

# WEEK 2 REPORT

// 2020 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA

JANUARY 20-24, 2020



# // WEEK 2 REPORT

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We are through the second week of the 2020 Legislative Session and looking forward to the third week! We are thrilled to host members of Marine Industries Association of Florida in Tallahassee this week.

We have a packed agenda for those traveling all the way to Tallahassee. On Monday, we have a great list of speakers ranging from the News Service of Florida to the Chief Financial Officer of Florida. We have a reception and dinner planned, so members from around the state can mingle and exchange ideas and network. On Tuesday, we have breakfast and several speakers, and then numerous appointments with legislators at the Capitol. We are looking forward to this event, as we have not had a “Marine Industries Day on the Hill” in many years.

Of course, even with all the speakers and meetings, we still have to pay attention to the many bills we are watching this Legislative Session. As of the writing of this report, none of the “anchoring” bills were heard during the second week of Session, and are not currently on any agenda for the third week of Session.

Specifically, CS/SB 606-Anchoring Limitations has passed out of one committee as a committee substitute, but it is not on the agenda for Senate Community Affairs. The House companion, HB 417, has yet to be heard in a House committee, and is not on an agenda for the third week as of the writing of this report.

Similarly, HB 1407 and SB 1378 relating to Vessels have yet to be placed on an agenda in the House or the Senate. However, we have been in constant negotiation with the City of St. Petersburg, the sponsors, and the lobbyists on this issue. This bill has the potential to be placed on agendas during the fourth week of Legislative Session in a totally different form that has been negotiated by numerous parties. As of Saturday, the bill language was still being re-worked.

Other items of interest this week on committee agendas include SB 1450 Environmental Enforcement in the Senate Environment and Natural Resources Committee, a presentation by FWC on Derelict Vessels in the Senate

Appropriations Subcommittee on Agriculture, Environment and General Government Subcommittee. A proposed committee substitute was filed to Senate Bill 712 for the Senate Appropriations Committee. The Senate Appropriations Committee is not meeting this week.

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 any potential or filed amendments.

Again, we are looking forward to this week! Thank you again for this opportunity!

A handwritten signature in black ink, appearing to read "Margaret Timmins". The signature is stylized with a large, sweeping flourish at the end.

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

*Attached documents: CS/SB 606 + staff analysis; HB 417 (as filed)*

## // MARINA EVACUATIONS

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

**House Bill 475 // Rep. Rene Plasencia // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee**

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

**Senate Bill 826:** Prohibiting vessels under a specified weight from remaining in certain marinas that have been deemed not suitable for refuge during a hurricane after the issuance of a hurricane watch or warning for the waters of the marina; providing for civil penalties, etc

**Most Recent Action:** Referred to Environment and Natural Resources; Infrastructure and Security; Rules

**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

*Attached documents: SB 826 (as filed); HB 1329 (as filed)*

## // ENVIRONMENTAL ENFORCEMENT

**Senate Bill 1450 // Sen. Joe Gruters // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; 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: *IDENTICAL*

**Senate Bill 1450:** 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. Additionally, the bill changes the duration that certain penalties may run, so that, until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.

**Most Recent Action:** On Committee agenda - Environment and Natural Resources, 01/27/20, 4:00 pm

**House Bill 1091:** 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.

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

*Attached documents: SB 1450 (as filed) + staff analysis + 1 amendment; HB 1091 (as filed)*

## // 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: *IDENTICAL*

**Senate Bill 1378:** Specifying operation of a vessel at slow speed, minimum wake; prohibiting the operation of vessels at speeds faster than slow speed, minimum wake in certain situations; prohibiting the anchoring or mooring of a vessel to, or within a specified distance of, a mangrove or to vegetation upon, or within a specified distance of, public lands; revising civil penalties relating to certain at-risk vessels and prohibited anchoring or mooring, etc.

**Most Recent Action:** Referred to Environment and Natural Resources; Judiciary; Rules

**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: SB 1378 (as filed); HB 1407 (as filed)*

## // 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: *SIMILAR*

**Senate Bill 1360:** Florida Endangered and Threatened Species Act; directing the Fish and Wildlife Conservation Commission to protect certain declassified species; prohibiting the commission and the Department of Environmental Protection 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.

**Most Recent Action:** Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

**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: SB 1360 (as filed); HB 1067 (as filed)*

## // 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*

**Senate Bill 1414:** 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 or research purposes, etc.

**Most Recent Action:** Referred to Environment and Natural Resources; Agriculture; Rules

**House Bill 777:** 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.

**Most Recent Action:** Referred to Agriculture & Natural Resources Subcommittee; Ways & Means Committee; State Affairs Committee

*Attached documents: SB 1414 (as filed); HB 777 (as filed)*

## // 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: SB 1788 (as filed)*

## // ENVIRONMENTAL PROTECTION

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

**Senate Bill 1878:** Requiring a minimum annual appropriation for Everglades restoration and the protection of water resources in this state beginning in a specified fiscal year; providing 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, etc.

**Most Recent Action:** Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

*Attached documents: SB 1878 (as filed)*

## // 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.<sup>1</sup> 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:** Subcommittee Recommendation: Favorable with CS by Appropriations Subcommittee on Agriculture, Environment and General Government; 9 Yeas, 0 Nays

*Attached documents: PCS for CS/SB 712 + staff analysis*

## // BOATING-RELATED APPROPRIATIONS

### Boating Appropriations Highlights

Below are several boating appropriation items included in the governor’s proposed budget.

We will update you on the House and Senate proposed budgets once they are released.

### 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

Thank you again for the opportunity to represent you in Tallahassee. As you can see from the highlights above, we have a lot on our plate this Session. Please review the entire tracking list that is attached if you would like to see every bill we are tracking this Session... so far!

# APPENDIX

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## // ANCHORING LIMITATION AREAS

CS/SB 606 + Staff Analysis  
HB 417 (as filed)

## // MARINA EVACUATION

SB 826 (as filed)  
HB 1329 (as filed)

## // ENVIRONMENTAL ENFORCEMENT

SB 1450 (as filed) + 1 Amendment + Staff Analysis  
HB 1091 (as filed)

## // VESSELS

SB 1378 (as filed)  
HB 1407 (as filed)

## // FLORIDA ENDANGERED & THREATENED SPECIES ACT

SB 1360 (as filed)  
HB 1067 (as filed)

## // FISH AND WILDLIFE ACTIVITIES

SB 1414 (as filed)  
HB 777 (as filed)

## // VESSEL SAFETY

SB 1786 (as filed)

## // BOATING-RESTRICTED AREAS

SB 1788 (as filed)

## // ENVIRONMENTAL PROTECTION

SB 1878 (as filed)

## // WATER QUALITY IMPROVEMENTS

PCS for CS/SB 712 + Staff Analysis

## // CURRENT BILL TRACKING LIST

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

592-02236-20

2020606c1

1                                   A bill to be entitled  
2       An act relating to anchoring limitation areas;  
3       amending s. 327.4108, F.S.; designating specified  
4       waterways as anchoring limitation areas; providing an  
5       effective date.

6  
7   Be It Enacted by the Legislature of the State of Florida:

8  
9       Section 1. Paragraphs (d) and (e) are added to subsection  
10      (1) of section 327.4108, Florida Statutes, to read:

11           327.4108 Anchoring of vessels in anchoring limitation  
12      areas.—

13           (1) The following densely populated urban areas, which have  
14      narrow state waterways, residential docking facilities, and  
15      significant recreational boating traffic, are designated as  
16      anchoring limitation areas:

17           (d) The Ortega River and the Cedar River in Duval County.

18           (e) Any portions of Kings Bay which are located within the  
19      municipal boundaries of Crystal River in Citrus County.

20       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.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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**BILL:** CS/SB 606

**INTRODUCER:** Environment and Natural Resources and Senator Bean

**SUBJECT:** Anchoring Limitation Areas

**DATE:** January 13, 2020      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dyson	Rogers	EN	<b>Fav/CS</b>
2.			CA	
3.			RC	

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

**I. Summary:**

CS/SB 606 adds the Ortega and Cedar rivers in Duval County, and Kings Bay within the municipal boundaries of Crystal River in Citrus County to the list of designated anchoring limitation areas, which restricts the anchoring of a vessel in such areas at night with certain exceptions.

**II. Present Situation:**

**Ortega River**

The Ortega River is located approximately 4.2 miles southwest of Jacksonville in Duval County, and branches off of the St. Johns River.<sup>1</sup> The Ortega River is known for being the recreational boating center of northeast Florida.<sup>2</sup> It is home to the “Marina Mile” which features several marinas, boat shops, yacht sales, and other marine type shops.<sup>3</sup>

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<sup>1</sup> Marinas.com, *Ortega River Inlet*, [https://marinas.com/view/inlet/wjiwq\\_Ortega\\_River\\_Inlet\\_Jacksonville\\_FL\\_United\\_States](https://marinas.com/view/inlet/wjiwq_Ortega_River_Inlet_Jacksonville_FL_United_States) (last visited Nov. 7, 2019).

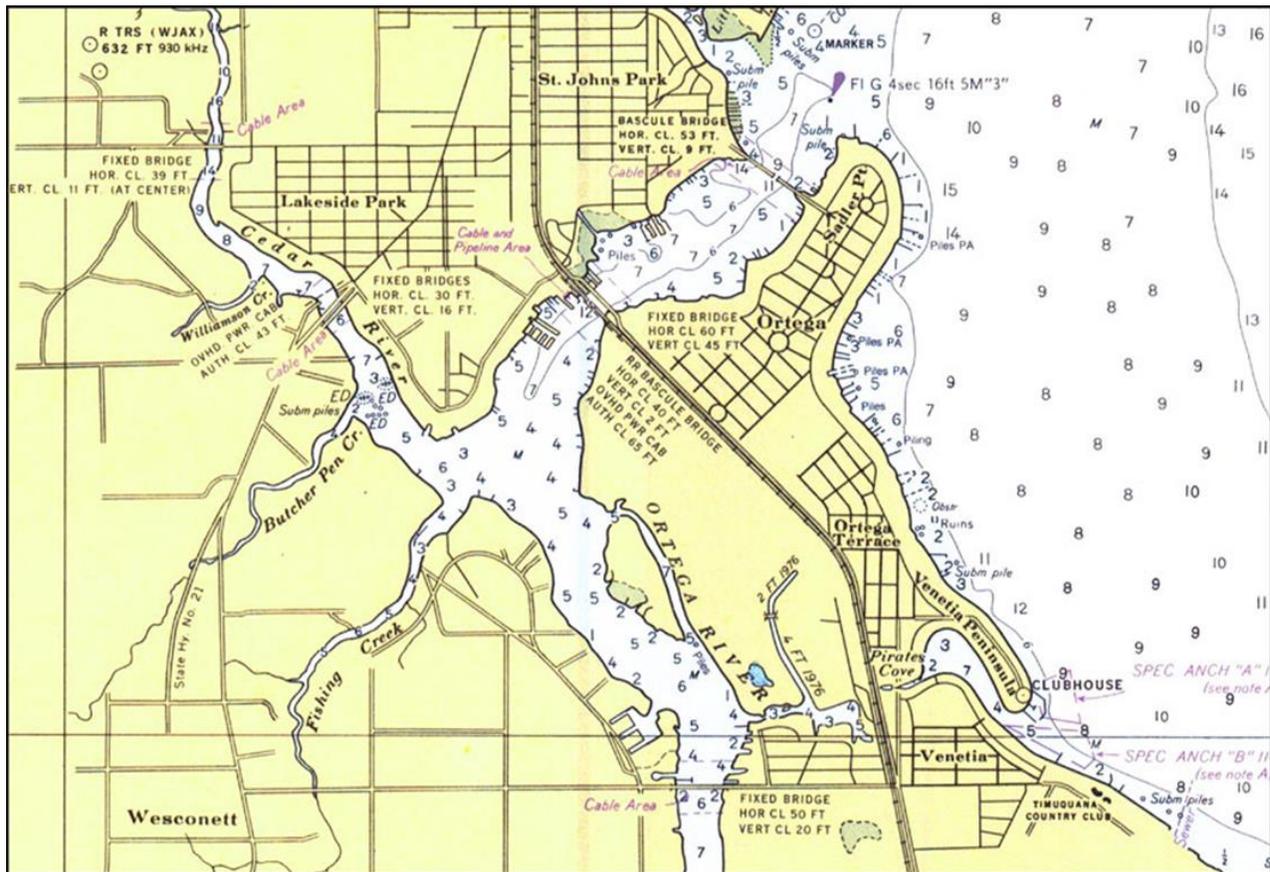
<sup>2</sup> Metro Jacksonville, *The Forgotten Rivers of Jacksonville, Ortega River* (Jun. 18, 2015), <https://www.metrojacksonville.com/article/2015-jun-the-forgotten-rivers-of-jacksonville/page/1> (last visited Nov. 7, 2019).

<sup>3</sup> *Id.*

## Cedar River

The Cedar River is located on the west side of Jacksonville, and runs into the Ortega River.<sup>4</sup> The Cedar River area is well known for outstanding food, especially the Cedar River Restaurant which opened in 1976.<sup>5</sup>

A map of both rivers can be seen below:<sup>6</sup>



## Kings Bay

Kings Bay is located on the west coast of Florida, and together with Crystal River makes up the second largest spring in Florida with more than 70 springs scattered within the 600 acre bay. The springs are the headwaters of Crystal River, which is a short, tidal river that flows seven miles from the headsprings to where it meets the Gulf of Mexico at Crystal Bay in Citrus County, Florida. Crystal River/Kings Bay is the largest natural winter refuge for Manatees on the Florida Gulf Coast.<sup>7</sup>

<sup>4</sup> Metro Jacksonville, *The Forgotten Rivers of Jacksonville, Cedar River* (Jun. 18, 2015), <https://www.metrojacksonville.com/article/2015-jun-the-forgotten-rivers-of-jacksonville/page/> (last visited Nov. 7, 2019).

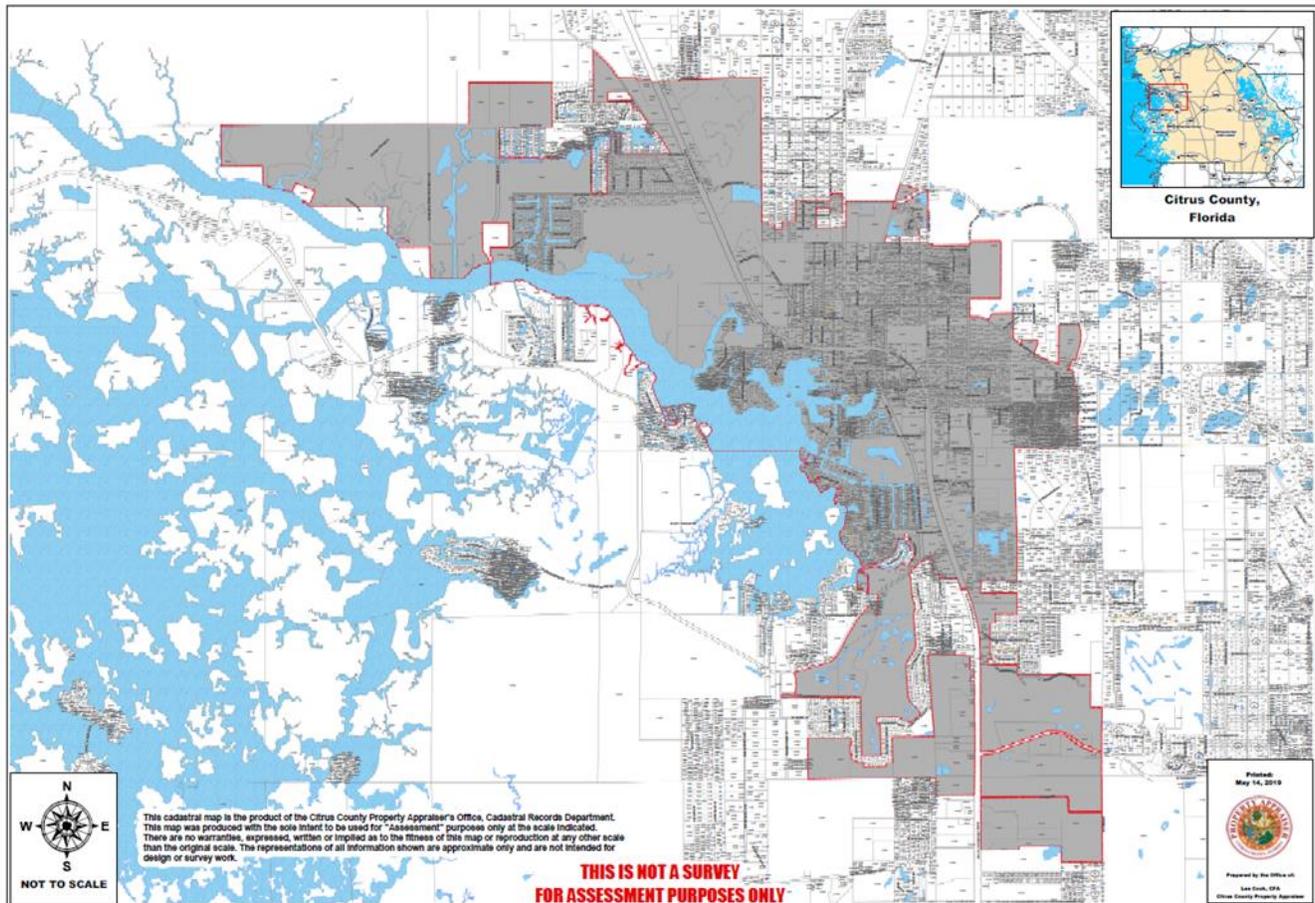
<sup>5</sup> *Id.*

<sup>6</sup> Maps Etc., *St. Johns River: Ortega, 1977*, <http://fcit.usf.edu/florida/maps/pages/3800/f3853/f3853.htm> (last visited Nov. 7, 2019).

<sup>7</sup> Southwest Florida Water Management District, *Crystal River/Kings Bay, Citrus County*, <https://www.swfwmd.state.fl.us/projects/springs/kings-bay> (last visited Jan. 9, 2020).

A map of the water body can be seen below:<sup>8</sup>

## City of Crystal Municipal Limits



### Anchoring and Mooring

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.<sup>9</sup> Mooring is accomplished through the utilization of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.<sup>10</sup>

<sup>8</sup> Crystal River Florida, *City of Crystal Municipal Limits*, [http://crystalriverfl.org/page/open/106/0/Cr\\_Municipal%20Limits\\_Map\\_04\\_14\\_2019.pdf](http://crystalriverfl.org/page/open/106/0/Cr_Municipal%20Limits_Map_04_14_2019.pdf) (last visited Jan. 14, 2020).

<sup>9</sup> Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

<sup>10</sup> Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf> (last visited Nov. 7, 2019).

The anchoring of vessels has created issues in some areas of the state related to the use and enjoyment of the waters. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly;
- Vessels that become derelict;<sup>11</sup>
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.<sup>12</sup>

### ***State Regulation of the Anchoring or Mooring of Vessels***

The Board of Trustees of the Internal Improvement Trust Fund (Board), which consists of the Governor and the Cabinet, is responsible for administering, controlling, and managing sovereignty submerged lands.<sup>13</sup> The board is authorized to adopt rules governing all uses of sovereignty submerged lands including rules for anchoring, mooring, or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages. Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.<sup>14</sup>

Section 327.44, F.S., prohibits a person from anchoring a vessel, except in case of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.<sup>15</sup> Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.<sup>16</sup>

The FWC and other law enforcement agencies are authorized to relocate or remove a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. The FWC or any law enforcement agency the relocates or removes a vessel under these circumstances must be held harmless for all damages to the vessel resulting from the relocation

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<sup>11</sup> Section 823.11(1)(b), F.S. A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property; Citizens that live along the Ortega River have expressed concerns about derelict vessels that have sunk. Vessels that have sunk create a significant danger because the mast can reach close to the surface but cannot be seen by incoming boats. See First Coast News, *Ortega River Homeowners Looking Forward to Removal of 'Abandoned' Boats From River* (Oct. 9, 2019), <https://www.firstcoastnews.com/article/news/local/ortega-river-homeowners-looking-forward-to-removal-of-abandoned-boats-from-river/77-b2c3bcc6-ac86-4570-b449-49ddc1c51a5c> (last visited Dec. 19, 2019).

<sup>12</sup> Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 6 (Dec. 31, 2016), available at <http://www.boatus.com/gov/assets/pdf/fwc-2016-anchoring-and-mooring-report.pdf>.

<sup>13</sup> Section 253.03(7), F.S.

<sup>14</sup> See Fla. Admin. Code Ch. 18-21.

<sup>15</sup> Section 327.44(2), F.S.

<sup>16</sup> Section 327.73, F.S.

or removal unless the damage results from gross negligence or willful misconduct.<sup>17</sup> The costs to relocate or remove a vessel under these circumstances are recoverable against the vessel owner.<sup>18</sup>

The owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility (a facility that services or repairs a yacht with a water line of 120 feet or more in length); or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the local government within which the mooring field is located.<sup>19</sup>

Exceptions from these restrictions apply for:

- A vessel owned or operated by a governmental entity.
- A construction or dredging vessel on an active job site.
- A commercial fishing vessel actively engaged in commercial fishing.
- A vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.<sup>20</sup>

An owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for 5 business days or until the vessel is repaired, whichever occurs first.
- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk.<sup>21</sup>

The owner or operator of a vessel or floating structure may not anchor or moor within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.<sup>22</sup>

A vessel or floating structure may not be anchored, moored, or affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of this state. This does not apply to a private mooring owned by the owner of privately owned submerged lands.<sup>23</sup>

An anchoring or mooring violation of is a noncriminal infraction, punishable as follows:

- For a first offense, up to a maximum of \$50.

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<sup>17</sup> Section 327.44(3), F.S.

<sup>18</sup> Section 327.44(5), F.S.

<sup>19</sup> Section 327.4109(1)(a), F.S.

<sup>20</sup> Section 327.4109(1)(b), F.S.

<sup>21</sup> Section 327.4109(2), F.S.

<sup>22</sup> Section 327.4109(3), F.S.

<sup>23</sup> Section 327.4019(4), F.S.

- For a second offense, up to a maximum of \$100.
- For a third or subsequent offense, up to a maximum of \$250.<sup>24</sup>

In 2019 the Legislature directed the Fish and Wildlife Commission (FWC) to conduct a study that will:

- Investigate whether, and to what extent, long term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state;
- Investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, and vessels moored within public mooring fields on the local and state economies; public safety; public boat ramps, staging docks, and public marinas; and the environment during and after significant tropical storm and hurricane events; and
- Provide recommendations for appropriate management options for long-term stored vessels and vessels anchored or moored outside public mooring fields for more than 30 days to mitigate any identified negative impacts to local communities and this state.<sup>25</sup>

The study should not take more than 2 years and must be submitted to the Governor and Legislature within 6 months after completion. The requirement for the study was contingent on an appropriation and funds have not been appropriated at this time.<sup>26</sup>

### **Anchoring Limitation Areas**

Section 327.4108 F.S., designates three “anchoring limitation areas” that are characterized as “densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant recreational boating traffic.” These anchoring limitation areas include:

- The section of Middle River lying between Northeast 21<sup>st</sup> Court and the Intracoastal Waterway in Broward County;
- Sunset Lake in Miami Dade County; and
- The sections of Biscayne Bay in Miami-Dade County lying between:
  - River Alto Island and Di Lido Island;
  - San Marino Island and San Marco Island; and
  - San Marco Island and Biscayne Island.<sup>27</sup>

Within these anchoring limitation areas, a person may not anchor a vessel at any time during the period between one-half hour after sunset and one-half hour before sunrise.<sup>28</sup> A person may anchor a vessel in an anchoring limitation area:

- If the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor for 3 business days or until the vessel is repaired, whichever occurs first;

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<sup>24</sup> Section 327.4109(5), F.S.

<sup>25</sup> Section 327.4109(6), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Section 327.4108(1), F.S.

<sup>28</sup> Section 327.4108(2), F.S.

- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired; or
- During a regatta, race, marine parade, tournament, exhibition,<sup>29</sup> or other special events, including, but not limited to, public music performances, local government waterfront activities, or fireworks display. A vessel may anchor for the lesser of the duration of the special event or three days.<sup>30</sup>

These limitations do not apply to:

- Vessels owned or operated by a governmental entity or law enforcement, firefighting, military, or rescue purposes;
- Construction or dredging vessels on an active job site;
- Vessels actively engaged in commercial fishing; or
- Vessels engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.<sup>31</sup>

### **Local Regulation of the Anchoring or Mooring of Vessels**

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.<sup>32</sup> Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters for which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scrapping and painting are not authorized within such mooring fields.<sup>33</sup>

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.<sup>34</sup> However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or

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<sup>29</sup> Section 327.48, F.S.

<sup>30</sup> Section 327.4108(3), F.S.

<sup>31</sup> Section 327.4108(4), F.S.

<sup>32</sup> Section 373.118, F.S., and Rule 62-330.420(1), F.A.C.

<sup>33</sup> See Rule 62-330.420, F.A.C.

<sup>34</sup> Section 327.60(3), F.S.; See s. 327.02, F.S., which defines the term “floating structure” as a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such.

local regulation that regulates the anchoring of vessels other than live-aboard vessels outside the marked boundaries of permitted mooring fields.<sup>35</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 327.4108, F.S., adding the Ortega and Cedar rivers in Duval County, and any portions of Kings Bay located within the municipal boundaries of Crystal River in Citrus County to the list of anchoring limitation areas. This means that a person may not anchor their vessel in such areas during the period between one-half hour after sunset and one-half hour before sunrise, with certain exceptions.

**Section 2** of the bill provides an effective date of 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:

Art. III, s. 10 of the Florida Constitution prohibits the Legislature from enacting any special law unless notice is first published or a referendum is conducted. A special law or “local law” relates to or operates upon a particular person, thing, or part of the state; it does not apply with geographic uniformity across the state and bears no reasonable relationship to differences in population or other legitimate criteria.<sup>36</sup> On the other hand, a general law of local application relates to a class of persons or things or subdivisions of the state, based upon distinctions or differences that are inherent or particular to the class or location. The Legislature is granted wide discretion in making such classifications.<sup>37</sup> If a particular condition exists in only a portion of the state, enactments that reference the

<sup>35</sup> Section 327.60(2)(f), F.S.; *See* s. 327.02, F.S., which defines the term “live-aboard vessel” as a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats.

<sup>36</sup> *See State ex rel. Landis v. Harris*, 163 So. 237, 240 (Fla. 1934); *Lawnwood Medical Center, Inc. v. Seeger*, 990 So.2d 503 (Fla. 2008).

<sup>37</sup> *Shelton v. Reeder*, 121 So. 2d 145, 151 (Fla. 1960). *See also* Art. X, s. 11 of the Florida Constitution.

limited geographic area may be general laws.<sup>38</sup> “[I]f a law utilizes a classification that is geographical in its terms but the purpose of the statute is one of statewide importance and impact, and the classification is reasonably related to the law’s purpose, it is a valid general law.”<sup>39</sup>

**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 s. 327.4108 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 Committee on January 13, 2020:**

- Adds any portions of Kings Bay which are located within the municipal boundaries of Crystal River in Citrus County to the list of anchoring limitation areas.

B. Amendments:

None.

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

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<sup>38</sup> *Schrader v. Florida Keys Aqueduct Authority*, 840 So.2d 1050, 1055 (Fla. 2003).

<sup>39</sup> *Id.* at 1056.

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1                   A bill to be entitled  
2           An act relating to anchoring limitation areas;  
3           amending s. 327.4108, F.S.; designating specified  
4           waterways as anchoring limitation areas; providing an  
5           effective date.

6  
7   Be It Enacted by the Legislature of the State of Florida:

8  
9           Section 1. Paragraph (d) is added to subsection (1) of  
10          section 327.4108, Florida Statutes, to read:

11           327.4108 Anchoring of vessels in anchoring limitation  
12          areas.—

13           (1) The following densely populated urban areas, which  
14          have narrow state waterways, residential docking facilities, and  
15          significant recreational boating traffic, are designated as  
16          anchoring limitation areas:

17           (d) The Ortega River and the Cedar River in Duval County.

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

By Senator Mayfield

17-00936A-20

2020826\_\_

1                   A bill to be entitled  
2           An act relating to marina evacuations; amending s.  
3           327.59, F.S.; prohibiting vessels under a specified  
4           weight from remaining in certain marinas that have  
5           been deemed not suitable for refuge during a hurricane  
6           after the issuance of a hurricane watch or warning for  
7           the waters of the marina; providing for civil  
8           penalties; providing an effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

11  
12           Section 1. Subsection (1) of section 327.59, Florida  
13           Statutes, is amended, and subsection (5) is added to that  
14           section, to read:

15           327.59 Marina evacuations.—

16           (1) Except as provided in this section ~~After June 1, 1994,~~  
17           marinas may not adopt, maintain, or enforce policies pertaining  
18           to evacuation of vessels which require vessels to be removed  
19           from marinas following the issuance of a hurricane watch or  
20           warning, in order to ensure that protecting the lives and safety  
21           of vessel owners is placed before interests of protecting  
22           property.

23           (5) Upon the issuance of a hurricane watch or warning  
24           affecting the waters of marinas located in a deepwater seaport,  
25           vessels under 500 gross tons may not remain in the waters of  
26           such marinas that have been deemed not suitable for refuge  
27           during a hurricane. After the hurricane watch or warning has  
28           been issued, the owner or operator of any vessel that has not  
29           been removed, pursuant to an order from the seaport, from the

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2020826\_\_

30 waters of the marina may be subject to the penalties under s.  
31 313.22(3).

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

1                                   A bill to be entitled  
 2           An act relating to marina evacuations; amending s.  
 3           327.59, F.S.; prohibiting vessels under a specified  
 4           weight from remaining in certain marinas that have  
 5           been deemed not suitable for refuge during a hurricane  
 6           after the issuance of a hurricane watch or warning for  
 7           the waters of the marina; providing for civil  
 8           penalties; providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Subsection (1) of section 327.59, Florida  
 13 Statutes, is amended, and subsection (5) is added to that  
 14 section, to read:

15           327.59 Marina evacuations.—

16           (1) Except as provided in this section ~~After June 1, 1994,~~  
 17 marinas may not adopt, maintain, or enforce policies pertaining  
 18 to evacuation of vessels which require vessels to be removed  
 19 from marinas following the issuance of a hurricane watch or  
 20 warning, in order to ensure that protecting the lives and safety  
 21 of vessel owners is placed before interests of protecting  
 22 property.

23           (5) Upon the issuance of a hurricane watch or warning  
 24 affecting the waters of marinas located in a deepwater seaport,  
 25 vessels under 500 gross tons may not remain in the waters of

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26 such marinas that have been deemed not suitable for refuge  
27 during a hurricane. After the hurricane watch or warning has  
28 been issued, the owner or operator of any vessel that has not  
29 been removed, pursuant to an order from the seaport, from the  
30 waters of the marina may be subject to the penalties under s.  
31 313.22(3).

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

By Senator Gruters

23-01448A-20

20201450\_\_

1                                   A bill to be entitled  
2       An act relating to environmental enforcement; amending  
3       ss. 161.054, 258.397, 258.46, 373.129, 373.209,  
4       373.430, 376.065, 376.071, 376.16, 376.25, 377.37,  
5       378.211, 403.086, 403.121, 403.141, 403.161, 403.413,  
6       403.7234, 403.726, 403.727, and 403.93345, F.S.;  
7       increasing the civil penalties for violations of  
8       certain provisions relating to beach and shore  
9       construction, the Biscayne Bay Aquatic Preserve,  
10      aquatic preserves, the state water resource plan,  
11      artesian wells, pollution, operating a terminal  
12      facility without discharge prevention and response  
13      certificates, discharge contingency plans for vessels,  
14      the Pollutant Discharge Prevention and Control Act,  
15      the Clean Ocean Act, the pollution of surface and  
16      ground waters, the regulation of oil and gas  
17      resources, the Phosphate Land Reclamation Act, sewage  
18      disposal facilities, pollution control, reasonable  
19      costs and expenses for pollution releases, necessary  
20      permits, dumping litter, small quantity generators,  
21      the abatement of imminent hazards caused by hazardous  
22      substances, hazardous waste generators, transporters,  
23      or facilities, and coral reef protection,  
24      respectively; providing that each day that certain  
25      violations are not remediated constitutes a separate  
26      offense; making technical changes; reenacting s.  
27      823.11(5), F.S., to incorporate the amendment made to  
28      s. 376.16, F.S., in a reference thereto; reenacting  
29      ss. 403.077(5), 403.131(2), 403.4154(3)(d), and

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30 403.860(5), F.S., to incorporate the amendment made to  
31 s. 403.121, F.S., in a reference thereto; reenacting  
32 ss. 403.708(10), 403.7191(7), and 403.811, F.S., to  
33 incorporate the amendment made to s. 403.141, F.S., in  
34 a reference thereto; reenacting s. 403.7255(2), F.S.,  
35 to incorporate the amendment made to s. 403.161, F.S.,  
36 in a reference thereto; reenacting s. 403.7186(8),  
37 F.S., to incorporate the amendment made to ss. 403.141  
38 and 403.161, F.S., in references thereto; providing an  
39 effective date.  
40

41 Be It Enacted by the Legislature of the State of Florida:  
42

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

45 161.054 Administrative fines; liability for damage; liens.-

46 (1) In addition to the penalties provided for in ss.  
47 161.052, 161.053, and 161.121, any person, firm, corporation, or  
48 governmental agency, or agent thereof, refusing to comply with  
49 or willfully violating ~~any of the provisions of~~ s. 161.041, s.  
50 161.052, or s. 161.053, or any rule or order prescribed by the  
51 department thereunder, shall incur a fine for each offense in an  
52 amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected  
53 by the department. Until a violation is resolved by order or  
54 judgment, each day during any portion of which such violation  
55 occurs or is not remediated constitutes a separate offense.

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

58 258.397 Biscayne Bay Aquatic Preserve.-

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59 (7) ENFORCEMENT. ~~The provisions of~~ This section may be  
60 enforced in accordance with ~~the provisions of~~ s. 403.412. In  
61 addition, the Department of Legal Affairs may ~~is authorized to~~  
62 bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day  
63 against any person, natural or corporate, who violates ~~the~~  
64 ~~provisions of~~ this section or any rule or regulation issued  
65 hereunder. Until a violation is resolved by order or judgment,  
66 each day during any portion of which such violation occurs or is  
67 not remediated constitutes a separate offense. Enforcement of  
68 applicable state regulations shall be supplemented by the Miami-  
69 Dade County Department of Environmental Resources Management  
70 through the creation of a full-time enforcement presence along  
71 the Miami River.

72 Section 3. Section 258.46, Florida Statutes, is amended to  
73 read:

74 258.46 Enforcement; violations; penalty. ~~The provisions of~~  
75 This act may be enforced by the Board of Trustees of the  
76 Internal Improvement Trust Fund or in accordance with ~~the~~  
77 ~~provisions of~~ s. 403.412. However, any violation by any person,  
78 natural or corporate, of ~~the provisions of~~ this act or any rule  
79 or regulation issued hereunder is ~~shall be~~ further punishable by  
80 a civil penalty of not less than \$750 ~~\$500~~ per day or more than  
81 \$7,500 ~~\$5,000~~ per day of such violation. Until a violation is  
82 resolved by order or judgment, each day during any portion of  
83 which such violation occurs or is not remediated constitutes a  
84 separate offense.

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

87 373.129 Maintenance of actions.—The department, the

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88 governing board of any water management district, any local  
89 board, or a local government to which authority has been  
90 delegated pursuant to s. 373.103(8), is authorized to commence  
91 and maintain proper and necessary actions and proceedings in any  
92 court of competent jurisdiction for any of the following  
93 purposes:

94 (5) To recover a civil penalty for each offense in an  
95 amount not to exceed \$15,000 ~~\$10,000~~ per offense. Until a  
96 violation is resolved by order or judgment, each date during any  
97 portion of which such violation occurs or is not remediated  
98 constitutes a separate offense.

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

105 (b) A local government that is delegated authority pursuant  
106 to s. 373.103(8) may deposit a civil penalty recovered pursuant  
107 to this subsection into a local water pollution control program  
108 trust fund, notwithstanding ~~the provisions of~~ paragraph (a).  
109 However, civil penalties that are deposited in a local water  
110 pollution control program trust fund and that are recovered for  
111 violations of state water quality standards may be used only to  
112 restore water quality in the area that was the subject of the  
113 action, and civil penalties that are deposited in a local water  
114 pollution control program trust fund and that are recovered for  
115 violation of requirements relating to water quantity may be used  
116 only to purchase lands and make capital improvements associated

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117 with surface water management, or other purposes consistent with  
118 the requirements of this chapter for the management and storage  
119 of surface water.

120 (7) To enforce ~~the provisions of~~ part IV of this chapter in  
121 the same manner and to the same extent as provided in ss.  
122 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

123 Section 5. Subsection (3) of section 373.209, Florida  
124 Statutes, is amended to read:

125 373.209 Artesian wells; penalties for violation.-

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

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

129 (b) A civil penalty of \$150 ~~\$100~~ a day for each and every  
130 day of such violation and for each and every act of violation.

131 The civil penalty may be recovered by the water management board  
132 of the water management district in which the well is located or  
133 by the department in a suit in a court of competent jurisdiction  
134 in the county where the defendant resides, in the county of  
135 residence of any defendant if there is more than one defendant,  
136 or in the county where the violation took place. The place of  
137 suit shall be selected by the board or department, and the suit,  
138 by direction of the board or department, shall be instituted and  
139 conducted in the name of the board or department by appropriate  
140 counsel. The payment of any such damages does not impair or  
141 abridge any cause of action which any person may have against  
142 the person violating ~~any provision of~~ this section.

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

145 373.430 Prohibitions, violation, penalty, intent.-

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

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

157 (4) A ~~Any~~ person who commits a violation specified in  
158 paragraph (1)(a) or paragraph (1)(b) due to reckless  
159 indifference or gross careless disregard commits ~~is guilty of~~ a  
160 misdemeanor of the second degree, punishable as provided in ss.  
161 775.082(4)(b) and 775.083(1)(g), by a fine of not more than  
162 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

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

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

171 376.065 Operation of terminal facility without discharge  
172 prevention and response certificate prohibited; penalty.-

173 (5) (a) A person who violates this section or the terms and  
174 requirements of such certification commits a noncriminal

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175 infraction. The civil penalty for any such infraction shall be  
176 \$750 ~~\$500~~, except as otherwise provided in this section.

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

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

185 376.071 Discharge contingency plan for vessels.—

186 (2) (a) A master of a vessel that violates subsection (1)  
187 commits a noncriminal infraction and shall be cited for such  
188 infraction. The civil penalty for such an infraction shall be  
189 \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

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

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

198 376.16 Enforcement and penalties.—

199 (1) It is unlawful for any person to violate ~~any provision~~  
200 ~~of~~ ss. 376.011-376.21 or any rule or order of the department  
201 made pursuant to this act. A violation is shall be punishable by  
202 a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day  
203 to be assessed by the department. Until a violation is resolved

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204 by order or judgment, each day during any portion of which the  
205 violation occurs or is not remediated constitutes a separate  
206 offense. The penalty provisions of this subsection do ~~shall~~ not  
207 apply to any discharge promptly reported and removed by a person  
208 responsible, in accordance with the rules and orders of the  
209 department, or to any discharge of pollutants equal to or less  
210 than 5 gallons.

211 (2) In addition to the penalty provisions which may apply  
212 under subsection (1), a person responsible for two or more  
213 discharges of any pollutant reported pursuant to s. 376.12  
214 within a 12-month period at the same facility commits a  
215 noncriminal infraction and shall be cited by the department for  
216 such infraction.

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

222 (b) For discharges of any pollutant other than gasoline or  
223 diesel, the civil penalty for a second discharge shall be \$3,750  
224 ~~\$2,500~~ and the civil penalty for each subsequent discharge  
225 within a 12-month period shall be \$7,500 ~~\$5,000~~, except as  
226 otherwise provided in this section.

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

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

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233 discharge subsequent to the first.

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

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

239 (a) Pay the civil penalty;

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

242 (c) Sign and accept a citation indicating a promise to  
243 appear before the county court.

244

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

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

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

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

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

258

259 A person cited for an infraction under this section who pays the  
260 civil penalty or forfeits the bond has admitted the infraction  
261 and waives the right to a hearing on the issue of commission of

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262 the infraction. Such admission may not be used as evidence in  
263 any other proceeding.

264 (7) Any person who elects to appear before the county court  
265 or who is required to appear waives the limitations of the civil  
266 penalties specified in subsection (2). The court, after a  
267 hearing, shall make a determination as to whether an infraction  
268 has been committed. If the commission of an infraction is  
269 proved, the court may impose a civil penalty up to, but not  
270 exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or  
271 diesel and a civil penalty up to, but not exceeding, \$1,500  
272 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel  
273 within a 12-month period.

274 (8) Any person who elects to appear before the county court  
275 or who is required to appear waives the limitations of the civil  
276 penalties specified in subsection (2) or subsection (3). The  
277 court, after a hearing, shall make a determination as to whether  
278 an infraction has been committed. If the commission of an  
279 infraction is proved, the court may impose a civil penalty up  
280 to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of  
281 pollutants other than gasoline or diesel and a civil penalty up  
282 to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent  
283 discharge of pollutants other than gasoline or diesel within a  
284 12-month period.

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

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

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

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

301 Section 10. Paragraph (a) of subsection (6) of section  
302 376.25, Florida Statutes, is amended to read:

303 376.25 Gambling vessels; registration; required and  
304 prohibited releases.—

305 (6) PENALTIES.—

306 (a) A person who violates this section is subject to a  
307 civil penalty of not more than \$75,000 ~~\$50,000~~ for each  
308 violation. Until a violation is resolved by order or judgment,  
309 each day during any portion of which such violation occurs or is  
310 not remediated constitutes a separate offense.

311 Section 11. Paragraph (a) of subsection (1) of section  
312 377.37, Florida Statutes, is amended to read:

313 377.37 Penalties.—

314 (1) (a) Any person who violates ~~any provision of~~ this law or  
315 any rule, regulation, or order of the division made under this  
316 chapter or who violates the terms of any permit to drill for or  
317 produce oil, gas, or other petroleum products referred to in s.  
318 377.242(1) or to store gas in a natural gas storage facility, or  
319 any lessee, permitholder, or operator of equipment or facilities

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320 used in the exploration for, drilling for, or production of oil,  
 321 gas, or other petroleum products, or storage of gas in a natural  
 322 gas storage facility, who refuses inspection by the division as  
 323 provided in this chapter, is liable to the state for any damage  
 324 caused to the air, waters, or property, including animal, plant,  
 325 or aquatic life, of the state and for reasonable costs and  
 326 expenses of the state in tracing the source of the discharge, in  
 327 controlling and abating the source and the pollutants, and in  
 328 restoring the air, waters, and property, including animal,  
 329 plant, and aquatic life, of the state. Furthermore, such person,  
 330 lessee, permitholder, or operator is subject to the judicial  
 331 imposition of a civil penalty in an amount of not more than  
 332 \$15,000 ~~\$10,000~~ for each offense. However, the court may receive  
 333 evidence in mitigation. Until a violation is resolved by order  
 334 or judgment, each day during any portion of which such violation  
 335 occurs or is not remediated constitutes a separate offense. This  
 336 section does not ~~Nothing herein shall~~ give the department the  
 337 right to bring an action on behalf of any private person.

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

340 378.211 Violations; damages; penalties.—

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

347 (a) For violations of a minor or technical nature, \$150  
 348 ~~\$100~~ per violation.

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

352 (c) For major violations not covered by paragraph (b),  
353 \$7,500 ~~\$5,000~~ per violation.

354  
355 Subject to ~~the provisions of~~ subsection (4), until a violation  
356 is resolved by order or judgment, each day or any portion  
357 thereof in which the violation continues or is not remediated  
358 shall constitute a separate violation.

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

361 403.086 Sewage disposal facilities; advanced and secondary  
362 waste treatment.—

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

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

372 403.121 Enforcement; procedure; remedies.—The department  
373 shall have the following judicial and administrative remedies  
374 available to it for violations of this chapter, as specified in  
375 s. 403.161(1).

376 (1) Judicial remedies:

377 (a) The department may institute a civil action in a court

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378 of competent jurisdiction to establish liability and to recover  
379 damages for any injury to the air, waters, or property,  
380 including animal, plant, and aquatic life, of the state caused  
381 by any violation.

382 (b) The department may institute a civil action in a court  
383 of competent jurisdiction to impose and to recover a civil  
384 penalty for each violation in an amount of not more than \$15,000  
385 ~~\$10,000~~ per offense. However, the court may receive evidence in  
386 mitigation. Until a violation is resolved by order or judgment,  
387 each day during any portion of which such violation occurs or is  
388 not remediated constitutes a separate offense.

389 (c) Except as provided in paragraph (2) (c), it is ~~shall~~ not  
390 ~~be~~ a defense to, or ground for dismissal of, these judicial  
391 remedies for damages and civil penalties that the department has  
392 failed to exhaust its administrative remedies, has failed to  
393 serve a notice of violation, or has failed to hold an  
394 administrative hearing prior to the institution of a civil  
395 action.

396 (2) Administrative remedies:

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

405 (b) If the department has reason to believe a violation has  
406 occurred, it may institute an administrative proceeding to order

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407 the prevention, abatement, or control of the conditions creating  
408 the violation or other appropriate corrective action. Except for  
409 violations involving hazardous wastes, asbestos, or underground  
410 injection, the department shall proceed administratively in all  
411 cases in which the department seeks administrative penalties  
412 that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated  
413 in accordance with subsections (3), (4), (5), (6), and (7).  
414 Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty  
415 assessed pursuant to subsection (3), subsection (4), or  
416 subsection (5) against a public water system serving a  
417 population of more than 10,000 shall be not less than \$1,000 per  
418 day per violation. The department may ~~shall~~ not impose  
419 administrative penalties in excess of \$50,000 ~~\$10,000~~ in a  
420 notice of violation. The department may ~~shall~~ not have more than  
421 one notice of violation seeking administrative penalties pending  
422 against the same party at the same time unless the violations  
423 occurred at a different site or the violations were discovered  
424 by the department subsequent to the filing of a previous notice  
425 of violation.

426 (c) An administrative proceeding shall be instituted by the  
427 department's serving of a written notice of violation upon the  
428 alleged violator by certified mail. If the department is unable  
429 to effect service by certified mail, the notice of violation may  
430 be hand delivered or personally served in accordance with  
431 chapter 48. The notice shall specify the ~~provision of the law,~~  
432 rule, regulation, permit, certification, or order of the  
433 department alleged to be violated and the facts alleged to  
434 constitute a violation thereof. An order for corrective action,  
435 penalty assessment, or damages may be included with the notice.

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436 When the department is seeking to impose an administrative  
437 penalty for any violation by issuing a notice of violation, any  
438 corrective action needed to correct the violation or damages  
439 caused by the violation must be pursued in the notice of  
440 violation or they are waived. However, an ~~no~~ order is not ~~shall~~  
441 ~~become~~ effective until after service and an administrative  
442 hearing, if requested within 20 days after service. Failure to  
443 request an administrative hearing within this time period  
444 constitutes ~~shall constitute~~ a waiver thereof, unless the  
445 respondent files a written notice with the department within  
446 this time period opting out of the administrative process  
447 initiated by the department to impose administrative penalties.  
448 Any respondent choosing to opt out of the administrative process  
449 initiated by the department in an action that seeks the  
450 imposition of administrative penalties must file a written  
451 notice with the department within 20 days after service of the  
452 notice of violation opting out of the administrative process. A  
453 respondent's decision to opt out of the administrative process  
454 does not preclude the department from initiating a state court  
455 action seeking injunctive relief, damages, and the judicial  
456 imposition of civil penalties.

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

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465 Administrative penalties should not be imposed unless the  
466 department satisfies that burden. Following the close of the  
467 hearing, the administrative law judge shall issue a final order  
468 on all matters, including the imposition of an administrative  
469 penalty. When the department seeks to enforce that portion of a  
470 final order imposing administrative penalties pursuant to s.  
471 120.69, the respondent may ~~shall~~ not assert as a defense the  
472 inappropriateness of the administrative remedy. The department  
473 retains its final-order authority in all administrative actions  
474 that do not request the imposition of administrative penalties.

475 (e) After filing a petition requesting a formal hearing in  
476 response to a notice of violation in which the department  
477 imposes an administrative penalty, a respondent may request that  
478 a private mediator be appointed to mediate the dispute by  
479 contacting the Florida Conflict Resolution Consortium within 10  
480 days after receipt of the initial order from the administrative  
481 law judge. The Florida Conflict Resolution Consortium shall pay  
482 all of the costs of the mediator and for up to 8 hours of the  
483 mediator's time per case at \$150 per hour. Upon notice from the  
484 respondent, the Florida Conflict Resolution Consortium shall  
485 provide to the respondent a panel of possible mediators from the  
486 area in which the hearing on the petition would be heard. The  
487 respondent shall select the mediator and notify the Florida  
488 Conflict Resolution Consortium of the selection within 15 days  
489 of receipt of the proposed panel of mediators. The Florida  
490 Conflict Resolution Consortium shall provide all of the  
491 administrative support for the mediation process. The mediation  
492 must be completed at least 15 days before the final hearing date  
493 set by the administrative law judge.

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

507 (g) Nothing herein shall be construed as preventing any  
508 other legal or administrative action in accordance with law.  
509 Nothing in this subsection shall limit the department's  
510 authority provided in ss. 403.131, 403.141, and this section to  
511 judicially pursue injunctive relief. When the department  
512 exercises its authority to judicially pursue injunctive relief,  
513 penalties in any amount up to the statutory maximum sought by  
514 the department must be pursued as part of the state court action  
515 and not by initiating a separate administrative proceeding. The  
516 department retains the authority to judicially pursue penalties  
517 in excess of \$50,000 ~~\$10,000~~ for violations not specifically  
518 included in the administrative penalty schedule, or for multiple  
519 or multiday violations alleged to exceed a total of \$50,000  
520 ~~\$10,000~~. The department also retains the authority provided in  
521 ss. 403.131, 403.141, and this section to judicially pursue  
522 injunctive relief and damages, if a notice of violation seeking

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523 the imposition of administrative penalties has not been issued.  
524 The department has the authority to enter into a settlement,  
525 either before or after initiating a notice of violation, and the  
526 settlement may include a penalty amount different from the  
527 administrative penalty schedule. Any case filed in state court  
528 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in  
529 penalties may be settled in the court action for less than  
530 \$50,000 ~~\$10,000~~.

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

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

537 (a) For a drinking water contamination violation, the  
538 department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum  
539 Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the  
540 violation is for a primary inorganic, organic, or radiological  
541 Maximum Contaminant Level or it is a fecal coliform bacteria  
542 violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a  
543 community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum  
544 Contaminant Level is exceeded by more than 100 percent. For  
545 failure to obtain a clearance letter prior to placing a drinking  
546 water system into service when the system would not have been  
547 eligible for clearance, the department shall assess a penalty of  
548 \$4,500 ~~\$3,000~~.

549 (b) For failure to obtain a required wastewater permit,  
550 other than a permit required for surface water discharge, the  
551 department shall assess a penalty of \$1,500 ~~\$1,000~~. For a

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552 domestic or industrial wastewater violation not involving a  
553 surface water or groundwater quality violation, the department  
554 shall assess a penalty of \$3,000 ~~\$2,000~~ for an unpermitted or  
555 unauthorized discharge or effluent-limitation exceedance. For an  
556 unpermitted or unauthorized discharge or effluent-limitation  
557 exceedance that resulted in a surface water or groundwater  
558 quality violation, the department shall assess a penalty of  
559 \$7,500 ~~\$5,000~~.

560 (c) For a dredge and fill or stormwater violation, the  
561 department shall assess a penalty of \$1,500 ~~\$1,000~~ for  
562 unpermitted or unauthorized dredging or filling or unauthorized  
563 construction of a stormwater management system against the  
564 person or persons responsible for the illegal dredging or  
565 filling, or unauthorized construction of a stormwater management  
566 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in  
567 an aquatic preserve, an Outstanding Florida Water, a  
568 conservation easement, or a Class I or Class II surface water,  
569 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
570 one-quarter acre but less than or equal to one-half acre, and  
571 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
572 one-half acre but less than or equal to one acre. The  
573 administrative penalty schedule does ~~shall~~ not apply to a dredge  
574 and fill violation if the area dredged or filled exceeds one  
575 acre. The department retains the authority to seek the judicial  
576 imposition of civil penalties for all dredge and fill violations  
577 involving more than one acre. The department shall assess a  
578 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required  
579 mitigation, failure to record a required conservation easement,  
580 or for a water quality violation resulting from dredging or

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581 filling activities, stormwater construction activities or  
582 failure of a stormwater treatment facility. For stormwater  
583 management systems serving less than 5 acres, the department  
584 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to  
585 properly or timely construct a stormwater management system. In  
586 addition to the penalties authorized in this subsection, the  
587 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
588 against the contractor or agent of the owner or tenant that  
589 conducts unpermitted or unauthorized dredging or filling. For  
590 purposes of this paragraph, the preparation or signing of a  
591 permit application by a person currently licensed under chapter  
592 471 to practice as a professional engineer does ~~shall~~ not make  
593 that person an agent of the owner or tenant.

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

603 (e) For solid waste violations, the department shall assess  
604 a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or unauthorized  
605 disposal or storage of solid waste; plus \$1,000 if the solid  
606 waste is Class I or Class III (excluding yard trash) or if the  
607 solid waste is construction and demolition debris in excess of  
608 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is disposed of  
609 or stored in any natural or artificial body of water or within

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610 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~ if the  
 611 waste contains PCB at a concentration of 50 parts per million or  
 612 greater; untreated biomedical waste; friable asbestos greater  
 613 than 1 cubic meter which is not wetted, bagged, and covered;  
 614 used oil greater than 25 gallons; or 10 or more lead acid  
 615 batteries. The department shall assess a penalty of \$4,500  
 616 ~~\$3,000~~ for failure to properly maintain leachate control;  
 617 unauthorized burning; failure to have a trained spotter on duty  
 618 at the working face when accepting waste; or failure to provide  
 619 access control for three consecutive inspections. The department  
 620 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct  
 621 or maintain a required stormwater management system.

622 (f) For an air emission violation, the department shall  
 623 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or  
 624 unauthorized air emission or an air-emission-permit exceedance,  
 625 ~~plus \$1,000 if the emission results in an air quality violation,~~  
 626 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and  
 627 the source was major for the pollutant in violation; plus \$1,500  
 628 ~~\$1,000~~ if the emission was more than 150 percent of the  
 629 allowable level.

630 (g) For storage tank system and petroleum contamination  
 631 violations, the department shall assess a penalty of \$7,500  
 632 ~~\$5,000~~ for failure to empty a damaged storage system as  
 633 necessary to ensure that a release does not occur until repairs  
 634 to the storage system are completed; when a release has occurred  
 635 from that storage tank system; for failure to timely recover  
 636 free product; or for failure to conduct remediation or  
 637 monitoring activities until a no-further-action or site-  
 638 rehabilitation completion order has been issued. The department

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639 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely  
640 upgrade a storage tank system. The department shall assess a  
641 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain  
642 required release detection; failure to timely investigate a  
643 suspected release from a storage system; depositing motor fuel  
644 into an unregistered storage tank system; failure to timely  
645 assess or remediate petroleum contamination; or failure to  
646 properly install a storage tank system. The department shall  
647 assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly  
648 operate, maintain, or close a storage tank system.

649 (4) In an administrative proceeding, in addition to the  
650 penalties that may be assessed under subsection (3), the  
651 department shall assess administrative penalties according to  
652 the following schedule:

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

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

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

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

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

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

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

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

681 (7) The history of noncompliance of the violator for any  
682 previous violation resulting in an executed consent order, but  
683 not including a consent order entered into without a finding of  
684 violation, or resulting in a final order or judgment after the  
685 effective date of this law involving the imposition of \$3,000  
686 ~~\$2,000~~ or more in penalties shall be taken into consideration in  
687 the following manner:

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

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

695 (c) Three or more previous such violations within 5 years  
696 prior to the filing of the notice of violation will result in a

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697 100-percent per day increase in the scheduled administrative  
698 penalty.

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

706 (9) The administrative penalties assessed for any  
707 particular violation may ~~shall~~ not exceed \$7,500 ~~\$5,000~~ against  
708 any one violator, unless the violator has a history of  
709 noncompliance, the economic benefit of the violation as  
710 described in subsection (8) exceeds \$7,500 ~~\$5,000~~, or there are  
711 multiday violations. The total administrative penalties may  
712 ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all  
713 violations attributable to a specific person in the notice of  
714 violation.

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

725 (11) Penalties collected pursuant to this section shall be

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

734 (12) The purpose of the administrative penalty schedule and  
735 process is to provide a more predictable and efficient manner  
736 for individuals and businesses to resolve relatively minor  
737 environmental disputes. Subsections (3)-(7) may ~~Subsection (3),~~  
738 ~~subsection (4), subsection (5), subsection (6), or subsection~~  
739 ~~(7) shall~~ not be construed as limiting a state court in the  
740 assessment of damages. The administrative penalty schedule does  
741 not apply to the judicial imposition of civil penalties in state  
742 court as provided in this section.

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

745 403.141 Civil liability; joint and several liability.-

746 (1) A person who ~~Whoever~~ commits a violation specified in  
747 s. 403.161(1) is liable to the state for any damage caused to  
748 the air, waters, or property, including animal, plant, or  
749 aquatic life, of the state and for reasonable costs and expenses  
750 of the state in tracing the source of the discharge, in  
751 controlling and abating the source and the pollutants, and in  
752 restoring the air, waters, and property, including animal,  
753 plant, and aquatic life, of the state to their former condition,  
754 and furthermore is subject to the judicial imposition of a civil

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755 penalty for each offense in an amount of not more than \$15,000  
 756 ~~\$10,000~~ per offense. However, the court may receive evidence in  
 757 mitigation. Until a violation is resolved by order or judgment,  
 758 each day during any portion of which such violation occurs or is  
 759 not remediated constitutes a separate offense. Nothing herein  
 760 gives ~~shall give~~ the department the right to bring an action on  
 761 behalf of any private person.

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

764 403.161 Prohibitions, violation, penalty, intent.—

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

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

776 (4) A ~~Any~~ person who commits a violation specified in  
 777 paragraph (1)(a) or paragraph (1)(b) due to reckless  
 778 indifference or gross careless disregard commits ~~is guilty of~~ a  
 779 misdemeanor of the second degree, punishable as provided in ss.  
 780 775.082(4)(b) and 775.083(1)(g) by a fine of not more than  
 781 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each  
 782 offense.

783 (5) A ~~Any~~ person who willfully commits a violation

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784 specified in paragraph (1)(b) or paragraph (1)(c) commits is  
785 ~~guilty of~~ a misdemeanor of the first degree punishable as  
786 provided in ss. 775.082(4)(a) and 775.083(1)(g) by a fine of not  
787 more than \$10,000 or by 6 months in jail, or by both for each  
788 offense.

789 Section 17. Paragraph (a) of subsection (6) of section  
790 403.413, Florida Statutes, is amended to read:

791 403.413 Florida Litter Law.—

792 (6) PENALTIES; ENFORCEMENT.—

793 (a) Any person who dumps litter in violation of subsection  
794 (4) in an amount not exceeding 15 pounds in weight or 27 cubic  
795 feet in volume and not for commercial purposes commits is guilty  
796 ~~of~~ a noncriminal infraction, punishable by a civil penalty of  
797 \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid  
798 Waste Management Trust Fund to be used for the solid waste  
799 management grant program pursuant to s. 403.7095. In addition,  
800 the court may require the violator to pick up litter or perform  
801 other labor commensurate with the offense committed.

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

804 403.7234 Small quantity generator notification and  
805 verification program.—

806 (5) Any small quantity generator who does not comply with  
807 the requirements of subsection (4) and who has received a  
808 notification and survey in person or through one certified  
809 letter from the county is subject to a fine of between \$75 ~~\$50~~  
810 and \$150 ~~\$100~~ per day for a maximum of 100 days. The county may  
811 collect such fines and deposit them in its general revenue fund.  
812 Fines collected by the county shall be used to carry out the

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813 notification and verification procedure established in this  
814 section. If there are excess funds after the notification and  
815 verification procedures have been completed, such funds shall be  
816 used for hazardous and solid waste management purposes only.

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

819 403.726 Abatement of imminent hazard caused by hazardous  
820 substance.—

821 (3) An imminent hazard exists if any hazardous substance  
822 creates an immediate and substantial danger to human health,  
823 safety, or welfare or to the environment. The department may  
824 institute action in its own name, using the procedures and  
825 remedies of s. 403.121 or s. 403.131, to abate an imminent  
826 hazard. However, the department is authorized to recover a civil  
827 penalty of not more than \$37,500 ~~\$25,000~~ for each day until a ~~of~~  
828 ~~continued~~ violation is resolved by order or judgment. Whenever  
829 serious harm to human health, safety, and welfare; the  
830 environment; or private or public property may occur prior to  
831 completion of an administrative hearing or other formal  
832 proceeding that which might be initiated to abate the risk of  
833 serious harm, the department may obtain, ex parte, an injunction  
834 without paying filing and service fees prior to the filing and  
835 service of process.

836 Section 20. Paragraph (a) of subsection (3) of section  
837 403.727, Florida Statutes, is amended to read:

838 403.727 Violations; defenses, penalties, and remedies.—

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

841 (a) Any person who violates ~~the provisions of~~ this act, the

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842 rules or orders of the department, or the conditions of a permit  
843 is liable to the state for any damages specified in s. 403.141  
844 and for a civil penalty of not more than \$75,000 ~~\$50,000~~ for  
845 each day of continued violation or until a violation is resolved  
846 by order or judgment, except as otherwise provided herein. The  
847 department may revoke any permit issued to the violator. In any  
848 action by the department against a small hazardous waste  
849 generator for the improper disposal of hazardous wastes, a  
850 rebuttable presumption of improper disposal shall be created if  
851 the generator was notified pursuant to s. 403.7234; the  
852 generator shall then have the burden of proving that the  
853 disposal was proper. If the generator was not so notified, the  
854 burden of proving improper disposal shall be placed upon the  
855 department.

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

858 403.93345 Coral reef protection.-

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

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

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871 (b) For damage totaling more than an area of 1 square meter  
872 but less than or equal to an area of 10 square meters, \$450 ~~\$300~~  
873 per square meter; with aggravating circumstances, an additional  
874 \$450 ~~\$300~~ per square meter; occurring within a state park or  
875 aquatic preserve, an additional \$450 ~~\$300~~ per square meter.

876 (c) For damage exceeding an area of 10 square meters,  
877 \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,  
878 an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a  
879 state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per  
880 square meter.

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

883 (e) For a third violation, the total penalty may be  
884 tripled.

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

887 (g) The total of penalties levied may not exceed \$375,000  
888 ~~\$250,000~~ per occurrence.

889 Section 22. Subsection (5) of s. 823.11, Florida Statutes,  
890 is reenacted for the purpose of incorporating the amendment made  
891 by this act to s. 376.16, Florida Statutes, in a reference  
892 thereto.

893 Section 23. Subsection (5) of s. 403.077, subsection (2) of  
894 s. 403.131, paragraph (d) of subsection (3) of s. 403.4154, and  
895 subsection (5) of s. 403.860, Florida Statutes, are reenacted  
896 for the purpose of incorporating the amendment made by this act  
897 to s. 403.121, Florida Statutes, in references thereto.

898 Section 24. Subsection (10) of s. 403.708, subsection (7)  
899 of s. 403.7191, and s. 403.811, Florida Statutes, are reenacted

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900 for the purpose of incorporating the amendment made by this act  
901 to s. 403.141, Florida Statutes, in references thereto.

902 Section 25. Subsection (2) of s. 403.7255, Florida  
903 Statutes, is reenacted for the purpose of incorporating the  
904 amendment made by this act to s. 403.161, Florida Statutes, in a  
905 reference thereto.

906 Section 26. Subsection (8) of s. 403.7186, Florida  
907 Statutes, is reenacted for the purpose of incorporating the  
908 amendments made by this act to ss. 403.141 and 403.161, Florida  
909 Statutes, in references thereto.

910 Section 27. This act shall take effect July 1, 2020.



812520

LEGISLATIVE ACTION

Senate

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. .  
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House

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The Committee on Environment and Natural Resources (Gruters)  
recommended the following:

**Senate Amendment**

Delete line 164

and insert:

specified in paragraph (1) (b) or who commits a violation

specified in paragraph (1) (c) commits is

Delete line 784

and insert:

specified in paragraph (1) (b) or who commits a violation

specified in paragraph (1) (c) commits is

**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.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: SB 1450

INTRODUCER: Senator Gruters

SUBJECT: Environmental Enforcement

DATE: January 24, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	<b>Pre-meeting</b>
2.			AEG	
3.			AP	

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**I. Summary:**

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. Additionally, the bill changes the duration that certain penalties may run, so that, until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.

**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.<sup>1</sup> In accordance with the state’s numerous environmental laws, DEP’s responsibilities include the compliance and enforcement process.<sup>2</sup> 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.<sup>3</sup> 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

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<sup>1</sup> DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited Jan. 21, 2020); s. 20.255, F.S.

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

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

the state caused by any violation.<sup>4</sup> 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.<sup>5</sup>

### *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.<sup>6</sup> In environmental enforcement, penalties should create incentives to bring immediate compliance and curb future violations.<sup>7</sup>

Administrative penalties can be levied directly by the agency or in a proceeding in DOAH.<sup>8</sup> 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.<sup>9</sup> In most administrative proceedings, DEP has the final decision.<sup>10</sup> 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 DEP's administrative penalties.<sup>11</sup> Compared to the judicial process, the administrative process is generally considered less expensive, faster and less time consuming, and more conducive to negotiated settlement.<sup>12</sup> However, if DEP is seeking immediate injunctive relief, which compels a party to act or stop acting, an order must be obtained from a court.<sup>13</sup>

DEP must proceed administratively in cases in which DEP seeks administrative penalties that do not exceed \$10,000 per assessment.<sup>14</sup> DEP is prohibited from imposing administrative penalties in excess of \$10,000 in a notice of violation.<sup>15</sup> 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 DEP subsequent to the filing of a previous notice of violation.<sup>16</sup>

Civil penalties are noncriminal fines that are generally levied by a court, and which agencies may be authorized to impose.<sup>17</sup> DEP may pursue two forms of action in state court: a petition to

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<sup>4</sup> See s. 403.121, F.S.

<sup>5</sup> See ss. 403.121 and 403.141, F.S.

<sup>6</sup> See BLACK'S LAW DICTIONARY 1247 (9th ed. 2009).

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

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

<sup>9</sup> DEP, Enforcement Manual, *Chapter Five: The Administrative Process and Remedies*, 58 (2014), available at [https://floridadep.gov/sites/default/files/chapter5\\_0.pdf](https://floridadep.gov/sites/default/files/chapter5_0.pdf).

<sup>10</sup> *Id.*

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

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

<sup>13</sup> *Id.* at 59-60.

<sup>14</sup> 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.

<sup>15</sup> Section 403.121(2)(b), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> 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.

enforce an order previously entered through the administrative process, or a complaint for violations of statutes or rules.<sup>18</sup> Under both forms, DEP may seek injunctive relief, civil penalties, damages, and costs and expenses.<sup>19</sup> For judicially imposed civil penalties, 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.<sup>20</sup>

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

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

This present situation describes DEP's general authority to levy penalties, largely pursuant to Chapter 403, F.S. DEP derives enforcement authority from several different chapters of Florida law based on subject matter, so DEP has additional enforcement authority for programs not covered in ch. 403, F.S. Additionally, the Department of Legal Affairs, any political subdivision 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.<sup>24</sup>

### III. Effect of Proposed Changes:

**Sections 1-21** 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 which a violation occurs constituting a separate offense. The bill changes that standard to: each day during which a violation occurs or is not remediated,<sup>25</sup> until a violation is resolved by order or judgment. This standard is changed in several sections and created in others.

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.

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

<sup>19</sup> *Id.*

<sup>20</sup> Section 403.121(1)(b), F.S.

<sup>21</sup> Section 403.121, F.S.

<sup>22</sup> Section 403.161, F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 403.412, F.S.

<sup>25</sup> The word "remediation" can refer to a large range of activities and timescales. In environmental law, remediation is generally described as restoring land, water, or air to its former state following some harm or pollution; *see* BLACK'S LAW DICTIONARY 1407 (9th ed. 2009).

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
161.054 (1), F.S.	Violating statutes, rules or orders regarding coastal construction	An administrative fine for each offense of up to \$10,000.  Each day during any portion of which a violation occurs constitutes a separate offense.	An administrative fine for each offense of up to \$15,000.  Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.
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.  Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated 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.  Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.
373.129 (5), F.S.	Violating ch. 373, F.S., relating to water resources	Authorizes DEP, any water management district, any local board, or certain local governments <sup>26</sup> to recover a civil penalty for each offense, in an amount not to exceed \$10,000 per offense.  Each date during which a violation occurs constitutes a separate offense.	Authorizes 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.  Until a violation is resolved by order or judgment, each date during any portion of which a

<sup>26</sup> Section 373.103(8), F.S. Under certain circumstances, 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 SB 1450
			violation occurs or is not remediated constitutes a separate 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 (3), F.S.	Violating statutes regarding surface waters by willfully causing pollution	A fine of not more than \$50,000 or imprisonment for 5 years, or both, for each offense.  Each day during any portion of which a violation occurs constitutes a separate offense.	A fine of not more than \$50,000 or imprisonment for 5 years, or both, for each offense.  Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.
373.430 (4), 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 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.
376.065 (5)(a) and (e), F.S.	Violating a statute regarding terminal facility certifications	A civil penalty of \$500 for any violation of the section or a certification.  A civil penalty of \$500 imposed by a county court if commission of the infraction is proved.	A civil penalty of \$750 for any violation of the section or a certification.  A civil penalty of \$750 imposed by a county court if commission of the infraction is proved.
376.071 (2)(a) and (e), F.S.	Violations regarding discharge contingency plans for vessels	A civil penalty of \$5,000 for each infraction.  A civil penalty of \$5,000 imposed by a county court if commission of the infraction is proved.	A civil penalty of \$7,500 for each infraction.  A civil penalty of \$7,500 imposed by a county court if commission of the infraction is proved.
376.16 (1), F.S.	Violating the Pollutant Discharge Prevention and	A civil penalty of up to \$50,000 per violation per day.	A civil penalty of up to \$75,000 per violation per day.

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
	Control Act or DEP rules or orders	Each day during any portion of which a violation occurs constitutes a separate offense.	Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.
376.16 (2), (3), (7), and (8), F.S.	Violating the Pollutant Discharge Prevention and Control Act or 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"> <li>• 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.</li> <li>• Other pollutants - a civil penalty of \$2,500 for the second discharge and \$5,000 for each subsequent discharge within a 12-month period.</li> </ul> <p>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"> <li>• Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$50 for each discharge subsequent to the first.</li> <li>• Other pollutants equal to or less than 5 gallons - a civil penalty of \$100 for each discharge subsequent to the first.</li> </ul> <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$500</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"> <li>• 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.</li> <li>• Other pollutants - a civil penalty of \$3,750 for the second discharge and \$7,500 for each subsequent discharge within a 12-month period.</li> </ul> <p>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"> <li>• Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$75 for each discharge subsequent to the first;</li> <li>• Other pollutants equal to or less than 5 gallons - a civil penalty of \$150 for each discharge subsequent to the first.</li> </ul> <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$750</p>

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
		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.	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.
376.25 (6)(a), F.S.	Violating a statute regarding gambling vessels	A civil penalty of not more than \$50,000 for each violation.	A civil penalty of not more than \$75,000 for each violation.  Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.
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.  Each day during any portion of which a violation occurs constitutes a separate offense.	A civil penalty of not more than \$15,000 for each offense.  Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.
378.211 (2), F.S.	Violating statutes, rules, or orders regarding land reclamation	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 has not been imposed during the 5 previous years; and \$5,000 per major violation not otherwise covered.  Each day or any portion thereof in which a violation continues constitutes a separate violation. <sup>27</sup>	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 has not been imposed during the 5 previous years; and \$7,500 per major violation not otherwise covered.  Until a violation is resolved by order or judgment, each day or any portion thereof in which a violation continues or is not remediated constitutes a separate violation.

<sup>27</sup> Section 378.211(4), F.S. These civil penalties do not begin to accrue until the expiration of a specified time for initiating corrective action, set forth in a written notice of violation issued by DEP.

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
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	<p>For judicial remedies - authorizes DEP to judicially pursue and recover not more than \$10,000 per offense.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>	<p>For judicial remedies - authorizes DEP to judicially pursue and recover not more than \$15,000 per offense.</p> <p>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.</p>
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) DEP must proceed administratively when seeking administrative penalties not exceeding \$10,000 per assessment.</p> <p>DEP may not impose penalties in excess of \$10,000 in a notice of violation.</p> <p>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) DEP must proceed administratively when seeking administrative penalties not exceeding \$50,000 per assessment.</p> <p>DEP may not impose penalties in excess of \$50,000 in a notice of violation.</p> <p>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	\$2,000 for a Maximum Containment Level violation; plus	\$3,000 for a Maximum Containment Level violation; plus

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
(3)(a), F.S. <sup>28</sup>	schedule: violations regarding drinking water contamination	\$1,000 for a primary, inorganic, organic, or radiological Maximum 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.  \$3,000 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.	\$1,500 for a primary, inorganic, organic, or radiological Maximum 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.  \$4,500 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.
403.121 (3)(b), F.S.	Administrative penalty schedule: violations regarding wastewater	\$1,000 for failure to obtain a required wastewater permit (other than a permit for surface water discharge).  \$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).  \$5,000 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation.	\$1,500 for failure to obtain a required wastewater permit (other than a permit for surface water discharge).  \$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).  \$7,500 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation.
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; 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	\$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; 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

<sup>28</sup> Section 403.121(3), F.S. The administrative penalties in this subsection do not apply to hazardous waste, asbestos, or underground injection.

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
		<p>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 treatment system.</p> <p>\$5,000 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p>	<p>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 treatment system.</p> <p>\$7,500 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p>
<p>403.121 (3)(d), F.S.</p>	<p>Administrative penalty schedule: violations regarding mangrove trimming</p>	<p>\$5,000 per violation for conducting mangrove trimming or alterations without a permit.</p>	<p>\$7,500 per violation for conducting mangrove trimming or alterations without a permit.</p>
<p>403.121 (3)(e), F.S.</p>	<p>Administrative penalty schedule: violations regarding solid waste</p>	<p>\$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 asbestos, used oil, or lead acid batteries.</p>	<p>\$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 asbestos, used oil, or lead acid batteries.</p>

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
		<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>\$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>
<p>403.121 (3)(f), F.S.</p>	<p>Administrative penalty schedule: violations regarding air emissions</p>	<p>\$1,000 for an unlawful air emission or exceedance; plus \$3,000 for emissions from the major source of the violating pollutant; plus \$1,000 if over 150% of the allowable level.</p>	<p>\$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.</p>
<p>403.121 (3)(g), F.S.</p>	<p>Administrative penalty schedule: violations regarding storage tank system and petroleum contamination</p>	<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 remediate petroleum contamination, or failure to properly install a storage tank system.</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 remediate petroleum contamination, or failure to properly install a storage tank system.</p>

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
		<p>\$1,000 for failure to properly operate, maintain, or close a storage tank system.</p>	<p>\$1,500 for failure to properly operate, maintain, or close a storage tank system.</p>
<p>403.121 (4), F.S.</p>	<p>Violating ch. 403, F.S., regarding environmental control</p>	<p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> <li>• \$5,000 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations.</li> <li>• \$4,000 for failure to install, maintain, or use a required pollution control system or device.</li> <li>• \$3,000 for failure to obtain a required permit before construction or modification.</li> <li>• \$2,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit.</li> <li>• \$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 DEP.</li> <li>• \$500 for failure to prepare, submit, maintain, or use required reports or documentation.</li> </ul>	<p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> <li>• \$7,500 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations.</li> <li>• \$6,000 for failure to install, maintain, or use a required pollution control system or device.</li> <li>• \$4,500 for failure to obtain a required permit before construction or modification.</li> <li>• \$3,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit.</li> <li>• \$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 DEP.</li> <li>• \$750 for failure to prepare, submit, maintain, or use required reports or documentation.</li> </ul>
<p>403.121 (5), (7), (8), and (9), F.S.</p>	<p>Violating ch. 403, F.S., regarding environmental control</p>	<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</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</p>

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
		<p>violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$2,000 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>violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$3,000 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	<p>A penalty for each offense in an amount not to exceed \$10,000.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>	<p>A penalty for each offense in an amount not to exceed \$15,000.</p> <p>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.</p>
403.161 (3), F.S.	Violating ch. 403, F.S., regarding environmental control, by willfully causing pollution	<p>A fine of not more than \$50,000 or imprisonment for five years, or both, for each offense.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>	<p>A fine of not more than \$50,000 or imprisonment for five years, or both, for each offense.</p> <p>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not</p>

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
			remediated constitutes a separate offense.
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 or 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 DEP due to reckless indifference or gross careless disregard is punishable by a fine of not more than \$10,000 or 60 days in jail, or both, for each offense.
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 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 DEP to institute action to abate an imminent hazard and may recover a civil penalty of not more than \$37,000 for each day until a violation is resolved by order or judgment.
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 or until a violation is resolved by order or judgment.
403.93345 (8)(a)-(c) and (g), F.S.	Violating the Florida Coral Reef Protection Act	<p>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.</p> <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</p>	<p>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.</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</p>

Florida Statutes	Violations	Existing Penalties	Changes in SB 1450
		aggravating circumstances; additional \$300 per square meter if occurring within a state park or aquatic preserve.  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.  The total penalties levied may not exceed \$250,000.	aggravating circumstances; additional \$450 per square meter if occurring within a state park or aquatic preserve.  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.  The total penalties levied may not exceed \$375,000.

**Sections 22-26** 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 27** 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:**

The vagueness doctrine was developed to ensure compliance with the Due Process Clause in the Fifth Amendment of the United States Constitution, and Florida's Constitution includes a similar due process guarantee.<sup>29</sup> The vagueness doctrine provides that a statute must give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, and it must provide explicit standards for those who apply them to avoid arbitrary and discriminatory enforcement.<sup>30</sup> A statute is void for vagueness when, because of its imprecision, it fails to give an adequate notice of what conduct is prohibited.<sup>31</sup> Thus, it invites arbitrary and discriminatory enforcement.<sup>32</sup> A statute is not void for vagueness if the language conveys a sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices.<sup>33</sup> However, the Supreme Court has indicated that a statute giving fair notice of the prohibited conduct may still be void if it lends itself to arbitrary enforcement.<sup>34</sup> The need for definiteness is even greater when a law imposes criminal penalties on individual behavior or implicates constitutionally protected rights.<sup>35</sup>

In several places in the bill, a penalty standard is revised or added such that “until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.” In such instances, the meaning of the word “remediated” is crucial for determining the number of separate offenses. This term is undefined in the statutes amended by the bill. This condition is applied to criminal penalties in addition to administrative and civil penalties.

Article III, section 6 of the Florida Constitution requires every law to address a single subject, and the subject must be briefly expressed in the title. The bill contains changes to administrative and criminal penalties, and other changes to penalty language, that may not be fully described in the title of the bill. Accordingly, revisions to the title of the bill are recommended.

**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

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<sup>29</sup> *Id.*

<sup>30</sup> Florida Ass'n of Professional Lobbyists, Inc. v. Div. of Legislative Info. Services of the Florida Office of Legislative Services, 525 F.3d 1073, 1078 (11th Cir. 2008) (quoting Grayned v. City of Rockford, 408 U.S. 104, 108 (1972)).

<sup>31</sup> Sult v. State, 906 So.2d 1013, 1020 (Fla. 2005).

<sup>32</sup> *Id.*

<sup>33</sup> Simmons v. State, 944 So. 2d 317, 324 (Fla. 2006).

<sup>34</sup> *Id.*; see Kolender v. Lawson, 461 U.S. 352, 358 (1983).

<sup>35</sup> *Simmons*, 944 at 324.

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. 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.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

On line 297, the word “which” should be deleted.

In sections of the bill containing “[u]ntil a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense,” or similar language, a definition for the word “remediated” is recommended.

**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, 403.93345.

This bill reenacts parts or all of the following sections of the Florida Statutes: 823.11, 403.077, 403.131, 403.4154, 403.860, 403.708, 403.7191, 403.811, 403.7255, 403.7186.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.



26 offense; making technical changes; reenacting s.  
 27 823.11(5), F.S., to incorporate the amendment made to  
 28 s. 376.16, F.S., in a reference thereto; reenacting  
 29 ss. 403.077(5), 403.131(2), 403.4154(3)(d), and  
 30 403.860(5), F.S., to incorporate the amendment made to  
 31 s. 403.121, F.S., in a reference thereto; reenacting  
 32 ss. 403.708(10), 403.7191(7), and 403.811, F.S., to  
 33 incorporate the amendment made to s. 403.141, F.S., in  
 34 a reference thereto; reenacting s. 403.7255(2), F.S.,  
 35 to incorporate the amendment made to s. 403.161, F.S.,  
 36 in a reference thereto; reenacting s. 403.7186(8),  
 37 F.S., to incorporate the amendment made to ss. 403.141  
 38 and 403.161, F.S., in references thereto; providing an  
 39 effective date.

40

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

42

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

45 161.054 Administrative fines; liability for damage;  
 46 liens.—

47 (1) In addition to the penalties provided for in ss.  
 48 161.052, 161.053, and 161.121, any person, firm, corporation, or  
 49 governmental agency, or agent thereof, refusing to comply with  
 50 or willfully violating ~~any of the provisions of~~ s. 161.041, s.

51 161.052, or s. 161.053, or any rule or order prescribed by the  
 52 department thereunder, shall incur a fine for each offense in an  
 53 amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected  
 54 by the department. Until a violation is resolved by order or  
 55 judgment, each day during any portion of which such violation  
 56 occurs or is not remediated constitutes a separate offense.

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

59 258.397 Biscayne Bay Aquatic Preserve.—

60 (7) ENFORCEMENT.—~~The provisions of~~ This section may be  
 61 enforced in accordance with ~~the provisions of~~ s. 403.412. In  
 62 addition, the Department of Legal Affairs may ~~is authorized to~~  
 63 bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day  
 64 against any person, natural or corporate, who violates ~~the~~  
 65 ~~provisions of~~ this section or any rule or regulation issued  
 66 hereunder. Until a violation is resolved by order or judgment,  
 67 each day during any portion of which such violation occurs or is  
 68 not remediated constitutes a separate offense. Enforcement of  
 69 applicable state regulations shall be supplemented by the Miami-  
 70 Dade County Department of Environmental Resources Management  
 71 through the creation of a full-time enforcement presence along  
 72 the Miami River.

73 Section 3. Section 258.46, Florida Statutes, is amended to  
 74 read:

75 258.46 Enforcement; violations; penalty.—~~The provisions of~~

76 This act may be enforced by the Board of Trustees of the  
 77 Internal Improvement Trust Fund or in accordance with ~~the~~  
 78 ~~provisions of~~ s. 403.412. However, any violation by any person,  
 79 natural or corporate, of ~~the provisions of~~ this act or any rule  
 80 or regulation issued hereunder is ~~shall be~~ further punishable by  
 81 a civil penalty of not less than \$750 ~~\$500~~ per day or more than  
 82 \$7,500 ~~\$5,000~~ per day of such violation. Until a violation is  
 83 resolved by order or judgment, each day during any portion of  
 84 which such violation occurs or is not remediated constitutes a  
 85 separate offense.

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

88 373.129 Maintenance of actions.—The department, the  
 89 governing board of any water management district, any local  
 90 board, or a local government to which authority has been  
 91 delegated pursuant to s. 373.103(8), is authorized to commence  
 92 and maintain proper and necessary actions and proceedings in any  
 93 court of competent jurisdiction for any of the following  
 94 purposes:

95 (5) To recover a civil penalty for each offense in an  
 96 amount not to exceed \$15,000 ~~\$10,000~~ per offense. Until a  
 97 violation is resolved by order or judgment, each date during any  
 98 portion of which such violation occurs or is not remediated  
 99 constitutes a separate offense.

100 (a) A civil penalty recovered by a water management

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

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

121 (7) To enforce ~~the provisions of~~ part IV of this chapter  
 122 in the same manner and to the same extent as provided in ss.  
 123 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

124 Section 5. Subsection (3) of section 373.209, Florida  
 125 Statutes, is amended to read:

126 373.209 Artesian wells; penalties for violation.—

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

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

130 (b) A civil penalty of \$150 ~~\$100~~ a day for each and every  
 131 day of such violation and for each and every act of violation.

132 The civil penalty may be recovered by the water management board  
 133 of the water management district in which the well is located or  
 134 by the department in a suit in a court of competent jurisdiction  
 135 in the county where the defendant resides, in the county of  
 136 residence of any defendant if there is more than one defendant,  
 137 or in the county where the violation took place. The place of  
 138 suit shall be selected by the board or department, and the suit,  
 139 by direction of the board or department, shall be instituted and  
 140 conducted in the name of the board or department by appropriate  
 141 counsel. The payment of any such damages does not impair or  
 142 abridge any cause of action which any person may have against  
 143 the person violating ~~any provision of~~ this section.

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

146 373.430 Prohibitions, violation, penalty, intent.—

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

150 (3) A ~~Any~~ person who willfully commits a violation

151 specified in paragraph (1) (a) commits ~~is guilty of~~ a felony of  
 152 the third degree, punishable as provided in ss. 775.082(3) (e)  
 153 and 775.083(1) (g), by a fine of not more than \$50,000 or by  
 154 imprisonment for 5 years, or by both, for each offense. Until a  
 155 violation is resolved by order or judgment, each day during any  
 156 portion of which such violation occurs or is not remediated  
 157 constitutes a separate offense.

158 (4) A ~~Any~~ person who commits a violation specified in  
 159 paragraph (1) (a) or paragraph (1) (b) due to reckless  
 160 indifference or gross careless disregard commits ~~is guilty of~~ a  
 161 misdemeanor of the second degree, punishable as provided in ss.  
 162 775.082(4) (b) and 775.083(1) (g), by a fine of not more than  
 163 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

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

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

172 376.065 Operation of terminal facility without discharge  
 173 prevention and response certificate prohibited; penalty.—

174 (5) (a) A person who violates this section or the terms and  
 175 requirements of such certification commits a noncriminal

176 | infraction. The civil penalty for any such infraction shall be  
 177 | \$750 ~~\$500~~, except as otherwise provided in this section.

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

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

186 | 376.071 Discharge contingency plan for vessels.—

187 | (2) (a) A master of a vessel that violates subsection (1)  
 188 | commits a noncriminal infraction and shall be cited for such  
 189 | infraction. The civil penalty for such an infraction shall be  
 190 | \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

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

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

199 | 376.16 Enforcement and penalties.—

200 | (1) It is unlawful for any person to violate ~~any provision~~

201 ~~of~~ ss. 376.011-376.21 or any rule or order of the department  
 202 made pursuant to this act. A violation is ~~shall be~~ punishable by  
 203 a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day  
 204 to be assessed by the department. Until a violation is resolved  
 205 by order or judgment, each day during any portion of which the  
 206 violation occurs or is not remediated constitutes a separate  
 207 offense. The penalty provisions of this subsection do ~~shall~~ not  
 208 apply to any discharge promptly reported and removed by a person  
 209 responsible, in accordance with the rules and orders of the  
 210 department, or to any discharge of pollutants equal to or less  
 211 than 5 gallons.

212 (2) In addition to the penalty provisions which may apply  
 213 under subsection (1), a person responsible for two or more  
 214 discharges of any pollutant reported pursuant to s. 376.12  
 215 within a 12-month period at the same facility commits a  
 216 noncriminal infraction and shall be cited by the department for  
 217 such infraction.

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

223 (b) For discharges of any pollutant other than gasoline or  
 224 diesel, the civil penalty for a second discharge shall be \$3,750  
 225 ~~\$2,500~~ and the civil penalty for each subsequent discharge

226 within a 12-month period shall be \$7,500 ~~\$5,000~~, except as  
 227 otherwise provided in this section.

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

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

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

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

240 (a) Pay the civil penalty;

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

243 (c) Sign and accept a citation indicating a promise to  
 244 appear before the county court.

245  
 246 The department employee authorized to issue these citations may  
 247 indicate on the citation the time and location of the scheduled  
 248 hearing and shall indicate the applicable civil penalty.

249 (5) Any person who willfully refuses to post bond or  
 250 accept and sign a citation commits a misdemeanor of the second

251 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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

259

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

265 (7) Any person who elects to appear before the county  
 266 court or who is required to appear waives the limitations of the  
 267 civil penalties specified in subsection (2). The court, after a  
 268 hearing, shall make a determination as to whether an infraction  
 269 has been committed. If the commission of an infraction is  
 270 proved, the court may impose a civil penalty up to, but not  
 271 exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or  
 272 diesel and a civil penalty up to, but not exceeding, \$1,500  
 273 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel  
 274 within a 12-month period.

275 (8) Any person who elects to appear before the county

276 court or who is required to appear waives the limitations of the  
 277 civil penalties specified in subsection (2) or subsection (3).  
 278 The court, after a hearing, shall make a determination as to  
 279 whether an infraction has been committed. If the commission of  
 280 an infraction is proved, the court may impose a civil penalty up  
 281 to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of  
 282 pollutants other than gasoline or diesel and a civil penalty up  
 283 to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent  
 284 discharge of pollutants other than gasoline or diesel within a  
 285 12-month period.

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

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

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

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

301 s. 775.082, s. 775.083, or s. 775.084.

302 Section 10. Paragraph (a) of subsection (6) of section  
303 376.25, Florida Statutes, is amended to read:

304 376.25 Gambling vessels; registration; required and  
305 prohibited releases.—

306 (6) PENALTIES.—

307 (a) A person who violates this section is subject to a  
308 civil penalty of not more than \$75,000 ~~\$50,000~~ for each  
309 violation. Until a violation is resolved by order or judgment,  
310 each day during any portion of which such violation occurs or is  
311 not remediated constitutes a separate offense.

312 Section 11. Paragraph (a) of subsection (1) of section  
313 377.37, Florida Statutes, is amended to read:

314 377.37 Penalties.—

315 (1) (a) Any person who violates ~~any provision of~~ this law  
316 or any rule, regulation, or order of the division made under  
317 this chapter or who violates the terms of any permit to drill  
318 for or produce oil, gas, or other petroleum products referred to  
319 in s. 377.242(1) or to store gas in a natural gas storage  
320 facility, or any lessee, permitholder, or operator of equipment  
321 or facilities used in the exploration for, drilling for, or  
322 production of oil, gas, or other petroleum products, or storage  
323 of gas in a natural gas storage facility, who refuses inspection  
324 by the division as provided in this chapter, is liable to the  
325 state for any damage caused to the air, waters, or property,

326 including animal, plant, or aquatic life, of the state and for  
 327 reasonable costs and expenses of the state in tracing the source  
 328 of the discharge, in controlling and abating the source and the  
 329 pollutants, and in restoring the air, waters, and property,  
 330 including animal, plant, and aquatic life, of the state.  
 331 Furthermore, such person, lessee, permitholder, or operator is  
 332 subject to the judicial imposition of a civil penalty in an  
 333 amount of not more than \$15,000 ~~\$10,000~~ for each offense.  
 334 However, the court may receive evidence in mitigation. Until a  
 335 violation is resolved by order or judgment, each day during any  
 336 portion of which such violation occurs or is not remediated  
 337 constitutes a separate offense. This section does not ~~Nothing~~  
 338 ~~herein shall~~ give the department the right to bring an action on  
 339 behalf of any private person.

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

342 378.211 Violations; damages; penalties.—

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

349 (a) For violations of a minor or technical nature, \$150  
 350 ~~\$100~~ per violation.

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

354 (c) For major violations not covered by paragraph (b),  
 355 \$7,500 ~~\$5,000~~ per violation.

356  
 357 Subject to ~~the provisions of~~ subsection (4), until a violation  
 358 is resolved by order or judgment, each day or any portion  
 359 thereof in which the violation continues or is not remediated  
 360 shall constitute a separate violation.

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

363 403.086 Sewage disposal facilities; advanced and secondary  
 364 waste treatment.—

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

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

374 403.121 Enforcement; procedure; remedies.—The department  
 375 shall have the following judicial and administrative remedies

376 available to it for violations of this chapter, as specified in  
377 s. 403.161(1).

378 (1) Judicial remedies:

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

384 (b) The department may institute a civil action in a court  
385 of competent jurisdiction to impose and to recover a civil  
386 penalty for each violation in an amount of not more than \$15,000  
387 ~~\$10,000~~ per offense. However, the court may receive evidence in  
388 mitigation. Until a violation is resolved by order or judgment,  
389 each day during any portion of which such violation occurs or is  
390 not remediated constitutes a separate offense.

391 (c) Except as provided in paragraph (2)(c), it is ~~shall~~  
392 not be a defense to, or ground for dismissal of, these judicial  
393 remedies for damages and civil penalties that the department has  
394 failed to exhaust its administrative remedies, has failed to  
395 serve a notice of violation, or has failed to hold an  
396 administrative hearing prior to the institution of a civil  
397 action.

398 (2) Administrative remedies:

399 (a) The department may institute an administrative  
400 proceeding to establish liability and to recover damages for any

401 injury to the air, waters, or property, including animal, plant,  
402 or aquatic life, of the state caused by any violation. The  
403 department may order that the violator pay a specified sum as  
404 damages to the state. Judgment for the amount of damages  
405 determined by the department may be entered in any court having  
406 jurisdiction thereof and may be enforced as any other judgment.

407 (b) If the department has reason to believe a violation  
408 has occurred, it may institute an administrative proceeding to  
409 order the prevention, abatement, or control of the conditions  
410 creating the violation or other appropriate corrective action.  
411 Except for violations involving hazardous wastes, asbestos, or  
412 underground injection, the department shall proceed  
413 administratively in all cases in which the department seeks  
414 administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per  
415 assessment as calculated in accordance with subsections (3),  
416 (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the  
417 administrative penalty assessed pursuant to subsection (3),  
418 subsection (4), or subsection (5) against a public water system  
419 serving a population of more than 10,000 shall be not less than  
420 \$1,000 per day per violation. The department may ~~shall~~ not  
421 impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in  
422 a notice of violation. The department may ~~shall~~ not have more  
423 than one notice of violation seeking administrative penalties  
424 pending against the same party at the same time unless the  
425 violations occurred at a different site or the violations were

426 | discovered by the department subsequent to the filing of a  
427 | previous notice of violation.

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

451 initiated by the department in an action that seeks the  
452 imposition of administrative penalties must file a written  
453 notice with the department within 20 days after service of the  
454 notice of violation opting out of the administrative process. A  
455 respondent's decision to opt out of the administrative process  
456 does not preclude the department from initiating a state court  
457 action seeking injunctive relief, damages, and the judicial  
458 imposition of civil penalties.

459 (d) If a person timely files a petition challenging a  
460 notice of violation, that person will thereafter be referred to  
461 as the respondent. The hearing requested by the respondent shall  
462 be held within 180 days after the department has referred the  
463 initial petition to the Division of Administrative Hearings  
464 unless the parties agree to a later date. The department has the  
465 burden of proving with the preponderance of the evidence that  
466 the respondent is responsible for the violation. ~~No~~  
467 Administrative penalties should not be imposed unless the  
468 department satisfies that burden. Following the close of the  
469 hearing, the administrative law judge shall issue a final order  
470 on all matters, including the imposition of an administrative  
471 penalty. When the department seeks to enforce that portion of a  
472 final order imposing administrative penalties pursuant to s.  
473 120.69, the respondent may ~~shall~~ not assert as a defense the  
474 inappropriateness of the administrative remedy. The department  
475 retains its final-order authority in all administrative actions

476 that do not request the imposition of administrative penalties.

477 (e) After filing a petition requesting a formal hearing in  
478 response to a notice of violation in which the department  
479 imposes an administrative penalty, a respondent may request that  
480 a private mediator be appointed to mediate the dispute by  
481 contacting the Florida Conflict Resolution Consortium within 10  
482 days after receipt of the initial order from the administrative  
483 law judge. The Florida Conflict Resolution Consortium shall pay  
484 all of the costs of the mediator and for up to 8 hours of the  
485 mediator's time per case at \$150 per hour. Upon notice from the  
486 respondent, the Florida Conflict Resolution Consortium shall  
487 provide to the respondent a panel of possible mediators from the  
488 area in which the hearing on the petition would be heard. The  
489 respondent shall select the mediator and notify the Florida  
490 Conflict Resolution Consortium of the selection within 15 days  
491 of receipt of the proposed panel of mediators. The Florida  
492 Conflict Resolution Consortium shall provide all of the  
493 administrative support for the mediation process. The mediation  
494 must be completed at least 15 days before the final hearing date  
495 set by the administrative law judge.

496 (f) In any administrative proceeding brought by the  
497 department, the prevailing party shall recover all costs as  
498 provided in ss. 57.041 and 57.071. The costs must be included in  
499 the final order. The respondent is the prevailing party when an  
500 order is entered awarding no penalties to the department and

501 such order has not been reversed on appeal or the time for  
502 seeking judicial review has expired. The respondent is ~~shall be~~  
503 entitled to an award of attorney's fees if the administrative  
504 law judge determines that the notice of violation issued by the  
505 department seeking the imposition of administrative penalties  
506 was not substantially justified as defined in s. 57.111(3)(e).  
507 An ~~No~~ award of attorney's fees as provided by this subsection  
508 may not ~~shall~~ exceed \$15,000.

509 (g) Nothing herein shall be construed as preventing any  
510 other legal or administrative action in accordance with law.  
511 Nothing in this subsection shall limit the department's  
512 authority provided in ss. 403.131, 403.141, and this section to  
513 judicially pursue injunctive relief. When the department  
514 exercises its authority to judicially pursue injunctive relief,  
515 penalties in any amount up to the statutory maximum sought by  
516 the department must be pursued as part of the state court action  
517 and not by initiating a separate administrative proceeding. The  
518 department retains the authority to judicially pursue penalties  
519 in excess of \$50,000 ~~\$10,000~~ for violations not specifically  
520 included in the administrative penalty schedule, or for multiple  
521 or multiday violations alleged to exceed a total of \$50,000  
522 ~~\$10,000~~. The department also retains the authority provided in  
523 ss. 403.131, 403.141, and this section to judicially pursue  
524 injunctive relief and damages, if a notice of violation seeking  
525 the imposition of administrative penalties has not been issued.

526 The department has the authority to enter into a settlement,  
527 either before or after initiating a notice of violation, and the  
528 settlement may include a penalty amount different from the  
529 administrative penalty schedule. Any case filed in state court  
530 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in  
531 penalties may be settled in the court action for less than  
532 \$50,000 ~~\$10,000~~.

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

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

539 (a) For a drinking water contamination violation, the  
540 department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum  
541 Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the  
542 violation is for a primary inorganic, organic, or radiological  
543 Maximum Contaminant Level or it is a fecal coliform bacteria  
544 violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a  
545 community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum  
546 Contaminant Level is exceeded by more than 100 percent. For  
547 failure to obtain a clearance letter prior to placing a drinking  
548 water system into service when the system would not have been  
549 eligible for clearance, the department shall assess a penalty of  
550 \$4,500 ~~\$3,000~~.

551 (b) For failure to obtain a required wastewater permit,  
552 other than a permit required for surface water discharge, the  
553 department shall assess a penalty of \$1,500 ~~\$1,000~~. For a  
554 domestic or industrial wastewater violation not involving a  
555 surface water or groundwater quality violation, the department  
556 shall assess a penalty of \$3,000 ~~\$2,000~~ for an unpermitted or  
557 unauthorized discharge or effluent-limitation exceedance. For an  
558 unpermitted or unauthorized discharge or effluent-limitation  
559 exceedance that resulted in a surface water or groundwater  
560 quality violation, the department shall assess a penalty of  
561 \$7,500 ~~\$5,000~~.

562 (c) For a dredge and fill or stormwater violation, the  
563 department shall assess a penalty of \$1,500 ~~\$1,000~~ for  
564 unpermitted or unauthorized dredging or filling or unauthorized  
565 construction of a stormwater management system against the  
566 person or persons responsible for the illegal dredging or  
567 filling, or unauthorized construction of a stormwater management  
568 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in  
569 an aquatic preserve, an Outstanding Florida Water, a  
570 conservation easement, or a Class I or Class II surface water,  
571 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
572 one-quarter acre but less than or equal to one-half acre, and  
573 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
574 one-half acre but less than or equal to one acre. The  
575 administrative penalty schedule does ~~shall~~ not apply to a dredge

576 and fill violation if the area dredged or filled exceeds one  
577 acre. The department retains the authority to seek the judicial  
578 imposition of civil penalties for all dredge and fill violations  
579 involving more than one acre. The department shall assess a  
580 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required  
581 mitigation, failure to record a required conservation easement,  
582 or for a water quality violation resulting from dredging or  
583 filling activities, stormwater construction activities or  
584 failure of a stormwater treatment facility. For stormwater  
585 management systems serving less than 5 acres, the department  
586 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to  
587 properly or timely construct a stormwater management system. In  
588 addition to the penalties authorized in this subsection, the  
589 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
590 against the contractor or agent of the owner or tenant that  
591 conducts unpermitted or unauthorized dredging or filling. For  
592 purposes of this paragraph, the preparation or signing of a  
593 permit application by a person currently licensed under chapter  
594 471 to practice as a professional engineer does ~~shall~~ not make  
595 that person an agent of the owner or tenant.

596 (d) For mangrove trimming or alteration violations, the  
597 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
598 against the contractor or agent of the owner or tenant that  
599 conducts mangrove trimming or alteration without a permit as  
600 required by s. 403.9328. For purposes of this paragraph, the

601 preparation or signing of a permit application by a person  
602 currently licensed under chapter 471 to practice as a  
603 professional engineer does ~~shall~~ not make that person an agent  
604 of the owner or tenant.

605 (e) For solid waste violations, the department shall  
606 assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or  
607 unauthorized disposal or storage of solid waste; plus \$1,000 if  
608 the solid waste is Class I or Class III (excluding yard trash)  
609 or if the solid waste is construction and demolition debris in  
610 excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is  
611 disposed of or stored in any natural or artificial body of water  
612 or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~  
613 if the waste contains PCB at a concentration of 50 parts per  
614 million or greater; untreated biomedical waste; friable asbestos  
615 greater than 1 cubic meter which is not wetted, bagged, and  
616 covered; used oil greater than 25 gallons; or 10 or more lead  
617 acid batteries. The department shall assess a penalty of \$4,500  
618 ~~\$3,000~~ for failure to properly maintain leachate control;  
619 unauthorized burning; failure to have a trained spotter on duty  
620 at the working face when accepting waste; or failure to provide  
621 access control for three consecutive inspections. The department  
622 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct  
623 or maintain a required stormwater management system.

624 (f) For an air emission violation, the department shall  
625 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or

626 unauthorized air emission or an air-emission-permit exceedance,  
627 ~~plus \$1,000 if the emission results in an air quality violation,~~  
628 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and  
629 the source was major for the pollutant in violation; plus \$1,500  
630 ~~\$1,000~~ if the emission was more than 150 percent of the  
631 allowable level.

632 (g) For storage tank system and petroleum contamination  
633 violations, the department shall assess a penalty of \$7,500  
634 ~~\$5,000~~ for failure to empty a damaged storage system as  
635 necessary to ensure that a release does not occur until repairs  
636 to the storage system are completed; when a release has occurred  
637 from that storage tank system; for failure to timely recover  
638 free product; or for failure to conduct remediation or  
639 monitoring activities until a no-further-action or site-  
640 rehabilitation completion order has been issued. The department  
641 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely  
642 upgrade a storage tank system. The department shall assess a  
643 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain  
644 required release detection; failure to timely investigate a  
645 suspected release from a storage system; depositing motor fuel  
646 into an unregistered storage tank system; failure to timely  
647 assess or remediate petroleum contamination; or failure to  
648 properly install a storage tank system. The department shall  
649 assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly  
650 operate, maintain, or close a storage tank system.

651 (4) In an administrative proceeding, in addition to the  
652 penalties that may be assessed under subsection (3), the  
653 department shall assess administrative penalties according to  
654 the following schedule:

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

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

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

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

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

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

674 (5) Except as provided in subsection (2) with respect to  
675 public water systems serving a population of more than 10,000,

676 for failure to comply with any other departmental regulatory  
677 statute or rule requirement not otherwise identified in this  
678 section, the department may assess a penalty of \$1,000 ~~\$500~~.

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

683 (7) The history of noncompliance of the violator for any  
684 previous violation resulting in an executed consent order, but  
685 not including a consent order entered into without a finding of  
686 violation, or resulting in a final order or judgment after the  
687 effective date of this law involving the imposition of \$3,000  
688 ~~\$2,000~~ or more in penalties shall be taken into consideration in  
689 the following manner:

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

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

698 (c) Three or more previous such violations within 5 years  
699 prior to the filing of the notice of violation will result in a  
700 100-percent per day increase in the scheduled administrative

701 penalty.

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

709 (9) The administrative penalties assessed for any  
 710 particular violation may ~~shall~~ not exceed \$7,500 ~~\$5,000~~ against  
 711 any one violator, unless the violator has a history of  
 712 noncompliance, the economic benefit of the violation as  
 713 described in subsection (8) exceeds \$7,500 ~~\$5,000~~, or there are  
 714 multiday violations. The total administrative penalties may  
 715 ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all  
 716 violations attributable to a specific person in the notice of  
 717 violation.

718 (10) The administrative law judge may receive evidence in  
 719 mitigation. The penalties identified in subsections ~~subsection~~  
 720 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50  
 721 percent by the administrative law judge for mitigating  
 722 circumstances, including good faith efforts to comply prior to  
 723 or after discovery of the violations by the department. Upon an  
 724 affirmative finding that the violation was caused by  
 725 circumstances beyond the reasonable control of the respondent

726 and could not have been prevented by respondent's due diligence,  
 727 the administrative law judge may further reduce the penalty.

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

737 (12) The purpose of the administrative penalty schedule  
 738 and process is to provide a more predictable and efficient  
 739 manner for individuals and businesses to resolve relatively  
 740 minor environmental disputes. Subsections (3)-(7) may ~~Subsection~~  
 741 ~~(3), subsection (4), subsection (5), subsection (6), or~~  
 742 ~~subsection (7)~~ shall not be construed as limiting a state court  
 743 in the assessment of damages. The administrative penalty  
 744 schedule does not apply to the judicial imposition of civil  
 745 penalties in state court as provided in this section.

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

748 403.141 Civil liability; joint and several liability.—

749 (1) A person who ~~Whoever~~ commits a violation specified in  
 750 s. 403.161(1) is liable to the state for any damage caused to

751 the air, waters, or property, including animal, plant, or  
752 aquatic life, of the state and for reasonable costs and expenses  
753 of the state in tracing the source of the discharge, in  
754 controlling and abating the source and the pollutants, and in  
755 restoring the air, waters, and property, including animal,  
756 plant, and aquatic life, of the state to their former condition,  
757 and furthermore is subject to the judicial imposition of a civil  
758 penalty for each offense in an amount of not more than \$15,000  
759 ~~\$10,000~~ per offense. However, the court may receive evidence in  
760 mitigation. Until a violation is resolved by order or judgment,  
761 each day during any portion of which such violation occurs or is  
762 not remediated constitutes a separate offense. Nothing herein  
763 gives ~~shall give~~ the department the right to bring an action on  
764 behalf of any private person.

765 Section 16. Subsections (2) through (5) of section  
766 403.161, Florida Statutes, are amended to read:

767 403.161 Prohibitions, violation, penalty, intent.—

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

771 (3) A ~~Any~~ person who willfully commits a violation  
772 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of  
773 the third degree, punishable as provided in ss. 775.082(3)(e)  
774 and 775.083(1)(g) by a fine of not more than \$50,000 or by  
775 imprisonment for 5 years, or by both, for each offense. Until a

776 violation is resolved by order or judgment, each day during any  
 777 portion of which such violation occurs or is not remediated  
 778 constitutes a separate offense.

779 (4) A ~~Any~~ person who commits a violation specified in  
 780 paragraph (1) (a) or paragraph (1) (b) due to reckless  
 781 indifference or gross careless disregard commits ~~is guilty of~~ a  
 782 misdemeanor of the second degree, punishable as provided in ss.  
 783 775.082 (4) (b) and 775.083(1) (g) by a fine of not more than  
 784 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each  
 785 offense.

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

792 Section 17. Paragraph (a) of subsection (6) of section  
 793 403.413, Florida Statutes, is amended to read:

794 403.413 Florida Litter Law.—

795 (6) PENALTIES; ENFORCEMENT.—

796 (a) Any person who dumps litter in violation of subsection  
 797 (4) in an amount not exceeding 15 pounds in weight or 27 cubic  
 798 feet in volume and not for commercial purposes commits ~~is guilty~~  
 799 ~~of~~ a noncriminal infraction, punishable by a civil penalty of  
 800 \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid

801 Waste Management Trust Fund to be used for the solid waste  
 802 management grant program pursuant to s. 403.7095. In addition,  
 803 the court may require the violator to pick up litter or perform  
 804 other labor commensurate with the offense committed.

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

807 403.7234 Small quantity generator notification and  
 808 verification program.—

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

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

822 403.726 Abatement of imminent hazard caused by hazardous  
 823 substance.—

824 (3) An imminent hazard exists if any hazardous substance  
 825 creates an immediate and substantial danger to human health,

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

839 Section 20. Paragraph (a) of subsection (3) of section  
 840 403.727, Florida Statutes, is amended to read:

841 403.727 Violations; defenses, penalties, and remedies.—

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

844 (a) Any person who violates ~~the provisions of~~ this act,  
 845 the rules or orders of the department, or the conditions of a  
 846 permit is liable to the state for any damages specified in s.  
 847 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~  
 848 for each day of continued violation or until a violation is  
 849 resolved by order or judgment, except as otherwise provided  
 850 herein. The department may revoke any permit issued to the

851 violator. In any action by the department against a small  
852 hazardous waste generator for the improper disposal of hazardous  
853 wastes, a rebuttable presumption of improper disposal shall be  
854 created if the generator was notified pursuant to s. 403.7234;  
855 the generator shall then have the burden of proving that the  
856 disposal was proper. If the generator was not so notified, the  
857 burden of proving improper disposal shall be placed upon the  
858 department.

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

861 403.93345 Coral reef protection.—

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

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

874 (b) For damage totaling more than an area of 1 square  
875 meter but less than or equal to an area of 10 square meters,

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876 \$450 ~~\$300~~ per square meter; with aggravating circumstances, an  
877 additional \$450 ~~\$300~~ per square meter; occurring within a state  
878 park or aquatic preserve, an additional \$450 ~~\$300~~ per square  
879 meter.

880 (c) For damage exceeding an area of 10 square meters,  
881 \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,  
882 an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a  
883 state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per  
884 square meter.

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

887 (e) For a third violation, the total penalty may be  
888 tripled.

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

891 (g) The total of penalties levied may not exceed \$375,000  
892 ~~\$250,000~~ per occurrence.

893 Section 22. Subsection (5) of s. 823.11, Florida Statutes,  
894 is reenacted for the purpose of incorporating the amendment made  
895 by this act to s. 376.16, Florida Statutes, in a reference  
896 thereto.

897 Section 23. Subsection (5) of s. 403.077, subsection (2)  
898 of s. 403.131, paragraph (d) of subsection (3) of s. 403.4154,  
899 and subsection (5) of s. 403.860, Florida Statutes, are  
900 reenacted for the purpose of incorporating the amendment made by

901 this act to s. 403.121, Florida Statutes, in references thereto.

902 Section 24. Subsection (10) of s. 403.708, subsection (7)  
903 of s. 403.7191, and s. 403.811, Florida Statutes, are reenacted  
904 for the purpose of incorporating the amendment made by this act  
905 to s. 403.141, Florida Statutes, in references thereto.

906 Section 25. Subsection (2) of s. 403.7255, Florida  
907 Statutes, is reenacted for the purpose of incorporating the  
908 amendment made by this act to s. 403.161, Florida Statutes, in a  
909 reference thereto.

910 Section 26. Subsection (8) of s. 403.7186, Florida  
911 Statutes, is reenacted for the purpose of incorporating the  
912 amendments made by this act to ss. 403.141 and 403.161, Florida  
913 Statutes, in references thereto.

914 Section 27. This act shall take effect July 1, 2020.

By Senator Rouson

19-01886-20

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1 A bill to be entitled  
2 An act relating to vessels; creating s. 327.332, F.S.;  
3 specifying operation of a vessel at slow speed,  
4 minimum wake; prohibiting the operation of vessels at  
5 speeds faster than slow speed, minimum wake in certain  
6 situations; providing requirements for flags displayed  
7 from vessels and barges actively engaged in  
8 construction operations; providing noncriminal  
9 penalties; amending s. 327.4109, F.S.; prohibiting the  
10 anchoring or mooring of a vessel to, or within a  
11 specified distance of, a mangrove or to vegetation  
12 upon, or within a specified distance of, public lands;  
13 providing exceptions; amending s. 327.73, F.S.;  
14 revising civil penalties relating to certain at-risk  
15 vessels and prohibited anchoring or mooring; providing  
16 civil penalties relating to vessels that fail to  
17 reduce speed for special hazards and the display of  
18 specified flags by construction vessels or barges not  
19 actively engaged in construction operations; providing  
20 an appropriation; providing an effective date.

21  
22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 327.332, Florida Statutes, is created to  
26 read:

27 327.332 Special hazards.-

28 (1) For purposes of this section, a vessel is operating at  
29 slow speed, minimum wake only if it is fully off plane and

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30 completely settled into the water.

31 (2) A person may not operate a vessel faster than slow  
32 speed, minimum wake upon approaching within 300 feet of any  
33 emergency vessel, including, but not limited to, a law  
34 enforcement vessel, United States Coast Guard vessel or  
35 auxiliary vessel, fire vessel, or tow vessel, with its emergency  
36 lights activated.

37 (3) (a) A person may not operate a vessel faster than slow  
38 speed, minimum wake upon approaching within 300 feet of any  
39 construction vessel or barge when the vessel or barge is  
40 displaying an orange flag from a pole extending:

41 1. At least 10 feet above the tallest portion of the vessel  
42 or barge, indicating the vessel or barge is actively engaged in  
43 construction operations; or

44 2. At least 5 feet above any superstructure permanently  
45 installed upon the vessel or barge, indicating that the vessel  
46 or barge is actively engaged in construction operations.

47 (b) A flag displayed pursuant to this subsection must:

48 1. Be at least 2 feet by 3 feet in size.

49 2. Have a wire or other stiffener or be otherwise  
50 constructed to ensure that the flag remains fully unfurled and  
51 extended in the absence of a wind or breeze.

52 3. Displayed so that the visibility of the flag is not  
53 obscured in any direction.

54 (c) In periods of low visibility, including 1 hour before  
55 sunset and 1 hour after sunrise, a person may not be cited for a  
56 violation of this subsection unless the orange flag is  
57 illuminated and visible from a distance of at least 2 nautical  
58 miles.

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59       (4) (a) A person operating a vessel in violation of this  
60 section commits a noncriminal infraction, punishable as provided  
61 in s. 327.73.

62       (b) The owner of, or party responsible for, a construction  
63 vessel or barge who displays an orange flag on the vessel or  
64 barge when it is not actively engaged in operations commits a  
65 noncriminal infraction, punishable as provided in s. 327.73.

66       Section 2. Subsections (5) and (6) of section 327.4109,  
67 Florida Statutes, are redesignated as subsections (6) and (7),  
68 respectively, and a new subsection (5) is added to that section,  
69 to read:

70       327.4109 Anchoring or mooring prohibited; exceptions;  
71 penalties.—

72       (5) (a) Except as provided in paragraph (b), the owner or  
73 operator of a vessel may not anchor or moor a vessel to, or  
74 within 20 feet of, a mangrove as defined in s. 403.9325 or to  
75 vegetation upon, or within 20 feet of, public lands. Such  
76 distance must be measured in a straight line from the point of  
77 the vessel closest to the outermost branches of the mangrove or  
78 from the outermost line of vegetation upon the public lands.

79       (b) The owner or operator of a vessel may anchor or moor  
80 to, or within 20 feet of, a mangrove as defined in s. 403.9325  
81 or to vegetation upon, or within 20 feet of, public lands under  
82 the following conditions:

83       1. The vessel suffers a mechanical failure that poses an  
84 unreasonable risk of harm to the vessel or the persons onboard  
85 unless the vessel anchors. The vessel may anchor for 3 business  
86 days or until the vessel is repaired, whichever occurs first.

87       2. Imminent or existing weather conditions in the vicinity

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88 of the vessel pose an unreasonable risk of harm to the vessel or  
 89 the persons onboard unless the vessel anchors. The vessel may  
 90 anchor until weather conditions no longer pose such risk. During  
 91 a hurricane or tropical storm, weather conditions are deemed to  
 92 no longer pose an unreasonable risk of harm when the hurricane  
 93 or tropical storm warning affecting the area has expired.

94 3. The vessel is within a state or locally permitted or  
 95 designated dockage, mooring, or other anchorage area.

96 Section 3. Paragraphs (aa) and (bb) of subsection (1) of  
 97 section 327.73, Florida Statutes, are amended, and paragraphs  
 98 (cc) and (dd) are added to that subsection, to read:

99 327.73 Noncriminal infractions.—

100 (1) Violations of the following provisions of the vessel  
 101 laws of this state are noncriminal infractions:

102 (aa) Section 327.4107, relating to vessels at risk of  
 103 becoming derelict on waters of this state, for which the civil  
 104 penalty is:

105 1. For a first offense, \$100 ~~\$50~~.

106 2. For a second offense occurring 30 days or more after a  
 107 first offense, \$250 ~~\$100~~.

108 3. For a third or subsequent offense occurring 30 days or  
 109 more after a previous offense, \$500 ~~\$250~~. A vessel which is the  
 110 subject of more than three violations within 12 months which  
 111 resulted in dispositions other than acquittal or dismissal shall  
 112 be declared to be a public nuisance and subject to the  
 113 provisions of ss. 705.103 and 823.11.

114 (bb) Section 327.4109, relating to anchoring or mooring in  
 115 a prohibited area, for which the penalty is:

116 1. For a first offense, up to a maximum of \$100 ~~\$50~~.

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117 2. For a second offense, up to a maximum of \$250 ~~\$100~~.

118 3. For a third or subsequent offense, up to a maximum of  
119 \$500 ~~\$250~~. A vessel which is the subject of more than three  
120 violations within 12 months which resulted in dispositions other  
121 than acquittal or dismissal shall be declared to be a public  
122 nuisance and subject to the provisions of ss. 705.103 and  
123 823.11.

124 (cc) Section 327.332(2) and (3), relating to vessels  
125 creating special hazards, for which the penalty is:

126 1. For a first offense, \$50.

127 2. For a second offense occurring within 12 months after a  
128 prior offense, \$250.

129 3. For a third offense occurring within 36 months after a  
130 prior offense, \$500.

131 (dd) Section 327.332(4), relating to the display of an  
132 orange flag on a vessel or barge when the vessel or barge is not  
133 actively engaged in construction operations.

134  
135 Any person cited for a violation of any provision of this  
136 subsection shall be deemed to be charged with a noncriminal  
137 infraction, shall be cited for such an infraction, and shall be  
138 cited to appear before the county court. The civil penalty for  
139 any such infraction is \$50, except as otherwise provided in this  
140 section. Any person who fails to appear or otherwise properly  
141 respond to a uniform boating citation shall, in addition to the  
142 charge relating to the violation of the boating laws of this  
143 state, be charged with the offense of failing to respond to such  
144 citation and, upon conviction, be guilty of a misdemeanor of the  
145 second degree, punishable as provided in s. 775.082 or s.

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146 775.083. A written warning to this effect shall be provided at  
147 the time such uniform boating citation is issued.

148       Section 4. Beginning in fiscal year 2020-2021 and each year  
149 thereafter through fiscal year 2023-2024, the sum of \$250,000 in  
150 nonrecurring funds is appropriated from the General Revenue Fund  
151 to the Fish and Wildlife Conservation Commission for the purpose  
152 of conducting a study of the impacts of long-term stored vessels  
153 on local communities and the state pursuant to s. 327.4109,  
154 Florida Statutes.

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

1                   A bill to be entitled  
2           An act relating to vessels; creating s. 327.332, F.S.;  
3           specifying operation of a vessel at slow speed,  
4           minimum wake; prohibiting the operation of vessels at  
5           speeds faster than slow speed, minimum wake in  
6           hazardous situations; providing requirements for flags  
7           displayed from vessels and barges actively engaged in  
8           construction operations; providing penalties;  
9           providing applicability; amending s. 327.4109, F.S.;  
10          prohibiting within certain waterbodies the anchoring  
11          or mooring of a vessel to, or within a specified  
12          distance of, a mangrove or to vegetation upon, or  
13          within a specified distance of, public lands;  
14          providing exceptions; amending s. 327.73, F.S.;  
15          revising civil penalties relating to certain at-risk  
16          vessels and prohibited anchoring or mooring; providing  
17          civil penalties relating to vessels that fail to  
18          reduce speed for special hazards and the display of  
19          specified flags by construction vessels or barges not  
20          actively engaged in construction operations; providing  
21          an effective date.

22  
23   Be It Enacted by the Legislature of the State of Florida:

24  
25          Section 1.   Section 327.332, Florida Statutes, is created

26 | to read:

27 |       327.332 Special hazards.—

28 |       (1) For purposes of this section, a vessel is operating at  
 29 | slow speed, minimum wake only if it is fully off plane and  
 30 | completely settled into the water.

31 |       (2) A person may not operate a vessel faster than slow  
 32 | speed, minimum wake upon approaching within 300 feet of any  
 33 | emergency vessel, including, but not limited to, a law  
 34 | enforcement vessel, United States Coast Guard vessel, or  
 35 | firefighting vessel, with its emergency lights activated.

36 |       (3) (a) A person may not operate a vessel faster than slow  
 37 | speed, minimum wake upon approaching within 300 feet of any  
 38 | construction vessel or barge when the vessel or barge is  
 39 | displaying an orange flag from a pole extending:

40 |           1. At least 10 feet above the tallest portion of the  
 41 | vessel or barge, indicating the vessel or barge is actively  
 42 | engaged in construction operations; or

43 |           2. At least 5 feet above any superstructure permanently  
 44 | installed upon the vessel or barge, indicating that the vessel  
 45 | or barge is actively engaged in construction operations.

46 |       (b) A flag displayed pursuant to this subsection must be:

47 |           1. At least 2 feet by 3 feet in size.

48 |           2. Have a wire or other stiffener or be otherwise  
 49 | constructed to ensure that the flag remains fully unfurled and  
 50 | extended in the absence of a wind or breeze.

51 3. Displayed so that the visibility of the flag is not  
52 obscured in any direction.

53 (c) In periods of low visibility, including any time  
54 between the hours from one-half hour after sunset and one-half  
55 hour before sunrise, a person may not be cited for a violation  
56 of this subsection unless the orange flag is illuminated and  
57 visible from a distance of at least 2 nautical miles.

58 (4) (a) A person operating a vessel in violation of this  
59 section commits a noncriminal infraction, punishable as provided  
60 in s. 327.73.

61 (b) The owner of, or party responsible for, a construction  
62 vessel or barge who displays an orange flag on the vessel or  
63 barge when it is not actively engaged in operations commits a  
64 noncriminal infraction, punishable as provided in s. 327.73.

65 (5) This section does not apply to a law enforcement,  
66 firefighting, or rescue vessel owned or operated by a  
67 governmental entity.

68 Section 2. Subsections (5) and (6) of section 327.4109,  
69 Florida Statutes, are renumbered as subsections (6) and (7),  
70 respectively, and a new subsection (5) is added to that section,  
71 to read:

72 327.4109 Anchoring or mooring prohibited; exceptions;  
73 penalties.—

74 (5) (a) Except as provided in paragraph (b), the owner or  
75 operator of a vessel may not anchor or moor by any means:

- 76 | 1. To a mangrove as defined in s. 403.9325;  
 77 | 2. To upland vegetation upon public lands;  
 78 | 3. Within 20 feet of a mangrove as defined in s. 403.9325,  
 79 | as measured in a straight line from the point of the vessel  
 80 | closest to the outermost branches of the mangrove; or  
 81 | 4. Within 20 feet of public lands as measured from the  
 82 | point of the vessel closest to the outermost line of vegetation  
 83 | upon the public lands.
- 84 | (b) The owner or operator of a vessel may anchor or moor  
 85 | to, or within 20 feet of, a mangrove as defined in s. 403.9325  
 86 | or to upland vegetation upon, or within 20 feet of, public lands  
 87 | under the following conditions:
- 88 | 1. The vessel suffers a mechanical failure that poses an  
 89 | unreasonable risk of harm to the vessel or the persons onboard  
 90 | unless the vessel anchors or moors. The vessel may anchor or  
 91 | moor for 5 business days or until the vessel is repaired,  
 92 | whichever occurs first.
- 93 | 2. Imminent or existing weather conditions in the vicinity  
 94 | of the vessel pose an unreasonable risk of harm to the vessel or  
 95 | the persons onboard unless the vessel anchors or moors. The  
 96 | vessel may anchor or moor until weather conditions no longer  
 97 | pose such risk. During a hurricane or tropical storm, weather  
 98 | conditions are deemed to no longer pose an unreasonable risk of  
 99 | harm when the hurricane or tropical storm warning affecting the  
 100 | area has expired.

101        3. The vessel is within a state or locally-permitted or  
102 designated dockage, mooring, or other anchorage area.

103        4. The vessel is owned or operated by a governmental  
104 entity.

105        5. The vessel is a construction or dredging vessel on an  
106 active job site.

107        6. The vessel is a commercial fishing vessel actively  
108 engaged in commercial fishing.

109        7. The vessel is actively engaged in lawful recreational  
110 fishing or hunting and the persons onboard are actively tending  
111 hook and line fishing gear, nets, or hunting gear.

112        Section 3. Paragraphs (aa) and (bb) of subsection (1) of  
113 section 327.73, Florida Statutes, are amended, and paragraphs  
114 (cc) and (dd) are added to that subsection, to read:

115        327.73 Noncriminal infractions.—

116        (1) Violations of the following provisions of the vessel  
117 laws of this state are noncriminal infractions:

118        (aa) Section 327.4107, relating to vessels at risk of  
119 becoming derelict on waters of this state, for which the civil  
120 penalty is:

121        1. For a first offense, \$50.

122        2. For a second offense occurring 30 days or more after a  
123 first offense, \$250 ~~\$100~~.

124        3. For a third or subsequent offense occurring 30 days or  
125 more after a previous offense, \$500 ~~\$250~~. A vessel which is the

126 subject of three or more violations within 12 months which  
127 resulted in dispositions other than acquittal or dismissal shall  
128 be declared to be a public nuisance and subject to the  
129 provisions of ss. 705.103 and 823.11.

130 (bb) Section 327.4109, relating to anchoring or mooring in  
131 a prohibited area, for which the penalty is:

- 132 1. For a first offense, up to a maximum of \$50.
- 133 2. For a second offense, up to a maximum of \$250 ~~\$100~~.
- 134 3. For a third or subsequent offense, up to a maximum of  
135 \$500 ~~\$250~~. A vessel which is the subject of three or more  
136 violations within 12 months which resulted in dispositions other  
137 than acquittal or dismissal shall be declared to be a public  
138 nuisance and subject to the provisions of ss. 705.103 and  
139 823.11.

140 (cc) Section 327.332, relating to vessels creating special  
141 hazards, for which the penalty is:

- 142 1. For a first offense, \$50.
- 143 2. For a second offense occurring within 12 months after a  
144 prior offense, \$250.
- 145 3. For a third offense occurring within 36 months after a  
146 prior offense, \$500.

147 (dd) Section 327.332, relating to the display of an orange  
148 flag on a vessel or barge when the vessel or barge is not  
149 actively engaged in construction operations.

150

151 Any person cited for a violation of any provision of this  
152 subsection shall be deemed to be charged with a noncriminal  
153 infraction, shall be cited for such an infraction, and shall be  
154 cited to appear before the county court. The civil penalty for  
155 any such infraction is \$50, except as otherwise provided in this  
156 section. Any person who fails to appear or otherwise properly  
157 respond to a uniform boating citation shall, in addition to the  
158 charge relating to the violation of the boating laws of this  
159 state, be charged with the offense of failing to respond to such  
160 citation and, upon conviction, be guilty of a misdemeanor of the  
161 second degree, punishable as provided in s. 775.082 or s.  
162 775.083. A written warning to this effect shall be provided at  
163 the time such uniform boating citation is issued.

164 Section 4. This act shall take effect July 1, 2020.

By Senator Rodriguez

37-01306-20

20201360\_\_

1                                   A bill to be entitled  
2       An act relating to the Florida Endangered and  
3       Threatened Species Act; amending s. 379.2291, F.S.;  
4       revising legislative intent; revising definitions;  
5       directing the Fish and Wildlife Conservation  
6       Commission to protect certain declassified species;  
7       prohibiting the commission and the Department of  
8       Environmental Protection from considering certain  
9       costs when designating a species as endangered or  
10      threatened; amending s. 581.185, F.S.; revising  
11      criteria for placement of species on the Regulated  
12      Plant Index by the Department of Agriculture and  
13      Consumer Services; directing the department, in  
14      consultation with the Endangered Plant Advisory  
15      Council, to protect certain declassified species;  
16      prohibiting the department from considering certain  
17      costs when designating a species as endangered or  
18      threatened; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22       Section 1. Subsections (2), (3), and (4) of section  
23       379.2291, Florida Statutes, are amended to read:

24       379.2291 Endangered and Threatened Species Act.—

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

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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.

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

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

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

74 (e) The commission and the Department of Environmental  
75 Protection may not consider the economic cost of protecting a  
76 species as a factor in designating the species as endangered or  
77 threatened.

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

80 581.185 Preservation of native flora of Florida.—

81 (5) REVIEW.—

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

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88 (b) The department shall consider any species of plant that  
89 should be placed on the Regulated Plant Index which is in danger  
90 of disappearing from its native habitat within the foreseeable  
91 future throughout all or a significant portion of the range of  
92 the species because of:

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

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

97 3. Disease or predation.

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

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

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

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

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

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A bill to be entitled  
 An act relating to the Florida Endangered and  
 Threatened Species Act; amending s. 379.2291, F.S.;  
 revising legislative intent; 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

26 | wildlife and that it is the policy of this state to conserve and  
27 | wisely manage these resources, with particular attention to  
28 | those species designated ~~defined~~ by the Fish and Wildlife  
29 | Conservation Commission, the Department of Environmental  
30 | Protection, or the United States Department of Interior, or  
31 | successor agencies, as being endangered or threatened. As  
32 | Florida has more endangered and threatened species than any  
33 | other continental state, it is the intent of the Legislature to  
34 | provide for research and management to conserve and protect  
35 | these species as a natural resource.

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

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

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

48 | (c) "Threatened species" means any species of fish and  
49 | wildlife naturally occurring in Florida which may not be in  
50 | immediate danger of extinction, but which exists in such small

51 populations as to become endangered if it is subjected to  
52 increased stress as a result of further modification of its  
53 environment, including climate change.

54 (4) INTERAGENCY COORDINATION.—

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

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

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

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

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

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

78 581.185 Preservation of native flora of Florida.—

79 (5) REVIEW.—

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

86 (b) The department shall consider any species of plant  
 87 that should be placed on the Regulated Plant Index which is in  
 88 danger of disappearing from its native habitat within the  
 89 foreseeable future throughout all or a significant portion of  
 90 the range of the species because of:

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

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

95 3. Disease or predation.

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

98 (c) In carrying out reviews and arriving at  
 99 recommendations under paragraphs (a) and (b), the department and  
 100 the advisory council shall use the best scientific and

101 commercial data available and shall consult with interested  
102 persons and organizations.

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

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

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

By Senator Mayfield

17-01106B-20

20201414\_\_

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 effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18       Section 1. Subsection (1) of section 379.105, Florida  
19       Statutes, is amended to read:

20       379.105 Harassment of hunters, trappers, or fishers.—

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

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

28       (b) Attempt to disturb fish, game, or nongame animals or  
29       attempt to affect their behavior with the intent to prevent

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30 their lawful taking by another within or on such lands or areas,  
31 or in or on such waters.

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

34 379.354 Recreational licenses, permits, and authorization  
35 numbers; fees established.—

36 (15) FREE FISHING DAYS.—The commission may designate by  
37 rule no more than 6 4 consecutive or nonconsecutive days in each  
38 year as free freshwater fishing days and no more than 6 4  
39 consecutive or nonconsecutive days in each year as free  
40 saltwater fishing days. Notwithstanding any other provision of  
41 this chapter, a any person may take freshwater fish for  
42 noncommercial purposes on a free freshwater fishing day and may  
43 take saltwater fish for noncommercial purposes on a free  
44 saltwater fishing day, without obtaining or possessing a license  
45 or permit or paying a license or permit fee as set forth  
46 ~~prescribed~~ in this section. A person who takes freshwater or  
47 saltwater fish on a free fishing day must comply with all laws,  
48 rules, and regulations governing the holders of a fishing  
49 license or permit and all other conditions and limitations  
50 regulating the taking of freshwater or saltwater fish as are  
51 imposed by law or rule.

52 Section 3. Paragraph (a) of subsection (2) of section  
53 379.372, Florida Statutes, is amended to read:

54 379.372 Capturing, keeping, possessing, transporting, or  
55 exhibiting venomous reptiles, reptiles of concern, conditional  
56 reptiles, or prohibited reptiles; license required.—

57 (2) (a) A ~~No~~ person, party, firm, association, or  
58 corporation may not shall keep, possess, import into the state,

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20201414\_\_

59 sell, barter, trade, or breed the following species except for  
60 educational or research purposes ~~personal use or for sale for~~  
61 ~~personal use~~:

- 62 1. Burmese or Indian python (*Python molurus*).
- 63 2. Reticulated python (*Python reticulatus*).
- 64 3. Northern African python (*Python sebae*).
- 65 4. Southern African python (*Python natalensis*).
- 66 5. Amethystine or scrub python (*Morelia amethystinus*).
- 67 6. Green Anaconda (*Eunectes murinus*).
- 68 7. Nile monitor (*Varanus niloticus*).
- 69 8. Green iguana (*Iguana iguana*).
- 70 9. Black and white tegu (*Salvator merianae*).
- 71 10. Any other reptile designated as a conditional or  
72 prohibited species by the commission.

73 Section 4. 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 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

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 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

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2020

126 | year.

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

By Senator Stewart

13-01531-20

20201786\_\_

1                   A bill to be entitled  
2       An act relating to vessel safety; amending s. 327.33,  
3       F.S.; prohibiting a vessel operator from endangering  
4       the life, limb, or property of another person by  
5       allowing passengers to ride on the bow of the vessel;  
6       providing that careless operation includes causing  
7       wake to law enforcement vessels under certain  
8       circumstances; reenacting ss. 327.39(4) and  
9       327.73(1)(h), F.S., relating to the regulation of  
10      personal watercrafts and noncriminal infractions for  
11      violating vessel laws of this state, respectively, to  
12      incorporate the amendment made to s. 327.33, F.S., in  
13      references thereto; providing an effective date.  
14

15 Be It Enacted by the Legislature of the State of Florida:  
16

17       Section 1. Subsection (2) of section 327.33, Florida  
18       Statutes, is amended to read:

19       327.33 Reckless or careless operation of vessel.—

20       (2) A person who operates any vessel upon the waters of  
21       this state shall operate the vessel in a reasonable and prudent  
22       manner, having regard for other waterborne traffic, posted speed  
23       and wake restrictions, and all other attendant circumstances so  
24       as not to endanger the life, limb, or property of another person  
25       outside the vessel or to endanger the life, limb, or property of  
26       another person due to vessel overloading, allowing passengers to  
27       ride on the bow of the vessel, or excessive speed. The failure  
28       to operate a vessel in a manner described in this subsection  
29       constitutes careless operation. Careless operation of a vessel

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20201786\_\_

30 also includes causing vessel wake that affects a law enforcement  
31 vessel that has stopped upon the waters of this state with its  
32 emergency lights activated. However, vessel wake and shoreline  
33 wash resulting from the reasonable and prudent operation of a  
34 vessel, absent negligence, does not constitute damage or  
35 endangerment to property. A person who violates this subsection  
36 commits a noncriminal violation as defined in s. 775.08.

37 Section 2. For the purpose of incorporating the amendment  
38 made by this act to section 327.33, Florida Statutes, in a  
39 reference thereto, subsection (4) of section 327.39, Florida  
40 Statutes, is reenacted to read:

41 327.39 Personal watercraft regulated.—

42 (4) A personal watercraft must at all times be operated in  
43 a reasonable and prudent manner. Maneuvers which unreasonably or  
44 unnecessarily endanger life, limb, or property, including, but  
45 not limited to, weaving through congested vessel traffic,  
46 jumping the wake of another vessel unreasonably or unnecessarily  
47 close to such other vessel or when visibility around such other  
48 vessel is obstructed, and swerving at the last possible moment  
49 to avoid collision shall constitute reckless operation of a  
50 vessel, as provided in s. 327.33(1). Any person operating a  
51 personal watercraft must comply with the provisions of s.  
52 327.33.

53 Section 3. For the purpose of incorporating the amendment  
54 made by this act to section 327.33, Florida Statutes, in a  
55 reference thereto, paragraph (h) of subsection (1) of section  
56 327.73, Florida Statutes, is reenacted to read:

57 327.73 Noncriminal infractions.—

58 (1) Violations of the following provisions of the vessel

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59 laws of this state are noncriminal infractions:

60 (h) Section 327.33(2), relating to careless operation.

61

62 Any person cited for a violation of any provision of this  
63 subsection shall be deemed to be charged with a noncriminal  
64 infraction, shall be cited for such an infraction, and shall be  
65 cited to appear before the county court. The civil penalty for  
66 any such infraction is \$50, except as otherwise provided in this  
67 section. Any person who fails to appear or otherwise properly  
68 respond to a uniform boating citation shall, in addition to the  
69 charge relating to the violation of the boating laws of this  
70 state, be charged with the offense of failing to respond to such  
71 citation and, upon conviction, be guilty of a misdemeanor of the  
72 second degree, punishable as provided in s. 775.082 or s.  
73 775.083. A written warning to this effect shall be provided at  
74 the time such uniform boating citation is issued.

75 Section 4. This act shall take effect July 1, 2020.

By Senator Stewart

13-01862-20

20201788\_\_

1                   A bill to be entitled  
2       An act relating to boating-restricted areas; amending  
3       s. 327.46, F.S.; authorizing municipalities and  
4       counties to establish certain boating-restricted areas  
5       by ordinance for areas within a specified distance of  
6       any shoreline; reenacting s. 327.41(2), F.S., relating  
7       to uniform waterway regulatory markers, to incorporate  
8       the amendment made to s. 327.46, F.S., in a reference  
9       thereto; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13       Section 1. Paragraph (b) of subsection (1) of section  
14       327.46, Florida Statutes, is amended to read:

15       327.46 Boating-restricted areas.—

16       (1) Boating-restricted areas, including, but not limited  
17       to, restrictions of vessel speeds and vessel traffic, may be  
18       established on the waters of this state for any purpose  
19       necessary to protect the safety of the public if such  
20       restrictions are necessary based on boating accidents,  
21       visibility, hazardous currents or water levels, vessel traffic  
22       congestion, or other navigational hazards or to protect  
23       seagrasses on privately owned submerged lands.

24       (b) Municipalities and counties have the authority to  
25       establish the following boating-restricted areas by ordinance:

26       1. An ordinance establishing an idle speed, no wake  
27       boating-restricted area, if the area is:

28       a. Within 500 feet of any boat ramp, hoist, marine railway,  
29       or other launching or landing facility available for use by the

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30 general boating public on waterways more than 300 feet in width  
31 or within 300 feet of any boat ramp, hoist, marine railway, or  
32 other launching or landing facility available for use by the  
33 general boating public on waterways not exceeding 300 feet in  
34 width.

35 b. Within 500 feet of fuel pumps or dispensers at any  
36 marine fueling facility that sells motor fuel to the general  
37 boating public on waterways more than 300 feet in width or  
38 within 300 feet of the fuel pumps or dispensers at any licensed  
39 terminal facility that sells motor fuel to the general boating  
40 public on waterways not exceeding 300 feet in width.

41 c. Inside or within 300 feet of any lock structure.

42 d. Within 200 feet of any shoreline.

43 2. An ordinance establishing a slow speed, minimum wake  
44 boating-restricted area if the area is:

45 a. Within 300 feet of any bridge fender system.

46 b. Within 300 feet of any bridge span presenting a vertical  
47 clearance of less than 25 feet or a horizontal clearance of less  
48 than 100 feet.

49 c. On a creek, stream, canal, or similar linear waterway if  
50 the waterway is less than 75 feet in width from shoreline to  
51 shoreline.

52 d. On a lake or pond of less than 10 acres in total surface  
53 area.

54 3. An ordinance establishing a vessel-exclusion zone if the  
55 area is:

56 a. Designated as a public bathing beach or swim area.

57 b. Within 300 feet of a dam, spillway, or flood control  
58 structure.

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59           Section 2. For the purpose of incorporating the amendment  
60 made by this act to section 327.46, Florida Statutes, in a  
61 reference thereto, subsection (2) of section 327.41, Florida  
62 Statutes, is reenacted to read:

63           327.41 Uniform waterway regulatory markers.—

64           (2) Any county or municipality which has been granted a  
65 boating-restricted area designation, by rule of the commission  
66 pursuant to s. 327.46(1)(a), for a portion of the Florida  
67 Intracoastal Waterway within its jurisdiction or which has  
68 adopted a boating-restricted area by ordinance pursuant to s.  
69 327.46(1)(b) or (c) or s. 379.2431(2)(p), or any other  
70 governmental entity which has legally established a boating-  
71 restricted area, may apply to the commission for permission to  
72 place regulatory markers within the boating-restricted area.

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

By Senator Bradley

5-01697C-20

20201878\_\_

1                                   A bill to be entitled  
2       An act relating to environmental protection; creating  
3       s. 373.477, F.S.; requiring a minimum annual  
4       appropriation for Everglades restoration and the  
5       protection of water resources in this state beginning  
6       in a specified fiscal year; providing requirements for  
7       the allocation of such funding; providing for future  
8       repeal of the appropriation unless reviewed and saved  
9       from repeal through reenactment by the Legislature;  
10      providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14       Section 1. Section 373.477, Florida Statutes, is created to  
15      read:

16       373.477 Everglades restoration and protection of water  
17 resources.—For fiscal year 2020-2021, and annually thereafter, a  
18 minimum of \$625 million shall be appropriated as provided in  
19 this section for the purposes of Everglades restoration and the  
20 protection of water resources in this state. The funding must be  
21 used for a science-based process to identify projects that are  
22 needed to achieve such restoration and protection.

23       (1) The annual appropriations to the Department of  
24 Environmental Protection must provide for the following  
25 distributions:

26       (a) The greater of \$300 million or as provided pursuant to  
27 s. 375.041(3)(b)1., for Everglades restoration, and s.  
28 375.041(3)(b)4., for the Everglades Agricultural Area reservoir  
29 project.

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20201878\_\_

30       (b) The sum of \$50 million to the South Florida Water  
31 Management District for the design, engineering, and  
32 construction of aquifer storage and recovery wells.

33       (c) Funding for spring restoration pursuant to s.  
34 375.041(3)(b)2.

35       (d) The sum of \$40 million for alternative water supplies  
36 or water conservation.

37       (e) The sum of \$15 million for projects within the  
38 watersheds of the St. Johns River, the Suwannee River, and the  
39 Apalachicola River.

40       (f) The sum of \$15 million for projects within the  
41 watersheds of the Indian River Lagoon.

42       (g) The sum of \$10 million for coral reef protection and  
43 restoration.

44       (2) The sum of \$4 million to the Fish and Wildlife  
45 Conservation Commission for red tide research.

46       (3) Any remaining balance shall be allocated to fund any of  
47 the following:

48       (a) Targeted water quality improvements.

49       (b) Alternative water supplies or water conservation.

50       (c) Water quality enhancements and accountability,  
51 innovative technologies, and harmful algal bloom prevention and  
52 mitigation.

53       (d) Land acquisition or easement acquisition, including,  
54 but not limited to, lands or easements purchased pursuant to the  
55 Florida Forever program or the Rural and Family Lands Protection  
56 Program.

57       (4) This section is repealed on June 30, 2023, unless  
58 reviewed and saved from repeal through reenactment by the

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59 Legislature.

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



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



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27 such rulemaking by a specified date; requiring the  
28 department to evaluate certain data relating to the  
29 self-certification program and provide the Legislature  
30 with recommendations by a specified date; providing  
31 that certain provisions relating to existing setback  
32 requirements are applicable to permits only until the  
33 adoption of certain rules by the department; creating  
34 s. 381.00652, F.S.; creating an onsite sewage  
35 treatment and disposal systems technical advisory  
36 committee within the department; providing the duties  
37 and membership of the committee; requiring the  
38 committee to submit a report to the Governor and the  
39 Legislature by a specified date; providing for the  
40 expiration of the committee; repealing s. 381.0068,  
41 F.S., relating to a technical review and advisory  
42 panel; amending s. 403.061, F.S.; requiring the  
43 department to adopt rules relating to the underground  
44 pipes of wastewater collection systems; requiring  
45 public utilities or their affiliated companies that  
46 hold or are seeking a wastewater discharge permit to  
47 file certain reports and data with the department;  
48 creating s. 403.0616, F.S.; requiring the department,  
49 subject to legislative appropriation, to establish a  
50 real-time water quality monitoring program;  
51 encouraging the formation of public-private  
52 partnerships; amending s. 403.067, F.S.; requiring  
53 basin management action plans for nutrient total  
54 maximum daily loads to include wastewater treatment  
55 and onsite sewage treatment and disposal system



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56 remediation plans that meet certain requirements;  
57 requiring the Department of Agriculture and Consumer  
58 Services to collect fertilization and nutrient records  
59 from certain agricultural producers and provide the  
60 information to the department annually by a specified  
61 date; requiring the Department of Agriculture and  
62 Consumer Services to perform onsite inspections of the  
63 agricultural producers at specified intervals;  
64 authorizing certain entities to develop research plans  
65 and legislative budget requests relating to best  
66 management practices by a specified date; creating s.  
67 403.0673, F.S.; establishing a wastewater grant  
68 program within the Department of Environmental  
69 Protection; authorizing the department to distribute  
70 appropriated funds for certain projects; providing  
71 requirements for the distribution; requiring the  
72 department to coordinate with each water management  
73 district to identify grant recipients; requiring an  
74 annual report to the Governor and the Legislature by a  
75 specified date; creating s. 403.0855, F.S.; providing  
76 legislative findings regarding the regulation of  
77 biosolids management in this state; requiring the  
78 department to adopt rules for biosolids management;  
79 exempting the rules from a specified statutory  
80 requirement; amending s. 403.086, F.S.; prohibiting  
81 facilities for sanitary sewage disposal from disposing  
82 of any waste in the Indian River Lagoon beginning on a  
83 specified date without first providing advanced waste  
84 treatment; requiring facilities for sanitary sewage



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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



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114 ss. 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46,  
115 373.250, 373.414, 373.705, 373.707, 373.709, 373.807,  
116 376.307, 380.0552, 381.006, 381.0061, 381.0064,  
117 381.00651, 381.0101, 403.08601, 403.0871, 403.0872,  
118 403.707, 403.861, 489.551, and 590.02, F.S.;  
119 conforming cross-references and provisions to changes  
120 made by the act; providing a directive to the Division  
121 of Law Revision upon the adoption of certain rules by  
122 the Department of Environmental Protection; providing  
123 effective dates.

124  
125 WHEREAS, nutrients negatively impact groundwater and  
126 surface waters in this state and cause the proliferation of  
127 algal blooms, and

128 WHEREAS, onsite sewage treatment and disposal systems were  
129 designed to manage human waste and are permitted by the  
130 Department of Health for that purpose, and

131 WHEREAS, conventional onsite sewage treatment and disposal  
132 systems contribute nutrients to groundwater and surface waters  
133 across this state which can cause harmful blue-green algal  
134 blooms, and

135 WHEREAS, many stormwater systems are designed primarily to  
136 divert and control stormwater rather than to remove pollutants,  
137 and

138 WHEREAS, most existing stormwater system design criteria  
139 fail to consistently meet either the 80 percent or 95 percent  
140 target pollutant reduction goals established by the Department  
141 of Environmental Protection, and

142 WHEREAS, other significant pollutants often can be removed



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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



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172 implementation, alone, will alleviate downstream water quality  
173 impairments, NOW, THEREFORE,

174

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

176

177 Section 1. This act may be cited as the "Clean Waterways  
178 Act."

179 Section 2. (1) By July 1, 2020, the Department of Health  
180 must provide a report to the Governor, the President of the  
181 Senate, and the Speaker of the House of Representatives  
182 detailing the following information regarding the Onsite Sewage  
183 Program:

184 (a) The average number of permits issued each year;

185 (b) The number of department employees conducting work on  
186 or related to the program each year; and

187 (c) The program's costs and expenditures, including, but  
188 not limited to, salaries and benefits, equipment costs, and  
189 contracting costs.

190 (2) By December 31, 2020, the Department of Health and the  
191 Department of Environmental Protection shall submit  
192 recommendations to the Governor, the President of the Senate,  
193 and the Speaker of the House of Representatives regarding the  
194 transfer of the Onsite Sewage Program from the Department of  
195 Health to the Department of Environmental Protection. The  
196 recommendations must address all aspects of the transfer,  
197 including the continued role of the county health departments in  
198 the permitting, inspection, data management, and tracking of  
199 onsite sewage treatment and disposal systems under the direction  
200 of the Department of Environmental Protection.



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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



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230 pursuant to s. 216.292(4)(d), Florida Statutes, and are subject  
231 to s. 216.177, Florida Statutes. Subsequent adjustments between  
232 the Department of Health and the Department of Environmental  
233 Protection which are determined necessary by the respective  
234 agencies and approved by the Executive Office of the Governor  
235 are authorized and subject to s. 216.177, Florida Statutes. The  
236 appropriate substantive committees of the Senate and the House  
237 of Representatives must also be notified of the proposed  
238 revisions to ensure their consistency with legislative policy  
239 and intent.

240 (4) Effective July 1, 2021, all powers, duties, functions,  
241 records, offices, personnel, associated administrative support  
242 positions, property, pending issues, existing contracts,  
243 administrative authority, administrative rules, and unexpended  
244 balances of appropriations, allocations, and other funds for the  
245 regulation of onsite sewage treatment and disposal systems  
246 relating to the Onsite Sewage Program in the Department of  
247 Health are transferred by a type two transfer, as defined in s.  
248 20.06(2), Florida Statutes, to the Department of Environmental  
249 Protection.

250 (5) Notwithstanding chapter 60L-34, Florida Administrative  
251 Code, or any law to the contrary, employees who are transferred  
252 from the Department of Health to the Department of Environmental  
253 Protection to fill positions transferred by this act retain and  
254 transfer any accrued annual leave, sick leave, and regular and  
255 special compensatory leave balances.

256 Section 3. Subsection (5) of section 373.4131, Florida  
257 Statutes, is amended, and subsection (6) is added to that  
258 section, to read:



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259           373.4131 Statewide environmental resource permitting  
260 rules.—

261           (5) To ensure consistent implementation and interpretation  
262 of the rules adopted pursuant to this section, the department  
263 shall conduct or oversee regular assessment and training of its  
264 staff and the staffs of the water management districts and local  
265 governments delegated local pollution control program authority  
266 under s. 373.441. The training must include coordinating field  
267 inspections of publicly and privately owned stormwater  
268 structural controls, such as stormwater retention or detention  
269 ponds.

270           (6) By January 1, 2021:

271           (a) The department and the water management districts shall  
272 initiate rulemaking to update the stormwater design and  
273 operation regulations using the most recent scientific  
274 information available; and

275           (b) The department shall evaluate inspection data relating  
276 to compliance by those entities that self-certify under s.  
277 403.814(12) and provide the Legislature with recommendations for  
278 improvements to the self-certification program.

279           Section 4. Effective July 1, 2021, present paragraphs (d)  
280 through (q) of subsection (2) of section 381.0065, Florida  
281 Statutes, are redesignated as paragraphs (e) through (r),  
282 respectively, a new paragraph (d) is added to that subsection,  
283 and subsections (3) and (4) of that section are amended, to  
284 read:

285           381.0065 Onsite sewage treatment and disposal systems;  
286 regulation.—

287           (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the



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288 term:

289 (d) "Department" means the Department of Environmental  
290 Protection.

291 (3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The  
292 department shall:

293 (a) Adopt rules to administer ss. 381.0065-381.0067,  
294 including definitions that are consistent with the definitions  
295 in this section, ~~decreases to setback requirements where no~~  
296 ~~health hazard exists~~, increases for the lot-flow allowance for  
297 performance-based systems, requirements for separation from  
298 water table elevation during the wettest season, requirements  
299 for the design and construction of any component part of an  
300 onsite sewage treatment and disposal system, application and  
301 permit requirements for persons who maintain an onsite sewage  
302 treatment and disposal system, requirements for maintenance and  
303 service agreements for aerobic treatment units and performance-  
304 based treatment systems, and recommended standards, including  
305 disclosure requirements, for voluntary system inspections to be  
306 performed by individuals who are authorized by law to perform  
307 such inspections and who shall inform a person having ownership,  
308 control, or use of an onsite sewage treatment and disposal  
309 system of the inspection standards and of that person's  
310 authority to request an inspection based on all or part of the  
311 standards.

312 (b) Perform application reviews and site evaluations, issue  
313 permits, and conduct inspections and complaint investigations  
314 associated with the construction, installation, maintenance,  
315 modification, abandonment, operation, use, or repair of an  
316 onsite sewage treatment and disposal system for a residence or



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317 establishment with an estimated domestic sewage flow of 10,000  
318 gallons or less per day, or an estimated commercial sewage flow  
319 of 5,000 gallons or less per day, which is not currently  
320 regulated under chapter 403.

321 (c) Develop a comprehensive program to ensure that onsite  
322 sewage treatment and disposal systems regulated by the  
323 department are sized, designed, constructed, installed, sited,  
324 repaired, modified, abandoned, used, operated, and maintained in  
325 compliance with this section and rules adopted under this  
326 section to prevent groundwater contamination, including impacts  
327 from nutrient pollution, and surface water contamination and to  
328 preserve the public health. The department is the final  
329 administrative interpretive authority regarding rule  
330 interpretation. In the event of a conflict regarding rule  
331 interpretation, the secretary of the department ~~State Surgeon~~  
332 ~~General,~~ or his or her designee, shall timely assign a staff  
333 person to resolve the dispute.

334 (d) Grant variances in hardship cases under the conditions  
335 prescribed in this section and rules adopted under this section.

336 (e) Permit the use of a limited number of innovative  
337 systems for a specific period of time, when there is compelling  
338 evidence that the system will function properly and reliably to  
339 meet the requirements of this section and rules adopted under  
340 this section.

341 (f) Issue annual operating permits under this section.

342 (g) Establish and collect fees as established under s.  
343 381.0066 for services provided with respect to onsite sewage  
344 treatment and disposal systems.

345 (h) Conduct enforcement activities, including imposing



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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



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375 and advisory panel or the research review and advisory  
376 committee.

377 (k) Approve the installation of individual graywater  
378 disposal systems in which blackwater is treated by a central  
379 sewerage system.

380 (l) Regulate and permit the sanitation, handling,  
381 treatment, storage, reuse, and disposal of byproducts from any  
382 system regulated under this chapter and not regulated by the  
383 Department of Environmental Protection.

384 (m) Permit and inspect portable or temporary toilet  
385 services and holding tanks. The department shall review  
386 applications, perform site evaluations, and issue permits for  
387 the temporary use of holding tanks, privies, portable toilet  
388 services, or any other toilet facility that is intended for use  
389 on a permanent or nonpermanent basis, including facilities  
390 placed on construction sites when workers are present. The  
391 department may specify standards for the construction,  
392 maintenance, use, and operation of any such facility for  
393 temporary use.

394 (n) Regulate and permit maintenance entities for  
395 performance-based treatment systems and aerobic treatment unit  
396 systems. To ensure systems are maintained and operated according  
397 to manufacturer's specifications and designs, the department  
398 shall establish by rule minimum qualifying criteria for  
399 maintenance entities. The criteria shall include: training,  
400 access to approved spare parts and components, access to  
401 manufacturer's maintenance and operation manuals, and service  
402 response time. The maintenance entity shall employ a contractor  
403 licensed under s. 489.105(3)(m), or part III of chapter 489, or



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404 a state-licensed wastewater plant operator, who is responsible  
405 for maintenance and repair of all systems under contract.

406 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not  
407 construct, repair, modify, abandon, or operate an onsite sewage  
408 treatment and disposal system without first obtaining a permit  
409 approved by the department. The department may issue permits to  
410 carry out this section., ~~but shall not make the issuance of such~~  
411 ~~permits contingent upon prior approval by the Department of~~  
412 ~~Environmental Protection, except that~~ The issuance of a permit  
413 for work seaward of the coastal construction control line  
414 established under s. 161.053 shall be contingent upon receipt of  
415 any required coastal construction control line permit from the  
416 department ~~of Environmental Protection~~. A construction permit is  
417 valid for 18 months from the issuance date and may be extended  
418 by the department for one 90-day period under rules adopted by  
419 the department. A repair permit is valid for 90 days from the  
420 date of issuance. An operating permit must be obtained before  
421 ~~prior to~~ the use of any aerobic treatment unit or if the  
422 establishment generates commercial waste. Buildings or  
423 establishments that use an aerobic treatment unit or generate  
424 commercial waste shall be inspected by the department at least  
425 annually to assure compliance with the terms of the operating  
426 permit. The operating permit for a commercial wastewater system  
427 is valid for 1 year from the date of issuance and must be  
428 renewed annually. The operating permit for an aerobic treatment  
429 unit is valid for 2 years from the date of issuance and must be  
430 renewed every 2 years. If all information pertaining to the  
431 siting, location, and installation conditions or repair of an  
432 onsite sewage treatment and disposal system remains the same, a



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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.



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462 (a) Subdivisions and lots in which each lot has a minimum  
463 area of at least one-half acre and either a minimum dimension of  
464 100 feet or a mean of at least 100 feet of the side bordering  
465 the street and the distance formed by a line parallel to the  
466 side bordering the street drawn between the two most distant  
467 points of the remainder of the lot may be developed with a water  
468 system regulated under s. 381.0062 and onsite sewage treatment  
469 and disposal systems, provided the projected daily sewage flow  
470 does not exceed an average of 1,500 gallons per acre per day,  
471 and provided satisfactory drinking water can be obtained and all  
472 distance and setback, soil condition, water table elevation, and  
473 other related requirements of this section and rules adopted  
474 under this section can be met.

475 (b) Subdivisions and lots using a public water system as  
476 defined in s. 403.852 may use onsite sewage treatment and  
477 disposal systems, provided there are no more than four lots per  
478 acre, provided the projected daily sewage flow does not exceed  
479 an average of 2,500 gallons per acre per day, and provided that  
480 all distance and setback, soil condition, water table elevation,  
481 and other related requirements that are generally applicable to  
482 the use of onsite sewage treatment and disposal systems are met.

483 (c) Notwithstanding paragraphs (a) and (b), for  
484 subdivisions platted of record on or before October 1, 1991,  
485 when a developer or other appropriate entity has previously made  
486 or makes provisions, including financial assurances or other  
487 commitments, acceptable to the Department ~~of Health~~, that a  
488 central water system will be installed by a regulated public  
489 utility based on a density formula, private potable wells may be  
490 used with onsite sewage treatment and disposal systems until the



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491 agreed-upon densities are reached. In a subdivision regulated by  
492 this paragraph, the average daily sewage flow may not exceed  
493 2,500 gallons per acre per day. This section does not affect the  
494 validity of existing prior agreements. After October 1, 1991,  
495 the exception provided under this paragraph is not available to  
496 a developer or other appropriate entity.

497 (d) Paragraphs (a) and (b) do not apply to any proposed  
498 residential subdivision with more than 50 lots or to any  
499 proposed commercial subdivision with more than 5 lots where a  
500 publicly owned or investor-owned sewerage system is available.  
501 It is the intent of this paragraph not to allow development of  
502 additional proposed subdivisions in order to evade the  
503 requirements of this paragraph.

504 (e) The department shall adopt rules to locate onsite  
505 sewage treatment and disposal systems, including establishing  
506 setback distances, to prevent groundwater contamination and  
507 surface water contamination and to preserve the public health.  
508 The rulemaking process for such rules must be completed by July  
509 1, 2022, and the department shall notify the Division of Law  
510 Revision of the date such rules are adopted. The rules must  
511 consider conventional and enhanced nutrient-reducing onsite  
512 sewage treatment and disposal system designs, impaired or  
513 degraded water bodies, domestic wastewater and drinking water  
514 infrastructure, potable water sources, nonpotable wells,  
515 stormwater infrastructure, the onsite sewage treatment and  
516 disposal system remediation plans developed pursuant to s.  
517 403.067(7)(a)9.b., nutrient pollution, and the recommendations  
518 of the onsite sewage treatment and disposal systems technical  
519 advisory committee established pursuant to s. 381.00652.



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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



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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



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578 treatment and disposal systems for lots platted before 1972 may  
579 not exceed:

580 a. Two thousand five hundred gallons per acre per day for  
581 lots served by public water systems as defined in s. 403.852.

582 b. One thousand five hundred gallons per acre per day for  
583 lots served by water systems regulated under s. 381.0062.

584 (h)1. The department may grant variances in hardship cases  
585 which may be less restrictive than ~~the provisions~~ specified in  
586 this section. If a variance is granted and the onsite sewage  
587 treatment and disposal system construction permit has been  
588 issued, the variance may be transferred with the system  
589 construction permit, if the transferee files, within 60 days  
590 after the transfer of ownership, an amended construction permit  
591 application providing all corrected information and proof of  
592 ownership of the property and if the same variance would have  
593 been required for the new owner of the property as was  
594 originally granted to the original applicant for the variance.  
595 There is no fee associated with the processing of this  
596 supplemental information. A variance may not be granted under  
597 this section until the department is satisfied that:

598 a. The hardship was not caused intentionally by the action  
599 of the applicant;

600 b. No reasonable alternative, taking into consideration  
601 factors such as cost, exists for the treatment of the sewage;  
602 and

603 c. The discharge from the onsite sewage treatment and  
604 disposal system will not adversely affect the health of the  
605 applicant or the public or significantly degrade the groundwater  
606 or surface waters.



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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



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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



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665 wastewater or toxic or hazardous chemicals.

666         2. Each person who owns or operates a business or facility  
667 in an area zoned or used for industrial or manufacturing  
668 purposes, or its equivalent, or who owns or operates a business  
669 that has the potential to generate toxic, hazardous, or  
670 industrial wastewater or toxic or hazardous chemicals, and uses  
671 an onsite sewage treatment and disposal system that is installed  
672 on or after July 5, 1989, must obtain an annual system operating  
673 permit from the department. A person who owns or operates a  
674 business that uses an onsite sewage treatment and disposal  
675 system that was installed and approved before July 5, 1989, need  
676 not obtain a system operating permit. However, upon change of  
677 ownership or tenancy, the new owner or operator must notify the  
678 department of the change, and the new owner or operator must  
679 obtain an annual system operating permit, regardless of the date  
680 that the system was installed or approved.

681         3. The department shall periodically review and evaluate  
682 the continued use of onsite sewage treatment and disposal  
683 systems in areas zoned or used for industrial or manufacturing  
684 purposes, or its equivalent, and may require the collection and  
685 analyses of samples from within and around such systems. If the  
686 department finds that toxic or hazardous chemicals or toxic,  
687 hazardous, or industrial wastewater have been or are being  
688 disposed of through an onsite sewage treatment and disposal  
689 system, the department shall initiate enforcement actions  
690 against the owner or tenant to ensure adequate cleanup,  
691 treatment, and disposal.

692         (j) An onsite sewage treatment and disposal system designed  
693 by a professional engineer registered in the state and certified



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694 by such engineer as complying with performance criteria adopted  
695 by the department must be approved by the department subject to  
696 the following:

697 1. The performance criteria applicable to engineer-designed  
698 systems must be limited to those necessary to ensure that such  
699 systems do not adversely affect the public health or  
700 significantly degrade the groundwater or surface water. Such  
701 performance criteria shall include consideration of the quality  
702 of system effluent, the proposed total sewage flow per acre,  
703 wastewater treatment capabilities of the natural or replaced  
704 soil, water quality classification of the potential surface-  
705 water-receiving body, and the structural and maintenance  
706 viability of the system for the treatment of domestic  
707 wastewater. However, performance criteria shall address only the  
708 performance of a system and not a system's design.

709 2. A person electing to utilize an engineer-designed system  
710 shall, upon completion of the system design, submit such design,  
711 certified by a registered professional engineer, to the county  
712 health department. The county health department may utilize an  
713 outside consultant to review the engineer-designed system, with  
714 the actual cost of such review to be borne by the applicant.  
715 Within 5 working days after receiving an engineer-designed  
716 system permit application, the county health department shall  
717 request additional information if the application is not  
718 complete. Within 15 working days after receiving a complete  
719 application for an engineer-designed system, the county health  
720 department either shall issue the permit or, if it determines  
721 that the system does not comply with the performance criteria,  
722 shall notify the applicant of that determination and refer the



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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



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752 such periodic basis as the fee collected permits, and may  
753 collect system-effluent samples if appropriate to determine  
754 compliance with the performance criteria. The fee for the  
755 biennial operating permit shall be collected beginning with the  
756 second year of system operation.

757         6. If an engineer-designed system fails to properly  
758 function or fails to meet performance standards, the system  
759 shall be re-engineered, if necessary, to bring the system into  
760 compliance with ~~the provisions of~~ this section.

761         (k) An innovative system may be approved in conjunction  
762 with an engineer-designed site-specific system which is  
763 certified by the engineer to meet the performance-based criteria  
764 adopted by the department.

765         (1) For the Florida Keys, the department shall adopt a  
766 special rule for the construction, installation, modification,  
767 operation, repair, maintenance, and performance of onsite sewage  
768 treatment and disposal systems which considers the unique soil  
769 conditions and water table elevations, densities, and setback  
770 requirements. On lots where a setback distance of 75 feet from  
771 surface waters, saltmarsh, and buttonwood association habitat  
772 areas cannot be met, an injection well, approved and permitted  
773 by the department, may be used for disposal of effluent from  
774 onsite sewage treatment and disposal systems. The following  
775 additional requirements apply to onsite sewage treatment and  
776 disposal systems in Monroe County:

777         1. The county, each municipality, and those special  
778 districts established for the purpose of the collection,  
779 transmission, treatment, or disposal of sewage shall ensure, in  
780 accordance with the specific schedules adopted by the



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781 Administration Commission under s. 380.0552, the completion of  
782 onsite sewage treatment and disposal system upgrades to meet the  
783 requirements of this paragraph.

784 2. Onsite sewage treatment and disposal systems must cease  
785 discharge by December 31, 2015, or must comply with department  
786 rules and provide the level of treatment which, on a permitted  
787 annual average basis, produces an effluent that contains no more  
788 than the following concentrations:

789 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

790 b. Suspended Solids of 10 mg/l.

791 c. Total Nitrogen, expressed as N, of 10 mg/l or a  
792 reduction in nitrogen of at least 70 percent. A system that has  
793 been tested and certified to reduce nitrogen concentrations by  
794 at least 70 percent shall be deemed to be in compliance with  
795 this standard.

796 d. Total Phosphorus, expressed as P, of 1 mg/l.

797

798 In addition, onsite sewage treatment and disposal systems  
799 discharging to an injection well must provide basic disinfection  
800 as defined by department rule.

801 3. In areas not scheduled to be served by a central sewer,  
802 onsite sewage treatment and disposal systems must, by December  
803 31, 2015, comply with department rules and provide the level of  
804 treatment described in subparagraph 2.

805 4. In areas scheduled to be served by central sewer by  
806 December 31, 2015, if the property owner has paid a connection  
807 fee or assessment for connection to the central sewer system,  
808 the property owner may install a holding tank with a high water  
809 alarm or an onsite sewage treatment and disposal system that



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810 meets the following minimum standards:

811 a. The existing tanks must be pumped and inspected and  
812 certified as being watertight and free of defects in accordance  
813 with department rule; and

814 b. A sand-lined drainfield or injection well in accordance  
815 with department rule must be installed.

816 5. Onsite sewage treatment and disposal systems must be  
817 monitored for total nitrogen and total phosphorus concentrations  
818 as required by department rule.

819 6. The department shall enforce proper installation,  
820 operation, and maintenance of onsite sewage treatment and  
821 disposal systems pursuant to this chapter, including ensuring  
822 that the appropriate level of treatment described in  
823 subparagraph 2. is met.

824 7. The authority of a local government, including a special  
825 district, to mandate connection of an onsite sewage treatment  
826 and disposal system is governed by s. 4, chapter 99-395, Laws of  
827 Florida.

828 8. Notwithstanding any other ~~provision of~~ law, an onsite  
829 sewage treatment and disposal system installed after July 1,  
830 2010, in unincorporated Monroe County, excluding special  
831 wastewater districts, that complies with the standards in  
832 subparagraph 2. is not required to connect to a central sewer  
833 system until December 31, 2020.

834 (m) No product sold in the state for use in onsite sewage  
835 treatment and disposal systems may contain any substance in  
836 concentrations or amounts that would interfere with or prevent  
837 the successful operation of such system, or that would cause  
838 discharges from such systems to violate applicable water quality



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839 standards. The department shall publish criteria for products  
840 known or expected to meet the conditions of this paragraph. In  
841 the event a product does not meet such criteria, such product  
842 may be sold if the manufacturer satisfactorily demonstrates to  
843 the department that the conditions of this paragraph are met.

844 (n) Evaluations for determining the seasonal high-water  
845 table elevations or the suitability of soils for the use of a  
846 new onsite sewage treatment and disposal system shall be  
847 performed by department personnel, professional engineers  
848 registered in the state, or such other persons with expertise,  
849 as defined by rule, in making such evaluations. Evaluations for  
850 determining mean annual flood lines shall be performed by those  
851 persons identified in paragraph (2) (k) ~~(2) (j)~~. The department  
852 shall accept evaluations submitted by professional engineers and  
853 such other persons as meet the expertise established by this  
854 section or by rule unless the department has a reasonable  
855 scientific basis for questioning the accuracy or completeness of  
856 the evaluation.

857 (o) The department shall appoint a research review and  
858 advisory committee, which shall meet at least semiannually. The  
859 committee shall advise the department on directions for new  
860 research, review and rank proposals for research contracts, and  
861 review draft research reports and make comments. The committee  
862 is comprised of:

- 863 1. A representative of the Secretary of Environmental  
864 Protection ~~State Surgeon General~~, or his or her designee.  
865 2. A representative from the septic tank industry.  
866 3. A representative from the home building industry.  
867 4. A representative from an environmental interest group.



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868           5. A representative from the State University System, from  
869 a department knowledgeable about onsite sewage treatment and  
870 disposal systems.

871           6. A professional engineer registered in this state who has  
872 work experience in onsite sewage treatment and disposal systems.

873           7. A representative from local government who is  
874 knowledgeable about domestic wastewater treatment.

875           8. A representative from the real estate profession.

876           9. A representative from the restaurant industry.

877           10. A consumer.

878

879 Members shall be appointed for a term of 3 years, with the  
880 appointments being staggered so that the terms of no more than  
881 four members expire in any one year. Members shall serve without  
882 remuneration, but are entitled to reimbursement for per diem and  
883 travel expenses as provided in s. 112.061.

884           (p) An application for an onsite sewage treatment and  
885 disposal system permit shall be completed in full, signed by the  
886 owner or the owner's authorized representative, or by a  
887 contractor licensed under chapter 489, and shall be accompanied  
888 by all required exhibits and fees. No specific documentation of  
889 property ownership shall be required as a prerequisite to the  
890 review of an application or the issuance of a permit. The  
891 issuance of a permit does not constitute determination by the  
892 department of property ownership.

893           (q) The department may not require any form of subdivision  
894 analysis of property by an owner, developer, or subdivider prior  
895 to submission of an application for an onsite sewage treatment  
896 and disposal system.



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897 (r) Nothing in this section limits the power of a  
898 municipality or county to enforce other laws for the protection  
899 of the public health and safety.

900 (s) In the siting of onsite sewage treatment and disposal  
901 systems, including drainfields, shoulders, and slopes, guttering  
902 ~~may shall~~ not be required on single-family residential dwelling  
903 units for systems located greater than 5 feet from the roof drip  
904 line of the house. If guttering is used on residential dwelling  
905 units, the downspouts shall be directed away from the  
906 drainfield.

907 (t) Notwithstanding ~~the provisions of~~ subparagraph (g)1.,  
908 onsite sewage treatment and disposal systems located in  
909 floodways of the Suwannee and Aucilla Rivers must adhere to the  
910 following requirements:

911 1. The absorption surface of the drainfield ~~may shall~~ not  
912 be subject to flooding based on 10-year flood elevations.  
913 Provided, however, for lots or parcels created by the  
914 subdivision of land in accordance with applicable local  
915 government regulations prior to January 17, 1990, if an  
916 applicant cannot construct a drainfield system with the  
917 absorption surface of the drainfield at an elevation equal to or  
918 above 10-year flood elevation, the department shall issue a  
919 permit for an onsite sewage treatment and disposal system within  
920 the 10-year floodplain of rivers, streams, and other bodies of  
921 flowing water if all of the following criteria are met:

- 922 a. The lot is at least one-half acre in size;  
923 b. The bottom of the drainfield is at least 36 inches above  
924 the 2-year flood elevation; and  
925 c. The applicant installs either: a waterless,



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926 incinerating, or organic waste composting toilet and a graywater  
927 system and drainfield in accordance with department rules; an  
928 aerobic treatment unit and drainfield in accordance with  
929 department rules; a system ~~approved by the State Health Office~~  
930 that is capable of reducing effluent nitrate by at least 50  
931 percent in accordance with department rules; or a system other  
932 than a system using alternative drainfield materials in  
933 accordance with department rules ~~approved by the county health~~  
934 ~~department pursuant to department rule other than a system using~~  
935 ~~alternative drainfield materials~~. The United States Department  
936 of Agriculture Soil Conservation Service soil maps, State of  
937 Florida Water Management District data, and Federal Emergency  
938 Management Agency Flood Insurance maps are resources that shall  
939 be used to identify flood-prone areas.

940 2. The use of fill or mounding to elevate a drainfield  
941 system out of the 10-year floodplain of rivers, streams, or  
942 other bodies of flowing water may ~~shall~~ not be permitted if such  
943 a system lies within a regulatory floodway of the Suwannee and  
944 Aucilla Rivers. In cases where the 10-year flood elevation does  
945 not coincide with the boundaries of the regulatory floodway, the  
946 regulatory floodway will be considered for the purposes of this  
947 subsection to extend at a minimum to the 10-year flood  
948 elevation.

949 (u)1. The owner of an aerobic treatment unit system shall  
950 maintain a current maintenance service agreement with an aerobic  
951 treatment unit maintenance entity permitted by the department.  
952 The maintenance entity shall inspect each aerobic treatment unit  
953 system at least twice each year and shall report quarterly to  
954 the department on the number of aerobic treatment unit systems



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955 inspected and serviced. The reports may be submitted  
956 electronically.

957         2. The property owner of an owner-occupied, single-family  
958 residence may be approved and permitted by the department as a  
959 maintenance entity for his or her own aerobic treatment unit  
960 system upon written certification from the system manufacturer's  
961 approved representative that the property owner has received  
962 training on the proper installation and service of the system.  
963 The maintenance entity service agreement must conspicuously  
964 disclose that the property owner has the right to maintain his  
965 or her own system and is exempt from contractor registration  
966 requirements for performing construction, maintenance, or  
967 repairs on the system but is subject to all permitting  
968 requirements.

969         3. A septic tank contractor licensed under part III of  
970 chapter 489, if approved by the manufacturer, may not be denied  
971 access by the manufacturer to aerobic treatment unit system  
972 training or spare parts for maintenance entities. After the  
973 original warranty period, component parts for an aerobic  
974 treatment unit system may be replaced with parts that meet  
975 manufacturer's specifications but are manufactured by others.  
976 The maintenance entity shall maintain documentation of the  
977 substitute part's equivalency for 2 years and shall provide such  
978 documentation to the department upon request.

979         4. The owner of an aerobic treatment unit system shall  
980 obtain a system operating permit from the department and allow  
981 the department to inspect during reasonable hours each aerobic  
982 treatment unit system at least annually, and such inspection may  
983 include collection and analysis of system-effluent samples for



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984 performance criteria established by rule of the department.

985 (v) The department may require the submission of detailed  
986 system construction plans that are prepared by a professional  
987 engineer registered in this state. The department shall  
988 establish by rule criteria for determining when such a  
989 submission is required.

990 (w) Any permit issued and approved by the department for  
991 the installation, modification, or repair of an onsite sewage  
992 treatment and disposal system shall transfer with the title to  
993 the property in a real estate transaction. A title may not be  
994 encumbered at the time of transfer by new permit requirements by  
995 a governmental entity for an onsite sewage treatment and  
996 disposal system which differ from the permitting requirements in  
997 effect at the time the system was permitted, modified, or  
998 repaired. An inspection of a system may not be mandated by a  
999 governmental entity at the point of sale in a real estate  
1000 transaction. This paragraph does not affect a septic tank phase-  
1001 out deferral program implemented by a consolidated government as  
1002 defined in s. 9, Art. VIII of the State Constitution (1885).

1003 (x) A governmental entity, including a municipality,  
1004 county, or statutorily created commission, may not require an  
1005 engineer-designed performance-based treatment system, excluding  
1006 a passive engineer-designed performance-based treatment system,  
1007 before the completion of the Florida Onsite Sewage Nitrogen  
1008 Reduction Strategies Project. This paragraph does not apply to a  
1009 governmental entity, including a municipality, county, or  
1010 statutorily created commission, which adopted a local law,  
1011 ordinance, or regulation on or before January 31, 2012.  
1012 Notwithstanding this paragraph, an engineer-designed



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1013 performance-based treatment system may be used to meet the  
1014 requirements of the variance review and advisory committee  
1015 recommendations.

1016 (y)1. An onsite sewage treatment and disposal system is not  
1017 considered abandoned if the system is disconnected from a  
1018 structure that was made unusable or destroyed following a  
1019 disaster and if the system was properly functioning at the time  
1020 of disconnection and was not adversely affected by the disaster.  
1021 The onsite sewage treatment and disposal system may be  
1022 reconnected to a rebuilt structure if:

1023 a. The reconnection of the system is to the same type of  
1024 structure which contains the same number of bedrooms or fewer,  
1025 if the square footage of the structure is less than or equal to  
1026 110 percent of the original square footage of the structure that  
1027 existed before the disaster;

1028 b. The system is not a sanitary nuisance; and

1029 c. The system has not been altered without prior  
1030 authorization.

1031 2. An onsite sewage treatment and disposal system that  
1032 serves a property that is foreclosed upon is not considered  
1033 abandoned.

1034 (z) If an onsite sewage treatment and disposal system  
1035 permittee receives, relies upon, and undertakes construction of  
1036 a system based upon a validly issued construction permit under  
1037 rules applicable at the time of construction but a change to a  
1038 rule occurs within 5 years after the approval of the system for  
1039 construction but before the final approval of the system, the  
1040 rules applicable and in effect at the time of construction  
1041 approval apply at the time of final approval if fundamental site



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1042 conditions have not changed between the time of construction  
1043 approval and final approval.

1044 (aa) An existing-system inspection or evaluation and  
1045 assessment, or a modification, replacement, or upgrade of an  
1046 onsite sewage treatment and disposal system is not required for  
1047 a remodeling addition or modification to a single-family home if  
1048 a bedroom is not added. However, a remodeling addition or  
1049 modification to a single-family home may not cover any part of  
1050 the existing system or encroach upon a required setback or the  
1051 unobstructed area. To determine if a setback or the unobstructed  
1052 area is impacted, the local health department shall review and  
1053 verify a floor plan and site plan of the proposed remodeling  
1054 addition or modification to the home submitted by a remodeler  
1055 which shows the location of the system, including the distance  
1056 of the remodeling addition or modification to the home from the  
1057 onsite sewage treatment and disposal system. The local health  
1058 department may visit the site or otherwise determine the best  
1059 means of verifying the information submitted. A verification of  
1060 the location of a system is not an inspection or evaluation and  
1061 assessment of the system. The review and verification must be  
1062 completed within 7 business days after receipt by the local  
1063 health department of a floor plan and site plan. If the review  
1064 and verification is not completed within such time, the  
1065 remodeling addition or modification to the single-family home,  
1066 for the purposes of this paragraph, is approved.

1067 Section 5. Section 381.00652, Florida Statutes, is created  
1068 to read:

1069 381.00652 Onsite sewage treatment and disposal systems  
1070 technical advisory committee.-



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1071 (1) An onsite sewage treatment and disposal systems  
1072 technical advisory committee, a committee as defined in s.  
1073 20.03(8), is created within the department. The committee shall:

1074 (a) Provide recommendations to increase the availability in  
1075 the marketplace of enhanced nutrient-reducing onsite sewage  
1076 treatment and disposal systems, including systems that are cost-  
1077 effective, low-maintenance, and reliable.

1078 (b) Consider and recommend regulatory options, such as  
1079 fast-track approval, prequalification, or expedited permitting,  
1080 to facilitate the introduction and use of enhanced nutrient-  
1081 reducing onsite sewage treatment and disposal systems that have  
1082 been reviewed and approved by a national agency or organization,  
1083 such as the American National Standards Institute 245 systems  
1084 approved by the NSF International.

1085 (c) Provide recommendations for appropriate setback  
1086 distances for onsite sewage treatment and disposal systems from  
1087 surface water, groundwater, and wells.

1088 (2) The department shall use existing and available  
1089 resources to administer and support the activities of the  
1090 committee.

1091 (3)(a) By August 1, 2021, the department, in consultation  
1092 with the Department of Health, shall appoint no more than nine  
1093 members to the committee, including, but not limited to, the  
1094 following:

- 1095 1. A professional engineer.
- 1096 2. A septic tank contractor.
- 1097 3. A representative from the home building industry.
- 1098 4. A representative from the real estate industry.
- 1099 5. A representative from the onsite sewage treatment and



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1100 disposal system industry.

1101 6. A representative from local government.

1102 7. Two representatives from the environmental community.

1103 8. A representative of the scientific and technical  
1104 community who has substantial expertise in the areas of the fate  
1105 and transport of water pollutants, toxicology, epidemiology,  
1106 geology, biology, or environmental sciences.

1107 (b) Members shall serve without compensation and are not  
1108 entitled to reimbursement for per diem or travel expenses.

1109 (4) By January 1, 2022, the committee shall submit its  
1110 recommendations to the Governor, the President of the Senate,  
1111 and the Speaker of the House of Representatives.

1112 (5) This section expires August 15, 2022.

1113 (6) For purposes of this section, the term "department"  
1114 means the Department of Environmental Protection.

1115 Section 6. Effective July 1, 2021, section 381.0068,  
1116 Florida Statutes, is repealed.

1117 Section 7. Present subsections (14) through (44) of section  
1118 403.061, Florida Statutes, are redesignated as subsections (15)  
1119 through (45), respectively, a new subsection (14) is added to  
1120 that section, and subsection (7) of that section is amended, to  
1121 read:

1122 403.061 Department; powers and duties.—The department shall  
1123 have the power and the duty to control and prohibit pollution of  
1124 air and water in accordance with the law and rules adopted and  
1125 promulgated by it and, for this purpose, to:

1126 (7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to  
1127 implement ~~the provisions of~~ this act. Any rule adopted pursuant  
1128 to this act must ~~shall~~ be consistent with the provisions of



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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.



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1158       (14) In order to promote resilient utilities, require  
1159 public utilities or their affiliated companies holding, applying  
1160 for, or renewing a domestic wastewater discharge permit to file  
1161 annual reports and other data regarding transactions or  
1162 allocations of common costs and expenditures on pollution  
1163 mitigation and prevention among the utility's permitted systems,  
1164 including, but not limited to, the prevention of sanitary sewer  
1165 overflows, collection and transmission system pipe leakages, and  
1166 inflow and infiltration. The department shall adopt rules to  
1167 implement this subsection.

1168  
1169 The department shall implement such programs in conjunction with  
1170 its other powers and duties and shall place special emphasis on  
1171 reducing and eliminating contamination that presents a threat to  
1172 humans, animals or plants, or to the environment.

1173       Section 8. Section 403.0616, Florida Statutes, is created  
1174 to read:

1175       403.0616 Real-time water quality monitoring program.-

1176       (1) Subject to appropriation, the department shall  
1177 establish a real-time water quality monitoring program to assist  
1178 in the restoration, preservation, and enhancement of impaired  
1179 waterbodies and coastal resources.

1180       (2) In order to expedite the creation and implementation of  
1181 the program, the department is encouraged to form public-private  
1182 partnerships with established scientific entities that have  
1183 proven existing real-time water quality monitoring equipment and  
1184 experience in deploying the equipment.

1185       Section 9. Subsection (7) of section 403.067, Florida  
1186 Statutes, is amended to read:



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1187           403.067 Establishment and implementation of total maximum  
1188 daily loads.—

1189           (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND  
1190 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

1191           (a) *Basin management action plans.*—

1192           1. In developing and implementing the total maximum daily  
1193 load for a water body, the department, or the department in  
1194 conjunction with a water management district, may develop a  
1195 basin management action plan that addresses some or all of the  
1196 watersheds and basins tributary to the water body. Such plan  
1197 must integrate the appropriate management strategies available  
1198 to the state through existing water quality protection programs  
1199 to achieve the total maximum daily loads and may provide for  
1200 phased implementation of these management strategies to promote  
1201 timely, cost-effective actions as provided for in s. 403.151.  
1202 The plan must establish a schedule implementing the management  
1203 strategies, establish a basis for evaluating the plan's  
1204 effectiveness, and identify feasible funding strategies for  
1205 implementing the plan's management strategies. The management  
1206 strategies may include regional treatment systems or other  
1207 public works, where appropriate, and voluntary trading of water  
1208 quality credits to achieve the needed pollutant load reductions.

1209           2. A basin management action plan must equitably allocate,  
1210 pursuant to paragraph (6) (b), pollutant reductions to individual  
1211 basins, as a whole to all basins, or to each identified point  
1212 source or category of nonpoint sources, as appropriate. For  
1213 nonpoint sources for which best management practices have been  
1214 adopted, the initial requirement specified by the plan must be  
1215 those practices developed pursuant to paragraph (c). When ~~Where~~



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1216 appropriate, the plan may take into account the benefits of  
1217 pollutant load reduction achieved by point or nonpoint sources  
1218 that have implemented management strategies to reduce pollutant  
1219 loads, including best management practices, before the  
1220 development of the basin management action plan. The plan must  
1221 also identify the mechanisms that will address potential future  
1222 increases in pollutant loading.

1223         3. The basin management action planning process is intended  
1224 to involve the broadest possible range of interested parties,  
1225 with the objective of encouraging the greatest amount of  
1226 cooperation and consensus possible. In developing a basin  
1227 management action plan, the department shall assure that key  
1228 stakeholders, including, but not limited to, applicable local  
1229 governments, water management districts, the Department of  
1230 Agriculture and Consumer Services, other appropriate state  
1231 agencies, local soil and water conservation districts,  
1232 environmental groups, regulated interests, and affected  
1233 pollution sources, are invited to participate in the process.  
1234 The department shall hold at least one public meeting in the  
1235 vicinity of the watershed or basin to discuss and receive  
1236 comments during the planning process and shall otherwise  
1237 encourage public participation to the greatest practicable  
1238 extent. Notice of the public meeting must be published in a  
1239 newspaper of general circulation in each county in which the  
1240 watershed or basin lies at least not less than 5 days, but not  
1241 ~~not~~ more than 15 days, before the public meeting. A basin  
1242 management action plan does not supplant or otherwise alter any  
1243 assessment made under subsection (3) or subsection (4) or any  
1244 calculation or initial allocation.



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- 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



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1274 the department in cooperation with basin stakeholders. Revisions  
1275 to the management strategies required for nonpoint sources must  
1276 follow the procedures set forth in subparagraph (c)4. Revised  
1277 basin management action plans must be adopted pursuant to  
1278 subparagraph 5.

1279 7. In accordance with procedures adopted by rule under  
1280 paragraph (9) (c), basin management action plans, and other  
1281 pollution control programs under local, state, or federal  
1282 authority as provided in subsection (4), may allow point or  
1283 nonpoint sources that will achieve greater pollutant reductions  
1284 than required by an adopted total maximum daily load or  
1285 wasteload allocation to generate, register, and trade water  
1286 quality credits for the excess reductions to enable other  
1287 sources to achieve their allocation; however, the generation of  
1288 water quality credits does not remove the obligation of a source  
1289 or activity to meet applicable technology requirements or  
1290 adopted best management practices. Such plans must allow trading  
1291 between NPDES permittees, and trading that may or may not  
1292 involve NPDES permittees, where the generation or use of the  
1293 credits involve an entity or activity not subject to department  
1294 water discharge permits whose owner voluntarily elects to obtain  
1295 department authorization for the generation and sale of credits.

1296 8. ~~The provisions of~~ The department's rule relating to the  
1297 equitable abatement of pollutants into surface waters do not  
1298 apply to water bodies or water body segments for which a basin  
1299 management plan that takes into account future new or expanded  
1300 activities or discharges has been adopted under this section.

1301 9. In order to promote resilient utilities, if the  
1302 department identifies domestic wastewater facilities or onsite



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1303 sewage treatment and disposal systems as contributors of at  
1304 least 20 percent of point source or nonpoint source nutrient  
1305 pollution or if the department determines remediation is  
1306 necessary to achieve the total maximum daily load, a basin  
1307 management action plan for a nutrient total maximum daily load  
1308 must include the following:

1309 a. A wastewater treatment plan that addresses domestic  
1310 wastewater developed by each local government in cooperation  
1311 with the department, the water management district, and the  
1312 public and private domestic wastewater facilities within the  
1313 jurisdiction of the local government. The wastewater treatment  
1314 plan must:

1315 (I) Provide for construction, expansion, or upgrades  
1316 necessary to achieve the total maximum daily load requirements  
1317 applicable to the domestic wastewater facility.

1318 (II) Include the permitted capacity in average annual  
1319 gallons per day for the domestic wastewater facility; the  
1320 average nutrient concentration and the estimated average  
1321 nutrient load of the domestic wastewater; a timeline of the  
1322 dates by which the construction of any facility improvements  
1323 will begin and be completed and the date by which operations of  
1324 the improved facility will begin; the estimated cost of the  
1325 improvements; and the identity of responsible parties.

1326  
1327 The wastewater treatment plan must be adopted as part of the  
1328 basin management action plan no later than July 1, 2025. A local  
1329 government that does not have a domestic wastewater treatment  
1330 facility in its jurisdiction is not required to develop a  
1331 wastewater treatment plan unless there is a demonstrated need to



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1332 establish a domestic wastewater treatment facility within its  
1333 jurisdiction to improve water quality necessary to achieve a  
1334 total maximum daily load. A local government is not responsible  
1335 for a private domestic wastewater facility's compliance with a  
1336 basin management action plan.

1337 b. An onsite sewage treatment and disposal system  
1338 remediation plan developed by each local government in  
1339 cooperation with the department, the Department of Health, water  
1340 management districts, and public and private domestic wastewater  
1341 facilities.

1342 (I) The onsite sewage treatment and disposal system  
1343 remediation plan must identify cost-effective and financially  
1344 feasible projects necessary to achieve the nutrient load  
1345 reductions required for onsite sewage treatment and disposal  
1346 systems. To identify cost-effective and financially feasible  
1347 projects for remediation of onsite sewage treatment and disposal  
1348 systems, the local government shall:

1349 (A) Include an inventory of onsite sewage treatment and  
1350 disposal systems based on the best information available;

1351 (B) Identify onsite sewage treatment and disposal systems  
1352 that would be eliminated through connection to existing or  
1353 future central domestic wastewater infrastructure in the  
1354 jurisdiction or domestic wastewater service area of the local  
1355 government, that would be replaced with or upgraded to enhanced  
1356 nutrient-reducing systems, or that would remain on conventional  
1357 onsite sewage treatment and disposal systems;

1358 (C) Estimate the costs of potential onsite sewage treatment  
1359 and disposal systems connections, upgrades, or replacements; and

1360 (D) Identify deadlines and interim milestones for the



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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;



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- 1390           d. Trading of water quality credits or other equitable  
1391 economically based agreements;
- 1392           e. Public works including capital facilities; or  
1393           f. Land acquisition.
- 1394           2. For a basin management action plan adopted pursuant to  
1395 paragraph (a), any management strategies and pollutant reduction  
1396 requirements associated with a pollutant of concern for which a  
1397 total maximum daily load has been developed, including effluent  
1398 limits set forth for a discharger subject to NPDES permitting,  
1399 if any, must be included in a timely manner in subsequent NPDES  
1400 permits or permit modifications for that discharger. The  
1401 department may not impose limits or conditions implementing an  
1402 adopted total maximum daily load in an NPDES permit until the  
1403 permit expires, the discharge is modified, or the permit is  
1404 reopened pursuant to an adopted basin management action plan.
- 1405           a. Absent a detailed allocation, total maximum daily loads  
1406 must be implemented through NPDES permit conditions that provide  
1407 for a compliance schedule. In such instances, a facility's NPDES  
1408 permit must allow time for the issuance of an order adopting the  
1409 basin management action plan. The time allowed for the issuance  
1410 of an order adopting the plan may not exceed 5 years. Upon  
1411 issuance of an order adopting the plan, the permit must be  
1412 reopened or renewed, as necessary, and permit conditions  
1413 consistent with the plan must be established. Notwithstanding  
1414 the other provisions of this subparagraph, upon request by an  
1415 NPDES permittee, the department as part of a permit issuance,  
1416 renewal, or modification may establish individual allocations  
1417 before the adoption of a basin management action plan.
- 1418           b. For holders of NPDES municipal separate storm sewer



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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



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1448 quality monitoring prescribed by the department or a water  
1449 management district. A nonpoint source discharger may, in  
1450 accordance with department rules, supplement the implementation  
1451 of best management practices with water quality credit trades in  
1452 order to demonstrate compliance with the pollutant reductions  
1453 established under subsection (6).

1454 h. A nonpoint source discharger included in a basin  
1455 management action plan may be subject to enforcement action by  
1456 the department or a water management district based upon a  
1457 failure to implement the responsibilities set forth in sub-  
1458 subparagraph g.

1459 i. A landowner, discharger, or other responsible person who  
1460 is implementing applicable management strategies specified in an  
1461 adopted basin management action plan may not be required by  
1462 permit, enforcement action, or otherwise to implement additional  
1463 management strategies, including water quality credit trading,  
1464 to reduce pollutant loads to attain the pollutant reductions  
1465 established pursuant to subsection (6) and shall be deemed to be  
1466 in compliance with this section. This subparagraph does not  
1467 limit the authority of the department to amend a basin  
1468 management action plan as specified in subparagraph (a)6.

1469 (c) *Best management practices.*—

1470 1. The department, in cooperation with the water management  
1471 districts and other interested parties, as appropriate, may  
1472 develop suitable interim measures, best management practices, or  
1473 other measures necessary to achieve the level of pollution  
1474 reduction established by the department for nonagricultural  
1475 nonpoint pollutant sources in allocations developed pursuant to  
1476 subsection (6) and this subsection. These practices and measures



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1477 may be adopted by rule by the department and the water  
1478 management districts and, where adopted by rule, shall be  
1479 implemented by those parties responsible for nonagricultural  
1480 nonpoint source pollution.

1481         2. The Department of Agriculture and Consumer Services may  
1482 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54  
1483 suitable interim measures, best management practices, or other  
1484 measures necessary to achieve the level of pollution reduction  
1485 established by the department for agricultural pollutant sources  
1486 in allocations developed pursuant to subsection (6) and this  
1487 subsection or for programs implemented pursuant to paragraph  
1488 (12) (b). These practices and measures may be implemented by  
1489 those parties responsible for agricultural pollutant sources and  
1490 the department, the water management districts, and the  
1491 Department of Agriculture and Consumer Services shall assist  
1492 with implementation. In the process of developing and adopting  
1493 rules for interim measures, best management practices, or other  
1494 measures, the Department of Agriculture and Consumer Services  
1495 shall consult with the department, the Department of Health, the  
1496 water management districts, representatives from affected  
1497 farming groups, and environmental group representatives. Such  
1498 rules must also incorporate provisions for a notice of intent to  
1499 implement the practices and a system to assure the  
1500 implementation of the practices, including site inspection and  
1501 recordkeeping requirements.

1502         3. Where interim measures, best management practices, or  
1503 other measures are adopted by rule, the effectiveness of such  
1504 practices in achieving the levels of pollution reduction  
1505 established in allocations developed by the department pursuant



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1506 to subsection (6) and this subsection or in programs implemented  
1507 pursuant to paragraph (12) (b) must be verified at representative  
1508 sites by the department. The department shall use best  
1509 professional judgment in making the initial verification that  
1510 the best management practices are reasonably expected to be  
1511 effective and, where applicable, must notify the appropriate  
1512 water management district or the Department of Agriculture and  
1513 Consumer Services of its initial verification before the  
1514 adoption of a rule proposed pursuant to this paragraph.  
1515 Implementation, in accordance with rules adopted under this  
1516 paragraph, of practices that have been initially verified to be  
1517 effective, or verified to be effective by monitoring at  
1518 representative sites, by the department, shall provide a  
1519 presumption of compliance with state water quality standards and  
1520 release from ~~the provisions of~~ s. 376.307(5) for those  
1521 pollutants addressed by the practices, and the department is not  
1522 authorized to institute proceedings against the owner of the  
1523 source of pollution to recover costs or damages associated with  
1524 the contamination of surface water or groundwater caused by  
1525 those pollutants. Research projects funded by the department, a  
1526 water management district, or the Department of Agriculture and  
1527 Consumer Services to develop or demonstrate interim measures or  
1528 best management practices shall be granted a presumption of  
1529 compliance with state water quality standards and a release from  
1530 ~~the provisions of~~ s. 376.307(5). The presumption of compliance  
1531 and release is limited to the research site and only for those  
1532 pollutants addressed by the interim measures or best management  
1533 practices. Eligibility for the presumption of compliance and  
1534 release is limited to research projects on sites where the owner



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1535 or operator of the research site and the department, a water  
1536 management district, or the Department of Agriculture and  
1537 Consumer Services have entered into a contract or other  
1538 agreement that, at a minimum, specifies the research objectives,  
1539 the cost-share responsibilities of the parties, and a schedule  
1540 that details the beginning and ending dates of the project.

1541 4. Where water quality problems are demonstrated, despite  
1542 the appropriate implementation, operation, and maintenance of  
1543 best management practices and other measures required by rules  
1544 adopted under this paragraph, the department, a water management  
1545 district, or the Department of Agriculture and Consumer  
1546 Services, in consultation with the department, shall institute a  
1547 reevaluation of the best management practice or other measure.  
1548 Should the reevaluation determine that the best management  
1549 practice or other measure requires modification, the department,  
1550 a water management district, or the Department of Agriculture  
1551 and Consumer Services, as appropriate, shall revise the rule to  
1552 require implementation of the modified practice within a  
1553 reasonable time period as specified in the rule.

1554 5. Subject to subparagraph 6., the Department of  
1555 Agriculture and Consumer Services shall provide to the  
1556 department information that it obtains pursuant to subparagraph  
1557 (d) 3.

1558 6. Agricultural records relating to processes or methods of  
1559 production, costs of production, profits, or other financial  
1560 information held by the Department of Agriculture and Consumer  
1561 Services pursuant to subparagraphs 3., and 4., and 5. or  
1562 pursuant to any rule adopted pursuant to subparagraph 2. are  
1563 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I



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1564 of the State Constitution. Upon request, records made  
1565 confidential and exempt pursuant to this subparagraph shall be  
1566 released to the department or any water management district  
1567 provided that the confidentiality specified by this subparagraph  
1568 for such records is maintained.

1569 ~~7.6. The provisions of~~ Subparagraphs 1. and 2. do not  
1570 preclude the department or water management district from  
1571 requiring compliance with water quality standards or with  
1572 current best management practice requirements set forth in any  
1573 applicable regulatory program authorized by law for the purpose  
1574 of protecting water quality. Additionally, subparagraphs 1. and  
1575 2. are applicable only to the extent that they do not conflict  
1576 with any rules adopted by the department that are necessary to  
1577 maintain a federally delegated or approved program.

1578 (d) *Enforcement and verification of basin management action*  
1579 *plans and management strategies.*—

1580 1. Basin management action plans are enforceable pursuant  
1581 to this section and ss. 403.121, 403.141, and 403.161.

1582 Management strategies, including best management practices and  
1583 water quality monitoring, are enforceable under this chapter.

1584 2. No later than January 1, 2017:

1585 a. The department, in consultation with the water  
1586 management districts and the Department of Agriculture and  
1587 Consumer Services, shall initiate rulemaking to adopt procedures  
1588 to verify implementation of water quality monitoring required in  
1589 lieu of implementation of best management practices or other  
1590 measures pursuant to sub-subparagraph (b)2.g.;

1591 b. The department, in consultation with the water  
1592 management districts and the Department of Agriculture and



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1593 Consumer Services, shall initiate rulemaking to adopt procedures  
1594 to verify implementation of nonagricultural interim measures,  
1595 best management practices, or other measures adopted by rule  
1596 pursuant to subparagraph (c)1.; and

1597 c. The Department of Agriculture and Consumer Services, in  
1598 consultation with the water management districts and the  
1599 department, shall initiate rulemaking to adopt procedures to  
1600 verify implementation of agricultural interim measures, best  
1601 management practices, or other measures adopted by rule pursuant  
1602 to subparagraph (c)2.

1603  
1604 The rules required under this subparagraph shall include  
1605 enforcement procedures applicable to the landowner, discharger,  
1606 or other responsible person required to implement applicable  
1607 management strategies, including best management practices or  
1608 water quality monitoring as a result of noncompliance.

1609 3. At least every 2 years, the Department of Agriculture  
1610 and Consumer Services shall perform onsite inspections of each  
1611 agricultural producer that enrolls in a best management practice  
1612 to ensure that such practice is being properly implemented. Such  
1613 verification must include a review of the best management  
1614 practice documentation required by rule adopted in accordance  
1615 with subparagraph (c)2., including, but not limited to, nitrogen  
1616 and phosphorous fertilizer application records, which must be  
1617 collected and retained pursuant to subparagraphs (c)3., 4., and  
1618 6.

1619 (e) Data collection and research.—

1620 1. The Department of Agriculture and Consumer Services, the  
1621 University of Florida Institute of Food and Agricultural



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1622 Sciences, and other state universities and Florida College  
1623 System institutions with agricultural research programs may  
1624 annually develop research plans and legislative budget requests  
1625 to:

1626 a. Evaluate and suggest enhancements to the existing  
1627 adopted agricultural best management practices to reduce  
1628 nutrients;

1629 b. Develop new best management practices that, if proven  
1630 effective, the Department of Agriculture and Consumer Services  
1631 may adopt by rule pursuant to paragraph (c); and

1632 c. Develop agricultural nutrient reduction projects that  
1633 willing participants could implement on a site-specific,  
1634 cooperative basis, in addition to best management practices. The  
1635 department may consider these projects for inclusion in a basin  
1636 management action plan. These nutrient reduction projects must  
1637 reduce the nutrient impacts from agricultural operations on  
1638 water quality when evaluated with the projects and management  
1639 strategies currently included in the basin management action  
1640 plan.

1641 2. To be considered for funding, the University of Florida  
1642 Institute of Food and Agricultural Sciences and other state  
1643 universities and Florida College System institutions that have  
1644 agricultural research programs must submit such plans to the  
1645 department and the Department of Agriculture and Consumer  
1646 Services by August 1 of each year.

1647 Section 10. Section 403.0673, Florida Statutes, is created  
1648 to read:

1649 403.0673 Wastewater grant program.—A wastewater grant  
1650 program is established within the Department of Environmental



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1651 Protection.

1652 (1) Subject to the appropriation of funds by the  
1653 Legislature, the department may provide grants for the following  
1654 projects within a basin management action plan, an alternative  
1655 restoration plan adopted by final order, or a rural area of  
1656 opportunity under s. 288.0656 which will individually or  
1657 collectively reduce excess nutrient pollution:

1658 (a) Projects to retrofit onsite sewage treatment and  
1659 disposal systems to upgrade them to enhanced nutrient-reducing  
1660 onsite sewage treatment and disposal systems.

1661 (b) Projects to construct, upgrade, or expand facilities to  
1662 provide advanced waste treatment, as defined in s. 403.086(4).

1663 (c) Projects to connect onsite sewage treatment and  
1664 disposal systems to central sewer facilities.

1665 (2) In allocating such funds, priority must be given to  
1666 projects that subsidize the connection of onsite sewage  
1667 treatment and disposal systems to wastewater treatment plants.  
1668 First priority must be given to subsidize connection to existing  
1669 infrastructure. Second priority must be given to any expansion  
1670 of a collection or transmission system that promotes efficiency  
1671 by planning the installation of wastewater transmission  
1672 facilities to be constructed concurrently with other  
1673 construction projects occurring within or along a transportation  
1674 facility right-of-way. Third priority must be given to all other  
1675 connection of onsite sewage treatment and disposal systems to a  
1676 wastewater treatment plants. The department shall consider the  
1677 estimated reduction in nutrient load per project; project  
1678 readiness; cost-effectiveness of the project; overall  
1679 environmental benefit of a project; the location of a project;



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1680 the availability of local matching funds; and projected water  
1681 savings or quantity improvements associated with a project.

1682 (3) Each grant for a project described in subsection (1)  
1683 must require a minimum of a 50 percent local match of funds.  
1684 However, the department may, at its discretion, waive, in whole  
1685 or in part, this consideration of the local contribution for  
1686 proposed projects within an area designated as a rural area of  
1687 opportunity under s. 288.0656.

1688 (4) The department shall coordinate with each water  
1689 management district, as necessary, to identify grant recipients  
1690 in each district.

1691 (5) Beginning January 1, 2021, and each January 1  
1692 thereafter, the department shall submit a report regarding the  
1693 projects funded pursuant to this section to the Governor, the  
1694 President of the Senate, and the Speaker of the House of  
1695 Representatives.

1696 Section 11. Section 403.0855, Florida Statutes, is created  
1697 to read:

1698 403.0855 Biosolids management.—The Legislature finds that  
1699 it is in the best interest of this state to regulate biosolids  
1700 management in order to minimize the migration of nutrients that  
1701 impair waterbodies. The Legislature further finds that the  
1702 expedited implementation of the recommendations of the Biosolids  
1703 Technical Advisory Committee, including permitting according to  
1704 site-specific application conditions, an increased inspection  
1705 rate, groundwater and surface water monitoring protocols, and  
1706 nutrient management research, will improve biosolids management  
1707 and assist in protecting this state's water resources and water  
1708 quality. The department shall adopt rules for biosolids



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1709 management. Rules adopted by the department pursuant to this  
1710 section before the 2021 regular legislative session are not  
1711 subject to s. 120.541(3). A municipality or county may enforce  
1712 or extend an ordinance, a regulation, a resolution, a rule, a  
1713 moratorium, or a policy, any of which was adopted before  
1714 November 1, 2019, relating to the land application of Class B  
1715 biosolids until the ordinance, regulation, resolution, rule,  
1716 moratorium, or policy is repealed by the municipality or county.

1717 Section 12. Present subsections (7) through (10) of section  
1718 403.086, Florida Statutes, are redesignated as subsections (8)  
1719 through (11), respectively, a new subsection (7) is added to  
1720 that section, and paragraph (c) of subsection (1) and subsection  
1721 (2) of that section are amended, to read:

1722 403.086 Sewage disposal facilities; advanced and secondary  
1723 waste treatment.—

1724 (1)

1725 (c) Notwithstanding any other provisions of this chapter or  
1726 chapter 373, facilities for sanitary sewage disposal may not  
1727 dispose of any wastes into Old Tampa Bay, Tampa Bay,  
1728 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater  
1729 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,  
1730 or Charlotte Harbor Bay, Indian River Lagoon beginning July 1,  
1731 2025, or into any river, stream, channel, canal, bay, bayou,  
1732 sound, or other water tributary thereto, without providing  
1733 advanced waste treatment, as defined in subsection (4), approved  
1734 by the department. This paragraph shall not apply to facilities  
1735 which were permitted by February 1, 1987, and which discharge  
1736 secondary treated effluent, followed by water hyacinth  
1737 treatment, to tributaries of tributaries of the named waters; or



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1738 to facilities permitted to discharge to the nontidally  
1739 influenced portions of the Peace River.

1740 (2) Any facilities for sanitary sewage disposal shall  
1741 provide for secondary waste treatment, a power outage  
1742 contingency plan that mitigates the impacts of power outages on  
1743 the utility's collection system and pump stations, and, ~~in~~  
1744 addition thereto, advanced waste treatment as deemed necessary  
1745 and ordered by the Department of Environmental Protection.  
1746 Failure to conform is ~~shall be~~ punishable by a civil penalty of  
1747 \$500 for each 24-hour day or fraction thereof that such failure  
1748 is allowed to continue thereafter.

1749 (7) All facilities for sanitary sewage under subsection (2)  
1750 which control a collection or transmission system of pipes and  
1751 pumps to collect and transmit wastewater from domestic or  
1752 industrial sources to the facility shall take steps to prevent  
1753 sanitary sewer overflows or underground pipe leaks and ensure  
1754 that collected wastewater reaches the facility for appropriate  
1755 treatment. Facilities must use inflow and infiltration studies  
1756 and leakage surveys to develop pipe assessment, repair, and  
1757 replacement action plans that comply with department rule to  
1758 limit, reduce, and eliminate leaks, seepages, or inputs into  
1759 wastewater treatment systems' underground pipes. The pipe  
1760 assessment, repair, and replacement action plans must be  
1761 reported to the department. The facility action plan must  
1762 include information regarding the annual expenditures dedicated  
1763 to the inflow and infiltration studies and the required  
1764 replacement action plans, as well as expenditures that are  
1765 dedicated to pipe assessment, repair, and replacement. The  
1766 department shall adopt rules regarding the implementation of



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1767 inflow and infiltration studies and leakage surveys; however,  
1768 such department rules may not fix or revise utility rates or  
1769 budgets. Any entity subject to this subsection and s.  
1770 403.061(14) may submit one report to comply with both  
1771 provisions. Substantial compliance with this subsection is  
1772 evidence in mitigation for the purposes of assessing penalties  
1773 pursuant to ss. 403.121 and 403.141.

1774 Section 13. Present subsections (4) through (10) of section  
1775 403.087, Florida Statutes, are redesignated as subsections (5)  
1776 through (11), respectively, and a new subsection (4) is added to  
1777 that section, to read:

1778 403.087 Permits; general issuance; denial; revocation;  
1779 prohibition; penalty.-

1780 (4) The department shall issue an operation permit for a  
1781 domestic wastewater treatment facility other than a facility  
1782 regulated under the National Pollutant Discharge Elimination  
1783 System Program under s. 403.0885 for a term of up to 10 years if  
1784 the facility is meeting the stated goals in its action plan  
1785 adopted pursuant to s. 403.086(7).

1786 Section 14. Present subsections (3) and (4) of section  
1787 403.088, Florida Statutes, are redesignated as subsections (4)  
1788 and (5), respectively, a new subsection (3) is added to that  
1789 section, and paragraph (c) of subsection (2) of that section is  
1790 amended, to read:

1791 403.088 Water pollution operation permits; conditions.-

1792 (2)

1793 (c) A permit shall:

1794 1. Specify the manner, nature, volume, and frequency of the  
1795 discharge permitted;



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1796           2. Require proper operation and maintenance of any  
1797 pollution abatement facility by qualified personnel in  
1798 accordance with standards established by the department;

1799           3. Require a deliberate, proactive approach to  
1800 investigating or surveying a significant percentage of the  
1801 domestic wastewater collection system throughout the duration of  
1802 the permit to determine pipe integrity, which must be  
1803 accomplished in an economically feasible manner. The permittee  
1804 shall submit an annual report to the department which details  
1805 facility revenues and expenditures in a manner prescribed by  
1806 department rule. The report must detail any deviation of annual  
1807 expenditures from identified system needs related to inflow and  
1808 infiltration studies; model plans for pipe assessment, repair,  
1809 and replacement; and pipe assessment, repair, and replacement  
1810 required under s. 403.086(7). Substantial compliance with this  
1811 subsection is evidence in mitigation for the purposes of  
1812 assessing penalties pursuant to ss. 403.121 and 403.141;

1813           4. Contain such additional conditions, requirements, and  
1814 restrictions as the department deems necessary to preserve and  
1815 protect the quality of the receiving waters;

1816           ~~5.4.~~ Be valid for the period of time specified therein; and

1817           ~~6.5.~~ Constitute the state National Pollutant Discharge  
1818 Elimination System permit when issued pursuant to the authority  
1819 in s. 403.0885.

1820           (3) No later than March 1 of each year, the department  
1821 shall submit a report to the Governor, the President of the  
1822 Senate, and the Speaker of the House of Representatives which  
1823 identifies all domestic wastewater treatment facilities that  
1824 experienced a sanitary sewer overflow in the preceding calendar



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1825 year. The report must identify the utility name, operator,  
1826 permitted capacity in annual average gallons per day, the number  
1827 of overflows, and the total volume of sewage released, and, to  
1828 the extent known and available, the volume of sewage recovered,  
1829 the volume of sewage discharged to surface waters, and the cause  
1830 of the sanitary sewer overflow, including whether it was caused  
1831 by a third party. The department shall include with this report  
1832 the annual report specified under subparagraph (2)(c)3. for each  
1833 utility that experienced an overflow.

1834 Section 15. Subsection (6) of section 403.0891, Florida  
1835 Statutes, is amended to read:

1836 403.0891 State, regional, and local stormwater management  
1837 plans and programs.—The department, the water management  
1838 districts, and local governments shall have the responsibility  
1839 for the development of mutually compatible stormwater management  
1840 programs.

1841 (6) The department and the Department of Economic  
1842 Opportunity, in cooperation with local governments in the  
1843 coastal zone, shall develop a model stormwater management  
1844 program that could be adopted by local governments. The model  
1845 program must contain model ordinances that target nutrient  
1846 reduction practices and use green infrastructure. The model  
1847 program shall contain dedicated funding options, including a  
1848 stormwater utility fee system based upon an equitable unit cost  
1849 approach. Funding options shall be designed to generate capital  
1850 to retrofit existing stormwater management systems, build new  
1851 treatment systems, operate facilities, and maintain and service  
1852 debt.

1853 Section 16. Paragraphs (b) and (g) of subsection (2),



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1854 paragraph (b) of subsection (3), and subsections (8) and (9) of  
1855 section 403.121, Florida Statutes, are amended to read:

1856 403.121 Enforcement; procedure; remedies.—The department  
1857 shall have the following judicial and administrative remedies  
1858 available to it for violations of this chapter, as specified in  
1859 s. 403.161(1).

1860 (2) Administrative remedies:

1861 (b) If the department has reason to believe a violation has  
1862 occurred, it may institute an administrative proceeding to order  
1863 the prevention, abatement, or control of the conditions creating  
1864 the violation or other appropriate corrective action. Except for  
1865 violations involving hazardous wastes, asbestos, or underground  
1866 injection, the department shall proceed administratively in all  
1867 cases in which the department seeks administrative penalties  
1868 that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated  
1869 in accordance with subsections (3), (4), (5), (6), and (7).  
1870 Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty  
1871 assessed pursuant to subsection (3), subsection (4), or  
1872 subsection (5) against a public water system serving a  
1873 population of more than 10,000 shall be not less than \$1,000 per  
1874 day per violation. The department shall not impose  
1875 administrative penalties in excess of \$50,000 ~~\$10,000~~ in a  
1876 notice of violation. The department shall not have more than one  
1877 notice of violation seeking administrative penalties pending  
1878 against the same party at the same time unless the violations  
1879 occurred at a different site or the violations were discovered  
1880 by the department subsequent to the filing of a previous notice  
1881 of violation.

1882 (g) Nothing herein shall be construed as preventing any



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1883 other legal or administrative action in accordance with law.  
1884 Nothing in this subsection shall limit the department's  
1885 authority provided in ss. 403.131, 403.141, and this section to  
1886 judicially pursue injunctive relief. When the department  
1887 exercises its authority to judicially pursue injunctive relief,  
1888 penalties in any amount up to the statutory maximum sought by  
1889 the department must be pursued as part of the state court action  
1890 and not by initiating a separate administrative proceeding. The  
1891 department retains the authority to judicially pursue penalties  
1892 in excess of \$50,000 ~~\$10,000~~ for violations not specifically  
1893 included in the administrative penalty schedule, or for multiple  
1894 or multiday violations alleged to exceed a total of \$50,000  
1895 ~~\$10,000~~. The department also retains the authority provided in  
1896 ss. 403.131, 403.141, and this section to judicially pursue  
1897 injunctive relief and damages, if a notice of violation seeking  
1898 the imposition of administrative penalties has not been issued.  
1899 The department has the authority to enter into a settlement,  
1900 either before or after initiating a notice of violation, and the  
1901 settlement may include a penalty amount different from the  
1902 administrative penalty schedule. Any case filed in state court  
1903 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in  
1904 penalties may be settled in the court action for less than  
1905 \$50,000 ~~\$10,000~~.

1906 (3) Except for violations involving hazardous wastes,  
1907 asbestos, or underground injection, administrative penalties  
1908 must be calculated according to the following schedule:

1909 (b) For failure to obtain a required wastewater permit,  
1910 other than a permit required for surface water discharge, the  
1911 department shall assess a penalty of \$2,000 ~~\$1,000~~. For a



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1912 domestic or industrial wastewater violation not involving a  
1913 surface water or groundwater quality violation, the department  
1914 shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or  
1915 unauthorized discharge or effluent-limitation exceedance or  
1916 failure to comply with s. 403.061(14) or s. 403.086(7) or rules  
1917 adopted thereunder. For an unpermitted or unauthorized discharge  
1918 or effluent-limitation exceedance that resulted in a surface  
1919 water or groundwater quality violation, the department shall  
1920 assess a penalty of \$10,000 ~~\$5,000~~.

1921 (8) The direct economic benefit gained by the violator from  
1922 the violation, where consideration of economic benefit is  
1923 provided by Florida law or required by federal law as part of a  
1924 federally delegated or approved program, shall be added to the  
1925 scheduled administrative penalty. The total administrative  
1926 penalty, including any economic benefit added to the scheduled  
1927 administrative penalty, shall not exceed \$20,000 ~~\$10,000~~.

1928 (9) The administrative penalties assessed for any  
1929 particular violation shall not exceed \$10,000 ~~\$5,000~~ against any  
1930 one violator, unless the violator has a history of  
1931 noncompliance, the economic benefit of the violation as  
1932 described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are  
1933 multiday violations. The total administrative penalties shall  
1934 not exceed \$50,000 ~~\$10,000~~ per assessment for all violations  
1935 attributable to a specific person in the notice of violation.

1936 Section 17. Subsection (7) of section 403.1835, Florida  
1937 Statutes, is amended to read:

1938 403.1835 Water pollution control financial assistance.—

1939 (7) Eligible projects must be given priority according to  
1940 the extent each project is intended to remove, mitigate, or



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1941 prevent adverse effects on surface or ground water quality and  
1942 public health. The relative costs of achieving environmental and  
1943 public health benefits must be taken into consideration during  
1944 the department's assignment of project priorities. The  
1945 department shall adopt a priority system by rule. In developing  
1946 the priority system, the department shall give priority to  
1947 projects that:

1948 (a) Eliminate public health hazards;

1949 (b) Enable compliance with laws requiring the elimination  
1950 of discharges to specific water bodies, including the  
1951 requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic  
1952 wastewater ocean outfalls;

1953 (c) Assist in the implementation of total maximum daily  
1954 loads adopted under s. 403.067;

1955 (d) Enable compliance with other pollution control  
1956 requirements, including, but not limited to, toxics control,  
1957 wastewater residuals management, and reduction of nutrients and  
1958 bacteria;

1959 (e) Assist in the implementation of surface water  
1960 improvement and management plans and pollutant load reduction  
1961 goals developed under state water policy;

1962 (f) Promote reclaimed water reuse;

1963 (g) Eliminate failing onsite sewage treatment and disposal  
1964 systems or those that are causing environmental damage; or

1965 (h) Reduce pollutants to and otherwise promote the  
1966 restoration of Florida's surface and ground waters.

1967 (i) Implement the requirements of ss. 403.086(7) and  
1968 403.088(2)(c).

1969 (j) Promote efficiency by planning for the installation of



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1970 wastewater transmission facilities to be constructed  
1971 concurrently with other construction projects occurring within  
1972 or along a transportation facility right-of-way.

1973 Section 18. Paragraph (b) of subsection (3) of section  
1974 403.1838, Florida Statutes, is amended to read:

1975 403.1838 Small Community Sewer Construction Assistance  
1976 Act.—

1977 (3)

1978 (b) The rules of the Environmental Regulation Commission  
1979 must:

1980 1. Require that projects to plan, design, construct,  
1981 upgrade, or replace wastewater collection, transmission,  
1982 treatment, disposal, and reuse facilities be cost-effective,  
1983 environmentally sound, permittable, and implementable.

1984 2. Require appropriate user charges, connection fees, and  
1985 other charges sufficient to ensure the long-term operation,  
1986 maintenance, and replacement of the facilities constructed under  
1987 each grant.

1988 3. Require grant applications to be submitted on  
1989 appropriate forms with appropriate supporting documentation, and  
1990 require records to be maintained.

1991 4. Establish a system to determine eligibility of grant  
1992 applications.

1993 5. Establish a system to determine the relative priority of  
1994 grant applications. The system must consider public health  
1995 protection and water pollution prevention or abatement and must  
1996 prioritize projects that plan for the installation of wastewater  
1997 transmission facilities to be constructed concurrently with  
1998 other construction projects occurring within or along a



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1999 transportation facility right-of-way.

2000 6. Establish requirements for competitive procurement of  
2001 engineering and construction services, materials, and equipment.

2002 7. Provide for termination of grants when program  
2003 requirements are not met.

2004 Section 19. The Legislature determines and declares that  
2005 this act fulfills an important state interest.

2006 Section 20. Effective July 1, 2021, subsection (5) of  
2007 section 153.54, Florida Statutes, is amended to read:

2008 153.54 Preliminary report by county commissioners with  
2009 respect to creation of proposed district.—Upon receipt of a  
2010 petition duly signed by not less than 25 qualified electors who  
2011 are also freeholders residing within an area proposed to be  
2012 incorporated into a water and sewer district pursuant to this  
2013 law and describing in general terms the proposed boundaries of  
2014 such proposed district, the board of county commissioners if it  
2015 shall deem it necessary and advisable to create and establish  
2016 such proposed district for the purpose of constructing,  
2017 establishing or acquiring a water system or a sewer system or  
2018 both in and for such district (herein called "improvements"),  
2019 shall first cause a preliminary report to be made which such  
2020 report together with any other relevant or pertinent matters,  
2021 shall include at least the following:

2022 (5) For the construction of a new proposed central sewerage  
2023 system or the extension of an existing sewerage system that was  
2024 not previously approved, the report shall include a study that  
2025 includes the available information from the Department of  
2026 Environmental Protection ~~Health~~ on the history of onsite sewage  
2027 treatment and disposal systems currently in use in the area and



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2028 a comparison of the projected costs to the owner of a typical  
2029 lot or parcel of connecting to and using the proposed sewerage  
2030 system versus installing, operating, and properly maintaining an  
2031 onsite sewage treatment and disposal system that is approved by  
2032 the Department of Environmental Protection ~~Health~~ and that  
2033 provides for the comparable level of environmental and health  
2034 protection as the proposed central sewerage system;  
2035 consideration of the local authority's obligations or reasonably  
2036 anticipated obligations for water body cleanup and protection  
2037 under state or federal programs, including requirements for  
2038 water bodies listed under s. 303(d) of the Clean Water Act, Pub.  
2039 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors  
2040 deemed relevant by the local authority.

2041  
2042 Such report shall be filed in the office of the clerk of the  
2043 circuit court and shall be open for the inspection of any  
2044 taxpayer, property owner, qualified elector or any other  
2045 interested or affected person.

2046 Section 21. Effective July 1, 2021, paragraph (c) of  
2047 subsection (2) of section 153.73, Florida Statutes, is amended  
2048 to read:

2049 153.73 Assessable improvements; levy and payment of special  
2050 assessments.—Any district may provide for the construction or  
2051 reconstruction of assessable improvements as defined in s.  
2052 153.52, and for the levying of special assessments upon  
2053 benefited property for the payment thereof, under ~~the provisions~~  
2054 ~~of~~ this section.

2055 (2)

2056 (c) For the construction of a new proposed central sewerage



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2057 system or the extension of an existing sewerage system that was  
2058 not previously approved, the report shall include a study that  
2059 includes the available information from the Department of  
2060 Environmental Protection ~~Health~~ on the history of onsite sewage  
2061 treatment and disposal systems currently in use in the area and  
2062 a comparison of the projected costs to the owner of a typical  
2063 lot or parcel of connecting to and using the proposed sewerage  
2064 system versus installing, operating, and properly maintaining an  
2065 onsite sewage treatment and disposal system that is approved by  
2066 the Department of Environmental Protection ~~Health~~ and that  
2067 provides for the comparable level of environmental and health  
2068 protection as the proposed central sewerage system;  
2069 consideration of the local authority's obligations or reasonably  
2070 anticipated obligations for water body cleanup and protection  
2071 under state or federal programs, including requirements for  
2072 water bodies listed under s. 303(d) of the Clean Water Act, Pub.  
2073 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors  
2074 deemed relevant by the local authority.

2075 Section 22. Effective July 1, 2021, subsection (2) of  
2076 section 163.3180, Florida Statutes, is amended to read:

2077 163.3180 Concurrency.—

2078 (2) Consistent with public health and safety, sanitary  
2079 sewer, solid waste, drainage, adequate water supplies, and  
2080 potable water facilities shall be in place and available to  
2081 serve new development no later than the issuance by the local  
2082 government of a certificate of occupancy or its functional  
2083 equivalent. Prior to approval of a building permit or its  
2084 functional equivalent, the local government shall consult with  
2085 the applicable water supplier to determine whether adequate



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2086 water supplies to serve the new development will be available no  
2087 later than the anticipated date of issuance by the local  
2088 government of a certificate of occupancy or its functional  
2089 equivalent. A local government may meet the concurrency  
2090 requirement for sanitary sewer through the use of onsite sewage  
2091 treatment and disposal systems approved by the Department of  
2092 Environmental Protection Health to serve new development.

2093 Section 23. Effective July 1, 2021, subsection (3) of  
2094 section 180.03, Florida Statutes, is amended to read:

2095 180.03 Resolution or ordinance proposing construction or  
2096 extension of utility; objections to same.-

2097 (3) For the construction of a new proposed central sewerage  
2098 system or the extension of an existing central sewerage system  
2099 that was not previously approved, the report shall include a  
2100 study that includes the available information from the  
2101 Department of Environmental Protection Health on the history of  
2102 onsite sewage treatment and disposal systems currently in use in  
2103 the area and a comparison of the projected costs to the owner of  
2104 a typical lot or parcel of connecting to and using the proposed  
2105 central sewerage system versus installing, operating, and  
2106 properly maintaining an onsite sewage treatment and disposal  
2107 system that is approved by the Department of Environmental  
2108 Protection Health and that provides for the comparable level of  
2109 environmental and health protection as the proposed central  
2110 sewerage system; consideration of the local authority's  
2111 obligations or reasonably anticipated obligations for water body  
2112 cleanup and protection under state or federal programs,  
2113 including requirements for water bodies listed under s. 303(d)  
2114 of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251



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2115 et seq.; and other factors deemed relevant by the local  
2116 authority. The results of such a study shall be included in the  
2117 resolution or ordinance required under subsection (1).

2118 Section 24. Subsections (2), (3), and (6) of section  
2119 311.105, Florida Statutes, are amended to read:

2120 311.105 Florida Seaport Environmental Management Committee;  
2121 permitting; mitigation.-

2122 (2) Each application for a permit authorized pursuant to s.  
2123 403.061(38) ~~s. 403.061(37)~~ must include:

2124 (a) A description of maintenance dredging activities to be  
2125 conducted and proposed methods of dredged-material management.

2126 (b) A characterization of the materials to be dredged and  
2127 the materials within dredged-material management sites.

2128 (c) A description of dredged-material management sites and  
2129 plans.

2130 (d) A description of measures to be undertaken, including  
2131 environmental compliance monitoring, to minimize adverse  
2132 environmental effects of maintenance dredging and dredged-  
2133 material management.

2134 (e) Such scheduling information as is required to  
2135 facilitate state supplementary funding of federal maintenance  
2136 dredging and dredged-material management programs consistent  
2137 with beach restoration criteria of the Department of  
2138 Environmental Protection.

2139 (3) Each application for a permit authorized pursuant to s.  
2140 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~  
2141 paragraphs (2) (b)-(e) and the following:

2142 (a) A description of dredging and dredged-material  
2143 management and other related activities associated with port



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2144 development, including the expansion of navigation channels,  
2145 dredged-material management sites, port harbors, turning basins,  
2146 harbor berths, and associated facilities.

2147 (b) A discussion of environmental mitigation as is proposed  
2148 for dredging and dredged-material management for port  
2149 development, including the expansion of navigation channels,  
2150 dredged-material management sites, port harbors, turning basins,  
2151 harbor berths, and associated facilities.

2152 (6) Dredged-material management activities authorized  
2153 pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~  
2154 shall be incorporated into port master plans developed pursuant  
2155 to s. 163.3178(2)(k).

2156 Section 25. Paragraph (d) of subsection (1) of section  
2157 327.46, Florida Statutes, is amended to read:

2158 327.46 Boating-restricted areas.—

2159 (1) Boating-restricted areas, including, but not limited  
2160 to, restrictions of vessel speeds and vessel traffic, may be  
2161 established on the waters of this state for any purpose  
2162 necessary to protect the safety of the public if such  
2163 restrictions are necessary based on boating accidents,  
2164 visibility, hazardous currents or water levels, vessel traffic  
2165 congestion, or other navigational hazards or to protect  
2166 seagrasses on privately owned submerged lands.

2167 (d) Owners of private submerged lands that are adjacent to  
2168 Outstanding Florida Waters, as defined in s. 403.061(28) ~~s.~~  
2169 ~~403.061(27)~~, or an aquatic preserve established under ss.  
2170 258.39-258.399 may request that the commission establish  
2171 boating-restricted areas solely to protect any seagrass and  
2172 contiguous seagrass habitat within their private property



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2173 boundaries from seagrass scarring due to propeller dredging.  
2174 Owners making a request pursuant to this paragraph must  
2175 demonstrate to the commission clear ownership of the submerged  
2176 lands. The commission shall adopt rules to implement this  
2177 paragraph, including, but not limited to, establishing an  
2178 application process and criteria for meeting the requirements of  
2179 this paragraph. Each approved boating-restricted area shall be  
2180 established by commission rule. For marking boating-restricted  
2181 zones established pursuant to this paragraph, owners of  
2182 privately submerged lands shall apply to the commission for a  
2183 uniform waterway marker permit in accordance with ss. 327.40 and  
2184 327.41, and shall be responsible for marking the boating-  
2185 restricted zone in accordance with the terms of the permit.

2186 Section 26. Paragraph (d) of subsection (3) of section  
2187 373.250, Florida Statutes, is amended to read:

2188 373.250 Reuse of reclaimed water.-

2189 (3)

2190 (d) The South Florida Water Management District shall  
2191 require the use of reclaimed water made available by the  
2192 elimination of wastewater ocean outfall discharges as provided  
2193 for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or  
2194 groundwater when the use of reclaimed water is available; is  
2195 environmentally, economically, and technically feasible; and is  
2196 of such quality and reliability as is necessary to the user.  
2197 Such reclaimed water may also be required in lieu of other  
2198 alternative sources. In determining whether to require such  
2199 reclaimed water in lieu of other alternative sources, the water  
2200 management district shall consider existing infrastructure  
2201 investments in place or obligated to be constructed by an



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2202 executed contract or similar binding agreement as of July 1,  
2203 2011, for the development of other alternative sources.

2204 Section 27. Subsection (9) of section 373.414, Florida  
2205 Statutes, is amended to read:

2206 373.414 Additional criteria for activities in surface  
2207 waters and wetlands.—

2208 (9) The department and the governing boards, on or before  
2209 July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~  
2210 this section, relying primarily on the existing rules of the  
2211 department and the water management districts, into the rules  
2212 governing the management and storage of surface waters. Such  
2213 rules shall seek to achieve a statewide, coordinated and  
2214 consistent permitting approach to activities regulated under  
2215 this part. Variations in permitting criteria in the rules of  
2216 individual water management districts or the department shall  
2217 only be provided to address differing physical or natural  
2218 characteristics. Such rules adopted pursuant to this subsection  
2219 shall include the special criteria adopted pursuant to s.  
2220 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria  
2221 adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules  
2222 shall include a provision requiring that a notice of intent to  
2223 deny or a permit denial based upon this section shall contain an  
2224 explanation of the reasons for such denial and an explanation,  
2225 in general terms, of what changes, if any, are necessary to  
2226 address such reasons for denial. Such rules may establish  
2227 exemptions and general permits, if such exemptions and general  
2228 permits do not allow significant adverse impacts to occur  
2229 individually or cumulatively. Such rules may require submission  
2230 of proof of financial responsibility which may include the



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2231 posting of a bond or other form of surety prior to the  
2232 commencement of construction to provide reasonable assurance  
2233 that any activity permitted pursuant to this section, including  
2234 any mitigation for such permitted activity, will be completed in  
2235 accordance with the terms and conditions of the permit once the  
2236 construction is commenced. Until rules adopted pursuant to this  
2237 subsection become effective, existing rules adopted under this  
2238 part and rules adopted pursuant to the authority of ss. 403.91-  
2239 403.929 shall be deemed authorized under this part and shall  
2240 remain in full force and effect. Neither the department nor the  
2241 governing boards are limited or prohibited from amending any  
2242 such rules.

2243 Section 28. Paragraph (b) of subsection (4) of section  
2244 373.705, Florida Statutes, is amended to read:

2245 373.705 Water resource development; water supply  
2246 development.—

2247 (4)

2248 (b) Water supply development projects that meet the  
2249 criteria in paragraph (a) and that meet one or more of the  
2250 following additional criteria shall be given first consideration  
2251 for state or water management district funding assistance:

2252 1. The project brings about replacement of existing sources  
2253 in order to help implement a minimum flow or minimum water  
2254 level;

2255 2. The project implements reuse that assists in the  
2256 elimination of domestic wastewater ocean outfalls as provided in  
2257 s. 403.086(10) ~~s. 403.086(9)~~; or

2258 3. The project reduces or eliminates the adverse effects of  
2259 competition between legal users and the natural system.



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2260 Section 29. Paragraph (f) of subsection (8) of section  
2261 373.707, Florida Statutes, is amended to read:

2262 373.707 Alternative water supply development.—

2263 (8)

2264 (f) The governing boards shall determine those projects  
2265 that will be selected for financial assistance. The governing  
2266 boards may establish factors to determine project funding;  
2267 however, significant weight shall be given to the following  
2268 factors:

2269 1. Whether the project provides substantial environmental  
2270 benefits by preventing or limiting adverse water resource  
2271 impacts.

2272 2. Whether the project reduces competition for water  
2273 supplies.

2274 3. Whether the project brings about replacement of  
2275 traditional sources in order to help implement a minimum flow or  
2276 level or a reservation.

2277 4. Whether the project will be implemented by a consumptive  
2278 use permittee that has achieved the targets contained in a goal-  
2279 based water conservation program approved pursuant to s.  
2280 373.227.

2281 5. The quantity of water supplied by the project as  
2282 compared to its cost.

2283 6. Projects in which the construction and delivery to end  
2284 users of reuse water is a major component.

2285 7. Whether the project will be implemented by a  
2286 multijurisdictional water supply entity or regional water supply  
2287 authority.

2288 8. Whether the project implements reuse that assists in the



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2289 elimination of domestic wastewater ocean outfalls as provided in  
2290 s. 403.086(10) ~~s. 403.086(9)~~.

2291 9. Whether the county or municipality, or the multiple  
2292 counties or municipalities, in which the project is located has  
2293 implemented a high-water recharge protection tax assessment  
2294 program as provided in s. 193.625.

2295 Section 30. Subsection (4) of section 373.709, Florida  
2296 Statutes, is amended to read:

2297 373.709 Regional water supply planning.—

2298 (4) The South Florida Water Management District shall  
2299 include in its regional water supply plan water resource and  
2300 water supply development projects that promote the elimination  
2301 of wastewater ocean outfalls as provided in s. 403.086(10) ~~s.~~  
2302 ~~403.086(9)~~.

2303 Section 31. Effective July 1, 2021, subsection (3) of  
2304 section 373.807, Florida Statutes, is amended to read:

2305 373.807 Protection of water quality in Outstanding Florida  
2306 Springs.—By July 1, 2016, the department shall initiate  
2307 assessment, pursuant to s. 403.067(3), of Outstanding Florida  
2308 Springs or spring systems for which an impairment determination  
2309 has not been made under the numeric nutrient standards in effect  
2310 for spring vents. Assessments must be completed by July 1, 2018.

2311 (3) As part of a basin management action plan that includes  
2312 an Outstanding Florida Spring, the department, ~~the Department of~~  
2313 ~~Health~~, relevant local governments, and relevant local public  
2314 and private wastewater utilities shall develop an onsite sewage  
2315 treatment and disposal system remediation plan for a spring if  
2316 the department determines onsite sewage treatment and disposal  
2317 systems within a priority focus area contribute at least 20



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2318 percent of nonpoint source nitrogen pollution or if the  
2319 department determines remediation is necessary to achieve the  
2320 total maximum daily load. The plan shall identify cost-effective  
2321 and financially feasible projects necessary to reduce the  
2322 nutrient impacts from onsite sewage treatment and disposal  
2323 systems and shall be completed and adopted as part of the basin  
2324 management action plan no later than the first 5-year milestone  
2325 required by subparagraph (1)(b)8. The department is the lead  
2326 agency in coordinating the preparation of and the adoption of  
2327 the plan. The department shall:

2328 (a) Collect and evaluate credible scientific information on  
2329 the effect of nutrients, particularly forms of nitrogen, on  
2330 springs and springs systems; and

2331 (b) Develop a public education plan to provide area  
2332 residents with reliable, understandable information about onsite  
2333 sewage treatment and disposal systems and springs.

2334

2335 In addition to the requirements in s. 403.067, the plan shall  
2336 include options for repair, upgrade, replacement, drainfield  
2337 modification, addition of effective nitrogen reducing features,  
2338 connection to a central sewerage system, or other action for an  
2339 onsite sewage treatment and disposal system or group of systems  
2340 within a priority focus area that contribute at least 20 percent  
2341 of nonpoint source nitrogen pollution or if the department  
2342 determines remediation is necessary to achieve a total maximum  
2343 daily load. For these systems, the department shall include in  
2344 the plan a priority ranking for each system or group of systems  
2345 that requires remediation and shall award funds to implement the  
2346 remediation projects contingent on an appropriation in the



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2347 General Appropriations Act, which may include all or part of the  
2348 costs necessary for repair, upgrade, replacement, drainfield  
2349 modification, addition of effective nitrogen reducing features,  
2350 initial connection to a central sewerage system, or other  
2351 action. In awarding funds, the department may consider expected  
2352 nutrient reduction benefit per unit cost, size and scope of  
2353 project, relative local financial contribution to the project,  
2354 and the financial impact on property owners and the community.  
2355 The department may waive matching funding requirements for  
2356 proposed projects within an area designated as a rural area of  
2357 opportunity under s. 288.0656.

2358 Section 32. Paragraph (k) of subsection (1) of section  
2359 376.307, Florida Statutes, is amended to read:

2360 376.307 Water Quality Assurance Trust Fund.—

2361 (1) The Water Quality Assurance Trust Fund is intended to  
2362 serve as a broad-based fund for use in responding to incidents  
2363 of contamination that pose a serious danger to the quality of  
2364 groundwater and surface water resources or otherwise pose a  
2365 serious danger to the public health, safety, or welfare. Moneys  
2366 in this fund may be used:

2367 (k) For funding activities described in s. 403.086(10) ~~s.~~  
2368 ~~403.086(9)~~ which are authorized for implementation under the  
2369 Leah Schad Memorial Ocean Outfall Program.

2370 Section 33. Paragraph (i) of subsection (2), paragraph (b)  
2371 of subsection (4), paragraph (j) of subsection (7), and  
2372 paragraph (a) of subsection (9) of section 380.0552, Florida  
2373 Statutes, are amended to read:

2374 380.0552 Florida Keys Area; protection and designation as  
2375 area of critical state concern.—



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2376 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature  
2377 to:

2378 (i) Protect and improve the nearshore water quality of the  
2379 Florida Keys through federal, state, and local funding of water  
2380 quality improvement projects, including the construction and  
2381 operation of wastewater management facilities that meet the  
2382 requirements of ss. 381.0065(4)(1) and 403.086(11) ~~403.086(10)~~,  
2383 as applicable.

2384 (4) REMOVAL OF DESIGNATION.—

2385 (b) Beginning November 30, 2010, the state land planning  
2386 agency shall annually submit a written report to the  
2387 Administration Commission describing the progress of the Florida  
2388 Keys Area toward completing the work program tasks specified in  
2389 commission rules. The land planning agency shall recommend  
2390 removing the Florida Keys Area from being designated as an area  
2391 of critical state concern to the commission if it determines  
2392 that:

2393 1. All of the work program tasks have been completed,  
2394 including construction of, operation of, and connection to  
2395 central wastewater management facilities pursuant to s.  
2396 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage  
2397 treatment and disposal systems pursuant to s. 381.0065(4)(1);

2398 2. All local comprehensive plans and land development  
2399 regulations and the administration of such plans and regulations  
2400 are adequate to protect the Florida Keys Area, fulfill the  
2401 legislative intent specified in subsection (2), and are  
2402 consistent with and further the principles guiding development;  
2403 and

2404 3. A local government has adopted a resolution at a public



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2405 hearing recommending the removal of the designation.

2406 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,  
2407 and local agencies and units of government in the Florida Keys  
2408 Area shall coordinate their plans and conduct their programs and  
2409 regulatory activities consistent with the principles for guiding  
2410 development as specified in chapter 27F-8, Florida  
2411 Administrative Code, as amended effective August 23, 1984, which  
2412 is adopted and incorporated herein by reference. For the  
2413 purposes of reviewing the consistency of the adopted plan, or  
2414 any amendments to that plan, with the principles for guiding  
2415 development, and any amendments to the principles, the  
2416 principles shall be construed as a whole and specific provisions  
2417 may not be construed or applied in isolation from the other  
2418 provisions. However, the principles for guiding development are  
2419 repealed 18 months from July 1, 1986. After repeal, any plan  
2420 amendments must be consistent with the following principles:

2421 (j) Ensuring the improvement of nearshore water quality by  
2422 requiring the construction and operation of wastewater  
2423 management facilities that meet the requirements of ss.  
2424 381.0065(4)(l) and s. 403.086(11) ~~403.086(10)~~, as applicable,  
2425 and by directing growth to areas served by central wastewater  
2426 treatment facilities through permit allocation systems.

2427 (9) MODIFICATION TO PLANS AND REGULATIONS.—

2428 (a) Any land development regulation or element of a local  
2429 comprehensive plan in the Florida Keys Area may be enacted,  
2430 amended, or rescinded by a local government, but the enactment,  
2431 amendment, or rescission becomes effective only upon approval by  
2432 the state land planning agency. The state land planning agency  
2433 shall review the proposed change to determine if it is in



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2434 compliance with the principles for guiding development specified  
2435 in chapter 27F-8, Florida Administrative Code, as amended  
2436 effective August 23, 1984, and must approve or reject the  
2437 requested changes within 60 days after receipt. Amendments to  
2438 local comprehensive plans in the Florida Keys Area must also be  
2439 reviewed for compliance with the following:

2440 1. Construction schedules and detailed capital financing  
2441 plans for wastewater management improvements in the annually  
2442 adopted capital improvements element, and standards for the  
2443 construction of wastewater treatment and disposal facilities or  
2444 collection systems that meet or exceed the criteria in s.  
2445 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal  
2446 facilities or s. 381.0065(4)(l) for onsite sewage treatment and  
2447 disposal systems.

2448 2. Goals, objectives, and policies to protect public safety  
2449 and welfare in the event of a natural disaster by maintaining a  
2450 hurricane evacuation clearance time for permanent residents of  
2451 no more than 24 hours. The hurricane evacuation clearance time  
2452 shall be determined by a hurricane evacuation study conducted in  
2453 accordance with a professionally accepted methodology and  
2454 approved by the state land planning agency.

2455 Section 34. Effective July 1, 2021, subsections (7) and  
2456 (18) of section 381.006, Florida Statutes, are amended to read:

2457 381.006 Environmental health.—The department shall conduct  
2458 an environmental health program as part of fulfilling the  
2459 state's public health mission. The purpose of this program is to  
2460 detect and prevent disease caused by natural and manmade factors  
2461 in the environment. The environmental health program shall  
2462 include, but not be limited to:



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2463       ~~(7) An onsite sewage treatment and disposal function.~~  
2464       (17)~~(18)~~ A food service inspection function for domestic  
2465 violence centers that are certified by the Department of  
2466 Children and Families and monitored by the Florida Coalition  
2467 Against Domestic Violence under part XII of chapter 39 and group  
2468 care homes as described in subsection (15) ~~(16)~~, which shall be  
2469 conducted annually and be limited to the requirements in  
2470 department rule applicable to community-based residential  
2471 facilities with five or fewer residents.

2472  
2473 The department may adopt rules to carry out the provisions of  
2474 this section.

2475       Section 35. Effective July 1, 2021, subsection (1) of  
2476 section 381.0061, Florida Statutes, is amended to read:

2477       381.0061 Administrative fines.—

2478       (1) In addition to any administrative action authorized by  
2479 chapter 120 or by other law, the department may impose a fine,  
2480 which may ~~shall~~ not exceed \$500 for each violation, for a  
2481 violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s.  
2482 381.0066, s. 381.0072, or part III of chapter 489, for a  
2483 violation of any rule adopted under this chapter, or for a  
2484 violation of ~~any of the provisions of~~ chapter 386. Notice of  
2485 intent to impose such fine shall be given by the department to  
2486 the alleged violator. Each day that a violation continues may  
2487 constitute a separate violation.

2488       Section 36. Effective July 1, 2021, subsection (1) of  
2489 section 381.0064, Florida Statutes, is amended to read:

2490       381.0064 Continuing education courses for persons  
2491 installing or servicing septic tanks.—



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2492 (1) The Department of Environmental Protection ~~Health~~ shall  
2493 establish a program for continuing education which meets the  
2494 purposes of ss. 381.0101 and 489.554 regarding the public health  
2495 and environmental effects of onsite sewage treatment and  
2496 disposal systems and any other matters the department determines  
2497 desirable for the safe installation and use of onsite sewage  
2498 treatment and disposal systems. The department may charge a fee  
2499 to cover the cost of such program.

2500 Section 37. Effective July 1, 2021, paragraph (d) of  
2501 subsection (7), subsection (8), and paragraphs (b), (c), and (d)  
2502 of subsection (9) of section 381.00651, Florida Statutes, are  
2503 amended to read:

2504 381.00651 Periodic evaluation and assessment of onsite  
2505 sewage treatment and disposal systems.—

2506 (7) The following procedures shall be used for conducting  
2507 evaluations:

2508 (d) *Assessment procedure.*—All evaluation procedures used by  
2509 a qualified contractor shall be documented in the environmental  
2510 health database of the Department of Environmental Protection  
2511 ~~Health~~. The qualified contractor shall provide a copy of a  
2512 written, signed evaluation report to the property owner upon  
2513 completion of the evaluation and to the county health department  
2514 within 30 days after the evaluation. The report must ~~shall~~  
2515 contain the name and license number of the company providing the  
2516 report. A copy of the evaluation report shall be retained by the  
2517 local county health department for a minimum of 5 years and  
2518 until a subsequent inspection report is filed. The front cover  
2519 of the report must identify any system failure and include a  
2520 clear and conspicuous notice to the owner that the owner has a



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2521 right to have any remediation of the failure performed by a  
2522 qualified contractor other than the contractor performing the  
2523 evaluation. The report must further identify any crack, leak,  
2524 improper fit, or other defect in the tank, manhole, or lid, and  
2525 any other damaged or missing component; any sewage or effluent  
2526 visible on the ground or discharging to a ditch or other surface  
2527 water body; any downspout, stormwater, or other source of water  
2528 directed onto or toward the system; and any other maintenance  
2529 need or condition of the system at the time of the evaluation  
2530 which, in the opinion of the qualified contractor, would  
2531 possibly interfere with or restrict any future repair or  
2532 modification to the existing system. The report shall conclude  
2533 with an overall assessment of the fundamental operational  
2534 condition of the system.

2535 (8) The county health department, in coordination with the  
2536 department, shall administer any evaluation program on behalf of  
2537 a county, or a municipality within the county, that has adopted  
2538 an evaluation program pursuant to this section. In order to  
2539 administer the evaluation program, the county or municipality,  
2540 in consultation with the county health department, may develop a  
2541 reasonable fee schedule to be used solely to pay for the costs  
2542 of administering the evaluation program. Such a fee schedule  
2543 shall be identified in the ordinance that adopts the evaluation  
2544 program. When arriving at a reasonable fee schedule, the  
2545 estimated annual revenues to be derived from fees may not exceed  
2546 reasonable estimated annual costs of the program. Fees shall be  
2547 assessed to the system owner during an inspection and separately  
2548 identified on the invoice of the qualified contractor. Fees  
2549 shall be remitted by the qualified contractor to the county



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2550 health department. The county health department's administrative  
2551 responsibilities include the following:

2552 (a) Providing a notice to the system owner at least 60 days  
2553 before the system is due for an evaluation. The notice may  
2554 include information on the proper maintenance of onsite sewage  
2555 treatment and disposal systems.

2556 (b) In consultation with the department ~~of Health,~~  
2557 providing uniform disciplinary procedures and penalties for  
2558 qualified contractors who do not comply with the requirements of  
2559 the adopted ordinance, including, but not limited to, failure to  
2560 provide the evaluation report as required in this subsection to  
2561 the system owner and the county health department. Only the  
2562 county health department may assess penalties against system  
2563 owners for failure to comply with the adopted ordinance,  
2564 consistent with existing requirements of law.

2565 (9)

2566 (b) Upon receipt of the notice under paragraph (a), the  
2567 department ~~of Environmental Protection~~ shall, within existing  
2568 resources, notify the county or municipality of the potential  
2569 use of, and access to, program funds under the Clean Water State  
2570 Revolving Fund or s. 319 of the Clean Water Act, provide  
2571 guidance in the application process to receive such moneys, and  
2572 provide advice and technical assistance to the county or  
2573 municipality on how to establish a low-interest revolving loan  
2574 program or how to model a revolving loan program after the low-  
2575 interest loan program of the Clean Water State Revolving Fund.  
2576 This paragraph does not obligate the department ~~of Environmental~~  
2577 ~~Protection~~ to provide any county or municipality with money to  
2578 fund such programs.



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2579 (c) The department ~~of Health~~ may not adopt any rule that  
2580 alters ~~the provisions of~~ this section.

2581 (d) The department ~~of Health~~ must allow county health  
2582 departments and qualified contractors access to the  
2583 environmental health database to track relevant information and  
2584 assimilate data from assessment and evaluation reports of the  
2585 overall condition of onsite sewage treatment and disposal  
2586 systems. The environmental health database must be used by  
2587 contractors to report each service and evaluation event and by a  
2588 county health department to notify owners of onsite sewage  
2589 treatment and disposal systems when evaluations are due. Data  
2590 and information must be recorded and updated as service and  
2591 evaluations are conducted and reported.

2592 Section 38. Effective July 1, 2021, paragraph (g) of  
2593 subsection (1) of section 381.0101, Florida Statutes, is amended  
2594 to read:

2595 381.0101 Environmental health professionals.—

2596 (1) DEFINITIONS.—As used in this section:

2597 (g) "Primary environmental health program" means those  
2598 programs determined by the department to be essential for  
2599 providing basic environmental and sanitary protection to the  
2600 public. At a minimum, these programs shall include food  
2601 protection program work ~~and onsite sewage treatment and disposal~~  
2602 ~~system evaluations.~~

2603 Section 39. Section 403.08601, Florida Statutes, is amended  
2604 to read:

2605 403.08601 Leah Schad Memorial Ocean Outfall Program.—The  
2606 Legislature declares that as funds become available the state  
2607 may assist the local governments and agencies responsible for



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2608 implementing the Leah Schad Memorial Ocean Outfall Program  
2609 pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from  
2610 other sources provided for in law, the General Appropriations  
2611 Act, from gifts designated for implementation of the plan from  
2612 individuals, corporations, or other entities, or federal funds  
2613 appropriated by Congress for implementation of the plan, may be  
2614 deposited into an account of the Water Quality Assurance Trust  
2615 Fund.

2616 Section 40. Section 403.0871, Florida Statutes, is amended  
2617 to read:

2618 403.0871 Florida Permit Fee Trust Fund.—There is  
2619 established within the department a nonlapsing trust fund to be  
2620 known as the “Florida Permit Fee Trust Fund.” All funds received  
2621 from applicants for permits pursuant to ss. 161.041, 161.053,  
2622 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7)(a) shall be  
2623 deposited in the Florida Permit Fee Trust Fund and shall be used  
2624 by the department with the advice and consent of the Legislature  
2625 to supplement appropriations and other funds received by the  
2626 department for the administration of its responsibilities under  
2627 this chapter and chapter 161. In no case shall funds from the  
2628 Florida Permit Fee Trust Fund be used for salary increases  
2629 without the approval of the Legislature.

2630 Section 41. Paragraph (a) of subsection (11) of section  
2631 403.0872, Florida Statutes, is amended to read:

2632 403.0872 Operation permits for major sources of air  
2633 pollution; annual operation license fee.—Provided that program  
2634 approval pursuant to 42 U.S.C. s. 7661a has been received from  
2635 the United States Environmental Protection Agency, beginning  
2636 January 2, 1995, each major source of air pollution, including



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2637 electrical power plants certified under s. 403.511, must obtain  
2638 from the department an operation permit for a major source of  
2639 air pollution under this section. This operation permit is the  
2640 only department operation permit for a major source of air  
2641 pollution required for such source; provided, at the applicant's  
2642 request, the department shall issue a separate acid rain permit  
2643 for a major source of air pollution that is an affected source  
2644 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits  
2645 for major sources of air pollution, except general permits  
2646 issued pursuant to s. 403.814, must be issued in accordance with  
2647 the procedures contained in this section and in accordance with  
2648 chapter 120; however, to the extent that chapter 120 is  
2649 inconsistent with ~~the provisions of~~ this section, the procedures  
2650 contained in this section prevail.

2651 (11) Each major source of air pollution permitted to  
2652 operate in this state must pay between January 15 and April 1 of  
2653 each year, upon written notice from the department, an annual  
2654 operation license fee in an amount determined by department  
2655 rule. The annual operation license fee shall be terminated  
2656 immediately in the event the United States Environmental  
2657 Protection Agency imposes annual fees solely to implement and  
2658 administer the major source air-operation permit program in  
2659 Florida under 40 C.F.R. s. 70.10(d).

2660 (a) The annual fee must be assessed based upon the source's  
2661 previous year's emissions and must be calculated by multiplying  
2662 the applicable annual operation license fee factor times the  
2663 tons of each regulated air pollutant actually emitted, as  
2664 calculated in accordance with the department's emissions  
2665 computation and reporting rules. The annual fee shall only apply



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2666 to those regulated pollutants, except carbon monoxide and  
2667 greenhouse gases, for which an allowable numeric emission  
2668 limiting standard is specified in the source's most recent  
2669 construction or operation permit; provided, however, that:

2670       1. The license fee factor is \$25 or another amount  
2671 determined by department rule which ensures that the revenue  
2672 provided by each year's operation license fees is sufficient to  
2673 cover all reasonable direct and indirect costs of the major  
2674 stationary source air-operation permit program established by  
2675 this section. The license fee factor may be increased beyond \$25  
2676 only if the secretary of the department affirmatively finds that  
2677 a shortage of revenue for support of the major stationary source  
2678 air-operation permit program will occur in the absence of a fee  
2679 factor adjustment. The annual license fee factor may never  
2680 exceed \$35.

2681       2. The amount of each regulated air pollutant in excess of  
2682 4,000 tons per year emitted by any source, or group of sources  
2683 belonging to the same Major Group as described in the Standard  
2684 Industrial Classification Manual, 1987, may not be included in  
2685 the calculation of the fee. Any source, or group of sources,  
2686 which does not emit any regulated air pollutant in excess of  
2687 4,000 tons per year, is allowed a one-time credit not to exceed  
2688 25 percent of the first annual licensing fee for the prorated  
2689 portion of existing air-operation permit application fees  
2690 remaining upon commencement of the annual licensing fees.

2691       3. If the department has not received the fee by March 1 of  
2692 the calendar year, the permittee must be sent a written warning  
2693 of the consequences for failing to pay the fee by April 1. If  
2694 the fee is not postmarked by April 1 of the calendar year, the



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2695 department shall impose, in addition to the fee, a penalty of 50  
2696 percent of the amount of the fee, plus interest on such amount  
2697 computed in accordance with s. 220.807. The department may not  
2698 impose such penalty or interest on any amount underpaid,  
2699 provided that the permittee has timely remitted payment of at  
2700 least 90 percent of the amount determined to be due and remits  
2701 full payment within 60 days after receipt of notice of the  
2702 amount underpaid. The department may waive the collection of  
2703 underpayment and may ~~shall~~ not be required to refund overpayment  
2704 of the fee, if the amount due is less than 1 percent of the fee,  
2705 up to \$50. The department may revoke any major air pollution  
2706 source operation permit if it finds that the permitholder has  
2707 failed to timely pay any required annual operation license fee,  
2708 penalty, or interest.

2709 4. Notwithstanding the computational provisions of this  
2710 subsection, the annual operation license fee for any source  
2711 subject to this section may ~~shall~~ not be less than \$250, except  
2712 that the annual operation license fee for sources permitted  
2713 solely through general permits issued under s. 403.814 may ~~shall~~  
2714 not exceed \$50 per year.

2715 5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes  
2716 ~~the provisions of s. 403.087(6)(a)5.a., authorizing air~~  
2717 pollution construction permit fees, the department may not  
2718 require such fees for changes or additions to a major source of  
2719 air pollution permitted pursuant to this section, unless the  
2720 activity triggers permitting requirements under Title I, Part C  
2721 or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-  
2722 7514a. Costs to issue and administer such permits shall be  
2723 considered direct and indirect costs of the major stationary



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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



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2753 States Department of Labor, or similar inflation indicator,  
2754 since the original fee was established or most recently revised.

2755 (a) The department shall establish by rule the inflation  
2756 index to be used for this purpose. The department shall review  
2757 the drinking water permit application fees authorized under s.  
2758 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5  
2759 years and shall adjust the fees upward, as necessary, within the  
2760 established fee caps to reflect changes in the Consumer Price  
2761 Index or similar inflation indicator. In the event of deflation,  
2762 the department shall consult with the Executive Office of the  
2763 Governor and the Legislature to determine whether downward fee  
2764 adjustments are appropriate based on the current budget and  
2765 appropriation considerations. The department shall also review  
2766 the drinking water operation license fees established pursuant  
2767 to paragraph (7)(b) at least once every 5 years to adopt, as  
2768 necessary, the same inflationary adjustments provided for in  
2769 this subsection.

2770 (b) The minimum fee amount shall be the minimum fee  
2771 prescribed in this section, and such fee amount shall remain in  
2772 effect until the effective date of fees adopted by rule by the  
2773 department.

2774 (21)(a) Upon issuance of a construction permit to construct  
2775 a new public water system drinking water treatment facility to  
2776 provide potable water supply using a surface water that, at the  
2777 time of the permit application, is not being used as a potable  
2778 water supply, and the classification of which does not include  
2779 potable water supply as a designated use, the department shall  
2780 add treated potable water supply as a designated use of the  
2781 surface water segment in accordance with s. 403.061(30)(b) ~~s.~~



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2782 ~~403.061(29)(b).~~

2783 (b) For existing public water system drinking water  
2784 treatment facilities that use a surface water as a treated  
2785 potable water supply, which surface water classification does  
2786 not include potable water supply as a designated use, the  
2787 department shall add treated potable water supply as a  
2788 designated use of the surface water segment in accordance with  
2789 s. 403.061(30)(b) ~~s. 403.061(29)(b).~~

2790 Section 44. Effective July 1, 2021, subsection (1) of  
2791 section 489.551, Florida Statutes, is amended to read:

2792 489.551 Definitions.—As used in this part:

2793 (1) "Department" means the Department of Environmental  
2794 Protection Health.

2795 Section 45. Paragraph (b) of subsection (10) of section  
2796 590.02, Florida Statutes, is amended to read:

2797 590.02 Florida Forest Service; powers, authority, and  
2798 duties; liability; building structures; Withlacoochee Training  
2799 Center.—

2800 (10)

2801 (b) The Florida Forest Service may delegate to a county,  
2802 municipality, or special district its authority:

2803 1. As delegated by the Department of Environmental  
2804 Protection pursuant to ss. 403.061(29) ~~ss. 403.061(28)~~ and  
2805 403.081, to manage and enforce regulations pertaining to the  
2806 burning of yard trash in accordance with s. 590.125(6).

2807 2. To manage the open burning of land clearing debris in  
2808 accordance with s. 590.125.

2809 Section 46. The Division of Law Revision is directed to  
2810 replace the phrase "adoption of the rules identified in



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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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

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BILL: PCS/CS/SB 712 (413536)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; Community Affairs Committee; and Senator Mayfield

SUBJECT: Water Quality Improvements

DATE: January 24, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Paglialonga/Rogers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

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.<sup>1</sup> 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:

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<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup>

### *Blue-Green Algae Task Force*

In January of 2019, Governor DeSantis issued the comprehensive Executive Order Number 19-12.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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.

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<sup>2</sup> U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Dec. 2, 2019).

<sup>3</sup> EPA, *The Problem*, <https://www.epa.gov/nutrientpollution/problem> (last visited Dec. 2, 2019).

<sup>4</sup> 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](https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf).

<sup>5</sup> *Id.* at 2; DEP, *Blue-Green Algae Task Force*, <https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force> (last visited Dec. 2, 2019).

<sup>6</sup> 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](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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

## **Basin Management Action Plans and Best Management Practices**

The DEP is the lead agency in coordinating the development and implementation of TMDLs.<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup> 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

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<sup>7</sup> 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).

<sup>8</sup> Section 403.067(1), F.S.

<sup>9</sup> Section 403.031(21), F.S.

<sup>10</sup> 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.

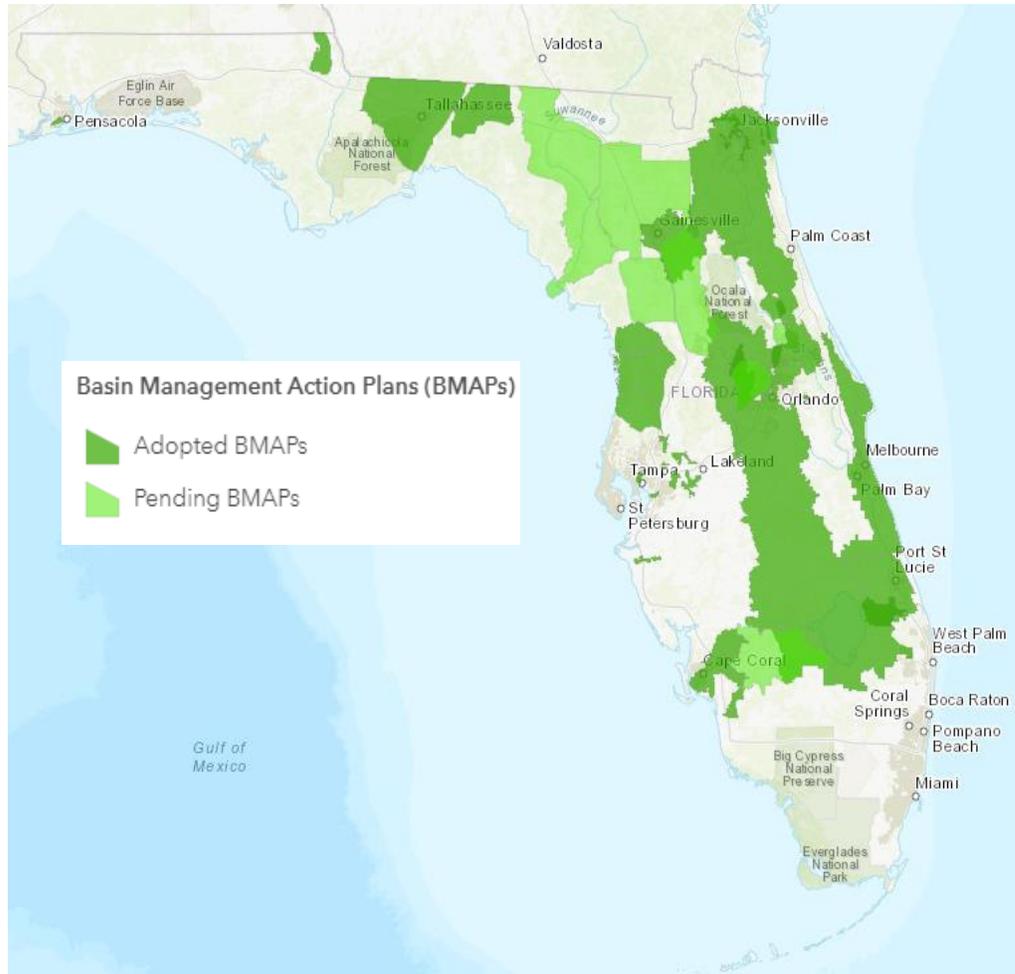
<sup>11</sup> Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

<sup>12</sup> Section 403.067(7), F.S.

<sup>13</sup> *Id.*

collectively determine and share water quality cleanup responsibilities collectively.<sup>14</sup> BMAPs are adopted by secretarial order.<sup>15</sup>

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.<sup>16</sup>



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.<sup>17</sup> 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

<sup>14</sup> DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Dec. 4, 2019).

<sup>15</sup> Section 403.067(7)(a)5., F.S.

<sup>16</sup> Section 403.067(7)(a)6., F.S.

<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

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.<sup>20</sup>

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.<sup>21</sup>

### ***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.<sup>22</sup> BMPs are implemented by the Department of Agriculture and Consumer Services (DACS). Since the BMP program was implemented in 1999,<sup>23</sup> 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.<sup>24</sup> Producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs<sup>25</sup> 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

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<sup>18</sup> Section 403.067(7)(b)2.h., F.S.

<sup>19</sup> DEP, *NPDES Stormwater Program*, <https://floridadep.gov/Water/Stormwater> (last visited Dec. 2, 2019).

<sup>20</sup> 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).

<sup>21</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>22</sup> 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).

<sup>23</sup> 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.

<sup>24</sup> 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).

<sup>25</sup> 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.<sup>26</sup> Within a BMAP, management strategies, including BMPs and water quality monitoring, are enforceable.<sup>27</sup> 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,<sup>28</sup> conducts research to issue recommendations for improving BMPs,<sup>29</sup> and issues training certificates for BMPs that require licenses such as Green Industry BMPs.<sup>30</sup>

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.<sup>31</sup>

### **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.<sup>32</sup> 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;<sup>33</sup>
- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan<sup>34</sup> 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;<sup>35</sup> and

<sup>26</sup> 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).

<sup>27</sup> Section 403.067(7)(d), F.S.

<sup>28</sup> UF/IFAS, *BMP Resource*, available at <https://bmp.ifas.ufl.edu/> (last visited Dec. 5, 2019).

<sup>29</sup> 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).

<sup>30</sup> UF/IFAS Florida-Friendly Landscaping, *GI-BMP Training Program Overview*, available at [https://ffl.ifas.ufl.edu/professionals/BMP\\_overview.htm](https://ffl.ifas.ufl.edu/professionals/BMP_overview.htm) (last visited Dec. 5, 2019).

<sup>31</sup> *Id.*

<sup>32</sup> 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.

<sup>33</sup> Section 373.802(5), F.S.

<sup>34</sup> Commonly called a "septic remediation plan."

<sup>35</sup> 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.<sup>36</sup>

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.<sup>37</sup> The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.<sup>38</sup>

In June 2018, the DEP adopted 13 BMAPs, addressing all 24 nitrogen-impaired OFS.<sup>39</sup> Eight of these plans are currently effective, while five others are pending the outcome of legal challenges on various alleged deficiencies in the BMAPs.<sup>40</sup> 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.<sup>41</sup>

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.<sup>42</sup> 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.<sup>43</sup>

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

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<sup>36</sup> Section 373.811, F.S.

<sup>37</sup> Section 373.807(3), F.S.

<sup>38</sup> *Id.*

<sup>39</sup> DEP, *Springs*, <https://floridadep.gov/springs> (last visited Nov. 26, 2019).

<sup>40</sup> *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.

<sup>41</sup> 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).

<sup>42</sup> Section 403.087, F.S.

<sup>43</sup> DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Dec. 2, 2019).

Pollution Discharge Elimination System (NPDES) permit.<sup>44</sup> 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.<sup>45</sup> 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.<sup>46</sup>

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.<sup>47</sup> 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.<sup>48</sup>

### ***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.<sup>49</sup> 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.<sup>50</sup> The standard also requires high-level disinfection.<sup>51</sup>

<b>Nutrient or Contaminant</b>	<b>Maximum Concentration Annually</b>
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.<sup>52</sup> 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

<sup>44</sup> 33 U.S.C. s. 1342.

<sup>45</sup> Sections 403.061 and 403.087, F.S.

<sup>46</sup> Section 403.087(3), F.S.

<sup>47</sup> 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](https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf).

<sup>48</sup> *Id.*

<sup>49</sup> Section 403.086(2), F.S.

<sup>50</sup> Section 403.086(4), F.S.

<sup>51</sup> Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).

<sup>52</sup> 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.<sup>53</sup>

### ***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.<sup>54</sup> 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.<sup>55</sup> Each day during the period in which a violation occurs constitutes a separate offense.<sup>56</sup> However, administrative penalties are capped at \$10,000.<sup>57</sup>

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.<sup>58</sup>

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.<sup>59</sup>

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

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<sup>53</sup> 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](https://pubs.usgs.gov/circ/1348/pdf/Chapter%205_105-156.pdf) (internal citations omitted).

<sup>54</sup> DEP, *Sanitary Sewer Overflows (SSOs)*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Dec. 4, 2019).

<sup>55</sup> Sections 403.121 and 403.141, F.S.

<sup>56</sup> *Id.*

<sup>57</sup> Section 403.121(2)(b),(8), and (9), F.S.

<sup>58</sup> DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf>.

<sup>59</sup> *Id.*

wastewater.<sup>60</sup> 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.<sup>61</sup> 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.<sup>62</sup> 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.<sup>63</sup> Pump stations receiving flow from another station through a force main, or those discharging through pipes 12 inches or larger, must have emergency generators.<sup>64</sup> All other pump stations must have emergency pumping capability through one of three specified arrangements.<sup>65</sup> 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.<sup>66</sup>

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.<sup>67</sup>

### ***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.<sup>68</sup> 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.<sup>69</sup>

<sup>60</sup> City of St. Augustine, *Inflow & Infiltration Elimination Program*, <https://www.citystaug.com/549/Inflow-Infiltration-Elimination-Program> (last visited Dec. 6, 2019).

<sup>61</sup> 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%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001\\_06\\_17.pdf](https://floridadep.gov/sites/default/files/Final%20Report%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf).

<sup>62</sup> 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.”

<sup>63</sup> 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%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001\\_06\\_17.pdf](https://floridadep.gov/sites/default/files/Final%20Report%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf).

<sup>64</sup> Fla. Admin. Code R. 62-604.400.

<sup>65</sup> *Id.*

<sup>66</sup> Fla. Admin. Code R. 62-604.100.

<sup>67</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>68</sup> 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).

<sup>69</sup> *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.<sup>70</sup> 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.<sup>71</sup> The United States Environmental Protection Agency (EPA) provides guidance and reference manuals for utilities to aid in developing asset management plans.<sup>72</sup>

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.<sup>73</sup> Florida's incentives include priority scoring,<sup>74</sup> reduction of interest rates,<sup>75</sup> principal forgiveness for financially disadvantaged small communities,<sup>76</sup> and eligibility for small community wastewater facilities grants.<sup>77</sup>

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.<sup>78</sup> 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.<sup>79</sup>

### **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.<sup>80</sup> The CWSRF is funded through money received from

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<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> EPA, *Asset Management: A Best Practices Guide* (2008), available at <https://nepis.epa.gov/Exe/ZyPDF.cgi/P1000LP0.PDF?Dockey=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](https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf).

<sup>73</sup> 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](https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf).

<sup>74</sup> Fla. Admin. Code R. 62-503.300(e).

<sup>75</sup> Fla. Admin. Code R. 62-503.300(5)(b)1. and 62-503.700(7).

<sup>76</sup> Fla. Admin. Code R. 62-503.500(4).

<sup>77</sup> Fla. Admin. Code R. 62-505.300(d) and 62-505.350(5)(c).

<sup>78</sup> Fla. Admin. Code R. 25-30.444.

<sup>79</sup> Fla. Admin. Code R. 25-30.444(2)(e) and (m).

<sup>80</sup> 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.<sup>81</sup> 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.<sup>82</sup>

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.;

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<sup>81</sup> DEP, *State Revolving Fund*, <https://floridadep.gov/wra/srf> (last visited Feb. 11, 2019).

<sup>82</sup> 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.<sup>83</sup>

### **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.<sup>84</sup> Under the program, a financially disadvantaged small community is defined as a county, municipality, or special district<sup>85</sup> with a total population of 10,000 or less, and a per capita income less than the state average per capita income.<sup>86</sup> 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.<sup>87</sup>

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.<sup>88</sup> 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.<sup>89</sup>

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<sup>83</sup> Section 403.1835(7), F.S.

<sup>84</sup> Sections 403.1835(3)(d) and 403.1838, F.S.

<sup>85</sup> 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.

<sup>86</sup> Section 403.1838(2), F.S.

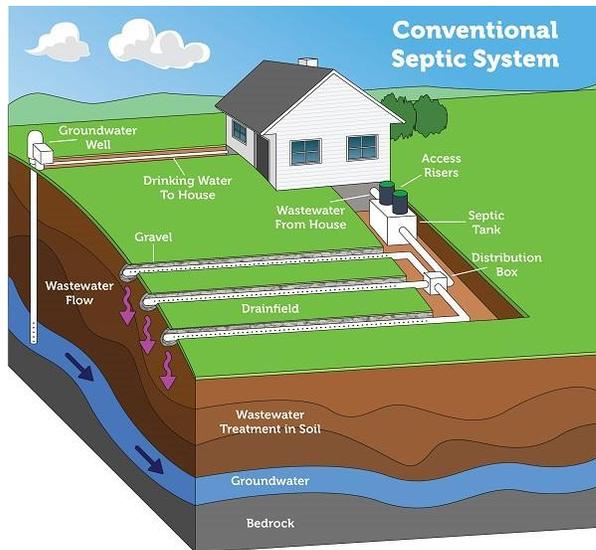
<sup>87</sup> Chapter 2016-55, Laws of Fla.

<sup>88</sup> Section 403.1838(3)(a), F.S.

<sup>89</sup> 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.<sup>90</sup> 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.<sup>91</sup>



Please note: Septic systems vary. Diagram is not to scale.

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.<sup>92</sup> The DOH regulations focus on construction standards and setback distances. The regulations are primarily designed to protect the public from waterborne illnesses.<sup>93</sup> 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.<sup>94</sup>

The DOH and the DEP have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.<sup>95</sup> The DEP has jurisdiction

<sup>90</sup> 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).

<sup>91</sup> *Id.*

<sup>92</sup> Section 381.0065(3), F.S.

<sup>93</sup> DOH, *Overview of Onsite Sewage Treatment and Disposal Systems*, 5 (Aug. 1, 2019), <http://floridadep.gov/file/19018/download?token=6r94Bi2B>.

<sup>94</sup> Section 381.0065(3), F.S.

<sup>95</sup> *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](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).<sup>96</sup> 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.<sup>97</sup> In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.<sup>98</sup> 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.<sup>99</sup> The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.<sup>100</sup>

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.<sup>101</sup> This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.<sup>102</sup>

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).<sup>103</sup> The DOH publishes on its website approved products and resources on advanced systems.<sup>104</sup> 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.<sup>105</sup> Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DOH.<sup>106</sup>

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<sup>96</sup> *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).

<sup>97</sup> DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Dec. 2, 2019).

<sup>98</sup> 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.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> 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).

<sup>102</sup> 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>.

<sup>103</sup> 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>.

<sup>104</sup> 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).

<sup>105</sup> Section 381.00655, F.S.

<sup>106</sup> *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.<sup>107</sup>

### ***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.<sup>108</sup> 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.<sup>109</sup>

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.<sup>110</sup>

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<sup>107</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>108</sup> Section 381.0068, F.S.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

## Stormwater Management

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.<sup>111</sup> 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.<sup>112</sup> Stormwater pollution is a major source of water pollution in Florida.<sup>113</sup>

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 States<sup>114</sup> and the state Environmental Resource Permitting (ERP) Program that regulates activities involving the alteration of surface water flows.<sup>115</sup> The federal NPDES Stormwater Program regulates the following types of stormwater pollution:<sup>116</sup>

- Certain municipal storm sewer systems;
- Runoff from certain construction activities; and
- Runoff from industrial activities.<sup>117</sup>

Florida's ERP Program includes regulation of activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.<sup>118</sup> ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.<sup>119</sup> 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.<sup>120</sup>

<sup>111</sup> 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.sfwmd.state.fl.us/sites/default/files/medias/documents/Applicant\\_Hanbook\\_I\\_-\\_Combined.pdf](https://www.sfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf).

<sup>112</sup> DEP, *Stormwater Management*, 1 (2016), available at [https://floridadep.gov/sites/default/files/stormwater-management\\_0.pdf](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.

<sup>113</sup> 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>.

<sup>114</sup> National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122.

<sup>115</sup> Chapter 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.

<sup>116</sup> 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](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>.

<sup>117</sup> See generally EPA, *NPDES Stormwater Program*, <https://www.epa.gov/npdes/npdes-stormwater-program> (last visited Dec. 2, 2019).

<sup>118</sup> DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Dec 2, 2019).

<sup>119</sup> South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Dec. 2, 2019).

<sup>120</sup> 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.sfwmd.state.fl.us/sites/default/files/medias/documents/Applicant\\_Hanbook\\_I\\_-\\_Combined.pdf](https://www.sfwmd.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;<sup>121</sup> and
- For the maintenance or operation of such structures.<sup>122</sup>

The DEP's stormwater rules are technology-based effluent limitations rather than water quality-based effluent limitations.<sup>123</sup> 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.<sup>124</sup> 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.<sup>125</sup> 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.<sup>126</sup> The images shown here depict six major types of surface water management systems:<sup>127</sup>

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<sup>121</sup> Section 373.413, F.S.; *see* s. 403.814(12), F.S.

<sup>122</sup> Section 373.416, F.S.

<sup>123</sup> DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Nov. 8, 2019).

<sup>124</sup> See generally, EPA, National Pollutant Discharge Elimination System (NPDES), [www.epa.gov/npdes/npdes-permit-limits](http://www.epa.gov/npdes/npdes-permit-limits) (last visited Dec. 2, 2019).

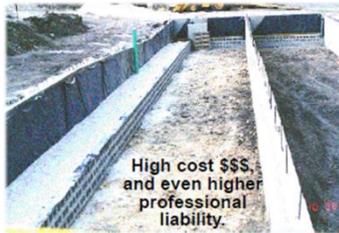
<sup>125</sup> Fla. Admin. Code R. 62-40.432(2).

<sup>126</sup> 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.

<sup>127</sup> 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.<sup>128</sup> 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.<sup>129</sup> 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.<sup>130</sup> 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.<sup>131</sup>

<sup>128</sup> 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.

<sup>129</sup> 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”).

<sup>130</sup> Section 373.4131(3)(c), F.S.

<sup>131</sup> 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.<sup>132</sup> 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.<sup>133</sup> 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."<sup>134</sup>

These rulemaking efforts produced a draft document called the "Environmental Resource Permit Stormwater Quality Applicant's Handbook: Design Requirements for Stormwater Treatment in Florida."<sup>135</sup> The 2010 draft handbook's stormwater quality permitting requirements:

- Provided for different stormwater treatment performance standards based on various classifications of water quality.<sup>136</sup>
- Included instructions for calculating a project's required nutrient load reduction based on comparing the predevelopment and post-development loadings.<sup>137</sup>
- Provided the required criteria for stormwater BMPs.
- Listed fifteen different types of stormwater treatment systems, including low impact design, pervious pavements, and stormwater harvesting.<sup>138</sup>

The new rule and revised handbook were expected to be adopted in 2011.<sup>139</sup> 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.<sup>140</sup>

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<sup>132</sup> 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](https://www.sfwmd.gov/sites/default/files/documents/spl_stormwater_rule.pdf).

<sup>133</sup> 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>.

<sup>134</sup> *Id.*

<sup>135</sup> 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](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content2/roadway/drainage/files/stormwaterqualityapphb-draft.pdf?sfvrsn=579bf184_0).

<sup>136</sup> *Id.* at 6-7.

<sup>137</sup> *Id.* at 8-11.

<sup>138</sup> *Id.* at 3.

<sup>139</sup> 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).

<sup>140</sup> 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](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.<sup>141</sup>

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.<sup>142</sup> 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.<sup>143</sup>

## Indian River Lagoon

The Indian River Lagoon (IRL) system is an estuary<sup>144</sup> that runs along 156 miles of Florida's east coast and borders Volusia, Brevard, Indian River, St. Lucie, and Martin counties.<sup>145</sup> The IRL system is composed of three main waterbodies: Mosquito Lagoon, Banana River, and the Indian River Lagoon.<sup>146</sup> Four BMAPs have been adopted for the IRL region.<sup>147</sup>

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.<sup>148</sup> The estimated economic value received from the IRL in 2014 was

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<sup>141</sup> DEP, *Water Quality Assessment Program*, <https://floridadep.gov/dear/water-quality-assessment> (last visited Dec. 2, 2019).

<sup>142</sup> DEP, *Watershed Monitoring*, <https://floridadep.gov/dear/watershed-monitoring-section> (last visited Dec. 2, 2019).

<sup>143</sup> 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](https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf).

<sup>144</sup> 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).

<sup>145</sup> IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

<sup>146</sup> *Id.*

<sup>147</sup> 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](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).

<sup>148</sup> IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Dec. 2, 2019).

approximately \$7.6 billion.<sup>149</sup> Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.<sup>150</sup>

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.<sup>151</sup> 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.<sup>152</sup>

### **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.<sup>153</sup>

### **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.<sup>154</sup> 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.<sup>155</sup>

The currently designated RAOs are:<sup>156</sup>

- Northwestern RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and part of Walton County.

<sup>149</sup> 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](http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf).

<sup>150</sup> *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.

<sup>151</sup> 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>.

<sup>152</sup> *Id.*

<sup>153</sup> Section 20.06(2), F.S.

<sup>154</sup> Section 288.0656(2)(d), F.S.

<sup>155</sup> Section 288.0656(7), F.S.

<sup>156</sup> 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).<sup>157</sup> 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.<sup>158</sup>

### Biosolids

Approximately two-thirds of Florida's population is served by around 2,000 domestic wastewater facilities permitted by the DEP.<sup>159</sup> When domestic wastewater is treated, solid, semisolid, or liquid residue known as biosolids<sup>160</sup> accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.<sup>161</sup> Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the DEP.<sup>162</sup> The collected residue is high in organic content and contains moderate amounts of nutrients.<sup>163</sup>

The DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.<sup>164</sup> 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

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<sup>157</sup> Section 120.541, F.S.

<sup>158</sup> *Id.*

<sup>159</sup> 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).

<sup>160</sup> 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.

<sup>161</sup> DEP, *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Dec. 9, 2019).

<sup>162</sup> Fla. Admin. Code R. 62-640.200(6).

<sup>163</sup> *Id.*

<sup>164</sup> 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](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.<sup>165</sup> About one-third of the total amount of biosolids produced is used for land application<sup>166</sup> and is subject to regulatory requirements established by the DEP to protect public health and the environment.<sup>167</sup>

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.<sup>168</sup> 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.<sup>169</sup> 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.<sup>170</sup> There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.<sup>171</sup>

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<sup>165</sup> *Id.* at 4.

<sup>166</sup> *Id.* at 5.

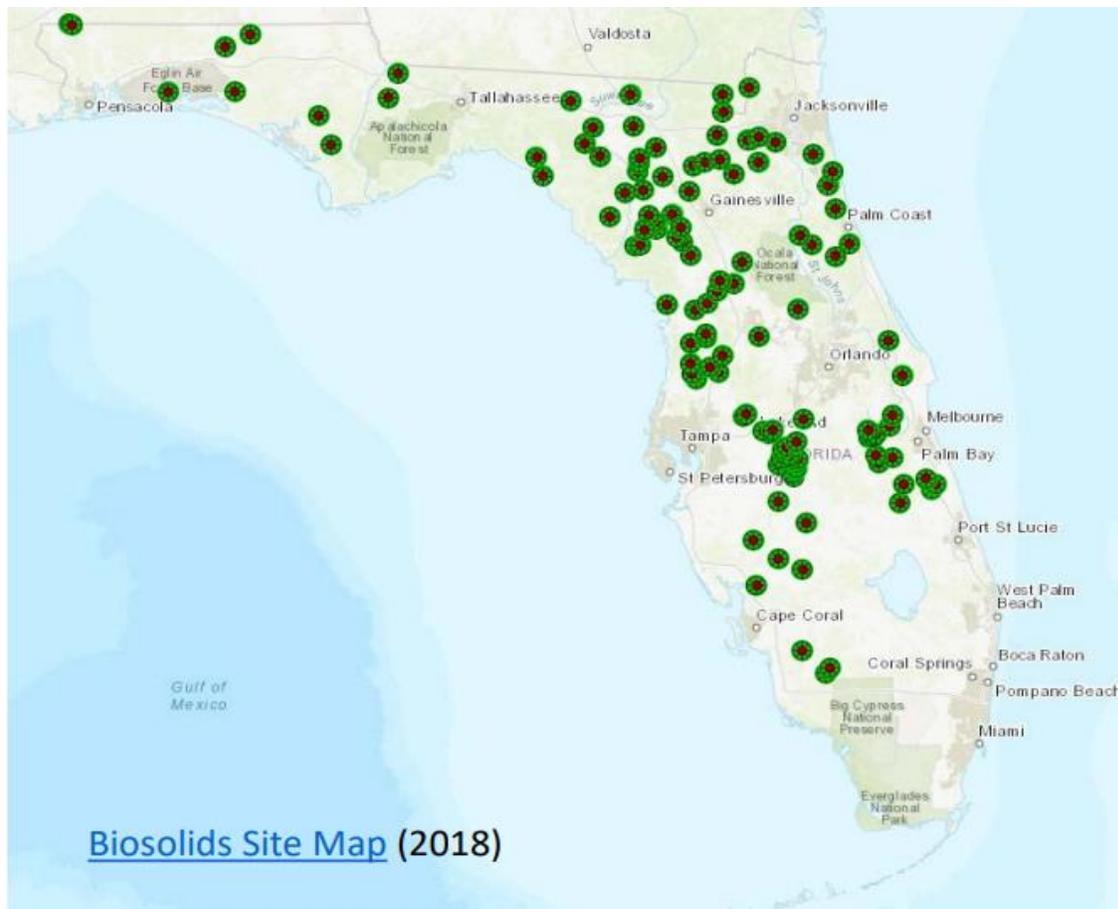
<sup>167</sup> Fla. Admin. Code R. 62-640.

<sup>168</sup> 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).

<sup>169</sup> *Id.* at 20.

<sup>170</sup> *Id.* at 9.

<sup>171</sup> 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](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.<sup>172</sup>

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.<sup>173</sup>

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.<sup>174</sup> Typically, Class B biosolids are used in land application.<sup>175</sup>

<sup>172</sup> *Id.* at 6.

<sup>173</sup> *Id.* at 7.

<sup>174</sup> *Id.* at 8.

<sup>175</sup> *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, applicers, and distributors<sup>176</sup> and include permit requirements for both treatment facilities and biosolids application sites.<sup>177</sup>

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.<sup>178</sup> Biosolids may only be applied to land application sites that are permitted by the DEP and have a valid NMP.<sup>179</sup> 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.<sup>180</sup> 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.<sup>181</sup>

Once a facility or site is permitted, it is subject to monitoring, record-keeping, reporting, and notification requirements.<sup>182</sup> 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.<sup>183</sup>

### ***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.<sup>184</sup> 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.<sup>185</sup>

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<sup>176</sup> Fla. Admin. Code R. 62-640.100.

<sup>177</sup> Fla. Admin. Code R. 62-640.300.

<sup>178</sup> Fla. Admin. Code R. 62-640.500.

<sup>179</sup> *Id.*

<sup>180</sup> Fla. Admin. Code R. 62-640.700.

<sup>181</sup> 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](http://archives.waterinstitute.ufl.edu/symposium2018/abstract_detail.asp?AssignmentID=1719) (last visited Mar. 8, 2019).

<sup>182</sup> Fla. Admin. Code R. 62-640.650.

<sup>183</sup> *Id.*

<sup>184</sup> Chapter 2016-1, Laws of Florida; *see s. 373.4595, F.S.*

<sup>185</sup> *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.<sup>186</sup> 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.<sup>187</sup>

### ***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.<sup>188</sup> 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.<sup>189</sup> The County Commission voted in January 2019 to extend the moratorium for an additional six months.<sup>190</sup>

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.<sup>191</sup> In January 2019, the ordinance was extended for an additional 180 days.<sup>192</sup>

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.<sup>193</sup> 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.<sup>194</sup> 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.<sup>195</sup>

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<sup>186</sup> Section 373.811(4), F.S.

<sup>187</sup> *Id.*

<sup>188</sup> 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](http://ircgov.granicus.com/player/clip/183?view_id=1&meta_id=64650) (last visited Dec. 9, 2019).

<sup>189</sup> *Id.*

<sup>190</sup> 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](http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302) (last visited Dec. 9, 2019).

<sup>191</sup> Fellsmere City Council Meeting, Agenda (Aug. 16, 2018), available at [https://www.cityoffellsmere.org/sites/default/files/fileattachments/city\\_council/meeting/8301/co20180816agenda.pdf](https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/8301/co20180816agenda.pdf).

<sup>192</sup> Fellsmere City Council Meeting, Agenda (Feb. 7, 2019), available at [https://www.cityoffellsmere.org/sites/default/files/fileattachments/city\\_council/meeting/14391/co20190221agenda.pdf](https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf).

<sup>193</sup> 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>.

<sup>194</sup> 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>.

<sup>195</sup> *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.<sup>196</sup>

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.<sup>197</sup>

Based on recommendations of the TAC and public input, the DEP published a draft rule on October 29, 2019.<sup>198</sup> 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,<sup>199</sup> meaning that a permit applicant must publish notice of their application one time only within fourteen days after a complete application is filed.<sup>200</sup>
- 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.<sup>201</sup> The SERC makes the following statements:

<sup>196</sup> 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.

<sup>197</sup> DEP, *DEP Biosolids Technical Advisory Committee*, <https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee> (last visited Mar. 6, 2019).

<sup>198</sup> 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](https://www.flrules.org/gateway/View_Notice.asp?id=22546212) (last visited Dec. 5, 2019).

<sup>199</sup> Note: the draft rule uses the phrase “public interest” but the rule crossreferenced in the draft rule uses the phrase “public concern.”

<sup>200</sup> Fla. Admin. Code R. 62-110.106(6).

<sup>201</sup> 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](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.<sup>202</sup>

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.<sup>203</sup>

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<sup>202</sup> *Id.*

<sup>203</sup> *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.<sup>204</sup> The DEP is currently reviewing lower cost regulatory alternatives that have been submitted.<sup>205</sup> The next step will be a hearing before the Environmental Regulation Commission and adoption of the rule. Following rule adoption, legislative ratification is required.<sup>206</sup>

### ***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.<sup>207</sup> Civil actions and administrative proceedings have different procedures.<sup>208</sup> 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.<sup>209</sup>

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.<sup>210</sup>

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.<sup>211</sup>

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<sup>204</sup> *Id.*

<sup>205</sup> Email from Justin Wolfe, General Counsel, DEP, RE: Biosolids Rule (Dec. 2. 2019)(on file with the Environment and Natural Resources Committee).

<sup>206</sup> Section 120.541(3), F.S.

<sup>207</sup> Section 403.121, F.S.

<sup>208</sup> Sections 403.121 and 403.141, F.S.

<sup>209</sup> Section 403.121, F.S.

<sup>210</sup> *Id.*

<sup>211</sup> Section 403.121(3)(b), F.S.

A court or an administrative law judge may receive evidence in mitigation.<sup>212</sup> The DEP may also seek injunctive relief either judicially or administratively.<sup>213</sup> Additionally, criminal penalties are available for various types of violations of chapter 403, F.S.<sup>214</sup>

### 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.

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Section 403.121(3)(b),  
F.S.

<sup>214</sup> 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.<sup>215</sup>*

**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.<sup>216</sup>*

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<sup>215</sup> *Id.*

<sup>216</sup> *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.*<sup>217</sup>

**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

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<sup>217</sup> *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.<sup>218</sup>*

**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 which 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

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<sup>218</sup> *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.*<sup>219</sup>

**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.

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<sup>219</sup> *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:****VII. None.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.)

- **Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on January 22, 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.

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

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# MIAF Bill Tracking

Ordered by Bill Number

<b>SB 0034</b>	<b>Prohibited Discrimination</b> 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	
<b>Actions</b>	
09/03/2019 SENATE Withdrawn prior to introduction	
<b>HB 0073</b>	<b>Environmental Regulation</b> 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	
<b>Actions</b>	
01/22/2020 HOUSE Read Second Time; Read Third Time; Passed (Vote: 119 Yeas / 0 Nays)	
<b>SB 0090</b>	<b>Discrimination in Labor and Employment</b> 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	
<b>Actions</b>	
08/16/2019 SENATE Referred to Commerce and Tourism; Judiciary; Rules	
<b>SB 0112</b>	<b>Capital Relocation Study</b> 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	
<b>Actions</b>	
08/16/2019 SENATE Referred to Governmental Oversight and Accountability; Community Affairs; Rules	
<b>HB 0133</b>	<b>Towing and Immobilizing Vehicles and Vessels</b> 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	
<b>Actions</b>	
12/18/2019 HOUSE Now in State Affairs Committee	
<b>SB 0142</b>	<b>Abolishing the Constitution Revision Commission</b> by Brandes
Abolishing the Constitution Revision Commission; Proposing amendments to the State Constitution to abolish the Constitution Revision Commission, etc.	

## Actions

01/24/2020 SENATE On Committee agenda - Rules, 01/29/20, 1:30 pm, 110 S

### 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

12/13/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

### 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

10/24/2019 SENATE Now in Appropriations

### 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**

01/15/2020 HOUSE Now in Health & Human Services Committee

**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**

01/23/2020 SENATE Now in Rules

**SB 0230 Department of Health** by Harrell

Department of Health; 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; revising licensure requirements for a person seeking licensure or certification as an osteopathic physician; 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; revising athletic trainer licensure requirements, etc. Effective Date: 7/1/2020

**Actions**

10/23/2019 SENATE Now in Appropriations

**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; requires commission to provide notice to aggrieved person in certain circumstances; 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**

10/10/2019 HOUSE Now in Civil Justice Subcommittee

**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: 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**

10/14/2019 HOUSE Now in Oversight, Transparency & Public Management Subcommittee

**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**

01/24/2020 HOUSE On Committee agenda - Local, Federal & Veterans Affairs Subcommittee, 01/28/20, 9:00 am, 12 H

**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**

12/10/2019 SENATE Now in Rules

**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**

11/05/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

**HB 0343 Recreational Vehicles** by Fetterhoff

Recreational Vehicles: Requires DACS to adopt rules specifying requirements for agents to administer certain competency examinations & establishing competency test for license to engage in activities solely

related to service & repair of recreational vehicles; authorizes certain qualifiers & master qualifiers to engage in such activities; requires certain LP gas experience or certification by LP gas manufacturer to apply for master qualifier certification. Effective Date: July 1, 2020

**Actions**

01/20/2020 HOUSE Now in State Affairs Committee

**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 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 0401 Shark Fins** by Jacobs

Shark Fins: Prohibits import, export, & sale of shark fins. Effective Date: October 1, 2020

**Actions**

01/15/2020 HOUSE Now in State Affairs Committee

**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 Vehicles** by Perry

Recreational Vehicles; Defining the terms "category VII liquefied petroleum gas dispenser and recreational vehicle servicer" and "recreational vehicle"; requiring a category VII liquefied petroleum gas dispenser and recreational vehicle operator to pass a written examination administered by the department or its agent, etc. Effective Date: 7/1/2020

**Actions**

01/22/2020 SENATE On Committee agenda - Infrastructure and Security, 01/27/20, 4:00 pm, 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**

01/21/2020 HOUSE Now in Health & Human Services Committee

**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

11/15/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

### **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

01/22/2020 HOUSE Now in Transportation & Tourism Appropriations Subcommittee

### **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

11/15/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

### **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**

12/10/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

**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 employers to register with and use the E-Verify system beginning on a specified date to verify the employment eligibility of new employees; requiring the Department of Economic Opportunity to order certain agencies to suspend an employer’s license under certain circumstances; requiring the department to notify the United States Immigration and Customs Enforcement Agency and specified law enforcement agencies of certain violations, etc. Effective Date: 7/1/2020

**Actions**

11/06/2019 SENATE Referred to Judiciary; Commerce and Tourism; 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 railroads when that authority is not federally preempted; requiring railroad companies to be responsible for ensuring that impacted roadbed meets 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 the 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, export, and sale of shark fins, etc. Effective Date: 10/1/2020

#### **Actions**

11/06/2019 SENATE Referred to Environment and Natural Resources; Commerce and Tourism; Rules

#### **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 the 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

01/17/2020 HOUSE Now in Health & Human Services Committee

### **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

01/24/2020 SENATE Now in Appropriations

### **HB 0713** Department of Health by Rodriguez (AM)

Department of Health: Authorizes DOH to adopt rules relating to certain programs; revises certain duties & responsibilities of department; revises licensure requirements for certain professions under authority of department; provides adverse incident reporting requirements for certain dental professionals. Effective Date: July 1, 2020

## Actions

01/24/2020 HOUSE On Committee agenda - Health Care Appropriations Subcommittee, 01/28/20, 12:00 pm, 404 H

### **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 0775** Everglades Protection Area by Avila

Everglades Protection Area: Requires comprehensive plans & plan amendments adopted by governing body of local government whose boundaries include Everglades Protection Area to follow state coordinated review process; requires DEP to coordinate with local government on certain mitigation measures for such plans & amendments. Effective Date: July 1, 2020

## Actions

01/24/2020 HOUSE On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 01/28/20, 9:00 am, 17 H

### **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**

01/16/2020 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 01/17/20, 09:00 am, 117 K (No Votes Will Be Taken)

**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**

12/16/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

**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**

01/16/2020 SENATE Now in Governmental Oversight and Accountability

**SB 0826 Marina Evacuations** by Mayfield

Marina Evacuations; Prohibiting vessels under a specified weight from remaining in certain marinas that have been deemed not suitable for refuge during a hurricane after the issuance of a hurricane watch or warning for the waters of the marina; providing for civil penalties, etc. Effective Date: 7/1/2020

**Actions**

11/21/2019 SENATE Referred to Environment and Natural Resources; Infrastructure and Security; 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; providing the percentage of the sales price of certain mobile homes which is subject to sales tax; revising an exemption from regulation for certain water service resellers, etc. Effective Date: 7/1/2020

**Actions**

01/16/2020 SENATE Now in Infrastructure and Security

**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 e-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**

01/23/2020 SENATE Now in Governmental Oversight and Accountability

**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**

01/22/2020 SENATE Now in Governmental Oversight and Accountability

**HB 1061 Aquatic Preserves** by Massullo, Jr.

Aquatic Preserves: Creates Nature Coast Aquatic Preserve; designates preserve for inclusion in aquatic preserve system; describes boundaries of preserve; outlines authority of Board of Trustees of Internal Improvement Trust Fund; requires board to adopt rules; prohibits establishment & management of preserve from infringing upon riparian rights of upland property owners adjacent to or within preserve; provides civil penalties. Effective Date: July 1, 2020

**Actions**

01/08/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

**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**

01/21/2020 HOUSE Now in Appropriations 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**

01/23/2020 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development

**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**

01/13/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

**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 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**

01/13/2020 HOUSE Now in Civil Justice Subcommittee

### **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; revises time period within which disclosure of beneficial interests must be submitted to state or certain local governmental units; revises provisions relating to notice delivery; 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**

01/17/2020     HOUSE Now in Transportation & Infrastructure 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**

01/23/2020     SENATE Now in Infrastructure and Security

**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**

01/24/2020     HOUSE On Committee agenda - Agriculture & Natural Resources Subcommittee, 01/28/20, 12:00 pm, 12 H

**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 and the Department of Environmental Protection 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**

01/13/2020 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; 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**

01/24/2020 HOUSE On Committee agenda - Agriculture & Natural Resources Subcommittee, 01/28/20, 12:00 pm, 12 H

#### **SB 1378 Vessels** by Rouson

Vessels; Specifying operation of a vessel at slow speed, minimum wake; prohibiting the operation of vessels at speeds faster than slow speed, minimum wake in certain situations; prohibiting the anchoring or mooring of a vessel to, or within a specified distance of, a mangrove or to vegetation upon, or within a specified distance of, public lands; revising civil penalties relating to certain at-risk vessels and prohibited anchoring or mooring, etc. Effective Date: 7/1/2020

#### **Actions**

01/13/2020 SENATE Referred to Environment and Natural Resources; Judiciary; Rules

#### **SB 1382 Environmental Resource Management** by Albritton

Environmental Resource Management; Providing that basin management action plan management strategies may include certain water quality improvement elements; requiring the Department of Environmental Protection, in coordination with the Department of Health or water management districts, to develop and implement a cooperative urban, suburban, commercial, or institutional water quality improvement element; requiring the Institute of Food and Agriculture Sciences of the University of Florida, in cooperation with the Department of Agriculture and Consumer Services, to develop a research plan and a legislative budget request, etc. Effective Date: 7/1/2020

#### **Actions**

01/22/2020 SENATE On Committee agenda - Environment and Natural Resources, 01/27/20, 4:00 pm, 37 S

#### **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**

01/22/2020 SENATE On Committee agenda - Environment and Natural Resources, 01/27/20, 4:00 pm, 37 S

#### **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 or research purposes, etc. Effective Date: 7/1/2020

**Actions**

01/13/2020 SENATE Referred to Environment and Natural Resources; Agriculture; Rules

**SB 1450 Environmental Enforcement** by Gruters

Environmental Enforcement; Increasing the civil penalties for violations of certain provisions relating to beach and shore construction, the Biscayne Bay Aquatic Preserve, aquatic preserves, the state water resource plan, artesian wells, pollution, operating a terminal facility without discharge prevention and response certificates, discharge contingency plans for vessels, the Pollutant Discharge Prevention and Control Act, the Clean Ocean Act, the pollution of surface and ground waters, the regulation of oil and gas resources, the Phosphate Land Reclamation Act, sewage disposal facilities, pollution control, reasonable costs and expenses for pollution releases, necessary permits, dumping litter, small quantity generators, the abatement of imminent hazards caused by hazardous substances, hazardous waste generators, transporters, or facilities, and coral reef protection, respectively, etc. Effective Date: 7/1/2020

**Actions**

01/22/2020 SENATE On Committee agenda - Environment and Natural Resources, 01/27/20, 4:00 pm, 37 S

**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**

01/17/2020 SENATE Referred to Judiciary; Commerce and Tourism; Rules

**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; providing 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, etc. Effective Date: 7/1/2020

**Actions**

01/17/2020 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

**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**

01/23/2020 HOUSE Placed on Special Order Calendar, 01/29/20

**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**

01/23/2020 SENATE Not Considered by Appropriations

**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