitutes a separate offense.

(a) A civil penalty recovered by a water management district pursuant to this subsection shall be retained and used exclusively by the water management district that collected the money. A civil penalty recovered by the department pursuant to this subsection must be deposited into the Water Quality Assurance Trust Fund established under s. 376.307.

(b) A local government that is delegated authority pursuant to s. 373.103(8) may deposit a civil penalty recovered pursuant to this subsection into a local water pollution control program trust fund, notwithstanding ~~the provisions of~~ paragraph (a). However, civil penalties that are deposited in a local water pollution control program trust fund and that are recovered for violations of state water quality standards may be used only to restore water quality in the area that was the subject of the action, and civil penalties that are deposited in a local water pollution control program trust fund and that are recovered for violation of requirements relating to water quantity may be used only to purchase lands and make capital improvements associated with surface water management, or other purposes consistent with the requirements of this chapter for the management and storage of surface water.

(7) ~~To enforce the provisions of~~ part IV of this chapter in the same manner and to the same extent as provided in ss. 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

Section 5. Subsection (3) of section 373.209, Florida



594336

576-03905-20

Statutes, is amended to read:

373.209 Artesian wells; penalties for violation.—

(3) Any person who violates ~~any provision of~~ this section ~~is shall be~~ subject to either:

(a) The remedial measures provided for in s. 373.436; or

(b) A civil penalty of \$150 ~~\$100~~ a day for each and every day of such violation and for each and every act of violation. The civil penalty may be recovered by the water management board of the water management district in which the well is located or by the department in a suit in a court of competent jurisdiction in the county where the defendant resides, in the county of residence of any defendant if there is more than one defendant, or in the county where the violation took place. The place of suit shall be selected by the board or department, and the suit, by direction of the board or department, shall be instituted and conducted in the name of the board or department by appropriate counsel. The payment of any such damages does not impair or abridge any cause of action which any person may have against the person violating ~~any provision of~~ this section.

Section 6. Subsections (2) through (5) of section 373.430, Florida Statutes, are amended to read:

373.430 Prohibitions, violation, penalty, intent.—

(2) A person who ~~Whoever~~ commits a violation specified in subsection (1) is liable for any damage caused and for civil penalties as provided in s. 373.129.

(3) A ~~Any~~ person who willfully commits a violation specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of the third degree, punishable as provided in ss. 775.082(3)(e) and 775.083(1)(g), by a fine of not more than \$50,000 or by



594336

576-03905-20

imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.

(4) A ~~Any~~ person who commits a violation specified in paragraph (1)(a) or paragraph (1)(b) due to reckless indifference or gross careless disregard commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in ss. 775.082(4)(b) and 775.083(1)(g), by a fine of not more than \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

(5) A ~~Any~~ person who willfully commits a violation specified in paragraph (1)(b) or who commits a violation specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in ss. 775.082(4)(a) and 775.083(1)(g), by a fine of not more than \$10,000 or by 6 months in jail, or by both, for each offense.

Section 7. Paragraphs (a) and (e) of subsection (5) of section 376.065, Florida Statutes, are amended to read:

376.065 Operation of terminal facility without discharge prevention and response certificate prohibited; penalty.—

(5)(a) A person who violates this section or the terms and requirements of such certification commits a noncriminal infraction. The civil penalty for any such infraction shall be \$750 ~~\$500~~, except as otherwise provided in this section.

(e) A person who elects to appear before the county court or who is required to so appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$750 ~~\$500~~.



594336

576-03905-20

Section 8. Paragraphs (a) and (e) of subsection (2) of section 376.071, Florida Statutes, are amended to read:

376.071 Discharge contingency plan for vessels.—

(2)(a) A master of a vessel that violates subsection (1) commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

(e) A person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$7,500 ~~\$5,000~~.

Section 9. Section 376.16, Florida Statutes, is amended to read:

376.16 Enforcement and penalties.—

(1) It is unlawful for any person to violate ~~any provision of~~ ss. 376.011-376.21 or any rule or order of the department made pursuant to this act. A violation is ~~shall be~~ punishable by a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day to be assessed by the department. Each day during any portion of which the violation occurs constitutes a separate offense. The penalty provisions of this subsection do ~~shall~~ not apply to any discharge promptly reported and removed by a person responsible, in accordance with the rules and orders of the department, or to any discharge of pollutants equal to or less than 5 gallons.

(2) In addition to the penalty provisions which may apply under subsection (1), a person responsible for two or more discharges of any pollutant reported pursuant to s. 376.12



594336

576-03905-20

within a 12-month period at the same facility commits a noncriminal infraction and shall be cited by the department for such infraction.

(a) For discharges of gasoline or diesel over 5 gallons, the civil penalty for the second discharge shall be \$750 ~~\$500~~ and the civil penalty for each subsequent discharge within a 12-month period shall be \$1,500 ~~\$1,000~~, except as otherwise provided in this section.

(b) For discharges of any pollutant other than gasoline or diesel, the civil penalty for a second discharge shall be \$3,750 ~~\$2,500~~ and the civil penalty for each subsequent discharge within a 12-month period shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this section.

(3) A person responsible for two or more discharges of any pollutant reported pursuant to s. 376.12 within a 12-month period at the same facility commits a noncriminal infraction and shall be cited by the department for such infraction.

(a) For discharges of gasoline or diesel equal to or less than 5 gallons, the civil penalty shall be \$75 ~~\$50~~ for each discharge subsequent to the first.

(b) For discharges of pollutants other than gasoline or diesel equal to or less than 5 gallons, the civil penalty shall be \$150 ~~\$100~~ for each discharge subsequent to the first.

(4) A person charged with a noncriminal infraction pursuant to subsection (2) or subsection (3) may:

(a) Pay the civil penalty;

(b) Post a bond equal to the amount of the applicable civil penalty; or

(c) Sign and accept a citation indicating a promise to



594336

576-03905-20

appear before the county court.

The department employee authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(5) Any person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) After compliance with paragraph (4)(b) or paragraph (4)(c), any person charged with a noncriminal infraction under subsection (2) or subsection (3) may:

(a) Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or

(b) If the person has posted bond, forfeit the bond by not appearing at the designated time and location.

A person cited for an infraction under this section who pays the civil penalty or forfeits the bond has admitted the infraction and waives the right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceeding.

(7) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalties specified in subsection (2). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is proved, the court may impose a civil penalty up to, but not exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or diesel and a civil penalty up to, but not exceeding, \$1,500



594336

576-03905-20

~~\$1,000~~ for each subsequent discharge of gasoline or diesel within a 12-month period.

(8) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalties specified in subsection (2) or subsection (3). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is proved, the court may impose a civil penalty up to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of pollutants other than gasoline or diesel and a civil penalty up to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent discharge of pollutants other than gasoline or diesel within a 12-month period.

(9) At a hearing under this section, the commission of a charged offense must be proved by the greater weight of the evidence.

(10) A person who is found by a hearing official to have committed an infraction may appeal that finding to the circuit court.

(11) Any person who has not posted bond and who neither pays the applicable civil penalty, as specified in subsection (2) or subsection (3) within 30 days of receipt of the citation nor appears before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12) Any person who makes or causes to be made a false statement that ~~which~~ the person does not believe to be true in response to requirements of ~~the provisions of~~ ss. 376.011-376.21 commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



594336

576-03905-20

Section 10. Paragraph (a) of subsection (6) of section 376.25, Florida Statutes, is amended to read:

376.25 Gambling vessels; registration; required and prohibited releases.—

(6) PENALTIES.—

(a) A person who violates this section is subject to a civil penalty of not more than \$75,000 ~~\$50,000~~ for each violation. Each day during any portion of which such violation occurs constitutes a separate offense.

Section 11. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1)(a) Any person who violates ~~any provision of~~ this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1) or to store gas in a natural gas storage facility, or any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or operator is subject to the judicial



594336

576-03905-20

imposition of a civil penalty in an amount of not more than
\$15,000 ~~\$10,000~~ for each offense. However, the court may receive
evidence in mitigation. Each day during any portion of which
such violation occurs constitutes a separate offense. This
section does not ~~Nothing herein shall~~ give the department the
right to bring an action on behalf of any private person.

Section 12. Subsection (2) of section 378.211, Florida
Statutes, is amended to read:

378.211 Violations; damages; penalties.—

(2) The department may institute a civil action in a court
of competent jurisdiction to impose and recover a civil penalty
for violation of this part or of any rule adopted or order
issued pursuant to this part. The penalty may ~~shall~~ not exceed
the following amounts, and the court shall consider evidence in
mitigation:

(a) For violations of a minor or technical nature, \$150
~~\$100~~ per violation.

(b) For major violations by an operator on which a penalty
has not been imposed under this paragraph during the previous 5
years, \$1,500 ~~\$1,000~~ per violation.

(c) For major violations not covered by paragraph (b),
\$7,500 ~~\$5,000~~ per violation.

~~Subject to the provisions of~~ subsection (4), each day or any
portion thereof in which the violation continues shall
constitute a separate violation.

Section 13. Subsection (2) of section 403.086, Florida
Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary



594336

576-03905-20

waste treatment.—

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform shall be punishable by a civil penalty of \$750 ~~\$500~~ for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

Section 14. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(1) Judicial remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than \$15,000 ~~\$10,000~~ per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), it is ~~shall~~ not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has



594336

576-03905-20

failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing prior to the institution of a civil action.

(2) Administrative remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 shall be not less than \$1,000 per day per violation. The department may ~~shall~~ not impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in a notice of violation. The department may ~~shall~~ not have more than



594336

576-03905-20

one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. If the department is unable to effect service by certified mail, the notice of violation may be hand delivered or personally served in accordance with chapter 48. The notice shall specify the ~~provision of the law,~~ rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action, penalty assessment, or damages may be included with the notice. When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived. However, an ~~no~~ order is not ~~shall~~ ~~become~~ effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period constitutes ~~shall constitute~~ a waiver thereof, unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the



594336

576-03905-20

imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages, and the judicial imposition of civil penalties.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. ~~No~~

Administrative penalties should not be imposed unless the department satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent may ~~shall~~ not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by



594336

576-03905-20

contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the initial order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at \$150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is ~~shall be~~ entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An ~~No~~ award of attorney's fees as provided by this subsection may not ~~shall~~ exceed \$15,000.

(g) Nothing herein shall be construed as preventing any



594336

576-03905-20

other legal or administrative action in accordance with law. Nothing in this subsection shall limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of \$50,000 ~~\$10,000~~ for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000 ~~\$10,000~~. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in penalties may be settled in the court action for less than \$50,000 ~~\$10,000~~.

(h) Chapter 120 applies ~~shall apply~~ to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:



594336

576-03905-20

(a) For a drinking water contamination violation, the department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of \$4,500 ~~\$3,000~~.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of \$1,500 ~~\$1,000~~. For a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of \$3,000 ~~\$2,000~~ for an unpermitted or unauthorized discharge or effluent-limitation exceedance. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of \$7,500 ~~\$5,000~~. Each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of \$1,500 ~~\$1,000~~ for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the



594336

576-03905-20

person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida Water, a conservation easement, or a Class I or Class II surface water, plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule does ~~shall~~ not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of \$4,500 ~~\$3,000~~ for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than 5 acres, the department shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does ~~shall~~ not make



594336

576-03905-20

that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does ~~shall~~ not make that person an agent of the owner or tenant.

(e) For solid waste violations, the department shall assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or unauthorized disposal or storage of solid waste; plus \$1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~ if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct or maintain a required stormwater management system.



594336

576-03905-20

(f) For an air emission violation, the department shall assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, ~~plus \$1,000 if the emission results in an air quality violation,~~ plus \$4,500 ~~\$3,000~~ if the emission was from a major source and the source was major for the pollutant in violation; plus \$1,500 ~~\$1,000~~ if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of \$7,500 ~~\$5,000~~ for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely upgrade a storage tank system. The department shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the



594336

576-03905-20

department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), \$7,500 ~~\$5,000~~.

(b) For failure to install, maintain, or use a required pollution control system or device, \$6,000 ~~\$4,000~~.

(c) For failure to obtain a required permit before construction or modification, \$4,500 ~~\$3,000~~.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$3,000 ~~\$2,000~~.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, \$1,500 ~~\$1,000~~.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, \$750 ~~\$500~~.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of \$1,000 ~~\$500~~.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections ~~subsection~~ (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day



594336

576-03905-20

per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of \$3,000 ~~\$2,000~~ or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years prior to the filing of the notice of violation will result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years prior to the filing of the notice of violation will result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years prior to the filing of the notice of violation will result in a 100-percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

(9) The administrative penalties assessed for any particular violation may ~~shall~~ not exceed \$7,500 ~~\$5,000~~ against any one violator, unless the violator has a history of



594336

576-03905-20

noncompliance, the economic benefit of the violation as described in subsection (8) exceeds \$7,500 ~~\$5,000~~, or there are multiday violations. The total administrative penalties may ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsections ~~subsection~~ (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section shall be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3)-(7) may ~~Subsection (3),~~



594336

576-03905-20

~~subsection (4), subsection (5), subsection (6), or subsection (7) shall~~ not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 15. Subsection (1) of section 403.141, Florida Statutes, is amended to read:

403.141 Civil liability; joint and several liability.—

(1) A person who ~~Whoever~~ commits a violation specified in s. 403.161(1) is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than \$15,000 ~~\$10,000~~ per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. If a violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a separate offense until the violation is resolved by order or judgment.

Nothing herein gives ~~shall give~~ the department the right to bring an action on behalf of any private person.

Section 16. Subsections (2) through (5) of section 403.161, Florida Statutes, are amended to read:

403.161 Prohibitions, violation, penalty, intent.—



594336

576-03905-20

(2) A person who ~~Whoever~~ commits a violation specified in subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141.

(3) A ~~Any~~ person who willfully commits a violation specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of the third degree, punishable as provided in ss. 775.082(3)(e) and 775.083(1)(g) by a fine of not more than \$50,000 or by imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.

(4) A ~~Any~~ person who commits a violation specified in paragraph (1)(a) or paragraph (1)(b) due to reckless indifference or gross careless disregard commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in ss. 775.082(4)(b) and 775.083(1)(g) by a fine of not more than \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each offense.

(5) A ~~Any~~ person who willfully commits a violation specified in paragraph (1)(b) or who commits a violation specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor of the first degree punishable as provided in ss. 775.082(4)(a) and 775.083(1)(g) by a fine of not more than \$10,000 or by 6 months in jail, or by both for each offense.

Section 17. Paragraph (a) of subsection (6) of section 403.413, Florida Statutes, is amended to read:

403.413 Florida Litter Law.—

(6) PENALTIES; ENFORCEMENT.—

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic



594336

576-03905-20

feet in volume and not for commercial purposes commits ~~is guilty~~
~~of~~ a noncriminal infraction, punishable by a civil penalty of
\$150 ~~\$100~~, from which \$50 shall be deposited into the Solid
Waste Management Trust Fund to be used for the solid waste
management grant program pursuant to s. 403.7095. In addition,
the court may require the violator to pick up litter or perform
other labor commensurate with the offense committed.

Section 18. Subsection (5) of section 403.7234, Florida
Statutes, is amended to read:

403.7234 Small quantity generator notification and
verification program.—

(5) Any small quantity generator who does not comply with
the requirements of subsection (4) and who has received a
notification and survey in person or through one certified
letter from the county is subject to a fine of between \$75 ~~\$50~~
and \$150 ~~\$100~~ per day for a maximum of 100 days. The county may
collect such fines and deposit them in its general revenue fund.
Fines collected by the county shall be used to carry out the
notification and verification procedure established in this
section. If there are excess funds after the notification and
verification procedures have been completed, such funds shall be
used for hazardous and solid waste management purposes only.

Section 19. Subsection (3) of section 403.726, Florida
Statutes, is amended to read:

403.726 Abatement of imminent hazard caused by hazardous
substance.—

(3) An imminent hazard exists if any hazardous substance
creates an immediate and substantial danger to human health,
safety, or welfare or to the environment. The department may



594336

576-03905-20

institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate an imminent hazard. However, the department is authorized to recover a civil penalty of not more than \$37,500 ~~\$25,000~~ for each day of continued violation. Whenever serious harm to human health, safety, and welfare; the environment; or private or public property may occur prior to completion of an administrative hearing or other formal proceeding that ~~which~~ might be initiated to abate the risk of serious harm, the department may obtain, ex parte, an injunction without paying filing and service fees prior to the filing and service of process.

Section 20. Paragraph (a) of subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates ~~the provisions of~~ this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~ for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the



594336

576-03905-20

department.

Section 21. Subsection (8) of section 403.93345, Florida Statutes, is amended to read:

403.93345 Coral reef protection.—

(8) In addition to the compensation described in subsection (5), the department may assess, per occurrence, civil penalties according to the following schedule:

(a) For any anchoring of a vessel on a coral reef or for any other damage to a coral reef totaling less than or equal to an area of 1 square meter, \$225 ~~\$150~~, provided that a responsible party who has anchored a recreational vessel as defined in s. 327.02 which is lawfully registered or exempt from registration pursuant to chapter 328 is issued, at least once, a warning letter in lieu of penalty; with aggravating circumstances, an additional \$225 ~~\$150~~; occurring within a state park or aquatic preserve, an additional \$225 ~~\$150~~.

(b) For damage totaling more than an area of 1 square meter but less than or equal to an area of 10 square meters, \$450 ~~\$300~~ per square meter; with aggravating circumstances, an additional \$450 ~~\$300~~ per square meter; occurring within a state park or aquatic preserve, an additional \$450 ~~\$300~~ per square meter.

(c) For damage exceeding an area of 10 square meters, \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances, an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per square meter.

(d) For a second violation, the total penalty may be doubled.

(e) For a third violation, the total penalty may be



594336

576-03905-20

tripled.

(f) For any violation after a third violation, the total penalty may be quadrupled.

(g) The total of penalties levied may not exceed \$375,000 ~~\$250,000~~ per occurrence.

Section 22. Section 125.569, Florida Statutes, is created to read:

125.569 Sanitary sewer lateral inspection program.—

(1) As used in this section, the term “sanitary sewer lateral” means a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.

(2) By July 1, 2022, counties are encouraged to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the county’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

(a) Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the county.

(b) Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.

(c) Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any



594336

576-03905-20

persons the county notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 23. Section 166.0481, Florida Statutes, is created to read:

166.0481 Sanitary sewer lateral inspection program.—

(1) As used in this section, the term "sanitary sewer lateral" means a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.

(2) By July 1, 2022, municipalities are encouraged to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the municipality's jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

(a) Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the municipality.

(b) Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.

(c) Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the municipality notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.



594336

576-03905-20

Section 24. Section 689.301, Florida Statutes, is created to read:

689.301 Disclosure of known defects in sanitary sewer laterals to prospective purchaser.—Before executing a contract for sale, a seller of real property shall disclose to a prospective purchaser any defects in the property's sanitary sewer lateral which are known to the seller. As used in this section, the term "sanitary sewer lateral" means the privately owned pipeline connecting a property to the main sewer line.

Section 25. Subsection (5) of s. 823.11, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 376.16, Florida Statutes, in a reference thereto.

Section 26. Subsection (5) of s. 403.077, subsection (2) of s. 403.131, paragraph (d) of subsection (3) of s. 403.4154, and subsection (5) of s. 403.860, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 403.121, Florida Statutes, in references thereto.

Section 27. Subsection (10) of s. 403.708, subsection (7) of s. 403.7191, and s. 403.811, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 403.141, Florida Statutes, in references thereto.

Section 28. Subsection (2) of s. 403.7255, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 403.161, Florida Statutes, in a reference thereto.

Section 29. Subsection (8) of s. 403.7186, Florida Statutes, is reenacted for the purpose of incorporating the amendments made by this act to ss. 403.141 and 403.161, Florida



594336

576-03905-20

985 Statutes, in references thereto.

986 Section 30. This act shall take effect July 1, 2020.

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 Criminal and Civil Justice

BILL: PCS/CS/SB 1450 (594336)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice; Environment and Natural Resources Committee; and Senator Gruters

SUBJECT: Environmental Enforcement

DATE: February 20, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schreiber	Rogers	EN	Fav/CS
2. Dale	Jameson	ACJ	Recommend: Fav/CS
3. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1450 makes numerous changes to the penalties for violating Florida's environmental laws. The bill increases required or maximum environmental penalties in various sections of the Florida Statutes. Most of the changes increase a penalty by 50 percent.

The bill changes the duration that several penalties may run, so that each day during any portion of which certain violations occur constitutes a separate offense. For civil penalties imposed under chapter 403, Florida Statutes., the bill provides that, if the violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a separate offense until the violation is resolved by order or judgement.

The bill would have an indeterminate positive impact on the various revenue streams impacted by the bill. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Environmental Violations

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land.¹ In accordance with the state's numerous environmental laws, the DEP's responsibilities include the compliance and enforcement process.² Violations of Florida's environmental laws can result in damages and administrative, civil, and/or criminal penalties.

Damages

In environmental enforcement, damages should compensate the state for the value of the loss to natural resources caused by the violation.³ The DEP may institute a civil action in court or an administrative proceeding in the Division of Administrative Hearings (DOAH) to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.⁴ Damages can cover the cost of remediating the damage done to the environment, and/or costs incurred by the state in responding to the damage, such as tracing the source, controlling and abating the source, and restoring the environmental resources to their former condition.⁵

Penalties

In addition to damages, a violator can be liable for penalties. Penalties differ from damages in that they are designed to punish the wrongdoer rather than to address the harm caused by the violation.⁶ In environmental enforcement, penalties should create incentives to bring immediate compliance and curb future violations.⁷

Administrative penalties can be levied directly by the agency or in a proceeding in DOAH.⁸ The formal administrative enforcement process is typically initiated by serving a notice of violation, and is finalized through entry of a consent order or final order.⁹ In most administrative proceedings, the DEP has the final decision.¹⁰ An administrative law judge has the final decision for administrative proceedings involving the Environmental Litigation Reform Act, codified in s. 403.121, F.S., which is the primary statute addressing the DEP's administrative penalties.¹¹

¹ DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited February 10, 2020); s. 20.255, F.S.

² See DEP, *Enforcement Manual, Chapter One: DEP Regulatory Enforcement Organization* (2017), available at <https://floridadep.gov/sites/default/files/Chapter%201%20October%202017.pdf> (Last visited February 10, 2020).

³ DEP, *Enforcement Manual, Chapter 6: Judicial Process and Remedies, Collections, and Bankruptcies*, 89 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (Last visited February 10, 2020).

⁴ See s. 403.121, F.S.

⁵ See ss. 403.121 and 403.141, F.S.

⁶ See BLACK'S LAW DICTIONARY 1247 (9th ed. 2009).

⁷ DEP, *Enforcement Manual, Chapter 6: Judicial Process and Remedies, Collections, and Bankruptcies*, 89 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (Last visited February 10, 2020).

⁸ See ch. 120, F.S. The administrative process is formalized in the Administrative Procedure Act.

⁹ DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 58 (2014), available at https://floridadep.gov/sites/default/files/chapter5_0.pdf (Last visited February 10, 2020).

¹⁰ *Id.*

¹¹ *Id.* at 58-59, 66-70; Ch. 2001-258, Laws of Fla.

Compared to the judicial process, the administrative process is generally considered less expensive, faster and less time consuming, and more conducive to negotiated settlement.¹² However, if the DEP is seeking immediate injunctive relief, which compels a party to act or stop acting, an order must be obtained from a court.¹³

The DEP must proceed administratively in cases in which the DEP seeks administrative penalties that do not exceed \$10,000 per assessment.¹⁴ The DEP is prohibited from imposing administrative penalties in excess of \$10,000 in a notice of violation.¹⁵ The DEP may not have more than one notice of violation pending against a party unless the violations occurred at a different site or the violations were discovered by the DEP subsequent to the filing of a previous notice of violation.¹⁶

Civil penalties are noncriminal fines that are generally levied by a court, and which agencies may be authorized to impose.¹⁷ The DEP may pursue two forms of action in state court: a petition to enforce an order previously entered through the administrative process, or a complaint for violations of statutes or rules.¹⁸ Under both forms, the DEP may seek injunctive relief, civil penalties, damages, and costs and expenses.¹⁹ For judicially imposed civil penalties, the DEP is authorized to recover up to \$10,000 per offense, with each day during any portion of which a violation occurs constituting a separate offense.²⁰

A court or an administrative law judge may receive evidence in mitigation, which may result in the decrease or elimination of penalties.²¹

Criminal penalties can include jail/prison time, a criminal fine, or both. Florida law imposes criminal penalties for certain violations of environmental law.²² Punishments for such violations may vary based on standards of intent, such as willful, reckless indifference, or gross careless disregard.²³

This present situation describes the DEP's general authority to levy penalties, largely pursuant to ch. 403, F.S. the DEP derives enforcement authority from several different chapters of Florida law based on subject matter, so the DEP has additional enforcement authority for programs not covered in ch. 403, F.S. Additionally, the Department of Legal Affairs, any political subdivision

¹² DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 59 (2014).

¹³ *Id.* at 59-60.

¹⁴ Section 403.121(2)(b), F.S.; DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 66-67 (2014). This requirement does not apply to underground injection, hazardous waste, or asbestos programs.

¹⁵ Section 403.121(2)(b), F.S.

¹⁶ *Id.*

¹⁷ The Environmental Litigation Reform Act allows DEP to seek civil penalties of up to \$10,000 through the administrative process for most environmental violations. The Act may not be used if penalties exceed \$10,000.

¹⁸ DEP, *Enforcement Manual, Chapter Six: Judicial Process and Remedies, Collections, and Bankruptcies*, 86 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (Last visited February 10, 2020).

¹⁹ *Id.*

²⁰ Section 403.121(1)(b), F.S.

²¹ Section 403.121, F.S.

²² Section 403.161, F.S.

²³ *Id.*

or municipality of the state, or a citizen of the state may maintain an action for injunctive relief against the government entity charged with enforcing environmental laws or the violator of the laws.²⁴

Dredge and Fill Permitting Program

In 2018, the Legislature authorized the DEP to assume responsibility for the federal dredge and fill permitting program under the Clean Water Act, to regulate the discharge of dredged or fill material into Florida's navigable waters.²⁵ Currently, in Florida, the program is jointly implemented by the United States Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (USACE).²⁶ Assumption of the dredge and fill permitting program requires EPA approval. The DEP may adopt any federal requirements, criteria, or regulations necessary to obtain assumption.²⁷ Prior to assuming the program, the DEP must submit various materials to the EPA, including a complete program description, a memorandum of understanding between the state and EPA, a memorandum of understanding between the state and USACE, copies of all applicable statutes and regulations, and more.²⁸ The DEP is still in the process of developing the elements of the program for submission to the EPA.

Regarding enforcement authority, federal regulations require the state to have authority to carry out certain enforcement actions. For example, to assume the program, the DEP must have authority to seek criminal fines of at least \$5,000 per violation against any person who:

- Knowingly makes false statements or representation in any document required under the Clean Water Act, federal regulations, or the state program; or
- Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under a permit.²⁹

The approved maximum criminal fine must be assessable for each violation and, if the violation is continuous, must be assessable in that maximum amount for each day of violation.³⁰ The burden of proof and degree of knowledge or intent required under state law for establishing violations may not be greater than the burden of proof or degree of knowledge or intent EPA must bear when it brings an action under the Clean Water Act.³¹

Florida law provides that it is a violation of part IV of ch. 373, F.S., and ch. 403, F.S., to:

- Knowingly make any false statement or representation in documents required by state law; or
- Falsify, tamper with, or knowingly render inaccurate any monitoring device or method required by state law, rule, or permit.³²

²⁴ Section 403.412, F.S.

²⁵ Chapter 2018-88, Laws of Fla.; s. 373.4146, F.S.; 33 U.S.C. s. 1344(g).

²⁶ 33 U.S.C. s. 1344(a) and (b).

²⁷ Section 373.4146(2) and (5), F.S.

²⁸ 40 C.F.R. ss. 233.10-233.16.

²⁹ 40 C.F.R. s. 233.41(a)(3)(iii).

³⁰ 40 C.F.R. s. 233.41(b)(1).

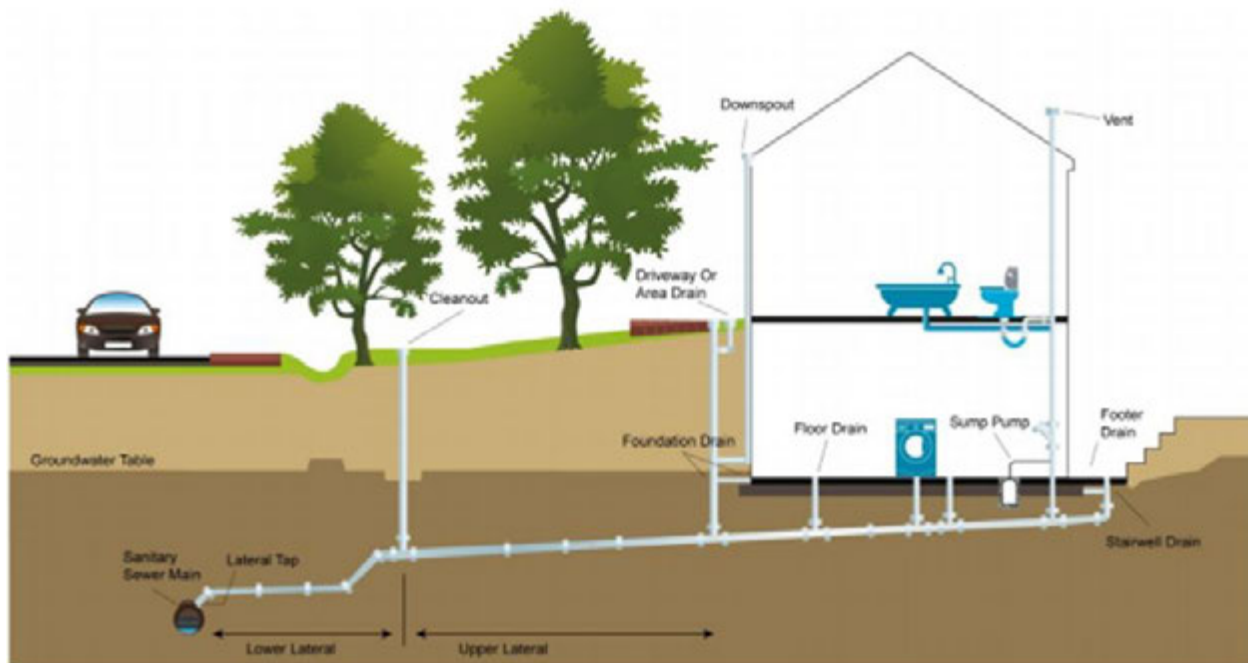
³¹ 40 C.F.R. s. 233.41(b)(2).

³² Sections 373.430(1)(c) and (5) and 403.161(1)(c) and (5), F.S.

The criminal penalties for these violations are fines of up to \$10,000, 6 months in jail, or both.³³ However, the penalty provisions in Florida law apply to “[a]ny person who willfully” commits the violations.³⁴ This application of the “willfully” standard of intent in the state penalties is inconsistent with the requirements in the federal regulations, which do not contain such a standard.

Sanitary Sewer Laterals

A sanitary sewer lateral is the portion of the sewer network connecting individual and private properties to the public sewer system.³⁵ The diagram below shows an example of a sanitary sewer lateral configuration.³⁶



Sanitary sewer laterals are often in poor condition and defects can occur due to aging systems, structural failure, lack of maintenance, or poor construction and design practices.³⁷ Problems in sanitary sewer laterals can have a significant impact on the performance of the sewer system and treatment plan. Private laterals are estimated to contribute to about 40 percent of a system’s infiltration and inflow to sanitary sewers.³⁸ Cracked or broken laterals can allow groundwater

³³ Sections 373.403(5) and 403.161(5), F.S.

³⁴ *Id.*

³⁵ U.S. Environmental Protection Agency, *Private Sewer Laterals* (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>.

³⁶ Water Environment Federation, *Sanitary Sewer Rehabilitation*, 2 (2016), available at <https://www.wef.org/globalassets/assets-wef/direct-download-library/public/03---resources/wsec-2017-fs-009---csc---sewer-rehabilitation---final---9.27.17.pdf>.

³⁷ *Id.* at 1-2.

³⁸ U.S. Environmental Protection Agency, *Private Sewer Laterals*, 2 (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>.

and infiltrating rainwater to enter into the sewer system which, at high levels, can cause problems at the treatment facility or overload the sewers and cause sanitary sewer overflows.³⁹

The Florida Building Code requires that every building in which plumbing fixtures are installed and premises having drainage piping be connected to a publicly owned or investor-owned sewage system, when available, or an approved onsite sewage treatment and disposal system in accordance with the standards for Onsite Sewage Treatment and Disposal Systems found in Chapter 64E-6, Florida Administrative Code.⁴⁰ A building that has plumbing fixtures installed and is intended for human habitation, occupancy, or use on premises abutting on a street, alley, or easement in which there is a public sewer is required to have a separate connection with the sewer.⁴¹

State law is silent on who is responsible for maintaining or replacing defective sanitary sewer laterals. However, certain municipalities, such as Orlando and Tarpon Springs, require that property owners be responsible for the maintenance, operation, or repair of sanitary sewer laterals in their city ordinances.⁴²

Most homeowners lack knowledge and awareness of potential structural issues with their sanitary sewer laterals.⁴³ Sanitary sewer lateral maintenance issues are the leading cause of backups and overflows into municipality-owned collection systems.⁴⁴ Some municipalities have enacted policies to address the matter. For example, the City of Gulfport has implemented rebate or replacement incentives to their citizens. The City of Gulfport's rebate program offers citizens 50 percent of the costs of the replacement up to \$3,500.⁴⁵ The City of St. Petersburg is also looking into a rebate program within a potential city ordinance addressing sanitary sewer laterals in response to the 2015-2016 sewage crisis that released up to one billion gallons of sewage, 200 million gallons of which ended up in Tampa Bay.⁴⁶

Required Disclosures for a Contract for Sale in Florida

Florida law requires sellers to disclose certain information as part of a sale to a prospective buyer before closing, including:

- A sinkhole claim;⁴⁷

³⁹ *Id.* at 4.

⁴⁰ Ch. 7, s. 701.2 Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁴¹ Ch. 7, s. 701.3, Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁴² Ch. 30.02, s. 4.2(k), City of Orlando Code of Ordinances; Chapter 20, article IX, s. 20-110(d), City of Tarpon Springs Code of Ordinances.

⁴³ See U.S. Environmental Protection Agency, *Private Sewer Laterals* (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>.

⁴⁴ U.S. Environmental Protection Agency, *Do You Know the Condition of Your Sewer System* (Oct. 2013) available at <https://www3.epa.gov/region1/sso/pdfs/EPAConditionFactSheetOct2013.pdf>.

⁴⁵ City of Gulfport, *Private Sewer Lateral Replacement Rebate Program* (Apr. 2018), <https://mygulfport.us/lateralrebate/> (last visited Feb. 19, 2020).

⁴⁶ The Tampa Bay Times, *St. Petersburg to Homeowners: Fix Your Broken Sewer Pipes* (Oct.. 2019), <https://www.tampabay.com/news/st-petersburg/2019/10/08/st-petersburg-to-homeowners-fix-your-broken-sewer-pipes/> (last visited Oct. 8, 2019).

⁴⁷ Section 627.7073(2)(c), F.S.

- The potential for coastal erosion;⁴⁸
- Mandatory membership in a homeowner's association;⁴⁹
- Radon gas having been found in buildings in Florida;⁵⁰
- That the buyer should not rely on the seller's current property taxes;⁵¹ and
- Whether subsurface rights have been or will be severed or retained.⁵²

The Florida Statutes do not expressly require sellers of real property to disclose sewer lateral defects, although Florida tort law requires sellers to disclose to buyers known latent material defects that materially affect the property value.⁵³ Notably, sellers must only disclose defects actually known, but not those constructively known, i.e. those that could have been discovered through reasonable inspection.⁵⁴

In Florida, sellers can use the "Seller's Property Disclosure Form"⁵⁵ created by the Florida Association of Realtors, but there is no statutory obligation requiring that the form be completed. Also, a seller is not required to retain a home inspector to discover problems that the seller may not be aware of.

III. Effect of Proposed Changes:

Sections 1 through 21 amend sections of the Florida Statutes containing various penalties for violations of environmental laws. In general, the bill increases the required or maximum penalties in the provisions listed below. In most cases, the penalties are increased by 50 percent.

Several places in existing law impose a penalty for each offense, with each day during any portion of which a violation occurs constituting a separate offense. The bill adds this standard to certain sections, as shown below.

The table below summarizes existing penalties and the penalties as revised by the bill. All penalties are levied by the Department of Environmental Protection (DEP) unless otherwise specified.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
161.054 (1), F.S.	Violating statutes, rules or orders regarding coastal	An administrative fine for each offense of up to \$10,000.	An administrative fine for each offense of up to \$15,000.

⁴⁸ Section 161.57(2), F.S.

⁴⁹ Section 720.401(1), F.S.

⁵⁰ Section 404.056(5), F.S.

⁵¹ Section 689.261, F.S.

⁵² Section 689.29, F.S.

⁵³ *Johnson v. Davis*, 480 So. 2d 625, 629 (Fla. 1985).

⁵⁴ *See id.*; *see also Jensen v. Bailey*, 76 So. 3d 980, 983-984 (Fla. 2d DCA 2011).

⁵⁵ Florida Realtors, *Seller's Property Disclosure- Residential* (2016), available at <http://www.unlimitedmls.com/forms/Property-Disclosure-Form.pdf> (last visited Sept. 13, 2019).

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
	construction or activities		
258.397 (7), F.S.	Violating a statute or rules regarding Biscayne Bay Aquatic Preserve	Authorizes the Department of Legal Affairs to bring an action for civil penalties of \$5,000 per day.	Authorizes the Department of Legal Affairs to bring an action for civil penalties of \$7,500 per day. Each day during any portion of which a violation occurs constitutes a separate offense.
258.46, F.S.	Violating the Florida Aquatic Preserve Act or related rules	A civil penalty of not less than \$500 per day and not more than \$5,000 per day of a violation.	A civil penalty of not less than \$750 per day and not more than \$7,500 per day of a violation. Each day during any portion of which a violation occurs constitutes a separate offense.
373.129 (5), F.S.	Violating ch. 373, F.S., relating to water resources	Authorizes the DEP, any water management district, any local board, or certain local governments ⁵⁶ to recover a civil penalty for each offense, in an amount not to exceed \$10,000 per offense.	Authorizes the DEP, any water management district, any local board, or certain local governments to recover a civil penalty for each offense, in an amount not to exceed \$15,000 per offense.
373.209 (3)(b), F.S.	Violating a statute regarding artesian wells	A civil penalty of \$100 per day for each day of a violation and each act of a violation.	A civil penalty of \$150 per day for each day of a violation and each act of a violation.
373.430 (4) and (5), F.S.	Violating statutes regarding surface waters by causing pollution due to reckless indifference or gross careless disregard	A fine of not more than \$5,000 or 60 days in jail, or both, for each offense: causing certain pollution. A fine of not more than \$10,000, 6 months in jail, or both for willfully committing the following violation: knowingly falsifying required documentation	A fine of not more than \$10,000 or 60 days in jail, or both, for each offense: causing certain pollution; failing to obtain any permit; or violating or failing to comply with any rule, regulation, order, or permit. A fine of not more than \$10,000, 6 months in jail, or both for committing the following violation: knowingly falsifying required documentation or

⁵⁶ Section 373.103(8), F.S. Under certain circumstances, the DEP may authorize a water management district to delegate to a local government by rule or agreement the power and duty to administer and enforce any of the statutes, rules, or regulations relating to stormwater permitting or surface water management which the district is authorized or required to administer.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.	falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.
376.065 (5)(a) and (e), F.S.	Violating a statute regarding terminal facility certifications	<p>A civil penalty of \$500 for any violation of the section or a certification.</p> <p>A civil penalty of \$500 imposed by a county court if commission of the infraction is proved.</p>	<p>A civil penalty of \$750 for any violation of the section or a certification.</p> <p>A civil penalty of \$750 imposed by a county court if commission of the infraction is proved.</p>
376.071 (2)(a) and (e), F.S.	Violations regarding discharge contingency plans for vessels	<p>A civil penalty of \$5,000 for each infraction.</p> <p>A civil penalty of \$5,000 imposed by a county court if commission of the infraction is proved.</p>	<p>A civil penalty of \$7,500 for each infraction.</p> <p>A civil penalty of \$7,500 imposed by a county court if commission of the infraction is proved.</p>
376.16 (1), F.S.	Violating the Pollutant Discharge Prevention and Control Act or the DEP rules or orders	A civil penalty of up to \$50,000 per violation per day.	A civil penalty of up to \$75,000 per violation per day.
376.16 (2), (3), (7), and (8), F.S.	Violating the Pollutant Discharge Prevention and Control Act or the DEP rules or orders	<p>In addition to the penalty in subsection (1), for persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> Gasoline/diesel over 5 gallons - a civil penalty of \$500 for the second discharge and \$1,000 for each subsequent discharge within a 12-month period. Other pollutants - a civil penalty of \$2,500 for the second discharge and \$5,000 for each subsequent discharge within a 12-month period. <p>For persons responsible for two or more discharges within a 12-</p>	<p>In addition to the penalty in subsection (1), for persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> Gasoline/diesel over 5 gallons - a civil penalty of \$750 for the second discharge and \$1,500 for each subsequent discharge within a 12-month period. Other pollutants - a civil penalty of \$3,750 for the second discharge and \$7,500 for each subsequent discharge within a 12-month period. <p>For persons responsible for two or more discharges within a 12-</p>

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> • Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$50 for each discharge subsequent to the first. • Other pollutants equal to or less than 5 gallons - a civil penalty of \$100 for each discharge subsequent to the first. <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$500 for the second discharge of gasoline/diesel and up to \$1,000 for each subsequent discharge of gasoline/diesel within a 12-month period; up to \$5,000 for the second discharge of other pollutants and up to \$10,000 for each subsequent discharge within a 12-month period.</p>	<p>month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> • Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$75 for each discharge subsequent to the first; • Other pollutants equal to or less than 5 gallons - a civil penalty of \$150 for each discharge subsequent to the first. <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$750 for the second discharge of gasoline/diesel and up to \$1,500 for each subsequent discharge of gasoline/diesel within a 12-month period; up to \$7,500 for the second discharge of other pollutants and up to \$15,000 for each subsequent discharge within a 12-month period.</p>
376.25 (6)(a), F.S.	Violating a statute regarding gambling vessels	A civil penalty of not more than \$50,000 for each violation.	<p>A civil penalty of not more than \$75,000 for each violation.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>
377.37 (1)(a), F.S.	Violating statutory provisions, rules, orders or permits regarding oil and gas resources	A civil penalty of not more than \$10,000 for each offense.	A civil penalty of not more than \$15,000 for each offense.
378.211 (2), F.S.	Violating statutes, rules, or orders	A civil penalty of \$100 per violation of a minor or technical nature; \$1,000 per major violation by an operator on which a penalty	A civil penalty of \$150 per violation of a minor or technical nature; \$1,500 per major violation by an operator on which a penalty

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
	regarding land reclamation	has not been imposed during the 5 previous years; and \$5,000 per major violation not otherwise covered.	has not been imposed during the 5 previous years; and \$7,500 per major violation not otherwise covered.
403.086 (2), F.S.	Violating orders regarding sanitary sewage disposal	A civil penalty of \$500 for each 24-hour day or fraction thereof that the failure is allowed to continue.	A civil penalty of \$750 for each 24-hour day or fraction thereof that the failure is allowed to continue.
403.121 (1)(b), F.S.	Violating ch. 403, F.S., regarding environmental control	For judicial remedies - authorizes the DEP to judicially pursue and recover a civil penalty of not more than \$10,000 per offense.	For judicial remedies - authorizes the DEP to judicially pursue and recover a civil penalty of not more than \$15,000 per offense.
403.121 (2)(b) and (g) F.S.	Violating ch. 403, F.S., regarding environmental control	<p>For administrative remedies - (except for violations involving hazardous wastes, asbestos, or underground injection) the DEP must proceed administratively when seeking administrative penalties not exceeding \$10,000 per assessment.</p> <p>The DEP may not impose penalties in excess of \$10,000 in a notice of violation.</p> <p>The DEP retains the authority to judicially pursue penalties in excess of \$10,000 for violations not included in the penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$10,000.</p> <p>Any case filed in state court because it is alleged to exceed a total of \$10,000 in penalties may be settled in the court action for less than \$10,000.</p>	<p>For administrative remedies - (except for violations involving hazardous wastes, asbestos, or underground injection) the DEP must proceed administratively when seeking administrative penalties not exceeding \$50,000 per assessment.</p> <p>The DEP may not impose penalties in excess of \$50,000 in a notice of violation.</p> <p>The DEP retains the authority to judicially pursue penalties in excess of \$50,000 for violations not included in the penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000.</p> <p>Any case filed in state court because it is alleged to exceed a total of \$50,000 in penalties may be settled in the court action for less than \$50,000.</p>
403.121	Administrative penalty schedule: violations	\$2,000 for a Maximum Containment Level violation; plus \$1,000 for a primary, inorganic, organic, or radiological Maximum	\$3,000 for a Maximum Containment Level violation; plus \$1,500 for a primary, inorganic, organic, or radiological Maximum

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
(3)(a), F.S. ⁵⁷	regarding drinking water contamination	<p>Contaminant Level or fecal coliform bacteria violation; plus \$1,000 if the violation occurs at a community water system; plus \$1,000 if any Maximum Contaminant Level is exceeded by more than 100 percent.</p> <p>\$3,000 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.</p>	<p>Contaminant Level or fecal coliform bacteria violation; plus \$1,500 if the violation occurs at a community water system; plus \$1,500 if any Maximum Contaminant Level is exceeded by more than 100 percent.</p> <p>\$4,500 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.</p>
403.121 (3)(b), F.S.	Administrative penalty schedule: violations regarding wastewater	<p>\$1,000 for failure to obtain a required wastewater permit (other than a permit for surface water discharge).</p> <p>\$2,000 for an unlawful discharge or exceedance resulting in a domestic or industrial wastewater violation (not involving a surface water or groundwater quality violation).</p> <p>\$5,000 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation.</p>	<p>\$1,500 for failure to obtain a required wastewater permit (other than a permit for surface water discharge).</p> <p>\$3,000 for an unlawful discharge or exceedance resulting in a domestic or industrial wastewater violation (not involving a surface water or groundwater quality violation).</p> <p>\$7,500 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation.</p> <p>Each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense.</p>
403.121 (3)(c), F.S.	Administrative penalty schedule: violations regarding dredge and fill or stormwater	\$1,000 for an unlawful dredging, filling, or construction of a stormwater management system; plus \$2,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida water, a conservation easement, or a Class I or Class II surface water;	\$1,500 for an unlawful dredging, filling, or construction of a stormwater management system; plus \$3,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida water, a conservation easement, or a Class I or Class II surface water;

⁵⁷ Section 403.121(3), F.S. The administrative penalties in subsection (3) do not apply to hazardous waste, asbestos, or underground injection.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>plus \$1,000 if the area dredged or filled is greater than .25 acres but less than or equal to .5 acres; plus \$1,000 if the area dredged or filled is greater than .5 acres but less than or equal to 1 acre.</p> <p>\$3,000 for failure to complete required mitigation, record a required conservation easement, or for a water quality violation resulting from dredging and filling activities, stormwater construction activities or failure of a stormwater treatment facility.</p> <p>\$2,000 (stormwater systems serving less than 5 acres) for failure to properly or timely construct a stormwater management system.</p> <p>\$5,000 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p>	<p>plus \$1,500 if the area dredged or filled is greater than .25 acres but less than or equal to .5 acres; plus \$1,500 if the area dredged or filled is greater than .5 acres but less than or equal to 1 acre.</p> <p>\$4,500 for failure to complete required mitigation, record a required conservation easement, or for a water quality violation resulting from dredging and filling activities, stormwater construction activities or failure of a stormwater treatment facility.</p> <p>\$3,000 (stormwater systems serving less than 5 acres) for failure to properly or timely construct a stormwater management system.</p> <p>\$7,500 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p>
403.121 (3)(d), F.S.	Administrative penalty schedule: violations regarding mangrove trimming	\$5,000 per violation for conducting mangrove trimming or alterations without a permit.	\$7,500 per violation for conducting mangrove trimming or alterations without a permit.
403.121 (3)(e), F.S.	Administrative penalty schedule: violations regarding solid waste	\$2,000 for unlawful disposal or storage of solid waste; plus \$1,000 for Class I or III or construction and demolition debris in excess of 20 cubic yards; plus \$1,000 if the waste is disposed of or stored in a waterbody or within 500 feet of a potable water well; plus \$1,000 if the waste contains certain amounts of PCB, untreated biomedical waste, friable	\$3,000 for unlawful disposal or storage of solid waste; plus \$1,000 for Class I or III or construction and demolition debris in excess of 20 cubic yards; plus \$1,500 if the waste is disposed of or stored in a waterbody or within 500 feet of a potable water well; plus \$1,500 if the waste contains certain amounts of PCB, untreated biomedical waste, friable

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>asbestos, used oil, or lead acid batteries.</p> <p>\$3,000 for failure to maintain leachate control, unauthorized burning, failure to have a trained spotter on duty, or failure to provide access control for three consecutive inspections.</p> <p>\$2,000 for failure to construct or maintain a required stormwater management system.</p>	<p>asbestos, used oil, or lead acid batteries.</p> <p>\$4,500 for failure to maintain leachate control, unauthorized burning, failure to have a trained spotter on duty, or failure to provide access control for three consecutive inspections.</p> <p>\$3,000 for failure to construct or maintain a required stormwater management system.</p>
403.121 (3)(f), F.S.	Administrative penalty schedule: violations regarding air emissions	\$1,000 for an unlawful air emission or exceedance; plus \$1,000 if the emission results in an air quality violation; plus \$3,000 for emissions from the major source of the violating pollutant; plus \$1,000 if over 150% of the allowable level.	\$1,500 for an unlawful air emission or exceedance; plus \$4,500 for emissions from the major source of the violating pollutant; plus \$1,500 if over 150% of the allowable level.
403.121 (3)(g), F.S.	Administrative penalty schedule: violations regarding storage tank system and petroleum contamination	<p>\$5,000 for failure to empty a damaged storage system as necessary to ensure a release does not occur until repairs are completed, when a release has occurred, failure to timely recover free product, or failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued.</p> <p>\$3,000 for failure to timely upgrade a storage tank system.</p> <p>\$2,000 for failure to conduct or maintain required release detection, failure to timely investigate a suspected release, depositing motor fuel into an unregistered storage tank system, failure to timely assess or</p>	<p>\$7,500 for failure to empty a damaged storage system as necessary to ensure a release does not occur until repairs are completed, when a release has occurred, failure to timely recover free product, or failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued.</p> <p>\$4,500 for failure to timely upgrade a storage tank system.</p> <p>\$3,000 for failure to conduct or maintain required release detection, failure to timely investigate a suspected release, depositing motor fuel into an unregistered storage tank system, failure to timely assess or</p>

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>remediate petroleum contamination, or failure to properly install a storage tank system.</p> <p>\$1,000 for failure to properly operate, maintain, or close a storage tank system.</p>	<p>remediate petroleum contamination, or failure to properly install a storage tank system.</p> <p>\$1,500 for failure to properly operate, maintain, or close a storage tank system.</p>
403.121 (4), F.S.	Violating ch. 403, F.S., regarding environmental control	<p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> • \$5,000 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations. • \$4,000 for failure to install, maintain, or use a required pollution control system or device. • \$3,000 for failure to obtain a required permit before construction or modification. • \$2,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit. • \$1,000 for failure to maintain required staff to respond to emergencies, failure to conduct required training, failure to prepare, maintain, or update required contingency plans, failure to adequately respond to emergencies to bring an emergency situation under control, or failure to submit required notification to the DEP. • \$500 for failure to prepare, submit, maintain, or use required reports or documentation. 	<p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> • \$7,500 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations. • \$6,000 for failure to install, maintain, or use a required pollution control system or device. • \$4,500 for failure to obtain a required permit before construction or modification. • \$3,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit. • \$1,500 for failure to maintain required staff to respond to emergencies, failure to conduct required training, failure to prepare, maintain, or update required contingency plans, failure to adequately respond to emergencies to bring an emergency situation under control, or failure to submit required notification to the DEP. • \$750 for failure to prepare, submit, maintain, or use required reports or documentation.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
403.121 (5), (7), (8), and (9), F.S.	Violating ch. 403, F.S., regarding environmental control	<p>A penalty of \$500 for failure to comply with any other department regulatory statute or rule.</p> <p>A violator's history of noncompliance for any previous violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$2,000 or more must be taken into consideration in a manner specified in statute.</p> <p>The total administrative penalty, including direct economic benefit gained by the violator that is added to the scheduled administrative penalty, may not exceed \$10,000.</p> <p>The administrative penalties for a particular violation that are assessed against any one violator may not exceed \$5,000, unless there is a history of noncompliance, the economic benefit exceeds \$5,000, or there are multiday violations. Total administrative penalties may not exceed \$10,000 per assessment for all violations attributable to a specific person in a notice of violation.</p>	<p>A penalty of \$1,000 for failure to comply with any other department regulatory statute or rule.</p> <p>A violator's history of noncompliance for any previous violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$3,000 or more must be taken into consideration in a manner specified in statute.</p> <p>The total administrative penalty, including direct economic benefit gained by the violator that is added to the scheduled administrative penalty, may not exceed \$15,000.</p> <p>The administrative penalties for a particular violation that are assessed against any one violator may not exceed \$7,500, unless there is a history of noncompliance, the economic benefit exceeds \$7,500, or there are multiday violations. Total administrative penalties may not exceed \$50,000 per assessment for all violations attributable to a specific person in a notice of violation.</p>
403.141 (1), F.S.	Violating ch. 403, F.S., regarding environmental control, by committing prohibited acts	A civil penalty for each offense in an amount not to exceed \$10,000.	<p>A civil penalty for each offense in an amount not to exceed \$15,000.</p> <p>If a violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a separate offense until the violation is resolved by order or judgement.</p>

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
403.161 (4), F.S.	Violating ch. 403, F.S., regarding environmental control, by committing prohibited acts specified in the statute	A violation causing pollution due to reckless indifference or gross careless disregard is punishable by a fine of not more than \$5,000, 60 days in jail, or both, for each offense.	A violation causing pollution; failure to obtain a permit required under Ch. 403, F.S., or rules; or violating any rule, order, permit or certification adopted or issued by the DEP due to reckless indifference or gross careless disregard is punishable by a fine of not more than \$10,000, 60 days in jail, or both, for each offense.
403.161 (5), F.S.	Violating ch. 403, F.S., regarding environmental control, by willfully causing pollution	A fine of not more than \$10,000, 6 months in jail, or both for willfully committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.	A fine of not more than \$10,000, 6 months in jail, or both for committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.
403.413 (6)(a), F.S.	Dumping litter	A civil penalty of \$100 for dumping litter (not for commercial purposes) not exceeding 15 pounds or 27 cubic feet.	A civil penalty of \$150 for dumping litter (not for commercial purposes) not exceeding 15 pounds or 27 cubic feet.
403.7234 (5), F.S.	Violations involving small quantity generators	A fine of between \$50 and \$100 per day for a maximum of 100 days for a noncompliant small quantity generator.	A fine of between \$75 and \$150 per day for a maximum of 100 days for a noncompliant small quantity generator.
403.726 (3), F.S.	Violations regarding hazardous waste creating an imminent hazard	Authorizes the DEP to institute action to abate an imminent hazard and may recover a civil penalty of not more than \$25,000 for each day of continued violation.	Authorizes the DEP to institute action to abate an imminent hazard and may recover a civil penalty of not more than \$37,500 for each day of continued violation.
403.727 (3)(a), F.S.	Violations regarding hazardous waste	A civil penalty of not more than \$50,000 for each day of continued violation.	A civil penalty of not more than \$75,000 for each day of continued violation.
403.93345 (8)(a)-(c) and (g), F.S.	Civil penalty schedule: violating the Florida Coral Reef Protection Act	Damage to a coral reef less than or equal to 1 square meter: \$150; additional \$150 with aggravating circumstances; additional \$150 if occurring within a state park or aquatic preserve.	Damage to a coral reef less than or equal to 1 square meter: \$225; additional \$225 with aggravating circumstances; additional \$225 if occurring within a state park or aquatic preserve.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>Damage to a coral reef of more than 1 square meter but less than or equal to 10 square meters: \$300 per square meter; additional \$300 per square meter with aggravating circumstances; additional \$300 per square meter if occurring within a state park or aquatic preserve.</p> <p>Damage exceeding an area of 10 square meters: \$1,000 per square meter; additional \$1,000 per square meter with aggravating circumstances; additional \$1,000 per square meter if occurring within a state park or aquatic preserve.</p> <p>The total penalties levied may not exceed \$250,000 per occurrence.</p>	<p>Damage to a coral reef of more than 1 square meter but less than or equal to 10 square meters: \$450 per square meter; additional \$450 per square meter with aggravating circumstances; additional \$450 per square meter if occurring within a state park or aquatic preserve.</p> <p>Damage exceeding an area of 10 square meters: \$1,500 per square meter; additional \$1,500 per square meter with aggravating circumstances; additional \$1,500 per square meter if occurring within a state park or aquatic preserve.</p> <p>The total penalties levied may not exceed \$375,000 per occurrence.</p>

Section 22 creates s. 125.569, F.S., titled “Sanitary sewer lateral inspection program.”

The bill defines the term “sanitary sewer lateral,” as used in s. 125.569, F.S., to mean “a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.”

The bill encourages counties, by July 1, 2022, to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the county’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

- Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the county.
- Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.
- Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the county notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 23 creates s. 166.0481, F.S., titled “Sanitary sewer lateral inspection program.”

The bill defines the term “sanitary sewer lateral,” as used in s. 166.0481, F.S., to mean “a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.”

The bill encourages municipalities, by July 1, 2022, to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the municipality’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

- Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the municipality.
- Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.
- Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the municipality notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 24 creates s. 689.301, F.S., titled “Disclosure of known defects in sanitary sewer laterals to prospective purchaser.”

The bill defines the term “sanitary sewer lateral,” as used in s. 689.301, F.S., to mean “the privately owned pipeline connecting a property to the main sewer line.”

The bill requires a seller of real property, before executing a contract for sale, to disclose to a prospective purchaser any defects in the property’s sanitary sewer lateral which are known to the seller.

Sections 25 through 29 reenact ss. 823.11(5); 403.077(5); 403.131(2); 403.4154(3)(d); 403.860(5); 403.708(10); 403.7191(7); 403.811; 403.7255(2); and 403.7186(8), F.S. This reenactment is done for the purpose of incorporating certain amendments made by the bill, as the reenacted provisions reference sections of law that are amended by the bill.

Section 30 states that the bill takes effect July 1, 2020.

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:

The bill increases numerous penalties for violations of environmental laws. In some instances, the bill also expands the potential time period when each passing day may constitute a separate offense. Overall, the bill increases the penalties that the private sector must pay for violations of environmental laws.

C. Government Sector Impact:

The bill increases the amounts of numerous penalties. Such penalties may apply to government entities, such as local governments. The bill may cause government entities to be responsible for increased costs when they are required to pay such penalties.

The bill increases the amounts of numerous penalties. If imposed, the funds from such penalties would increase revenue to the state. Therefore, the bill may have a positive, indeterminate impact on the government sector.

The bill may have an indeterminate negative fiscal impact on local governments that own and operate wastewater treatment facilities because the bill increases a number of penalties associated with the violation of environmental laws, including permit violations for wastewater treatment facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.054, 258.397, 258.46, 373.129, 373.209, 373.430, 376.065, 376.071, 376.16, 376.25, 377.37, 378.211, 403.086, 403.121, 403.141, 403.161, 403.413, 403.7234, 403.726, 403.727, and 403.93345.

This bill creates the following sections of the Florida Statutes: 125.569, 166.0481, and 689.301.

This bill reenacts the following sections of the Florida Statutes: 403.077, 403.131, 403.4154, 403.708, 403.7186, 403.7191, 403.7255, 403.811, 403.86, and 823.11.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 18, 2020:

The committee substitute:

- Removes the following language, or substantially similar language, from anywhere it appears in the bill: “[u]ntil a violation is resolved by order or judgement, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.”
- Returns what constitutes a separate offense to the existing “[e]ach during any portion of which such violation occurs constitutes a separate offense” in several sections, including those on the following topics: coastal construction and activities, water resources, regulation of oil and gas resources, phosphate land reclamation, hazardous waste, criminal penalties for discharges of pollutants, and civil and criminal penalties in ch. 403, F.S.
- Adds the standard “[e]ach day during any portion of which such violation occurs constitutes a separate offense” to sections on the following topics: Biscayne Bay Aquatic Preserve, aquatic preserves, and gambling vessels.
- Adds to the administrative penalties in s. 403.121, F.S., that each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense.
- Adds to civil penalties in s. 403.141, F.S., that each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense until the violation is resolved by order or judgement.

CS by Environment and Natural Resources on January 27, 2020:

- Removes the “willfully” standard of intent from applying to criminal penalties in two sections of Florida’s environmental statutes. The penalties apply to violations of knowingly falsifying documents or tampering with required monitoring. The DEP’s authority to seek criminal fines for such falsification or tampering is required by the federal regulations for state assumption of the 404 dredge and fill program. Applying a “willfully” standard to the penalties is not consistent with the federal regulations, so the bill removes the standard.

- Revises the title of the bill to more accurately describe the contents of the bill.

B. Amendments:

None.

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

By the Committee on Environment and Natural Resources; and
Senator Rodriguez

592-03420-20

20201360c1

A bill to be entitled
An act relating to endangered and threatened species;
amending s. 379.2291, F.S.; revising legislative
intent of the Florida Endangered and Threatened
Species Act; revising definitions; directing the Fish
and Wildlife Conservation Commission to protect
certain declassified species; prohibiting the
commission from considering certain costs when
designating a species as endangered or threatened;
amending s. 581.185, F.S.; revising criteria for
placement of species on the Regulated Plant Index by
the Department of Agriculture and Consumer Services;
directing the department, in consultation with the
Endangered Plant Advisory Council, to protect certain
declassified species; prohibiting the department from
considering certain costs when designating a species
as endangered or threatened; providing an effective
date.

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

Section 1. Subsections (2), (3), and (4) of section
379.2291, Florida Statutes, are amended to read:

379.2291 Endangered and Threatened Species Act.—

(2) DECLARATION OF POLICY.—The Legislature recognizes that
the State of Florida harbors a wide diversity of fish and
wildlife and that it is the policy of this state to conserve and
wisely manage these resources, with particular attention to
those species designated ~~defined~~ by the Fish and Wildlife

592-03420-20

20201360c1

30 Conservation Commission, the Department of Environmental
31 Protection, or the United States Department of Interior, or
32 successor agencies, as being endangered or threatened. As
33 Florida has more endangered and threatened species than any
34 other continental state, it is the intent of the Legislature to
35 provide for research and management to conserve and protect
36 these species as a natural resource.

37 (3) DEFINITIONS.—As used in this section:

38 (a) "Fish and wildlife" means any member of the animal
39 kingdom, including, but not limited to, any mammal, fish, bird,
40 amphibian, reptile, mollusk, crustacean, arthropod, or other
41 invertebrate.

42 (b) "Endangered species" means any species of fish and
43 wildlife naturally occurring in Florida, whose prospects of
44 survival are in jeopardy due to modification or loss of habitat;
45 overuse ~~overutilization~~ for commercial, sporting, scientific, or
46 educational purposes; disease; predation; inadequacy of
47 regulatory mechanisms; or other natural or manmade factors
48 affecting its continued existence, including climate change.

49 (c) "Threatened species" means any species of fish and
50 wildlife naturally occurring in Florida which may not be in
51 immediate danger of extinction, but which exists in such small
52 populations as to become endangered if it is subjected to
53 increased stress as a result of further modification of its
54 environment, including climate change.

55 (4) INTERAGENCY COORDINATION.—

56 (a) The commission shall be responsible for research and
57 management of freshwater and upland species and for research and
58 management of marine species.

592-03420-20

20201360c1

(b) Recognizing that citizen awareness is a key element in the success of this plan, the commission and the Department of Education are encouraged to work together to develop a public education program with emphasis on, but not limited to, both public and private schools.

(c) The commission, in consultation with the Department of Agriculture and Consumer Services, the Department of Economic Opportunity, or the Department of Transportation, may establish reduced speed zones along roads, streets, and highways to protect endangered and threatened species ~~or threatened species~~.

(d) Notwithstanding declassification under the federal Endangered Species Act of 1973, the commission shall continue to protect species that meet the definition of endangered or threatened under subsection (3), as determined by the commission.

(e) The commission may not consider the economic cost of protecting a species as a factor in designating the species as endangered or threatened.

Section 2. Subsection (5) of section 581.185, Florida Statutes, is amended to read:

581.185 Preservation of native flora of Florida.—

(5) REVIEW.—

(a) Beginning in 1984, and every 4 years thereafter, the department and the Endangered Plant Advisory Council shall conduct a comprehensive review of this section and of the Regulated Plant Index, as provided in rules of the department, ~~shall be made by the department and the Endangered Plant Advisory Council at 4-year intervals.~~

(b) The department shall consider any species of plant that

592-03420-20

20201360c1

should be placed on the Regulated Plant Index which is in danger of disappearing from its native habitat within the foreseeable future throughout all or a significant portion of the range of the species because of:

1. Present or threatened destruction, modification, or curtailment of the range of the species.

2. Overuse ~~Overutilization~~ of the species for commercial, scientific, or educational purposes.

3. Disease or predation.

4. Any other natural or manmade factor affecting the continued existence of the species, including climate change.

(c) In carrying out reviews and arriving at recommendations under paragraphs (a) and (b), the department and the advisory council shall use the best scientific and commercial data available and shall consult with interested persons and organizations.

(d) Notwithstanding declassification under the federal Endangered Species Act of 1973, the department shall continue to protect species that meet the definition of endangered or threatened under subsection (2), as determined by the department in consultation with the advisory council.

(e) The department may not consider the economic cost of protecting a species as a factor in designating the species as endangered or threatened.

Section 3. This act shall take effect July 1, 2020.

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 1360

INTRODUCER: Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Florida Endangered and Threatened Species Act

DATE: February 17, 2020

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1360 revises the definitions of “endangered species” and “threatened species” in the Florida Endangered and Threatened Species Act to include the impact of climate change as a factor that may jeopardize the survival of certain species of fish and wildlife. The bill requires the Fish and Wildlife Conservation Commission (FWC) to continue to protect endangered or threatened fish and wildlife species as the FWC determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits the FWC from considering the economic cost of protecting a fish or wildlife species as a factor in designating it as endangered or threatened.

The bill requires the Department of Agriculture and Consumer Services (DACS) to consider the impacts of climate change on plant species as part of its four-year review of the Regulated Plant Index. The bill requires the DACS to continue to protect endangered or threatened plant species as the DACS determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits the DACS from considering the economic cost of protecting a plant species as a factor in designating it as endangered or threatened.

The bill has no fiscal impact on state funds and has an effective date of July 1, 2020.

II. Present Situation:

Endangered Species Act of 1973 (Federal)¹

The Endangered Species Act (ESA), enacted in 1973 and amended in 1996, designates that species of fish, (including marine mammals), wildlife, and plants, which are so depleted they are in danger of or threatened with extinction, must be conserved.² The ESA is overseen by the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). The ESA provides for the conservation of threatened and endangered species of fish, wildlife, and plants by federal action and by encouraging state conservation programs.³ The objective of the ESA is to enable listed species not merely to survive, but to recover from their endangered or threatened status.⁴ The act authorizes the determination and listing of endangered and threatened species and their habitats.

Delisting/Declassification

When a species is able to survive on its own in the wild, the species is considered to be recovered and protection of the ESA is no longer necessary. At least once every five years, the USFWS conducts a review of all listed species to determine whether any species should be removed from the list, changed in status from endangered to threatened, or changed in status from threatened to endangered.⁵ When the USFWS removes a species from the federal list of Endangered and Threatened Wildlife and Plants, the species is “delisted.” To delist a species, the USFWS must determine that threats have been eliminated or controlled, based on several factors including population size and trends and the stability of habitat quality and quantity.⁶

The USFWS reviews five factors in its determination of whether a species still needs protection under the ESA:

- Is there a present or threatened destruction, modification, or curtailment of the species’ habitat or range;
- Is the species subject to over-utilization for commercial, recreational, scientific, or educational purposes;
- Is disease or predation a factor;
- Are there adequate existing regulatory mechanisms in place, taking into account the initiatives by states and other organizations, to protect the species or habitat; and
- Are other natural or manmade factors affecting the species’ continued existence?⁷

During this process, the USFWS works with species experts; federal, state, and local agencies; tribes; nongovernmental organizations; the academic community; and other stakeholders to achieve success in population assessments, recovery, and eliminating or reducing threats. Species are generally delisted for the following reasons: recovery, extinction, or evidence of additional

¹ 16 U.S.C. s. 1531-1544.

² 16 U.S.C. s. 1531.

³ *Id.*

⁴ *Id.*; *Sierra Club v. U.S. Fish and Wildlife Service*, 245 F. 3d 434 (2001).

⁵ 16 U.S.C. s. 1533.

⁶ USFWS, *Delisting a Species, Section 4 of the Endangered Species Act*, available at <https://www.fws.gov/endangered/esa-library/pdf/delisting.pdf>.

⁷ *Id.*

populations. After a species is delisted, it is monitored for at least five years according to a post-delisting monitoring plan.⁸

Economic Costs

Historically, economics has not been a factor in the decision of whether or not to list a species under the ESA. However, economic costs are considered in the designation of critical habitat,⁹ even when the impacts are attributable to other causes, including listing.¹⁰

The ESA states that listing decisions are to be made “solely on the basis of the best scientific and commercial data available.”¹¹ The 1978 regulations expanded on this prohibition by adding “without reference to possible economic or other impacts of such determination.”¹² The revised regulations, effective September 26, 2019 removed this language¹³ to clarify that it is not prohibited for the USFWS to compile economic information that is not used to influence a listing decision.¹⁴ When first proposing the rule, the USFWS and the NMFS indicated that there may be circumstances where referencing economic or other impacts may be informative to the public.¹⁵

State Programs

Section 6 of the ESA provides funding for the development of state programs for the management of threatened and endangered species by state wildlife agencies.¹⁶ Additionally, each state has state endangered species lists containing species that are endangered in the state but are not a federally-listed species. The Secretary of the Interior must enter into a cooperative agreement with a state, which establishes and maintains an adequate and active program for the conservation of endangered and threatened species if the program meets certain standards under the ESA.¹⁷ If a cooperative agreement exists, a state may receive federal funds under the ESA to implement the program, though normally states are expected to contribute a minimum matching amount.¹⁸

Fish and Wildlife Conservation Commission

Pursuant to s. 9, Art. IV of the State Constitution, the FWC exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.¹⁹ While the USFWS has primary responsibility for Florida species that are federally

⁸ 16 U.S.C. s. 1533.

⁹ 50 C.F.R. s. 424.12.

¹⁰ *New Mexico Cattle Growers Ass'n v. United States Fish & Wildlife Serv.*, 248 F.3d 1277, 1285 (10th Cir. 2001).

¹¹ 50 C.F.R. s. 424.11(b) (2019).

¹² 50 C.F.R. s. 424.11(b) (1984).

¹³ 50 C.F.R. s. 424.11(b) (2019).

¹⁴ Endangered and Threatened Wildlife and Plants, Revision of the Regulations for Listing Species and Designating Critical Habitat, 84 Fed. Reg. 45020, 45024 (Aug. 27, 2019) (to be codified at 50 C.F.R. s. 424.11).

¹⁵ Endangered and Threatened Wildlife and Plants, Revision of the Regulations for Listing Species and Designating Critical Habitat, 84 Fed. Reg. 35194-35195 (Jul. 25, 2018) (to be codified at 50 C.F.R. s. 424.11).

¹⁶ 16 U.S.C. § 1535.

¹⁷ 16 U.S.C. § 1535(c).

¹⁸ 16 U.S.C. § 1535(d)(2).

¹⁹ Fla. Const. Art. IV, s. 9.

endangered or threatened, the FWC works in partnership with the USFWS to help conserve these species and maintains a list of state endangered and threatened species.

Florida Endangered and Threatened Species Act²⁰

The Florida Endangered and Threatened Species Act of 1977 provides for research and management to conserve and protect threatened and endangered species as a natural resource.²¹ Responsibility for the research and management of upland, freshwater, and marine species is given to the FWC.²² The act also encourages the FWC to develop a public education program dealing with endangered and threatened species. Annually, the FWC director submits a revised plan for management and conservation of endangered and threatened species to the Governor, the Cabinet, and the Legislature.²³

Endangered and threatened species can be listed as state-designated or federally-designated endangered or threatened species. State-designated threatened species are species that are native to Florida and are classified as threatened as determined by:

- A reduction in population size;
- Decline in geographic range;
- A population size estimated to be under 10,000 mature individuals with a continuing decline;
- A population size estimated to be under 1,000 mature individuals or with a very restricted area of occupancy; or
- A quantitative analysis showing the probability of extinction in the wild is at least 10 percent within 100 years.²⁴

Federally-designated endangered and threatened species are species of fish or wild animal life that are native to Florida and are classified as endangered or threatened by their federal designation as endangered or threatened under the ESA.²⁵

Pursuant to the FWC rule, if a species native to Florida is reclassified under the ESA and is a species within the FWC's constitutional authority, the species must also be reclassified under the Florida Endangered and Threatened Species list.²⁶ However, if a species is removed from the ESA protection, or delisted, the species must receive a biological status review to determine if it warrants listing as a state-listed species.²⁷ The FWC must consider the biological status report, independent scientific reviews received, and public comments regarding biological status when making a final determination regarding a change in listing status.²⁸

Before any species is removed from the state-endangered and threatened species lists, the FWC must develop a management plan that is intended to maintain or enhance the conservation of that

²⁰ Ch. 77-375, ss. 1-6, Laws of Fla. (creating s. 379.2291).

²¹ Section 379.2291(2), F.S.

²² Section 379.2291(4), F.S.

²³ Section 379.2291(5), F.S.; see FWC, *Endangered and Threatened Species Management and Conservation Plan, Progress Report, Fiscal Year 2018-2019* (Nov. 19, 2019), available at <https://myfwc.com/media/22264/2018-19-legislative-report.pdf>.

²⁴ Fla. Admin. Code R. 68A-27.001(3).

²⁵ Fla. Admin. Code R. 68A-27.001(2).

²⁶ Fla. Admin. Code R. 68A-27.0012(1).

²⁷ *Id.*

²⁸ Fla. Admin. Code R. 68A-27.0012(c)2.e.

species.²⁹ The FWC also developed the Imperiled Species Management Plan to address the needs of state-listed species that did not already have a management plan or specific program in place.³⁰

Climate Change Effects on Fish and Wildlife

The FWC is Florida's lead agency on addressing the impacts of climate change on fish and wildlife, including adaptation strategies for Florida's coastal ecosystems.³¹ Projections indicate that few other states will be impacted by climate change as severely as Florida.³² Some of the climatic changes that may affect Florida include: sea-level rise and changes in precipitation, air temperature, extreme events, and carbon dioxide.³³

Many species of fish and wildlife in Florida could be threatened by climatic shifts. Species with narrow tolerance ranges, those occupying habitats in areas where migration or relocation is challenging due to physical barriers or unsuitable habitat, those with limited ability to disperse, or those with specialized habitat requirements, small populations, or low genetic diversity are expected to be most at risk.³⁴

Regulated Plant Index

The Division of Plant Industry within the DACS protects plant species native to the state that are endangered, threatened, or commercially exploited.³⁵ The policy of the state is to provide recognition of these plant species; protect them from unlawful harvesting on both public and privately owned lands; and provide an orderly and controlled procedure for restricted harvesting from the wild.³⁶ The state also encourages the propagation of endangered species and provides information necessary to legally collect these species for propagation.³⁷

Florida's native plant species in need of conservation efforts are listed in the Regulated Plant Index and are classified as endangered, threatened, or commercially exploited.³⁸ The list includes 448 endangered, 118 threatened, and nine commercially exploited species. Fifty-four of these species are on the federal list of endangered plant species and 14 are on the federal list of threatened species.³⁹

²⁹ Fla. Admin. Code R. 68A-27.0012(1).

³⁰ FWC, *Imperiled Species Management Plan*, available at <https://myfwc.com/media/2030/imperiled-species-management-plan.pdf>.

³¹ FWC, *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Feb. 4, 2020); FWC, *A Guide to Climate Change Adaptation for Conservation*, 6-81–6-108, 9-35–9-51 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf>.

³² *Id.* at 4-1.

³³ *Id.* at 4-2.

³⁴ *Id.* at 5-1.

³⁵ Section 581.185(3), F.S.

³⁶ Section 581.185(1), F.S.

³⁷ *Id.*

³⁸ Fla. Admin. Code R. 5B-40.0055.

³⁹ DACS, *Florida's Endangered Plants*, <https://www.fdacs.gov/Divisions-Offices/Plant-Industry/Bureaus-and-Services/Entomology-Nematology-Plant-Pathology/Botany/Florida-s-Endangered-Plants> (last visited Feb. 4, 2020).

The DACS has adopted rules relating to the listing, delisting, and changing the listing of plants on the Regulated Plant Index.⁴⁰ Every four years, the DACS and the Endangered Plant Advisory Council review the Regulated Plant Index and consider any species of plant which is in danger of disappearing from its native habitat within the foreseeable future throughout all or a significant portion of the range of the species because of:

- Present or threatened destruction, modification, or curtailment of the range of the species;
- Overutilization of the species for commercial, scientific, or educational purposes;
- Disease or predation; or
- Any other natural or manmade factor affecting the continued existence of the species.⁴¹

Any changes to the Regulated Plant Index must consider the recommendation of the Endangered Plant Advisory Council and the best environmental and commercial data available.⁴² The DACS must also consider the recommendations of the general public.⁴³ The Endangered Plant Advisory Council meets at least once a year.⁴⁴

III. Effect of Proposed Changes:

Section 1 (Fish and Wildlife)

The bill revises the legislative policy of the Florida Endangered or Threatened Species Act to conserve and manage resources, with particular attention to species “designated,” rather than “defined” by the FWC or the United States Department of the Interior or its successor agencies, as being endangered or threatened.

The bill revises the definitions of “endangered species” and “threatened species” to include the impact of climate change as a factor that may jeopardize the survival of certain species of fish and wildlife.

The bill revises the requirement that the FWC, in consultation with several agencies, establish reduced speed zones along roads, streets, and highways to protect endangered and threatened species, rather than endangered or threatened species.

The bill requires the FWC to continue to protect endangered or threatened fish and wildlife species as the FWC determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits the FWC from considering the economic cost of protecting a fish or wildlife species as a factor in designating it as endangered or threatened.

Section 2 (Plants)

The bill requires the DACS and the Endangered Plant Advisory Council to consider the impacts of climate change on plant species as part of its four-year review of the Regulated Plant Index.

⁴⁰ Fla. Admin. Code Ch. 5B-40.

⁴¹ Section 581.185(5), F.S.

⁴² Section 581.185(4), F.S.

⁴³ *Id.*, Fla. Admin. Code R. 5B-40.0056(1).

⁴⁴ Fla. Admin. Code R. 5B-40.0056(2).

The bill requires the DACS to continue to protect endangered or threatened plant species as the DACS determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits the DACS from considering the economic cost of protecting a plant species as a factor in designating it as endangered or threatened.

Section 3

The bill takes effect on July 1, 2020.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 379.2291 and 581.185.

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 February 10, 2020:

- Revises title of bill to “An act relating to endangered and threatened species” to include the section relating to endangered and threatened plant species which are not covered under the Florida Endangered and Threatened Species Act.
- Deletes incorrect reference to DEP.

- B. **Amendments:**

None.

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 Agriculture

BILL: CS/CS/SB 1414

INTRODUCER: Agriculture Committee, Environment and Natural Resources Committee, and Senator Mayfield

SUBJECT: Fish and Wildlife Activities

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rogers	Rogers	EN	Fav/CS
2.	Akhavein	Becker	AG	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1414 broadens the prohibition on the harassment of hunters, trappers, or fishers to include harassment on any public lands, public waters, or publicly or privately owned wildlife management and fish management areas.

The bill expands the number of free fishing days from 4 to 6.

The bill adds tegus and iguanas to the conditional nonnative snakes and lizards list and tightens the restrictions on the list from applying to possession of these species for sale or personal use to prohibiting any use except for educational, research, or eradication or control purposes.

II. Present Situation:

Penalties for Violations Pertaining to Fish and Wildlife

Under Art. IV, s. 9 of the Florida Constitution, the Fish and Wildlife Conservation Commission (FWC) is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. The Legislature may enact laws that aid FWC in its exercise of regulatory functions and executive powers in the areas of planning, budgeting, personnel management, and purchasing.¹

¹ FLA. CONST. art. IV, s. 9.

Section 379.401, F.S., details FWC's four-tier system for penalties and violations, civil penalties for noncriminal infractions, criminal penalties, and suspension and forfeiture of licenses and permits. Level One violations are considered the least serious while Level Four violations the most serious.

The penalties for Level Two violations are as follows:

Level Two Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
First offense	2 nd Degree Misdemeanor ²	Max: \$500 or Max: 60 days	None
Second offense within three years of previous Level Two violation (or higher)	1 st Degree Misdemeanor ³	Min: \$250; Max: \$1,000 Max: one year	None
Third offense within five years of two previous Level Two violations (or higher)	1 st Degree Misdemeanor ⁴	Min: \$500; Max: \$1,000 Max: one year	Suspension of license for one year
Fourth offense within 10 years of three previous Level Two violations (or higher)	1 st Degree Misdemeanor ⁵	Min: \$750; Max \$1,000 or Max: one year	Suspension of license for three years

Right to Hunt or Fish

The Legislature recognizes that hunting, fishing, and the taking of game are a valued part of the cultural heritage of Florida and should be forever preserved for Floridians.⁶ The Legislature further recognizes that these activities play an important part in the state's economy and in the conservation, preservation, and management of the state's natural areas and resources. Therefore, the Legislature intends that the citizens of Florida have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by general law and by the FWC.⁷

Fees for Freshwater or Saltwater Fishing Licenses

The law and FWC rules prohibit the taking of game, freshwater or saltwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization number and paid the associated fees.⁸ The following lists are freshwater and saltwater fees for fishing licenses set out in statute, though there can be additional fees for specialized permits.

For residents:

- An annual freshwater or saltwater fishing license costs \$15.50.⁹
- A 5-year freshwater or saltwater fishing license costs \$77.50.¹⁰

² Section 379.401(2)(b)1., F.S.

³ Section 379.401(2)(b)2., F.S.

⁴ Section 379.401(2)(b)3., F.S.

⁵ Section 379.401(2)(b)4., F.S.

⁶ Section 379.104, F.S.

⁷ *Id.*

⁸ Section 379.354(1), F.S.

⁹ Section 379.354(4), F.S.

¹⁰ Section 379.354(9), F.S.

- A lifetime freshwater or saltwater fishing license costs:¹¹
 - \$125 for persons 4 years of age or younger.
 - \$225 for persons 5 years of age or older but under 13 years of age.
 - \$300 for persons 13 years of age or older.

For nonresidents:

- A freshwater or saltwater fishing license for 3 consecutive days costs \$15.50.
- A freshwater or saltwater fishing license for 7 consecutive days costs \$28.50.
- An annual freshwater or saltwater fishing license costs \$45.50.¹²

FWC also charges \$1.50 for the cost of issuing the permit.¹³ Exemptions from the fishing license requirement exist for those under the age of 16 or over the age of 65.¹⁴

Free Fishing Days

Florida law expressly authorizes FWC to designate by rule no more than 4 days a year as free freshwater fishing days and no more than 4 days year as free saltwater fishing days.¹⁵ This means people can fish without a license or permit on those days. A person who takes freshwater or saltwater fish on a free fishing day must comply with all laws, rules, and regulations governing the holders of a fishing license or permit and all other conditions and limitations regulating the taking of freshwater or saltwater fish as are imposed by law or rule.¹⁶

Harassment of Hunters, Trappers, or Fishers

Under s. 79.105, F.S., a person may not intentionally, within a publicly or privately owned wildlife management or fish management area or on any state-owned water body:

- Interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another.
- Attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

Anyone in violation of this provision is guilty of a Level Two violation (see above).

Nonnative Species

FWC is responsible for the control and management of nonnative species.¹⁷ Nonnative species are animals living outside captivity and which are not historically present in the state.¹⁸ More than 500 fish and wildlife nonnative species have been documented in Florida.¹⁹ Not all

¹¹ Section 379.354(11), F.S.

¹² Section 379.354(5), F.S.

¹³ Section 379.352(5), F.S.

¹⁴ Section 379.353, F.S.

¹⁵ Section 379.354(15), F.S.; Fla. Admin. Code R. 68A-5.006 sets out “Free-Freshwater Fishing Day-Spring” as the first weekend in April, and “Free-Freshwater Fishing Day-Summer” as the second weekend in June, or such other period as may be specified by order of FWC; Fla. Admin. Code R. 68A-5.006 sets out “License-Free Saltwater Fishing Days” as the first weekend in June, the first Saturday in September, and the Saturday following Thanksgiving.

¹⁶ Section 379.354(15), F.S.

¹⁷ Fla. Admin. Code Ch. 68-5.

¹⁸ Fish and Wildlife Conservation Commission (FWC), *What is a nonnative species?*

<https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited February 6, 2020).

¹⁹ FWC, *Florida’s Exotic Fish and Wildlife*, <http://myfwc.com/wildlifehabitats/nonnatives/> (last visited on February 6, 2020).

nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.²⁰ To manage and minimize the impacts of nonnative species, 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 FWC.²¹

Prohibited or Conditional Nonnative Snakes and Lizards

Prohibited species are nonnative species that pose a very high risk to native fish and wildlife, to the ecology of native wildlife communities, or to human safety. Possession of these species requires a permit from FWC and is generally limited to public exhibition and research.²²

Conditional species²³ are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Conditional nonnative snakes and lizards are not authorized to be acquired for personal possession.²⁴ Specifically, the following nonnative snakes and lizards are prohibited from being kept, possessed, or 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 FWC.²⁵

A reptile dealer, researcher, or public exhibitor providing educational exhibits may apply for a permit to import or possess conditional nonnative snakes and lizards.²⁶ 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.²⁷ Owners of such species must submit a Captive Wildlife Disaster and Critical Incident Plan to FWC and must maintain records of their inventory.²⁸

In 2018, the Legislature created s. 379.2311, F.S., which directed FWC to create a pilot program to mitigate the impact of priority invasive species on the public lands or waters of the state. The

²⁰ *Id.*

²¹ Section 379.231, F.S.

²² Section 379.372, F.S.; see Fla. Admin. Code R. 68-5.003 for a complete list of prohibited species.

²³ Statute uses the phrase "reptiles of concern," but FWC lists such species in its conditional species list. See FWC, *Reptiles of Concern*, <https://myfwc.com/license/captive-wildlife/reptiles-of-concern/> (last visited February 6, 2020); s. 379.372(b), F.S.

²⁴ FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited February 6, 2020).

²⁵ Section 379.372(2)(a), F.S.

²⁶ Fla. Admin. Code R. 68-5.005(1); see FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited February 6, 2020).

²⁷ Fla. Admin. Code R. 68-5.005(5).

²⁸ *Id.*

goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of priority invasive species, contain their populations, and eradicate them from this state. As part of the program, FWC is authorized to enter into contracts to capture or destroy animals belonging to priority invasive species found on public lands, in the waters of this state, or on private lands or waters with the consent of the owner. All captures and disposals of animals that are priority invasive species must be documented and photographed and the geographic location of the take must be recorded for research purposes. FWC is required to submit a report of findings and recommendations regarding its implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2021.

Priority invasive species are:

- Lizards of the genus *Tupinambis*, also known as tegu lizards;
- The conditional lizard and snake species listed above;
- *Pterois volitans*, also known as red lionfish; and
- *Pterois miles*, also known as the common lionfish or devil firefish.²⁹

Tegus

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.³⁰ Tegus are not innately aggressive but have sharp teeth, strong jaws, and sharp claws, which they will use to defend themselves if threatened.³¹ Tegus are an invasive species and have known breeding populations in Miami-Dade and Hillsborough counties³² and an emerging population in Charlotte County.³³ The tegu causes harm to native species by disturbing alligator nests and consuming their eggs, and utilizing gopher tortoise burrows and consuming juvenile gopher tortoises.³⁴

The tegu is not designated as a conditional or prohibited species.³⁵ However, a person must possess a license from FWC to sell a tegu or for public exhibition.³⁶ A November 2019 survey of all Class III license holders allowing for the sale of reptiles found 106 license holders listed that may sell tegus with more than 1,245 in inventory.³⁷ FWC developed a trapping removal program and works with other agencies and organizations to assess the tegu's threat and develop management strategies.³⁸ The goal of the program is to minimize the impact of tegus on native

²⁹ Section 379.2311, F.S.

³⁰ FWC, *Argentine black and white tegu*, <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited February 6, 2020).

³¹ *Id.*

³² *Id.*

³³ FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

³⁴ FWC, *Argentine black and white tegu*, <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited February 6, 2020).

³⁵ *Id.*

³⁶ *Id.*; see s. 379.3761, F.S.

³⁷ FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

³⁸ *Id.* (under Frequently Asked Questions).

wildlife and natural areas.³⁹ A limited number of commercial wildlife operators trap and remove tegus for homeowners or on other private lands.⁴⁰

Members of the public may also remove and kill tegus from 22 FWC managed public lands without a license or permit.⁴¹ Through these efforts, over 7,800 tegus have been reported to the Commission as removed from the wild or found dead in Florida by FWC staff, partners, and the public since 2012, primarily in Miami-Dade County.⁴²

Green Iguanas

Green iguanas (*Iguana iguana*) are large, typically green lizards, though they can sometimes be brown or almost black in color.⁴³ Some adults can take on an orange or pink coloration during certain times of the year. Male green iguanas can grow to over five feet in length and weigh up to 17 pounds. Females can also reach five feet in length but usually do not exceed seven pounds. Females typically reach reproductive maturity at two to four years of age. Green iguanas can live up to 10 years in the wild and 19 years in captivity. Green iguanas thrive in southern Florida and are not cold hardy.⁴⁴

Green iguanas are a nonnative, invasive species in Florida.⁴⁵ Green iguanas can live on the ground, in shrubs, or in trees in a variety of habitats including suburban developments, urban areas, small towns, and agricultural areas. They are excellent swimmers, tolerating both salt and freshwater and can submerge themselves for up to four hours at a time.⁴⁶

Green iguanas cause damage to residential and commercial landscape vegetation and are often considered a nuisance by property owners. Iguanas are attracted to trees with foliage or flowers, most fruits (except citrus) and almost any vegetable. Some green iguanas cause damage to infrastructure by digging burrows that erode and collapse sidewalks, foundations, seawalls, berms, and canal banks. Green iguanas may also leave droppings on docks, moored boats, seawalls, porches, decks, pool platforms, and inside swimming pools.

Green iguanas are not designated as conditional or prohibited species.⁴⁷ However, a person must possess a license from the FWC to sell a green iguana or for public exhibition.⁴⁸ A November 2019 survey of all Class III license holders allowing for the sale of reptiles found 382 license holders listed that may sell iguanas with more than 5,307 in inventory.⁴⁹

³⁹ *Id.*

⁴⁰ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Agriculture Committee).

⁴¹ FWC, EO 17-11 (Mar. 31, 2017), available at <https://myfwc.com/media/3682/eo-17-11.pdf> (last visited February 6, 2020).

⁴² FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

⁴³ FWC, *Invasive Green Iguana*, <https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/> (last visited February 6, 2020).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*; see s. 379.3761, F.S.

⁴⁹ FWC, *Senate Bill 1414 Agency Bill Analysis*, 3 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

The FWC encourages removal of green iguanas from private properties by landowners. Members of the public may also remove and kill iguanas from 22 FWC managed public lands without a license or permit.⁵⁰ The FWC hosts Iguana Technical Assistance Public Workshops to help empower homeowners to manage this nonnative species on their own property with legal trapping and removal options.⁵¹ In 2018, FWC initiated removal efforts on public conservation lands, resulting in nearly 5,000 iguanas being removed.⁵²

III. Effect of Proposed Changes:

Section 1 amends s. 379.105, F.S., relating to harassment of hunters, trappers, or fishers. The bill revises existing language to protect hunters, trappers, or fishers from harassment within or on any public lands, publicly or privately owned wildlife management areas or fish management areas, or public waters. The bill increases areas upon which hunters, trappers, or fishers are protected from harassment by expanding the protection to all public lands and all public waters (from wildlife management or fish management areas or a state-owned water body).

Section 2 amends s. 379.354, F.S., to increase the free saltwater and freshwater fishing days from 4 to 6.

Section 3 amends s. 379.372, F.S., to state that no person, party, firm, association, or corporation may keep, possess, import into the state, sell, barter, trade, or breed the following species except for educational, research, or eradication or control purposes:

- Burmese or Indian python (*Python molurus*).
- Reticulated python (*Python reticulatus*).
- Northern African python (*Python sebae*).
- Southern African python (*Python natalensis*).
- Amethystine or scrub python (*Morelia amethystinus*).
- Green Anaconda (*Eunectes murinus*).
- Nile monitor (*Varanus niloticus*).
- Green iguana (*Iguana iguana*).
- Tegu Lizard (any species of the genera *Salvator* or *Tupinambis*).
- Any other reptile designated as a conditional or prohibited species by FWC.

This adds the green iguana and the tegu lizard to the list of species that cannot be kept or sold for personal use. It also makes the prohibition stricter by changing it from prohibiting these species for being “kept or sold for personal use” to prohibiting anyone from possessing them “except for educational or research purposes.”

Section 4 provides an effective date of July 1, 2020.

⁵⁰ FWC, EO 17-11 (Mar. 31, 2017), available at <https://myfwc.com/media/3682/EO-17-11.pdf> (last visited February 6, 2020).

⁵¹ FWC, *Nonnative Species Public Workshops*, <https://myfwc.com/wildlifehabitats/nonnatives/public-workshops/> (last visited February 6, 2020).

⁵² FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

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 identified.

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

None.

B. Private Sector Impact:

There may be a negative fiscal impact to commercial owners of tegus and iguana who are no longer able to sell the species under the bill.

C. Government Sector Impact:

There may be a negative fiscal impact to the state for additional free fishing days, but it is likely negligible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This committee substitute substantially amends the following sections of the Florida Statutes: 379.105, 379.354, and 379.372.

This committee substitute reenacts s. 379.2311(1) 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 Environment and Natural Resources on February 3, 2020:

The prohibition on tegus is expanded to include any species of the genera *Salvator* or *Tupinambis*.

CS by Agriculture Committee on February 11, 2020:

The exceptions to keeping, possessing, importing into the state, selling, bartering, trading, or breeding specified nonnative snakes and lizards has been expanded to include eradication or control purposes, as well as for educational and research.

- B. **Amendments:**

None.

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 Agriculture

BILL: CS/CS/SB 1414

INTRODUCER: Agriculture Committee, Environment and Natural Resources Committee, and Senator Mayfield

SUBJECT: Fish and Wildlife Activities

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rogers</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1414 broadens the prohibition on the harassment of hunters, trappers, or fishers to include harassment on any public lands, public waters, or publicly or privately owned wildlife management and fish management areas.

The bill expands the number of free fishing days from 4 to 6.

The bill adds tegus and iguanas to the conditional nonnative snakes and lizards list and tightens the restrictions on the list from applying to possession of these species for sale or personal use to prohibiting any use except for educational, research, or eradication or control purposes.

II. Present Situation:

Penalties for Violations Pertaining to Fish and Wildlife

Under Art. IV, s. 9 of the Florida Constitution, the Fish and Wildlife Conservation Commission (FWC) is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. The Legislature may enact laws that aid FWC in its exercise of regulatory functions and executive powers in the areas of planning, budgeting, personnel management, and purchasing.¹

¹ FLA. CONST. art. IV, s. 9.

Section 379.401, F.S., details FWC's four-tier system for penalties and violations, civil penalties for noncriminal infractions, criminal penalties, and suspension and forfeiture of licenses and permits. Level One violations are considered the least serious while Level Four violations the most serious.

The penalties for Level Two violations are as follows:

Level Two Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
First offense	2 nd Degree Misdemeanor ²	Max: \$500 or Max: 60 days	None
Second offense within three years of previous Level Two violation (or higher)	1 st Degree Misdemeanor ³	Min: \$250; Max: \$1,000 Max: one year	None
Third offense within five years of two previous Level Two violations (or higher)	1 st Degree Misdemeanor ⁴	Min: \$500; Max: \$1,000 Max: one year	Suspension of license for one year
Fourth offense within 10 years of three previous Level Two violations (or higher)	1 st Degree Misdemeanor ⁵	Min: \$750; Max \$1,000 or Max: one year	Suspension of license for three years

Right to Hunt or Fish

The Legislature recognizes that hunting, fishing, and the taking of game are a valued part of the cultural heritage of Florida and should be forever preserved for Floridians.⁶ The Legislature further recognizes that these activities play an important part in the state's economy and in the conservation, preservation, and management of the state's natural areas and resources. Therefore, the Legislature intends that the citizens of Florida have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by general law and by the FWC.⁷

Fees for Freshwater or Saltwater Fishing Licenses

The law and FWC rules prohibit the taking of game, freshwater or saltwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization number and paid the associated fees.⁸ The following lists are freshwater and saltwater fees for fishing licenses set out in statute, though there can be additional fees for specialized permits.

For residents:

- An annual freshwater or saltwater fishing license costs \$15.50.⁹
- A 5-year freshwater or saltwater fishing license costs \$77.50.¹⁰

² Section 379.401(2)(b)1., F.S.

³ Section 379.401(2)(b)2., F.S.

⁴ Section 379.401(2)(b)3., F.S.

⁵ Section 379.401(2)(b)4., F.S.

⁶ Section 379.104, F.S.

⁷ *Id.*

⁸ Section 379.354(1), F.S.

⁹ Section 379.354(4), F.S.

¹⁰ Section 379.354(9), F.S.

- A lifetime freshwater or saltwater fishing license costs:¹¹
 - \$125 for persons 4 years of age or younger.
 - \$225 for persons 5 years of age or older but under 13 years of age.
 - \$300 for persons 13 years of age or older.

For nonresidents:

- A freshwater or saltwater fishing license for 3 consecutive days costs \$15.50.
- A freshwater or saltwater fishing license for 7 consecutive days costs \$28.50.
- An annual freshwater or saltwater fishing license costs \$45.50.¹²

FWC also charges \$1.50 for the cost of issuing the permit.¹³ Exemptions from the fishing license requirement exist for those under the age of 16 or over the age of 65.¹⁴

Free Fishing Days

Florida law expressly authorizes FWC to designate by rule no more than 4 days a year as free freshwater fishing days and no more than 4 days year as free saltwater fishing days.¹⁵ This means people can fish without a license or permit on those days. A person who takes freshwater or saltwater fish on a free fishing day must comply with all laws, rules, and regulations governing the holders of a fishing license or permit and all other conditions and limitations regulating the taking of freshwater or saltwater fish as are imposed by law or rule.¹⁶

Harassment of Hunters, Trappers, or Fishers

Under s. 79.105, F.S., a person may not intentionally, within a publicly or privately owned wildlife management or fish management area or on any state-owned water body:

- Interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another.
- Attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

Anyone in violation of this provision is guilty of a Level Two violation (see above).

Nonnative Species

FWC is responsible for the control and management of nonnative species.¹⁷ Nonnative species are animals living outside captivity and which are not historically present in the state.¹⁸ More than 500 fish and wildlife nonnative species have been documented in Florida.¹⁹ Not all

¹¹ Section 379.354(11), F.S.

¹² Section 379.354(5), F.S.

¹³ Section 379.352(5), F.S.

¹⁴ Section 379.353, F.S.

¹⁵ Section 379.354(15), F.S.; Fla. Admin. Code R. 68A-5.006 sets out “Free-Freshwater Fishing Day-Spring” as the first weekend in April, and “Free-Freshwater Fishing Day-Summer” as the second weekend in June, or such other period as may be specified by order of FWC; Fla. Admin. Code R. 68A-5.006 sets out “License-Free Saltwater Fishing Days” as the first weekend in June, the first Saturday in September, and the Saturday following Thanksgiving.

¹⁶ Section 379.354(15), F.S.

¹⁷ Fla. Admin. Code Ch. 68-5.

¹⁸ Fish and Wildlife Conservation Commission (FWC), *What is a nonnative species?*

<https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited February 6, 2020).

¹⁹ FWC, *Florida’s Exotic Fish and Wildlife*, <http://myfwc.com/wildlifehabitats/nonnatives/> (last visited on February 6, 020).

nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.²⁰ To manage and minimize the impacts of nonnative species, 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 FWC.²¹

Prohibited or Conditional Nonnative Snakes and Lizards

Prohibited species are nonnative species that pose a very high risk to native fish and wildlife, to the ecology of native wildlife communities, or to human safety. Possession of these species requires a permit from FWC and is generally limited to public exhibition and research.²²

Conditional species²³ are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Conditional nonnative snakes and lizards are not authorized to be acquired for personal possession.²⁴ Specifically, the following nonnative snakes and lizards are prohibited from being kept, possessed, or 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 FWC.²⁵

A reptile dealer, researcher, or public exhibitor providing educational exhibits may apply for a permit to import or possess conditional nonnative snakes and lizards.²⁶ 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.²⁷ Owners of such species must submit a Captive Wildlife Disaster and Critical Incident Plan to FWC and must maintain records of their inventory.²⁸

In 2018, the Legislature created s. 379.2311, F.S., which directed FWC to create a pilot program to mitigate the impact of priority invasive species on the public lands or waters of the state. The

²⁰ *Id.*

²¹ Section 379.231, F.S.

²² Section 379.372, F.S.; see Fla. Admin. Code R. 68-5.003 for a complete list of prohibited species.

²³ Statute uses the phrase "reptiles of concern," but FWC lists such species in its conditional species list. See FWC, *Reptiles of Concern*, <https://myfwc.com/license/captive-wildlife/reptiles-of-concern/> (last visited February 6, 2020); s. 379.372(b), F.S.

²⁴ FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited February 6, 2020).

²⁵ Section 379.372(2)(a), F.S.

²⁶ Fla. Admin. Code R. 68-5.005(1); see FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited February 6, 2020).

²⁷ Fla. Admin. Code R. 68-5.005(5).

²⁸ *Id.*

goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of priority invasive species, contain their populations, and eradicate them from this state. As part of the program, FWC is authorized to enter into contracts to capture or destroy animals belonging to priority invasive species found on public lands, in the waters of this state, or on private lands or waters with the consent of the owner. All captures and disposals of animals that are priority invasive species must be documented and photographed and the geographic location of the take must be recorded for research purposes. FWC is required to submit a report of findings and recommendations regarding its implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2021.

Priority invasive species are:

- Lizards of the genus *Tupinambis*, also known as tegu lizards;
- The conditional lizard and snake species listed above;
- *Pterois volitans*, also known as red lionfish; and
- *Pterois miles*, also known as the common lionfish or devil firefish.²⁹

Tegus

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.³⁰ Tegus are not innately aggressive but have sharp teeth, strong jaws, and sharp claws, which they will use to defend themselves if threatened.³¹ Tegus are an invasive species and have known breeding populations in Miami-Dade and Hillsborough counties³² and an emerging population in Charlotte County.³³ The tegu causes harm to native species by disturbing alligator nests and consuming their eggs, and utilizing gopher tortoise burrows and consuming juvenile gopher tortoises.³⁴

The tegu is not designated as a conditional or prohibited species.³⁵ However, a person must possess a license from FWC to sell a tegu or for public exhibition.³⁶ A November 2019 survey of all Class III license holders allowing for the sale of reptiles found 106 license holders listed that may sell tegus with more than 1,245 in inventory.³⁷ FWC developed a trapping removal program and works with other agencies and organizations to assess the tegu's threat and develop management strategies.³⁸ The goal of the program is to minimize the impact of tegus on native

²⁹ Section 379.2311, F.S.

³⁰ FWC, *Argentine black and white tegu*, <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited February 6, 2020).

³¹ *Id.*

³² *Id.*

³³ FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

³⁴ FWC, *Argentine black and white tegu*, <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited February 6, 2020).

³⁵ *Id.*

³⁶ *Id.*; see s. 379.3761, F.S.

³⁷ FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

³⁸ *Id.* (under Frequently Asked Questions).

wildlife and natural areas.³⁹ A limited number of commercial wildlife operators trap and remove tegus for homeowners or on other private lands.⁴⁰

Members of the public may also remove and kill tegus from 22 FWC managed public lands without a license or permit.⁴¹ Through these efforts, over 7,800 tegus have been reported to the Commission as removed from the wild or found dead in Florida by FWC staff, partners, and the public since 2012, primarily in Miami-Dade County.⁴²

Green Iguanas

Green iguanas (*Iguana iguana*) are large, typically green lizards, though they can sometimes be brown or almost black in color.⁴³ Some adults can take on an orange or pink coloration during certain times of the year. Male green iguanas can grow to over five feet in length and weigh up to 17 pounds. Females can also reach five feet in length but usually do not exceed seven pounds. Females typically reach reproductive maturity at two to four years of age. Green iguanas can live up to 10 years in the wild and 19 years in captivity. Green iguanas thrive in southern Florida and are not cold hardy.⁴⁴

Green iguanas are a nonnative, invasive species in Florida.⁴⁵ Green iguanas can live on the ground, in shrubs, or in trees in a variety of habitats including suburban developments, urban areas, small towns, and agricultural areas. They are excellent swimmers, tolerating both salt and freshwater and can submerge themselves for up to four hours at a time.⁴⁶

Green iguanas cause damage to residential and commercial landscape vegetation and are often considered a nuisance by property owners. Iguanas are attracted to trees with foliage or flowers, most fruits (except citrus) and almost any vegetable. Some green iguanas cause damage to infrastructure by digging burrows that erode and collapse sidewalks, foundations, seawalls, berms, and canal banks. Green iguanas may also leave droppings on docks, moored boats, seawalls, porches, decks, pool platforms, and inside swimming pools.

Green iguanas are not designated as conditional or prohibited species.⁴⁷ However, a person must possess a license from the FWC to sell a green iguana or for public exhibition.⁴⁸ A November 2019 survey of all Class III license holders allowing for the sale of reptiles found 382 license holders listed that may sell iguanas with more than 5,307 in inventory.⁴⁹

³⁹ *Id.*

⁴⁰ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Agriculture Committee).

⁴¹ FWC, EO 17-11 (Mar. 31, 2017), available at <https://myfwc.com/media/3682/eo-17-11.pdf> (last visited February 6, 2020).

⁴² FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

⁴³ FWC, *Invasive Green Iguana*, <https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/> (last visited February 6, 2020).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*; see s. 379.3761, F.S.

⁴⁹ FWC, *Senate Bill 1414 Agency Bill Analysis*, 3 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

The FWC encourages removal of green iguanas from private properties by landowners. Members of the public may also remove and kill iguanas from 22 FWC managed public lands without a license or permit.⁵⁰ The FWC hosts Iguana Technical Assistance Public Workshops to help empower homeowners to manage this nonnative species on their own property with legal trapping and removal options.⁵¹ In 2018, FWC initiated removal efforts on public conservation lands, resulting in nearly 5,000 iguanas being removed.⁵²

III. Effect of Proposed Changes:

Section 1 amends s. 379.105, F.S., relating to harassment of hunters, trappers, or fishers. The bill revises existing language to protect hunters, trappers, or fishers from harassment within or on any public lands, publicly or privately owned wildlife management areas or fish management areas, or public waters. The bill increases areas upon which hunters, trappers, or fishers are protected from harassment by expanding the protection to all public lands and all public waters (from wildlife management or fish management areas or a state-owned water body).

Section 2 amends s. 379.354, F.S., to increase the free saltwater and freshwater fishing days from 4 to 6.

Section 3 amends s. 379.372, F.S., to state that no person, party, firm, association, or corporation may keep, possess, import into the state, sell, barter, trade, or breed the following species except for educational, research, or eradication or control purposes:

- Burmese or Indian python (*Python molurus*).
- Reticulated python (*Python reticulatus*).
- Northern African python (*Python sebae*).
- Southern African python (*Python natalensis*).
- Amethystine or scrub python (*Morelia amethystinus*).
- Green Anaconda (*Eunectes murinus*).
- Nile monitor (*Varanus niloticus*).
- Green iguana (*Iguana iguana*).
- Tegu Lizard (any species of the genera *Salvator* or *Tupinambis*).
- Any other reptile designated as a conditional or prohibited species by FWC.

This adds the green iguana and the tegu lizard to the list of species that cannot be kept or sold for personal use. It also makes the prohibition stricter by changing it from prohibiting these species for being “kept or sold for personal use” to prohibiting anyone from possessing them “except for educational or research purposes.”

Section 4 provides an effective date of July 1, 2020.

⁵⁰ FWC, EO 17-11 (Mar. 31, 2017), available at <https://myfwc.com/media/3682/EO-17-11.pdf> (last visited February 6, 2020).

⁵¹ FWC, *Nonnative Species Public Workshops*, <https://myfwc.com/wildlifehabitats/nonnatives/public-workshops/> (last visited February 6, 2020).

⁵² FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

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 identified.

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

None.

B. Private Sector Impact:

There may be a negative fiscal impact to commercial owners of tegus and iguana who are no longer able to sell the species under the bill.

C. Government Sector Impact:

There may be a negative fiscal impact to the state for additional free fishing days, but it is likely negligible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This committee substitute substantially amends the following sections of the Florida Statutes: 379.105, 379.354, and 379.372.

This committee substitute reenacts s. 379.2311(1) 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 Environment and Natural Resources on February 3, 2020:

The prohibition on tegus is expanded to include any species of the genera *Salvator* or *Tupinambis*.

CS by Agriculture Committee on February 11, 2020:

The exceptions to keeping, possessing, importing into the state, selling, bartering, trading, or breeding specified nonnative snakes and lizards has been expanded to include eradication or control purposes, as well as for educational and research.

- B. **Amendments:**

None.

1 A bill to be entitled
2 An act relating to fish and wildlife activities;
3 amending s. 379.105, F.S.; prohibiting certain
4 harassment of hunters, trappers, and fishers within or
5 on public lands or publicly or privately owned
6 wildlife and fish management areas, or in or on public
7 waters; amending s. 379.354, F.S.; authorizing the
8 Fish and Wildlife Conservation Commission to designate
9 additional annual free freshwater and saltwater
10 fishing days; amending s. 379.372, F.S.; prohibiting
11 the keeping, possessing, importing, selling,
12 bartering, trading, or breeding of certain species
13 except for educational or research purposes; providing
14 an exemption from the sales and use tax for the retail
15 sale of certain hunting, fishing, and camping supplies
16 during a specified period; providing definitions;
17 specifying locations where the exemptions do not
18 apply; authorizing certain dealers to opt out of
19 participating in the exemptions, subject to certain
20 conditions; authorizing the Department of Revenue to
21 adopt emergency rules; providing an appropriation;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

HB 777

2020

26 Section 1. Subsection (1) of section 379.105, Florida
27 Statutes, is amended to read:

28 379.105 Harassment of hunters, trappers, or fishers.—

29 (1) A person may not intentionally, within or on any
30 public lands or ~~a~~ publicly or privately owned wildlife
31 management and ~~or~~ fish management areas, ~~area~~ or in or on any
32 public waters ~~state-owned water body~~:

33 (a) Interfere with or attempt to prevent the lawful taking
34 of fish, game, or nongame animals by another within or on such
35 lands or areas, or in or on such waters.

36 (b) Attempt to disturb fish, game, or nongame animals or
37 attempt to affect their behavior with the intent to prevent
38 their lawful taking by another within or on such lands or areas,
39 or in or on such waters.

40 Section 2. Subsection (15) of section 379.354, Florida
41 Statutes, is amended to read:

42 379.354 Recreational licenses, permits, and authorization
43 numbers; fees established.—

44 (15) FREE FISHING DAYS.—The commission may designate by
45 rule no more than 6 ~~4~~ consecutive or nonconsecutive days in each
46 year as free freshwater fishing days and no more than 6 ~~4~~
47 consecutive or nonconsecutive days in each year as free
48 saltwater fishing days. Notwithstanding any other provision of
49 this chapter, a ~~any~~ person may take freshwater fish for
50 noncommercial purposes on a free freshwater fishing day and may

HB 777

2020

51 take saltwater fish for noncommercial purposes on a free
52 saltwater fishing day, without obtaining or possessing a license
53 or permit or paying a license or permit fee as set forth
54 ~~prescribed~~ in this section. A person who takes freshwater or
55 saltwater fish on a free fishing day must comply with all laws,
56 rules, and regulations governing the holders of a fishing
57 license or permit and all other conditions and limitations
58 regulating the taking of freshwater or saltwater fish as are
59 imposed by law or rule.

60 Section 3. Paragraph (a) of subsection (2) of section
61 379.372, Florida Statutes, is amended to read:

62 379.372 Capturing, keeping, possessing, transporting, or
63 exhibiting venomous reptiles, reptiles of concern, conditional
64 reptiles, or prohibited reptiles; license required.—

65 (2)(a) A ~~No~~ person, party, firm, association, or
66 corporation may not ~~shall~~ keep, possess, import into the state,
67 sell, barter, trade, or breed the following species except for
68 educational or research purposes ~~personal use or for sale for~~
69 ~~personal use~~:

- 70 1. Burmese or Indian python (*Python molurus*).
- 71 2. Reticulated python (*Python reticulatus*).
- 72 3. Northern African python (*Python sebae*).
- 73 4. Southern African python (*Python natalensis*).
- 74 5. Amethystine or scrub python (*Morelia amethystinus*).
- 75 6. Green Anaconda (*Eunectes murinus*).

76 7. Nile monitor (*Varanus niloticus*).

77 8. Green iguana (*Iguana iguana*).

78 9. Black and white tegu (*Salvator merianae*).

79 10.8. Any other reptile designated as a conditional or
80 prohibited species by the commission.

81 Section 4. Hunting, fishing, and camping supplies; sales
82 tax holiday.—

83 (1) The tax levied under chapter 212, Florida Statutes,
84 may not be collected during the period from 12:01 a.m. on
85 September 5, 2020, through 11:59 p.m. on September 5, 2020, on
86 the retail sale, as defined in s. 212.02(14), Florida Statutes,
87 of:

88 (a) Firearms. As used in this section, the term "firearms"
89 means rifles, shotguns, spearguns, crossbows, and bows. The term
90 does not include destructive devices as defined in s.
91 790.001(4), Florida Statutes.

92 (b) Ammunition for firearms.

93 (c) Fishing supplies. As used in this section, the term
94 "fishing supplies" means rods, reels, bait, and fishing tackle.
95 The term does not include supplies used for commercial fishing
96 purposes.

97 (d) Camping tents.

98 (2) The tax exemption provided in this section does not
99 apply to sales within a theme park or entertainment complex as
100 defined in s. 509.013(9), Florida Statutes, within a public

101 lodging establishment as defined in s. 509.013(4), Florida
102 Statutes, or within an airport as defined in s. 330.27(2),
103 Florida Statutes.

104 (3) The tax exemptions provided in this section may apply
105 at the option of a dealer if less than 5 percent of the dealer's
106 gross sales of tangible personal property in the prior calendar
107 year are comprised of items that would be exempt under this
108 section. If a qualifying dealer chooses not to participate in
109 the tax holiday, by September 1, 2020, the dealer must notify
110 the Department of Revenue in writing of its election to collect
111 sales tax during the holiday and must post a copy of that notice
112 in a conspicuous location at its place of business.

113 (4) The Department of Revenue may, and all conditions are
114 deemed to be met to, adopt emergency rules to administer this
115 section. Notwithstanding any other law, emergency rules adopted
116 pursuant to this subsection are effective for 6 months after
117 adoption and may be renewed during the pendency of procedures to
118 adopt permanent rules addressing the subject of the emergency
119 rules.

120 (5) For the 2020-2021 fiscal year, the sum of \$237,000 in
121 nonrecurring funds is appropriated from the General Revenue Fund
122 to the Department of Revenue for the purpose of implementing
123 this section. Funds remaining unexpended or unencumbered from
124 this appropriation as of June 30, 2021, shall revert and be
125 reappropriated for the same purpose in the 2021-2022 fiscal

HB 777

2020

126 | year.

127 | Section 5. This act shall take effect July 1, 2020.

1 A bill to be entitled
2 An act relating to fish and wildlife activities;
3 amending s. 379.105, F.S.; prohibiting certain
4 harassment of hunters, trappers, and fishers within or
5 on public lands or publicly or privately owned
6 wildlife and fish management areas, or in or on public
7 waters; amending s. 379.354, F.S.; authorizing the
8 Fish and Wildlife Conservation Commission to designate
9 additional annual free freshwater and saltwater
10 fishing days; amending s. 379.372, F.S.; prohibiting
11 the keeping, possessing, importing, selling,
12 bartering, trading, or breeding of certain reptiles
13 except for educational, research, eradication, or
14 control purposes; designating green iguanas and tegu
15 lizards as prohibited reptiles; authorizing certain
16 persons and entities to exhibit or sell green iguanas
17 and tegu lizards commercially under specified
18 conditions; requiring the commission to adopt rules;
19 reenacting s. 379.2311(1), F.S., relating to the
20 definition of the term "priority invasive species," to
21 incorporate the amendment made to s. 379.372, F.S., in
22 a reference thereto; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Subsection (1) of section 379.105, Florida
27 Statutes, is amended to read:

28 379.105 Harassment of hunters, trappers, or fishers.—

29 (1) A person may not intentionally, within or on any
30 public lands or ~~a~~ publicly or privately owned wildlife
31 management and ~~or~~ fish management areas, ~~area~~ or in or on any
32 public waters ~~state-owned water body~~:

33 (a) Interfere with or attempt to prevent the lawful taking
34 of fish, game, or nongame animals by another within or on such
35 lands or areas, or in or on such waters.

36 (b) Attempt to disturb fish, game, or nongame animals or
37 attempt to affect their behavior with the intent to prevent
38 their lawful taking by another within or on such lands or areas,
39 or in or on such waters.

40 Section 2. Subsection (15) of section 379.354, Florida
41 Statutes, is amended to read:

42 379.354 Recreational licenses, permits, and authorization
43 numbers; fees established.—

44 (15) FREE FISHING DAYS.—The commission may designate by
45 rule no more than 6 ~~4~~ consecutive or nonconsecutive days in each
46 year as free freshwater fishing days and no more than 6 ~~4~~
47 consecutive or nonconsecutive days in each year as free
48 saltwater fishing days. Notwithstanding any other provision of
49 this chapter, a ~~any~~ person may take freshwater fish for
50 noncommercial purposes on a free freshwater fishing day and may

51 take saltwater fish for noncommercial purposes on a free
52 saltwater fishing day, without obtaining or possessing a license
53 or permit or paying a license or permit fee as set forth
54 ~~prescribed~~ in this section. A person who takes freshwater or
55 saltwater fish on a free fishing day must comply with all laws,
56 rules, and regulations governing the holders of a fishing
57 license or permit and all other conditions and limitations
58 regulating the taking of freshwater or saltwater fish as are
59 imposed by law or rule.

60 Section 3. Paragraph (a) of subsection (2) of section
61 379.372, Florida Statutes, is amended to read:

62 379.372 Capturing, keeping, possessing, transporting, or
63 exhibiting venomous reptiles, reptiles of concern, conditional
64 reptiles, or prohibited reptiles; license required.—

65 (2)(a) A ~~No~~ person, party, firm, association, or
66 corporation may not ~~shall~~ keep, possess, import into the state,
67 sell, barter, trade, or breed the following species except for
68 educational, research, eradication, or control purposes ~~personal~~
69 ~~use or for sale for personal use~~:

- 70 1. Burmese or Indian python (*Python molurus*).
- 71 2. Reticulated python (*Python reticulatus*).
- 72 3. Northern African python (*Python sebae*).
- 73 4. Southern African python (*Python natalensis*).
- 74 5. Amethystine or scrub python (*Morelia amethystinus*).
- 75 6. Green Anaconda (*Eunectes murinus*).

76 7. Nile monitor (*Varanus niloticus*).

77 8. Green iguana (*Iguana iguana*).

78 9. Tegu lizard (any species of the genera *Salvator* or
79 *Tupinambis*).

80 ~~10.8.~~ Any other reptile designated as a conditional or
81 prohibited species by the commission.

82 (b)1. A person, party, firm, association, or corporation
83 who had a documented inventory of green iguanas or tegu lizards
84 on an application for a Class III captive wildlife exhibition or
85 sale license in 2019 and held such license on January 1, 2020,
86 may continue to exhibit or sell green iguanas and tegu lizards
87 commercially for as long as the license remains active. Any
88 inventory of green iguanas or tegu lizards must be sold outside
89 the state and a licensee may not import such species into the
90 state. The grandfather status under this paragraph is void upon
91 transfer or lapse of such license.

92 2. The commission shall adopt rules for the following:

93 a. Reporting requirements for the possession, exhibition,
94 and sale of green iguanas and tegu lizards;

95 b. Biosecurity measures to prevent the escape of green
96 iguanas or tegu lizards; and

97 c. Any necessary grandfather provisions for a person who
98 currently possesses a green iguana or tegu lizard but does not
99 meet the criteria of subparagraph (b)1.

100 Section 4. For the purpose of incorporating the amendment

made by this act to section 379.372, Florida Statutes, in a reference thereto, subsection (1) of section 379.2311, Florida Statutes, is reenacted to read:

379.2311 Nonnative animal management.—

(1) As used in this section, the term "priority invasive species" means the following:

(a) Lizards of the genus *Tupinambis*, also known as tegu lizards;

(b) Species identified in s. 379.372(2)(a);

(c) *Pterois volitans*, also known as red lionfish; and

(d) *Pterois miles*, also known as the common lionfish or devil firefish.

Section 5. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 777 Fish and Wildlife Activities
SPONSOR(S): Agriculture & Natural Resources Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1414

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee		Melkun	Moore

SUMMARY ANALYSIS

Right to Hunt

Under current law, a person may not intentionally, within a publicly or privately owned wildlife management or fish management area or on any state-owned water body: interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

The bill specifies that a person may not intentionally, within or on any public lands or waters, interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

Free Fishing Days

The Fish and Wildlife Conservation Commission (FWC) is authorized to designate up to four days per year as free freshwater fishing days and up to four days per year as free saltwater fishing days. For each free fishing day, any person may fish without a license or permit.

The bill increases the number of free freshwater fishing days that FWC may designate from four days per year to six days per year and the number of free saltwater fishing days that may be designated from four days per year to six days per year.

Conditional Species

Conditional species are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Species designated as conditional nonnative snakes and lizards are prohibited from being kept, possessed, or imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use.

The bill adds the green iguana and the tegu lizard to the conditional nonnative snakes and lizards list.

The bill prohibits a person or entity from keeping, possessing, importing, selling, bartering, trading, or breeding a species listed as a conditional nonnative snake or lizard except for educational, research, eradication, or control purposes.

The bill specifies that a person or entity who had a documented inventory of green iguanas or tegus on an application for an exhibition or sale license in 2019 and held such license on January 1, 2020, may continue to exhibit or sell green iguanas and tegus commercially for as long as the license remains active.

The bill may have an indeterminate negative fiscal impact to the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Right to Hunt or Fish

The Legislature recognizes that hunting, fishing, and the taking of game are a valued part of the cultural heritage of Florida and should be forever preserved for Floridians.¹ The Legislature further recognizes that these activities play an important part in the state's economy and in the conservation, preservation, and management of the state's natural areas and resources. Therefore, the Legislature intends that the citizens of Florida have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by general law and by the Fish and Wildlife Conservation Commission (FWC).²

Harassment of Hunters, Trappers, or Fishers

Under s. 379.105, F.S., a person may not intentionally, within a publicly or privately owned wildlife management or fish management area or on any state-owned water body:

- Interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or
- Attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.³

Any person who violates this section commits a Level Two violation,⁴ punishable by the following:

Level Two Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
First offense	2 nd Degree Misdemeanor ⁵	Max: \$500 or Max: 60 days	None
Second offense within three years of previous Level Two violation (or higher)	1 st Degree Misdemeanor ⁶	Min: \$250; Max: \$1,000 Max: one year	None
Third offense within five years of two previous Level Two violations (or higher)	1 st Degree Misdemeanor ⁷	Min: \$500; Max: \$1,000 Max: one year	Suspension of license for one year
Fourth offense within 10 years of three previous Level Two violations (or higher)	1 st Degree Misdemeanor ⁸	Min: \$750; Max \$1,000 or Max: one year	Suspension of license for three years

¹ Section 379.104, F.S.

² *Id.*

³ Section 379.105(1), F.S.

⁴ Section 379.105(2), F.S.

⁵ Section 379.401(2)(b)1., F.S.

⁶ Section 379.401(2)(b)2., F.S.

⁷ Section 379.401(2)(b)3., F.S.

⁸ Section 379.401(2)(b)4., F.S.

Freshwater and Saltwater Fishing Licenses

Current law prohibits the taking of game, freshwater or saltwater fish, or fur-bearing animals within the state without first obtaining a license, permit, or authorization number and paying the associated fees.⁹ Section 379.354, F.S., establishes freshwater and saltwater fishing license fees as follows:

For residents:

- An annual freshwater or saltwater fishing license costs \$15.50.¹⁰
- A five-year freshwater or saltwater fishing license costs \$77.50.¹¹
- A lifetime freshwater or saltwater fishing license costs:
 - \$125 for persons four years of age or younger.
 - \$225 for persons five years of age or older, but under 13 years of age.
 - \$300 for persons 13 years of age or older.¹²

For nonresidents:

- A freshwater or saltwater fishing license for three consecutive days costs \$15.50.¹³
- A freshwater or saltwater fishing license for seven consecutive days costs \$28.50.¹⁴
- An annual freshwater or saltwater fishing license costs \$45.50.¹⁵

FWC also charges \$1.50 for each issued permit to cover the administrative cost of issuing the permit.¹⁶

Free Fishing Days

FWC is authorized to designate up to four days per year as free freshwater fishing days and up to four days per year as free saltwater fishing days.¹⁷ For each free fishing day, any person may fish without a license or permit.¹⁸ A person who takes freshwater or saltwater fish on a free fishing day must comply with all laws, rules, and regulations governing the holders of a fishing license or permit and all other conditions and limitations regulating the taking of freshwater or saltwater fish as imposed by law or rule.¹⁹

Nonnative Species

Nonnative²⁰ species are animals or plants living in Florida outside captivity or human cultivation that were not historically present in the state.²¹ More than 500 fish and wildlife nonnative species have been documented in Florida.²² Not all nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.²³ To manage and minimize the impacts of nonnative animal species, individuals may not import, introduce, or possess any nonnative animal species without a permit from FWC.²⁴

⁹ Section 379.354(1), F.S.

¹⁰ Sections 379.354(4)(a)-(b), F.S.

¹¹ Section 379.354(9)(a)1., F.S.

¹² Section 379.354(10)(a), F.S.

¹³ Sections 379.354(5)(a) and (c), F.S.

¹⁴ Sections 379.354(5)(b) and (d), F.S.

¹⁵ Sections 379.354(5)(e)-(f), F.S.

¹⁶ Section 379.352(5), F.S.

¹⁷ Section 379.354(15), F.S. Rule 68A-5.006, F.A.C., designates the first weekend in April as "Free-Freshwater Fishing Day-Spring", and the second weekend in June as "Free-Freshwater Fishing Day-Summer". Rule 68B-2.009, F.A.C., designates the first weekend in June, the first Saturday in September, and the Saturday following Thanksgiving as "License-Free Saltwater Fishing Days".

¹⁸ Section 379.354(15), F.S.

¹⁹ *Id.*

²⁰ The terms "nonnative" and "exotic" have the same meaning and are used interchangeably.

²¹ FWC, *Nonnative Species Information*, available at <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Jan. 7, 2020).

²² Nicole Dodds, Mary Miller, and Alexa Lamm, University of Florida Institute of Food and Agricultural Sciences, *Floridians' Perceptions of Invasive Species*, Feb. 2014, p. 1, available at <http://edis.ifas.ufl.edu/pdffiles/WC/WC18600.pdf> (last visited Feb. 18, 2020).

²³ FWC, *Nonnative Species Information*, available at <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Feb. 18, 2020).

²⁴ Section 379.231(1), F.S.

Class III Wildlife

Any non-domesticated wildlife species that do not appear on the list of Class I²⁵ or Class II²⁶ wildlife are considered Class III wildlife.²⁷ Therefore, there is no formal list of Class III species. Examples of Class III species include, but are not limited to, parrots, finches, skunks, foxes, geckos, snakes, and frogs.²⁸ A permit is required for personal possession, exhibition, or sale of Class III wildlife; however, a permit is not required to possess certain Class III wildlife as a personal pet.²⁹

Conditional Nonnative Snakes and Lizards

Conditional species are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Specifically, conditional nonnative snakes and lizards are prohibited from being kept, possessed, or imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use. Current law identifies the following as conditional nonnative snakes and lizards:

- 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 FWC.³⁰

Permits to possess a conditional nonnative snake or lizard may only be issued to individuals or institutions engaged in research, commercial import or export businesses, public aquaria, public zoological parks, or public exhibitors providing educational exhibits.³¹ 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.³² Owners of such species must also submit a Captive Wildlife Disaster and Critical Incident Plan to FWC and maintain records of their inventory.³³

Priority Invasive Species

In 2018, the Legislature directed FWC to create a pilot program to mitigate the impact of priority invasive species on the public lands or waters of the state.³⁴ The goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of priority invasive species, contain their populations, and eradicate them from the state.³⁵

As part of the program, FWC is authorized to enter into contracts to capture or destroy animals belonging to priority invasive species found on public lands, in the waters of this state, or on private lands or waters with the consent of the owner. All captures and disposals of animals that are priority

²⁵ Class I wildlife are those that pose a significant danger to people. Species include bears, cheetahs, baboons, crocodiles, elephants, gorillas, etc. FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020). See r. 68A-6.002(1)(a), F.A.C., for a list of Class I wildlife.

²⁶ Class II wildlife are those that can pose a danger to people. Species include alligators, badgers, bobcats, monkeys, ostrich, wolves, etc. FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020). See r. 68A-6.002(1)(b), F.A.C., for a list of Class II wildlife.

²⁷ Rule 68A-6.002(1)(c), F.A.C.; FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020).

²⁸ FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020).

²⁹ Rule 68A-6.003, F.A.C.; FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020).

³⁰ Section 379.372(2)(a), F.S.

³¹ Rule 68-5.005(1), F.A.C.; see FWC, *Conditional Snakes and Lizards*, available at <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Feb. 18, 2020).

³² Rule 68-5.005(5), F.A.C.

³³ *Id.*

³⁴ Section 379.2311, F.S.

³⁵ Section 379.2311(2), F.S.

invasive species must be documented and photographed and the geographic location of the take must be recorded for research purposes. FWC is required to submit a report of findings and recommendations regarding its implementation of the pilot program to the Governor and the Legislature by January 1, 2021.³⁶

Priority invasive species include lizards of the genus *Tupinambis*, also known as tegu lizards; *Pterois volitans*, also known as red lionfish; *Pterois miles*, also known as the common lionfish or devil firefish; and the conditional nonnative lizard and snake species listed above.³⁷

Tegu Lizards

According to FWC, there are three types of nonnative tegu lizards that have been found in Florida: the Argentine Black and White Tegu (*Salvator merianae*); the Red Tegu (*Salvator rufescens*); and the Gold Tegu (*Tupinambis teguixin*).³⁸ Tegus are an invasive species that have established breeding populations in Miami-Dade and Hillsborough Counties³⁹ and an emerging population in Charlotte County.⁴⁰ The tegu causes harm to native species by disturbing alligator nests and consuming their eggs, utilizing gopher tortoise burrows, and consuming juvenile gopher tortoises.⁴¹

The tegu is listed as a priority invasive species, but is not designated as a conditional or prohibited species.⁴² A permit is not currently required to possess a tegu as a pet; however, a person must possess a license from FWC for any commercial use of a tegu, such as the sale or public exhibition.⁴³ According to a survey conducted by FWC in November 2019, 106 license holders are authorized to sell tegus, and they have more than 1,245 tegus in their combined inventory.⁴⁴

In response to the invasive populations, FWC developed a trapping removal program to minimize the impact of tegus on native wildlife and natural areas and works with other agencies and organizations to assess the tegu's threat as well as develop species management strategies.⁴⁵ Members of the public may also remove and kill tegus from 22 FWC-managed public lands without a license or permit.⁴⁶ Through these efforts, over 7,800 tegus have been reported as removed from the wild or found dead in Florida by FWC staff, partners, and the public since 2012, primarily in Miami-Dade County.⁴⁷

Green Iguanas

Green iguanas (*Iguana iguana*) are large, green lizards that can grow to over five feet in length and weigh up to 17 pounds. Green iguanas typically mate in October through November in their native range, and nesting occurs on riverbanks, beaches and other sandy areas.⁴⁸ Green iguanas can live up to 10 years in the wild and can live on the ground, in shrubs, or in trees in a variety of habitats including suburban developments, urban areas, small towns, and agricultural areas.⁴⁹ Green iguana populations currently stretch along the Atlantic Coast in Broward, Martin, Miami-Dade, Monroe, and Palm Beach Counties and along the Gulf Coast in Collier and Lee Counties. There have also been reports as far north as Alachua, Highlands, Hillsborough, Indian River, and St. Lucie Counties; however, iguanas

³⁶ *Id.*

³⁷ Section 379.2311, F.S.

³⁸ FWC, *Nonnative Whiptails and Wall Lizards*, available at <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/> (last visited Feb. 18, 2020).

³⁹ FWC, *Argentine black and white tegu*, available at <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited Feb. 18, 2020).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ Rule 68-5.006, F.A.C.; see s. 379.3761, F.S.

⁴⁴ FWC, Agency Analysis of 2020 House Bill 777, 2 (Jan. 13, 2020) (on file with the Agriculture & Natural Resources Subcommittee).

⁴⁵ FWC, *Argentine black and white tegu*, available at <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited Feb. 18, 2020).

⁴⁶ FWC, *Executive Order 17-11* (Mar. 31, 2017), available at <https://myfwc.com/media/3682/eo-17-11.pdf> (last visited Feb. 18, 2020).

⁴⁷ FWC, Agency Analysis of 2020 House Bill 777, 2 (Jan. 13, 2020) (on file with the Agriculture & Natural Resources Subcommittee).

⁴⁸ FWC, *Green Iguana*, available at <https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/> (last visited Feb. 18, 2020).

⁴⁹ *Id.*

observed in more northern counties are likely escaped or released captive animals and are unlikely to establish populations, as iguanas are not cold hardy.⁵⁰

Green iguanas cause damage to residential and commercial landscape vegetation and are often considered a nuisance by property owners. Some green iguanas can cause damage to infrastructure by digging burrows that erode and collapse sidewalks, foundations, seawalls, berms, and canal banks. Green iguanas may also leave droppings on docks, moored boats, seawalls, porches, decks, pool platforms, and inside swimming pools. As is the case with other reptiles, green iguanas can also pose a health risk as they can transmit the infectious bacterium *Salmonella* to humans through contact with water or surfaces contaminated by their feces.⁵¹

Green iguanas are not designated as conditional or prohibited species or in any way protected in Florida except by anti-cruelty laws.⁵² A permit is also not currently required to possess a green iguana as a pet, however, a person must possess a license from FWC for any commercial use of a green iguana, such as the sale or public exhibition.⁵³ According to a survey conducted by FWC in November 2019, 382 license holders are authorized to sell iguanas, and they have more than 5,307 in their combined inventory.⁵⁴

FWC encourages the removal of green iguanas from private properties by landowners and allows members of the public to remove and kill iguanas from 22 FWC-managed public lands without a license or permit.⁵⁵ FWC also hosts Iguana Technical Assistance Public Workshops to help empower homeowners to manage this nonnative species on their own property with legal trapping and removal options.⁵⁶ In 2018, FWC initiated removal efforts on public conservation lands, resulting in nearly 5,000 iguanas being removed.⁵⁷

Effect of the Bill

The bill specifies that a person may not intentionally, within or on any public lands or waters, interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

The bill increases the number of free freshwater fishing days that FWC may designate from four days per year to six days per year and the number of free saltwater fishing days that may be designated from four days per year to six days per year.

The bill adds the green iguana (*Iguana iguana*) and the tegu lizard (any species of the genera *Salvator* or *Tupinambis*) to the conditional nonnative snakes and lizards list.

The bill prohibits a person, party, firm, association, or corporation from keeping, possessing, importing, selling, bartering, trading, or breeding species listed as conditional nonnative snakes and lizards except for educational, research, eradication, or control purposes.

The bill specifies that a person, party, firm, association, or corporation who had a documented inventory of green iguanas or tegus on an application for a Class III captive wildlife exhibition or sale license in

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ Rule 68-5.006, F.A.C.; see s. 379.3761, F.S.

⁵⁴ FWC, Agency Analysis of 2020 House Bill 777, 2 (Jan. 13, 2020) (on file with the Agriculture & Natural Resources Subcommittee).

⁵⁵ FWC, *Executive Order 17-11* (Mar. 31, 2017), available at <https://myfwc.com/media/3682/eo-17-11.pdf> (last visited Feb. 18, 2020).

⁵⁶ FWC, *Nonnative Species Public Workshops*, available at <https://myfwc.com/wildlifehabitats/nonnatives/public-workshops/> (last visited Feb. 18, 2020).

⁵⁷ FWC, Agency Analysis of 2020 House Bill 777, 3 (Jan. 13, 2020) (on file with the Agriculture & Natural Resources Subcommittee).

2019 and held such license on January 1, 2020, may continue to exhibit or sell green iguanas and tegus commercially for as long as the license remains active.

The bill requires any inventory of green iguanas or tegus to be sold out of the state and prohibits licensees from importing such species into the state.

The bill requires FWC to adopt rules to establish reporting requirements for the possession, exhibition, and sale of green iguanas and tegus; biosecurity measures to prevent the escape of such species; and any necessary grandfathering provisions for those persons currently in possession of green iguanas or tegu lizards that do not qualify for the grandfathering provisions applicable to commercial sale or exhibition.

B. SECTION DIRECTORY:

- Section 1. Amends s. 379.105, F.S., relating to the harassment of hunters, trappers, or fishers.
- Section 2. Amends s. 379.354, F.S., relating to recreational licenses, permits, and authorization numbers.
- Section 3. Amends s. 379.372, F.S., relating to conditional nonnative snakes and lizards.
- Section 4. Reenacts s. 379.2311, F.S., relating to nonnative animal management.
- Section 5. Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate negative fiscal impact on FWC revenue because the bill increases the number of free fishing days available to the public, but such impact is likely insignificant.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on commercial owners and sellers of tegus and green iguanas because they will no longer be permitted to sell the species within the state for their remaining inventory.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires FWC to adopt rules to provide certain requirements for conditional nonnative snakes and lizards.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.



413536

576-02463-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to water quality improvements;
providing a short title; requiring the Department of
Health to provide a specified report to the Governor
and the Legislature by a specified date; requiring the
Department of Health and the Department of
Environmental Protection to submit to the Governor and
the Legislature, by a specified date, certain
recommendations relating to the transfer of the Onsite
Sewage Program; requiring the departments to enter
into an interagency agreement that meets certain
requirements by a specified date; transferring the
Onsite Sewage Program within the Department of Health
to the Department of Environmental Protection by a
type two transfer by a specified date; providing that
certain employees retain and transfer certain types of
leave upon the transfer; amending s. 373.4131, F.S.;
requiring the Department of Environmental Protection
to include stormwater structural controls inspections
as part of its regular staff training; requiring the
department and the water management districts to adopt
rules regarding stormwater design and operation by a
specified date; amending s. 381.0065, F.S.; conforming
provisions to changes made by the act; requiring the
department to adopt rules for the location of onsite
sewage treatment and disposal systems and complete



413536

576-02463-20

such rulemaking by a specified date; requiring the department to evaluate certain data relating to the self-certification program and provide the Legislature with recommendations by a specified date; providing that certain provisions relating to existing setback requirements are applicable to permits only until the adoption of certain rules by the department; creating s. 381.00652, F.S.; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; providing the duties and membership of the committee; requiring the committee to submit a report to the Governor and the Legislature by a specified date; providing for the expiration of the committee; repealing s. 381.0068, F.S., relating to a technical review and advisory panel; amending s. 403.061, F.S.; requiring the department to adopt rules relating to the underground pipes of wastewater collection systems; requiring public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file certain reports and data with the department; creating s. 403.0616, F.S.; requiring the department, subject to legislative appropriation, to establish a real-time water quality monitoring program; encouraging the formation of public-private partnerships; amending s. 403.067, F.S.; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system



413536

576-02463-20

remediation plans that meet certain requirements;
requiring the Department of Agriculture and Consumer
Services to collect fertilization and nutrient records
from certain agricultural producers and provide the
information to the department annually by a specified
date; requiring the Department of Agriculture and
Consumer Services to perform onsite inspections of the
agricultural producers at specified intervals;
authorizing certain entities to develop research plans
and legislative budget requests relating to best
management practices by a specified date; creating s.
403.0673, F.S.; establishing a wastewater grant
program within the Department of Environmental
Protection; authorizing the department to distribute
appropriated funds for certain projects; providing
requirements for the distribution; requiring the
department to coordinate with each water management
district to identify grant recipients; requiring an
annual report to the Governor and the Legislature by a
specified date; creating s. 403.0855, F.S.; providing
legislative findings regarding the regulation of
biosolids management in this state; requiring the
department to adopt rules for biosolids management;
exempting the rules from a specified statutory
requirement; amending s. 403.086, F.S.; prohibiting
facilities for sanitary sewage disposal from disposing
of any waste in the Indian River Lagoon beginning on a
specified date without first providing advanced waste
treatment; requiring facilities for sanitary sewage



413536

576-02463-20

85 disposal to have a power outage contingency plan;
86 requiring the facilities to take steps to prevent
87 overflows and leaks and ensure that the water reaches
88 the appropriate facility for treatment; requiring the
89 facilities to provide the Department of Environmental
90 Protection with certain information; requiring the
91 department to adopt rules; amending s. 403.087, F.S.;
92 requiring the department to issue operation permits
93 for domestic wastewater treatment facilities to
94 certain facilities under certain circumstances;
95 amending s. 403.088, F.S.; revising the permit
96 conditions for a water pollution operation permit;
97 requiring the department to submit a report to the
98 Governor and the Legislature by a specified date
99 identifying all wastewater utilities that experienced
100 sanitary sewer overflows within a specified timeframe;
101 amending s. 403.0891, F.S.; requiring model stormwater
102 management programs to contain model ordinances for
103 nutrient reduction practices and green infrastructure;
104 amending s. 403.121, F.S.; increasing and providing
105 administrative penalties; amending s. 403.1835, F.S.;
106 conforming a cross-reference; requiring the department
107 to give priority for water pollution control financial
108 assistance to projects that implement certain
109 provisions and that promote efficiency; amending s.
110 403.1838, F.S.; revising requirements for the
111 prioritization of grant applications within the Small
112 Community Sewer Construction Assistance Act; providing
113 a declaration of important state interest; amending



413536

576-02463-20

ss. 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46,
373.250, 373.414, 373.705, 373.707, 373.709, 373.807,
376.307, 380.0552, 381.006, 381.0061, 381.0064,
381.00651, 381.0101, 403.08601, 403.0871, 403.0872,
403.707, 403.861, 489.551, and 590.02, F.S.;
conforming cross-references and provisions to changes
made by the act; providing a directive to the Division
of Law Revision upon the adoption of certain rules by
the Department of Environmental Protection; providing
effective dates.

WHEREAS, nutrients negatively impact groundwater and
surface waters in this state and cause the proliferation of
algal blooms, and

WHEREAS, onsite sewage treatment and disposal systems were
designed to manage human waste and are permitted by the
Department of Health for that purpose, and

WHEREAS, conventional onsite sewage treatment and disposal
systems contribute nutrients to groundwater and surface waters
across this state which can cause harmful blue-green algal
blooms, and

WHEREAS, many stormwater systems are designed primarily to
divert and control stormwater rather than to remove pollutants,
and

WHEREAS, most existing stormwater system design criteria
fail to consistently meet either the 80 percent or 95 percent
target pollutant reduction goals established by the Department
of Environmental Protection, and

WHEREAS, other significant pollutants often can be removed



413536

576-02463-20

143 from stormwater more easily than nutrients and, as a result,
144 design criteria that provide the desired removal efficiencies
145 for nutrients will likely achieve equal or better removal
146 efficiencies for other constituents, and

147 WHEREAS, the Department of Environmental Protection has
148 found that the major causes of sanitary sewer overflows during
149 storm events are infiltration, inflow, and acute power failures,
150 and

151 WHEREAS, the Department of Environmental Protection lacks
152 statutory authority to regulate infiltration and inflow or to
153 require that all lift stations constructed prior to 2003 have
154 emergency backup power, and

155 WHEREAS, sanitary sewer overflows and leaking
156 infrastructure create both a human health concern and a nutrient
157 pollution problem, and

158 WHEREAS, the agricultural sector is a significant
159 contributor to the excess delivery of nutrients to surface
160 waters throughout this state and has been identified as the
161 dominant source of both phosphorus and nitrogen within the Lake
162 Okeechobee watershed and a number of other basin management
163 action plan areas, and

164 WHEREAS, only 75 percent of eligible agricultural parties
165 within the Lake Okeechobee Basin Management Action Plan area are
166 enrolled in an appropriate best management practice and
167 enrollment numbers are considerably less in other basin
168 management action plan areas, and

169 WHEREAS, although agricultural best management practices,
170 by design, should be technically feasible and economically
171 viable, that does not imply that their adoption and full



413536

576-02463-20

implementation, alone, will alleviate downstream water quality
impairments, NOW, THEREFORE,

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

Section 1. This act may be cited as the "Clean Waterways
Act."

Section 2. (1) By July 1, 2020, the Department of Health
must provide a report to the Governor, the President of the
Senate, and the Speaker of the House of Representatives
detailing the following information regarding the Onsite Sewage
Program:

(a) The average number of permits issued each year;

(b) The number of department employees conducting work on
or related to the program each year; and

(c) The program's costs and expenditures, including, but
not limited to, salaries and benefits, equipment costs, and
contracting costs.

(2) By December 31, 2020, the Department of Health and the
Department of Environmental Protection shall submit
recommendations to the Governor, the President of the Senate,
and the Speaker of the House of Representatives regarding the
transfer of the Onsite Sewage Program from the Department of
Health to the Department of Environmental Protection. The
recommendations must address all aspects of the transfer,
including the continued role of the county health departments in
the permitting, inspection, data management, and tracking of
onsite sewage treatment and disposal systems under the direction
of the Department of Environmental Protection.



413536

576-02463-20

201 (3) By June 30, 2021, the Department of Health and the
202 Department of Environmental Protection shall enter into an
203 interagency agreement based on the Department of Health report
204 required under subsection (2) and on recommendations from a plan
205 that must address all agency cooperation for a period not less
206 than 5 years after the transfer, including:

207 (a) The continued role of the county health departments in
208 the permitting, inspection, data management, and tracking of
209 onsite sewage treatment and disposal systems under the direction
210 of the Department of Environmental Protection.

211 (b) The appropriate proportionate number of administrative,
212 auditing, inspector general, attorney, and operational support
213 positions, and their related funding levels and sources and
214 assigned property, to be transferred from the Office of General
215 Counsel, the Office of Inspector General, and the Division of
216 Administrative Services or other relevant offices or divisions
217 within the Department of Health to the Department of
218 Environmental Protection.

219 (c) The development of a recommended plan to address the
220 transfer or shared use of buildings, regional offices, and other
221 facilities used or owned by the Department of Health.

222 (d) Any operating budget adjustments that are necessary to
223 implement the requirements of this act. Adjustments made to the
224 operating budgets of the agencies in the implementation of this
225 act must be made in consultation with the appropriate
226 substantive and fiscal committees of the Senate and the House of
227 Representatives. The revisions to the approved operating budgets
228 for the 2021-2022 fiscal year which are necessary to reflect the
229 organizational changes made by this act must be implemented



413536

576-02463-20

pursuant to s. 216.292(4)(d), Florida Statutes, and are subject to s. 216.177, Florida Statutes. Subsequent adjustments between the Department of Health and the Department of Environmental Protection which are determined necessary by the respective agencies and approved by the Executive Office of the Governor are authorized and subject to s. 216.177, Florida Statutes. The appropriate substantive committees of the Senate and the House of Representatives must also be notified of the proposed revisions to ensure their consistency with legislative policy and intent.

(4) Effective July 1, 2021, all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the regulation of onsite sewage treatment and disposal systems relating to the Onsite Sewage Program in the Department of Health are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Environmental Protection.

(5) Notwithstanding chapter 60L-34, Florida Administrative Code, or any law to the contrary, employees who are transferred from the Department of Health to the Department of Environmental Protection to fill positions transferred by this act retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.

Section 3. Subsection (5) of section 373.4131, Florida Statutes, is amended, and subsection (6) is added to that section, to read:



413536

576-02463-20

373.4131 Statewide environmental resource permitting rules.—

(5) To ensure consistent implementation and interpretation of the rules adopted pursuant to this section, the department shall conduct or oversee regular assessment and training of its staff and the staffs of the water management districts and local governments delegated local pollution control program authority under s. 373.441. The training must include coordinating field inspections of publicly and privately owned stormwater structural controls, such as stormwater retention or detention ponds.

(6) By January 1, 2021:

(a) The department and the water management districts shall initiate rulemaking to update the stormwater design and operation regulations using the most recent scientific information available; and

(b) The department shall evaluate inspection data relating to compliance by those entities that self-certify under s. 403.814(12) and provide the Legislature with recommendations for improvements to the self-certification program.

Section 4. Effective July 1, 2021, present paragraphs (d) through (q) of subsection (2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (e) through (r), respectively, a new paragraph (d) is added to that subsection, and subsections (3) and (4) of that section are amended, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the



413536

576-02463-20

term:

(d) "Department" means the Department of Environmental Protection.

(3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The department shall:

(a) Adopt rules to administer ss. 381.0065-381.0067, including definitions that are consistent with the definitions in this section, ~~decreases to setback requirements where no health hazard exists,~~ increases for the lot-flow allowance for performance-based systems, requirements for separation from water table elevation during the wettest season, requirements for the design and construction of any component part of an onsite sewage treatment and disposal system, application and permit requirements for persons who maintain an onsite sewage treatment and disposal system, requirements for maintenance and service agreements for aerobic treatment units and performance-based treatment systems, and recommended standards, including disclosure requirements, for voluntary system inspections to be performed by individuals who are authorized by law to perform such inspections and who shall inform a person having ownership, control, or use of an onsite sewage treatment and disposal system of the inspection standards and of that person's authority to request an inspection based on all or part of the standards.

(b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an onsite sewage treatment and disposal system for a residence or



413536

576-02463-20

establishment with an estimated domestic sewage flow of 10,000 gallons or less per day, or an estimated commercial sewage flow of 5,000 gallons or less per day, which is not currently regulated under chapter 403.

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, sited, repaired, modified, abandoned, used, operated, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination, including impacts from nutrient pollution, and surface water contamination and to preserve the public health. The department is the final administrative interpretive authority regarding rule interpretation. In the event of a conflict regarding rule interpretation, the secretary of the department ~~State Surgeon General~~, or his or her designee, shall timely assign a staff person to resolve the dispute.

(d) Grant variances in hardship cases under the conditions prescribed in this section and rules adopted under this section.

(e) Permit the use of a limited number of innovative systems for a specific period of time, when there is compelling evidence that the system will function properly and reliably to meet the requirements of this section and rules adopted under this section.

(f) Issue annual operating permits under this section.

(g) Establish and collect fees as established under s. 381.0066 for services provided with respect to onsite sewage treatment and disposal systems.

(h) Conduct enforcement activities, including imposing



413536

576-02463-20

346 fines, issuing citations, suspensions, revocations, injunctions,
347 and emergency orders for violations of this section, part I of
348 chapter 386, or part III of chapter 489 or for a violation of
349 any rule adopted under this section, part I of chapter 386, or
350 part III of chapter 489.

351 (i) Provide or conduct education and training of department
352 personnel, service providers, and the public regarding onsite
353 sewage treatment and disposal systems.

354 (j) Supervise research on, demonstration of, and training
355 on the performance, environmental impact, and public health
356 impact of onsite sewage treatment and disposal systems within
357 this state. Research fees collected under s. 381.0066(2)(k) must
358 be used to develop and fund hands-on training centers designed
359 to provide practical information about onsite sewage treatment
360 and disposal systems to septic tank contractors, master septic
361 tank contractors, contractors, inspectors, engineers, and the
362 public and must also be used to fund research projects which
363 focus on improvements of onsite sewage treatment and disposal
364 systems, including use of performance-based standards and
365 reduction of environmental impact. Research projects shall be
366 initially approved by the technical review and advisory panel
367 and shall be applicable to and reflect the soil conditions
368 specific to Florida. Such projects shall be awarded through
369 competitive negotiation, using the procedures provided in s.
370 287.055, to public or private entities that have experience in
371 onsite sewage treatment and disposal systems in Florida and that
372 are principally located in Florida. Research projects may ~~shall~~
373 not be awarded to firms or entities that employ or are
374 associated with persons who serve on either the technical review



413536

576-02463-20

and advisory panel or the research review and advisory committee.

(k) Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system.

(l) Regulate and permit the sanitation, handling, treatment, storage, reuse, and disposal of byproducts from any system regulated under this chapter and not regulated by the Department of Environmental Protection.

(m) Permit and inspect portable or temporary toilet services and holding tanks. The department shall review applications, perform site evaluations, and issue permits for the temporary use of holding tanks, privies, portable toilet services, or any other toilet facility that is intended for use on a permanent or nonpermanent basis, including facilities placed on construction sites when workers are present. The department may specify standards for the construction, maintenance, use, and operation of any such facility for temporary use.

(n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer's specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include: training, access to approved spare parts and components, access to manufacturer's maintenance and operation manuals, and service response time. The maintenance entity shall employ a contractor licensed under s. 489.105(3)(m), or part III of chapter 489, or



413536

576-02463-20

a state-licensed wastewater plant operator, who is responsible for maintenance and repair of all systems under contract.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, ~~but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that~~ The issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department ~~of Environmental Protection~~. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained before ~~prior to~~ the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a



413536

576-02463-20

433 construction or repair permit for the onsite sewage treatment
434 and disposal system may be transferred to another person, if the
435 transferee files, within 60 days after the transfer of
436 ownership, an amended application providing all corrected
437 information and proof of ownership of the property. There is no
438 fee associated with the processing of this supplemental
439 information. A person may not contract to construct, modify,
440 alter, repair, service, abandon, or maintain any portion of an
441 onsite sewage treatment and disposal system without being
442 registered under part III of chapter 489. A property owner who
443 personally performs construction, maintenance, or repairs to a
444 system serving his or her own owner-occupied single-family
445 residence is exempt from registration requirements for
446 performing such construction, maintenance, or repairs on that
447 residence, but is subject to all permitting requirements. A
448 municipality or political subdivision of the state may not issue
449 a building or plumbing permit for any building that requires the
450 use of an onsite sewage treatment and disposal system unless the
451 owner or builder has received a construction permit for such
452 system from the department. A building or structure may not be
453 occupied and a municipality, political subdivision, or any state
454 or federal agency may not authorize occupancy until the
455 department approves the final installation of the onsite sewage
456 treatment and disposal system. A municipality or political
457 subdivision of the state may not approve any change in occupancy
458 or tenancy of a building that uses an onsite sewage treatment
459 and disposal system until the department has reviewed the use of
460 the system with the proposed change, approved the change, and
461 amended the operating permit.



413536

576-02463-20

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the



413536

576-02463-20

agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) The department shall adopt rules to locate onsite sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process for such rules must be completed by July 1, 2022, and the department shall notify the Division of Law Revision of the date such rules are adopted. The rules must consider conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs, impaired or degraded water bodies, domestic wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to s. 381.00652.



413536

576-02463-20

520 (f)~~(e)~~ Onsite sewage treatment and disposal systems that
521 are permitted before adoption of the rules identified in
522 paragraph (e) may ~~must~~ not be placed closer than:

523 1. Seventy-five feet from a private potable well.

524 2. Two hundred feet from a public potable well serving a
525 residential or nonresidential establishment having a total
526 sewage flow of greater than 2,000 gallons per day.

527 3. One hundred feet from a public potable well serving a
528 residential or nonresidential establishment having a total
529 sewage flow of less than or equal to 2,000 gallons per day.

530 4. Fifty feet from any nonpotable well.

531 5. Ten feet from any storm sewer pipe, to the maximum
532 extent possible, but in no instance shall the setback be less
533 than 5 feet.

534 6. Seventy-five feet from the mean high-water line of a
535 tidally influenced surface water body.

536 7. Seventy-five feet from the mean annual flood line of a
537 permanent nontidal surface water body.

538 8. Fifteen feet from the design high-water line of
539 retention areas, detention areas, or swales designed to contain
540 standing or flowing water for less than 72 hours after a
541 rainfall or the design high-water level of normally dry drainage
542 ditches or normally dry individual lot stormwater retention
543 areas.

544 ~~(f) Except as provided under paragraphs (e) and (t), no~~
545 ~~limitations shall be imposed by rule, relating to the distance~~
546 ~~between an onsite disposal system and any area that either~~
547 ~~permanently or temporarily has visible surface water.~~

548 (g) All provisions of this section and rules adopted under



413536

576-02463-20

549 this section relating to soil condition, water table elevation,
550 distance, and other setback requirements must be equally applied
551 to all lots, with the following exceptions:

552 1. Any residential lot that was platted and recorded on or
553 after January 1, 1972, or that is part of a residential
554 subdivision that was approved by the appropriate permitting
555 agency on or after January 1, 1972, and that was eligible for an
556 onsite sewage treatment and disposal system construction permit
557 on the date of such platting and recording or approval shall be
558 eligible for an onsite sewage treatment and disposal system
559 construction permit, regardless of when the application for a
560 permit is made. If rules in effect at the time the permit
561 application is filed cannot be met, residential lots platted and
562 recorded or approved on or after January 1, 1972, shall, to the
563 maximum extent possible, comply with the rules in effect at the
564 time the permit application is filed. At a minimum, however,
565 those residential lots platted and recorded or approved on or
566 after January 1, 1972, but before January 1, 1983, shall comply
567 with those rules in effect on January 1, 1983, and those
568 residential lots platted and recorded or approved on or after
569 January 1, 1983, shall comply with those rules in effect at the
570 time of such platting and recording or approval. In determining
571 the maximum extent of compliance with current rules that is
572 possible, the department shall allow structures and
573 appurtenances thereto which were authorized at the time such
574 lots were platted and recorded or approved.

575 2. Lots platted before 1972 are subject to a 50-foot
576 minimum surface water setback and are not subject to lot size
577 requirements. The projected daily flow for onsite sewage



413536

576-02463-20

treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than ~~the provisions~~ specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.



413536

576-02463-20

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:

a. The Secretary of Environmental Protection ~~State Surgeon General~~ or his or her designee.

b. A representative from the county health departments.

c. A representative from the home building industry recommended by the Florida Home Builders Association.

d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

e. A representative from the Department of Health ~~Environmental Protection~~.

f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the



413536

576-02463-20

636 Florida Association of Realtors.

637 g. A representative from the engineering profession
638 recommended by the Florida Engineering Society.

639
640 Members shall be appointed for a term of 3 years, with such
641 appointments being staggered so that the terms of no more than
642 two members expire in any one year. Members shall serve without
643 remuneration, but if requested, shall be reimbursed for per diem
644 and travel expenses as provided in s. 112.061.

645 (i) A construction permit may not be issued for an onsite
646 sewage treatment and disposal system in any area zoned or used
647 for industrial or manufacturing purposes, or its equivalent,
648 where a publicly owned or investor-owned sewage treatment system
649 is available, or where a likelihood exists that the system will
650 receive toxic, hazardous, or industrial waste. An existing
651 onsite sewage treatment and disposal system may be repaired if a
652 publicly owned or investor-owned sewerage system is not
653 available within 500 feet of the building sewer stub-out and if
654 system construction and operation standards can be met. This
655 paragraph does not require publicly owned or investor-owned
656 sewerage treatment systems to accept anything other than
657 domestic wastewater.

658 1. A building located in an area zoned or used for
659 industrial or manufacturing purposes, or its equivalent, when
660 such building is served by an onsite sewage treatment and
661 disposal system, must not be occupied until the owner or tenant
662 has obtained written approval from the department. The
663 department may ~~shall~~ not grant approval when the proposed use of
664 the system is to dispose of toxic, hazardous, or industrial



413536

576-02463-20

wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified



413536

576-02463-20

by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the



413536

576-02463-20

723 application to the department for a determination as to whether
724 the system should be approved, disapproved, or approved with
725 modification. The department engineer's determination shall
726 prevail over the action of the county health department. The
727 applicant shall be notified in writing of the department's
728 determination and of the applicant's rights to pursue a variance
729 or seek review under ~~the provisions of~~ chapter 120.

730 3. The owner of an engineer-designed performance-based
731 system must maintain a current maintenance service agreement
732 with a maintenance entity permitted by the department. The
733 maintenance entity shall inspect each system at least twice each
734 year and shall report quarterly to the department on the number
735 of systems inspected and serviced. The reports may be submitted
736 electronically.

737 4. The property owner of an owner-occupied, single-family
738 residence may be approved and permitted by the department as a
739 maintenance entity for his or her own performance-based
740 treatment system upon written certification from the system
741 manufacturer's approved representative that the property owner
742 has received training on the proper installation and service of
743 the system. The maintenance service agreement must conspicuously
744 disclose that the property owner has the right to maintain his
745 or her own system and is exempt from contractor registration
746 requirements for performing construction, maintenance, or
747 repairs on the system but is subject to all permitting
748 requirements.

749 5. The property owner shall obtain a biennial system
750 operating permit from the department for each system. The
751 department shall inspect the system at least annually, or on



413536

576-02463-20

such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation.

6. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with ~~the provisions of~~ this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the



413536

576-02463-20

Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

b. Suspended Solids of 10 mg/l.

c. Total Nitrogen, expressed as N, of 10 mg/l or a reduction in nitrogen of at least 70 percent. A system that has been tested and certified to reduce nitrogen concentrations by at least 70 percent shall be deemed to be in compliance with this standard.

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

3. In areas not scheduled to be served by a central sewer, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2.

4. In areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that



413536

576-02463-20

meets the following minimum standards:

a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

5. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other ~~provision of~~ law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewer system until December 31, 2020.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality



413536

576-02463-20

standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(k) ~~(2)(j)~~. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Secretary of Environmental Protection ~~State Surgeon General~~, or his or her designee.

2. A representative from the septic tank industry.

3. A representative from the home building industry.

4. A representative from an environmental interest group.



413536

576-02463-20

5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.

6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.

7. A representative from local government who is knowledgeable about domestic wastewater treatment.

8. A representative from the real estate profession.

9. A representative from the restaurant industry.

10. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(p) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(q) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.



413536

576-02463-20

(r) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(s) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering ~~may shall~~ not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(t) Notwithstanding ~~the provisions of~~ subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield ~~may shall~~ not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

- a. The lot is at least one-half acre in size;
- b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and
- c. The applicant installs either: a waterless,



413536

576-02463-20

incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system ~~approved by the State Health Office~~ that is capable of reducing effluent nitrate by at least 50 percent in accordance with department rules; or a system other than a system using alternative drainfield materials in accordance with department rules ~~approved by the county health department pursuant to department rule other than a system using alternative drainfield materials~~. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water may ~~shall~~ not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(u)1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems



413536

576-02463-20

inspected and serviced. The reports may be submitted electronically.

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

3. A septic tank contractor licensed under part III of chapter 489, if approved by the manufacturer, may not be denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities. After the original warranty period, component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer's specifications but are manufactured by others. The maintenance entity shall maintain documentation of the substitute part's equivalency for 2 years and shall provide such documentation to the department upon request.

4. The owner of an aerobic treatment unit system shall obtain a system operating permit from the department and allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for



413536

576-02463-20

performance criteria established by rule of the department.

(v) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

(w) Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage treatment and disposal system shall transfer with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired. An inspection of a system may not be mandated by a governmental entity at the point of sale in a real estate transaction. This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution (1885).

(x) A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed



413536

576-02463-20

performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(y)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and

c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that serves a property that is foreclosed upon is not considered abandoned.

(z) If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs within 5 years after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site



413536

576-02463-20

conditions have not changed between the time of construction approval and final approval.

(aa) An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the unobstructed area. To determine if a setback or the unobstructed area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

Section 5. Section 381.00652, Florida Statutes, is created to read:

381.00652 Onsite sewage treatment and disposal systems technical advisory committee.—



413536

576-02463-20

(1) An onsite sewage treatment and disposal systems technical advisory committee, a committee as defined in s. 20.03(8), is created within the department. The committee shall:

(a) Provide recommendations to increase the availability in the marketplace of enhanced nutrient-reducing onsite sewage treatment and disposal systems, including systems that are cost-effective, low-maintenance, and reliable.

(b) Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of enhanced nutrient-reducing onsite sewage treatment and disposal systems that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the NSF International.

(c) Provide recommendations for appropriate setback distances for onsite sewage treatment and disposal systems from surface water, groundwater, and wells.

(2) The department shall use existing and available resources to administer and support the activities of the committee.

(3)(a) By August 1, 2021, the department, in consultation with the Department of Health, shall appoint no more than nine members to the committee, including, but not limited to, the following:

1. A professional engineer.

2. A septic tank contractor.

3. A representative from the home building industry.

4. A representative from the real estate industry.

5. A representative from the onsite sewage treatment and



413536

576-02463-20

disposal system industry.

6. A representative from local government.

7. Two representatives from the environmental community.

8. A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

(b) Members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

(4) By January 1, 2022, the committee shall submit its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) This section expires August 15, 2022.

(6) For purposes of this section, the term "department" means the Department of Environmental Protection.

Section 6. Effective July 1, 2021, section 381.0068, Florida Statutes, is repealed.

Section 7. Present subsections (14) through (44) of section 403.061, Florida Statutes, are redesignated as subsections (15) through (45), respectively, a new subsection (14) is added to that section, and subsection (7) of that section is amended, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this act. Any rule adopted pursuant to this act must ~~shall~~ be consistent with the provisions of



413536

576-02463-20

1129 federal law, if any, relating to control of emissions from motor
1130 vehicles, effluent limitations, pretreatment requirements, or
1131 standards of performance. A ~~No~~ county, municipality, or
1132 political subdivision may not ~~shall~~ adopt or enforce any local
1133 ordinance, special law, or local regulation requiring the
1134 installation of Stage II vapor recovery systems, as currently
1135 defined by department rule, unless such county, municipality, or
1136 political subdivision is or has been in the past designated by
1137 federal regulation as a moderate, serious, or severe ozone
1138 nonattainment area. Rules adopted pursuant to this act may ~~shall~~
1139 not require dischargers of waste into waters of the state to
1140 improve natural background conditions. The department shall
1141 adopt rules to reasonably limit, reduce, and eliminate domestic
1142 wastewater collection and transmission system pipe leakages and
1143 inflow and infiltration. Discharges from steam electric
1144 generating plants existing or licensed under this chapter on
1145 July 1, 1984, may ~~shall~~ not be required to be treated to a
1146 greater extent than may be necessary to assure that the quality
1147 of nonthermal components of discharges from nonrecirculated
1148 cooling water systems is as high as the quality of the makeup
1149 waters; that the quality of nonthermal components of discharges
1150 from recirculated cooling water systems is no lower than is
1151 allowed for blowdown from such systems; or that the quality of
1152 noncooling system discharges which receive makeup water from a
1153 receiving body of water which does not meet applicable
1154 department water quality standards is as high as the quality of
1155 the receiving body of water. The department may not adopt
1156 standards more stringent than federal regulations, except as
1157 provided in s. 403.804.



413536

576-02463-20

(14) In order to promote resilient utilities, require public utilities or their affiliated companies holding, applying for, or renewing a domestic wastewater discharge permit to file annual reports and other data regarding transactions or allocations of common costs and expenditures on pollution mitigation and prevention among the utility's permitted systems, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The department shall adopt rules to implement this subsection.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 8. Section 403.0616, Florida Statutes, is created to read:

403.0616 Real-time water quality monitoring program.-

(1) Subject to appropriation, the department shall establish a real-time water quality monitoring program to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources.

(2) In order to expedite the creation and implementation of the program, the department is encouraged to form public-private partnerships with established scientific entities that have proven existing real-time water quality monitoring equipment and experience in deploying the equipment.

Section 9. Subsection (7) of section 403.067, Florida Statutes, is amended to read:



413536

576-02463-20

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, where appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6) (b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When ~~Where~~



413536

576-02463-20

appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least not less than 5 days, but not ~~not~~ more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.



413536

576-02463-20

1245 4. Each new or revised basin management action plan shall
1246 include:

1247 a. The appropriate management strategies available through
1248 existing water quality protection programs to achieve total
1249 maximum daily loads, which may provide for phased implementation
1250 to promote timely, cost-effective actions as provided for in s.
1251 403.151;

1252 b. A description of best management practices adopted by
1253 rule;

1254 c. A list of projects in priority ranking with a planning-
1255 level cost estimate and estimated date of completion for each
1256 listed project;

1257 d. The source and amount of financial assistance to be made
1258 available by the department, a water management district, or
1259 other entity for each listed project, if applicable; and

1260 e. A planning-level estimate of each listed project's
1261 expected load reduction, if applicable.

1262 5. The department shall adopt all or any part of a basin
1263 management action plan and any amendment to such plan by
1264 secretarial order pursuant to chapter 120 to implement ~~the~~
1265 ~~provisions of~~ this section.

1266 6. The basin management action plan must include milestones
1267 for implementation and water quality improvement, and an
1268 associated water quality monitoring component sufficient to
1269 evaluate whether reasonable progress in pollutant load
1270 reductions is being achieved over time. An assessment of
1271 progress toward these milestones shall be conducted every 5
1272 years, and revisions to the plan shall be made as appropriate.
1273 Revisions to the basin management action plan shall be made by



413536

576-02463-20

the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. ~~The provisions of~~ The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient utilities, if the department identifies domestic wastewater facilities or onsite



413536

576-02463-20

sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A wastewater treatment plan that addresses domestic wastewater developed by each local government in cooperation with the department, the water management district, and the public and private domestic wastewater facilities within the jurisdiction of the local government. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to



413536

576-02463-20

establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal systems connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the



413536

576-02463-20

1361 planning, design, and construction of projects.

1362 (II) The department shall adopt the onsite sewage treatment
1363 and disposal system remediation plan as part of the basin
1364 management action plan no later than July 1, 2025, or as
1365 required for Outstanding Florida Springs under s. 373.807.

1366 10. When identifying wastewater projects in a basin
1367 management action plan, the department may not require the
1368 higher cost option if it achieves the same nutrient load
1369 reduction as a lower cost option.

1370 *(b) Total maximum daily load implementation.—*

1371 1. The department shall be the lead agency in coordinating
1372 the implementation of the total maximum daily loads through
1373 existing water quality protection programs. Application of a
1374 total maximum daily load by a water management district must be
1375 consistent with this section and does not require the issuance
1376 of an order or a separate action pursuant to s. 120.536(1) or s.
1377 120.54 for the adoption of the calculation and allocation
1378 previously established by the department. Such programs may
1379 include, but are not limited to:

1380 a. Permitting and other existing regulatory programs,
1381 including water-quality-based effluent limitations;

1382 b. Nonregulatory and incentive-based programs, including
1383 best management practices, cost sharing, waste minimization,
1384 pollution prevention, agreements established pursuant to s.
1385 403.061(22) ~~s. 403.061(21)~~, and public education;

1386 c. Other water quality management and restoration
1387 activities, for example surface water improvement and management
1388 plans approved by water management districts or basin management
1389 action plans developed pursuant to this subsection;



413536

576-02463-20

d. Trading of water quality credits or other equitable economically based agreements;

e. Public works including capital facilities; or

f. Land acquisition.

2. For a basin management action plan adopted pursuant to paragraph (a), any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent limits set forth for a discharger subject to NPDES permitting, if any, must be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger. The department may not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted basin management action plan.

a. Absent a detailed allocation, total maximum daily loads must be implemented through NPDES permit conditions that provide for a compliance schedule. In such instances, a facility's NPDES permit must allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance of an order adopting the plan may not exceed 5 years. Upon issuance of an order adopting the plan, the permit must be reopened or renewed, as necessary, and permit conditions consistent with the plan must be established. Notwithstanding the other provisions of this subparagraph, upon request by an NPDES permittee, the department as part of a permit issuance, renewal, or modification may establish individual allocations before the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer



413536

576-02463-20

1419 system permits and other stormwater sources, implementation of a
1420 total maximum daily load or basin management action plan must be
1421 achieved, to the maximum extent practicable, through the use of
1422 best management practices or other management measures.

1423 c. The basin management action plan does not relieve the
1424 discharger from any requirement to obtain, renew, or modify an
1425 NPDES permit or to abide by other requirements of the permit.

1426 d. Management strategies set forth in a basin management
1427 action plan to be implemented by a discharger subject to
1428 permitting by the department must be completed pursuant to the
1429 schedule set forth in the basin management action plan. This
1430 implementation schedule may extend beyond the 5-year term of an
1431 NPDES permit.

1432 e. Management strategies and pollution reduction
1433 requirements set forth in a basin management action plan for a
1434 specific pollutant of concern are not subject to challenge under
1435 chapter 120 at the time they are incorporated, in an identical
1436 form, into a subsequent NPDES permit or permit modification.

1437 f. For nonagricultural pollutant sources not subject to
1438 NPDES permitting but permitted pursuant to other state,
1439 regional, or local water quality programs, the pollutant
1440 reduction actions adopted in a basin management action plan must
1441 be implemented to the maximum extent practicable as part of
1442 those permitting programs.

1443 g. A nonpoint source discharger included in a basin
1444 management action plan must demonstrate compliance with the
1445 pollutant reductions established under subsection (6) by
1446 implementing the appropriate best management practices
1447 established pursuant to paragraph (c) or conducting water



413536

576-02463-20

quality monitoring prescribed by the department or a water management district. A nonpoint source discharger may, in accordance with department rules, supplement the implementation of best management practices with water quality credit trades in order to demonstrate compliance with the pollutant reductions established under subsection (6).

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an adopted basin management action plan may not be required by permit, enforcement action, or otherwise to implement additional management strategies, including water quality credit trading, to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the department to amend a basin management action plan as specified in subparagraph (a)6.

(c) Best management practices.—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures



413536

576-02463-20

may be adopted by rule by the department and the water management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including site inspection and recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant



413536

576-02463-20

to subsection (6) and this subsection or in programs implemented pursuant to paragraph (12) (b) must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from ~~the provisions of~~ s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from ~~the provisions of~~ s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner



413536

576-02463-20

or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Subject to subparagraph 6., the Department of Agriculture and Consumer Services shall provide to the department information that it obtains pursuant to subparagraph (d) 3.

6. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3., ~~and 4.~~, and 5. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I



413536

576-02463-20

of the State Constitution. Upon request, records made confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district provided that the confidentiality specified by this subparagraph for such records is maintained.

~~7.6. The provisions of~~ Subparagraphs 1. and 2. do not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

(d) *Enforcement and verification of basin management action plans and management strategies.*—

1. Basin management action plans are enforceable pursuant to this section and ss. 403.121, 403.141, and 403.161.

Management strategies, including best management practices and water quality monitoring, are enforceable under this chapter.

2. No later than January 1, 2017:

a. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of best management practices or other measures pursuant to sub-subparagraph (b)2.g.;

b. The department, in consultation with the water management districts and the Department of Agriculture and



413536

576-02463-20

Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph (c)1.; and

c. The Department of Agriculture and Consumer Services, in consultation with the water management districts and the department, shall initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph (c)2.

The rules required under this subparagraph shall include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including best management practices or water quality monitoring as a result of noncompliance.

3. At least every 2 years, the Department of Agriculture and Consumer Services shall perform onsite inspections of each agricultural producer that enrolls in a best management practice to ensure that such practice is being properly implemented. Such verification must include a review of the best management practice documentation required by rule adopted in accordance with subparagraph (c)2., including, but not limited to, nitrogen and phosphorous fertilizer application records, which must be collected and retained pursuant to subparagraphs (c)3., 4., and 6.

(e) Data collection and research.—

1. The Department of Agriculture and Consumer Services, the University of Florida Institute of Food and Agricultural



413536

576-02463-20

Sciences, and other state universities and Florida College
System institutions with agricultural research programs may
annually develop research plans and legislative budget requests
to:

a. Evaluate and suggest enhancements to the existing
adopted agricultural best management practices to reduce
nutrients;

b. Develop new best management practices that, if proven
effective, the Department of Agriculture and Consumer Services
may adopt by rule pursuant to paragraph (c); and

c. Develop agricultural nutrient reduction projects that
willing participants could implement on a site-specific,
cooperative basis, in addition to best management practices. The
department may consider these projects for inclusion in a basin
management action plan. These nutrient reduction projects must
reduce the nutrient impacts from agricultural operations on
water quality when evaluated with the projects and management
strategies currently included in the basin management action
plan.

2. To be considered for funding, the University of Florida
Institute of Food and Agricultural Sciences and other state
universities and Florida College System institutions that have
agricultural research programs must submit such plans to the
department and the Department of Agriculture and Consumer
Services by August 1 of each year.

Section 10. Section 403.0673, Florida Statutes, is created
to read:

403.0673 Wastewater grant program.—A wastewater grant
program is established within the Department of Environmental



413536

576-02463-20

Protection.

(1) Subject to the appropriation of funds by the Legislature, the department may provide grants for the following projects within a basin management action plan, an alternative restoration plan adopted by final order, or a rural area of opportunity under s. 288.0656 which will individually or collectively reduce excess nutrient pollution:

(a) Projects to retrofit onsite sewage treatment and disposal systems to upgrade them to enhanced nutrient-reducing onsite sewage treatment and disposal systems.

(b) Projects to construct, upgrade, or expand facilities to provide advanced waste treatment, as defined in s. 403.086(4).

(c) Projects to connect onsite sewage treatment and disposal systems to central sewer facilities.

(2) In allocating such funds, priority must be given to projects that subsidize the connection of onsite sewage treatment and disposal systems to wastewater treatment plants. First priority must be given to subsidize connection to existing infrastructure. Second priority must be given to any expansion of a collection or transmission system that promotes efficiency by planning the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way. Third priority must be given to all other connection of onsite sewage treatment and disposal systems to a wastewater treatment plants. The department shall consider the estimated reduction in nutrient load per project; project readiness; cost-effectiveness of the project; overall environmental benefit of a project; the location of a project;



413536

576-02463-20

the availability of local matching funds; and projected water savings or quantity improvements associated with a project.

(3) Each grant for a project described in subsection (1) must require a minimum of a 50 percent local match of funds. However, the department may, at its discretion, waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

(4) The department shall coordinate with each water management district, as necessary, to identify grant recipients in each district.

(5) Beginning January 1, 2021, and each January 1 thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 11. Section 403.0855, Florida Statutes, is created to read:

403.0855 Biosolids management.—The Legislature finds that it is in the best interest of this state to regulate biosolids management in order to minimize the migration of nutrients that impair waterbodies. The Legislature further finds that the expedited implementation of the recommendations of the Biosolids Technical Advisory Committee, including permitting according to site-specific application conditions, an increased inspection rate, groundwater and surface water monitoring protocols, and nutrient management research, will improve biosolids management and assist in protecting this state's water resources and water quality. The department shall adopt rules for biosolids



413536

576-02463-20

management. Rules adopted by the department pursuant to this section before the 2021 regular legislative session are not subject to s. 120.541(3). A municipality or county may enforce or extend an ordinance, a regulation, a resolution, a rule, a moratorium, or a policy, any of which was adopted before November 1, 2019, relating to the land application of Class B biosolids until the ordinance, regulation, resolution, rule, moratorium, or policy is repealed by the municipality or county.

Section 12. Present subsections (7) through (10) of section 403.086, Florida Statutes, are redesignated as subsections (8) through (11), respectively, a new subsection (7) is added to that section, and paragraph (c) of subsection (1) and subsection (2) of that section are amended, to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

(c) Notwithstanding any other provisions of this chapter or chapter 373, facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, Indian River Lagoon beginning July 1, 2025, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in subsection (4), approved by the department. This paragraph shall not apply to facilities which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of the named waters; or



413536

576-02463-20

to facilities permitted to discharge to the nontidally
influenced portions of the Peace River.

(2) Any facilities for sanitary sewage disposal shall
provide for secondary waste treatment, a power outage
contingency plan that mitigates the impacts of power outages on
the utility's collection system and pump stations, and, ~~in~~
~~addition thereto,~~ advanced waste treatment as deemed necessary
and ordered by the Department of Environmental Protection.
Failure to conform is ~~shall be~~ punishable by a civil penalty of
\$500 for each 24-hour day or fraction thereof that such failure
is allowed to continue thereafter.

(7) All facilities for sanitary sewage under subsection (2)
which control a collection or transmission system of pipes and
pumps to collect and transmit wastewater from domestic or
industrial sources to the facility shall take steps to prevent
sanitary sewer overflows or underground pipe leaks and ensure
that collected wastewater reaches the facility for appropriate
treatment. Facilities must use inflow and infiltration studies
and leakage surveys to develop pipe assessment, repair, and
replacement action plans that comply with department rule to
limit, reduce, and eliminate leaks, seepages, or inputs into
wastewater treatment systems' underground pipes. The pipe
assessment, repair, and replacement action plans must be
reported to the department. The facility action plan must
include information regarding the annual expenditures dedicated
to the inflow and infiltration studies and the required
replacement action plans, as well as expenditures that are
dedicated to pipe assessment, repair, and replacement. The
department shall adopt rules regarding the implementation of



413536

576-02463-20

inflow and infiltration studies and leakage surveys; however,
such department rules may not fix or revise utility rates or
budgets. Any entity subject to this subsection and s.
403.061(14) may submit one report to comply with both
provisions. Substantial compliance with this subsection is
evidence in mitigation for the purposes of assessing penalties
pursuant to ss. 403.121 and 403.141.

Section 13. Present subsections (4) through (10) of section 403.087, Florida Statutes, are redesignated as subsections (5) through (11), respectively, and a new subsection (4) is added to that section, to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(4) The department shall issue an operation permit for a
domestic wastewater treatment facility other than a facility
regulated under the National Pollutant Discharge Elimination
System Program under s. 403.0885 for a term of up to 10 years if
the facility is meeting the stated goals in its action plan
adopted pursuant to s. 403.086(7).

Section 14. Present subsections (3) and (4) of section 403.088, Florida Statutes, are redesignated as subsections (4) and (5), respectively, a new subsection (3) is added to that section, and paragraph (c) of subsection (2) of that section is amended, to read:

403.088 Water pollution operation permits; conditions.—

(2)

(c) A permit shall:

1. Specify the manner, nature, volume, and frequency of the discharge permitted;



413536

576-02463-20

2. Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the department;

3. Require a deliberate, proactive approach to investigating or surveying a significant percentage of the domestic wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner. The permittee shall submit an annual report to the department which details facility revenues and expenditures in a manner prescribed by department rule. The report must detail any deviation of annual expenditures from identified system needs related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement required under s. 403.086(7). Substantial compliance with this subsection is evidence in mitigation for the purposes of assessing penalties pursuant to ss. 403.121 and 403.141;

4. Contain such additional conditions, requirements, and restrictions as the department deems necessary to preserve and protect the quality of the receiving waters;

~~5.4.~~ Be valid for the period of time specified therein; and

~~6.5.~~ Constitute the state National Pollutant Discharge Elimination System permit when issued pursuant to the authority in s. 403.0885.

(3) No later than March 1 of each year, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which identifies all domestic wastewater treatment facilities that experienced a sanitary sewer overflow in the preceding calendar



413536

576-02463-20

year. The report must identify the utility name, operator, permitted capacity in annual average gallons per day, the number of overflows, and the total volume of sewage released, and, to the extent known and available, the volume of sewage recovered, the volume of sewage discharged to surface waters, and the cause of the sanitary sewer overflow, including whether it was caused by a third party. The department shall include with this report the annual report specified under subparagraph (2)(c)3. for each utility that experienced an overflow.

Section 15. Subsection (6) of section 403.0891, Florida Statutes, is amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.

(6) The department and the Department of Economic Opportunity, in cooperation with local governments in the coastal zone, shall develop a model stormwater management program that could be adopted by local governments. The model program must contain model ordinances that target nutrient reduction practices and use green infrastructure. The model program shall contain dedicated funding options, including a stormwater utility fee system based upon an equitable unit cost approach. Funding options shall be designed to generate capital to retrofit existing stormwater management systems, build new treatment systems, operate facilities, and maintain and service debt.

Section 16. Paragraphs (b) and (g) of subsection (2),



413536

576-02463-20

paragraph (b) of subsection (3), and subsections (8) and (9) of section 403.121, Florida Statutes, are amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(2) Administrative remedies:

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 shall be not less than \$1,000 per day per violation. The department shall not impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(g) Nothing herein shall be construed as preventing any



413536

576-02463-20

other legal or administrative action in accordance with law. Nothing in this subsection shall limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of \$50,000 ~~\$10,000~~ for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000 ~~\$10,000~~. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in penalties may be settled in the court action for less than \$50,000 ~~\$10,000~~.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of \$2,000 ~~\$1,000~~. For a



413536

576-02463-20

domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or unauthorized discharge or effluent-limitation exceedance or failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of \$10,000 ~~\$5,000~~.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, shall not exceed \$20,000 ~~\$10,000~~.

(9) The administrative penalties assessed for any particular violation shall not exceed \$10,000 ~~\$5,000~~ against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are multiday violations. The total administrative penalties shall not exceed \$50,000 ~~\$10,000~~ per assessment for all violations attributable to a specific person in the notice of violation.

Section 17. Subsection (7) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(7) Eligible projects must be given priority according to the extent each project is intended to remove, mitigate, or



413536

576-02463-20

prevent adverse effects on surface or ground water quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities. The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Eliminate public health hazards;

(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic wastewater ocean outfalls;

(c) Assist in the implementation of total maximum daily loads adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

(f) Promote reclaimed water reuse;

(g) Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or

(h) Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

(i) Implement the requirements of ss. 403.086(7) and 403.088(2) (c).

(j) Promote efficiency by planning for the installation of



413536

576-02463-20

wastewater transmission facilities to be constructed
concurrently with other construction projects occurring within
or along a transportation facility right-of-way.

Section 18. Paragraph (b) of subsection (3) of section
403.1838, Florida Statutes, is amended to read:

403.1838 Small Community Sewer Construction Assistance
Act.—

(3)

(b) The rules of the Environmental Regulation Commission
must:

1. Require that projects to plan, design, construct,
upgrade, or replace wastewater collection, transmission,
treatment, disposal, and reuse facilities be cost-effective,
environmentally sound, permittable, and implementable.

2. Require appropriate user charges, connection fees, and
other charges sufficient to ensure the long-term operation,
maintenance, and replacement of the facilities constructed under
each grant.

3. Require grant applications to be submitted on
appropriate forms with appropriate supporting documentation, and
require records to be maintained.

4. Establish a system to determine eligibility of grant
applications.

5. Establish a system to determine the relative priority of
grant applications. The system must consider public health
protection and water pollution prevention or abatement and must
prioritize projects that plan for the installation of wastewater
transmission facilities to be constructed concurrently with
other construction projects occurring within or along a



413536

576-02463-20

transportation facility right-of-way.

6. Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.

7. Provide for termination of grants when program requirements are not met.

Section 19. The Legislature determines and declares that this act fulfills an important state interest.

Section 20. Effective July 1, 2021, subsection (5) of section 153.54, Florida Statutes, is amended to read:

153.54 Preliminary report by county commissioners with respect to creation of proposed district.—Upon receipt of a petition duly signed by not less than 25 qualified electors who are also freeholders residing within an area proposed to be incorporated into a water and sewer district pursuant to this law and describing in general terms the proposed boundaries of such proposed district, the board of county commissioners if it shall deem it necessary and advisable to create and establish such proposed district for the purpose of constructing, establishing or acquiring a water system or a sewer system or both in and for such district (herein called "improvements"), shall first cause a preliminary report to be made which such report together with any other relevant or pertinent matters, shall include at least the following:

(5) For the construction of a new proposed central sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and



413536

576-02463-20

a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Such report shall be filed in the office of the clerk of the circuit court and shall be open for the inspection of any taxpayer, property owner, qualified elector or any other interested or affected person.

Section 21. Effective July 1, 2021, paragraph (c) of subsection (2) of section 153.73, Florida Statutes, is amended to read:

153.73 Assessable improvements; levy and payment of special assessments.—Any district may provide for the construction or reconstruction of assessable improvements as defined in s. 153.52, and for the levying of special assessments upon benefited property for the payment thereof, under ~~the provisions of~~ this section.

(2)

(c) For the construction of a new proposed central sewerage



413536

576-02463-20

system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Section 22. Effective July 1, 2021, subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate



413536

576-02463-20

water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Environmental Protection ~~Health~~ to serve new development.

Section 23. Effective July 1, 2021, subsection (3) of section 180.03, Florida Statutes, is amended to read:

180.03 Resolution or ordinance proposing construction or extension of utility; objections to same.—

(3) For the construction of a new proposed central sewerage system or the extension of an existing central sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection ~~Health~~ on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed central sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment and disposal system that is approved by the Department of Environmental Protection ~~Health~~ and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251



413536

576-02463-20

et seq.; and other factors deemed relevant by the local authority. The results of such a study shall be included in the resolution or ordinance required under subsection (1).

Section 24. Subsections (2), (3), and (6) of section 311.105, Florida Statutes, are amended to read:

311.105 Florida Seaport Environmental Management Committee; permitting; mitigation.—

(2) Each application for a permit authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ must include:

(a) A description of maintenance dredging activities to be conducted and proposed methods of dredged-material management.

(b) A characterization of the materials to be dredged and the materials within dredged-material management sites.

(c) A description of dredged-material management sites and plans.

(d) A description of measures to be undertaken, including environmental compliance monitoring, to minimize adverse environmental effects of maintenance dredging and dredged-material management.

(e) Such scheduling information as is required to facilitate state supplementary funding of federal maintenance dredging and dredged-material management programs consistent with beach restoration criteria of the Department of Environmental Protection.

(3) Each application for a permit authorized pursuant to s. 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~ paragraphs (2)(b)-(e) and the following:

(a) A description of dredging and dredged-material management and other related activities associated with port



413536

576-02463-20

development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(b) A discussion of environmental mitigation as is proposed for dredging and dredged-material management for port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(6) Dredged-material management activities authorized pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~ shall be incorporated into port master plans developed pursuant to s. 163.3178(2)(k).

Section 25. Paragraph (d) of subsection (1) of section 327.46, Florida Statutes, is amended to read:

327.46 Boating-restricted areas.—

(1) Boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of this state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.

(d) Owners of private submerged lands that are adjacent to Outstanding Florida Waters, as defined in s. 403.061(28) ~~s. 403.061(27)~~, or an aquatic preserve established under ss. 258.39-258.399 may request that the commission establish boating-restricted areas solely to protect any seagrass and contiguous seagrass habitat within their private property



413536

576-02463-20

boundaries from seagrass scarring due to propeller dredging. Owners making a request pursuant to this paragraph must demonstrate to the commission clear ownership of the submerged lands. The commission shall adopt rules to implement this paragraph, including, but not limited to, establishing an application process and criteria for meeting the requirements of this paragraph. Each approved boating-restricted area shall be established by commission rule. For marking boating-restricted zones established pursuant to this paragraph, owners of privately submerged lands shall apply to the commission for a uniform waterway marker permit in accordance with ss. 327.40 and 327.41, and shall be responsible for marking the boating-restricted zone in accordance with the terms of the permit.

Section 26. Paragraph (d) of subsection (3) of section 373.250, Florida Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(3)

(d) The South Florida Water Management District shall require the use of reclaimed water made available by the elimination of wastewater ocean outfall discharges as provided for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or groundwater when the use of reclaimed water is available; is environmentally, economically, and technically feasible; and is of such quality and reliability as is necessary to the user. Such reclaimed water may also be required in lieu of other alternative sources. In determining whether to require such reclaimed water in lieu of other alternative sources, the water management district shall consider existing infrastructure investments in place or obligated to be constructed by an



413536

576-02463-20

executed contract or similar binding agreement as of July 1, 2011, for the development of other alternative sources.

Section 27. Subsection (9) of section 373.414, Florida Statutes, is amended to read:

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

(9) The department and the governing boards, on or before July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~ this section, relying primarily on the existing rules of the department and the water management districts, into the rules governing the management and storage of surface waters. Such rules shall seek to achieve a statewide, coordinated and consistent permitting approach to activities regulated under this part. Variations in permitting criteria in the rules of individual water management districts or the department shall only be provided to address differing physical or natural characteristics. Such rules adopted pursuant to this subsection shall include the special criteria adopted pursuant to s. 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules shall include a provision requiring that a notice of intent to deny or a permit denial based upon this section shall contain an explanation of the reasons for such denial and an explanation, in general terms, of what changes, if any, are necessary to address such reasons for denial. Such rules may establish exemptions and general permits, if such exemptions and general permits do not allow significant adverse impacts to occur individually or cumulatively. Such rules may require submission of proof of financial responsibility which may include the



413536

576-02463-20

posting of a bond or other form of surety prior to the commencement of construction to provide reasonable assurance that any activity permitted pursuant to this section, including any mitigation for such permitted activity, will be completed in accordance with the terms and conditions of the permit once the construction is commenced. Until rules adopted pursuant to this subsection become effective, existing rules adopted under this part and rules adopted pursuant to the authority of ss. 403.91-403.929 shall be deemed authorized under this part and shall remain in full force and effect. Neither the department nor the governing boards are limited or prohibited from amending any such rules.

Section 28. Paragraph (b) of subsection (4) of section 373.705, Florida Statutes, is amended to read:

373.705 Water resource development; water supply development.—

(4)

(b) Water supply development projects that meet the criteria in paragraph (a) and that meet one or more of the following additional criteria shall be given first consideration for state or water management district funding assistance:

1. The project brings about replacement of existing sources in order to help implement a minimum flow or minimum water level;

2. The project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(10) ~~s. 403.086(9)~~; or

3. The project reduces or eliminates the adverse effects of competition between legal users and the natural system.



413536

576-02463-20

Section 29. Paragraph (f) of subsection (8) of section 373.707, Florida Statutes, is amended to read:

373.707 Alternative water supply development.—

(8)

(f) The governing boards shall determine those projects that will be selected for financial assistance. The governing boards may establish factors to determine project funding; however, significant weight shall be given to the following factors:

1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.

2. Whether the project reduces competition for water supplies.

3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.

4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.

5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water is a major component.

7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.

8. Whether the project implements reuse that assists in the



413536

576-02463-20

elimination of domestic wastewater ocean outfalls as provided in
s. 403.086(10) ~~s. 403.086(9)~~.

9. Whether the county or municipality, or the multiple
counties or municipalities, in which the project is located has
implemented a high-water recharge protection tax assessment
program as provided in s. 193.625.

Section 30. Subsection (4) of section 373.709, Florida
Statutes, is amended to read:

373.709 Regional water supply planning.—

(4) The South Florida Water Management District shall
include in its regional water supply plan water resource and
water supply development projects that promote the elimination
of wastewater ocean outfalls as provided in s. 403.086(10) ~~s.~~
~~403.086(9)~~.

Section 31. Effective July 1, 2021, subsection (3) of
section 373.807, Florida Statutes, is amended to read:

373.807 Protection of water quality in Outstanding Florida
Springs.—By July 1, 2016, the department shall initiate
assessment, pursuant to s. 403.067(3), of Outstanding Florida
Springs or spring systems for which an impairment determination
has not been made under the numeric nutrient standards in effect
for spring vents. Assessments must be completed by July 1, 2018.

(3) As part of a basin management action plan that includes
an Outstanding Florida Spring, the department, ~~the Department of~~
~~Health~~, relevant local governments, and relevant local public
and private wastewater utilities shall develop an onsite sewage
treatment and disposal system remediation plan for a spring if
the department determines onsite sewage treatment and disposal
systems within a priority focus area contribute at least 20



413536

576-02463-20

percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve the total maximum daily load. The plan shall identify cost-effective and financially feasible projects necessary to reduce the nutrient impacts from onsite sewage treatment and disposal systems and shall be completed and adopted as part of the basin management action plan no later than the first 5-year milestone required by subparagraph (1)(b)8. The department is the lead agency in coordinating the preparation of and the adoption of the plan. The department shall:

(a) Collect and evaluate credible scientific information on the effect of nutrients, particularly forms of nitrogen, on springs and springs systems; and

(b) Develop a public education plan to provide area residents with reliable, understandable information about onsite sewage treatment and disposal systems and springs.

In addition to the requirements in s. 403.067, the plan shall include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for an onsite sewage treatment and disposal system or group of systems within a priority focus area that contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve a total maximum daily load. For these systems, the department shall include in the plan a priority ranking for each system or group of systems that requires remediation and shall award funds to implement the remediation projects contingent on an appropriation in the



413536

576-02463-20

General Appropriations Act, which may include all or part of the costs necessary for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, initial connection to a central sewerage system, or other action. In awarding funds, the department may consider expected nutrient reduction benefit per unit cost, size and scope of project, relative local financial contribution to the project, and the financial impact on property owners and the community. The department may waive matching funding requirements for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

Section 32. Paragraph (k) of subsection (1) of section 376.307, Florida Statutes, is amended to read:

376.307 Water Quality Assurance Trust Fund.—

(1) The Water Quality Assurance Trust Fund is intended to serve as a broad-based fund for use in responding to incidents of contamination that pose a serious danger to the quality of groundwater and surface water resources or otherwise pose a serious danger to the public health, safety, or welfare. Moneys in this fund may be used:

(k) For funding activities described in s. 403.086(10) ~~s. 403.086(9)~~ which are authorized for implementation under the Leah Schad Memorial Ocean Outfall Program.

Section 33. Paragraph (i) of subsection (2), paragraph (b) of subsection (4), paragraph (j) of subsection (7), and paragraph (a) of subsection (9) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—



413536

576-02463-20

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(1) and 403.086(11) ~~403.086(10)~~, as applicable.

(4) REMOVAL OF DESIGNATION.—

(b) Beginning November 30, 2010, the state land planning agency shall annually submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:

1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(1);

2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and

3. A local government has adopted a resolution at a public



413536

576-02463-20

hearing recommending the removal of the designation.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and s. 403.086(11) ~~403.086(10)~~, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in



413536

576-02463-20

compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.

Section 34. Effective July 1, 2021, subsections (7) and (18) of section 381.006, Florida Statutes, are amended to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:



413536

576-02463-20

~~(7) An onsite sewage treatment and disposal function.~~

(17) ~~(18)~~ A food service inspection function for domestic violence centers that are certified by the Department of Children and Families and monitored by the Florida Coalition Against Domestic Violence under part XII of chapter 39 and group care homes as described in subsection (15) ~~(16)~~, which shall be conducted annually and be limited to the requirements in department rule applicable to community-based residential facilities with five or fewer residents.

The department may adopt rules to carry out the provisions of this section.

Section 35. Effective July 1, 2021, subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may ~~shall~~ not exceed \$500 for each violation, for a violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of ~~any of the provisions of~~ chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 36. Effective July 1, 2021, subsection (1) of section 381.0064, Florida Statutes, is amended to read:

381.0064 Continuing education courses for persons installing or servicing septic tanks.—



413536

576-02463-20

(1) The Department of Environmental Protection ~~Health~~ shall establish a program for continuing education which meets the purposes of ss. 381.0101 and 489.554 regarding the public health and environmental effects of onsite sewage treatment and disposal systems and any other matters the department determines desirable for the safe installation and use of onsite sewage treatment and disposal systems. The department may charge a fee to cover the cost of such program.

Section 37. Effective July 1, 2021, paragraph (d) of subsection (7), subsection (8), and paragraphs (b), (c), and (d) of subsection (9) of section 381.00651, Florida Statutes, are amended to read:

381.00651 Periodic evaluation and assessment of onsite sewage treatment and disposal systems.—

(7) The following procedures shall be used for conducting evaluations:

(d) *Assessment procedure.*—All evaluation procedures used by a qualified contractor shall be documented in the environmental health database of the Department of Environmental Protection ~~Health~~. The qualified contractor shall provide a copy of a written, signed evaluation report to the property owner upon completion of the evaluation and to the county health department within 30 days after the evaluation. The report must ~~shall~~ contain the name and license number of the company providing the report. A copy of the evaluation report shall be retained by the local county health department for a minimum of 5 years and until a subsequent inspection report is filed. The front cover of the report must identify any system failure and include a clear and conspicuous notice to the owner that the owner has a



413536

576-02463-20

right to have any remediation of the failure performed by a qualified contractor other than the contractor performing the evaluation. The report must further identify any crack, leak, improper fit, or other defect in the tank, manhole, or lid, and any other damaged or missing component; any sewage or effluent visible on the ground or discharging to a ditch or other surface water body; any downspout, stormwater, or other source of water directed onto or toward the system; and any other maintenance need or condition of the system at the time of the evaluation which, in the opinion of the qualified contractor, would possibly interfere with or restrict any future repair or modification to the existing system. The report shall conclude with an overall assessment of the fundamental operational condition of the system.

(8) The county health department, in coordination with the department, shall administer any evaluation program on behalf of a county, or a municipality within the county, that has adopted an evaluation program pursuant to this section. In order to administer the evaluation program, the county or municipality, in consultation with the county health department, may develop a reasonable fee schedule to be used solely to pay for the costs of administering the evaluation program. Such a fee schedule shall be identified in the ordinance that adopts the evaluation program. When arriving at a reasonable fee schedule, the estimated annual revenues to be derived from fees may not exceed reasonable estimated annual costs of the program. Fees shall be assessed to the system owner during an inspection and separately identified on the invoice of the qualified contractor. Fees shall be remitted by the qualified contractor to the county



413536

576-02463-20

health department. The county health department's administrative responsibilities include the following:

(a) Providing a notice to the system owner at least 60 days before the system is due for an evaluation. The notice may include information on the proper maintenance of onsite sewage treatment and disposal systems.

(b) In consultation with the department ~~of Health~~, providing uniform disciplinary procedures and penalties for qualified contractors who do not comply with the requirements of the adopted ordinance, including, but not limited to, failure to provide the evaluation report as required in this subsection to the system owner and the county health department. Only the county health department may assess penalties against system owners for failure to comply with the adopted ordinance, consistent with existing requirements of law.

(9)

(b) Upon receipt of the notice under paragraph (a), the department ~~of Environmental Protection~~ shall, within existing resources, notify the county or municipality of the potential use of, and access to, program funds under the Clean Water State Revolving Fund or s. 319 of the Clean Water Act, provide guidance in the application process to receive such moneys, and provide advice and technical assistance to the county or municipality on how to establish a low-interest revolving loan program or how to model a revolving loan program after the low-interest loan program of the Clean Water State Revolving Fund. This paragraph does not obligate the department ~~of Environmental Protection~~ to provide any county or municipality with money to fund such programs.



413536

576-02463-20

(c) The department ~~of Health~~ may not adopt any rule that alters ~~the provisions of~~ this section.

(d) The department ~~of Health~~ must allow county health departments and qualified contractors access to the environmental health database to track relevant information and assimilate data from assessment and evaluation reports of the overall condition of onsite sewage treatment and disposal systems. The environmental health database must be used by contractors to report each service and evaluation event and by a county health department to notify owners of onsite sewage treatment and disposal systems when evaluations are due. Data and information must be recorded and updated as service and evaluations are conducted and reported.

Section 38. Effective July 1, 2021, paragraph (g) of subsection (1) of section 381.0101, Florida Statutes, is amended to read:

381.0101 Environmental health professionals.—

(1) DEFINITIONS.—As used in this section:

(g) "Primary environmental health program" means those programs determined by the department to be essential for providing basic environmental and sanitary protection to the public. At a minimum, these programs shall include food protection program work ~~and onsite sewage treatment and disposal system evaluations.~~

Section 39. Section 403.08601, Florida Statutes, is amended to read:

403.08601 Leah Schad Memorial Ocean Outfall Program.—The Legislature declares that as funds become available the state may assist the local governments and agencies responsible for



413536

576-02463-20

implementing the Leah Schad Memorial Ocean Outfall Program pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from other sources provided for in law, the General Appropriations Act, from gifts designated for implementation of the plan from individuals, corporations, or other entities, or federal funds appropriated by Congress for implementation of the plan, may be deposited into an account of the Water Quality Assurance Trust Fund.

Section 40. Section 403.0871, Florida Statutes, is amended to read:

403.0871 Florida Permit Fee Trust Fund.—There is established within the department a nonlapsing trust fund to be known as the “Florida Permit Fee Trust Fund.” All funds received from applicants for permits pursuant to ss. 161.041, 161.053, 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7)(a) shall be deposited in the Florida Permit Fee Trust Fund and shall be used by the department with the advice and consent of the Legislature to supplement appropriations and other funds received by the department for the administration of its responsibilities under this chapter and chapter 161. In no case shall funds from the Florida Permit Fee Trust Fund be used for salary increases without the approval of the Legislature.

Section 41. Paragraph (a) of subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including



413536

576-02463-20

electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with ~~the provisions of~~ this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay between January 15 and April 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant actually emitted, as calculated in accordance with the department's emissions computation and reporting rules. The annual fee shall only apply



413536

576-02463-20

to those regulated pollutants, except carbon monoxide and greenhouse gases, for which an allowable numeric emission limiting standard is specified in the source's most recent construction or operation permit; provided, however, that:

1. The license fee factor is \$25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond \$25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed \$35.

2. The amount of each regulated air pollutant in excess of 4,000 tons per year emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3. If the department has not received the fee by March 1 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April 1. If the fee is not postmarked by April 1 of the calendar year, the



413536

576-02463-20

department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and may ~~shall~~ not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to \$50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

4. Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section may ~~shall~~ not be less than \$250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 may ~~shall~~ not exceed \$50 per year.

5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes ~~the provisions of s. 403.087(6)(a)5.a., authorizing~~ air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits shall be considered direct and indirect costs of the major stationary



413536

576-02463-20

2724 source air-operation permit program under s. 403.0873. The
2725 department shall, however, require fees pursuant to s.
2726 403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the
2727 construction of a new major source of air pollution that will be
2728 subject to the permitting requirements of this section once
2729 constructed and for activities triggering permitting
2730 requirements under Title I, Part C or Part D, of the federal
2731 Clean Air Act, 42 U.S.C. ss. 7470-7514a.

2732 Section 42. Paragraph (d) of subsection (3) of section
2733 403.707, Florida Statutes, is amended to read:

2734 403.707 Permits.—

2735 (3)

2736 (d) The department may adopt rules to administer this
2737 subsection. However, the department is not required to submit
2738 such rules to the Environmental Regulation Commission for
2739 approval. Notwithstanding the limitations of s. 403.087(7)(a) ~~s.~~
2740 ~~403.087(6)(a)~~, permit fee caps for solid waste management
2741 facilities shall be prorated to reflect the extended permit term
2742 authorized by this subsection.

2743 Section 43. Subsections (8) and (21) of section 403.861,
2744 Florida Statutes, are amended to read:

2745 403.861 Department; powers and duties.—The department shall
2746 have the power and the duty to carry out the provisions and
2747 purposes of this act and, for this purpose, to:

2748 (8) Initiate rulemaking to increase each drinking water
2749 permit application fee authorized under s. 403.087(7) ~~s.~~
2750 ~~403.087(6)~~ and this part and adopted by rule to ensure that such
2751 fees are increased to reflect, at a minimum, any upward
2752 adjustment in the Consumer Price Index compiled by the United



413536

576-02463-20

States Department of Labor, or similar inflation indicator, since the original fee was established or most recently revised.

(a) The department shall establish by rule the inflation index to be used for this purpose. The department shall review the drinking water permit application fees authorized under s. 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5 years and shall adjust the fees upward, as necessary, within the established fee caps to reflect changes in the Consumer Price Index or similar inflation indicator. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations. The department shall also review the drinking water operation license fees established pursuant to paragraph (7)(b) at least once every 5 years to adopt, as necessary, the same inflationary adjustments provided for in this subsection.

(b) The minimum fee amount shall be the minimum fee prescribed in this section, and such fee amount shall remain in effect until the effective date of fees adopted by rule by the department.

(21)(a) Upon issuance of a construction permit to construct a new public water system drinking water treatment facility to provide potable water supply using a surface water that, at the time of the permit application, is not being used as a potable water supply, and the classification of which does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(30)(b) ~~s.~~



413536

576-02463-20

~~403.061(29)(b).~~

(b) For existing public water system drinking water treatment facilities that use a surface water as a treated potable water supply, which surface water classification does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(30)(b) ~~s. 403.061(29)(b).~~

Section 44. Effective July 1, 2021, subsection (1) of section 489.551, Florida Statutes, is amended to read:

489.551 Definitions.—As used in this part:

(1) "Department" means the Department of Environmental Protection ~~Health~~.

Section 45. Paragraph (b) of subsection (10) of section 590.02, Florida Statutes, is amended to read:

590.02 Florida Forest Service; powers, authority, and duties; liability; building structures; Withlacoochee Training Center.—

(10)

(b) The Florida Forest Service may delegate to a county, municipality, or special district its authority:

1. As delegated by the Department of Environmental Protection pursuant to ss. 403.061(29) ~~ss. 403.061(28)~~ and 403.081, to manage and enforce regulations pertaining to the burning of yard trash in accordance with s. 590.125(6).

2. To manage the open burning of land clearing debris in accordance with s. 590.125.

Section 46. The Division of Law Revision is directed to replace the phrase "adoption of the rules identified in



413536

576-02463-20

2811 paragraph (e)" as it is used in the amendment made by this act
2812 to s. 381.0065, Florida Statutes, with the date such rules are
2813 adopted, as provided by the Department of Environmental
2814 Protection pursuant to s. 381.0065(4)(e), Florida Statutes, as
2815 amended by this act.

2816 Section 47. Except as otherwise expressly provided in this
2817 act, this act shall take effect July 1, 2020.

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 712

INTRODUCER: Community Affairs Committee; and Senators Mayfield, Harrell, and Albritton

SUBJECT: Water Quality Improvements

DATE: February 7, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Paglialonga/Rogers</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2. <u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Fav/CS
3. <u>Reagan</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 712 includes recommendations from the Blue-Green Algae Task Force. The major topics in this bill include onsite sewage treatment and disposal systems (OSTDSs, commonly referred to as septic systems), wastewater, stormwater, agriculture, and biosolids. The bill directs the Department of Environmental Protection (DEP) to make rules relating to most of these topics. Note that rules that cost at least \$1 million over the first five years of implementation require legislative ratification.¹ Therefore, several of these provisions may not be fully effectuated without additional legislation.

The DEP will incur indeterminate additional costs in developing multiple new regulatory programs, updating basin management action plans (BMAPs), promulgating rules, and developing, submitting, and reviewing new reports. The DEP can absorb these costs within existing resources. The implementation of the real-time water quality monitoring and wastewater grant programs will have a negative fiscal impact on the DEP, but these provisions are subject to appropriations. See Section V.

Regarding OSTDSs, the bill:

- Transfers the regulation of OSTDSs from the Department of Health (DOH) to the DEP.
- Directs the DEP to adopt rules to locate OSTDSs by July 1, 2022:

¹ Section 120.541(3), F.S.

- These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, OSTDS remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;
- Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and the Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within BMAPs if the DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.

Regarding wastewater, the bill:

- Creates a wastewater grant program, subject to appropriation, within the DEP that requires a 50 percent local match of funds. Eligible projects include:
 - Projects to upgrade OSTDSs.
 - Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
 - Projects to connect OSTDSs to central sewer facilities.
- Requires the DEP to submit an annual report to the Governor and the Legislature on the projects funded by the wastewater grant program.
- Provides incentives for wastewater projects that promote efficiency by coordinating wastewater infrastructure expansions with other infrastructure improvements.
- Gives priority in the state revolving loan fund for eligible wastewater projects that meet the additional requirements of the bill to prevent leakage, overflows, infiltration, and inflow.
- Requires the DEP to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.
- Authorizes the DEP to require public utilities seeking a wastewater discharge permit to file reports and other data regarding utility costs:
 - Such reports may include data related to expenditures on pollution mitigation and prevention, including the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration.
 - The DEP is required to adopt rules related to these requirements.
- Requires local governments to develop wastewater treatment plans within BMAPs if the DEP determines that domestic wastewater facilities contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.
- Adds to the DEP's penalty schedule a penalty of \$4,000 for failure to survey an adequate portion of a wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration. Substantial compliance with certain bill requirements is evidence in mitigation for penalty assessment.
- Increases the cap on the DEP's administrative penalties from \$10,000 to \$50,000.
- Doubles the wastewater administrative penalties.
- Prohibits facilities for sanitary sewage disposal from disposing of waste into the Indian River Lagoon and its tributaries without providing advanced waste treatment.

- Requires facilities for sanitary sewage disposal to provide for a power outage contingency plan for collection systems and pump stations.
- Requires facilities for sanitary sewage to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate treatment.
 - The bill requires studies, plans, and reports related to this requirement (the action plan).
 - The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys.
- Authorizes certain facilities for sanitary sewage to receive 10-year permits if they are meeting the goals in their action plan for inflow, infiltration, and leakage prevention.
- Makes the following changes relating to water pollution operation permits:
 - The permit must require the investigation or surveying of the wastewater collection system to determine pipe integrity.
 - The permit must require an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule, including any deviation from annual expenditures related to their action plan.
- Requires the DEP to submit an annual report to the Governor and the Legislature that identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The DEP must include with this report certain utility-specific information for each utility that experienced an overflow.

Regarding stormwater, the bill:

- Requires the DEP and the Water Management Districts (WMDs), by January 1, 2021, to initiate rulemaking to update their stormwater rules.
- Requires the DEP, by January 1, 2021, to evaluate inspection data relating to entities that self-certify their stormwater permits and provide the Legislature with recommendations for improvements to the self-certification program.
- Directs the DEP and the Department of Economic Opportunity to include in their model stormwater management program ordinances that target nutrient reduction practices and use green infrastructure.

Regarding agriculture, the bill:

- Requires the Department of Agriculture and Consumer Services (DACS) to collect and provide to the DEP fertilization and nutrient records from each agriculture producer enrolled in best management practices.
- Requires the DACS to perform onsite inspections of each agricultural producer that enrolls in a best management practice every two years.
- Authorizes the DACS and institutions of higher education with agricultural research programs to develop research plans and legislative budget requests relating to the evaluation and improvement of agricultural best management practices and agricultural nutrient reduction projects.

Regarding biosolids, the bill:

- Requires the DEP to adopt rules for biosolids management.
- Exempts the biosolids rules from legislative ratification if they are adopted prior to the 2021 legislative session.

- Clarifies that local governments with biosolids ordinances may retain those ordinances until repealed.

The bill also creates a real-time water quality monitoring program, subject to appropriation, within the DEP.

The effective date of the bill is July 1, 2021.

II. Present Situation:

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.

Phosphorus and nitrogen are derived from natural and human-made sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.²

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and impairment of the aesthetics and taste of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.³

Blue-Green Algae Task Force

In January of 2019, Governor DeSantis issued the comprehensive Executive Order Number 19-12.⁴ The order directed the Department of Environmental Protection (DEP) to establish a Blue-Green Algae Task Force charged with expediting progress towards reducing nutrient pollution and the impacts of blue-green algae (cyanobacteria) blooms in the state.⁵ The task force's responsibilities include identifying priority projects for funding and making recommendations for regulatory changes. The five-person task force issued a consensus document on October 11, 2019.⁶ To the extent that the task force has issued recommendations on topics addressed in this Present Situation, those recommendations are included in the relevant section.

² U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Dec. 2, 2019).

³ EPA, *The Problem*, <https://www.epa.gov/nutrientpollution/problem> (last visited Dec. 2, 2019).

⁴ State of Florida, Office of the Governor, *Executive Order Number 19-12* (2019), available at https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf.

⁵ *Id.* at 2; DEP, *Blue-Green Algae Task Force*, <https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force> (last visited Dec. 2, 2019).

⁶ DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

Total Maximum Daily Loads

A total maximum daily load (TMDL), which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.⁷ Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water Act, the DEP is required to establish a TMDL for impaired waterbodies.⁸ A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.⁹ Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.¹⁰

Basin Management Action Plans and Best Management Practices

The DEP is the lead agency in coordinating the development and implementation of TMDLs.¹¹ Basin management action plans (BMAPs) are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices (BMPs) and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.¹²

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.¹³ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the public to

⁷ DEP, *Total Maximum Daily Loads Program*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Dec. 2, 2019).

⁸ Section 403.067(1), F.S.

⁹ Section 403.031(21), F.S.

¹⁰ Fla. Admin. Code R. 62-620.200(37). “Point source” is defined as “any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.” Nonpoint sources of pollution are sources of pollution that are not point sources. Nonpoint sources can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

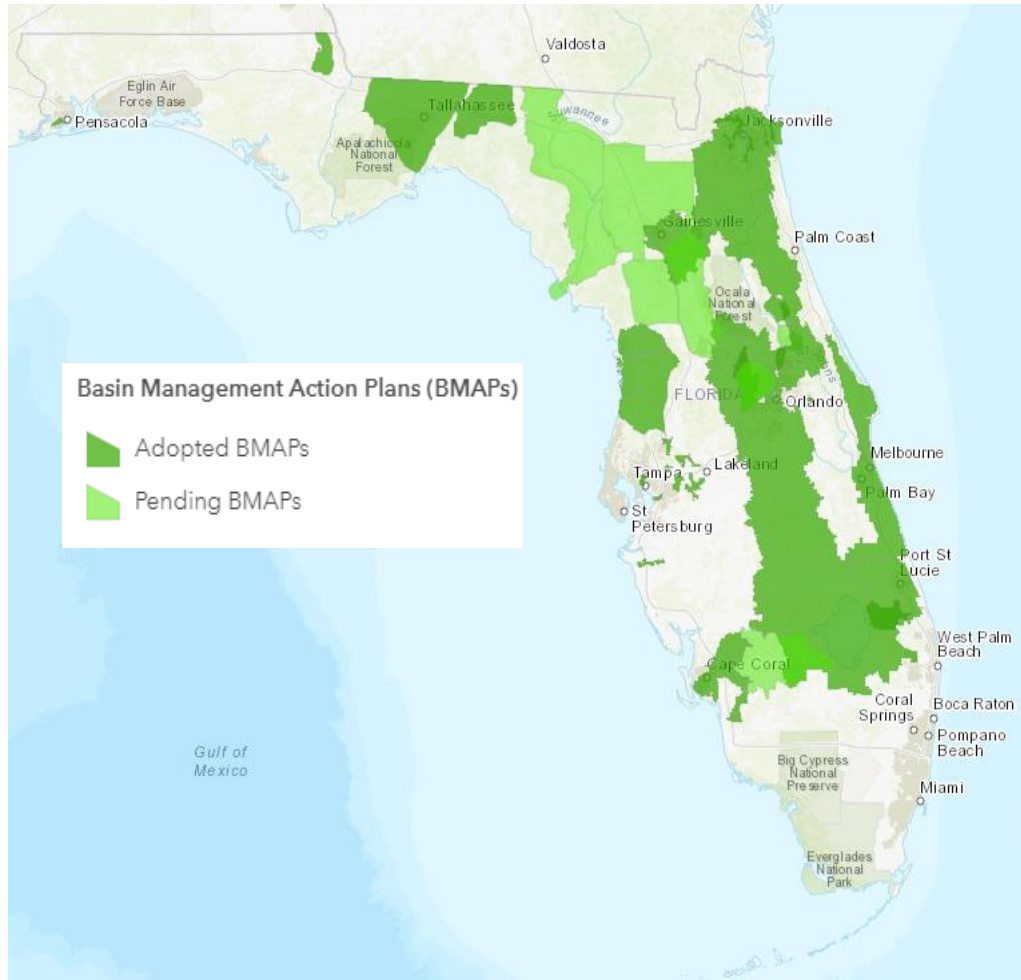
¹¹ Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

¹² Section 403.067(7), F.S.

¹³ *Id.*

collectively determine and share water quality cleanup responsibilities collectively.¹⁴ BMAPs are adopted by secretarial order.¹⁵

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years, and revisions to the BMAP must be made as appropriate.¹⁶



Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.¹⁷ A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district (WMD) based on a failure to implement these

¹⁴ DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Dec. 4, 2019).

¹⁵ Section 403.067(7)(a)5., F.S.

¹⁶ Section 403.067(7)(a)6., F.S.

¹⁷ Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

requirements.¹⁸ BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and to help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, forestry operations, and stormwater management.¹⁹

Currently, BMAPs are adopted or pending for a significant portion of the state and will continue to be developed as necessary to address water quality impairments. The graphic above shows the state's adopted and pending BMAPs.²⁰

The Blue-Green Algae Task Force made the following recommendations for BMAPs:

- Include regional storage and treatment infrastructure in South Florida watersheds.
- Consider land use changes, legacy nutrients, and the impact of the BMAP on downstream waterbodies.
- Develop a more targeted approach to project selection.
- Evaluate project effectiveness through monitoring.²¹

Agricultural BMPs

Agricultural best management practices (BMPs) are practical measures that agricultural producers undertake to reduce the impacts of fertilizer and water use and otherwise manage the landscape to further protect water resources. BMPs are developed using the best available science with economic and technical consideration and, in certain circumstances, can maintain or enhance agricultural productivity.²² BMPs are implemented by the Department of Agriculture and Consumer Services (DACS). Since the BMP program was implemented in 1999,²³ the DACS has adopted nine BMP manuals and is currently developing two more that cover nearly all major agricultural commodities in Florida. According to the annual report on BMPs prepared by the DACS, approximately 54 percent of agricultural acreage is enrolled in the DACS BMP program statewide.²⁴ Producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs²⁵ and those who enroll in the BMP program become eligible for technical assistance and cost-share funding for BMP implementation. To enroll in the BMP program, producers must meet with the Office of Agricultural Water Policy (OAWP) to determine the BMPs that are applicable to their operation

¹⁸ Section 403.067(7)(b)2.h., F.S.

¹⁹ DEP, *NPDES Stormwater Program*, <https://floridadep.gov/Water/Stormwater> (last visited Dec. 2, 2019).

²⁰ DEP, *Impaired Waters, TMDLs, and Basin Management Action Plans Interactive Map*, <https://floridadep.gov/dear/water-quality-restoration/content/impaired-waters-tmdls-and-basin-management-action-plans> (last visited Dec. 5, 2019).

²¹ DEP, *Blue-Green Algae Task Force Consensus Document #1*, 2-4 (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

²² Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), available at <https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf> (last visited Dec. 5, 2019).

²³ The program was voluntary from 1999-2005. In 2005 the Florida Legislature modified the law requiring agricultural producers to adopt BMPs or conduct water quality monitoring.

²⁴ Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 2, (Jul. 1, 2019), available at <https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf> (last visited Dec. 5, 2019).

²⁵ Section 403.067(7), F.S.

and submit a Notice of Intent to Implement the BMPs, along with the BMP checklist from the applicable BMP manual.²⁶ Within a BMAP, management strategies, including BMPs and water quality monitoring, are enforceable.²⁷ The University of Florida's Institute of Food and Agricultural Sciences (IFAS) is heavily involved in the adoption and implementation of BMPs. The IFAS provides expertise to both the DACS and agriculture producers, and has extension offices throughout Florida. The IFAS puts on summits and workshops on BMPs,²⁸ conducts research to issue recommendations for improving BMPs,²⁹ and issues training certificates for BMPs that require licenses such as Green Industry BMPs.³⁰

For agriculture and BMPs, the Blue-Green Algae Task Force recommended:

- Increasing BMP enrollment.
- Improving records and additional data collection.
- Accelerating updates to BMP manuals.³¹

BMAPs for Outstanding Florida Springs

In 2016, the Legislature passed the Florida Springs and Aquifer Protection Act, which identified 30 "Outstanding Florida Springs" (OFS) that have additional statutory protections and requirements.³² Key aspects of the Springs and Aquifer Protection Act relating to water quality include:

- The designation of a priority focus area for each OFS. A priority focus area of an OFS means the area or areas of a basin where the Florida Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the DEP in consultation with the appropriate WMDs, and delineated in a BMAP;³³
- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan³⁴ if it has been determined that OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or that remediation is necessary to achieve the TMDL;
- A 20-year timeline for implementation of the TMDL, including 5-, 10-, and 15-year targets;³⁵ and

²⁶ Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), available at <https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf> (last visited Dec. 5, 2019).

²⁷ Section 403.067(7)(d), F.S.

²⁸ UF/IFAS, *BMP Resource*, available at <https://bmp.ifas.ufl.edu/> (last visited Dec. 5, 2019).

²⁹ UF/IFAS Everglades Research & Education Center, *Best Management Practices & Water Resources*, available at <https://erec.ifas.ufl.edu/featured-3-menus/research/-best-management-practices--water-resources/> (last visited Dec. 5, 2019).

³⁰ UF/IFAS Florida-Friendly Landscaping, *GI-BMP Training Program Overview*, available at https://ffl.ifas.ufl.edu/professionals/BMP_overview.htm (last visited Dec. 5, 2019).

³¹ *Id.*

³² Chapter 2016-1, Laws of Fla.; see s. 373.802, F.S., Outstanding Florida Springs include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs, and their associated spring runs.

³³ Section 373.802(5), F.S.

³⁴ Commonly called a "septic remediation plan."

³⁵ Section 373.807, F.S.

- The prohibition against new OSTDSs on parcels of less than 1 acre, unless the system complies with the OSTDS remediation plan.³⁶

The DEP is the lead agency in coordinating the preparation and adoption of the OSTDS remediation plan. The OSTDS remediation plan must include options for repair, upgrade, replacement, drainfield modification, the addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for a sewage system or group of systems.³⁷ The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.³⁸

In June 2018, the DEP adopted 13 BMAPs, addressing all 24 nitrogen-impaired OFS.³⁹ Eight of these plans are currently effective, while five others are pending the outcome of legal challenges on various alleged deficiencies in the BMAPs.⁴⁰ These alleged deficiencies include lack of specificity in the required list of projects and programs identified to implement a TMDL, lack of detail in cost estimates, incomplete or unclear strategies for nutrient reduction, and failure to account for population growth and agricultural activity.

Wastewater Treatment Facilities

The proper treatment and disposal or reuse of domestic wastewater is an important part of protecting Florida's water resources. The majority of Florida's domestic wastewater is controlled and treated by centralized treatment facilities regulated by the DEP. Florida has approximately 2,000 permitted domestic wastewater treatment facilities.⁴¹

Chapter 403, F.S., requires that any facility or activity which discharges waste into waters of the state or which will reasonably be expected to be a source of water pollution must obtain a permit from the DEP.⁴² Generally, persons who intend to collect, transmit, treat, dispose, or reuse wastewater are required to obtain a wastewater permit. A wastewater permit issued by the DEP is required for both operation and certain construction activities associated with domestic or industrial wastewater facilities or activities. A DEP permit must also be obtained prior to construction of a domestic wastewater collection and transmission system.⁴³

Under section 402 of the Clean Water Act, any discharge of a pollutant from a point source to surface waters (i.e., the navigable waters of the United States or beyond) must obtain a National

³⁶ Section 373.811, F.S.

³⁷ Section 373.807(3), F.S.

³⁸ *Id.*

³⁹ DEP, *Springs*, <https://floridadep.gov/springs> (last visited Nov. 26, 2019).

⁴⁰ *Our Santa Fe River, Inc., et. al. v. DEP*, No. 18-1601, DEP No. 18-2013; *Sierra Club v. DEP*, No. 17-1175, DEP No. 18-0204; *Friends of Wekiva River, Inc. v. DEP*, No. 18-1065, DEP No. 18-0217; *Thomas Greenhalgh v. DEP*, No. 17-1165, DEP No. 18-0204; *Paul Still v. DEP*, No. 18-1061; *Save the Manatee Club, Inc. v. DEP*, No. 17-1167, DEP No. 18-0206; *Silver Springs Alliance, Inc. and Rainbow River Conservation, Inc. v. DEP*, No. 18-1060, DEP No. 18-0211.

⁴¹ DEP, *General Facts and Statistics About Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Dec. 2, 2019).

⁴² Section 403.087, F.S.

⁴³ DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Dec. 2, 2019).

Pollution Discharge Elimination System (NPDES) permit.⁴⁴ NPDES permit requirements for most wastewater facilities or activities (domestic or industrial) that discharge to surface waters are incorporated into a state-issued permit, thus giving the permittee one set of permitting requirements rather than one state and one federal permit.⁴⁵ The DEP issues operation permits for a period of five years for facilities regulated under the NPDES program and up to 10 years for other domestic wastewater treatment facilities meeting certain statutory requirements.⁴⁶

In its 2016 Report Card for Florida's Infrastructure, the American Society of Civil Engineers reported that the state's wastewater system is increasing in age and the condition of installed treatment and conveyance systems is declining.⁴⁷ As existing infrastructure ages, Florida utilities are placing greater emphasis on asset management systems to maintain service to customers. Population growth, aging infrastructure, and sensitive ecological environments are increasing the need to invest in Florida's wastewater infrastructure.⁴⁸

Advanced Waste Treatment

Under Florida law, facilities for sanitary sewage disposal are required to provide for advanced waste treatment, as deemed necessary by the DEP.⁴⁹ The standard for advanced waste treatment is defined in statute using the maximum concentrations of nutrients or contaminants that a reclaimed water product may contain.⁵⁰ The standard also requires high-level disinfection.⁵¹

Nutrient or Contaminant	Maximum Concentration Annually
Biochemical Oxygen Demand	5 mg/L
Suspended Solids	5 mg/L
Total Nitrogen	3 mg/L
Total Phosphorus	1 mg/L

Facilities for sanitary sewage disposal are prohibited from disposing of waste into certain waters in the state without providing advanced waste treatment approved by the DEP.⁵² Specifically, Tampa Bay is viewed as a success story for this type of prohibition.

[Tampa Bay is] one of the few estuaries in the U.S. that has shown evidence of improving environmental conditions. These water-quality

⁴⁴ 33 U.S.C. s. 1342.

⁴⁵ Sections 403.061 and 403.087, F.S.

⁴⁶ Section 403.087(3), F.S.

⁴⁷ American Society of Civil Engineers, *Report Card for Florida's Infrastructure* (2016), available at https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf.

⁴⁸ *Id.*

⁴⁹ Section 403.086(2), F.S.

⁵⁰ Section 403.086(4), F.S.

⁵¹ Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).

⁵² Section 403.086(1)(c), F.S. Facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment approved by DEP. This prohibition does not apply to facilities permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

improvements have been due, in large part, to upgrades in wastewater-treatment practices at municipal wastewater-treatment plants in the region. Since 1980, all wastewater-treatment plants that discharge to the bay or its tributaries have been required by state legislation to meet advanced wastewater-treatment standards, a step that has reduced the annual nutrient loads from these sources by about 90 percent.⁵³

Sanitary Sewer Overflows, Leakages, and Inflow and Infiltration

Although domestic wastewater treatment facilities are permitted and designed to safely and properly collect and manage a specified wastewater capacity, obstructions or extreme conditions can cause a sanitary sewer overflow (SSO). Any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a sanitary sewer system is a SSO.⁵⁴ A SSO may subject the owner or operator of a facility to civil penalties of not more than \$10,000 for each offense, a criminal conviction or fines, and additional administrative penalties.⁵⁵ Each day during the period in which a violation occurs constitutes a separate offense.⁵⁶ However, administrative penalties are capped at \$10,000.⁵⁷

A key concern with SSOs entering rivers, lakes, or streams is their negative effect on water quality. In addition, because SSOs contain partially treated or potentially untreated domestic wastewater, ingestion or similar contact may cause illness. People can be exposed through direct contact in areas of high public access, food that has been contaminated, inhalation, and skin absorption. The Department of Health (DOH) issues health advisories when bacteria levels present a risk to human health and may post warning signs when bacteria affect public beaches or other areas where there is a risk of human exposure.⁵⁸

Reduction of SSOs can be achieved through:

- Cleaning and maintaining the sewer system;
- Reducing inflow and infiltration through rehabilitation and repairing broken or leaking lines;
- Enlarging or upgrading sewer, pump station, or sewage treatment plant capacity and/or reliability; and
- Constructing wet weather storage and treatment facilities to treat excess flows.⁵⁹

Inflow and Infiltration (I&I) occurs when groundwater and/or rainwater enters the sanitary sewer system and ends up at the wastewater treatment facility, necessitating its treatment as if it were

⁵³ U.S. Department of the Interior and U.S. Geological Survey, *Integrating Science and Resource Management in Tampa Bay, Florida*, 110 (2011), available at https://pubs.usgs.gov/circ/1348/pdf/Chapter%205_105-156.pdf (internal citations omitted).

⁵⁴ DEP, *Sanitary Sewer Overflows (SSOs)*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Dec. 4, 2019).

⁵⁵ Sections 403.121 and 403.141, F.S.

⁵⁶ *Id.*

⁵⁷ Section 403.121(2)(b),(8), and (9), F.S.

⁵⁸ DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf>.

⁵⁹ *Id.*

wastewater.⁶⁰ I&I can be caused by groundwater infiltrating the sewer system through faulty pipes or infrastructure, or any inflows of rainwater or non-wastewater into the sewer system.

I&I is a major cause of SSOs in Florida.⁶¹ When domestic wastewater facilities are evaluated for permit renewal, collection systems are not evaluated for issues such as excessive infiltration/inflow unless problems result at the treatment plant.⁶² Another major cause of SSOs is the loss of electricity to the infrastructure for the collection and transmission of wastewater, such as pump stations, especially during storms.⁶³ Pump stations receiving flow from another station through a force main, or those discharging through pipes 12 inches or larger, must have emergency generators.⁶⁴ All other pump stations must have emergency pumping capability through one of three specified arrangements.⁶⁵ These requirements for emergency pumping capacity only apply to domestic wastewater collection/transmission facilities existing after November 6, 2003, unless facilities existing prior to that date are modified.⁶⁶

The Blue-Green Algae Task Force made the following recommendations relating to SSOs:

- Emergency back-up capabilities should be required for all lift stations constructed prior to 2003.
- The DEP and wastewater facilities should take a more proactive approach to infiltration and inflow issues.⁶⁷

Wastewater Asset Management

Asset management is the practice of managing infrastructure capital assets to minimize the total cost of owning and operating these assets while delivering the desired service levels.⁶⁸ Many utilities use asset management to pursue and achieve sustainable infrastructure. A high-performing asset management program includes detailed asset inventories, operation and maintenance tasks, and long-range financial planning.⁶⁹

⁶⁰ City of St. Augustine, *Inflow & Infiltration Elimination Program*, <https://www.citystaug.com/549/Inflow-Infiltration-Elimination-Program> (last visited Dec. 6, 2019).

⁶¹ See generally RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), available at https://floridadep.gov/sites/default/files/Final%20Report_Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.

⁶² Fla. Admin. Code R. 62-600.735; see Fla. Admin. Code R. 62-600.200. “Collection/transmission systems” are defined as “sewers, pipelines, conduits, pumping stations, force mains, and all other facilities used for collection and transmission of wastewater from individual service connections to facilities intended for the purpose of providing treatment prior to release to the environment.”

⁶³ See generally RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), available at https://floridadep.gov/sites/default/files/Final%20Report_Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.

⁶⁴ Fla. Admin. Code R. 62-604.400.

⁶⁵ *Id.*

⁶⁶ Fla. Admin. Code R. 62-604.100.

⁶⁷ DEP, *Blue-Green Algae Task Force Consensus Document #1*, 7 (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

⁶⁸ EPA, *Sustainable Water Infrastructure - Asset Management for Water and Wastewater Utilities*, <https://www.epa.gov/sustainable-water-infrastructure/asset-management-water-and-wastewater-utilities> (last visited Dec 9, 2019).

⁶⁹ *Id.*

Each utility is responsible for making sure that its system stays in good working order, regardless of the age of its components or the availability of additional funds.⁷⁰ Asset management programs with good data can be the most efficient method of meeting this challenge. Some key steps for asset management are making an inventory of critical assets, evaluating the condition and performance of such assets, and developing plans to maintain, repair, and replace assets and to fund these activities.⁷¹ The United States Environmental Protection Agency (EPA) provides guidance and reference manuals for utilities to aid in developing asset management plans.⁷²

Many states, including Florida, provide financial incentives for the development and implementation of an asset management plan when requesting funding under a State Revolving Fund or other state funding mechanism.⁷³ Florida's incentives include priority scoring,⁷⁴ reduction of interest rates,⁷⁵ principal forgiveness for financially disadvantaged small communities,⁷⁶ and eligibility for small community wastewater facilities grants.⁷⁷

In 2016, the Legislature authorized the Public Service Commission (PSC) to allow a utility to create a utility reserve fund for repair and replacement of existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. The utility reserve fund would be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit.

The PSC adopted rules governing the implementation, management, and use of the fund, including expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for the PSC authorization before fund disbursements.⁷⁸ The PSC requires an applicant to provide a capital improvement plan or an asset management plan in seeking authorization to create a utility reserve fund.⁷⁹

The Clean Water State Revolving Fund Program

Florida's Clean Water State Revolving Fund (CWSRF) is a federal-state partnership that provides communities a permanent, independent source of low-cost financing for a wide-range of water quality infrastructure projects.⁸⁰ The CWSRF is funded through money received from

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² EPA, *Asset Management: A Best Practices Guide* (2008), available at <https://nepis.epa.gov/Exec/QueryPDF.cgi/P1000LP0.PDF?Dockkey=P1000LP0.PDF>; EPA, *Reference Guide for Asset Management Tools/Asset Management Plan Components and Implementation Tools for Small and Medium Sized Drinking Water and Wastewater Systems* (May 2014), available at https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf.

⁷³ EPA, *State Asset Management Initiatives* (Aug. 2012), available at https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf.

⁷⁴ Fla. Admin. Code R. 62-503.300(e).

⁷⁵ Fla. Admin. Code R. 62-503.300(5)(b)1. and 62-503.700(7).

⁷⁶ Fla. Admin. Code R. 62-503.500(4).

⁷⁷ Fla. Admin. Code R. 62-505.300(d) and 62-505.350(5)(c).

⁷⁸ Fla. Admin. Code R. 25-30.444.

⁷⁹ Fla. Admin. Code R. 25-30.444(2)(e) and (m).

⁸⁰ 33 USC s. 1383; EPA, *CWSRF*, <https://www.epa.gov/cwsrf> (last visited Jan. 23, 2020); EPA, *Learn about the CWSRF*, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Jan. 23, 2020).

federal grants as well as state contributions, which then "revolve" through the repayment of previous loans and interest earned. While these programs offer loans, grant-like funding is also available for qualified small, disadvantaged communities, which reduces the amount owed on loans by the percentage for which the community qualifies.

The CWSRF provides low-interest loans to local governments to plan, design, and build or upgrade wastewater, stormwater, and nonpoint source pollution prevention projects. Certain agricultural best management practices may also qualify for funding. Very low interest rate loans, grants, and other discounted assistance for small communities are available. Interest rates on loans are below market rates and vary based on the economic means of the community. Generally, local governments and special districts are eligible loan sponsors.⁸¹ The EPA classifies eleven types of projects that are eligible to receive CWSRF assistance. They include projects for:

- A publicly owned treatment works;
- A public, private, or nonprofit entity to implement a state nonpoint source pollution management program;
- A public, private, or nonprofit entity to develop and implement a conservation and management plan;
- A public, private, or nonprofit entity to construct, repair, or replace decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage;
- A public, private, or nonprofit entity to manage, reduce, treat, or recapture stormwater or subsurface drainage water;
- A public entity to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse;
- A public, private, or nonprofit entity to develop and implement watershed projects;
- A public entity to reduce the energy consumption needs for publicly owned treatment works;
- A public, private, or nonprofit entity for projects for reusing or recycling wastewater, stormwater, or subsurface drainage water;
- A public, private, or nonprofit entity to increase the security of publicly owned treatment works; and
- Any qualified nonprofit entity, to provide technical assistance to owners and operators of small and medium sized publicly owned treatment works to plan, develop, and obtain financing for the CWSRF eligible projects and to assist each treatment works in achieving compliance with the Clean Water Act.⁸²

Of these eligible projects, the DEP is required to give priority to projects that:

- Eliminate public health hazards;
- Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(9), F.S., regarding domestic wastewater ocean outfalls;
- Assist in the implementation of total maximum daily loads adopted under s. 403.067, F.S.;

⁸¹ DEP, *State Revolving Fund*, <https://floridadep.gov/wra/srf> (last visited Feb. 11, 2019).

⁸² EPA, *Learn about the CWSRF*, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Jan. 23, 2020).

- Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;
- Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;
- Promote reclaimed water reuse;
- Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or
- Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.⁸³

Small Community Sewer Construction

The Small Community Sewer Construction Assistance Act is a grant program established as part of the CWSRF program that requires the DEP to award grants to assist financially disadvantaged small communities with their needs for adequate domestic wastewater facilities.⁸⁴ Under the program, a financially disadvantaged small community is defined as a county, municipality, or special district⁸⁵ with a total population of 10,000 or less, and a per capita income less than the state average per capita income.⁸⁶ In 2016, the Legislature included counties and special districts as eligible entities for grants under the program if they otherwise met the definition of a financially disadvantaged small community.⁸⁷

In accordance with rules adopted by the Environmental Regulation Commission, the DEP may provide grants, for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.⁸⁸ The rules of the commission must also:

- Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permissible, and implementable;
- Require appropriate user charges, connection fees, and other charges to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant;
- Require grant applications to be submitted on appropriate forms with appropriate supporting documentation and require records to be maintained;
- Establish a system to determine eligibility of grant applications;
- Establish a system to determine the relative priority of grant applications, which must consider public health protection and water pollution abatement;
- Establish requirements for competitive procurement of engineering and construction services, materials, and equipment; and
- Provide for termination of grants when program requirements are not met.⁸⁹

⁸³ Section 403.1835(7), F.S.

⁸⁴ Sections 403.1835(3)(d) and 403.1838, F.S.

⁸⁵ Section 189.012(6), F.S., defines special district; s. 189.012(2) and (3), F.S., define dependent special district and independent special district, respectively.

⁸⁶ Section 403.1838(2), F.S.

⁸⁷ Chapter 2016-55, Laws of Fla.

⁸⁸ Section 403.1838(3)(a), F.S.

⁸⁹ Section 403.1838(3)(b), F.S.; Fla. Admin. Code R. Ch. 62-505.

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as “septic systems,” generally consist of two basic parts: the septic tank and the drainfield.⁹⁰ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.⁹¹



The DOH administers OSTDS programs, develops statewide rules, and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.⁹² The DOH regulations focus on construction standards and setback distances. The regulations are primarily designed to protect the public from waterborne illnesses.⁹³ The DOH also conducts research to evaluate performance, environmental health, and public health effects of OSTDSs. Innovative OSTDS products and technologies must be approved by the DOH.⁹⁴

The DOH and the DEP have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.⁹⁵ The DEP has jurisdiction

⁹⁰ DOH, *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Dec. 2, 2019); EPA, *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited Dec. 2, 2019) (showing the graphic provided in the analysis).

⁹¹ *Id.*

⁹² Section 381.0065(3), F.S.

⁹³ DOH, *Overview of Onsite Sewage Treatment and Disposal Systems*, 5 (Aug. 1, 2019), <http://floridadep.gov/file/19018/download?token=6r94Bi2B>.

⁹⁴ Section 381.0065(3), F.S.

⁹⁵ *Interagency Agreement Between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems* (Sept. 30, 2015), available at https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf.

over OSTDSs when: domestic sewage flow exceeds 10,000 gallons per day; commercial sewage flow exceeds 5,000 gallons per day; there is a likelihood of hazardous or industrial wastes; a sewer system is available; or if any system or flow from the establishment is currently regulated by the DEP (unless the DOH grants a variance).⁹⁶ In all other circumstances, the DOH regulates OSTDSs.

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.⁹⁷ In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.⁹⁸ For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.⁹⁹ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.¹⁰⁰

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.¹⁰¹ This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.¹⁰²

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as "advanced" or "nutrient-reducing" septic systems).¹⁰³ The DOH publishes on its website approved products and resources on advanced systems.¹⁰⁴ Determining which advanced system is the best option can depend on site-specific conditions.

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.¹⁰⁵ Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DOH.¹⁰⁶

⁹⁶ *Id.* at 6-13; s. 381.0065(3)(b), F.S.; DEP, *Septic Systems*, <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited Dec. 2, 2019).

⁹⁷ DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Dec. 2, 2019).

⁹⁸ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at http://www.floridahealth.gov/environmental-health/onsite-sewage/research/_documents/rrac/2008-11-06.pdf. The report begins on page 56 of the PDF.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study, Final Report 2008-2015*, 21 (Dec. 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf>; see Fla. Admin. Code R. 64E-6.006(2).

¹⁰² University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), available at <http://edis.ifas.ufl.edu/pdf/SS/SS55000.pdf>.

¹⁰³ DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (2019), available at http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/bmap-n-reducing-tech-18-10-29.pdf.

¹⁰⁴ DOH, *Onsite Sewage Programs, Product Listings and Approval Requirements*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/products/index.html> (last visited Dec. 2, 2019).

¹⁰⁵ Section 381.00655, F.S.

¹⁰⁶ *Id.*

The Blue-Green Algae Task Force made the following recommendations relating to OSTDSs:

- The DEP should develop a more comprehensive regulatory program to ensure that OSTDSs are sized, designed, constructed, installed, operated, and maintained to prevent nutrient pollution, reduce environmental impact, and preserve human health.
- More post-permitting septic tank inspections should take place.
- Protections for vulnerable areas in the state should be expanded.
- Additional funding to accelerate septic to sewer conversions.¹⁰⁷

The DOH Technical Review and Advisory Panel

The DOH has a technical review and advisory panel to review agency rules and provide assistance to the DOH with rule adoption.¹⁰⁸ It is comprised of, at a minimum:

- A soil scientist;
- A professional engineer registered in this state who is recommended by the Florida Engineering Society and who has work experience in OSTDSs;
- Two representatives from the home-building industry recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems;
- A representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state;
- A representative from the real estate industry who is recommended by the Florida Association of Realtors;
- A consumer representative with a science background;
- Two representatives of the septic tank industry recommended by the Florida Onsite Wastewater Association, including one who is a manufacturer of onsite sewage treatment and disposal systems;
- A representative from local government who is knowledgeable about domestic wastewater treatment and who is recommended by the Florida Association of Counties and the Florida League of Cities; and
- A representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county health department.¹⁰⁹

Members are to be appointed for a term of two years. The panel may also, as needed, be expanded to include ad hoc, nonvoting representatives who have topic-specific expertise.¹¹⁰

¹⁰⁷ DEP, *Blue-Green Algae Task Force Consensus Document #1*, 6-7 (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

¹⁰⁸ Section 381.0068, F.S.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

Stormwater Management

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.¹¹¹ When stormwater falls on pavement, buildings, and other impermeable surfaces, the runoff flows quickly and can pick up sediment, nutrients (such as nitrogen and phosphorous), chemicals, and other pollutants.¹¹² Stormwater pollution is a major source of water pollution in Florida.¹¹³

There are two main regulatory programs to address water quality from stormwater: the federal program that regulates discharges of pollutants into waters of the United States¹¹⁴ and the state Environmental Resource Permitting (ERP) Program that regulates activities involving the alteration of surface water flows.¹¹⁵ The federal NPDES Stormwater Program regulates the following types of stormwater pollution:¹¹⁶

- Certain municipal storm sewer systems;
- Runoff from certain construction activities; and
- Runoff from industrial activities.¹¹⁷

Florida's ERP Program includes regulation of activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.¹¹⁸ ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.¹¹⁹ The statewide ERP Program is implemented by the DEP, the WMDs, and certain local governments. The ERP Applicant Handbook, incorporated by reference into the DEP rules, provides guidance on the DEP's ERP Program, including stormwater topics such as the design of stormwater management systems.¹²⁰

¹¹¹ DEP and Water Management Districts, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), available at

https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf.

¹¹² DEP, *Stormwater Management*, 1 (2016), available at https://floridadep.gov/sites/default/files/stormwater-management_0.pdf. When rain falls on fields, forests, and other areas with naturally permeable surfaces the water not absorbed by plants filters through the soil and replenishes Florida's groundwater supply.

¹¹³ DEP, *Stormwater Support*, <https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support> (last visited Dec. 2, 2019); DEP, *Nonpoint Source Program Update*, 10 (2015), available at <https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf>.

¹¹⁴ National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122.

¹¹⁵ Chapter 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.

¹¹⁶ A point source is discernible, confined and discrete conveyance, such as a pipe, ditch, channel, tunnel, conduit, discrete fissure, or container. See The Clean Water Act, 33 U.S.C. s. 1362(14) and 40 C.F.R. 122.2; Stormwater can be either a pointsource or a nonpoint source of pollution. EPA, *Monitoring and Evaluating Nonpoint Source Watershed Projects*, 1-1, available at https://www.epa.gov/sites/production/files/2016-02/documents/chapter_1_draft_aug_2014.pdf; DEP, *Nonpoint Source Program Update*, 9 (2015), available at <https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf>.

¹¹⁷ See generally EPA, *NPDES Stormwater Program*, <https://www.epa.gov/npdes/npdes-stormwater-program> (last visited Dec. 2, 2019).

¹¹⁸ DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Dec 2, 2019).

¹¹⁹ South Florida Water Management District, *Environmental Resource Permits*, <https://www.swfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Dec. 2, 2019).

¹²⁰ Fla. Admin. Code R. 62-330.010(4); DEP and WMDs, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), available at https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf, *Environmental Resource Permit Applicant's Handbook Volume II*, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Dec. 2, 2019).

The DEP and the WMDs are authorized to require permits and impose reasonable conditions:

- To ensure that construction or alteration of stormwater management systems and related structures are consistent with applicable law and not harmful to water resources;¹²¹ and
- For the maintenance or operation of such structures.¹²²

The DEP's stormwater rules are technology-based effluent limitations rather than water quality-based effluent limitations.¹²³ This means that stormwater rules rely on design criteria for BMPs to achieve a performance standard for pollution reduction, rather than specifying the amount of a specific pollutant that may be discharged to a waterbody and still ensure that the waterbody attains water quality standards.¹²⁴ The rules contain minimum stormwater treatment performance standards, which require design and performance criteria for new stormwater management systems to achieve at least 80 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards.¹²⁵ The standard is 95 percent reduction when applied to Outstanding Florida Waters. In 2007, an evaluation performed for the DEP generally concluded that Florida's stormwater design criteria failed to consistently meet either the 80 percent or 95 percent target goals in the DEP's rules.¹²⁶ The images shown here depict six major types of surface water management systems:¹²⁷

¹²¹ Section 373.413, F.S.; see s. 403.814(12), F.S.

¹²² Section 373.416, F.S.

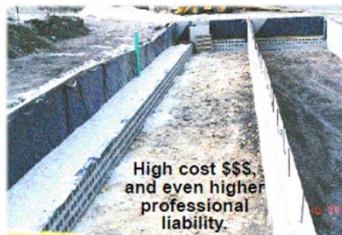
¹²³ DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Nov. 8, 2019).

¹²⁴ See generally, EPA, National Pollutant Discharge Elimination System (NPDES), www.epa.gov/npdes/npdes-permit-limits (last visited Dec. 2, 2019).

¹²⁵ Fla. Admin. Code R. 62-40.432(2).

¹²⁶ Environmental Research & Design, Inc., *Evaluation of Current Stormwater Design Criteria Within the State of Florida*, 6-1 (2007), available at <https://www.sfwmd.gov/sites/default/files/documents/sw%20treatment%20report-final71907.pdf>. The report makes an exception for the St. John's River Water Management District's standards for on-line dry retention.

¹²⁷ Presentation to the Blue-Green Algae Task Force by Benjamin Melnik, Deputy Director of the Division of Water Resource Management, *Stormwater*, 12 (September 24, 2019) (on file with Committee on Environment and Natural Resources).

**"Filtered" Ponds****Underground Vaults****"Dry" Retention Ponds****"Wet" Detention Ponds****Underground Exfiltration Trenches****Pervious Pavement**

The DEP and the WMDs must require applicants to provide reasonable assurance that state water quality standards will not be violated.¹²⁸ If a stormwater management system is designed in accordance with the stormwater treatment requirements and criteria adopted by the DEP or the WMDs, then the system design is presumed not to cause or contribute to violations of applicable state water quality standards.¹²⁹ If a stormwater management system is constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption, then the stormwater discharged from the system is presumed not to cause or contribute to violations of applicable state water quality standards.¹³⁰ If an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the DEP or a WMD must consider mitigation measures that cause a net improvement of the water quality in the water body that does not meet the standards.¹³¹

¹²⁸ Section 373.414(1), F.S.; see s. 373.403(11), F.S.; see Fla. Admin. Code Ch. 62-4, 62-302, 62-520, and 62-550.

¹²⁹ Section 373.4131(3)(b), F.S. Fla. Admin. Code R. 62-40.432(2); see also DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Dec. 2, 2019) (stating that a key component of the stormwater rule is a "rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria will not cause harm to water resources").

¹³⁰ Section 373.4131(3)(c), F.S.

¹³¹ Section 373.414(1)(b)3., F.S.

2010 Stormwater Rulemaking

From 2008 to 2010, the DEP and the WMDs worked together on developing a statewide unified stormwater rule to protect Florida's surface waters from the effects of excessive nutrients in stormwater runoff.¹³² A technical advisory committee was established. In 2010, the DEP announced a series of workshops to present for public comment the statewide stormwater quality draft rule Chapter 62-347 of the Florida Administrative Code and an Applicant's Handbook.¹³³ The notice stated the goal of the rule was to "increase the level of nutrient treatment in stormwater discharges and provide statewide consistency by establishing revised stormwater quality treatment performance standards and best management practices design criteria."¹³⁴

These rulemaking efforts produced a draft document called the "Environmental Resource Permit Stormwater Quality Applicant's Handbook: Design Requirements for Stormwater Treatment in Florida."¹³⁵ The 2010 draft handbook's stormwater quality permitting requirements:

- Provided for different stormwater treatment performance standards based on various classifications of water quality.¹³⁶
- Included instructions for calculating a project's required nutrient load reduction based on comparing the predevelopment and post-development loadings.¹³⁷
- Provided the required criteria for stormwater BMPs.
- Listed fifteen different types of stormwater treatment systems, including low impact design, pervious pavements, and stormwater harvesting.¹³⁸

The new rule and revised handbook were expected to be adopted in 2011.¹³⁹ However, no such rules or revised handbook were ever adopted. While the draft Stormwater Quality Applicant's Handbook never went into effect, it can provide context for understanding what new rules on these topics may look like.

The Blue-Green Algae Task Force recommended that the DEP revise and update stormwater design criteria and implement an effective inspection and monitoring program.¹⁴⁰

¹³² South Florida Water Management District, *Quick Facts on the Statewide Unified Stormwater Rule*, available at https://www.sfwmd.gov/sites/default/files/documents/spl_stormwater_rule.pdf.

¹³³ Florida Administrative Register, Notices of Meetings, Workshops, and Public Hearings, *Notice of Rescheduling*, pg. 1885 (Apr. 23, 2010), available at <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2010/3616/3616doc.pdf>.

¹³⁴ *Id.*

¹³⁵ DEP and Water Management Districts, *March 2010 Draft, Environmental Resource Permit Stormwater Quality Applicant's Handbook, Design Requirements for Stormwater Treatment Systems in Florida* (2010), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content2/roadway/drainage/files/stormwaterqualityapphb-draft.pdf?sfvrsn=579bf184_0.

¹³⁶ *Id.* at 6-7.

¹³⁷ *Id.* at 8-11.

¹³⁸ *Id.* at 3.

¹³⁹ Nicole C. Kibert, *Status of Low Impact Development in Florida and Legal Considerations for Operation and Maintenance of LID Systems*, FLORIDA BAR JOURNAL Vol. 85, No. 1 (2011), <https://www.floridabar.org/the-florida-bar-journal/status-of-low-impact-development-in-florida-and-legal-considerations-for-operation-and-maintenance-of-lid-systems/> (last visited Nov. 14, 2019).

¹⁴⁰ DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

Water Quality Monitoring

One of the DEP's goals is to determine the quality of the state's surface and ground water resources. This goal is primarily accomplished through several water quality monitoring strategies that are administered through the Water Quality Assessment Program. Responsibilities of the program include: monitoring and assessing how water quality is changing over time; the overall water quality and impairment status of the state's water resources; and the effectiveness of water resource management, protection, and restoration programs.¹⁴¹

Within the Water Quality Assessment Program, the DEP administers the Watershed Monitoring Program. This program is responsible for collecting reliable data through water samples from rivers, streams, lakes, canals, and wells around the state.¹⁴² This information is used by the DEP to determine which waters are impaired and what restoration efforts are needed.

The Blue-Green Algae Task Force recommended that science-based decision making and monitoring programs be enhanced, including the development of an expanded and more comprehensive statewide water quality monitoring strategy. Monitoring programs should focus on informing restoration project selection, implementation, and evaluation.¹⁴³

Indian River Lagoon

The Indian River Lagoon (IRL) system is an estuary¹⁴⁴ that runs along 156 miles of Florida's east coast and borders Volusia, Brevard, Indian River, St. Lucie, and Martin counties.¹⁴⁵ The IRL system is composed of three main waterbodies: Mosquito Lagoon, Banana River, and the Indian River Lagoon.¹⁴⁶ Four BMAPs have been adopted for the IRL region.¹⁴⁷

The IRL is one of the most biologically diverse estuaries in North America and is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.¹⁴⁸ The estimated economic value received from the IRL in 2014 was

¹⁴¹ DEP, *Water Quality Assessment Program*, <https://floridadep.gov/dear/water-quality-assessment> (last visited Dec. 2, 2019).

¹⁴² DEP, *Watershed Monitoring*, <https://floridadep.gov/dear/watershed-monitoring-section> (last visited Dec. 2, 2019).

¹⁴³ DEP, *Blue-Green Algae Task Force Consensus Document #1* (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

¹⁴⁴ An estuary is a partially enclosed, coastal waterbody where freshwater from rivers and streams mixes with saltwater from the ocean. Estuaries are among the most productive ecosystems on earth, home to unique plant and animal communities that have adapted to brackish water: freshwater mixed with saltwater. U.S. EPA, *What Is An Estuary?*, <https://www.epa.gov/nep/basic-information-about-estuaries> (last visited Dec. 2, 2019); NOAA, *What Is An Estuary?*, <https://oceanservice.noaa.gov/facts/estuary.html> (last visited Dec. 2, 2019).

¹⁴⁵ IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

¹⁴⁶ *Id.*

¹⁴⁷ East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, x (Aug. 26, 2016), available at http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf; DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Dec. 2, 2019).

¹⁴⁸ IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

approximately \$7.6 billion.¹⁴⁹ Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.¹⁵⁰

The IRL ecosystem has been harmed by human activities in the region. Stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, canal discharges, septic systems, animal waste, and fertilizer applications have led to harmful levels of nutrients and sediments entering the lagoon.¹⁵¹ These pollutants create cloudy conditions, feed algal blooms, and lead to muck accumulation, all of which negatively impact the seagrass that provides habitat for much of the IRL's marine life.¹⁵²

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as the merging of an existing department, program, or activity into another department. Any program or activity transferred by a type two transfer retains all the statutory powers, duties, and functions it held previous to the transfer. The program or activity also retains its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, unless otherwise provided by law. The transfer of segregated funds must be made in such a manner that the relation between the program and the revenue source is retained.¹⁵³

Rural Areas of Opportunity

A rural area of opportunity (RAO) is a rural community or region of rural communities that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.¹⁵⁴ By executive order, the Governor may designate up to three RAOs, establishing each region as a priority assignment for Rural Economic Development Initiative (REDI) agencies. The Governor can waive the criteria, requirements, or any similar provisions of any state economic development incentive for projects in a RAO.¹⁵⁵

The currently designated RAOs are:¹⁵⁶

- Northwestern RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and part of Walton County.

¹⁴⁹ East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, vi (Aug. 26, 2016), available at http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf.

¹⁵⁰ *Id.* at ix. The main IRL-related industry groups are categorized as: Living Resources; Marine Industries; Recreation and Visitor-related; Resource Management; and Defense & Aerospace.

¹⁵¹ Tetra Tech, Inc. & Closewaters, LLC, *Draft Save Our Indian River Lagoon Project Plan 2019 Update for Brevard County, Florida*, xii (Mar. 2019), available at <https://www.dropbox.com/s/j9pxd59mt1baf7q/Revised%202019%20Save%20Our%20Indian%20River%20Lagoon%20Project%20Plan%20Update%20032519.pdf?dl=0>.

¹⁵² *Id.*

¹⁵³ Section 20.06(2), F.S.

¹⁵⁴ Section 288.0656(2)(d), F.S.

¹⁵⁵ Section 288.0656(7), F.S.

¹⁵⁶ Department of Economic Opportunity, *Rural Areas of Opportunity*, <http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited Dec. 2, 2019).

- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Statement of Estimated Regulatory Cost

If a proposed agency rule will have an adverse impact on small business or is likely to increase directly or indirectly regulatory costs in excess of \$200,000 aggregated within one year after implementation, an agency must prepare a statement of estimated regulatory costs (SERC).¹⁵⁷ The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy or an increase in regulatory costs. If the SERC shows that the adverse impact or regulatory costs of the proposed rule exceeds \$1 million in the aggregate within five years after implementation, then the proposed rule must be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.¹⁵⁸

Biosolids

Approximately two-thirds of Florida's population is served by around 2,000 domestic wastewater facilities permitted by the DEP.¹⁵⁹ When domestic wastewater is treated, solid, semisolid, or liquid residue known as biosolids¹⁶⁰ accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.¹⁶¹ Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the DEP.¹⁶² The collected residue is high in organic content and contains moderate amounts of nutrients.¹⁶³

The DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.¹⁶⁴ Biosolids can be disposed of in several ways: transfer to another facility, placement in a landfill, distribution and marketing as fertilizer, incineration, bioenergy, and land

¹⁵⁷ Section 120.541, F.S.

¹⁵⁸ *Id.*

¹⁵⁹ DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Dec. 9, 2019).

¹⁶⁰ Section 373.4595, F.S. Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.

¹⁶¹ DEP, *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Dec. 9, 2019).

¹⁶² Fla. Admin. Code R. 62-640.200(6).

¹⁶³ *Id.*

¹⁶⁴ DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 5 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Dec. 9, 2019).

application to pasture or agricultural lands.¹⁶⁵ About one-third of the total amount of biosolids produced is used for land application¹⁶⁶ and is subject to regulatory requirements established by the DEP to protect public health and the environment.¹⁶⁷

Land application is the use of biosolids at a permitted site to provide nutrients or organic matter to the soil, such as agricultural land, golf courses, forests, parks, or reclamation sites. Biosolids are applied in accordance with restrictions based on crop nutrient needs, phosphorus limits in the area, and soil fertility.¹⁶⁸ Biosolids contain macronutrients (such as nitrogen and phosphorus) and micronutrients (such as copper, iron, and manganese) that are utilized by crops. The application of these nutrient-rich biosolids increases the organic content of the soil, fostering more productive plant growth.¹⁶⁹ To prevent odor or the contamination of soil, crops, livestock, and humans, land application sites must meet site management requirements such as site slopes, setbacks, and proximity to groundwater restrictions.¹⁷⁰ There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.¹⁷¹

¹⁶⁵ *Id.* at 4.

¹⁶⁶ *Id.* at 5.

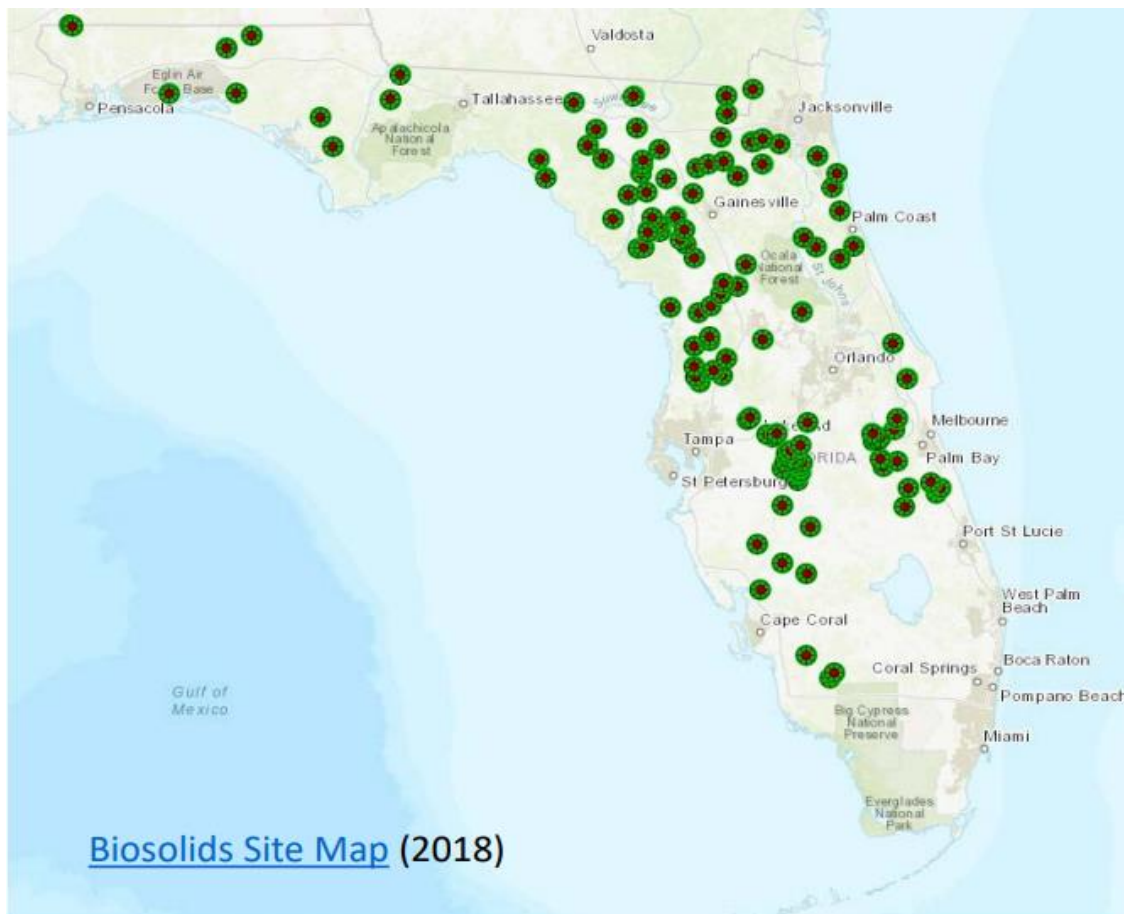
¹⁶⁷ Fla. Admin. Code R. 62-640.

¹⁶⁸ DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida*, 8 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Dec. 9, 2019); see also, United States EPA, A Plain English Guide to the EPA Part 503 Biosolids Rule, 26 (Sept. 1994), available at <https://www.epa.gov/sites/production/files/2018-12/documents/plain-english-guide-part503-biosolids-rule.pdf> (last visited Dec. 9, 2019).

¹⁶⁹ *Id.* at 20.

¹⁷⁰ *Id.* at 9.

¹⁷¹ DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 20 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Dec. 9, 2019). Wastewater treatment facilities commonly contract with waste haulers instead of applying the biosolids themselves.



Regulation of Biosolids by the DEP

The DEP regulates three classes of biosolids for beneficial use.

- Class B - minimum level of treatment;
- Class A - intermediate level of treatment; and
- Class AA - highest level of treatment.¹⁷²

The DEP categorizes the classes based on treatment and quality. Treatment of biosolids must:

- Reduce or completely eliminate pathogens;
- Reduce the attractiveness of the biosolids for pests (such as insects and rodents); and
- Reduce the amount of toxic metals in the biosolids.¹⁷³

Class AA biosolids can be distributed and marketed as fertilizer. Because they are the highest quality, they are not subject to the same regulations as Class A and Class B biosolids and are exempt from nutrient restrictions.¹⁷⁴ Typically, Class B biosolids are used in land application.¹⁷⁵

¹⁷² *Id.* at 6.

¹⁷³ *Id.* at 7.

¹⁷⁴ *Id.* at 8.

¹⁷⁵ *Id.* at 6.

Biosolids are regulated under Rule 62-640 of the Florida Administrative Code. The rules provide minimum requirements, including monitoring and reporting requirements, for the treatment, management, use, and disposal of biosolids. The rules are applicable to wastewater treatment facilities, applicators, and distributors¹⁷⁶ and include permit requirements for both treatment facilities and biosolids application sites.¹⁷⁷

Each permit application for a biosolids application site must include a site-specific nutrient management plan (NMP) that establishes the specific rates of application and procedures to apply biosolids to land.¹⁷⁸ Biosolids may only be applied to land application sites that are permitted by the DEP and have a valid NMP.¹⁷⁹ Biosolids must be applied at rates established in accordance with the nutrient management plan and may be applied to a land application site only if all concentrations of minerals do not exceed ceiling and cumulative concentrations determined by rule.¹⁸⁰ According to the St. Johns Water Management District, application rates of biosolids are determined by crop nitrogen demand, which can often result in the overapplication of phosphorus to the soil and can increase the risk of nutrient runoff into nearby surface waters.¹⁸¹

Once a facility or site is permitted, it is subject to monitoring, record-keeping, reporting, and notification requirements.¹⁸² The requirements are site-specific and can be increased or reduced by the DEP based on the quality or quantity of wastewater or biosolids treated; historical variations in biosolids characteristics; industrial wastewater or sludge contributions to the facility; the use, land application, or disposal of the biosolids; the water quality of surface and ground water and the hydrogeology of the area; wastewater or biosolids treatment processes; and the compliance history of the facility or application site.¹⁸³

State Bans on the Land Application of Biosolids

Section 373.4595, F.S., sets out the statutory guidelines for the Northern Everglades and Estuaries Protection Program. This statute is designed to protect and promote the hydrology of Lake Okeechobee, and the Caloosahatchee and St. Lucie Rivers and their estuaries. As part of those protections, the Legislature banned the disposal of domestic wastewater biosolids within the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient loadings in the watershed.¹⁸⁴ The prohibition against land application in these watersheds does not apply to Class AA biosolids that are distributed as fertilizer products in accordance with Rule 62-640.850 of the Florida Administrative Code.¹⁸⁵

¹⁷⁶ Fla. Admin. Code R. 62-640.100.

¹⁷⁷ Fla. Admin. Code R. 62-640.300.

¹⁷⁸ Fla. Admin. Code R. 62-640.500.

¹⁷⁹ *Id.*

¹⁸⁰ Fla. Admin. Code R. 62-640.700.

¹⁸¹ Victoria R. Hoge, Environmental Scientist IV, St. Johns River Water Management District, *Developing a Biosolids Database for Watershed Modeling Efforts*, abstract available at http://archives.waterinstitute.ufl.edu/symposium2018/abstract_detail.asp?AssignmentID=1719 (last visited Mar. 8, 2019).

¹⁸² Fla. Admin. Code R. 62-640.650.

¹⁸³ *Id.*

¹⁸⁴ Chapter 2016-1, Laws of Florida; see s. 373.4595, F.S.

¹⁸⁵ *Id.*

The land application of Class A and Class B biosolids is also prohibited within priority focus areas in effect for Outstanding Florida Springs if the land application is not in accordance with a NMP that has been approved by the DEP.¹⁸⁶ The NMP must establish the rate at which all biosolids, soil amendments, and nutrient sources at the land application site can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged into groundwater and waters of the states.¹⁸⁷

Local Regulation of Biosolids

The Indian River County Code addresses land application of biosolids by providing criteria for designated setbacks, reporting requirements, and required approval. In July 2018, the Indian River County Commission voted for a six-month moratorium on the land application of Class B biosolids on all properties within the unincorporated areas of the county.¹⁸⁸ The ordinance also directs the County Administrator to coordinate with the DEP on a study to report the findings and recommendations concerning Class B biosolids land application activities and potential adverse effects.¹⁸⁹ The County Commission voted in January 2019 to extend the moratorium for an additional six months.¹⁹⁰

The City Council of Fellsmere adopted a similar moratorium, Ordinance 2018-06, in August 2018, authorizing a temporary moratorium for 180 days or until a comprehensive review of the impact on the city's ecosystem is completed.¹⁹¹ In January 2019, the ordinance was extended for an additional 180 days.¹⁹²

The Treasure Coast Regional Planning Council held a Regional Biosolids Symposium in June 2018, where regional representatives and stakeholders discussed biosolids and alternative techniques for disposal.¹⁹³ At its meeting in July, the Treasure Coast Regional Planning Council adopted a resolution encouraging state and local governments to prioritize the reduction and eventual elimination of the land application of human wastewater biosolids.¹⁹⁴ It also encouraged the state to establish a Pilot Projects Program to incentivize local utilities to implement new wastewater treatment technologies that would allow more efficient use of biosolids.¹⁹⁵

¹⁸⁶ Section 373.811(4), F.S.

¹⁸⁷ *Id.*

¹⁸⁸ Indian River County Commission Ordinance 18-2020 (Jul. 17, 2018), available at http://ircgov.granicus.com/player/clip/183?view_id=1&meta_id=64650 (last visited Dec. 9, 2019).

¹⁸⁹ *Id.*

¹⁹⁰ Indian River County Commission Ordinance 18-2642 (Jan. 14, 2019), available at http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302 (last visited Dec. 9, 2019).

¹⁹¹ Fellsmere City Council Meeting, *Agenda* (Aug. 16, 2018), available at https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/8301/co20180816agenda.pdf.

¹⁹² Fellsmere City Council Meeting, *Agenda* (Feb. 7, 2019), available at https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf.

¹⁹³ Treasure Coast Regional Planning Council Regional Biosolids Symposium, *Charting the Future of Biosolids Management Executive Summary* (Jun. 18, 2018), available at <http://www.tcrpc.org/announcements/Biosolids/summit%20summary.pdf>.

¹⁹⁴ Treasure Coast Regional Planning Council Resolution 18-03 (Jul. 20, 2018), available at <http://www.flregionalcouncils.org/wp-content/uploads/2019/01/Treasure-Coast-Resolution-No.-18-03.pdf>.

¹⁹⁵ *Id.*

Rule Development

In 2018, the DEP created a Biosolids Technical Advisory Committee (TAC) to establish an understanding of potential nutrient impacts of the land application of biosolids, evaluate current management practices, and explore opportunities to better protect Florida's water resources. The TAC members represent various stakeholders, including environmental and agricultural industry experts, large and small utilities, waste haulers, consultants, and academics.¹⁹⁶

The TAC convened on four occasions from September 2018 to January 2019 and discussed the current options for biosolids management in the state, ways to manage biosolids to improve the protection of water resources, and research needs to build upon and improve biosolids management.¹⁹⁷

Based on recommendations of the TAC and public input, the DEP published a draft rule on October 29, 2019.¹⁹⁸ Key proposals in the draft rule include:

- A prohibition on the land application of biosolids where the seasonal high water table is within 15 cm of the soil surface or 15 cm of the intended depth of biosolids placement. The existing rule requires a soil depth of two feet between the depth of biosolids placement and the water table level at the time the Class A or Class B biosolids are applied to the soil.
- A requirement that land application must be done in accordance with applicable BMAPs.
- Definitions for “capacity index,” “percent water extractable phosphorus,” and “seasonal high water table.”
- More stringent requirements must be provided in the Nutrient Management Plan.
- All biosolids sites must enroll in a DACS BMP Program.
- All biosolids applications are considered projects of heightened public concern/interest,¹⁹⁹ meaning that a permit applicant must publish notice of their application one time only within fourteen days after a complete application is filed.²⁰⁰
- Increased monitoring for surface and groundwater.
- The requirement measures to be taken to prevent leaching of nutrients for the storage of biosolids.
- Existing facilities must be in compliance with the new rule within three years of the adoption date.

This biosolids rule required a SERC that exceeds the threshold to trigger the requirement for legislative ratification.²⁰¹ The SERC makes the following statements:

¹⁹⁶ The seven members of TAC included two academic representatives from the University of Florida, two representatives of small and large utilities, and one representative each for environmental interests, agricultural interests, and waste haulers.

¹⁹⁷ DEP, *DEP Biosolids Technical Advisory Committee*, <https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee> (last visited Mar. 6, 2019).

¹⁹⁸ Florida Department of State, Notice of Proposed Rule: Rule No.: 62-640.100, 62-640.200, 62-640.210, 62-640.300, 62-640.500, 62-640.600, 62-640.650, 62-640.700, 62-640.800, 62-640.850, 62-640.880 (Oct. 29, 2019), https://www.flrules.org/gateway/View_Notice.asp?id=22546212 (last visited Dec. 5, 2019).

¹⁹⁹ Note: the draft rule uses the phrase “public interest” but the rule crossreferenced in the draft rule uses the phrase “public concern.”

²⁰⁰ Fla. Admin. Code R. 62-110.106(6).

²⁰¹ DEP, *Statement of Estimated Regulatory Costs (SERC)*, available at https://content.govdelivery.com/attachments/FLDEP/2019/10/29/file_attachments/1313532/62-640%20SERC.pdf.

The revised rule may significantly reduce biosolids land application rates (the amount applied per acre on an annual basis) by an estimated 75 percent. In 2018, just under 90,000 dry tons of Class B biosolids were applied to biosolids land application sites with about 84,000 acres of the currently permitted 100,000 acres in Florida. Reduced land application rates would necessitate the permitting about four to ten times more land to accommodate the current quantity of land applied Class B biosolids.

As haulers have already permitted land application sites closer to the domestic wastewater facilities that generate biosolids, any additional sites are expected to be at greater distances from these facilities. This could result in longer hauling distances. Additionally, some existing sites may cease land application completely, either because the site may not be suitable for land application or because the landowner may not want to subject their property to ground water or surface water quality monitoring. The additional site monitoring requirements for ground water and surface water will also increase operational costs, so some biosolids site permittees, especially for smaller sites, may choose to cease operations. Under the proposed rule, some portion of currently land-applied Class B biosolids are expected to then be disposed of in landfills or be converted to Class AA biosolids. The reduction in land application rates, loss of land application sites, and shift away from land application could result in:

- Loss of biosolids hauling contracts.
- Loss of jobs with biosolids hauling companies.
- Loss of grass production and income for landowners.
- Increased operational expenses for biosolids haulers, and;
- Loss of cost savings and production for cattle ranchers and hay farmers.

Under the revised rule, biosolids land application rates will drop by an average of 75 percent. Some farmers indicate an economic value of about \$60 per acre in fertilizer savings through biosolids land application. In 2018, approximately 84,000 acres were utilized for the land application of biosolids, which would represent a current fertilizer cost savings of approximately \$5,040,000. This would be a loss of \$3,780,000 in cost savings annually if 75 percent less biosolids can be applied per acre.²⁰²

The SERC includes the following statewide estimates:

- Capital costs for new permitting and land application sites of \$10 million;
- Recurring costs for additional sites and transportation of wet biosolids of at least \$31 million; and
- Additional monitoring costs of \$1 million.²⁰³

²⁰² *Id.*

²⁰³ *Id.*

The DEP expects more biosolids to be converted to class AA biosolids/fertilizer. They estimate the capital cost for additional class AA biosolids projects will be between \$300-\$400 million.²⁰⁴ The DEP is currently reviewing lower cost regulatory alternatives that have been submitted.²⁰⁵ The next step will be a hearing before the Environmental Regulation Commission and adoption of the rule. Following rule adoption, legislative ratification is required.²⁰⁶

Damages and Monetary Penalties

The DEP may institute a civil action (in court) or an administrative proceeding (in the Division of Administrative Hearings) to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.²⁰⁷ Civil actions and administrative proceedings have different procedures.²⁰⁸ Administrative proceedings are often viewed as less formal, less lengthy, and less costly.

With respect to damages, the violator is liable for:

- Damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state; and
- Reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition.²⁰⁹

In addition to damages, a violator can be liable for penalties. For civil penalties, the DEP can levy up to \$10,000 per offense. Each day of the violation is a separate offense. The DEP is directed to proceed administratively in all cases in which the DEP seeks penalties that do not exceed \$10,000 per assessment. The DEP is prohibited from imposing penalties in excess of \$10,000 in a notice of violation. The DEP cannot have more than one notice of violation pending against a party unless it occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.²¹⁰

Section 403.121(3), F.S., sets out a penalty schedule for various violations. In particular, it includes the following penalties related to wastewater:

- \$1,000 for failure to obtain a required wastewater permit.
- \$2,000 for a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation resulting in an unpermitted or unauthorized discharge or effluent-limitation exceedance.
- \$5,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation.²¹¹

²⁰⁴ *Id.*

²⁰⁵ Email from Justin Wolfe, General Counsel, DEP, RE: Biosolids Rule (Dec. 2. 2019)(on file with the Environment and Natural Resources Committee).

²⁰⁶ Section 120.541(3), F.S.

²⁰⁷ Section 403.121, F.S.

²⁰⁸ Sections 403.121 and 403.141, F.S.

²⁰⁹ Section 403.121, F.S.

²¹⁰ *Id.*

²¹¹ Section 403.121(3)(b), F.S.

A court or an administrative law judge may receive evidence in mitigation.²¹² The DEP may also seek injunctive relief either judicially or administratively.²¹³ Additionally, criminal penalties are available for various types of violations of chapter 403, F.S.²¹⁴

III. Effect of Proposed Changes:

The bill provides a series of whereas clauses related to water quality issues the state is seeking to resolve.

Section 1 titles the bill the “Clean Waterways Act.”

Section 2 takes the following steps toward shifting regulation of onsite sewage treatment and disposal systems (OSTDSs) from the Department of Health (DOH) to the Department of Environmental Protection (DEP):

- By July 1, 2020, the DOH must provide a report to the Governor and the Legislature detailing the following information regarding OSTDSs:
 - The average number of permits issued each year;
 - The number of department employees conducting work on or related to the program each year; and
 - The program’s costs and expenditures, including, but not limited to, salaries and benefits, equipment costs, and contracting costs.
- By December 31, 2020, the DOH and the DEP must submit recommendations to the Governor and the Legislature regarding the transfer of the Onsite Sewage Program from the DOH to the DEP. The recommendations must address all aspects of the transfer, including the continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the DEP.
- By June 30, 2021, the DOH and the DEP must enter into an interagency agreement that must address all agency cooperation for a period not less than five years after the transfer, including:
 - The continued role of the county health departments in the permitting, inspection, data management, and tracking of OSTDSs under the direction of the DEP.
 - The appropriate proportionate number of administrative positions, and their related funding levels and sources and assigned property, to be transferred from the DOH to the DEP.
 - The development of a recommended plan to address the transfer or shared use of facilities used or owned by the DOH.
 - Any operating budget adjustments that are necessary to implement the requirements of the bill. The bill details how operating budget adjustments will be made. The appropriate substantive committees of the Senate and the House of Representatives will be notified of the proposed revisions to ensure their consistency with legislative policy and intent.

Section 403.121(3)(b),
F.S.

²¹⁴ Section 403.161, F.S.

- Effective July 1, 2021, the regulation of OSTDSs relating to the Onsite Sewage Program in the DOH is transferred by a type two transfer to the DEP. Transferred employees will retain their leave.

Section 3 amends s. 373.4131, F.S., relating to statewide environmental resource permitting (ERPs). The bill requires the DEP to train its staff on coordinating field inspections of stormwater structural controls, such as stormwater retention or detention ponds.

By January 1, 2021:

- The DEP and the water management districts (WMDs) must initiate rulemaking to update the stormwater design and operation regulations using the most recent scientific information available; and
- The DEP must evaluate inspection data relating to compliance by those entities that self-certify stormwater ERPs and must provide the Legislature with recommendations for improvements to the self-certification program.

*Note: More stringent stormwater rules would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.*²¹⁵

Section 4 amends s. 381.0065, F.S., relating to OSDTS regulation, effective July 1, 2021, to coincide with the DEP's role as the regulating entity for OSTDSs.

The bill requires the DEP to adopt rules to locate OSTDSs, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process must be completed by July 1, 2022. The rules must consider conventional and advanced OSTDS designs, impaired or degraded water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the OSTDS remediation plans developed as part of the basin management action plans (BMAPs), nutrient pollution, and the recommendations of the OSTDS technical advisory committee created by the bill.

Upon adoption of these rules, the rules will supersede existing statutory revisions relating to setbacks. The DEP must report the date of adoption of the rules to the Division of Law Revision for incorporation into the statutes.

The bill deletes language that is inconsistent with these provisions.

*Note: New OSTDS rules would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.*²¹⁶

²¹⁵ *Id.*

²¹⁶ *Id.*

Section 5 creates s. 381.00652, F.S., to create an OSTDS technical advisory committee (TAC) within the DEP.

The responsibilities of the TAC are to:

- Provide recommendations to increase the availability in the marketplace of nutrient-removing OSTDSs, including systems that are cost-effective, low-maintenance, and reliable.
- Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient-removing OSTDSs that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the NSF International.
- Provide recommendations for appropriate setback distances for OSTDSs from surface water, groundwater, and wells.

The DEP must use existing and available resources to administer and support the activities of the TAC.

By August 1, 2021, the DEP, in consultation with the DOH, will appoint nine members to the TAC:

- A professional engineer.
- A septic tank contractor.
- A representative from the home building industry.
- A representative from the real estate industry.
- A representative from the OSTDS industry.
- A representative from local government.
- Two representatives from the environmental community.
- A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

Members will serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

By January 1, 2022, the TAC will submit its recommendations to the Governor and the Legislature.

The TAC is repealed on August 15, 2022.

Section 6 repeals the DOH's technical review and advisory panel, effective July 1, 2021.

Section 7 amends s. 403.061, F.S., which sets out the DEP's powers and duties. The bill requires the DEP rules to reasonably limit, reduce, and eliminate domestic wastewater collection and transmission system pipe leakages and inflow and infiltration.

The bill authorizes the DEP to require public utilities or their affiliated companies holding, applying for, or renewing a domestic wastewater discharge permit to file annual reports and other data regarding transactions or allocations of common costs among the utility's permitted

systems. The DEP may require such reports or other data necessary to ensure a permitted entity is reporting expenditures on pollution mitigation and prevention, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The DEP is required to adopt rules to implement this subsection.

*Note: Such rules would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.*²¹⁷

Section 8 creates s. 403.0616, F.S., to establish a real-time water quality monitoring program within the DEP, subject to appropriation. The program's purpose is to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources. The DEP is encouraged to form public-private partnerships with established scientific entities with existing, proven real-time water quality monitoring equipment and experience in deploying such equipment.

Section 9 amends s. 403.067(7), F.S., relating to basin management action plans (BMAPs), to set out parameters for an OSTDS remediation plan and a wastewater treatment plan. It prohibits the DEP from requiring a higher cost option for a wastewater project within a BMAP if it achieves the same nutrient load reduction as a lower-cost option. It also makes revisions relating to agricultural best management practices (BMPs).

If the DEP identifies domestic wastewater facilities or OSTDSs as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the DEP determines that remediation is necessary to achieve the total maximum daily load (TMDL), the BMAP for a nutrient TMDL must create a wastewater treatment plan and/or an OSTDS remediation plan.

A wastewater treatment plan must address domestic wastewater and be developed by each local government in cooperation with the DEP, the WMD, and the public and private domestic wastewater facilities within the jurisdiction of the local government. The wastewater treatment plan must:

- Provide for construction, expansion, or upgrades necessary to achieve the TMDL requirements applicable to the domestic wastewater facility.
- Include: the permitted capacity in average annual gallons per day for the domestic wastewater facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the BMAP no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality

²¹⁷ *Id.*

necessary to achieve a TMDL. The bill clarifies that a local government is not responsible for a private domestic wastewater facility's compliance with a BMAP.

An OSTDS remediation plan must be developed by each local government in cooperation with the DEP, the Department of Health, the WMDs, and public and private domestic wastewater facilities. The OSTDS remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for OSTDSs. To identify cost-effective and financially feasible projects for remediation of OSTDSs, the local government shall:

- Include an inventory of OSTDSs based on the best information available;
- Identify OSTDSs that would be eliminated through connection to existing or future central wastewater infrastructure, that would be replaced with or upgraded to enhanced nutrient-reducing systems, or that would remain on conventional OSTDSs;
- Estimate the costs of potential OSTDS connections, upgrades, or replacements; and
- Identify deadlines and interim milestones for the planning, design, and construction of projects.

The DEP must adopt the OSTDS remediation plan as part of the BMAP no later than July 1, 2025, or as required by existing law for Outstanding Florida Springs.

At least every two years, the Department of Agriculture and Consumer Services (DACS) must perform on-site inspections of each agricultural producer that enrolls in a BMP to ensure that such practice is being properly implemented. Verification must include a review of the BMP documentation required by the rule adopted by the DACS, including, but not limited to, nitrogen and phosphorus fertilizer application records. This information shall be provided to the DEP.

The bill authorizes the DACS, the University of Florida Institute of Food and Agricultural Sciences, and other state universities and Florida College System institutions with agricultural research programs to annually develop research plans and legislative budget requests to:

- Evaluate and suggest enhancements to the existing adopted BMPs to reduce nutrients;
- Develop new BMPs that, if proven effective, the DACS may adopt by rule; and
- Develop agricultural nutrient reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to BMPs. The DEP may consider these projects for inclusion in a BMAP. These nutrient reduction projects must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management strategies currently included in the BMAP.

To be considered for funding, the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to the DEP and the DACS, by August 1 of each year.

Section 10 creates s. 403.0673, F.S., a wastewater grant program within the DEP. Subject to appropriation, the DEP may provide grants for projects that will reduce excess nutrient pollution for:

- Projects to retrofit OSTDSs to upgrade them to nutrient-reducing OSTDSs.
- Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
- Projects to connect OSTDSs to central sewer facilities.

In allocating such funds, first priority must be given to projects that subsidize the connection of OSTDSs to a wastewater treatment plant. Second priority must be given to any expansion of a collection or transmission system that promotes efficiency by planning the installation of wastewater transmission facilities to be constructed concurrently with other construction projects along a transportation right-of-way. Third priority must be given to all other connections of onsite sewage treatment and disposal systems to wastewater treatment plants.

In determining priorities, the DEP must consider:

- The estimated reduction in nutrient load per project;
- Project readiness;
- Cost-effectiveness of the project;
- The overall environmental benefit of a project;
- The location of a project within the plan area;
- The availability of local matching funds; and
- Projected water savings or quantity improvements associated with a project.

Each grant must require a minimum of a 50 percent local match of funds. However, the DEP may waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity. The DEP and the WMDs will coordinate to identify grant recipients in each district.

Beginning January 1, 2021, and each January 1 thereafter, the DEP must submit a report regarding the projects funded by the grant program to the Governor and the Legislature.

Section 11 creates s. 403.0855, F.S., on biosolids management. The bill provides legislative findings, requires the DEP to adopt rules for biosolids management, and exempts such rules from legislative ratification if they are adopted prior to the 2021 legislative session.

The bill specifies that a municipality or county may enforce or extend an ordinance, regulation, resolution, rule, moratorium, or policy that was adopted prior to November 1, 2019, relating to the land application of Class B biosolids until repealed by the municipality or county.

Section 12 amends s. 403.086, F.S., relating to sewage disposal facilities.

The bill prohibits facilities for sanitary sewage disposal from disposing of waste into Indian River Lagoon or its tributaries without providing for advanced waste treatment, beginning July 1, 2025.

The bill requires facilities for sanitary sewage disposal to have a power outage contingency plan that mitigates the impacts of power outages on the utility's collection system and pump stations.

All facilities for sanitary sewage that control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility must

take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected waste water reaches the facility for appropriate treatment. Facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans that comply with the DEP rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. These facility action plans must be reported to the DEP. The facility report must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and replacement action plans required herein, as well as expenditures dedicated to pipe assessment, repair, and replacement.

The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys. These rules may not fix or revise utility rates or budgets. The bill clarifies that a utility, that must submit annual reports under other similar provisions created by the bill, may submit one report to comply with both provisions.

Substantial compliance with the action plan described above is evidence in mitigation for the purposes of assessing certain penalties.

Note: Such rules would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.²¹⁸

Section 13 amends s. 403.087, F.S., to require the DEP to issue operating permits for up to 10 years (rather than up to five) for facilities regulated under the National Pollutant Discharge Elimination System Program if the facility is meeting the stated goals in the action plan relating to the prevention of sanitary sewer overflows or underground pipe leaks.

Section 14 amends s. 403.088, F.S., relating to water pollution operation permits. The bill requires the permit to include a deliberate, proactive approach to investigating or surveying a significant percentage of the domestic wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner.

The permittee must submit an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule. The report must detail any deviation from annual expenditures related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement.

Substantial compliance with the requirements above is evidence in mitigation for the purposes of assessing penalties.

No later than March 1 of each year, the DEP must submit a report to the Governor and the Legislature that identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The report must identify the utility name; operator; permitted capacity in annual average gallons per day; number of overflows; total volume of sewage released; and, to the extent known and available, the volume of sewage recovered, the volume of

²¹⁸ *Id.*

sewage discharged to surface waters, and the cause of the sanitary sewer overflow, including whether it was caused by a third party.

*Note: Rules required to implement this section would likely exceed the regulatory cost threshold of \$1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.*²¹⁹

Section 15 amends s. 403.0891, F.S., to require the DEP and the Department of Economic Opportunity to develop model ordinances that target nutrient reduction practices and use green infrastructure.

Section 16 amends s. 403.121, F.S., to increase the cap on the DEP's administrative penalties from \$10,000 to \$50,000. It also doubles all wastewater administrative penalties.

The bill provides that "failure to comply with wastewater permitting requirements or rules adopted thereunder will result in a \$4,000 penalty.

Section 17 amends s. 403.1835, F.S., relating to water pollution control financial assistance. This is the section of law that sets out how the DEP administers the Clean Water State Revolving Loan Fund. The bill adds categories to the list of projects that should receive priority for funding. This includes:

- Projects that implement the requirements of the bill relating to wastewater infrastructure maintenance planning and reporting requirements created by the bill.
- Projects that promote efficiency by planning for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

Section 18 amends s. 403.1838, F.S., to require that rules related to prioritization of funds for the Small Community Sewer Construction Assistance Grant Program include the:

- Prioritization of projects that prevent pollution, and
- Projects that plan for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

Section 19 provides a statement that this act fulfills an important state interest.

Sections 20-45 make conforming changes.

Section 46 directs the Division of Law Revision to replace certain language in the bill with the date the DEP adopts certain rules on OSTDSs as required by the bill.

Section 47 states that except as otherwise expressly provided in the bill, the act will take effect July 1, 2021.

²¹⁹ *Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply to this bill because it requires local governments to develop OSTDS remediation plans and wastewater treatment plans. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

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:

The following discussion identifies aspects of the bill that may cause a negative fiscal impact because they implement more stringent environmental requirements. However, it is worth noting that there are costs associated with failing to address pollution issues. Cleanup costs, human health impacts, ecosystem deterioration, loss of tourism, and decreased real estate values are some key examples of possible costs associated with pollution.

Updating stormwater rules and adopting new onsite sewage treatment disposal systems (OSTDS) and wastewater rules would likely cause a negative fiscal impact to the private sector. However, if that impact exceeds \$1 million over five years, the rules will require legislative ratification, which means they will not go into effect without additional legislation.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to the private sector entities within basin management

action plans (BMAPs) that must address OSTDS or wastewater pollution to meet the total maximum daily load.

Private wastewater utilities that discharge into Indian River Lagoon may have costs associated to conversion to advanced waste treatment.

Utilities that fail to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration will be subject to a \$4,000 fine for each violation. All wastewater administrative penalties are doubled under this bill. The cap on the Department of Environmental Protection's administrative penalties is increased to \$50,000 from \$10,000.

C. Government Sector Impact:

The DEP will incur additional costs in developing multiple new regulatory programs, updating BMAPs, and developing, submitting, and reviewing new reports.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to local governments that must address OSTDS or wastewater pollution to meet their TMDL. However, there is flexibility in how these plans are developed, which makes these costs speculative and subject to the development of each specific OSTDS remediation plan or wastewater treatment plan.

The implementation of a real-time water quality monitoring program will have a negative fiscal impact on the DEP, but this provision is subject to appropriation.

The wastewater grant program would have a positive fiscal impact on local governments, but this provision is subject to appropriation. The DEP will likely incur some costs associated with the development of this grant program and the report to the Governor and the Legislature. The DEP can absorb these costs within existing resources.

Public wastewater utilities that discharge into Indian River Lagoon may have costs associated with conversion to advanced waste treatment. However, the local governments in the region are spending substantial amounts on pollution cleanup. Lessening the pollutants in this waterbody may have a positive fiscal impact in the long term.

The impact of exempting the biosolids rule from ratification is speculative at this time because the rule has not been adopted. There is likely a negative fiscal impact to both the public and private sectors to meet the requirements of the new rule. There may be a long-term positive fiscal impact as a result of reduced cleanup costs and reduced damage to the natural systems associated with more rigorous land application requirements.

The increase in administrative penalties will likely have an indeterminate yet positive fiscal impact on the DEP.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.250, 373.414, 373.4131, 373.705, 373.707, 373.709, 373.807, 376.307, 380.0552, 381.006, 381.0061, 381.0064, 381.0065, 381.00651, 381.0101, 403.061, 403.067, 403.086, 403.08601, 403.087, 403.0871, 403.0872, 403.088, 403.0891, 403.121, 403.1835, 403.1838, 403.707, 403.861, 489.551, and 590.02.

This bill creates the following sections of the Florida Statutes: 381.00652, 403.0616, 403.0673, and 403.0855.

This bill repeals section 381.0068 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/CS by Appropriations on February 05, 2020:

The committee substitute:

- Corrects the name of the “National Sanitation Foundation” because it changed its name to “NSF International”;
- Clarifies that a local government is not responsible for a private wastewater facility’s compliance with a Basin Management Action Plan (BMAP);
- Clarifies that the records collected by the Department of Agriculture and Consumer Services (DACS) during their inspections include nitrogen and phosphorus fertilizer application records;
- Clarifies that wastewater infrastructure projects that comply with the sanitary sewer overflow, leakage, and infiltration and inflow requirements of the bill will receive priority funding from the state revolving loan fund by moving the prioritization to the section of law governing the state revolving loan fund;
- Clarifies that the Department of Environmental Protection (DEP) may not fix or revise utility rates of budgets;
- Clarifies that utilities that need to report on infiltration and inflow and leakage only need to submit one report to the DEP annually;
- Increases the cap on the DEP’s administrative penalties to \$50,000 from \$10,000;
- Doubles the wastewater administrative penalties;

- Provides incentives for projects that promote efficiency by coordinating wastewater infrastructure expansions with other infrastructure improvements occurring within of along a transportation facility right-of-way;
- Includes these incentives in the small community sewer construction assistance program, the state revolving loan program, and the new wastewater grant program created by the bill;
- Clarifies that local governments with biosolids ordinances may retain those ordinance until repealed;
- Requires the DACS to provide information collected from on-site inspections of each agricultural producer enrolled in a best management practice (BMP) to the DEP. These on-site inspections are required at least every two years.

CS by Community Affairs on December 9, 2019:

The committee substitute:

- Effectuates a type two transfer of septic system oversight from the DOH to DEP rather than just requiring a report;
- Requires DEP to develop rules relating to the location of septic systems;
- Revises language related to DEP updating its stormwater rules;
- Requires DEP to make recommendations to the Legislature on self-certification of stormwater permits rather than prohibiting the use of self-certification in BMAP areas;
- Leaves the BMAP process for Outstanding Florida Springs while revising the requirement for OSTDS remediation plans and adding a requirement for wastewater treatment plans in the general BMAP statute;
- Requires that these new plans be incorporated into the BMAP by 2025;
- Removes provisions relating to Florida-Friendly Fertilizer Ordinances;
- Adds rural areas of opportunities to the possible grant recipients for the wastewater grant created by the bill;
- Removes provisions that would make agricultural BMPs enforceable earlier and in more impaired waterbodies;
- Adds a requirement that DACS conduct onsite inspections of BMPs at least every two years;
- Adds a requirement that DACS collect and remit certain records relating to agricultural BMPs to DEP;
- Adds language authorizing DACS and certain institutions of higher education to submit budget requests for certain activities relating to the improvement of agricultural BMPs;
- Removes the provision requiring additional notification and penalties related to sanitary sewer overflows and replaces it with numerous requirements relating to the prevention of sanitary sewer overflows, inflow and infiltration, and leakage;
- Removes provisions increasing penalties but adds “failure to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration” to the penalty schedule;
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making

recommendations to the Governor and Legislature regarding the regulation of OSTDSs;

- Requires DEP to adopt rules relating to biosolids management and exempts such rules from legislative ratification if they are adopted before the 2021 legislative session.
- Directs the Division of Law Revision to incorporate the date of rule adoption into the statutes.

B. Amendments:

None.

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

MIAF Bill Tracking

Ordered by Bill Number

SB 0034	Prohibited Discrimination by Rouson
Prohibited Discrimination; Citing this act as the "Florida Competitive Workforce Act"; adding sexual orientation and gender identity as impermissible grounds for discrimination in public lodging establishments and public food service establishments; providing an exception for constitutionally protected free exercise of religion, etc. Effective Date: 7/1/2020	
Actions	
09/03/2019 SENATE Withdrawn prior to introduction	
HB 0073	Environmental Regulation by Overdorf
Environmental Regulation: Specifies requirements for contracts between residential recycling collectors or recovered materials processing facilities & counties or municipalities for collecting, transporting, & processing residential recycling material & contaminated recyclable material; prohibits local governments from requiring further verification from DEP for certain projects; revises types of dock & pier replacements & repairs that are exempt from such verification & certain permitting requirements. Effective Date: July 1, 2020	
Actions	
02/19/2020 SENATE Withdrawn from Environment and Natural Resources; Community Affairs; Rules; Placed on Calendar, on 2nd reading; Substituted for SB 0326; Read Second Time; Placed on Third Reading, 02/26/20	
SB 0090	Discrimination in Labor and Employment by Stewart
Discrimination in Labor and Employment; Creating the "Senator Helen Gordon Davis Fair Pay Protection Act"; prohibiting an employer from providing less favorable employment opportunities to employees based on their sex; prohibiting an employer from taking certain employment actions against employees; prohibiting an employer from engaging in certain activities relating to wages and benefits, etc. Effective Date: 7/1/2020	
Actions	
02/18/2020 SENATE Temporarily Postponed by Commerce and Tourism	
SB 0112	Capital Relocation Study by Rader
Capital Relocation Study; Requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study regarding the relocation of the state capital; prescribing requirements for the study; requiring OPPAGA to submit a report to the Legislature by a specified date, etc. Effective Date: 7/1/2020	
Actions	
08/16/2019 SENATE Referred to Governmental Oversight and Accountability; Community Affairs; Rules	
HB 0133	Towing and Immobilizing Vehicles and Vessels by McClain
Towing and Immobilizing Vehicles and Vessels: Authorizes local governments to enact rates to tow vessels on private property & remove & store vessels; prohibits counties or municipalities from enacting ordinances that impose costs or penalties on owners, persons in control, or lienholders of vehicles or vessels or that require wrecker operators or towing businesses to accept specified form of payment; authorizes persons to place liens on vehicles or vessels to recover fees or charges; revises requirement regarding notices & signs concerning towing or removal of vehicles & vessels. Effective Date: October 1, 2020	
Actions	
02/20/2020 HOUSE Read Third Time; Passed (Vote: 76 Yeas / 41 Nays)	
SB 0142	Abolishing the Constitution Revision Commission by Brandes

Abolishing the Constitution Revision Commission; Proposing amendments to the State Constitution to abolish the Constitution Revision Commission, etc.

Actions

02/12/2020 SENATE Retained on Calendar

HB 0147 Water Resources by Jacobs

Water Resources: Requires DEP to conduct specified comprehensive & quantitative needs-based overview of state's water resources & submit report to Governor & Legislature. Effective Date: July 1, 2020

Actions

09/23/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

HB 0153 Indian River Lagoon State Matching Grant Program by Fine

Indian River Lagoon State Matching Grant Program: Provides that certain projects identified in Indian River Lagoon Comprehensive Conservation & Management Plan are eligible for state funding consideration; directs DEP to coordinate with water management districts to identify projects & grant recipients. Effective Date: July 1, 2020

Actions

11/13/2019 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

SB 0178 Public Financing of Construction Projects by Rodriguez (J)

Public Financing of Construction Projects; Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas after a specified date without first taking certain steps regarding a sea level impact projection study; requiring the Department of Environmental Protection to develop by rule a standard for such studies; requiring the department to enforce certain requirements and to adopt rules, etc. Effective Date: On the same date that SB 7016 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

Actions

02/17/2020 SENATE Now in Appropriations

SB 0182 Preemption of Recyclable and Polystyrene Materials by Stewart

Preemption of Recyclable and Polystyrene Materials; Deleting preemptions of local law relating to the regulation of auxiliary containers, wrappings, or disposable plastic bags; repealing the preemption of local laws regarding the use or sale of polystyrene products to the Department of Agriculture and Consumer Services, etc. Effective Date: 7/1/2020

Actions

09/19/2019 SENATE Referred to Community Affairs; Environment and Natural Resources; Rules

SB 0200 Advanced Well Stimulation Treatment by Montford

Advanced Well Stimulation Treatment; Defining the terms "high-pressure well stimulation" and "matrix acidization"; prohibiting the performance of high-pressure well stimulation or matrix acidization; providing that permits for drilling or for operating a well do not authorize the performance of high-pressure well stimulation or matrix acidization, etc. Effective Date: Upon becoming a law

Actions

11/05/2019 SENATE Now in Innovation, Industry, and Technology

SB 0218 Licensure Requirements for Osteopathic Physicians by Harrell

Licensure Requirements for Osteopathic Physicians; Revising licensure requirements for persons seeking licensure or certification as an osteopathic physician, etc. Effective Date: Upon becoming a law

Actions

02/21/2020 SENATE Now in Rules

HB 0221	Osteopathic Physicians Certification and Licensure by Roach
Osteopathic Physicians Certification and Licensure: Requires successful completion of internship or residency in specified accredited program to be licensed or certified as osteopathic physician. Effective Date: upon becoming a law	
Actions	
01/30/2020 HOUSE Placed on Calendar, on 2nd reading	
SB 0226	Athletic Trainers by Harrell
Athletic Trainers; Revising the definition of the term “athletic trainer”; revising athletic trainer licensure requirements; revising continuing education requirements for the renewal of an athletic trainer license; requiring that the supervision of an athletic training student meet certain requirements, etc. Effective Date: 7/1/2020	
Actions	
02/19/2020 SENATE Read Third Time; Passed (Vote: 39 Yeas / 0 Nays)	
SB 0230	Department of Health by Harrell
Department of Health; Revising the purpose of patient care networks from serving patients with acquired immune deficiency syndrome to serving those with human immunodeficiency virus; requiring the Department of Health to develop strategies to maximize federal-state partnerships that provide incentives for physicians to practice in medically underserved or rural areas; extending through 2025 the Florida Center for Nursing’s responsibility to study and issue an annual report on the implementation of nursing education programs; requiring dentists and certified registered dental hygienists to report in writing certain adverse incidents to the department within a specified timeframe, etc. Effective Date: 7/1/2020	
Actions	
02/10/2020 SENATE Now in Rules	
SB 0250	Development Orders by Berman
Development Orders; Deleting an entitlement for a prevailing party to recover reasonable attorney fees and costs incurred in challenging or defending a certain development order, etc. Effective Date: 7/1/2020	
Actions	
09/19/2019 SENATE Referred to Community Affairs; Judiciary; Rules	
HB 0255	Florida Commission on Human Relations by Antone
Florida Commission on Human Relations: Provides quorum requirements for Commission on Human Relations & its panels; revises number of persons commission may recommend for Florida Civil Rights Hall of Fame; provides limitation on time civil action may be filed after alleged violation of Florida Civil Rights Act; revises length of time commission or AG has to resolve complaint of discrimination in club membership; revises timeline relating to complaints alleging prohibited personnel action. Effective Date: July 1, 2020	
Actions	
02/12/2020 HOUSE Placed on Calendar, on 2nd reading	
SB 0278	Climate Health Planning by Rodriguez (J)
Climate Health Planning; Requiring the Department of Health to prepare an annual climate health planning report that contains specified information and recommendations; requiring the report to be published on the department’s website and submitted to the Governor and the Legislature by a specified date, etc. Effective Date: 7/1/2020	
Actions	
10/15/2019 SENATE Referred to Health Policy; Infrastructure and Security; Appropriations	
HB 0279	Local Government Public Construction Works by Smith (D)

Local Government Public Construction Works: Revises amount at which specified entities must competitively award certain projects; requires local governing board to consider estimated costs of certain projects when making specified determination; requires local government that performs project using its own services, employees, & equipment to disclose costs of project after completion to Auditor General; requires Auditor General to review such disclosures as part of routine audits of local governments. Effective Date: July 1, 2020

Actions

02/04/2020 HOUSE Now in State Affairs Committee

SB 0280 Climate Fiscal Responsibility by Rodriguez (J)

Climate Fiscal Responsibility; Requiring the Economic Estimating Conference to annually prepare a climate fiscal responsibility report and provide a copy of the report to the Governor and the Legislature; requiring the Office of Economic and Demographic Research to publish the report on its website; requiring the conference to coordinate with and obtain data from certain entities in preparing the report, etc. Effective Date: 7/1/2020

Actions

10/15/2019 SENATE Referred to Infrastructure and Security; Finance and Tax; Appropriations

HB 0305 Preemption of Conditions of Employment by Rommel

Preemption of Conditions of Employment: Preempts to state right to regulate conditions of employment by an employer; voids certain ordinances, regulations, or policies that are preempted by act. Effective Date: upon becoming a law

Actions

01/28/2020 HOUSE Now in Commerce Committee

SB 0318 Sale of Sunscreen by Stewart

Sale of Sunscreen; Prohibiting the sale, offer for sale, or distribution of certain sunscreen products to a consumer who does not have a prescription for such product, etc. Effective Date: 7/1/2020

Actions

10/15/2019 SENATE Referred to Environment and Natural Resources; Commerce and Tourism; Rules

SB 0326 Environmental Regulation by Perry

Environmental Regulation; Specifying requirements for contracts between residential recycling collectors or recovered materials processing facilities and counties or municipalities for the collection or processing of residential recycling material; providing that a residential recycling collector or recovered materials processing facility is not required to collect, transport, or process contaminated recyclable material except pursuant to specified contractual requirements after a contract is executed; prohibiting local governments from requiring further verification from the Department of Environmental Protection for certain projects, etc. Effective Date: 7/1/2020

Actions

02/19/2020 SENATE Read Second Time; Substituted for HB 0073; Laid on Table, Refer to HB 0073

SB 0332 Land Acquisition Trust Fund by Stewart

Land Acquisition Trust Fund; Requiring a specified annual appropriation to the Florida Forever Trust Fund; prohibiting moneys from the Land Acquisition Trust Fund from being used for specified costs, etc. Effective Date: 7/1/2020

Actions

02/20/2020 SENATE On Committee agenda - Appropriations Subcommittee on Agriculture, Environment, and General Government, 02/25/20, 9:00 am, 110 S

HB 0343 Recreational Vehicle Industries by Fetterhoff

Recreational Vehicle Industries: Creates & revises provisions for recreational vehicle parks relating to

permit applications, preemption of permitting standards to DOH, transient guests, standards for rebuilding after damage or destruction, abandoned property, park operator authority to refuse access & eject guests & visitors, & certain immunity from liability; requires DACS to adopt rules for establishment & administration of certain examinations; authorizes certain qualifiers to engage in service & repair of recreational vehicles; requires specified LP gas experience or certification to apply for master qualifier certification. Effective Date: July 1, 2020

Actions

02/20/2020 HOUSE Placed on Special Order Calendar, 02/26/20

HB 0365 Property Assessed Clean Energy Program by Watson (B)

Property Assessed Clean Energy Program: Revises definition of "qualifying improvements" to include sewage treatment and seawall improvements. Effective Date: July 1, 2020

Actions

10/23/2019 HOUSE Now in Energy & Utilities Subcommittee

SB 0378 Motor Vehicle Insurance by Lee

Motor Vehicle Insurance; Repealing provisions which comprise the Florida Motor Vehicle No-Fault Law; revising the motor vehicle insurance coverages that an applicant must show to register certain vehicles with the Department of Highway Safety and Motor Vehicles; revising garage liability insurance requirements for motor vehicle dealer applicants; revising minimum liability coverage requirements for motor vehicle owners or operators, etc. CLAIM: \$83,651 Effective Date: Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect January 1, 2021

Actions

02/11/2020 SENATE Not Considered by Banking and Insurance

SB 0390 Massage Therapy by Hooper

Massage Therapy; Revising requirements for licensure as a massage therapist; providing applicability for persons who were issued a license as a massage apprentice before a specified date, etc. Effective Date: 7/1/2020

Actions

10/15/2019 SENATE Referred to Health Policy; Appropriations; Rules

HB 0395 Transportation by Andrade

Transportation: Authorizes certain vehicles to display certain lights; revises application of load securing requirements; excludes certain vehicle from definition of "for-hire vehicle"; authorizes DHSMV to waive certain commercial motor vehicle testing requirements; revises manner of providing financial responsibility for owners of for-hire vehicles; prohibits vessels from remaining in marinas deemed unsuitable for refuge during hurricane; authorizes removal of such vessels; requires certain contractors to be certified by DOT as qualified; revises requirements for application for certification. Effective Date: July 1, 2020

Actions

02/13/2020 HOUSE Now in State Affairs Committee

HB 0401 Shark Fins by Jacobs

Shark Fins: Prohibits import, export, & sale of shark fins. Effective Date: October 1, 2020

Actions

02/17/2020 HOUSE Placed on Calendar, on 2nd reading

HB 0405 Stormwater Management Systems by Good

Stormwater Management Systems: Directs water management districts, with DEP oversight, to adopt rules for standards relating to new development & redevelopment projects; directs DEP to incorporate such rules for district use; directs DEP & districts to amend such rules into applicant's handbook; provides

rebuttable presumption relating to water quality standards for certain systems; revises requirements for construction of certain systems; requires specified staff training; directs DEP & districts to initiate rulemaking. Effective Date: July 1, 2020

Actions

10/30/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

HB 0417 Anchoring Limitation Areas by Duggan

Anchoring Limitation Areas: Designates specified waterways as anchoring limitation areas. Effective Date: July 1, 2020

Actions

10/30/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

SB 0422 Recreational Vehicle Industries by Perry

Recreational Vehicle Industries; Preempting to the Department of Health the regulatory authority for permitting standards; providing standards for a damaged or destroyed recreational vehicle park to be rebuilt under certain circumstances; authorizing a park operator to refuse access to the premises and to eject transient guests or visitors based on specified conduct; providing for ejection from a park and specifying grounds and requirements therefor, etc. Effective Date: 7/1/2020

Actions

02/21/2020 SENATE On Committee agenda - Rules, 02/26/20, 9:00 am, 110 S

SB 0438 Land Acquisition Trust Fund by Harrell

Land Acquisition Trust Fund; Providing an appropriation for certain projects related to the Indian River Lagoon Comprehensive Conservation and Management Plan; authorizing the Department of Environmental Protection to make grants for such projects; providing for a specified local match for such grants, etc. Effective Date: 7/1/2020

Actions

10/15/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 0444 Customer Service Standards for State Agencies by Rader

Customer Service Standards for State Agencies; Requiring departments within the executive branch of state government to implement certain measures with respect to telephone calls placed by customers, etc. Effective Date: 10/1/2020

Actions

12/09/2019 SENATE Now in Innovation, Industry, and Technology

SB 0450 Whistleblower's Act by Brandes

Whistleblower's Act; Revising the actions that an agency or independent contractor is prohibited from taking against an employee who participates in protected activity or discloses certain information; specifying that whistleblower remedies and protections do not apply to certain persons; revising applicability of provisions relating to investigative procedures upon receipt of whistleblower information; revising investigative procedures in response to retaliatory actions, etc. Effective Date: 7/1/2020

Actions

10/15/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules

SB 0456 Minimum Wage by Rodriguez (J)

Minimum Wage; Revising the formula for the adjusted state minimum wage, etc. Effective Date: 7/1/2020

Actions

10/15/2019 SENATE Referred to Commerce and Tourism; Innovation, Industry, and Technology; Rules

HB 0465**High-Speed Passenger Rail Safety** by Sirois

High-Speed Passenger Rail Safety: Provides for regulation of railroad companies; requires training for local emergency services under certain circumstances; provides requirements for railroad company reporting & DOT website publication; provides minimum safety standards for high-speed passenger rail; designates responsibility for maintenance of certain safety improvements; provides safety inspection requirements; requires certain fencing; provides liability for failure to construct or maintain fencing; provides for enforcement. Effective Date: July 1, 2020

Actions

11/07/2019 HOUSE Now in Transportation & Infrastructure Subcommittee

HB 0485**Athletic Trainers** by Antone

Athletic Trainers: Revises definition of term "athletic trainer"; revises athletic trainer licensure requirements; requires certain licensees to maintain certification in good standing without lapse as condition of renewal of their athletic trainer licenses; requires that athletic trainer work within specified scope of practice; requires direct supervision of athletic training student to be in accordance with rules adopted by Board of Athletic Training. Effective Date: July 1, 2020

Actions

01/30/2020 HOUSE Placed on Calendar, on 2nd reading

HB 0489**Land Acquisition Trust Fund** by Plasencia

Land Acquisition Trust Fund: Provides appropriation for certain projects related to Indian River Lagoon Comprehensive Conservation & Management Plan; authorizes DEP to make grants for such projects; provides for specified local match for such grants; requires department to submit annual report to Governor & Legislature. Effective Date: July 1, 2020

Actions

11/07/2019 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

SB 0504**Local Government Public Construction Works** by Perry

Local Government Public Construction Works; Revising disclosure requirements for bidding documents and other requests for proposals issued for bids by a local governmental entity and public contracts entered into between local governmental entities and contractors; requiring the governing board of a local government to consider estimated costs of certain projects using generally accepted cost-accounting principles that account for specified costs when the board is making a specified determination, etc. Effective Date: 7/1/2020

Actions

01/16/2020 SENATE Now in Rules

HB 0513**Heat Illness Prevention** by Smith (C)

Heat Illness Prevention: Requires certain employers to provide drinking water, shade, & annual training to employees & supervisors; requires DACS & DOH to adopt specified rules. Effective Date: October 1, 2020

Actions

11/15/2019 HOUSE Now in Workforce Development & Tourism Subcommittee

HB 0549**Pub. Rec./Site-specific Location Information of Endangered and Threatened Species** by Overdorf

Pub. Rec./Site-specific Location Information of Endangered and Threatened Species: Provides exemption from public records requirements for site-specific location information of endangered & threatened species; provides for future legislative review & repeal of exemption; provides statement of public necessity. Effective Date: July 1, 2020

Actions

02/06/2020 HOUSE Now in State Affairs Committee

HB 0571**Vehicle and Vessel Registration Data and Functionality** by Fernandez-Barquin

Vehicle and Vessel Registration Data and Functionality: Requires DHSMV to provide tax collectors & their approved agents & vendors with real-time access to certain vehicle & vessel registration data & functionality in same manner as provided to other third parties. Effective Date: July 1, 2020

Actions

02/20/2020 HOUSE Favorable with CS by State Affairs Committee; 19 Yeas, 0 Nays

HB 0579**Public Financing of Construction Projects** by Aloupis

Public Financing of Construction Projects: Requires sea level impact projection study of state-financed coastal structures before construction begins; requires DEP to develop study standards, publish studies on its website, enforce requirements, & adopt rules. Effective Date: July 1, 2020

Actions

02/18/2020 HOUSE Now in State Affairs Committee

HB 0595**Medical Marijuana Employee Protection** by Polsky

Medical Marijuana Employee Protection: Prohibits employers from taking adverse personnel action against employees or applicants who are qualified patients using medical marijuana; requires employers to provide certain written notice to employees or applicants who test positive for marijuana; provides procedures for if employee or applicant tests positive for marijuana; provides cause of action & damages. Effective Date: upon becoming a law

Actions

11/25/2019 HOUSE Now in Oversight, Transparency & Public Management Subcommittee

SB 0606**Anchoring Limitation Areas** by Bean

Anchoring Limitation Areas; Designating specified waterways as anchoring limitation areas, etc. Effective Date: 7/1/2020

Actions

01/16/2020 SENATE Now in Community Affairs

SB 0638**Apalachicola Environmental Stewardship Act** by Montford

Apalachicola Environmental Stewardship Act; Providing that this act may be referred to as "The Apalachicola Environmental Stewardship Act", appropriating a sum annually for a specified timeframe from the Florida Forever Fund to the Apalachicola Area of Critical State Concern for specified purposes; renaming the Apalachicola Bay Area of Critical State Concern as the Apalachicola Area of Critical State Concern; providing additional principles for guiding development within the Apalachicola Area of Critical State Concern to include projects that protect and improve water quality, etc. Effective Date: 7/1/2020

Actions

02/20/2020 SENATE On Committee agenda - Appropriations Subcommittee on Agriculture, Environment, and General Government, 02/25/20, 9:00 am, 110 S

SB 0640**Indian River Lagoon State Matching Grant Program** by Harrell

Indian River Lagoon State Matching Grant Program; Providing that certain projects identified in a specified Indian River Lagoon Comprehensive Conservation and Management Plan are eligible for state funding consideration; directing the Department of Environmental Protection to coordinate with the South Florida Water Management District and the St. Johns River Water Management District to identify projects and grant recipients and to submit an annual report to the Governor, the Legislature, and specified persons, etc. Effective Date: 7/1/2020

Actions

12/10/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

SB 0648**Sargassum Seaweed Matching Grant Program** by Berman

Sargassum Seaweed Matching Grant Program; Requiring the Department of Environmental Protection to establish a Sargassum Seaweed Matching Grant Program for a specified purpose; requiring the department to submit an annual report to the Governor and the Legislature by a specified date, etc. Effective Date: 7/1/2020

Actions

12/10/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

SB 0664**Verification of Employment Eligibility** by Lee

Verification of Employment Eligibility; Requiring written agreements for the procurement of specified contractual services to include a statement regarding the requirement that a contractor or subcontractor register with and use an employment verification system; requiring public employers and certain contractors and subcontractors to register with and use an employment verification system by a specified date; requiring employers who meet specified criteria to register with and use an employment verification system to verify the employment eligibility of new employees; authorizing the imposition of fines for violations of the act, etc. Effective Date: 7/1/2020

Actions

02/19/2020 SENATE Now in Rules

SB 0676**High-speed Passenger Rail Safety** by Mayfield

High-speed Passenger Rail Safety; Designating the "Florida High-Speed Passenger Rail Safety Act"; requiring the Department of Transportation to regulate railroad companies when that authority is not federally preempted; providing that certain railroad companies are responsible for ensuring that impacted roadbeds meet specified transition requirements under certain circumstances; requiring the department's railroad inspectors, in accordance with a specified program, to meet certain certification requirements and to coordinate their activities with those of federal inspectors in this state in compliance with certain federal regulations, etc. Effective Date: 7/1/2020

Actions

01/23/2020 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development

HB 0677**Chiropractic Medicine** by Smith (D)

Chiropractic Medicine: Authorizes chiropractic physicians who have completed specified training to administer articles of natural origin; authorizes licensed pharmacists to fill such chiropractors' orders for articles of natural origin; authorizes specified number of certain chiropractic continuing education hours to be completed online; provides requirements for such online chiropractic continuing education courses. Effective Date: July 1, 2020

Actions

12/03/2019 HOUSE Now in Health Quality Subcommittee

SB 0680**Shark Fins** by Hutson

Shark Fins; Prohibiting the import of shark fins to this state; prohibiting the sale of shark fins within or the export of shark fins from this state, etc. Effective Date: 10/1/2020

Actions

02/21/2020 SENATE On Committee agenda - Rules, 02/26/20, 9:00 am, 110 S

SB 0686**Stormwater Management Systems** by Gruters

Stormwater Management Systems; Directing the water management districts, with Department of Environmental Protection oversight, to adopt rules for specified design and performance standards relating to new development and redevelopment projects; providing a rebuttable presumption that certain

stormwater management systems do not cause or contribute to violations of applicable state water quality standards; requiring certain inspection training for department, water management district, and local pollution control program staff, etc. Effective Date: 7/1/2020

Actions

11/06/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 0690 Water Resources by Albritton

Water Resources; Requiring the Department of Environmental Protection to conduct a comprehensive and quantitative needs-based overview of this state's water resources; specifying requirements for the overview; requiring the department to submit a report every 5 years to the Governor and the Legislature by a specified date, etc. Effective Date: 7/1/2020

Actions

11/06/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 0691 Minimum Wage by Jacquet

Minimum Wage: Revises formula for adjusted state minimum wage. Effective Date: July 1, 2020

Actions

12/03/2019 HOUSE Now in Workforce Development & Tourism Subcommittee

HB 0707 Legislative Review of Occupational Regulations by Renner

Legislative Review of Occupational Regulations: Authorizes schedule for systematic review of occupational regulatory programs; authorizes Legislature to take certain actions before scheduled repeal of occupational regulatory program; provides regulation of occupation to state if such occupation's regulatory program has been repealed through this act; provides schedule of repeal for occupational regulatory programs. Effective Date: upon becoming a law

Actions

02/20/2020 HOUSE Placed on Special Order Calendar, 02/26/20

SB 0712 Water Quality Improvements by Mayfield

Water Quality Improvements; Citing this act as the "Clean Waterways Act"; requiring the Department Health to provide a specified report to the Governor and the Legislature by a specified date; transferring the Onsite Sewage Program within the Department of Health to the Department of Environmental Protection by a type two transfer by a specified date; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; requiring the department to adopt rules relating to the underground pipes of wastewater collection systems; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system remediation plans that meet certain requirements, etc. Effective Date: Except as otherwise expressly provided in this act this act shall take effect July 1, 2020

Actions

02/20/2020 SENATE Favorable with CS by Appropriations; 20 Yeas, 1 Nay

HB 0713 Department of Health by Rodriguez (AM)

Department of Health: Specifies direct reporting requirements for certain positions within Children's Medical Services Program; revises provisions relating to Florida Consortium of National Cancer Institute Centers Program; revises duties & responsibilities of DOH; revises licensure requirements for certain professions under authority of DOH; provides requirements relating to radiation machines; provides adverse incident reporting requirements for dental professionals. Effective Date: July 1, 2020

Actions

02/17/2020 HOUSE Placed on Calendar, on 2nd reading

SB 0722**Land Acquisition Trust Fund** by Montford

Land Acquisition Trust Fund; Requiring that certain funds distributed into the Land Acquisition Trust Fund be used for conservation and management projects in certain counties; providing the types of projects for which the Department of Environmental Protection may use such funds, etc. Effective Date: 7/1/2020

Actions

11/18/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 0770**Property Assessed Clean Energy Program** by Rodriguez (J)

Property Assessed Clean Energy Program; Amending the definition of "qualifying improvement" to include sewage treatment, seawall improvements, and certain improvements to underground infrastructure, etc. Effective Date: 7/1/2020

Actions

11/21/2019 SENATE Referred to Community Affairs; Innovation, Industry, and Technology; Rules

HB 0771**Motor Vehicle Insurance** by Grall

Motor Vehicle Insurance: Repeals provisions relating Florida Motor Vehicle No-Fault Law; revises garage liability insurance requirements; revises minimum coverage requirements for proof of financial responsibility for motor vehicles; revises amount of certificate of deposit required to elect certain method of proof of financial responsibility; revises excess liability coverage requirements; revises financial responsibility requirements for owners or lessees of for-hire passenger transportation vehicles; revises coverages of motor vehicle policy which are subject to stacking prohibition; revises insurance requirements for transportation network company drivers. Effective Date: January 1, 2021

Actions

02/11/2020 HOUSE Now in Commerce Committee

HB 0775**Everglades Protection Area** by Avila

Everglades Protection Area: Requires comprehensive plans & plan amendments that apply to certain lands within or near Everglades Protection Area to follow state coordinated review process; requires DEP to make determinations, consult, & coordinate with specified entities regarding such plans & amendments; provides additional limitation for compliance determination of such plans & plan amendments; prohibits & provides requirements for adoption of certain development amendments within Everglades Protection Area. Effective Date: July 1, 2020

Actions

02/02/2020 HOUSE Now in State Affairs Committee

HB 0777**Fish and Wildlife Activities** by Gregory

Fish and Wildlife Activities: Prohibits certain harassment of hunters, trappers, & fishers in or on specified lands, areas, & waters; authorizes FWCC to designate additional free fishing days; prohibits certain possession of specified reptiles; provides exemption from sales & use tax for retail sale of certain hunting, fishing, & camping supplies during specified period; authorizes certain dealers to opt out of exemption; authorizes DOR to adopt emergency rules; provides appropriation. Effective Date: July 1, 2020

Actions

02/21/2020 HOUSE On Committee agenda - Agriculture & Natural Resources Subcommittee, 02/25/20, 10:00 am, 12 H - PCS

HB 0791**Florida National Estuary Program Act** by Fitzenhagen

Florida National Estuary Program Act: Requires DEP to give funding consideration to estuaries identified under National Estuary Program; requires funds to be used for specified projects; requires programs receiving funding to submit report to Governor, Legislature, DEP, & water management districts. Effective Date: July 1, 2020

Actions

SB 0812 Public Records/Endangered and Threatened Species by Hutson

Public Records/Endangered and Threatened Species; Providing an exemption from public records requirements for the site-specific location information of certain endangered and threatened species; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. Effective Date: 7/1/2020

Actions

02/06/2020 SENATE Now in Rules

SB 0826 Marina Evacuations by Mayfield

Marina Evacuations; Prohibiting vessels under a specified weight from remaining in certain marinas that have been deemed unsuitable for refuge during a hurricane after the issuance of a hurricane watch; requiring a marina owner, operator, employee, or agent to remove specified vessels under certain circumstances; providing that such owner, operator, employee, or agent may charge the vessel owner a reasonable fee for such removal and may not be held liable for any damages as a result of such removal, etc. Effective Date: 7/1/2020

Actions

02/19/2020 SENATE Now in Rules

HB 0889 Employment Practices by Davis

Employment Practices: Creates "Florida Family Leave Act"; requires employer to allow certain employees to take paid family leave to bond with minor child upon child's birth, adoption, or foster care placement; provides requirements, limitations, & duties; provides for civil action & penalties & criminal penalty; prohibits specified employment practices on basis of pregnancy, childbirth, or medical condition related to pregnancy or childbirth; provides for leave, maintenance of health coverage, reasonable accommodation & transfer, & return rights for employee who is disabled from pregnancy, childbirth, or medical condition related to pregnancy or childbirth. Effective Date: July 1, 2020

Actions

12/19/2019 HOUSE Now in Business & Professions Subcommittee

HB 0913 Florida Climate and Resiliency Research Program by Diamond

Florida Climate and Resiliency Research Program: Establishes program within DEP; provides for program purpose & participants; requires program to submit Florida Resiliency Plan to Governor & Legislature at specified intervals; provides plan requirements; directs DEP to coordinate & oversee program & provide staff support. Effective Date: July 1, 2020

Actions

12/19/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

SB 0962 Medical Marijuana Employee Protection by Berman

Medical Marijuana Employee Protection; Prohibiting an employer from taking adverse personnel action against an employee or job applicant who is a qualified patient using medical marijuana; requiring an employer to provide written notice to an employee or job applicant who tests positive for marijuana of his or her right to explain the positive test result; providing procedures when an employee or job applicant tests positive for marijuana; providing a cause of action and damages, etc. Effective Date: Upon becoming a law

Actions

12/13/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules

SB 0998 Housing by Hutson

Housing; Authorizing a board of county commissioners to approve development of affordable housing on any parcel zoned for residential, commercial, or industrial use; requiring counties, municipalities, and special districts to include certain data relating to impact fees in their annual financial reports; revising

applicable standards for the repair and remodeling of mobile and manufactured homes; renaming the Community Workforce Housing Innovation Pilot Program as the Community Workforce Housing Loan Program to provide workforce housing for persons affected by the high cost of housing, etc. Effective Date: 7/1/2020

Actions

02/20/2020 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/21/20, 09:00 am, 117 K (No Votes Will Be Taken)

HB 1023 Train Crew Requirements by Valdes

Train Crew Requirements: Provides minimum crew requirements for freight or passenger train; provides exceptions; provides minimum crew requirements for train that is transporting certain hazardous materials; provides penalties. Effective Date: July 1, 2020

Actions

01/08/2020 HOUSE Now in Transportation & Infrastructure Subcommittee

SB 1030 Public Records/Vessel Title or Registration/Department of Highway Safety and Motor Vehicles by Stargel

Public Records/Vessel Title or Registration/Department of Highway Safety and Motor Vehicles; Creating public records exemptions for certain information contained in any record that pertains to a vessel title or vessel registration issued by the Department of Highway Safety and Motor Vehicles; providing exemptions from public records requirements for electronic mail addresses and cellular telephone numbers collected by the department; providing for future legislative review and repeal of the exemptions; providing statements of public necessity, etc. Effective Date: 7/1/2020

Actions

02/10/2020 SENATE Temporarily Postponed by Governmental Oversight and Accountability

HB 1039 Transportation Network Companies by Rommel

Transportation Network Companies: Removes for-hire vehicles from list of vehicles that are not considered TNC carriers or are not exempt from certain registration; revises automobile insurance coverage requirements for TNCs & TNC drivers; authorizes TNC drivers to contract for installment of TNC digital advertising devices; provides that TNC drivers & owners & operators of TNC digital advertising devices are immune from specified liabilities; authorizes entities to be regulated as luxury ground TNCs; provides that luxury ground TNCs, luxury ground TNC drivers, & luxury ground TNC vehicles are governed by state law. Effective Date: upon becoming a law

Actions

02/20/2020 HOUSE Temporarily Postponed by State Affairs Committee

SB 1042 Aquatic Preserves by Albritton

Aquatic Preserves; Creating the Nature Coast Aquatic Preserve; designating the preserve for inclusion in the aquatic preserve system; outlining the authority of the Board of Trustees of the Internal Improvement Trust Fund in respect to the preserve; prohibiting the establishment and management of the preserve from infringing upon the riparian rights of upland property owners adjacent to or within the preserve, etc. Effective Date: 7/1/2020

Actions

02/03/2020 SENATE Now in Rules

HB 1061 Aquatic Preserves by Massullo, Jr.

Aquatic Preserves: Creates Nature Coast Aquatic Preserve; designates preserve for inclusion in aquatic preserve system & as Outstanding Florida Water; describes boundaries of preserve. Effective Date: July 1, 2020

Actions

02/13/2020 HOUSE Now in State Affairs Committee

HB 1067**Florida Endangered and Threatened Species Act** by Hattersley

Florida Endangered and Threatened Species Act: Directs FWCC & DACS to protect certain declassified species; revises criteria for placement of species on Regulated Plant Index by DACS; prohibits FWCC & DACS from considering certain costs when designating species as endangered or threatened. Effective Date: July 1, 2020

Actions

01/13/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

HB 1073**Statewide Office of Resiliency** by Stevenson

Statewide Office of Resiliency: Establishes office within EOG; provides for appointment of Chief Resilience Officer by Governor; creates Statewide Sea-Level Rise Task Force within office; requires DEP to serve as task force's contract administrator; requires Environmental Regulation Commission to take certain action on task force's recommendations; provides for task force repeal; provides appropriation. Effective Date: July 1, 2020

Actions

01/29/2020 HOUSE Now in State Affairs Committee

SB 1086**Vehicle and Vessel Registration Data and Functionality** by Diaz

Vehicle and Vessel Registration Data and Functionality; Requiring the Department of Highway Safety and Motor Vehicles to provide tax collectors and their approved agents and vendors with real-time access to certain vehicle and vessel registration data and functionality in the same manner as provided to other third parties, etc. Effective Date: 7/1/2020

Actions

02/20/2020 SENATE On Committee agenda - Appropriations Subcommittee on Transportation, Tourism, and Economic Development, 02/25/20, 1:00 pm, 110 S

HB 1091**Environmental Enforcement** by Fine

Environmental Enforcement: Increases civil penalties for violations of certain provisions relating to beach & shore construction, Biscayne Bay Aquatic Preserve, aquatic preserves, state water resource plan, artesian wells, pollution, operating terminal facility without discharge prevention & response certificates, discharge contingency plans for vessels, Pollutant Discharge Prevention & Control Act, Clean Ocean Act, pollution of surface & ground waters, regulation of oil & gas resources, Phosphate Land Reclamation Act, sewage disposal facilities, pollution control, reasonable costs & expenses for pollution releases, necessary permits, dumping litter, small quantity generators, abatement of imminent hazards caused by hazardous substances, hazardous waste generators, transporters, or facilities, & coral reef protection; provides that certain conditions constitute separate offenses. Effective Date: July 1, 2020

Actions

02/11/2020 HOUSE Now in State Affairs Committee

SB 1126**Employment Conditions** by Gruters

Employment Conditions; Prohibiting a political subdivision from establishing, mandating, or otherwise requiring an employer to offer conditions of employment which are not otherwise required by state or federal law; specifying that the regulation of conditions of employment is expressly preempted to the state, etc. Effective Date: Upon becoming a law

Actions

12/13/2019 SENATE Referred to Governmental Oversight and Accountability; Community Affairs; Rules

SB 1172**Transportation** by Albritton

Transportation; Revising requirements for determining the salaries of the secretary of the Department of Transportation and assistant secretaries; requiring certain contractors to be certified by the department as

qualified; specifying conditions under which the limitation on liability of the department applies for personal injury, property damage, or death; authorizing the Governor to suspend payment of tolls when necessary to assist emergency evacuation, etc. Effective Date: 7/1/2020

Actions

12/18/2019 SENATE Referred to Infrastructure and Security; Judiciary; Appropriations

SB 1176 Captive-bred Animal Culture by Perry

Captive-bred Animal Culture; Creating the "Florida Animal Policy Act"; providing duties of the Department of Agriculture and Consumer Services; requiring the department to submit a list of specified research and development projects with its annual legislative budget request to the Governor and the Legislature; requiring a captive-bred producer to apply to the department for a certificate of registration; creating the Captive-bred Animal Culture Advisory Council adjunct to the department, etc. Effective Date: 7/1/2020

Actions

12/18/2019 SENATE Referred to Agriculture; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 1177 Personal Watercraft by Thompson

Personal Watercraft: Provides requirements for persons operating, riding on, & being towed behind watercraft; increases age requirement for operation of watercraft; prohibits owner of, or person having charge of or control over, watercraft from authorizing or knowingly permitting operation by certain persons; provides specified liability insurance coverage, instruction, & information requirements for companies that provide watercraft; provides conditions prohibiting operation of certain watercraft; requires persons operating watercraft to have specified documentation on board. Effective Date: July 1, 2020

Actions

01/13/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

SB 1194 Employment Practices by Cruz

Employment Practices; Creating the "Florida Family Leave Act"; requiring an employer to allow certain employees to take paid family leave to bond with a new child upon the child's birth, adoption, or foster care placement; requiring that family leave be taken concurrently with any leave taken pursuant to federal family and medical leave provisions; requiring the Department of Economic Opportunity to create a poster and a model notice that specify family leave rights, etc. Effective Date: 7/1/2020

Actions

12/18/2019 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Appropriations

HB 1199 Environmental Protection Act by Ingoglia

Environmental Protection Act: Prohibits local governments from recognizing or granting certain legal rights to natural environment or granting such rights relating to natural environment to person or political subdivision. Effective Date: upon becoming a law

Actions

02/12/2020 HOUSE Placed on Calendar, on 2nd reading

HB 1219 Electric Vehicles by Toledo

Electric Vehicles: Requires DOT to establish Electric Vehicle Infrastructure Grant Program; provides for distribution of grants to certain entities to install electric vehicle charging infrastructure; provides grant requirements; provides requirements for equipment installed; requires DOT to review emerging research, policies, & standards; authorizes DOT to develop model plan for local governments; requires DOT to develop master plan for charging stations; provides appropriation. Effective Date: July 1, 2020

Actions

01/17/2020 HOUSE Now in Transportation & Infrastructure Subcommittee

SB 1230**Electric Vehicles** by Brandes

Electric Vehicles; Authorizing the Department of Transportation to adopt rules; requiring that certain funds be used for specified purposes relating to the Electric Vehicle Infrastructure Grant Program, beginning in specified years; requiring the department to establish the Electric Vehicle Infrastructure Grant Program; providing for the distribution of grants to certain entities to install electric vehicle charging infrastructure; providing grant requirements, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020

Actions

01/08/2020 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

SB 1232**Florida Climate and Resiliency Research Program** by Rouson

Florida Climate and Resiliency Research Program; Establishing the program within the Department of Environmental Protection; providing for program purpose and participants; requiring the program to submit the Florida Resiliency Plan to the Governor and Legislature at specified intervals; providing plan requirements; directing the department to coordinate and oversee the program and provide staff support, etc. Effective Date: 7/1/2020

Actions

01/08/2020 SENATE Referred to Infrastructure and Security; Environment and Natural Resources; Appropriations

HB 1265**Verification of Employment Eligibility** by Byrd

Verification of Employment Eligibility: Requires public employers, contractors, & subcontractors to use E-Verify system for specified purposes; prohibits such entities from entering into contract unless each party to contract uses E-Verify system; authorizes termination of contract; requires private employers to verify employment eligibility of newly hired employees; provides acceptable methods for verification; provides specified immunity; creates rebuttable presumption for private employers. Effective Date: July 1, 2020

Actions

01/17/2020 HOUSE Now in Commerce Committee

SB 1310**Hunting and Fishing Sales Tax Holiday** by Mayfield

Hunting and Fishing Sales Tax Holiday; Providing an exemption from the sales and use tax for the retail sale of firearms, firearm ammunition, camping tents, and fishing supplies during a specified timeframe; defining the terms "firearms" and "fishing supplies"; specifying locations where the exemptions do not apply, etc. APPROPRIATION: \$237,000 Effective Date: Upon becoming a law

Actions

01/21/2020 SENATE Not Considered by Commerce and Tourism

HB 1315**Transportation** by Fetterhoff

Transportation: Revises DOT organization & responsibilities; revises provisions relating to distribution of certain moneys; removes scheduled repeal of certain provisions; requires vehicle operator to take certain actions when road & bridge maintenance or construction vehicle is on roadside; requires airport protection zoning regulations to require certain permit applicants to submit final valid determination from FAA; revises date by which M.P.O. must submit list of project priorities to DOT district. Effective Date: upon becoming a law

Actions

02/06/2020 HOUSE Now in Transportation & Tourism Appropriations Subcommittee

HB 1329**Marina Evacuations** by Plasencia

Marina Evacuations: Prohibits vessels under specified weight from remaining in certain marinas that have been deemed not suitable for refuge during hurricane after issuance of hurricane watch or warning for waters of marina; provides for civil penalties. Effective Date: July 1, 2020

Actions

01/17/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

SB 1332 Towing and Immobilizing Vehicles and Vessels by Hooper

Towing and Immobilizing Vehicles and Vessels; Authorizing local governments to enact rates to tow or immobilize vessels on private property and to remove and store vessels under specified circumstances; prohibiting counties from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges; deleting requirements regarding notices and signs concerning the towing or removal of vehicles or vessels, etc. Effective Date: 7/1/2020

Actions

02/19/2020 SENATE Placed on Calendar, on 2nd reading

HB 1343 Water Quality Improvements by Payne

Water Quality Improvements: Requires DOH & DEP to submit reports & recommendations relating to transfer of Onsite Sewage Program in DOH to DEP; transfers Onsite Sewage Program from DOH to DEP; requires WMDs to submit consolidated annual reports to OEDR; removes provisions relating to DOH technical review & advisory panel & research & review advisory committee; directs DEP to determine that hardship exists for certain OSTDS onsite variance requests; creates OSTDS technical advisory committee; requires county health departments to coordinate with DEP to administer evaluation programs; requires basin management action plans to include treatment & remediation plans; requires DEP to submit cost estimates to OEDR; provides for management of biosolids & water quality monitoring; establishes clean water grant program. Effective Date: July 1, 2021

Actions

02/12/2020 HOUSE Now in State Affairs Committee

SB 1352 Transportation Companies by Brandes

Transportation Companies; Revising the definition of the term "for-hire vehicle" to exclude transportation network company (TNC) vehicles and certain motor vehicles used for prearranged rides for persons with disabilities for compensation; deleting for-hire vehicles from the list of vehicles that are not considered TNC carriers or are not exempt from certain registration; authorizing TNC drivers or their designees to contract with companies to install TNC digital advertising devices on TNC vehicles, etc. Effective Date: Upon becoming a law

Actions

02/12/2020 SENATE Now in Rules

SB 1360 Florida Endangered and Threatened Species Act by Rodriguez (J)

Florida Endangered and Threatened Species Act; Directing the Fish and Wildlife Conservation Commission to protect certain declassified species; prohibiting the commission from considering certain costs when designating a species as endangered or threatened; revising criteria for placement of species on the Regulated Plant Index by the Department of Agriculture and Consumer Services; directing the department, in consultation with the Endangered Plant Advisory Council, to protect certain declassified species, etc. Effective Date: 7/1/2020

Actions

02/19/2020 SENATE Now in Appropriations

HB 1363 Basin Management Action Plans by Overdorf

Basin Management Action Plans: Provides additional management strategies for such plans; requires certain plans to include specified elements; provides requirements for DEP, DACS, DOH, UF/IFAS, local governments, water management districts, & owners of agricultural operations; requires specified data collection & research; establishes nutrient reduction cost-share program within DEP; exempts rural homesteads from certain best management practices under certain conditions; requires DEP & DACS to include specified information in annual progress reports for such plans. Effective Date: July 1, 2020

Actions

02/03/2020 HOUSE Now in State Affairs Committee

SB 1378 Vessels by Rouson

Vessels; Specifying the conditions under which a vessel is and is not considered to be operating at slow speed, minimum wake; prohibiting certain parties within certain waterbodies from anchoring or mooring a vessel within a specified distance of a mangrove or to upland vegetation upon public lands; revising civil penalties relating to certain at-risk vessels and prohibited anchoring or mooring; providing procedures for abandoned or lost property relating to certain vessels, etc. Effective Date: 7/1/2020

Actions

02/12/2020 SENATE Now in Judiciary

SB 1382 Environmental Resource Management by Albritton

Environmental Resource Management; Providing additional management strategies for basin management action plans; requiring the Department of Agriculture and Consumer Services to work with the Department of Environmental Protection to improve the accuracy of data used to estimate certain agricultural land uses and to work with producers to identify certain agricultural technologies; prohibiting local governments from recognizing, granting, conveying, or extending legal rights or legal standing to animals or certain parts of the natural environment under certain circumstances, etc. Effective Date: 7/1/2020

Actions

01/30/2020 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

SB 1390 Everglades Protection Area by Simmons

Everglades Protection Area; Requiring comprehensive plans and plan amendments adopted by the governing bodies of local governments whose boundaries include any portion of the Everglades Protection Area to follow the state coordinated review process; requiring the Department of Environmental Protection to make certain determinations for such plans and amendments, to provide written notice of its determination to the local governments within a specified timeframe, and to coordinate with the local governments on certain mitigation measures, etc. Effective Date: 7/1/2020

Actions

01/27/2020 SENATE Now in Community Affairs

HB 1407 Vessels by Webb

Vessels: Prohibits operation of vessels at speeds faster than slow speed, minimum wake in hazardous situations; provides requirements for flags displayed from vessels & barges actively engaged in construction operations; prohibits anchoring or mooring of vessel to mangroves & vegetation on public lands; revises civil penalties. Effective Date: July 1, 2020

Actions

01/17/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

SB 1414 Fish and Wildlife Activities by Mayfield

Fish and Wildlife Activities; Prohibiting certain harassment of hunters, trappers, and fishers within or on public lands or publicly or privately owned wildlife and fish management areas, or in or on public waters; authorizing the Fish and Wildlife Conservation Commission to designate additional annual free freshwater and saltwater fishing days; prohibiting the keeping, possessing, importing, selling, bartering, trading, or breeding of certain species except for educational, research, or eradication or control purposes; including green iguanas and species of the genera Salvator and Tupinambis in such prohibition, etc. Effective Date: 7/1/2020

Actions

02/21/2020 SENATE On Committee agenda - Rules, 02/26/20, 9:00 am, 110 S

SB 1450**Environmental Enforcement** by Gruters

Environmental Enforcement; Revising administrative penalties for violations of certain provisions relating to beach and shore construction and activities; revising civil penalties for violations of certain provisions relating to the Biscayne Bay Aquatic Preserve, aquatic preserves, water resources, the Pollutant Discharge Prevention and Control Act, the Clean Ocean Act, regulation of oil and gas resources, the Phosphate Land Reclamation Act, and other provisions relating to pollution and the environment, respectively; revising criminal penalties for violations of certain provisions relating to pollution and the environment, etc. Effective Date: 7/1/2020

Actions

02/20/2020 SENATE Now in Appropriations

SB 1468**Trains** by Taddeo

Trains; Requiring, as a condition of operation in this state, that trains used in connection with the movement of freight and passengers have a crew that consists of at least two individuals; providing exceptions; authorizing the Secretary of Transportation to exempt certain railroad carriers from specified provisions of law under certain conditions; authorizing the Department of Transportation to assess civil penalties against a person or an entity for a specified violation, subject to certain requirements, etc. Effective Date: 7/1/2020

Actions

01/13/2020 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

SB 1744**Personal Watercraft** by Torres, Jr.

Personal Watercraft; Providing requirements for persons operating, riding on, and being towed behind personal watercraft; increasing the age requirement for operation of a personal watercraft; prohibiting the owner of, or a person having charge of or control over, any leased, hired, or rented personal watercraft from authorizing or knowingly allowing the watercraft to be operated by certain persons; requiring companies that provide personal watercraft for lease, hire, or rent to maintain specified liability insurance coverage, etc. Effective Date: 7/1/2020

Actions

01/17/2020 SENATE Referred to Environment and Natural Resources; Banking and Insurance; Rules

SB 1786**Vessel Safety** by Stewart

Vessel Safety; Prohibiting a vessel operator from endangering the life, limb, or property of another person by allowing passengers to ride on the bow of the vessel; providing that careless operation includes causing wake to law enforcement vessels under certain circumstances, etc. Effective Date: 7/1/2020

Actions

01/17/2020 SENATE Referred to Environment and Natural Resources; Criminal Justice; Rules

SB 1788**Boating-restricted Areas** by Stewart

Boating-restricted Areas; Authorizing municipalities and counties to establish certain boating-restricted areas by ordinance for areas within a specified distance of any shoreline, etc. Effective Date: 7/1/2020

Actions

01/17/2020 SENATE Referred to Community Affairs; Environment and Natural Resources; Rules

SB 1822**Verification of Employment Eligibility** by Gruters

Verification of Employment Eligibility; Requiring public employers, contractors, and subcontractors to register with and use the E-Verify system; prohibiting such entities from entering into a contract unless each party to the contract registers with and uses the E-Verify system; requiring private employers to verify the employment eligibility of newly hired employees, beginning on a specified date; providing acceptable methods for verifying employment eligibility, etc. Effective Date: 7/1/2020

Actions

SB 1878 Environmental Protection by Bradley

Environmental Protection; Requiring a minimum annual appropriation for Everglades restoration and the protection of water resources in this state beginning in a specified fiscal year; specifying requirements for the allocation of such funding; providing for future repeal of the appropriation unless reviewed and saved from repeal through reenactment by the Legislature; revising the minimum annual appropriation for certain appropriations from the Land Acquisition Trust Fund, etc. APPROPRIATION: Indeterminate Effective Date: 7/1/2020

Actions

02/06/2020 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

HB 6019 Development Orders by Casello

Development Orders: Removes provision allowing prevailing party in certain development order challenges to recover specified fees & costs. Effective Date: July 1, 2020

Actions

09/23/2019 HOUSE Now in Commerce Committee

HB 7001 OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles by Oversight, Transparency & Public Management Subcommittee

OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles: Removes scheduled repeal of public records exemption for certain e-mail addresses collected by DHSMV. Effective Date: October 1, 2020

Actions

02/19/2020 SENATE Withdrawn from Infrastructure and Security; Governmental Oversight and Accountability; Rules; Placed on Calendar, on 2nd Reading; Substituted for SB 7022; Read Second Time; Placed on Third Reading, 02/26/20

SB 7016 Statewide Office of Resiliency by Infrastructure and Security

Statewide Office of Resiliency; Establishing the office within the Executive Office of the Governor; creating the Statewide Sea-Level Rise Task Force within the office; authorizing the Department of Environmental Protection to contract for specified services, upon request of the task force; requiring the Environmental Regulation Commission to take certain action on the task force's recommendations, etc. APPROPRIATION: \$500,000 Effective Date: 7/1/2020

Actions

02/06/2020 SENATE Placed on Calendar, on 2nd reading

SB 7054 Transportation by Infrastructure and Security

Transportation; Revising the organization of the Department of Transportation; revising uses for distributions made under the State Transportation Trust Fund in specified fiscal years; deleting the scheduled expiration of funding for the Intermodal Logistics Center Infrastructure Support Program; requiring airport protection zoning regulations to require certain permit applicants to submit a final valid determination from the Federal Aviation Administration, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020

Actions

02/20/2020 SENATE On Committee agenda - Appropriations Subcommittee on Transportation, Tourism, and Economic Development, 02/25/20, 1:00 pm, 110 S

HB 9027 UF/IFAS Algal Bloom Research & Mitigation by Eagle

UF/IFAS Algal Bloom Research & Mitigation: Provides an appropriation for the UF/IFAS Algal Bloom Research & Mitigation. Effective Date: July 1, 2020

Actions

01/15/2020 HOUSE Now in Appropriations Committee

Generated 2/23/2020 11:28 PM