Agriculture & Natural Resources Subcommittee

Wednesday, March 27, 2013
4:30 PM
Reed Hall (102 HOB)

Will Weatherford
Speaker

Matthew H. "Matt" Caldwell
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture & Natural Resources Subcommittee

Start Date and Time:	Wednesday, March 27, 2013 04:30 pm
End Date and Time:	Wednesday, March 27, 2013 06:30 pm
Location:	Reed Hall (102 HOB)
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 33 State Lands by Smith
HB 997 Animal Shelters and Animal Control Agencies by Cummings, Patronis
HB 999 Environmental Regulation by Patronis
HB 1193 Taxation Of Property by Beshears, Raburn

Presentation on Springs Protection by the Department of Environmental Protection

Presentation on the Florida State Owned Lands and Records Information System by the Department of Environmental Protection

NOTICE FINALIZED on 03/25/2013 16:10 by Sims-Davis.Linda

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 33 State Lands
SPONSOR(S): Smith
TIED BILLS: None **IDEN./SIM. BILLS:** SB 466

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Kaiser	Blalock
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution, provides that the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes must be managed for the benefit of the citizens of this state and may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board.

In addition, current law provides that all lands held in the name of the Board of Trustees of the Internal Improvement Trust Fund (board) are held in trust for the use and benefit of the people of the state. The board is comprised of the Governor and Cabinet and is responsible for the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state.

Current law also grants the board with the power to exchange lands vested or titled in the name of the board for other lands in the state owned by local governments, individuals, or private or public corporations. When exchanging conservation lands that were not acquired through gift or donation, the board must request an exchange of equal value, which means the conservation benefit of the lands being offered for exchange is equal to or greater than the conservation benefit of the state-owned lands. The Acquisition and Restoration Council (ARC) is required by law to make the determination of a net-positive conservation benefit, regardless of appraised value. The Division of State Lands (division) within the Department of Environmental Protection (DEP) performs the staff duties related to the board's authority over state lands. Requests for exchanges are handled by the division.

The bill provides that individuals or public or private corporations who own land contiguous to state-owned land can submit a request directly to the board to exchange state-owned land for conservation easements over the privately held land. The bill requires the board to consider the request for exchange within 60 days of receiving it if the privately held land is surrounded by state-owned land on at least 30 percent of its perimeter. The exchange cannot create an inholding. The bill also requires that special consideration be given to requests for exchanges that allow the state to retain a conservation easement in perpetuity.

Lastly, the bill encourages low-impact agricultural operations such as grazing, forest management, prescribed burning, and wildlife management practices on the state-owned lands acquired through the exchange.

The bill appears to have a negative fiscal impact on state and local governments (See Fiscal Comments).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 253.001, F.S., provides that all lands held in the name of the Board of Trustees of the Internal Improvement Trust Fund (board) are held in trust for the use and benefit of the people of the state pursuant to Art. 11, s. 7 and Art. X, s. 11, of the Florida Constitution. The board is comprised of the Governor and Cabinet and is responsible for the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state. The Division of State Lands (division) within the Department of Environmental Protection (DEP) performs the staff duties related to the board's authority over state lands. Requests for exchanges are handled by the division in accordance with Rule 18-2, Florida Administrative Code (F.A.C.).

Article X, section 18 of the Florida Constitution, provides that the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes must be managed for the benefit of the citizens of this state and may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a two-thirds vote of the governing board.

Section 253.42, F.S., grants the board with the power to exchange lands vested or titled in the name of the board for other lands in the state owned by local governments, individuals, or private or public corporations. Any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government, unless otherwise provided in a deed restriction of record or other legal impediment, and so long as the use proposed by the county or local government is for a public purpose. For conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the state may request land of equal conservation value from the county or local government but no other consideration.

When exchanging conservation lands that were not acquired through gift or donation, the board must request an exchange of equal value, which means the conservation benefit of the lands being offered for exchange is equal to or greater than the conservation benefit of the state-owned lands.[1] In exchanges of this type, the Acquisition and Restoration Council (ARC)[2] must make a determination of a net-positive conservation benefit, regardless of appraised value.

Effect of Proposed Changes

The bill amends s. 253.42, F.S., to provide that individuals or public or private corporations who own privately held land contiguous to state-owned land may submit a request directly to the board to exchange state-owned land for conservation easements over the privately held land.

The bill also provides that if the privately held land is surrounded by state-owned land on at least 30 percent of its perimeter, and the exchange does not create an inholding[3], then the board must consider the request within 60 days after receiving it.

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[1] Section 253.42(2), F.S.

[2] The Acquisition and Restoration Council (ARC) is a 10-member group with representatives from various agencies as well as appointees by the governor, the Florida Fish and Wildlife Conservation Commission, and the Commissioner of Agriculture. The ARC is responsible for the evaluation, selection and ranking of state land acquisition and capital improvement projects for the Florida Forever priority list, as well as the review of management plans and land use plans for all state-owned conservation lands.

[3] An inholding denotes privately-owned land inside the boundary of a publicly-owned, protected area, such as a national/state park or national/state forest.

In addition, the bill provides that special consideration must be given to a request that allows the state to retain a conservation easement in perpetuity.

Lastly, the bill provides that low-impact operations such as grazing, forest management, prescribed burning, and wildlife management practices on the state-owned lands are strongly encouraged.

B. SECTION DIRECTORY:

Section 1: Amends s. 253.42, F.S., authorizing individuals to submit requests to the Board of Trustees of the Internal Improvement Trust Fund to exchange state-owned land for conservation easements; providing criteria for such requests; and, encouraging certain operations on such lands.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments section below.

2. Expenditures:

   See Fiscal Comments section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill may have a negative fiscal impact on local governments if the conservation easement resulting from the exchange reduces ad valorem property taxes. This may result in a loss of revenues from property taxes and fees generated from state-owned lands exchanged for conservation easements.

2. Expenditures:

   See Fiscal Comments section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill allows private land owners to receive title to state-owned lands that may not be available for exchange under current law. Also, by obtaining conservation easements on their property, private landowners could potentially reduce the amount of property tax owed.

Public access would be hindered to the extent that state-owned land that becomes the property of a private landowner would no longer be available for public uses, such as hunting, fishing, camping, hiking, etc. Additionally, conservation easements acquired by the state in exchange for state-owned land do not inherently contain a public right of access.

The silvicultural industry may be affected if acreage is taken out of production.

D. FISCAL COMMENTS:

The Department of Environmental Protection states that the bill could result in a negative fiscal impact, but the exact amount is indeterminate.

The Department of Agriculture and Consumer Services estimates that the bill could result in an annual net loss of approximately $1.1 million: $800,000 from timber sales and other forest products and $300,000 from uses such as oil, gas, and mineral exploration, as well as seismic testing. Additionally, the state could incur annual expenditures of approximately $250,000 associated with additional staff to process land negotiations as well as the costs associated with surveying, maps, brochures, and reestablishing fire breaks, roads, and fencing.

The Florida Fish and Wildlife Commission stated that the legislation could result in a reduction of revenues generated on state-owned lands from public use fees, timber harvests, grazing, and other allowable uses of state-owned lands that currently generate revenue for the state. However, the board would have the discretion as to whether to approve the exchange of any land that could result in a loss of revenue to a specific governmental entity. The bill could also potentially reduce the state's land management costs, since the cost to the state of compliance monitoring for conservation easements is less than the costs for management of full-fee state-owned lands.

Proponents of the bill state this legislation will alleviate land management costs for the state by transferring the land to private ownership. Additionally, the privately-held land will be returned to the tax rolls, thus providing revenue for local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

   Pursuant to Article X Section 18 of the Florida Constitution, "real property held by the state and designated for natural resources conservation purposes may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board."

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The first line of the title of the bill contains the words "relating to" twice. This should be corrected through the amendatory process.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None

A bill to be entitled

An act relating to relating to state lands; amending s. 253.42, F.S.; authorizing individuals and corporations to submit requests to the Board of Trustees of the Internal Improvement Trust Fund to exchange state-owned land for conservation easements over privately held land; providing criteria for consideration of such requests; encouraging certain operations on such lands; providing an effective date.

WHEREAS, the Legislature finds that significant economic forces compel the state to be innovative in seeking new ways to expand the protection and conservation of undeveloped lands while reducing the overall fiscal impact to the state, and

WHEREAS, many of these undeveloped lands are held in private ownership by individuals or by private or public corporations and are contiguous to existing state-owned land, and

WHEREAS, the Legislature recognizes that these individuals or corporations may have additional management resources that would assist in the conservation and protection of natural resources on such lands and allow the state to increase the amount of land under protective covenants, and

WHEREAS, it is the intent of the Legislature to encourage the use of conservation easements over privately held land through the exchange of state-owned land, to secure the future of natural resource-based recreation areas, and to ensure the survival of plant and animal species and the conservation of

finite and renewable natural resources, NOW, THEREFORE,

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

Section 1. Subsection (4) is added to section 253.42, Florida Statutes, to read:

253.42 Board of trustees may exchange lands.—The provisions of this section apply to all lands owned by, vested in, or titled in the name of the board whether the lands were acquired by the state as a purchase, or through gift, donation, or any other conveyance for which no consideration was paid.

(4)(a) An individual or a private or public corporation with privately held land contiguous to state-owned land may submit a request directly to the board to exchange state-owned land for conservation easements over the privately held land.

(b) If the privately held land is surrounded by state-owned land on at least 30 percent of its perimeter, and the exchange does not create an inholding, the board shall consider such request within 60 days after receipt of the request.

(c) Special consideration shall be given to a request submitted pursuant to this subsection that allows the state to retain a conservation easement in perpetuity. Furthermore, low-impact operations such as grazing, forest management, prescribed burning, and wildlife management practices are strongly encouraged on such lands.

Section 2. This act shall take effect July 1, 2013.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Agriculture & Natural Resources Subcommittee

Representative Smith offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (4) is added to section 253.42, Florida Statutes, to read:

253.42 Board of trustees may exchange lands.—The provisions of this section apply to all lands owned by, vested in, or titled in the name of the board whether the lands were acquired by the state as a purchase, or through gift, donation, or any other conveyance for which no consideration was paid.

(4)(a) A private individual or a private or public corporation with privately held land contiguous to state-owned land may submit a request directly to the board to exchange state-owned land for a permanent conservation easement over privately held land. This subsection does not apply to any state-owned sovereign submerged lands.

(b) The exchange may be in an amount of state-owned land equal in size to the monetary equivalent of privately held land that the individual or private or public corporation is willing to put into a permanent conservation easement, not to exceed 1280 acres per exchange.

(c) The board shall maintain a permanent conservation easement over the state-owned land being exchanged under this subsection that is similar to the permanent conservation easement that is being established over the privately owned land.

(d) The board shall consider such request within 180 days after receipt and may approve the request only if:

1. The privately held land is surrounded by state-owned land on at least 30 percent of its perimeter, and the exchange does not create an inholding.

2. The board makes an affirmative determination that the property is no longer needed for conservation purposes pursuant to Article X, Section 18 of the Florida Constitution.

3. The approval does not result in the board, department, Department of Agriculture and Consumer Services, Fish and Wildlife Conservation Commission, or any of the water management districts violating the terms of a preexisting lease agreement.

4. The exchange of privately held land and state-owned land pursuant to paragraph (a) will not result in a net loss of conservation value.

5. Such request is approved by a two-thirds vote of the board.

(e) Low-impact operations such as grazing, forest management, prescribed burning, and wildlife management practices shall be allowed on such land. Special consideration shall be given to a request submitted pursuant to this subsection that maintains public access for any recreational purposes allowed on the state-owned land at the time the request is submitted to the board.

(f) If any land uses or activities occur on the state-owned land being transferred to an individual or public or private corporation that are not authorized under the permanent conservation easement, then the land rights of the state and the individual or private or public corporation shall revert back to the condition prior to the initial exchange, unless the private individual or public or private corporation ends the unauthorized use or activity and corrects any adverse impacts to the property resulting from such use or activity to the satisfaction of the department within 60 days.

(g) Lands that are exchanged pursuant to this subsection are subject to inspection by the department to ensure compliance with the terms of all permanent conservation easements constituting the exchange.

Section 2. This act shall take effect July 1, 2013.

T I T L E A M E N D M E N T

Amendment No.

Remove everything before the enacting clause and insert:

An act relating to state lands; amending s. 253.42, F.S.; authorizing individuals and corporations to submit requests to the Board of Trustees of the Internal Improvement Trust Fund to exchange state-owned land for conservation easements over privately held land; providing criteria for consideration of such requests; authorizing certain operations on such lands; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 997 Animal Shelters and Animal Control Agencies
SPONSOR(S): Cummings and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 674, HB 871

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Kaiser	Blalock
2) Local & Federal Affairs Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

According to the Humane Society of the United States (HSUS), animal shelters across the nation take in and care for approximately 6-8 million dogs and cats every year, of whom approximately half are euthanized due to health issues, behavioral issues, or a lack of space.

Current law provides that to control the over-population of dogs and cats in the state, any public or private animal shelter or animal control agency operated by a humane society or a county, city, or other incorporated political subdivision must sterilize dogs and cats that are sold or released for adoption. Animal shelters may either provide sterilization by a licensed veterinarian before relinquishing custody of the animal or enter into an agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity.

The bill provides that each public or private animal shelter[1] must prepare and maintain records and make them available for public inspection and dissemination for the 3 preceding years. The records must contain:

- The total number of dogs and cats taken in by the animal shelter, divided into species, in the following categories: surrendered by owner, stray, impounded, confiscated, and imported into the state. Feral cats must be recorded as a separate category from other cats. Species other than domestic dogs and cats must be recorded as "other."
- The disposition of all animals taken in by the animal shelter divided into species. The data must include dispositions by adoption, reclamation by owner, death in kennel, destruction at the owner's request, transfer to another animal shelter, and euthanasia.
- An animal shelter which routinely euthanizes dogs based on size or breed alone must provide a written statement of such policy. Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.

The records of the animal shelter must be made available to the public for a cost that does not exceed $1 per one-sided copy.

The bill does not appear to have a fiscal impact on state government and has only an insignificant fiscal impact on local government.

[1] "Animal shelter" means any public or private animal shelter or animal control agency operated by a humane society that accepts taxpayer dollars, or a county, city, or other incorporated political subdivision.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

According to the Humane Society of the United States (HSUS), animal shelters across the nation take in and care for approximately 6-8 million dogs and cats every year, of whom approximately half are euthanized due to health issues, behavioral issues or a lack of space. One cat and her offspring can produce up to 370,000 kittens in seven years and one dog and her offspring can produce up to 67,000 puppies in seven years. With the increase of stray, abandoned, and feral cats and dogs on the rise, many communities are implementing programs and services to reduce birthrates, increase adoptions, and keep animals with responsible caretakers.

Section 823.15, F.S., currently provides that to control the over-population of dogs and cats in the state, any public or private animal shelter or animal control agency[2] operated by a humane society or a county, city, or other incorporated political subdivision must sterilize dogs and cats that are sold or released for adoption. Animal shelters may either provide sterilization by a licensed veterinarian before relinquishing custody of the animal or enter into an agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity. The animal shelter must require a sufficient deposit from the adopter or purchaser, which will be refunded when written evidence by the veterinarian performing the sterilization that the animal has been sterilized is provided to the animal shelter. The animal shelter may use recommended guidelines established by the Florida Federation of Humane Societies to set the amount of the deposit or donation. Failure by either party to comply with these provisions is a noncriminal violation, punishable by a fine not to exceed $500, forfeiture, or other civil penalty. In addition, the fine or donation shall be forfeited to the animal shelter. Any legal fees or court costs incurred in enforcement of these provisions are the responsibility of the adopter. At the request of a licensed veterinarian, and for a valid reason, the animal shelter can extend the time limit within which the animal must be sterilized.

All costs of sterilization must be paid by the prospective adopter unless otherwise provided for by ordinance of the local governing body, with respect to animal control agencies or shelters operated or subsidized by a unit of local government, or provided for by the humane society governing body, with respect to an animal control agency or shelter operated solely by the humane society and not subsidized by public funds.

Effect of Proposed Changes

The bill amends s. 823.15, F.S., to provide a legislative intent that the importation of dogs and cats into, and the uncontrolled breeding of dogs and cats in, the state pose a risk to the well-being of dogs and cats, the health of humans and animals, and the agricultural interests in the state. The bill further states that importation of dogs and cats from outside the United States may result in transmitting diseases that have already been eradicated in the country to dogs, cats, other animals, and humans living in the state. The bill states that determining which programs result in improved adoption rates and in reduced euthanasia rates for animals in shelters and animal control agencies is crucial to reducing uncontrolled breeding.

The bill provides that each public or private animal shelter, humane organization, or animal control agency operated by a humane organization that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision, must prepare and maintain records and make them available for public inspection and dissemination for the 3 preceding years. The records must contain:

[2] For ease of reading in this analysis, "animal shelter" means any public or private animal shelter or animal control agency operated by a humane society or a county, city, or other incorporated political subdivision.

- The total number of dogs and cats taken in by the animal shelter, humane organization, or animal control agency, divided into species, in the following categories: surrendered by owner, stray, impounded, confiscated, and imported into the state. Feral cats must be recorded as a separate category from other cats. Species other than domestic dogs and cats must be recorded as "other."
- The disposition of all animals taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision, divided into species. The data must include dispositions by adoption, reclamation by owner, death in kennel, destruction at the owner's request, transfer to another public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision, and euthanasia.
- A public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision which routinely euthanizes dogs based on size or breed alone must provide a written statement of such policy. Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.

The records of a public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars must be made available to the public for a cost that does not exceed $1 per one-sided copy.

B. SECTION DIRECTORY:

Section 1: Amends s. 823.15, F.S.; providing legislative priorities relating to the importation and uncontrolled breeding of dogs and cats; requiring that each public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision prepare and maintain specified records; specifying the information that must be included in the records; and, providing a maximum fee for copies of such records.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See Fiscal Comments section

2. Expenditures:

   See Fiscal Comments section

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private animal control facilities and shelters may have an increase in costs associated with complying with the reporting requirements of the bill if they are not already collecting that information.

D. FISCAL COMMENTS:

City and county animal shelters and animal control agencies may have an increase in costs associated with complying with the reporting requirements of the bill if they are not already collecting that information. The bill allows animal shelters and animal control agencies to charge the public a fee not to exceed $1 per one-sided copy.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of article VII, section 18, of the Florida Constitution may apply because this bill requires municipalities or counties to expend funds to comply with the provisions of the bill; however, an exemption may apply because the bill has an insignificant fiscal impact.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None

A bill to be entitled

An act relating to animal shelters and animal control agencies; amending s. 823.15, F.S.; declaring legislative priorities relating to the importation and uncontrolled breeding of dogs and cats; requiring that each public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision prepare and maintain specified records; specifying the information that must be included in the records; providing a maximum fee for copies of such records; providing an effective date.

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

Section 1. Subsection (1) of section 823.15, Florida Statutes, is amended, present subsections (2) and (3) are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

823.15 Dogs and cats released from animal shelters or animal control agencies; sterilization requirement.—

(1) The Legislature has determined that the importation of dogs and cats into, and the uncontrolled breeding of dogs and cats in, this state pose risks to the well-being of dogs and cats, the health of humans and animals, and the agricultural interests in this state. Importation of dogs and cats from outside the United States could result in the transmission of

diseases that have been eradicated in the United States to dogs and cats, other animals, and humans living in this state. Uncontrolled breeding ~~The Legislature has determined that uncontrolled breeding of dogs and cats in the state~~ results in the birth ~~production~~ of many more puppies and kittens than are needed to provide pet animals to new owners or to replace pet animals that ~~which~~ have died or become lost ~~or to provide pet animals for new owners~~. This leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays and suffering privation and death, being impounded and destroyed at great expense to the community, and constituting a public nuisance and public health hazard. It is therefore declared to be the public policy of the state that every feasible means be used to reduce the incidence of birth ~~of reducing the production~~ of unneeded and unwanted puppies and kittens ~~be encouraged~~. Determining which programs result in improved adoption rates and in reduced euthanasia rates for animals in shelters and animal control agencies is crucial to this effort.

(2)(a) Each public or private animal shelter, humane organization, or animal control agency operated by a humane organization that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision, shall prepare and maintain the following records and make them available for public inspection and dissemination for the 3 preceding years:

1. The total number of dogs and cats taken in by the animal shelter, humane organization, or animal control agency, divided into species, in the following categories:

a. Surrendered by owner;

b. Stray;

c. Impounded;

d. Confiscated; and

e. Imported into the state.

Feral cats shall be recorded as a separate category from other cats. Species other than domestic cats and domestic dogs should be recorded as "other."

2. The disposition of all animals taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision, divided into species. These data must include dispositions by:

a. Adoption;

b. Reclamation by owner;

c. Death in kennel;

d. Destruction at the owner's request;

e. Transfer to another public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars or by a county, municipality, or other incorporated political subdivision; and

f. Euthanasia.

3. A public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision which

routinely euthanizes dogs based on size or breed alone must provide a written statement of such policy. Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.

(b) Records of a public animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars must be made available to the public for a cost that does not exceed $1 per one-sided copy.

Section 2. This act shall take effect July 1, 2013.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Committee/Subcommittee hearing bill: Agriculture & Natural Resources Subcommittee

Representative Cummings offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (1) of section 823.15, Florida Statutes, is amended, present subsections (2) and (3) are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

823.15 Dogs and cats released from animal shelters or animal control agencies; sterilization requirement.—

(1) The Legislature has determined that the importation of dogs and cats into, and the uncontrolled breeding of dogs and cats in, this state pose risks to the well-being of dogs and cats, the health of humans and animals, and the agricultural interests in this state. Importation of dogs and cats from outside the United States could result in the transmission of diseases that have been eradicated in the United States to dogs and cats, other animals, and humans living in this state.

Uncontrolled breeding ~~The Legislature has determined that uncontrolled breeding of dogs and cats in the state~~ results in the birth ~~production~~ of many more puppies and kittens than are needed to provide pet animals to new owners or to replace pet animals that ~~which~~ have died or become lost ~~or to provide pet animals for new owners~~. This leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays and suffering privation and death, being impounded and destroyed at great expense to the community, and constituting a public nuisance and public health hazard. It is therefore declared to be the public policy of the state that every feasible means be used to reduce the incidence of birth ~~of reducing the production~~ of unneeded and unwanted puppies and kittens ~~be encouraged~~. Determining which programs result in improved adoption rates and in reduced euthanasia rates for animals in shelters and animal control agencies is crucial to this effort.

(2)(a) Each public or private animal shelter, humane organization, or animal control agency operated by a humane organization that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision, shall prepare and maintain the following records and make them available for public inspection and dissemination for the 3 preceding years. The following data will be available on a monthly basis commencing July 31, 2013:

1. The total number of dogs and cats taken in by the animal shelter, humane organization, or animal control agency, divided into species, in the following categories:

a. Inventory on the first business day of the month;

b. Surrendered by owner;

c. Stray;

d. Impounded;

e. Confiscated;

f. Transferred from within Florida;

g. Transferred into or imported from out of the state; and

h. Born in shelter.

Species other than domestic cats and domestic dogs should be recorded as "other."

2. The disposition of all animals taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision, divided into species. These data must include dispositions by:

a. Adoption;

b. Reclamation by owner;

c. Death in kennel;

d. Euthanasia at the owner's request;

e. Transfer to another public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars or by a county, municipality, or other incorporated political subdivision;

f. Euthanasia;

g. Died in care for reason other than euthanasia;

h. Released in field/Trapped, Neutered, Released (TNR);

i. Lost in care/missing animals or records; and

j. Ending inventory/shelter count at end of the last day of the month.

3. A public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision which routinely euthanizes dogs based on size or breed alone must provide a written statement of such policy. Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.

(b) Records of a public animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars must be made available to the public pursuant to provisions in chapter 119. The entities referenced in this section that have websites may post these records online in addition to making available the required hard copies. Records must be maintained onsite for not less than 3 years.

Section 2. This act shall take effect July 1, 2013.

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert: An act relating to animal shelters and animal control agencies; amending s. 823.15, F.S.; declaring legislative priorities relating to the importation and uncontrolled breeding of dogs and cats; requiring that each public or private animal shelter,

humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision prepare and maintain specified records; specifying the information that must be included in the records; providing a maximum fee for copies of such records; providing that records may be posted online; providing how long records must be maintained onsite; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 999 Environmental Regulation
SPONSOR(S): Patronis
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1684

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Renner JR	Blalock AFB
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The bill creates, amends, and revises numerous provisions relating to environmental regulation and permitting, including:

- Providing that when reviewing an application for a development permit, local governments cannot request additional information from an applicant more than three times, unless the applicant waives the limitation in writing.
- Providing that the Board of Trustees of the Internal Improvement Trust Fund is authorized to issue leases or consents of use to special event promoters and boat show owners to allow the installation of temporary structures. The lease or consent must include an exemption from lease fees and must be for a period not to exceed 30 days and for a duration not to exceed 10 consecutive years.
- Defining "first-come, first-served basis" as it relates to marinas; providing requirements for the calculation of lease fees for certain marinas; and providing conditions for the discount and waiver of lease fees for certain marinas, boatyards, and marine retailers.
- Providing general permits for local governments to construct certain marinas and mooring fields.
- Providing that when there are competing consumptive use permit applications, a water management district (WMD) or the Department of Environmental Protection (DEP) must have also issued an affirmative proposed agency action for each application before the WMD or DEP has the right to approve or modify the application that best serves the public interest.
- Providing that the issuance of well permits is the sole responsibility of WMDs and prohibiting government entities from imposing requirements and fees associated with the installation and abandonment of a groundwater well.
- Providing that licensure of water well contractors by a WMD must be the only water well construction license required for the construction, repair, or abandonment of water wells in the state or any political subdivision.
- Defining the term "mean annual flood line" for the purpose of delineating wetlands and surface waters.
- Exempting certain ponds, ditches, and wetlands from regulatory requirements, and exempting certain water control districts from local wetlands or water quality regulations.
- Requiring WMDs to coordinate and cooperate with the Department of Agriculture and Consumer Services (DACS) in its regional water supply planning process.
- Providing that a person can bring a cause of action for damages resulting from a discharge of certain pollution if not regulated or authorized pursuant to chapter 403, F.S.
- Providing requirements and conditions for water quality testing, sampling, collection, and analysis by DEP.
- Extending the payment deadline of permit fees for major sources of air pollution.
- Providing that a permit is not required for the restoration of seawalls at their previous locations or upland of, or within 18 inches, instead of 12 inches, waterward of their previous locations.
- Authorizing DEP to establish general permits for special events relating to boat shows.

The bill appears to have a fiscal impact on state and local government. See Fiscal Comments Section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 1 amends s. 125.022, F.S., and Section 2 amends s. 166.033, F.S., relating to development permit applications by local governments.

Current Situation

A development permit, as defined in s. 163.3164, F.S., is any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. Pursuant to ss. 125.022 and 166.033, F.S., when a county or municipality denies an application for a development permit, the county or municipality must give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit.

For any development permit application filed with a county or municipality after July 1, 2012, that county or municipality is prohibited from requiring as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county or municipality action on the local development permit. The issuance of a development permit by a county or municipality does not create any rights on the part of the county or municipality for issuance of the permit if the applicant fails to obtain the requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county or municipality can attach such a disclaimer to the issuance of a development permit and can include a permit condition that all other applicable state or federal permits be obtained prior to commencement of the development. This does not prohibit a county or municipality from providing information to an applicant regarding what other state or federal permits may apply.

Effect of Proposed Changes

The bill amends ss. 125.022 and 163.033, F.S., to provide that when reviewing an application for a development permit, counties and municipalities cannot request additional information from an applicant more than three times, unless the applicant waives the limitation in writing. The first request must be reviewed and approved in writing by the permit processor's supervisor or department director or manager. The second request must be approved by a department or division director or manager. Subsequent requests must be approved in writing by the local government administrator or equivalent chief administrative officer. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the county or municipality, at the applicant's request, must proceed to process the application.

Section 3 amends s. 253.0345, F.S., relating to special events on sovereign submerged lands.

Current Situation

Upon statehood, Florida gained title to all sovereign submerged lands[1] within its boundaries, to be held in trust for the public.[2] The Board of Trustees of the Internal Improvement Trust Fund (BOT) is responsible for the acquisition, administration, management, control, supervision, conservation,

[1] In Florida, "submerged lands" are "publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state." Section 253.03(8)(b), F.S.

[2] *Broward v. Marbry*, 50 So. 826, 829-30 (Fla. 1909)

protection, and disposition of such lands.[3] The Florida Constitution requires the sale of such lands to be authorized by law, but only when in the public interest, and private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.[4]

Florida recognizes "riparian rights" for landowners with waterfront property bordering on navigable waters.[5] Section 253.141(1), F.S., provides that these rights include ingress, egress, boating, bathing, fishing, and others as defined by law. Riparian landowners must obtain the board's authorization for installation and maintenance of docks, piers, and boat ramps on sovereign submerged land.[6] Under the board's rules, "dock" generally means a fixed or floating structure, including moorings and access walkways, used for the purpose of mooring and accessing vessels.[7] Authorization may be in the form of consent by rule, letter of consent, or lease.[8] All leases authorizing activities on sovereign submerged lands must include provisions for lease fee adjustments and annual payments.[9]

Section 253.0345, F.S., provides that the BOT is authorized to issue consents of use or leases to riparian landowners and event promoters to allow the installation of temporary structures, including docks, moorings, pilings, and access walkways, on sovereign submerged lands solely for the purpose of facilitating boat shows and displays in, or adjacent to, established marinas or government owned upland property. Riparian owners of adjacent uplands who are not seeking a lease or consent of use must be notified by certified mail of any request for such a lease or consent of use prior to approval by the BOT. The BOT must balance the interests of any objecting riparian owners with the economic interests of the public and the state as a factor in determining whether a lease or consent of use should be executed over the objection of adjacent riparian owners. This does not apply to structures for viewing motorboat racing, high-speed motorboat contests or high-speed displays in waters that manatees are known to frequent.

Any special event must be for a period not to exceed 30 days. The lease or consent of use may also contain appropriate requirements for removal of the temporary structures, including the posting of sufficient surety to guarantee appropriate funds for removal of the structures should the promoter or riparian owner fail to do so within the time specified in the agreement.

Effect of Proposed Changes

The bill amends s. 253.0345, F.S., to provide that the BOT is authorized to issue leases or consents of use to special event promoters, and boat show owners to allow the installation of temporary structures, including docks, moorings, pilings, and access walkways, on sovereign submerged lands solely for the purpose of facilitating boat shows and displays in, or adjacent to, established marinas or government-owned upland property. A lease or consent of use for a special event under this section must include an exemption from lease fees and must be for a period not to exceed 30 days and for a duration not to exceed 10 consecutive years.

Section 4 creates s. 253.0346, F.S., relating to lease of sovereignty submerged lands for marinas, boatyards, and marine retailers.

Current Situation

As stated above, the BOT is responsible for the administration and disposition of the state's sovereign submerged lands, which gives it the authority to adopt regulations pertaining to anchoring, mooring, or

[3] Section 253.03(1), F.S.
[4] Article X, Section 11 of the Florida Constitution
[5] Section 253.141(1), F.S. These rights are appurtenant to and inseparable from the riparian land; the rights inure to the property owner, but the rights are not proprietary in natures. *Id.*
[6] Rule 18-21.005(1)(d), F.A.C.
[7] See Rule 18-20.003(19), F.A.C.; 18-21.003(2), F.A.C.
[8] Rule 18.21.005(1), F.A.C.
[9] Rule 18-21.008(1)(b)(2), F.A.C.

otherwise attaching to the bottom and the establishment of anchorages. Waterfront landowners must receive the board's authorization to build docks and related structures on sovereign submerged lands. DEP is required by law to perform all staff functions on behalf of the board.

Specific management policies, standards, and criteria are used in determining whether to approve, approve with conditions, or deny requests for activities on sovereignty submerged lands. Rule 18-21.004, F.A.C., identifies such criteria under the following categories:

- General proprietary.
- Resource management.
- Riparian rights.
- Private residential multi-family docks and piers.
- Special events.
- Sovereign and state owned springs and spring runs.
- General conditions for authorization.

When determining whether to approve or deny uses for sovereignty submerged land leases, the BOT must consider whether such uses pass a "public interest" test. Public interest is defined as the demonstrable environmental, social, and economic benefit which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the BOT must consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.[10] Using such policies, standards, and criteria established for each category, approved uses for sovereignty submerged lands are determined.

Rule 18-21.008, F.A.C., outlines the application process, categories, and terms for leases of sovereignty submerged land. There are currently three categories for leases identified in this rule. They are:

- Standard lease – Standard lease terms are for 5 years with the exception of leases for marinas, where at least 90 percent of the slips are maintained for rent to the public on a first-come, first-served basis, which are for 10 years.
- Extended term leases – Extended term leases are those with terms in excess of standard leases and are available for up to 25 years. Such leases are for activities that will have an expected life equal to or greater than the requested lease term. Those leases include:
    - Facilities or activities that provide public access.
    - Facilities constructed, operated, or maintained by government or funded by government secured bonds.
    - Facilities that have other unique operational characteristics as determined by the board.
- Oil and gas lease – Oil and gas leases are issued on a competitive bid basis for terms as determined by the board. However, no such leases have been issued as s. 377.242, F.S., prohibits the drilling for oil, gas, or other petroleum products on any sovereignty submerged land.

The Florida Clean Marina Program is a voluntary designation program with a proactive approach to environmental stewardship. Participants receive assistance in implementing best management practices through on-site and distance technical assistance, mentoring by other Clean Marinas and continuing education. To become designated as a Clean Marina, facilities must implement a set of environmental measures designed to protect Florida's waterways. These measures address critical environmental issues such as sensitive habitat, waste management, stormwater control, spill prevention, and emergency preparedness.[11]

[10] Rule 18-21.003, F.A.C.
[11] DEP website on Florida Clean Marina Programs. *See* http://www.dep.state.fl.us/cleanmarina/about.htm

The Florida Clean Boatyard Program is a voluntary designation program that encourages boatyards to implement environmentally conscious practices. Measures such as using dustless sanders, oil and solvent recycling, and re-circulating pressure wash systems to recycle wastewater help to preserve the state's natural resources for future generations.[12]

The Florida Clean Marine Retailer Program is a voluntary designation program that encourages marine retailers to educate boaters by providing information to those who purchase vessels on clean boating practices. A Clean Marine Retailer employs environmental best management practices in its boat and engine service operations and facilities.[13]

As of June 21, 2013, there are 263 designated Clean Marinas, 38 Clean Boatyards, and 17 Clean Marine Retailers throughout the state.[14]

Effect of Proposed Changes

The bill creates s. 253.0346, F.S., relating to the lease of sovereignty submerged lands for marinas, boatyards, and marine retailers. The bill defines "first-come, first-served basis" to mean the facility operates on state-owned submerged land for which:

- There is not a club membership, stock ownership, equity interest, or other qualifying requirement.
- Rental terms do not exceed 12 months and do not include automatic renewal rights or conditions.

For marinas that are open to the public on a first-come, first-served basis and for which at least 90% of the slips are open to the public, the following requirements apply:

- The annual lease fee for a standard-term lease must be 6% of the annual gross dockage income. DEP may not include pass-through charges in calculating gross dockage income.
- A discount of 30% on the annual lease fee must apply if dockage rate sheet publications and dockage advertising clearly state that slips are open to the public on a first-come, first-served basis.

For a facility designated by DEP as a Clean Marina, Clean Boatyard, or Clean Marine Retailer under the Clean Marina Program, the following requirements apply:

- A discount of 10% on the annual lease fee must apply if the facility:
  - Actively maintains designation under the program.
  - Complies with the terms of the lease.
  - Does not change use during the term of the lease.
- Extended-term lease surcharges must be waived if the facility:
  - Actively maintains designation under the program.
  - Complies with the terms of the lease.
  - Does not change use during the term of the lease.
  - Is available to the public on a first-come, first-served basis.

If the facility has unpaid lease fees or fails to comply with this section, the facility is not eligible for the discount or waiver under this section until the debts have been paid and compliance with the program has been met.

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[12] *Id.*
[13] *Id.*
[14] DEP website on Florida Clean Marine Programs. *See* http://www.dep.state.fl.us/cleanmarina/default.htm

This section only applies to new leases or amendments to leases effective after July 1, 2013.

Section 5 amends s. 373.118, F.S., relating to general permits for local governments to construct certain marinas and mooring fields.

Current Situation

Section 373.118(4), F.S., directs DEP to adopt one or more general permits for local governments to construct, operate, and maintain public marina facilities, public mooring fields, public boat ramps, including associated courtesy docks, and associated parking facilities located in uplands. A facility authorized under these general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities must be consistent with the local government manatee protection plan required pursuant to chapter 379, F.S., and must obtain Clean Marina Program status prior to opening for operation and maintain that status for the life of the facility. Marinas and mooring fields authorized under any such general permit cannot exceed an area of 50,000 square feet over wetlands and other surface waters.

Effect of Proposed Changes

The bill amends s. 373.118(4), F.S., to provide that the expansion of any marina, whether private or government-owned, for which the services of at least 90% of the slips are open to the public on a first-come, first-served basis authorized under the general permit described above cannot exceed an additional area of 50,000 square feet over wetlands and other surface waters. The bill also provides that mooring fields authorized under a general permit cannot exceed 100 vessels.

Section 6 amends s. 373.233, F.S., relating to competing applications for the consumptive use of water permits.

Current Situation

A consumptive use permit (CUP) establishes the duration and type of water use as well as the maximum amount that may be used. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the WMD and not harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as "the three-prong test." Specifically, the proposed water use: 1) must be a "reasonable-beneficial use" as defined in s. 373.019, F.S.; 2) must not interfere with any presently existing legal use of water; and 3) must be consistent with the public interest.

Section 373.233, F.S., provides that if two or more applications that otherwise comply with the provisions of Part II of chapter 373, F.S., are pending for a quantity of water that is inadequate for both or all applications, or that for any other reason are in conflict, the governing board of the WMD or DEP has the right to approve or modify the application which best serves the public interest.

Effect of Proposed Changes

The bill amends s. 373.233, F.S., to provide that where there are competing CUP applications as described above, the governing board of a WMD or DEP must have also issued an affirmative proposed agency action for each application, before the governing board of a WMD or DEP has the right to approve or modify the application which best serves the public interest.

Section 7 amends s. 373.308, F.S., relating to well permits issued by water management districts.

Current Situation

Section 373.308, F.S., directs DEP to authorize the governing board of a WMD to implement a program for the issuance of permits for the location, construction, repair, and abandonment of water wells. DEP may prescribe minimum standards for the location, construction, repair, and abandonment of water wells throughout all or parts of the state, as may be determined by DEP. Some local governments also have certain ordinances pertaining to water wells, which has resulted in duplicative regulation at the state and local level.

Effect of Proposed Changes

The bill amends s. 373.308, F.S., to provide that upon authorization from DEP, issuance of well permits is the sole responsibility of the WMDs, and other government entities may not impose additional or duplicate requirements or fees or establish a separate program for the permitting of the location, abandonment, boring, or other activities reasonably associated with the installation and abandonment of a groundwater well.

Section 8 amends s. 373.323, F.S., relating to licenses for water well contractors issued by WMDs.

Current Situation

Section 373.323, F.S., provides that any person that wishes to engage in business as a water well contractor must obtain a license from the WMD to conduct such business. Each person must apply to take the licensure examination and the application must be made to the WMD in which the applicant resides or in which his or her principal place of business is located. An applicant must:

- Be at least 18 years of age;
- Have 2 years of experience in constructing, repairing, or abandoning water wells; and
- Show certain proof of experience.

Effect of Proposed Changes

The bill amends s. 373.323(1), F.S., to provide that licensure under this section by a WMD must be the only water well construction license required for the construction, repair, or abandonment of water wells in the state or any political subdivision.

Section 9 amends s. 373.403, F.S., providing a definition for "mean annual flood line."

Current Situation

Part IV of chapter 373, F.S., includes various statutes pertaining to the management and storage of surface waters. More specifically, s. 373.413, F.S., provides certain permitting requirements for the construction or alteration of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works. A person proposing to construct or alter a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works subject to such permit must apply to the governing board or DEP for a permit authorizing such construction or alteration. Section 373.421, F.S., provides for a unified statewide methodology for the delineation of the extent of wetlands and surface waters. Section 373.403, F.S., provides definitions to be used in Part IV of chapter 373, F.S.

Effect of Proposed Changes

The bill amends s. 373.403, F.S., providing that "mean annual flood line" has the same meaning as provided in s. 381.0065, F.S., (regarding regulation of onsite sewage treatment and disposal systems) for purposes of delineating the ordinary high water line for nontidal water bodies and other surface waters.

Section 381.0065, F.S., defines "mean annual flood line" as the elevation determined by calculating the arithmetic mean of the elevations of the highest yearly flood stage or discharge for the period of record, to include at least the most recent 10-year period. If at least 10 years of data is not available, the mean annual flood line must be determined based upon the data available and field verification conducted by a certified professional surveyor and mapper with experience in the determination of flood water elevation lines or, at the option of the applicant, by department personnel. Field verification of the mean annual flood line must be performed using a combination of certain indicators that are present on the site, and that reflect flooding that recurs on an annual basis. In those situations where any one or more of these indicators reflect a rare or aberrant event, such indicator or indicators must not be utilized in determining the mean annual flood line.

Section 10 amends s. 373.406, F.S., exempting certain ponds and ditches from surface water management and storage requirements.

Current Situation

As stated above, Part IV of chapter 373, F.S., provides for the management and storage of surface water. Part IV also establishes the Environmental Resource Permit (ERP) program, which is the primary tool used by DEP and the WMDs for preserving natural resources, fish and wildlife, minimizing degradation of water resources caused by stormwater discharges, and providing for the management of water and related land resources.

The activities regulated under the ERP program include the construction, alteration, operation, maintenance, abandonment, and removal of "stormwater management systems," "dams," "impoundments," "reservoirs," "appurtenant works," and "works." Individually and collectively these terms are referred to as "surface water management systems" or "systems."

Certain activities have been exempted by statute from the need for obtaining an ERP under state law or by agency rule. Section 373.406, F.S., provides for several exemptions from the regulatory requirements in chapter 373, F.S. DEP's rules also provide for certain exemptions and general permits for certain activities that cause only minimal individual and cumulative adverse impacts to wetlands and other surface waters. Examples of exempt activities include, but are not limited to:

- Construction, repair, and replacement of certain private docking facilities below certain size thresholds;
- Maintenance dredging of existing navigational channels and canals;
- Construction and alteration of boat ramps within certain size limits;
- Construction, repair, and replacement of seawalls and riprap in artificial waters;
- Repair and replacement of structures; and
- Construction of certain agricultural activities.

In addition, the state has issued a number of "noticed general permits" for activities that are slightly larger than those that qualify for the above exemptions and that otherwise have been determined to have the potential for no more than minimal individual direct and secondary impacts. These include, but are not limited to:

- Construction and modification of boat ramps of certain sizes;
- Installation and repair of riprap at the base of existing seawalls;

- Installation of culverts associated with stormwater discharge facilities; and
- Construction and modification of certain utility and public roadway construction activities.

Anything that does not specifically qualify for an exemption or noticed general permit typically requires an ERP permit.

Effect of Proposed Changes

The bill amends s. 373.406, F.S., to include the following exemptions:

- Construction, operation, or maintenance of any wholly owned, manmade ponds constructed entirely in uplands or drainage ditches constructed in uplands.
- Activities affecting wetlands created solely by the unreasonable and negligent flooding or interference with the natural flow or surface water caused by an adjoining landowner.
- Any water control district created and operating pursuant to chapter 298, F.S., for which a valid ERP or management and storage of surface waters permit has been issued pursuant to this part is exempt from further wetlands or water quality regulations imposed pursuant to chapters 125,[15] 163,[16] and 166, F.S.[17]

Section 11 and Section 18 amends ss. 373.709 and 570.085, F.S., related to agricultural water supply planning.

Current Situation

Section 373.701, F.S., provides that it is the policy of the Legislature to:

- Promote the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems;
- Provide that those waters be managed on a state and regional basis; and
- Provide that cooperative efforts between municipalities, counties, WMDs, and DEP are mandatory in order to meet the water needs.

Section 373.703, F.S., provides for certain powers and duties of the governing board of a WMD.

Section 373.709(1), F.S., provides that each WMD must conduct water supply planning for any water supply planning region within the district where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses[18] and to sustain the water resources and related natural systems for the planning period. The planning must be conducted in an open public process and in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, DEP, and other affected and interested parties. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed must be reevaluated by the WMD governing board at least once every 5 years and must initiate a regional water supply plan, if needed.

[15] Chapter 125, F.S., relates to county government.
[16] Chapter 163, F.S., relates to intergovernmental programs.
[17] Chapter 166, F.S., relates to municipalities.
[18] Section 373.019(16), F.S., defines reasonable-beneficial use as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest."

Section 373.709(2), F.S., provides that each regional water supply plan must be based on at least a 20-year planning period, and must include:

- A water supply development component;
- A water resource development component;
- A recovery and prevention strategy;
- A funding strategy;
- The impacts on the public interest, costs, natural resources, etc.;
- Technical data and information;
- Any MFLs established for the planning area;
- Reservations of water adopted within each planning region;
- The water resources for which future MFLs must be developed; and
- An analysis of where variances may be used to create water supply development or water resource development projects.

Regional water supply plans include projected water supply needs for all users, including agriculture. The WMDs employ different methods in making such projections for agricultural users and use a combination of common and unique data sources. DACS participates in the regional water supply planning process and can provide input regarding agricultural water supply demand projection, but has no formal role in determining future water supply needs for agriculture.[19]

The regional water supply plans typically list water resource development and water supply development options that can meet the projected reasonable-beneficial use needs of the water supply region. The plans normally include a mix of traditional and alternative water supply options.[20] Traditional water supplies come from surface water sources, such as lakes and rivers, and from groundwater withdrawals. Alternative water supplies include activities such as treating wastewater for agricultural use, desalination of saltwater or brackish water to produce drinking water, and surface and rain water storage. Water consumers either purchase or self-supply water. Self-supplied water often comes from on-site wells or through surface water retention, among other methods.

Pursuant to s. 570.085, F.S., DACS must establish an agricultural water conservation program that includes:

- A cost-share program between the U.S. Dept. of Agriculture and other federal, state, regional, and local agencies for irrigation system retrofit and the application of mobile irrigation laboratory evaluations for water conservation.
- The development and implementation of voluntary interim measures or best management practices which provide for increased efficiencies in the use and management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, DACS must consult with DEP and the WMDs.
- Provide assistance to the WMDs in the development and implementation of a consistent methodology for the efficient allocation of water for agricultural irrigation.

Effect of Proposed Changes

Section 11 of the bill amends s. 373.709, F.S., providing that a WMD must include DACS in its regional water supply planning process. The WMD must also include in the water supply development component of its regional water supply plan the agricultural demand projections used for determining the needs of agricultural self-suppliers based upon the best available data. In determining the best available data for agricultural self-supplied water needs, the WMD must use the data indicative of future

[19] DACS 2013 analysis. On file with staff.
[20] DEP website on "Regional Water Supply Planning." *See* http://www.dep.state.fl.us/water/waterpolicy/rwsp.htm

water supply demands provided by DACS pursuant to s. 570.085, F.S., which establishes a water conservation program by DACS.

Section 18 of the bill amends s. 570.085, F.S., directing DACS to establish an agricultural water supply planning program that includes the following:

- The development of data indicative of future agricultural water supply demands which must be:
  - Based on at least a 20-year planning period.
  - Provided to each WMD.
  - Considered by each WMD when developing WMD water management plans.
- The data on future agricultural water supply demands, which are provided to each WMD, must include, but not be limited to:
  - Applicable agricultural crop types or categories.
  - Historic, current, and future estimates of irrigated acreage for each applicable crop type or category, spatially for each county, including the historic and current methods and assumptions used to generate the spatial acreage estimates and projections.
  - Crop type or category water use coefficients for a 1-in-10 year drought average used in calculating historic, current, and future water demands, including data, methods, and assumptions used to generate the coefficients. Estimates of historic and current water demands must take into account actual metered data as available. Projected future water demands must incorporate appropriate potential water conservation factors based upon data collected as part of DACS's agricultural water conservation program pursuant to s. 570.085(1), F.S.
  - An evaluation of significant uncertainties affecting agricultural production which may require a range of projections for future agricultural water supply demands.
- In developing the data of future agricultural water supply needs, DACS must consult with the agricultural industry, the University of Florida's Institute of Food and Agricultural Sciences, DEP, the WMDs, the National Agricultural Statistics Service, and the U.S. Geological Survey.
- DACS must coordinate with each WMD to establish a schedule for provision of data on agricultural water supply needs.

Section 12 amends s. 376.313, F.S., relating to nonexclusiveness of remedies and individual cause of action for damages under ss. 376.30-376.317, F.S.

Current Situation

Section 376.313, F.S., provides a cause of action for persons who allege damages resulting from a discharge or other pollution condition covered by ss. 376.30-376.317, F.S. Specifically, s. 376.313(3), F.S., provides that nothing contained in ss. 376.30-376.317, F.S. (relating to petroleum storage discharges, drycleaning facilities, or wholesale supply facilities) prohibits any person from bringing a cause of action in court for all damages resulting from a discharge or other condition of pollution covered by the referred sections.

Effect of Proposed Changes

The bill amends s. 376.313(3), F.S., to provide that a person can bring a cause of action in court for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.317, F.S., that is not regulated or authorized pursuant to chapter 403, F.S. (relating to environmental control policies that conserve state waters; protect and improve water quality for consumption; and maintain air quality to protect human health).

Section 13 amends s. 403.021, F.S., relating to requirements and conditions for water quality testing.

Current Situation

Section 403.021, F.S., provides that it is the intent of the Legislature that water quality standards be reasonably established and applied to take into account the variability occurring in nature. The statute provides that DEP must recognize the statistical variability inherent in sampling and testing procedures that are used to express water quality standards. DEP must also recognize that some deviations from water quality standards occur as the result of natural background conditions and must not consider deviations from water quality standards to be violations when the discharger can demonstrate that the deviations would occur in the absence of any human-induced discharges or alterations to the water body.

Effect of Proposed Changes

The bill amends s. 403.021(11), F.S., to provide that testing, sampling, collection, or analysis may not be conducted or required unless such testing, sampling, collection, or analysis has been subjected to and validated through inter-and intra-laboratory testing, quality control, and peer review and has been adopted by rule. The validation must be sufficient to ensure that variability inherent in such testing, sampling, collection, or analysis has been specified and reduced to the minimum for comparable testing, sampling, collection, or analysis.

Section 14 amends s. 403.0872, F.S., relating to operation permits for major sources of air pollution.

Current Situation

The Clean Air Act (CAA) was enacted in 1970 as the comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes the Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants.[21]

In 1990, Congress amended Title V of the CAA to create the operating permit program. The program streamlines the way federal, state, tribal, and local authorities regulate air pollution by consolidating all air pollution control requirements into a single, comprehensive operating permit that covers all aspects of a source's year-to-year pollution activities.[22] Under Title V, the EPA must establish minimum elements to be included in all state and local operating permit programs, and then assist the state and local governments in developing their programs.[23] All major stationary sources (power plants, pulp mills, and other facilities) emitting certain air pollutants are required to obtain operating permits.

Pursuant to s. 403.0872, F.S., and promulgated in Chapter 62-4, F.A.C., DEP is responsible for air permits regulating major and minor facilities. Section 403.0872(11), F.S., provides that each major source of air pollution permitted to operate in Florida must pay between January 15 and March 1 of each year, upon written notice from DEP, an annual operation license fee in an amount determined by DEP rule. The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant (except carbon monoxide) allowed to be emitted per hour by specific condition of the source's most recent construction or operation permit, times the annual hours of operation allowed by permit condition; provided, however, that:

[21] EPA website on the Clean Air Act. *See* http://www.epa.gov/regulations/laws/caa.html
[22] See EPA website, "Air Pollution Operating Permit Program Update."
[23] *Id.*

1. The license fee factor is $25 or another amount determined by DEP rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of DEP affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35.
2. For any source that operates for fewer hours during the calendar year than allowed under its permit, the annual fee calculation must be based upon actual hours of operation rather than allowable hours if the owner or operator of the source documents the source's actual hours of operation for the calendar year. For any source that has an emissions limit that is dependent upon the type of fuel burned, the annual fee calculation must be based on the emissions limit applicable during actual hours of operation.
3. For any source whose allowable emission limitation is specified by permit per units of material input or heat input or product output, the applicable input or production amount may be used to calculate the allowable emissions if the owner or operator of the source documents the actual input or production amount. If the input or production amount is not documented, the maximum allowable input or production amount specified in the permit must be used to calculate the allowable emissions.
4. For any new source that does not receive its first operation permit until after the beginning of a calendar year, the annual fee for the year must be reduced pro rata to reflect the period during which the source was not allowed to operate.
5. For any source that emits less of any regulated air pollutant than allowed by permit condition, the annual fee calculation for such pollutant must be based upon actual emissions rather than allowable emissions if the owner or operator documents the source's actual emissions by means of data from a department-approved certified continuous emissions monitor or from an emissions monitoring method which has been approved by the EPA under the regulations implementing 42 U.S.C. ss. 7651 et seq., or from a method approved by DEP.
6. The amount of each regulated air pollutant in excess of 4,000 tons per year allowed to be emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.
7. If DEP has not received the fee by February 15 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by March 1. If the fee is not postmarked by March 1 of the calendar year, DEP must impose, in addition to the fee, a penalty of 50% of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807, F.S. DEP may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90% of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. DEP may waive the collection of underpayment and shall not be required to refund overpayment of the fee, if the amount due is less than 1% of the fee, up to $50. DEP may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.
8. Notwithstanding the computational provisions of this section, the annual operation license fee for any source subject to this section must not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814, F.S., must not exceed $50 per year.
9. Notwithstanding the provisions of s. 403.087(6)(a)5.a., F.S., authorizing air pollution construction permit fees, DEP may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-

7514a. Costs to issue and administer such permits must be considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873, F.S. DEP must, however, require fees pursuant to the provisions of s. 403.087(6)(a)5.a, F.S. for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

Effect of Proposed Changes

The bill amends s. 403.0872, F.S., to extend the annual payment deadline for air pollution permits from March 1 to April 1 each year. In addition, the bill provides that the annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant actually emitted, as calculated in accordance with DEP's emissions computation and reporting rules. The annual fee only applies to those regulated pollutants, except carbon monoxide and greenhouse gases, for which an allowable numeric emission limiting standard is specified in the source's most recent construction or operation permit.

The bill deletes subparagraphs 2-5, as described above.

The bill provides that if DEP has not received the fee by March 1, instead of February 15 in current law, of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April 1. If the fee is not postmarked by April 1 of the calendar year, DEP will impose an additional fee.

Section 15 amends s. 403.813, F.S., revising conditions under which certain permits are not required for seawall restoration projects.

Current Situation

Section 403.813(1), F.S., provides that a permit is not required for the following activities:

- The installation of overhead transmission lines, with support structures which are not constructed in waters of the state and which do not create a navigational hazard.
- The installation and repair of certain mooring pilings and dolphins associated with private docking facilities or piers and the installation of private docks, piers and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat.
- The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists.
- The replacement or repair of existing docks and piers, except that fill material may not be used and the replacement or repaired dock or pier must be in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired.
- The restoration of seawalls at their previous locations or upland of, or within 1 foot waterward of, their previous locations.

Effect of Proposed Changes

The bill amends s. 403.813, F.S., to provide that a permit is not required for the restoration of seawalls at their previous locations or upland of, or within 18 inches, instead of 12 inches, waterward of their previous locations.

Section 16 amends s. 403.814, F.S., providing for DEP to establish general permits for special events.

Current Situation

Currently, DEP is authorized to adopt rules establishing and providing for a program of general permits for projects that have, either singly or cumulatively, a minimal adverse environmental effect. Such rules must specify design or performance criteria that, if applied, would result in compliance with appropriate standards. Any person complying with the requirements of a general permit may use the permit 30 days after giving notice to DEP without any agency action by DEP.[24] Projects include, but are not limited to:

- Construction and modification of boat ramps of certain sizes.
- Installation and repair of riprap at the base of existing seawalls.
- Installation of culverts associated with stormwater discharge facilities.
- Construction and modification of certain utility and public roadway construction activities.

Effect of Proposed Changes

The bill authorizes DEP to issue general permits for special events relating to boat shows. The permits must be for a period that runs concurrently with the consent of use or lease issued pursuant to s. 253.0345, F.S. No more than two seagrass studies may be required by a general permit, one conducted before issuance of the permit and the other conducted at the time the permit expires. General permits must also allow for the movement of temporary structures within the footprint of the lease area. A survey of the lease or consent area is required at the time of application for a 10-year standard lease or consent of use and general permit. An area of up to 25% of a previous lease or consent of use area must be issued as part of the general permit, lease, or consent of use to allow for economic expansion of the special event during the 10-year term. An annual survey of the distances of all structures from the boundaries of the lease or consent of use area must be conducted to ensure that the lease boundaries have not been violated.

Section 17 amends s. 570.076, F.S., to conform a cross-reference.

Section 19 provides an effective date of July 1, 2013.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.022, F.S., relating to development permit applications by counties.

Section 2. Amends s. 166.033, F.S., relating to development permit applications by municipalities.

Section 3. Amends s. 253.0345, F.S., relating to the duration of leases for special events issued by the Board of Trustees of the Internal Improvement Trust Fund.

Section 4. Creates s. 253.0346, F.S., relating to lease of sovereignty submerged lands for marinas, boatyards, and marine retailers.

Section 5. Amends s. 373.118, F.S., relating to general permits for local governments to construct certain marinas and mooring fields.

Section 6. Amends s. 373.233, F.S., relating to competing applications for the consumptive use of water permits.

[24] Section 403.814(1), F.S.

Section 7. Amends s. 373.308, F.S., relating to well permits issued by water management districts.

Section 8. Amends s. 373.323, F.S., relating to licenses for water well contractors issued by water management districts.

Section 9. Amends s. 373.403, F.S., providing the definition for "mean annual flood line."

Section 10. Amends s. 373.406, F.S., exempting certain ponds and ditches from surface water management and storage requirements.

Section 11. Amends s. 373.709, F.S., relating to agricultural water supply planning.

Section 12. Amends s. 376.313, F.S., relating to nonexclusiveness of remedies and individual cause of action for damages under ss.376.30-376.317, F.S.

Section 13. Amends s. 403.021, F.S., relating to requirements and conditions for water quality testing.

Section 14. Amends s. 403.0872, F.S., relating to annual operation license fees for operation permits for major sources of air pollution.

Section 15. Amends s. 403.813, F.S., revising conditions under which certain permits are not required for seawall restoration projects.

Section 16. Amends s. 403.814, F.S., providing for DEP to establish general permits for special events.

Section 17. Amends s. 570.076, F.S., conforming a cross-reference.

Section 18. Amends s. 570.085, F.S., relating to agricultural water supply planning.

Section 19. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Relating to agricultural water supply planning - The WMDs will have a reduced workload from having DACS provide demand projections for agricultural water use.

   Relating to annual operation license fees for operation permits for major sources of air pollution- All permit fees received under DEP's federally approved Title V permitting program are deposited into the Air Pollution Control Trust Fund. For 2013, these costs are estimated to be $5.3 million, and $4.9 million by 2018. However, there is currently a surplus of $4.1 in the trust fund and DEP estimates the surplus will increase to $4.9 million by 2018.

2. Expenditures:

   Relating to special events on sovereign submerged lands- According to DEP's analysis, an enhancement to the billing database would cost an estimated $13,000. The fees for special event fees are calculated based on the number of event days x the annual rent, or 5% of any revenue generated from the special event, whichever is greater. The loss of revenue would be approximately $187,000 annually, based on the average of the past 7 fiscal years. The lease term would exceed the standard term of 5 years.

Relating to lease of sovereignty submerged lands for marinas, boatyards, and marine retailers- According to DEP's analysis, the annual fee requirement will be 6% of self-reported revenue, less the 30% discount. There will be a minimum annual loss of approximately $937,195. This amount is 12% of the known revenue received for submerged land leases. Of the 2,800 leases, 49% would potentially qualify to have their fees reduced or eliminated, resulting in an undetermined negative fiscal impact to the Internal Improvement Trust Fund.

Relating to general permits for the expansion of certain marinas- DEP estimates an expenditure of $50,000 for rulemaking.

Relating to well water permitting- The three WMDs who currently delegate the water well permitting program to some or all of their local governments would require additional staff to absorb the workload as follows: an additional 14.3 FTEs for the South Florida WMD; an additional 9 FTE's for St. Johns River WMD, which results in an increased budget of approximately $600,000 for salary/benefits (a portion of this could be recovered through the well construction permits); and an additional 1.5 FTE's for Southwest Florida WMD.

Relating to exemptions from ERP permits- According to DEP's analysis, the exemptions would apply to all of Part IV of chapter 373, F.S., which could result in a substantial negative fiscal impact on the Permit Fee Trust Fund.

Relating to agricultural water supply planning- DACS would incur a negative fiscal impact of $1.5 million to establish this program.

Relating to general permits for special events- DEP estimates an expenditure of $50,000 for rulemaking.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   Relating to special events on sovereign submerged lands- DEP estimates a loss of $1,120 to state taxes, which is based on a 7-year average. The loss in county discretionary tax is approximately $93 annually based on .05%.

   Relating to general permits for the expansion of certain marinas- According to DEP, based on the minimum loss of annual revenue, there will be an annual loss of approximately $5,623 in state taxes and $469 in county discretionary tax.

   Relating to competing consumptive use applications- According to DEP, if a local government is a consumptive use permit applicant, the local government may see increased costs associated litigation for challenging a competing permit or being subject to such a challenge because the bill provides a WMD issuing proposed affirmative agency action for two applications.

   Relating to well water permitting- Local governments who currently operate permitting programs for water well construction will see a negative fiscal impact due to the loss of permit fees.

   Relating to licenses for water well contractors issued by WMDs- The bill could have a negative fiscal impact on local governments due to the loss of fees currently charged as part of a local government requirement to obtain a local water well contractor license.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Relating to special events on sovereign submerged lands- Special events promoters would benefit from the elimination of the special event fee; however, the public would not benefit from this reduction because the promoter charges the vendor to participate in the event.

Relating to competing consumptive use applications- According to DEP, if a private sector entity is a consumptive use permit applicant, the applicant could see increased costs associated with litigation for challenging a competing permit on being subject to such a challenge because the bill provides a WMD issuing proposed affirmative agency action for two applications.

Relating to water well permitting- The bill could have a potentially positive fiscal impact on the private sector by eliminating the requirement to obtain a separate local government water well construction permit, including any required fee.

Relating to licenses for water well contractors issued by WMDs- The bill could have a potentially positive fiscal impact on the private sector by eliminating the requirement to obtain any local government water well contractor license.

Relating to agricultural water supply planning - The bill has a potentially positive fiscal impact on those in the private sector who would contract with DACS to develop agricultural demand projections.

Relating to annual operation license fees for operation permits for major sources of air pollution- According to DEP, the bill could have a potentially positive fiscal impact of $2 million per year on those in the manufacturing and industrial businesses. An additional $1.4 million could be saved in permit fees because the permittees would be paying fees based on actual emissions instead of adjusted allowable emissions, which is in current law. Tying the permit fees and annual operating report requirements could save $600,000 by eliminating the need to compute and submit different emission calculations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to environmental regulation; amending ss. 125.022 and 166.033, F.S.; providing requirements for the review of development permit applications by counties and municipalities; amending s. 253.0345, F.S.; revising provisions for the duration of leases and consents of use issued by the Board of Trustees of the Internal Improvement Trust Fund for special events; exempting such leases and consents of use from certain fees; creating s. 253.0346, F.S.; defining the term "first-come, first-served basis"; providing requirements for the calculation of lease fees for certain marinas; providing conditions for the discount and waiver of lease fees and surcharges for certain marinas, boatyards, and marine retailers; providing applicability; amending s. 373.118, F.S.; revising provisions for general permits to provide for the expansion of certain marinas and limit the number of mooring fields authorized under such permits; amending s. 373.233, F.S.; clarifying conditions for competing consumptive use of water applications; amending s. 373.308, F.S.; providing that issuance of well permits is the sole responsibility of water management districts; prohibiting government entities from imposing requirements and fees and establishing programs for installation and abandonment of groundwater wells; amending s. 373.323, F.S.; providing that licenses issued by water management

districts are the only water well construction licenses required for construction, repair, or abandonment of water wells; authorizing licensed water well contractors to install equipment for all water systems; amending s. 373.403, F.S.; defining the term "mean annual flood line"; amending s. 373.406, F.S.; exempting specified ponds, ditches, and wetlands from surface water management and storage requirements; exempting certain water control districts from wetlands or water quality regulations; amending s. 373.709, F.S.; requiring water management districts to coordinate and cooperate with the Department of Agriculture and Consumer Services for regional water supply planning; providing criteria and requirements for determining agricultural water supply demand projections; amending s. 376.313, F.S.; holding harmless a person who discharges pollution pursuant to ch. 403, F.S.; amending s. 403.021, F.S.; providing requirements and conditions for water quality testing, sampling, collection, and analysis by the department; amending s. 403.0872, F.S.; extending the payment deadline of permit fees for major sources of air pollution and conforming the date for related notice by the department; revising provisions for the calculation of such annual fees; amending s. 403.813, F.S.; revising conditions under which certain permits are not required for seawall restoration projects; amending s. 403.814, F.S.; requiring the Department of

Environmental Protection to establish general permits for special events; providing permit requirements; amending s. 570.076, F.S.; conforming a cross-reference; amending s. 570.085, F.S.; requiring the Department of Agriculture and Consumer Services to establish an agricultural water supply planning program; providing program requirements; providing an effective date.

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

Section 1. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—

(1) When reviewing an application for a development permit, a county may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. The first request must be reviewed and approved in writing by the permit processor's supervisor or department director or manager. The second request must be approved by a department or division director or manager. Subsequent requests must be approved in writing by the county administrator. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the county, at the applicant's request, shall proceed to process the application.

(2) When a county denies an application for a development permit, the county shall give written notice to the applicant.

The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit.

(3) As used in this section, the term "development permit" has the same meaning as in s. 163.3164.

(4) For any development permit application filed with the county after July 1, 2012, a county may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county action on the local development permit.

(5) Issuance of a development permit by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county may attach such a disclaimer to the issuance of a development permit and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

(6) This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.

Section 2. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—

(1) When reviewing an application for a development permit, a municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. The first request must be reviewed and approved in writing by the permit processor's supervisor or department director or manager. The second request must be approved by a department or division director or manager. Subsequent requests must be approved in writing by the municipal administrator or equivalent chief administrative officer. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the municipality, at the applicant's request, shall proceed to process the application.

(2) When a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit.

(3) As used in this section, the term "development permit" has the same meaning as in s. 163.3164.

(4) For any development permit application filed with the municipality after July 1, 2012, a municipality may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the municipal action on the local development permit.

(5) Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A municipality may attach such a disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

(6) This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 3. Section 253.0345, Florida Statutes, is amended to read:

253.0345 Special events; submerged land leases.—

(1) The trustees may ~~are authorized to~~ issue leases or consents of use ~~or leases~~ to riparian landowners, special ~~and~~ event promoters, and boat show owners to allow the installation of temporary structures, including docks, moorings, pilings, and access walkways, on sovereign submerged lands solely for the purpose of facilitating boat shows and displays in, or adjacent to, established marinas or government-owned ~~government-owned~~ upland property. Riparian owners of adjacent uplands who are not seeking a lease or consent of use shall be notified by certified mail of any request for such a lease or consent of use before

~~prior to~~ approval by the trustees. The trustees shall balance the interests of any objecting riparian owners with the economic interests of the public and the state as a factor in determining whether ~~if~~ a lease or consent of use should be executed over the objection of adjacent riparian owners. This section does ~~shall~~ not apply to structures for viewing motorboat racing, high-speed motorboat contests, or high-speed displays in waters where manatees are known to frequent.

(2) A lease or consent of use for a ~~Any~~ special event under ~~provided for in~~ subsection (1) shall include an exemption from lease fees and shall be for a period not to exceed 30 days and a duration not to exceed 10 consecutive years. The lease or consent of use may also contain appropriate requirements for removal of the temporary structures, including the posting of sufficient surety to guarantee appropriate funds for removal of the structures should the promoter or riparian owner fail to do so within the time specified in the agreement.

(3) ~~Nothing in~~ This section does not ~~shall be construed to~~ allow any lease or consent of use that would result in harm to the natural resources of the area as a result of the structures or the activities of the special events agreed to.

Section 4. Section 253.0346, Florida Statutes, is created to read:

253.0346 Lease of sovereignty submerged lands for marinas, boatyards, and marine retailers.—

(1) For purposes of this section, the term "first-come, first-served basis" means the facility operates on state-owned submerged land for which:

(a) There is not a club membership, stock ownership, equity interest, or other qualifying requirement.

(b) Rental terms do not exceed 12 months and do not include automatic renewal rights or conditions.

(2) For marinas that are open to the public on a first-come, first-served basis and for which at least 90 percent of the slips are open to the public:

(a) The annual lease fee for a standard-term lease shall be 6 percent of the annual gross dockage income. In calculating gross dockage income, the department may not include pass-through charges.

(b) A discount of 30 percent on the annual lease fee shall apply if dockage rate sheet publications and dockage advertising clearly state that slips are open to the public on a first-come, first-served basis.

(3) For a facility designated by the department as a Clean Marina, Clean Boatyard, or Clean Marine Retailer under the Clean Marina Program:

(a) A discount of 10 percent on the annual lease fee shall apply if the facility:

1. Actively maintains designation under the program.

2. Complies with the terms of the lease.

3. Does not change use during the term of the lease.

(b) Extended-term lease surcharges shall be waived if the facility:

1. Actively maintains designation under the program.

2. Complies with the terms of the lease.

3. Does not change use during the term of the lease.

4. Is available to the public on a first-come, first-served basis.

(c) If the facility is in arrears on lease fees or fails to comply with paragraph (b), the facility is not eligible for the discount or waiver under this subsection until arrears have been paid and compliance with the program has been met.

(4) This section applies to new leases or amendments to leases effective after July 1, 2013.

Section 5. Subsection (4) of section 373.118, Florida Statutes, is amended to read:

373.118 General permits; delegation.—

(4) The department shall adopt by rule one or more general permits for local governments to construct, operate, and maintain public marina facilities, public mooring fields, public boat ramps, including associated courtesy docks, and associated parking facilities located in uplands. Such general permits adopted by rule shall include provisions to ensure compliance with part IV of this chapter, subsection (1), and the criteria necessary to include the general permits in a state programmatic general permit issued by the United States Army Corps of Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq. A facility authorized under such general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities shall be consistent with the local government manatee protection plan required pursuant to chapter 379 and shall obtain Clean Marina Program status prior to opening for

operation and maintain that status for the life of the facility. The expansion of any marina, whether private or government-owned, for which the services of at least 90 percent of the slips are open to the public on a first-come, first-served basis, ~~Marinas and mooring fields~~ authorized under ~~any~~ such general permit may ~~shall~~ not exceed an additional area of 50,000 square feet over wetlands and other surface waters. Mooring fields authorized under such general permit may not exceed 100 vessels. All facilities permitted under this section shall be constructed, maintained, and operated in perpetuity for the exclusive use of the general public. The department shall initiate the rulemaking process within 60 days after the effective date of this act.

Section 6. Subsection (1) of section 373.233, Florida Statutes, is amended to read:

373.233 Competing applications.—

(1) If two or more applications that ~~which~~ otherwise comply with the provisions of this part are pending for a quantity of water that is inadequate for both or all, or which for any other reason are in conflict, and the governing board or department has issued an affirmative proposed agency action for each application, the governing board or the department has ~~shall have~~ the right to approve or modify the application which best serves the public interest.

Section 7. Subsection (1) of section 373.308, Florida Statutes, is amended to read:

373.308 Implementation of programs for regulating water wells.—

(1) The department shall authorize the governing board of a water management district to implement a program for the issuance of permits for the location, construction, repair, and abandonment of water wells. Upon authorization from the department, issuance of well permits will be the sole responsibility of the water management district, and other government entities may not impose additional or duplicate requirements or fees or establish a separate program for the permitting of the location, abandonment, boring, or other activities reasonably associated with the installation and abandonment of a groundwater well.

Section 8. Subsections (1) and (10) of section 373.323, Florida Statutes, are amended to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(1) Every person who wishes to engage in business as a water well contractor shall obtain from the water management district a license to conduct such business. Licensure under this part by a water management district shall be the only water well construction license required for the construction, repair, or abandonment of water wells in the state or any political subdivision thereof.

(10) Water well contractors licensed under this section may install, repair, and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 612—Wells pumps and tanks used for private potable water systems. In addition, licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water ~~well~~

systems.

Section 9. Subsection (23) is added to section 373.403, Florida Statutes, to read:

373.403 Definitions.—When appearing in this part or in any rule, regulation, or order adopted pursuant thereto, the following terms mean:

(23) "Mean annual flood line" for purposes of delineating the ordinary high water line for nontidal water bodies and other surface waters shall have the same meaning as provided in s. 381.0065.

Section 10. Subsections (13) through (15) are added to section 373.406, Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:

(13) Nothing in this part, or in any rule, regulation, or order adopted pursuant to this part, applies to construction, operation, or maintenance of any wholly owned, manmade ponds constructed entirely in uplands or drainage ditches constructed in uplands.

(14) Nothing in this part, or in any rule, regulation, or order adopted pursuant to this part, may require a permit for activities affecting wetlands created solely by the unreasonable and negligent flooding or interference with the natural flow of surface water caused by an adjoining landowner.

(15) Any water control district created and operating pursuant to chapter 298 for which a valid environmental resource permit or management and storage of surface waters permit has been issued pursuant to this part is exempt from further wetlands or water quality regulations imposed pursuant to

chapters 125, 163, and 166.

Section 11. Subsection (1) and paragraph (a) of subsection (2) of section 373.709, Florida Statutes, are amended to read:

373.709 Regional water supply planning.—

(1) The governing board of each water management district shall conduct water supply planning for any water supply planning region within the district identified in the appropriate district water supply plan under s. 373.036, where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the department, the Department of Agriculture and Consumer Services, and other affected and interested parties. The districts shall actively engage in public education and outreach to all affected local entities and their officials, as well as members of the public, in the planning process and in seeking input. During preparation, but prior to completion of the regional water supply plan, the district must conduct at least one public workshop to discuss the technical data and modeling tools anticipated to be used to support the regional water supply plan. The district shall also hold several public meetings to communicate the status, overall conceptual intent, and impacts of the plan on existing and

future reasonable-beneficial uses and related natural systems. During the planning process, a local government may choose to prepare its own water supply assessment to determine if existing water sources are adequate to meet existing and projected reasonable-beneficial needs of the local government while sustaining water resources and related natural systems. The local government shall submit such assessment, including the data and methodology used, to the district. The district shall consider the local government's assessment during the formation of the plan. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section shall be subject to s. 120.569. The governing board shall reevaluate such a determination at least once every 5 years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.

(2) Each regional water supply plan shall be based on at least a 20-year planning period and shall include, but need not be limited to:

(a) A water supply development component for each water supply planning region identified by the district which includes:

1. A quantification of the water supply needs for all existing and future reasonable-beneficial uses within the planning horizon. The level-of-certainty planning goal associated with identifying the water supply needs of existing and future reasonable-beneficial uses shall be based upon meeting those needs for a 1-in-10-year drought event.

a. Population projections used for determining public water supply needs must be based upon the best available data. In determining the best available data, the district shall consider the University of Florida's Bureau of Economic and Business Research (BEBR) medium population projections and any population projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1) if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the BEBR projections must be fully described, and the original BEBR data must be presented along with the adjusted data.

b. Agricultural demand projections used for determining the needs of agricultural self-suppliers must be based upon the best available data. In determining the best available data for agricultural self-supplied water needs, the district shall use the data indicative of future water supply demands provided by the Department of Agriculture and Consumer Services pursuant to s. 570.085.

2. A list of water supply development project options, including traditional and alternative water supply project options, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects. If such users propose a project to be listed as an

alternative water supply project, the district shall determine whether it meets the goals of the plan, and, if so, it shall be included in the list. The total capacity of the projects included in the plan shall exceed the needs identified in subparagraph 1. and shall take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and levels and water reservations. Where the district determines it is appropriate, the plan should specifically identify the need for multijurisdictional approaches to project options that, based on planning level analysis, are appropriate to supply the intended uses and that, based on such analysis, appear to be permittable and financially and technically feasible. The list of water supply development options must contain provisions that recognize that alternative water supply options for agricultural self-suppliers are limited.

3. For each project option identified in subparagraph 2., the following shall be provided:

a. An estimate of the amount of water to become available through the project.

b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and operating and maintaining the project.

c. An analysis of funding needs and sources of possible funding options. For alternative water supply projects the water management districts shall provide funding assistance in accordance with s. 373.707(8).

d. Identification of the entity that should implement each

project option and the current status of project implementation.

Section 12. Subsection (3) of section 376.313, Florida Statutes, is amended to read:

376.313 Nonexclusiveness of remedies and individual cause of action for damages under ss. 376.30-376.317.—

(3) Except as provided in s. 376.3078(3) and (11), nothing contained in ss. 376.30-376.317 prohibits any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.317 not regulated or authorized pursuant to chapter 403. Nothing in this chapter shall prohibit or diminish a party's right to contribution from other parties jointly or severally liable for a prohibited discharge of pollutants or hazardous substances or other pollution conditions. Except as otherwise provided in subsection (4) or subsection (5), in any such suit, it is not necessary for such person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it has occurred. The only defenses to such cause of action shall be those specified in s. 376.308.

Section 13. Subsection (11) of section 403.021, Florida Statutes, is amended to read:

403.021 Legislative declaration; public policy.—

(11) It is the intent of the Legislature that water quality standards be reasonably established and applied to take into account the variability occurring in nature. The department shall recognize the statistical variability inherent in sampling

and testing procedures that are used to express water quality standards. The department shall also recognize that some deviations from water quality standards occur as the result of natural background conditions. The department shall not consider deviations from water quality standards to be violations when the discharger can demonstrate that the deviations would occur in the absence of any human-induced discharges or alterations to the water body. Testing, sampling, collection, or analysis may not be conducted or required unless such testing, sampling, collection, or analysis has been subjected to and validated through inter- and intra-laboratory testing, quality control, peer review, and adopted by rule. The validation shall be sufficient to ensure that variability inherent in such testing sampling, collection, or analysis has been specified and reduced to the minimum for comparable testing, sampling, collection, or analysis.

Section 14. Subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's

request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay between January 15 and April ~~March~~ 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant actually emitted, as calculated in accordance with department's emissions computation and reporting rules. The annual fee shall only apply to those regulated pollutants, ~~(~~except carbon monoxide~~)~~ and greenhouse gases, for which an allowable numeric emission limiting standard is specified in ~~allowed to be emitted per hour by specific condition of~~ the source's most recent construction

or operation permit~~, times the annual hours of operation allowed by permit condition~~; provided, however, that:

1. The license fee factor is $25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35.

~~2. For any source that operates for fewer hours during the calendar year than allowed under its permit, the annual fee calculation must be based upon actual hours of operation rather than allowable hours if the owner or operator of the source documents the source's actual hours of operation for the calendar year. For any source that has an emissions limit that is dependent upon the type of fuel burned, the annual fee calculation must be based on the emissions limit applicable during actual hours of operation.~~

~~3. For any source whose allowable emission limitation is specified by permit per units of material input or heat input or product output, the applicable input or production amount may be used to calculate the allowable emissions if the owner or operator of the source documents the actual input or production amount. If the input or production amount is not documented, the~~

~~maximum allowable input or production amount specified in the permit must be used to calculate the allowable emissions.~~

~~4. For any new source that does not receive its first operation permit until after the beginning of a calendar year, the annual fee for the year must be reduced pro rata to reflect the period during which the source was not allowed to operate.~~

~~5. For any source that emits less of any regulated air pollutant than allowed by permit condition, the annual fee calculation for such pollutant must be based upon actual emissions rather than allowable emissions if the owner or operator documents the source's actual emissions by means of data from a department-approved certified continuous emissions monitor or from an emissions monitoring method which has been approved by the United States Environmental Protection Agency under the regulations implementing 42 U.S.C. ss. 7651 et seq., or from a method approved by the department for purposes of this section.~~

2.~~6.~~ The amount of each regulated air pollutant in excess of 4,000 tons per year ~~allowed to be~~ emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3.~~7.~~ If the department has not received the fee by March 1

~~February 15~~ of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April ~~March~~ 1. If the fee is not postmarked by April ~~March~~ 1 of the calendar year, the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and shall not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

4.~~8.~~ Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section shall not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 shall not exceed $50 per year.

5.~~9.~~ Notwithstanding the provisions of s. 403.087(6)(a)5.a., authorizing air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting

requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits shall be considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873. The department shall, however, require fees pursuant to the provisions of s. 403.087(6)(a)5.a. for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

(b) Annual operation license fees collected by the department must be sufficient to cover all reasonable direct and indirect costs required to develop and administer the major stationary source air-operation permit program, which shall consist of the following elements to the extent that they are reasonably related to the regulation of major stationary air pollution sources, in accordance with United States Environmental Protection Agency regulations and guidelines:

1. Reviewing and acting upon any application for such a permit.

2. Implementing and enforcing the terms and conditions of any such permit, excluding court costs or other costs associated with any enforcement action.

3. Emissions and ambient monitoring.

4. Preparing generally applicable regulations or guidance.

5. Modeling, analyses, and demonstrations.

6. Preparing inventories and tracking emissions.

7. Implementing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

8. Any audits conducted under paragraph (c).

(c) An audit of the major stationary source air-operation permit program must be conducted 2 years after the United States Environmental Protection Agency has given full approval of the program to ascertain whether the annual operation license fees collected by the department are used solely to support any reasonable direct and indirect costs as listed in paragraph (b). A program audit must be performed biennially after the first audit.

Section 15. Paragraph (e) of subsection (1) of section 403.813, Florida Statutes, is amended to read:

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(e) The restoration of seawalls at their previous locations or upland of, or within <u>18 inches</u> ~~1 foot~~ waterward of,

their previous locations. However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.

Section 16. Subsection (13) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(13) The department shall issue general permits for special events as defined in s. 253.0345. The permits must be for a period that runs concurrently with the consent of use or lease issued pursuant to that section. No more than two seagrass studies may be required by a general permit, one conducted before issuance of the permit and the other conducted at the time the permit expires. General permits must also allow for the movement of temporary structures within the footprint of the lease area. A survey of the lease or consent area is required at the time of application for a 10-year standard lease or consent of use and general permit. An area of up to 25 percent of a previous lease or consent of use area must be issued as part of the general permit, lease, or consent of use to allow for economic expansion of the special event during the 10-year term. An annual survey of the distances of all structures from the boundaries of the lease or consent of use area must be conducted to ensure that the lease boundaries have not been violated.

Section 17. Subsection (2) of section 570.076, Florida Statutes, is amended to read:

570.076 Environmental Stewardship Certification Program.—The department may, by rule, establish the Environmental

Stewardship Certification Program consistent with this section. A rule adopted under this section must be developed in consultation with state universities, agricultural organizations, and other interested parties.

(2) The department shall provide an agricultural certification under this program for implementation of one or more of the following criteria:

(a) A voluntary agreement between an agency and an agricultural producer for environmental improvement or water-resource protection.

(b) A conservation plan that meets or exceeds the requirements of the United States Department of Agriculture.

(c) Best management practices adopted by rule pursuant to s. 403.067(7)(c) or s. 570.085(1)(b) ~~570.085(2)~~.

Section 18. Section 570.085, Florida Statutes, is amended to read:

570.085 Department of Agriculture and Consumer Services; agricultural water conservation and water supply planning.—

(1) The department shall establish an agricultural water conservation program that includes the following:

(a) ~~(1)~~ A cost-share program, coordinated where appropriate with the United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation as provided in this section and, where applicable, for water quality improvement pursuant to s. 403.067(7)(c).

(b) ~~(2)~~ The development and implementation of voluntary

interim measures or best management practices, adopted by rule, which provide for increased efficiencies in the use and management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, the department shall consult with the Department of Environmental Protection and the water management districts. Such rules may also include a system to assure the implementation of the practices, including recordkeeping requirements. As new information regarding efficient agricultural water use and management becomes available, the department shall reevaluate and revise as needed, the interim measures or best management practices. The interim measures or best management practices may include irrigation retrofit, implementation of mobile irrigation laboratory evaluations and recommendations, water resource augmentation, and integrated water management systems for drought management and flood control and should, to the maximum extent practicable, be designed to qualify for regulatory incentives and other incentives, as determined by the agency having applicable statutory authority.

(c) ~~(3)~~ Provision of assistance to the water management districts in the development and implementation of a consistent, to the extent practicable, methodology for the efficient allocation of water for agricultural irrigation.

(2)(a) The department shall establish an agricultural water supply planning program that includes the development of appropriate data indicative of future agricultural water needs. The data shall be based on at least a 20-year planning period

and shall include, but is not limited to:

1. Applicable agricultural crop types or categories.

2. Historic estimates of irrigated acreage, current estimates of irrigated acreage, and future irrigated acreage projections for each applicable crop type or category spatially for each county, including the historic and current methods and assumptions used to generate the spatial acreage estimates and projections.

3. Crop type or category water use coefficients for both average year and 1-in-10 year drought years used in calculating historic and current water supply needs and projected future water supply needs, including data, methods, and assumptions used to generate the coefficients. Estimates of historic and current water supply needs shall take into account actual metered data where available.

4. An evaluation of significant uncertainties affecting agricultural production that may require a range of projections for future agricultural water supply needs.

(b) In developing the future agricultural water supply needs data, the department shall consult with the agricultural industry, the University of Florida Institute of Food and Agricultural Sciences, the Department of Environmental Protection, the water management districts, the United States Department of Agriculture National Agricultural Statistics Service, and the United States Geological Survey.

(c) The future agricultural water supply needs data shall be provided to each water management district for consideration pursuant to ss. 373.036(2) and 373.709(2)(a)1.b. The department

shall coordinate with each water management district to establish the schedule necessary for provision of agricultural water supply needs data in order to comply with water supply planning provisions of ss. 373.036(2) and 373.709(2)(a)1.b.

Section 19. This act shall take effect July 1, 2013.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Agriculture & Natural Resources Subcommittee

Representative Patronis offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (8) is added to section 20.255, Florida Statutes, to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(8) The department may adopt rules requiring or incentivizing electronic submission of forms, documents, fees, or reports required for permits issued under chapter 161, chapter 253, chapter 373, chapter 376, or chapter 403. The rules must reasonably accommodate technological or financial hardship and must provide procedures for obtaining an exemption due to a such hardship.

Section 2. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—

(1) When reviewing an application for a development permit from an applicant who has participated in a pre-application meeting, a county may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. The first request must be reviewed and approved in writing by the permit processor's supervisor or department director or manager. The second request must be approved by a department or division director or manager. Subsequent requests must be approved in writing by the county administrator. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the county, at the applicant's request, shall proceed to process the application for approval or denial.

(2) When a county denies an application for a development permit, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit.

(3) As used in this section, the term "development permit" has the same meaning as in s. 163.3164.

(4) For any development permit application filed with the county after July 1, 2012, a county may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county action on the local development permit.

(5) Issuance of a development permit by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county may attach such a disclaimer to the issuance of a development permit and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

(6) This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.

Section 3. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—

(1) When reviewing an application for a development permit from an applicant who has participated in a pre-application meeting, a municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. The first request must be reviewed and approved in writing by the permit processor's supervisor or department director or manager. The second request must be approved by a department or division director or manager. Subsequent requests must be approved in writing by the municipal administrator or equivalent chief administrative officer. If the applicant believes the request for additional

information is not authorized by ordinance, rule, statute, or other legal authority, the municipality, at the applicant's request, shall proceed to process the application for approval or denial.

(2) When a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit.

(3) As used in this section, the term "development permit" has the same meaning as in s. 163.3164.

(4) For any development permit application filed with the municipality after July 1, 2012, a municipality may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the municipal action on the local development permit.

(5) Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A municipality may attach such a disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or

federal permits be obtained before commencement of the development.

(6) This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 4. Paragraph (c) of subsection (6) of section 211.3103, Florida Statutes is amended to read:

211.3103 Levy of tax on severance of phosphate rock; rate, basis, and distribution of tax.—

(6)

(c) For purposes of this section, "phosphate-related expenses" means those expenses that provide for infrastructure or services in support of the phosphate industry, including environmental education, reclamation or restoration of phosphate lands, maintenance and restoration of reclaimed lands and county owned environmental lands which were formerly phosphate lands, community infrastructure on such reclaimed lands and county owned environmental lands which were formerly phosphate lands, and similar expenses directly related to support of the industry.

Section 5. Section 253.0345, Florida Statutes, is amended to read:

253.0345 Special events; submerged land leases.—

(1) The trustees may ~~are authorized to~~ issue leases or consents of use ~~or leases~~ to riparian landowners, special ~~and~~ event promoters, and boat show owners to allow the installation of temporary structures, including docks, moorings, pilings, and access walkways, on sovereign submerged lands solely for the

purpose of facilitating boat shows and displays in, or adjacent to, established marinas or government-owned ~~government-owned~~ upland property. Riparian owners of adjacent uplands who are not seeking a lease or consent of use shall be notified by certified mail of any request for such a lease or consent of use before ~~prior to~~ approval by the trustees. The trustees shall balance the interests of any objecting riparian owners with the economic interests of the public and the state as a factor in determining whether ~~if~~ a lease or consent of use should be executed over the objection of adjacent riparian owners. This section does ~~shall~~ not apply to structures for viewing motorboat racing, high-speed motorboat contests, or high-speed displays in waters where manatees are known to frequent.

(2) A lease or consent of use for a ~~Any~~ special event under ~~provided for in~~ subsection (1):

(a) Shall be for a period not to exceed 45 ~~30~~ days and a duration not to exceed 10 consecutive years.

(b) Shall include a lease fee, if applicable, based solely on the period and actual size of the preemption and conditions to allow reconfiguration of temporary structures within the lease area with notice to the department of the configuration and size of preemption within the lease area.

(c) ~~The lease or consent of use~~ May ~~also~~ contain appropriate requirements for removal of the temporary structures, including the posting of sufficient surety to guarantee appropriate funds for removal of the structures should the promoter or riparian owner fail to do so within the time specified in the agreement.

(3) ~~Nothing in~~ This section does not ~~shall be construed to~~ allow any lease or consent of use that would result in harm to the natural resources of the area as a result of the structures or the activities of the special events agreed to.

Section 6. Section 253.0346, Florida Statutes, is created to read:

253.0346 Lease of sovereignty submerged lands for marinas, boatyards, and marine retailers.—

(1) For purposes of this section, the term "first-come, first-served basis" means the facility operates on state-owned submerged land for which:

(a) There is not a club membership, stock ownership, equity interest, or other qualifying requirement.

(b) Rental terms do not exceed 12 months and do not include automatic renewal rights or conditions.

(2) For marinas that are open to the public on a first-come, first-served basis and for which at least 90 percent of the slips are open to the public, a discount of 30 percent on the annual lease fee shall apply if dockage rate sheet publications and dockage advertising clearly state that slips are open to the public on a first-come, first-served basis.

(3) For a facility designated by the department as a Clean Marina, Clean Boatyard, or Clean Marine Retailer under the Clean Marina Program:

(a) A discount of 10 percent on the annual lease fee shall apply if the facility:

1. Actively maintains designation under the program.

2. Complies with the terms of the lease.

3. Does not change use during the term of the lease.

(b) Extended-term lease surcharges shall be waived if the facility:

1. Actively maintains designation under the program.

2. Complies with the terms of the lease.

3. Does not change use during the term of the lease.

4. Is available to the public on a first-come, first-served basis.

(c) If the facility is in arrears on lease fees or fails to comply with paragraph (b), the facility is not eligible for the discount or waiver under this subsection until arrears have been paid and compliance with the program has been met.

(4) This section applies to new leases or amendments to leases effective after July 1, 2013.

Section 7. Subsection (4) of section 373.118, Florida Statutes, is amended to read:

373.118 General permits; delegation.—

(4) The department shall adopt by rule one or more general permits for local governments to construct, operate, and maintain public marina facilities, public mooring fields, public boat ramps, including associated courtesy docks, and associated parking facilities located in uplands. Such general permits adopted by rule shall include provisions to ensure compliance with part IV of this chapter, subsection (1), and the criteria necessary to include the general permits in a state programmatic general permit issued by the United States Army Corps of Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq. A facility

authorized under such general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities shall be consistent with the local government manatee protection plan required pursuant to chapter 379 ~~and shall obtain Clean Marina Program status prior to opening for operation and maintain that status for the life of the facility~~. ~~Marinas and mooring fields authorized under any such general permit shall not exceed an area of 50,000 square feet over wetlands and other surface waters.~~ Mooring fields authorized under such general permit may not exceed 100 vessels. All facilities permitted under this section shall be constructed, maintained, and operated in perpetuity for the exclusive use of the general public. The department may issue leases for mooring fields that meet the requirements of the general permit. The department shall initiate the rulemaking process within 60 days after the effective date of this act.

Section 8. Subsection (1) of section 373.233, Florida Statutes, is amended to read:

373.233 Competing applications.—

(1) If two or more applications that ~~which~~ otherwise comply with the provisions of this part are pending for a quantity of water that is inadequate for both or all, or which for any other reason are in conflict, and the governing board or department has deemed the application complete, the governing board or the department has ~~shall have~~ the right to approve or modify the application which best serves the public interest.

Section 9. Subsection (4) of section 373.236, Florida

Statutes, is amended to read:

373.236 Duration of permits; compliance reports.—

(4) Where necessary to maintain reasonable assurance that the conditions for issuance of a 20-year permit can continue to be met, the governing board or department, in addition to any conditions required pursuant to s. 373.219, may require a compliance report by the permittee every 10 years during the term of a permit. The Suwannee River Water Management District may require a compliance report by the permittee every 5 years through July 1, 2015, and thereafter every 10 years during the term of the permit. This report shall contain sufficient data to maintain reasonable assurance that the initial conditions for permit issuance are met. Following review of this report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance. Permit modifications pursuant to this subsection shall not be subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district. In order to promote the sustainability of natural systems through the diversification of water supplies to include sources that are resistant to drought, a water management district may not reduce an existing permitted allocation of water during the permit term as a result of planned future construction of, or additional water becoming available from, a seawater desalination plant, unless such reductions are conditions of a permit or funding agreement with the water management district. Except as otherwise provided in this subsection, this subsection

does ~~shall~~ not ~~be construed to~~ limit the existing authority of the department or the governing board to modify or revoke a consumptive use permit.

Section 10. Subsection (1) of section 373.308, Florida Statutes, is amended to read:

373.308 Implementation of programs for regulating water wells.—

(1) The department shall authorize the governing board of a water management district to implement a program for the issuance of permits for the location, construction, repair, and abandonment of water wells. Upon authorization from the department, issuance of well permits will be the sole responsibility of the water management district. Counties with delegated permitting authority and other government entities may not impose additional or duplicate requirements or fees or establish a separate program for the permitting of the location, abandonment, boring, or other activities reasonably associated with the installation and abandonment of a groundwater well.

Section 11. Subsections (1) and (10) of section 373.323, Florida Statutes, are amended to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(1) Every person who wishes to engage in business as a water well contractor shall obtain from the water management district a license to conduct such business. Licensure under this part by a water management district shall be the only water well construction license required for the construction, repair, or abandonment of water wells in the state or any political

subdivision thereof.

(10) Water well contractors licensed under this section may install, repair, and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 612—Wells pumps and tanks used for private potable water systems. In addition, licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water ~~well~~ systems.

Section 12. Subsection (23) is added to section 373.403, Florida Statutes, to read:

373.403 Definitions.—When appearing in this part or in any rule, regulation, or order adopted pursuant thereto, the following terms mean:

(23) "Mean annual flood line" for the limited purposes of delineating the environmental resource permit regulatory limits of other surface waters means the water surface boundary produced by the discharge determined by calculating the arithmetic mean of the maximum yearly discharges for the period of record, to include at least the most recent 10-year period. If at least 10 years of data is not available, the mean annual flood line may be determined through consideration of data available and field verification conducted by a certified professional surveyor and mapper with experience in the determination of floodwater elevations and subsequently verified by department personnel. Field verification of the mean annual flood line shall be performed using the provisions of chapter 62-340, Florida Administrative Code, and the Florida Wetlands Delineation Manual. Generally accepted hydrological standards

and procedures shall be used to qualify hydrologic field indicators as rare or aberrant prior to exclusion from mean annual flood determinations.

Section 13. Subsections (13), (14), and (15) are added to section 373.406, Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:

(13) Nothing in this part, or in any rule, regulation, or order adopted pursuant to this part, applies to construction, operation, or maintenance of any wholly owned, manmade farm ponds, as defined in s. 403.927, constructed entirely in uplands.

(14) Nothing in this part, or in any rule, regulation, or order adopted pursuant to this part, may require a permit for activities affecting wetlands created solely by the unauthorized flooding or interference with the natural flow of surface water caused by an adjoining landowner. This exemption does not apply to activities that discharge dredged or fill material into waters of the United States, including wetlands, subject to federal jurisdiction under section 404 of the Clean Water Act, 33 U.S.C. s. 1344.

(15) Any water control district created and operating pursuant to chapter 298 for which a valid environmental resource permit or management and storage of surface waters permit has been issued pursuant to this part is exempt from further wetlands or water quality regulations imposed pursuant to chapters 125, 163, and 166.

Section 14. Subsection (3) of section 373.701, Florida Statutes, is amended to read:

373.701 Declaration of policy.—It is declared to be the policy of the Legislature:

(3) Cooperative efforts between municipalities, counties, utility companies, private landowners, water consumers, water management districts, ~~and~~ the Department of Environmental Protection, and the Department of Agriculture and Consumer Services are necessary ~~mandatory~~ in order to meet the water needs of rural and rapidly urbanizing areas in a manner that will supply adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from which ~~such~~ water is withdrawn. Such efforts should employ ~~use~~ all practical means of obtaining water, including, but not limited to, withdrawals of surface water and groundwater, reuse, and desalination, and will require ~~necessitate not only~~ cooperation and ~~but also~~ well-coordinated activities. Municipalities, counties, and special districts are encouraged to create multijurisdictional water supply entities or regional water supply authorities as authorized in s. 373.713 ~~or multijurisdictional water supply entities~~.

Section 15. Subsections (1), (2), and (9) of section 373.703, Florida Statutes, are amended to read:

373.703 Water production; general powers and duties.—In the performance of, and in conjunction with, its other powers and duties, the governing board of a water management district existing pursuant to this chapter:

(1) Shall engage in planning to assist counties, municipalities, special districts, publicly owned and privately owned water utilities, multijurisdictional water supply

entities, or regional water supply authorities, or self-suppliers in meeting water supply needs in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas. As used in this section and s. 373.707, regional water supply authorities are regional water authorities created under s. 373.713 or other laws of this state. As used in part VII of this chapter, self-suppliers are persons who obtain surface or groundwater from a source other than a public water supply.

(2) Shall assist counties, municipalities, special districts, publicly owned or privately owned water utilities, multijurisdictional water supply entities, or regional water supply authorities, or self-suppliers in meeting water supply needs in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas.

(9) May join with one or more other water management districts, counties, municipalities, special districts, publicly owned or privately owned water utilities, multijurisdictional water supply entities, or regional water supply authorities, or self-suppliers for the purpose of carrying out any of its powers, and may contract with such other entities to finance acquisitions, construction, operation, and maintenance, provided such contracts are consistent with the public interest. The contract may provide for contributions to be made by each party to the contract ~~thereto~~, for the division and apportionment of

the expenses of acquisitions, construction, operation, and maintenance, and for the division and apportionment of resulting the benefits, services, and products ~~therefrom~~. The contracts may contain other covenants and agreements necessary and appropriate to accomplish their purposes.

Section 16. Subsection (1), paragraph (a) of subsection (2), and subsection (3) of section 373.709, Florida Statutes, are amended to read:

373.709 Regional water supply planning.—

(1) The governing board of each water management district shall conduct water supply planning for a ~~any~~ water supply planning region within the district identified in the appropriate district water supply plan under s. 373.036, where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and other affected and interested parties. The districts shall actively engage in public education and outreach to all affected local entities and their officials, as well as members of the public, in the planning process and in seeking input. During preparation, but before ~~prior to~~ completion of the regional

water supply plan, the district shall ~~must~~ conduct at least one public workshop to discuss the technical data and modeling tools anticipated to be used to support the regional water supply plan. The district shall also hold several public meetings to communicate the status, overall conceptual intent, and impacts of the plan on existing and future reasonable-beneficial uses and related natural systems. During the planning process, a local government may choose to prepare its own water supply assessment to determine if existing water sources are adequate to meet existing and projected reasonable-beneficial needs of the local government while sustaining water resources and related natural systems. The local government shall submit such assessment, including the data and methodology used, to the district. The district shall consider the local government's assessment during the formation of the plan. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section is ~~shall be~~ subject to s. 120.569. The governing board shall reevaluate the ~~such a~~ determination at least once every 5 years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.

(2) Each regional water supply plan must ~~shall~~ be based on at least a 20-year planning period and must ~~shall~~ include, but need not be limited to:

(a) A water supply development component for each water supply planning region identified by the district which includes:

1. A quantification of the water supply needs for all

existing and future reasonable-beneficial uses within the planning horizon. The level-of-certainty planning goal associated with identifying the water supply needs of existing and future reasonable-beneficial uses must ~~shall~~ be based upon meeting those needs for a 1-in-10-year drought event.

a. Population projections used for determining public water supply needs must be based upon the best available data. In determining the best available data, the district shall consider the University of Florida's Bureau of Economic and Business Research (BEBR) medium population projections and any population projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1) if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the BEBR projections must be fully described, and the original BEBR data must be presented along with the adjusted data.

b. Agricultural demand projections used for determining the needs of agricultural self-suppliers must be based upon the best available data. In determining the best available data for agricultural self-supplied water needs, the district shall consider the data indicative of future water supply demands provided by the Department of Agriculture and Consumer Services pursuant to s. 570.085. Any adjustment of or deviation from the data provided by the Department of Agriculture and Consumer Services must be fully described, and the original data must be presented along with the adjusted data.

2. A list of water supply development project options,

including traditional and alternative water supply project options, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of ~~alternative~~ water supply development project options ~~projects~~. If such users propose a project to be listed as a ~~an alternative~~ water supply project, the district shall determine whether it meets the goals of the plan, and, if so, it shall be included in the list. The total capacity of the projects included in the plan must ~~shall~~ exceed the needs identified in subparagraph 1. and shall take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and levels and water reservations. Where the district determines it is appropriate, the plan should specifically identify the need for multijurisdictional approaches to project options that, based on planning level analysis, are appropriate to supply the intended uses and that, based on such analysis, appear to be permittable and financially and technically feasible. The list of water supply development options must contain provisions that recognize that alternative water supply options for agricultural self-suppliers are limited.

3. For each project option identified in subparagraph 2., the following must ~~shall~~ be provided:

a. An estimate of the amount of water to become available

through the project.

b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and operating and maintaining the project.

c. An analysis of funding needs and sources of possible funding options. For alternative water supply projects the water management districts shall provide funding assistance in accordance with s. 373.707(8).

d. Identification of the entity that should implement each project option and the current status of project implementation.

(3) The water supply development component of a regional water supply plan which deals with or affects public utilities and public water supply for those areas served by a regional water supply authority and its member governments within the boundary of the Southwest Florida Water Management District shall be developed jointly by the authority and the district. In areas not served by regional water supply authorities, or other multijurisdictional water supply entities, and where opportunities exist to meet water supply needs more efficiently through multijurisdictional projects identified pursuant to paragraph (2)(a), water management districts are directed to assist in developing multijurisdictional approaches to water supply project development jointly with affected water utilities, special districts, self-suppliers, and local governments.

Section 17. Subsection (3) of section 376.313, Florida Statutes, is amended to read:

376.313 Nonexclusiveness of remedies and individual cause

of action for damages under ss. 376.30-376.317.—

(3) Except as provided in s. 376.3078(3) and (11), nothing contained in ss. 376.30-376.317 prohibits any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.317 which was not authorized pursuant to chapter 403. Nothing in this chapter shall prohibit or diminish a party's right to contribution from other parties jointly or severally liable for a prohibited discharge of pollutants or hazardous substances or other pollution conditions. Except as otherwise provided in subsection (4) or subsection (5), in any such suit, it is not necessary for such person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it has occurred. The only defenses to such cause of action shall be those specified in s. 376.308.

Section 18. Subsection (11) of section 403.021, Florida Statutes, is amended to read:

403.021 Legislative declaration; public policy.—

(11) It is the intent of the Legislature that water quality standards be reasonably established and applied to take into account the variability occurring in nature. The department shall recognize the statistical variability inherent in sampling and testing procedures that are used to express water quality standards. The department shall also recognize that some deviations from water quality standards occur as the result of natural background conditions. The department shall not consider

deviations from water quality standards to be violations when the discharger can demonstrate that the deviations would occur in the absence of any human-induced discharges or alterations to the water body. Testing, sampling, collection, or analysis may not be conducted or required unless such testing, sampling, collection, or analysis has been subjected to and validated through inter- and intra-laboratory testing, quality control, peer review, and adopted by rule. The validation shall be sufficient to ensure that variability inherent in such testing sampling, collection, or analysis has been specified and reduced to the minimum for comparable testing, sampling, collection, or analysis.

Section 19. Subsection (22) is added to section 403.031, Florida Statutes, to read:

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(22) "Beneficiaries" means any person, partnership, corporation, business entity, charitable organization, not-for-profit corporation, state, county, district, authority, or municipal unit of government or any other separate unit of government created or established by law.

Section 20. Subsection (43) is added to section 403.061, Florida Statutes, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit

pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(43) Adopt rules requiring or incentivizing the electronic submission of forms, documents, fees, or reports required for permits issued under chapter 161, chapter 253, chapter 373, chapter 376, or this chapter. The rules must reasonably accommodate technological or financial hardship and provide procedures for obtaining an exemption due to such hardship.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 21. Subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits

for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay between January 15 and April ~~March~~ 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant actually emitted, as calculated in accordance with department's emissions computation and reporting rules. The annual fee shall only apply to those regulated pollutants, ~~(~~except carbon monoxide~~)~~ and greenhouse gases, for which an allowable numeric emission limiting standard is specified in ~~allowed to be emitted per hour by specific condition of~~ the source's most recent construction or operation permit~~, times the annual hours of operation allowed by permit condition~~; provided, however, that:

1. The license fee factor is $25 or another amount

determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35.

~~2. For any source that operates for fewer hours during the calendar year than allowed under its permit, the annual fee calculation must be based upon actual hours of operation rather than allowable hours if the owner or operator of the source documents the source's actual hours of operation for the calendar year. For any source that has an emissions limit that is dependent upon the type of fuel burned, the annual fee calculation must be based on the emissions limit applicable during actual hours of operation.~~

~~3. For any source whose allowable emission limitation is specified by permit per units of material input or heat input or product output, the applicable input or production amount may be used to calculate the allowable emissions if the owner or operator of the source documents the actual input or production amount. If the input or production amount is not documented, the maximum allowable input or production amount specified in the permit must be used to calculate the allowable emissions.~~

~~4. For any new source that does not receive its first~~

~~operation permit until after the beginning of a calendar year, the annual fee for the year must be reduced pro rata to reflect the period during which the source was not allowed to operate.~~

~~5. For any source that emits less of any regulated air pollutant than allowed by permit condition, the annual fee calculation for such pollutant must be based upon actual emissions rather than allowable emissions if the owner or operator documents the source's actual emissions by means of data from a department-approved certified continuous emissions monitor or from an emissions monitoring method which has been approved by the United States Environmental Protection Agency under the regulations implementing 42 U.S.C. ss. 7651 et seq., or from a method approved by the department for purposes of this section.~~

2.~~6.~~ The amount of each regulated air pollutant in excess of 4,000 tons per year ~~allowed to be~~ emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3.~~7.~~ If the department has not received the fee by March 1 ~~February 15~~ of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April ~~March~~ 1. If the fee is not postmarked by April ~~March~~ 1

of the calendar year, the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and shall not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

4.~~8.~~ Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section shall not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 shall not exceed $50 per year.

5.~~9.~~ Notwithstanding the provisions of s. 403.087(6)(a)5.a., authorizing air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits shall be considered direct and indirect

costs of the major stationary source air-operation permit program under s. 403.0873. The department shall, however, require fees pursuant to the provisions of s. 403.087(6)(a)5.a. for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

(b) Annual operation license fees collected by the department must be sufficient to cover all reasonable direct and indirect costs required to develop and administer the major stationary source air-operation permit program, which shall consist of the following elements to the extent that they are reasonably related to the regulation of major stationary air pollution sources, in accordance with United States Environmental Protection Agency regulations and guidelines:

1. Reviewing and acting upon any application for such a permit.

2. Implementing and enforcing the terms and conditions of any such permit, excluding court costs or other costs associated with any enforcement action.

3. Emissions and ambient monitoring.

4. Preparing generally applicable regulations or guidance.

5. Modeling, analyses, and demonstrations.

6. Preparing inventories and tracking emissions.

7. Implementing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

8. Any audits conducted under paragraph (c).

(c) An audit of the major stationary source air-operation permit program must be conducted 2 years after the United States Environmental Protection Agency has given full approval of the program to ascertain whether the annual operation license fees collected by the department are used solely to support any reasonable direct and indirect costs as listed in paragraph (b). A program audit must be performed biennially after the first audit.

Section 22. Paragraph (e) of subsection (1) of section 403.813, Florida Statutes, is amended to read:

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(e) The restoration of seawalls at their previous locations or upland of, or within 18 inches ~~1 foot~~ waterward of, their previous locations. However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute

an exception from the permitting requirements of chapter 161.

Section 23. Section 403.70605, Florida Statutes, is amended to read:

403.70605 Solid waste and commercial recovered material collection services in competition with private companies.—

(1) SOLID WASTE COLLECTION SERVICES IN COMPETITION WITH PRIVATE COMPANIES.—

(a) A local government that provides specific solid waste collection services in direct competition with a private company:

1. Shall comply with the provisions of local environmental, health, and safety standards that also are applicable to a private company providing such collection services in competition with the local government.

2. Shall not enact or enforce any license, permit, registration procedure, or associated fee that:

a. Does not apply to the local government and for which there is not a substantially similar requirement that applies to the local government; and

b. Provides the local government with a material advantage in its ability to compete with a private company in terms of cost or ability to promptly or efficiently provide such collection services. Nothing in this sub-subparagraph shall apply to any zoning, land use, or comprehensive plan requirement.

(b)1. A private company with which a local government is in competition may bring an action to enjoin a violation of paragraph (a) against any local government. No injunctive relief

shall be granted if the official action which forms the basis for the suit bears a reasonable relationship to the health, safety, or welfare of the citizens of the local government unless the court finds that the actual or potential anticompetitive effects outweigh the public benefits of the challenged action.

2. As a condition precedent to the institution of an action pursuant to this paragraph, the complaining party shall first file with the local government a notice referencing this paragraph and setting forth the specific facts upon which the complaint is based and the manner in which the complaining party is affected. The complaining party may provide evidence to substantiate the claims made in the complaint. Within 30 days after receipt of such a complaint, the local government shall respond in writing to the complaining party explaining the corrective action taken, if any. If no response is received within 30 days or if appropriate corrective action is not taken within a reasonable time, the complaining party may institute the judicial proceedings authorized in this paragraph. However, failure to comply with this subparagraph shall not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the conduct or activity complained of.

3. The court may, in its discretion, award to the prevailing party or parties costs and reasonable attorneys' fees.

(c) This subsection does not apply when the local government is exclusively providing the specific solid waste

collection services itself or pursuant to an exclusive franchise.

(2) SOLID WASTE COLLECTION SERVICES OUTSIDE JURISDICTION.—

(a) Notwithstanding s. 542.235, or any other provision of law, a local government that provides solid waste collection services outside its jurisdiction in direct competition with private companies is subject to the same prohibitions against predatory pricing applicable to private companies under ss. 542.18 and 542.19.

(b) Any person injured by reason of violation of this subsection may sue therefor in the circuit courts of this state and shall be entitled to injunctive relief and to recover the damages and the costs of suit. The court may, in its discretion, award to the prevailing party or parties reasonable attorneys' fees. An action for damages under this subsection must be commenced within 4 years. No person may obtain injunctive relief or recover damages under this subsection for any injury that results from actions taken by a local government in direct response to a natural disaster or similar occurrence for which an emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 or for which such a declaration might be reasonably anticipated within the area covered by such executive order or proclamation.

(c) As a condition precedent to the institution of an action pursuant to this subsection, the complaining party shall first file with the local government a notice referencing this subsection and setting forth the specific facts upon which the

complaint is based and the manner in which the complaining party is affected. Within 30 days after receipt of such complaint, the local government shall respond in writing to the complaining party explaining the corrective action taken, if any. If the local government denies that it has engaged in conduct that is prohibited by this subsection, its response shall include an explanation showing why the conduct complained of does not constitute predatory pricing.

(d) For the purposes of this subsection, the jurisdiction of a county, special district, or solid waste authority shall include all incorporated and unincorporated areas within the county, special district, or solid waste authority.

(3) COMMERCIAL RECOVERED MATERIAL COLLECTION SERVICES IN COMPETITION WITH PRIVATE COMPANIES.—

(a) A local government that provides commercial recovered material collection services in direct competition with a private company or provides commercial recovered material collection service through contract or a franchise provider:

1. Must comply with the provisions of local environmental, health, and safety standards that also are applicable to a private company providing such collection services in competition with the local government.

2. May not subsidize the collection of commercial recovered materials or enact or enforce any license, permit, registration procedure, or associated fee that:

a. Does not apply to the local government and for which there is not a substantially similar requirement that applies to the local government.

b. Provides the local government or its franchisee with a material advantage in its ability to compete with a private company in terms of cost or ability to promptly or efficiently provide such commercial recovered material collection services. This sub-subparagraph does not apply to any zoning, land use, or comprehensive plan requirement.

c. Allows the local government to require a payment of franchise fees for the collection of recovered materials from a commercial establishment.

d. Requires a private company to provide the recovered material service to a commercial establishment and deliver the recovered material collected from commercial establishments to a facility designated by the local government by contract or otherwise.

(b)1. A private company with which a local government is in competition may bring an action to enjoin a violation of paragraph (a) against any local government. Injunctive relief may not be granted if the official action which forms the basis for the suit bears a reasonable relationship to the health, safety, or welfare of the citizens of the local government unless the court finds that the actual or potential anticompetitive effects outweigh the public benefits of the challenged action.

2. As a condition precedent to the institution of an action pursuant to this paragraph, the complaining party shall first file with the local government a notice referencing this paragraph and setting forth the specific facts upon which the complaint is based and the manner in which the complaining party

is affected. The complaining party may provide evidence to substantiate the claims made in the complaint. Within 30 days after receipt of such a complaint, the local government shall respond in writing to the complaining party explaining the corrective action taken, if any. If a response is not received within 30 days or if appropriate corrective action is not taken within a reasonable time, the complaining party may institute the judicial proceedings authorized in this paragraph. However, failure to comply with this subparagraph does not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the conduct or activity complained of.

3. The court may, in its discretion, award to the prevailing party or parties costs and reasonable attorneys' fees.

(c) This subsection also applies when the local government is exclusively providing the specific solid waste collection services itself or pursuant to an exclusive franchise and is attempting to collect franchise fees on collection of recovered materials from a commercial establishment.

(4) ~~(3)~~ DISPLACEMENT OF PRIVATE WASTE COMPANIES.—

(a) As used in this subsection, the term "displacement" means a local government's provision of a collection service which prohibits a private company from continuing to provide the same service that it was providing when the decision to displace was made. The term does not include:

1. Competition between the public sector and private companies for individual contracts;

2. Actions by which a local government, at the end of a contract with a private company, refuses to renew the contract and either awards the contract to another private company or decides for any reason to provide the collection service itself;

3. Actions taken against a private company because the company has acted in a manner threatening to the public health or safety or resulting in a substantial public nuisance;

4. Actions taken against a private company because the company has materially breached its contract with the local government;

5. Refusal by a private company to continue operations under the terms and conditions of its existing agreement during the 3-year notice period;

6. Entering into a contract with a private company to provide garbage, trash, or refuse collection which contract is not entered into under an ordinance that displaces or authorizes the displacement of another private company providing garbage, trash, or refuse collection;

7. Situations in which a majority of the property owners in the displacement area petition the governing body to take over the collection service;

8. Situations in which the private companies are licensed or permitted to do business within the local government for a limited time and such license or permit expires and is not renewed by the local government. This subparagraph does not apply to licensing or permitting processes enacted after May 1, 1999, or to occupational licenses; or

9. Annexations, but only to the extent that the provisions of s. 171.062(4) apply.

(b) A local government or combination of local governments may not displace a private company that provides garbage, trash, or refuse collection service without first:

1. Holding at least one public hearing seeking comment on the advisability of the local government or combination of local governments providing the service.

2. Providing at least 45 days' written notice of the hearing, delivered by first-class mail to all private companies that provide the service within the jurisdiction.

3. Providing public notice of the hearing.

(c) Following the final public hearing held under paragraph (b), but not later than 1 year after the hearing, the local government may proceed to take those measures necessary to provide the service. A local government shall provide 3 years' notice to a private company before it engages in the actual provision of the service that displaces the company. As an alternative to delaying displacement 3 years, a local government may pay a displaced company an amount equal to the company's preceding 15 months' gross receipts for the displaced service in the displacement area. The 3-year notice period shall lapse as to any private company being displaced when the company ceases to provide service within the displacement area. Nothing in this paragraph prohibits the local government and the company from voluntarily negotiating a different notice period or amount of compensation.

(5) ~~(4)~~ DEFINITIONS.—As used in this section:

(a) "In competition" or "in direct competition" means the vying between a local government and a private company to provide substantially similar solid waste collection services to the same customer or recovered materials collection services to a commercial establishment customer.

(b) "Private company" means any entity other than a local government or other unit of government that provides solid waste collection or recovered material collection services.

Section 24. Section 403.8141, Florida Statutes, is created to read:

403.8141 Special event permits.—The department shall issue permits for special events under s. 253.0345. The permits must be for a period that runs concurrently with the consent of use or lease issued pursuant to that section and must allow for the movement of temporary structures within the footprint of the lease area.

Section 25. Paragraph (b) of subsection (14) and paragraph (b) of subsection (19) of section 403.973, Florida Statutes, are amended, and paragraph (g) is added to subsection (3) of that section, to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)

(g) Projects to construct interstate natural gas pipelines subject to certification by the Federal Energy Regulatory Commission.

(14)

(b) Projects identified in paragraph (3)(f) or paragraph

(3)(g) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(19) The following projects are ineligible for review under this part:

(b) A project, the primary purpose of which is to:

1. Effect the final disposal of solid waste, biomedical waste, or hazardous waste in this state.

2. Produce electrical power, unless the production of electricity is incidental and not the primary function of the project or the electrical power is derived from a fuel source for renewable energy as defined in s. 366.91(2)(d).

3. Extract natural resources.

4. Produce oil.

5. Construct, maintain, or operate an oil, petroleum, ~~natural gas,~~ or sewage pipeline.

Section 26. Subsection (2) of section 570.076, Florida Statutes, is amended to read:

570.076 Environmental Stewardship Certification Program.—The department may, by rule, establish the Environmental Stewardship Certification Program consistent with this section. A rule adopted under this section must be developed in

consultation with state universities, agricultural organizations, and other interested parties.

(2) The department shall provide an agricultural certification under this program for implementation of one or more of the following criteria:

(a) A voluntary agreement between an agency and an agricultural producer for environmental improvement or water-resource protection.

(b) A conservation plan that meets or exceeds the requirements of the United States Department of Agriculture.

(c) Best management practices adopted by rule pursuant to s. 403.067(7)(c) or s. 570.085(1)(b) ~~570.085(2)~~.

Section 27. Section 570.085, Florida Statutes, is amended to read:

570.085 Department of Agriculture and Consumer Services; agricultural water conservation and water supply planning.—

(1) The department shall establish an agricultural water conservation program that includes the following:

(a) ~~(1)~~ A cost-share program, coordinated where appropriate with the United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation as provided in this section and, where applicable, for water quality improvement pursuant to s. 403.067(7)(c).

(b) ~~(2)~~ The development and implementation of voluntary interim measures or best management practices, adopted by rule, which provide for increased efficiencies in the use and

management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, the department shall consult with the Department of Environmental Protection and the water management districts. Such rules may also include a system to assure the implementation of the practices, including recordkeeping requirements. As new information regarding efficient agricultural water use and management becomes available, the department shall reevaluate and revise as needed, the interim measures or best management practices. The interim measures or best management practices may include irrigation retrofit, implementation of mobile irrigation laboratory evaluations and recommendations, water resource augmentation, and integrated water management systems for drought management and flood control and should, to the maximum extent practicable, be designed to qualify for regulatory incentives and other incentives, as determined by the agency having applicable statutory authority.

(c) ~~(3)~~ Provision of assistance to the water management districts in the development and implementation of a consistent, to the extent practicable, methodology for the efficient allocation of water for agricultural irrigation.

(2)(a) The department shall establish an agricultural water supply planning program that includes the development of appropriate data indicative of future agricultural water needs, which must be:

1. Based on at least a 20-year planning period.

2. Provided to each water management district.

3. Considered by each water management district in accordance with ss. 373.036(2) and 373.709(2)(a)1.b.

(b) The data on future agricultural water supply demands which are provided to each district must include, but need not be limited to:

1. Applicable agricultural crop types or categories.

2. Historic estimates of irrigated acreage, current estimates of irrigated acreage, and future projections of irrigated acreage for each applicable crop type or category spatially for each county, including the historic and current methods and assumptions used to generate the spatial acreage estimates and projections.

3. Crop type or category water use coefficients for an average year and a 1-in-10 year drought used in calculating historic and current water supply needs and projected future water demands, including data, methods, and assumptions used to generate the coefficients. Estimates of historic and current water demands shall take into account actual metered data as available. Projected future water demands shall incorporate appropriate potential water conservation factors based upon data collected as part of the department's agricultural water conservation program pursuant to s. 570.085(1).

4. An evaluation of significant uncertainties affecting agricultural production that may require a range of projections for future agricultural water supply needs.

(c) In developing the future agricultural water supply needs described in paragraph (a), the department shall consult with the agricultural industry, the University of Florida

Institute of Food and Agricultural Sciences, the Department of Environmental Protection, the water management districts, the United States Department of Agriculture National Agricultural Statistics Service, and the United States Geological Survey.

(d) The department shall coordinate with each water management district to establish a schedule for provision of data on agricultural water supply needs in order to comply with water supply planning provisions of ss. 373.036(2) and 373.709(2)(a)1.b.

Section 28. This act shall take effect July 1, 2013.

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to environmental regulation; amending s. 20.255, F.S.; authorizing the Department of Environmental Protection to adopt rules requiring or incentivizing the electronic submission of forms, documents, fees, and reports required for certain permits; amending ss. 125.022 and 166.033, F.S.; providing requirements for the review of development permit applications by counties and municipalities; amending s. 211.3103, F.S.; revising the definition of "phosphate-related expenses" to include maintenance and restoration of certain lands; amending s. 253.0345, F.S.; revising provisions for the duration

of leases and consents of use issued by the Board of Trustees of the Internal Improvement Trust Fund for special events; providing conditions for fees relating to such leases and consents of use; creating s. 253.0346, F.S.; defining the term "first-come, first-served basis"; providing conditions for the discount and waiver of lease fees and surcharges for certain marinas, boatyards, and marine retailers; providing applicability; amending s. 373.118, F.S.; deleting provisions requiring the department to adopt general permits for public marina facilities; deleting certain requirements under general permits for public marina facilities and mooring fields; limiting the number of vessels for mooring fields authorized under such permits; amending s. 373.233, F.S.; clarifying conditions for competing consumptive use of water applications; amending s. 373.236, F.S.; prohibiting water management districts from reducing certain allocations as a result of seawater desalination plant activities; providing an exception; amending s. 373.308, F.S.; providing that issuance of well permits is the sole responsibility of water management districts; prohibiting certain counties and other government entities from imposing requirements and fees and establishing programs for installation and abandonment of groundwater wells; amending s. 373.323, F.S.; providing that licenses issued by water management districts are the only water well

construction licenses required for construction, repair, or abandonment of water wells; authorizing licensed water well contractors to install equipment for all water systems; amending s. 373.403, F.S.; defining the term "mean annual flood line"; amending s. 373.406, F.S.; exempting specified ponds, ditches, and wetlands from surface water management and storage requirements; exempting certain water control districts from wetlands or water quality regulations; amending s. 373.701, F.S.; providing a legislative declaration that efforts to adequately and dependably meet water needs; requiring the cooperation of utility companies, private landowners, water consumers, and the Department of Agriculture and Consumer Services; amending s. 373.703, F.S.; requiring the governing boards of water management districts to assist self-suppliers, among others, in meeting water supply demands; authorizing the governing boards to contract with self-suppliers for the purpose of carrying out its powers; amending s. 373.709, F.S.; requiring water management districts to coordinate and cooperate with the Department of Agriculture and Consumer Services for regional water supply planning; providing criteria and requirements for determining agricultural water supply demand projections; amending s. 376.313, F.S.; holding harmless a person who discharges pollution pursuant to ch. 403, F.S.; amending s. 403.021, F.S.; providing requirements and conditions for water

quality testing, sampling, collection, and analysis by the department; amending s. 403.031, F.S.; defining the term "beneficiaries"; amending s. 403.061, F.S.; authorizing the department to adopt rules requiring or incentivizing the electronic submission of forms, documents, fees, and reports required for certain permits; amending s. 403.0872, F.S.; extending the payment deadline of permit fees for major sources of air pollution and conforming the date for related notice by the department; revising provisions for the calculation of such annual fees; amending s. 403.813, F.S.; revising conditions under which certain permits are not required for seawall restoration projects; amending s. 403.70605, F.S.; revising provisions governing solid waste collection services in competition with private companies to include commercial collection of recovered materials; creating s. 403.8141, F.S.; requiring the Department of Environmental Protection to establish general permits for special events; providing permit requirements; amending s. 403.973, F.S.; authorizing expedited permitting for natural gas pipelines, subject to specified certification; providing that natural gas pipelines are subject to certain requirements; providing that natural gas pipelines are eligible for certain review; amending s. 570.076, F.S.; conforming a cross-reference; amending s. 570.085, F.S.; requiring the Department of Agriculture and Consumer

Services to establish an agricultural water supply planning program; providing program requirements; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1193 Taxation Of Property
SPONSOR(S): Beshears and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1200

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	17 Y, 0 N	Aldridge	Langston
2) Agriculture & Natural Resources Subcommittee		Kaiser	Blalock
3) State Affairs Committee			

SUMMARY ANALYSIS

Pursuant to section 4, Art. VII, of the State Constitution, agricultural land may be assessed solely on the basis of its character or use. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes"

The bill eliminates the following three specific statutory guidelines under which agricultural land can be reclassified as nonagricultural for property taxation purposes:

- Land has been zoned to a nonagricultural use at the request of the owner,
- When there is contiguous urban or metropolitan development the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community,
- Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land creates a presumption that such land is not used primarily for bona fide agricultural purposes (this presumption may be rebutted upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture).

The bill also amends several statutory provisions to remove the authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

The Revenue Estimating Conference (REC) estimated that the provisions of the bill related to value adjustment boards would have an impact on local government revenues of either zero or negative indeterminate beginning in FY 2013-14. The REC estimated that the provisions of the bill related to reclassification of lands as nonagricultural to have a recurring negative revenue impact on local governments of $0.5 million beginning in FY 2013-14.

The bill is effective upon becoming a law and applies retroactively to January 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Agricultural Classification for Property Tax Assessments

Pursuant to section 4, Art. VII, of the State Constitution, agricultural land may be assessed solely on the basis of its character or use. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes"[1]

In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration by the property appraiser[2]:

- The length of time the land has been so used.
- Whether the use has been continuous.
- The purchase price paid.
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices.
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- Such other factors as may become applicable.

Offering property for sale does not constitute a primary use of land and may not be the basis for denying an agricultural classification if the land continues to be used primarily for bona fide agricultural purposes while it is being offered for sale[3].

Once property is qualified to receive agricultural classification, the property appraiser must assess the land based solely on its agricultural use, considering the following use factors only:

- The quantity and size of the property;
- The condition of the property;
- The present market value of the property as agricultural land;
- The income produced by the property;
- The productivity of land in its present use;
- The economic merchantability of the agricultural product; and
- Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.[4]

Reclassification of Lands as Nonagricultural

Section 193.461(4), F.S., provides the following statutory direction for when lands should be reclassified as nonagricultural:

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[1] Section 193.461(3)(b), F.S.
[2] Section 193.461(3)(b)1., F.S.
[3] Section 193.461(3)(b)2., F.S
[4] Section 193.461(6), F.S.

- The property appraiser must reclassify the following lands as nonagricultural:
  - Land diverted from an agricultural to a nonagricultural use.
  - Land no longer being utilized for agricultural purposes.
  - Land that has been zoned to a nonagricultural use at the request of the owner.
- The board of county commissioners may also reclassify lands classified as agricultural to nonagricultural when there is contiguous urban or metropolitan development and the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community.
- Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land shall create a presumption that such land is not used primarily for bona fide agricultural purposes. Upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture, this presumption may be rebutted.

Value Adjustment Board Authority to Review all Property Classified by the Property Appraiser

Each county in Florida has a value adjustment board (VAB). Section 194.032, F.S., directs the VAB to meet for the following purposes:

- Hearing petitions relating to property tax assessments.
- Hearing complaints relating to homestead exemptions.
- Hearing appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications.
- Hearing appeals concerning ad valorem tax deferrals and classifications.

VABs are made up of five members: two from the county's board of commissioners; one from the county's school board; and two citizens. Many counties use special magistrates to conduct hearings and recommend decisions to the VAB. Special magistrates are qualified to review property valuation and denials of exemptions, classifications and deferrals. The VAB makes all final decisions. There are also several statutory provisions that provide the value adjustment board the authority to review all property classified by the property appraiser upon its own motion.[5]

Proposed Changes

Reclassification of Lands as Nonagricultural

The bill amends s. 193.461(4), F.S., to eliminate the following three specific statutory guidelines, described above, under which agricultural land can be reclassified as nonagricultural for property taxation purposes:

- Land has been zoned to a nonagricultural use at the request of the owner,
- When there is contiguous urban or metropolitan development the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community,
- Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land creates a presumption that such land is not used primarily for bona fide agricultural purposes (this presumption may be rebutted upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture).

[5] See s. 193.461(2), F.S., s. 193.503(7), F.S., s. 193.625(2), F.S., s. 196.194(1), F.S.

Under the bill, only the property appraiser has the power to reclassify agricultural lands as nonagricultural for property taxation purposes and is still required to reclassify the following lands as nonagricultural:

- Land diverted from an agricultural to a nonagricultural use.
- Land no longer being utilized for agricultural purposes.

Value Adjustment Board Authority to Review all Property Classified by the Property Appraiser

The bill amends the cited statutory provisions to remove the authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

B. SECTION DIRECTORY:

Section 1: Amends s. 193.461, F.S., removing authority of the value adjustment board to review all property classified by the property appraiser upon its own motion, and amending provisions related to reclassification of lands as nonagricultural.

Section 2: Amends s. 193.503(7), F.S., removing authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

Section 3: Amends s. 193.625(2), F.S., removing authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

Section 4: Amends s. 196.194(1), F.S., removing authority of the value adjustment board to review all property classified by the property appraiser upon its own motion.

Section 5: Provides an effective date of upon becoming law and applies retroactive to January 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference (REC) estimated that the provisions of the bill related to value adjustment boards would have an impact on local government revenues of either zero or negative indeterminate beginning in FY 2013-14. The REC estimated that the provisions of the bill related to reclassification of lands as nonagricultural to have a recurring negative revenue impact on local governments of $0.5 million beginning in FY 2013-14.

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill may reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989; however, an exemption may apply because the bill has an insignificant fiscal impact.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None

A bill to be entitled

An act relating to the taxation of property; amending s. 193.461, F.S.; deleting authorization for a value adjustment board upon its own motion to review lands classified by a property appraiser as agricultural or nonagricultural; deleting a requirement that the property appraiser must reclassify as nonagricultural certain lands that have been zoned to a nonagricultural use; deleting authorization for a board of county commissioners to reclassify as nonagricultural certain lands that are contiguous to urban or metropolitan development under specified circumstances; deleting an evidentiary presumption that land is not being used primarily for bone fide agricultural purposes if it is purchased for a certain amount above its agricultural assessment; amending s. 193.503, F.S.; deleting authorization for a value adjustment board upon its own motion to review property granted or denied classification by a property appraiser as historic property that is being used for commercial or certain nonprofit purposes; amending s. 193.625, F.S.; deleting authorization for a value adjustment board upon its own motion to review land granted or denied a high-water recharge classification by a property appraiser; amending s. 196.194, F.S.; deleting authorization for a value adjustment board to review property tax exemptions upon its own motion or motion of the property

appraiser and deleting certain notice requirements relating to the review of such exemptions; providing for retroactive application; providing an effective date.

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

Section 1. Subsections (2) and (4) of section 193.461, Florida Statutes, are amended to read:

193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program.—

(2) Any landowner whose land is denied agricultural classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of agricultural classification on or before July 1 of the year for which the application was filed. The notification shall advise the landowner of his or her right to appeal to the value adjustment board and of the filing deadline. ~~The board may also review all lands classified by the property appraiser upon its own motion.~~ The property appraiser shall have available at his or her office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

(4) ~~(a)~~ The property appraiser shall reclassify the following lands as nonagricultural:

(a) ~~1.~~ Land diverted from an agricultural to a

nonagricultural use.

(b) ~~2.~~ Land no longer being utilized for agricultural purposes.

~~3. Land that has been zoned to a nonagricultural use at the request of the owner subsequent to the enactment of this law.~~

~~(b) The board of county commissioners may also reclassify lands classified as agricultural to nonagricultural when there is contiguous urban or metropolitan development and the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community.~~

~~(c) Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land shall create a presumption that such land is not used primarily for bona fide agricultural purposes. Upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture, this presumption may be rebutted.~~

Section 2. Subsection (7) of section 193.503, Florida Statutes, is amended to read:

193.503 Classification and assessment of historic property used for commercial or certain nonprofit purposes.—

(7) Any property owner who is denied classification under this section may appeal to the value adjustment board. The property appraiser shall notify the property owner in writing of the denial of such classification on or before July 1 of the year for which the application was filed. The notification shall

advise the property owner of his or her right to appeal to the value adjustment board and of the filing deadline. ~~The board may also review all property classified by the property appraiser upon its own motion.~~ The property appraiser shall have available at his or her office a list by ownership of all applications received showing the full valuation under s. 193.011, the valuation of the property under the provisions of this section, and whether or not the classification requested was granted.

Section 3. Subsection (2) of section 193.625, Florida Statutes, is amended to read:

193.625 High-water recharge lands; classification and assessment.—

(2) Any landowner whose land is within a county that has a high-water recharge protection tax assessment program and whose land is denied high-water recharge classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of high-water recharge classification on or before July 1 of the year for which the application was filed. The notification must advise the landowner of a right to appeal to the value adjustment board and of the filing deadline. ~~The board may also review all lands classified by the property appraiser upon its own motion.~~ The property appraiser shall have available at her or his office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

Section 4. Subsection (1) of section 196.194, Florida Statutes, is amended to read:

196.194 Value adjustment board; notice; hearings; appearance before the board.—

(1) The value adjustment board shall hear disputed or appealed applications for exemption and shall grant such exemptions in whole or in part in accordance with criteria set forth in this chapter. ~~It may review exemptions on its own motion or upon motion of the property appraiser. Review of an exemption application upon motion of the board shall not be held until the applicant has had at least 5 calendar days' notice of the intent of the board to review the application.~~

Section 5. This act shall take effect upon becoming a law and applies retroactively to January 1, 2012.

Florida Department of Environmental Protection

Springs Protection

House Agriculture & Natural Resources Subcommittee

Representative Caldwell, Chair

March 27, 2013

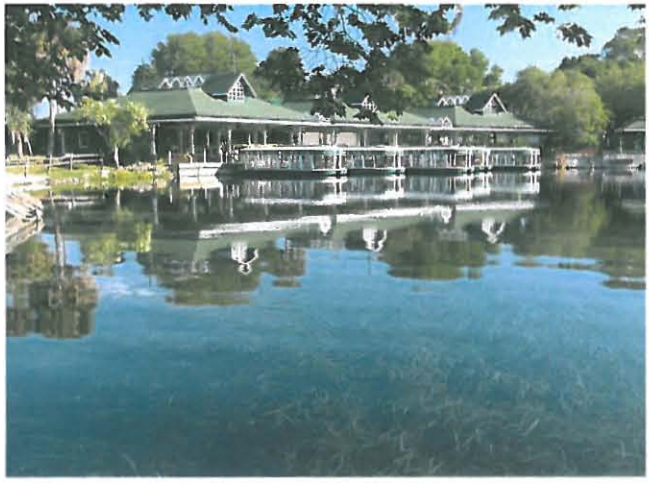
Greg Munson, Deputy Secretary
Water Policy & Ecosystem Restoration

Drew Bartlett, Director
Division of Environmental Assessment & Restoration





Springs Protection Overview

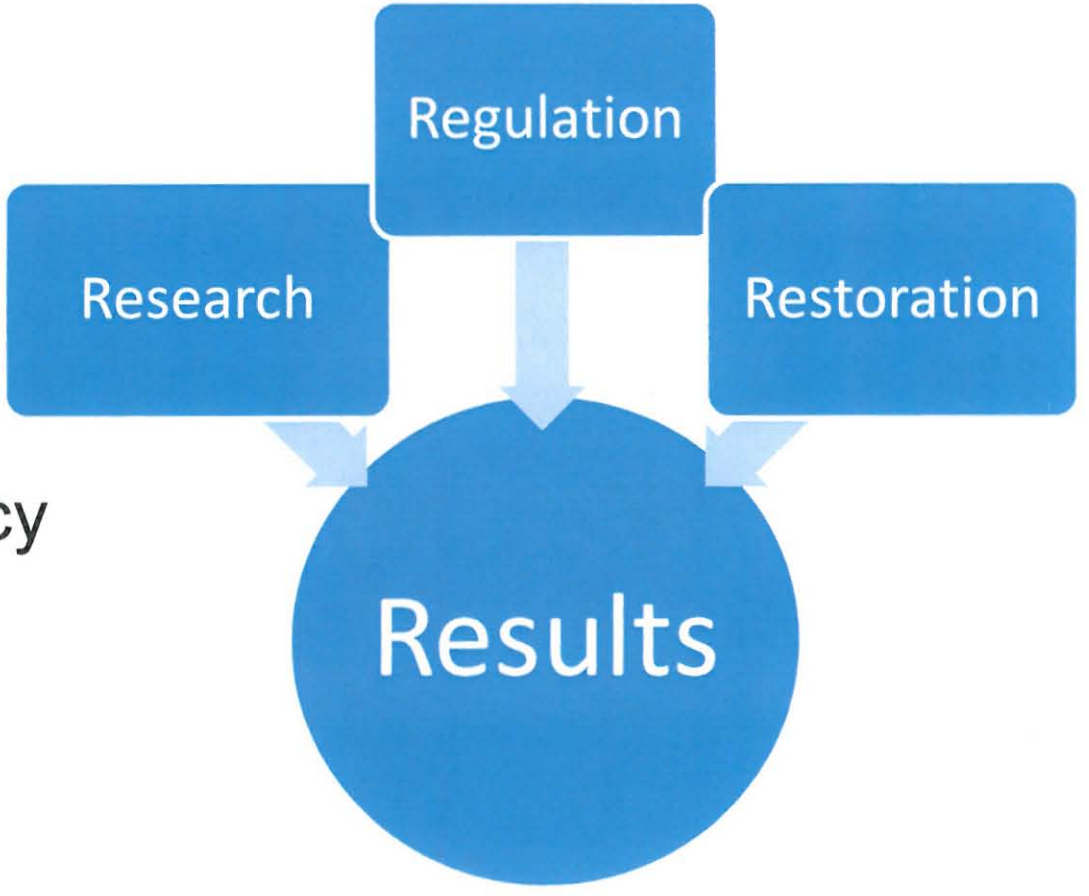


- The 3' Rs to Healthy Springs
- Water Quality
- Water Quantity
- Recommendations for moving forward

Springs are among Florida's most treasured natural resources and influenced by climate and rainfall as well as human activities that affect water quality and quantity

DEP/WMDs Role in Springs Protection

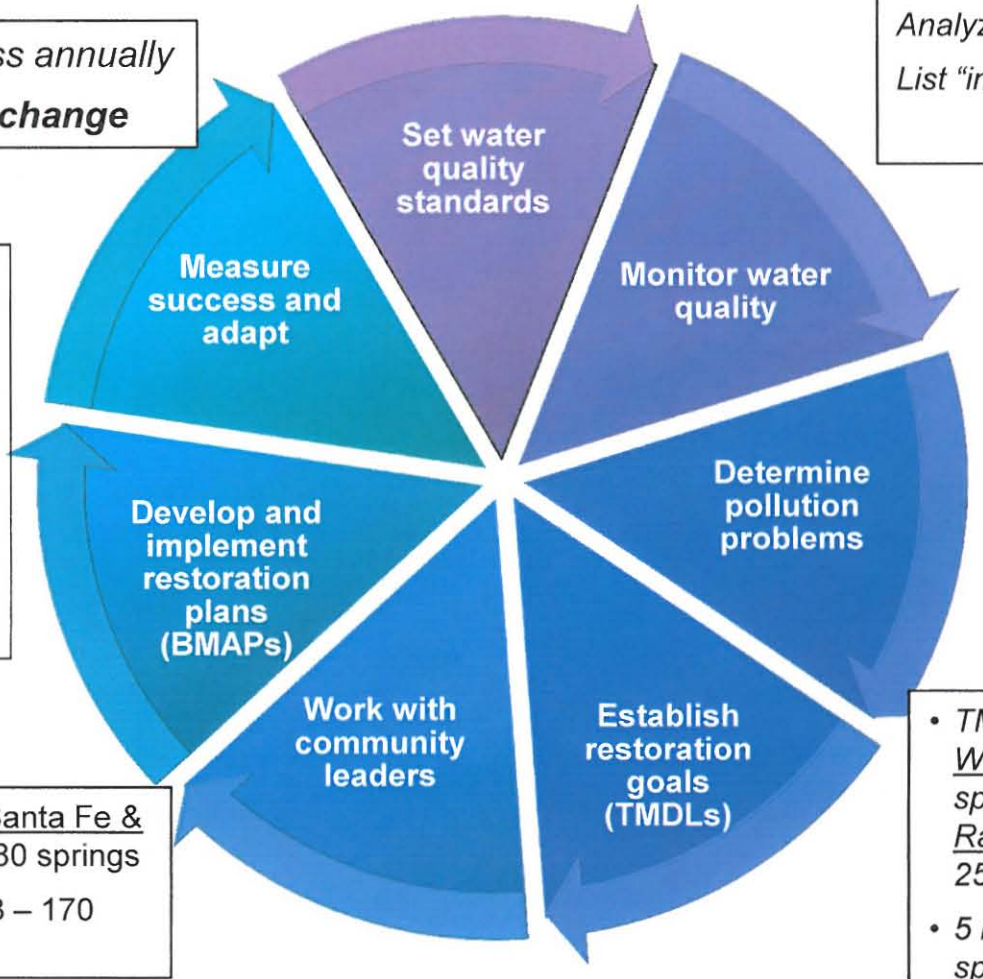
- Division of Environmental Assessment & Restoration
  (Water Quality)
- Office of Water Policy and the Water Management Districts (WMDs)
  (Water Quantity)



Springs Protection

- Research
  - Data collection and analysis
- Regulation
  - Establishment of Total Maximum Daily Loads (TMDLs)
  - Establishment of Minimum Flows and Levels (MFLs)
  - Consumptive Use Permitting (CUPs)
- Restoration
  - Basin Management Action Plans (BMAPs)
  - MFL Recovery and Prevention Plans
  - Project Implementation

Environmental Restoration Framework



Collect data
Analyze and verify
List "impaired" waters
REPEAT

Excessive nitrate

- *TMDLs set for Suwannee, Wekiva, Wakulla and Silver spring systems; pending filing for Rainbow and Jackson Blue – 250 springs in total*
- *5 more slated for 2013 - 65 more springs*

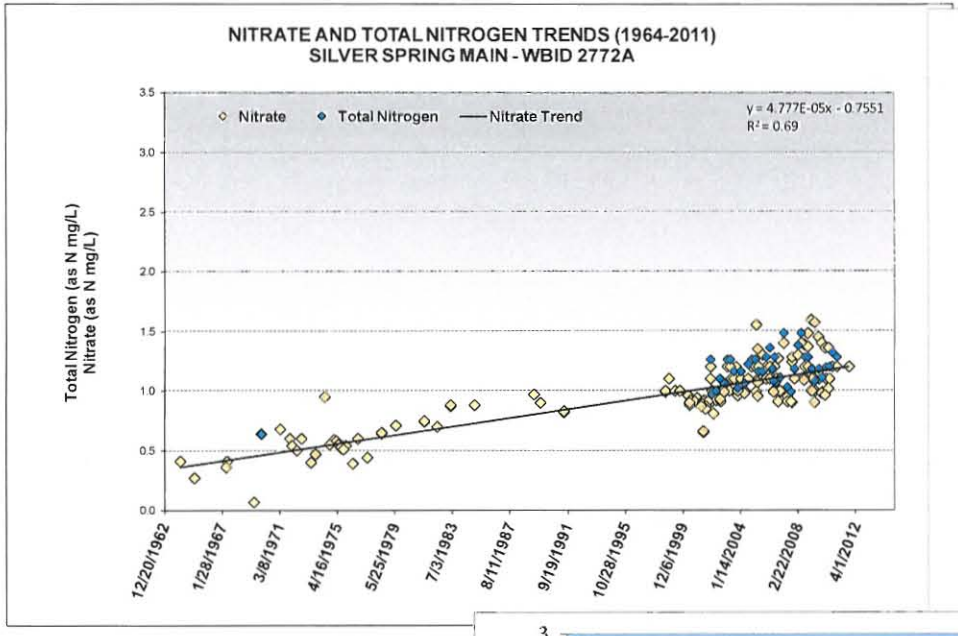
Allocate responsibilities
Identify projects
- *Infrastructure*
- *BMPs*
- *Land acquisition*

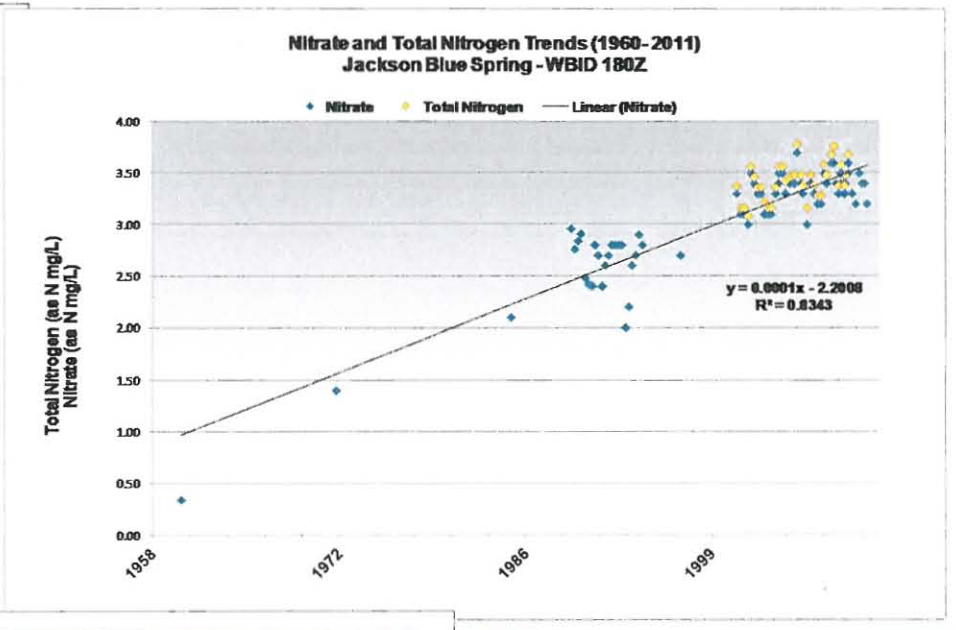
Establish schedules
Identify success criteria

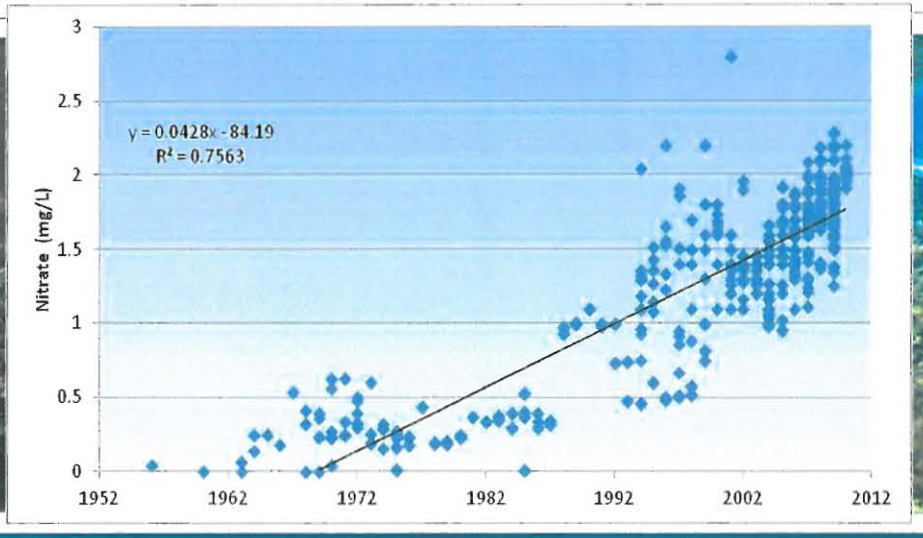
- 1 BMAP adopted for Santa Fe & Ichetucknee Rivers – 80 springs
- 4 more slated for 2013 – 170 springs

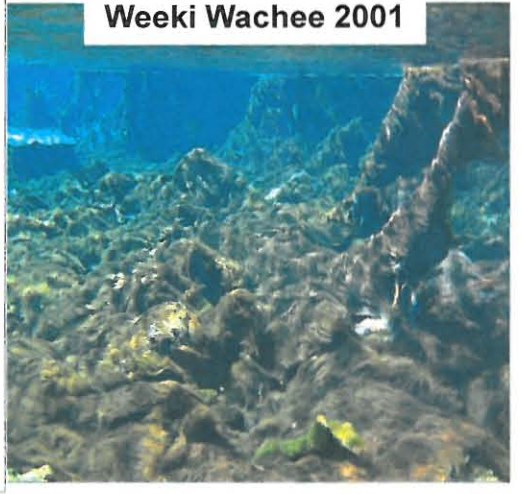
Report progress annually
Adapt and change

Water Quality Trends

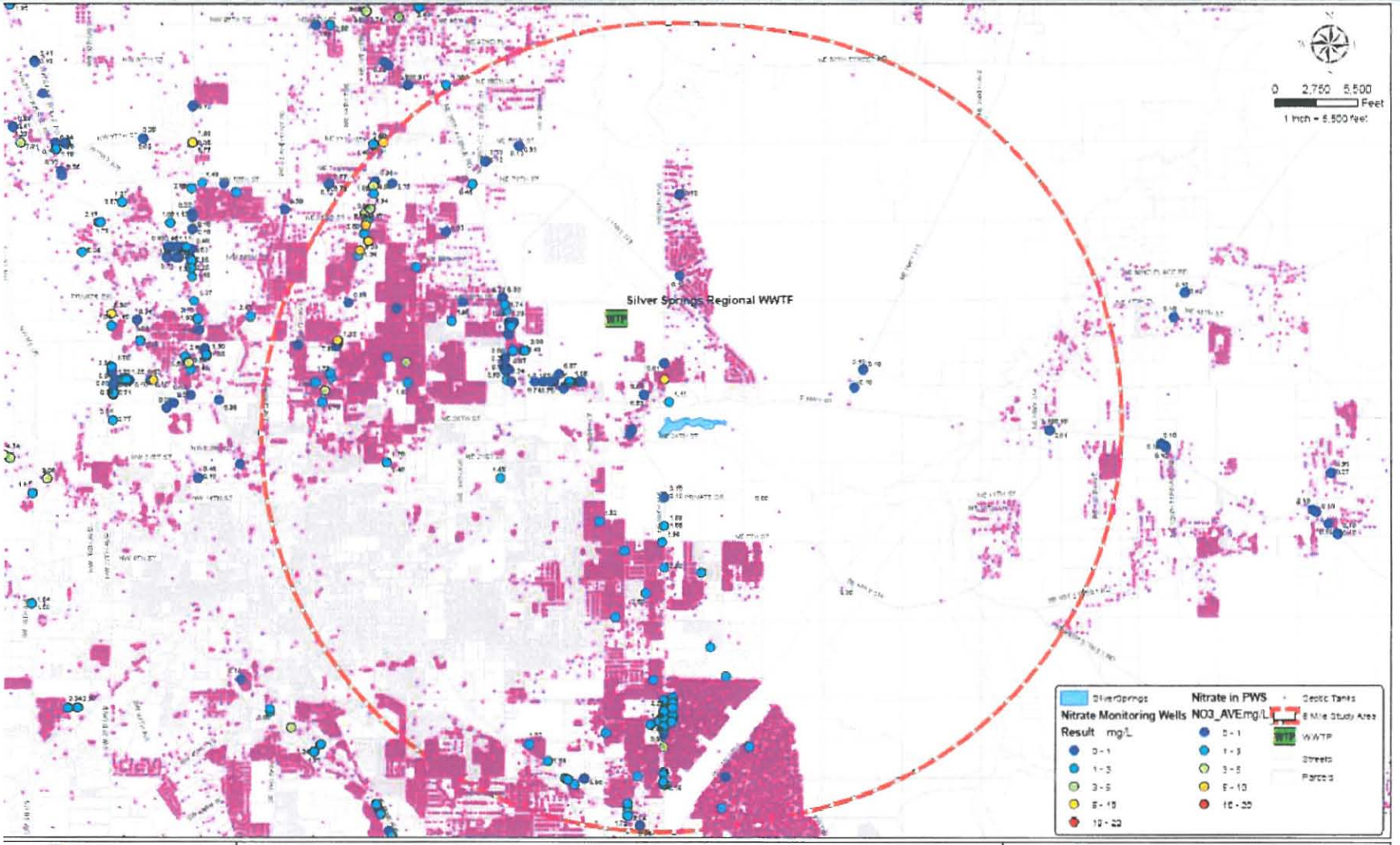








Silver Springs – Urban Setting



MARION COUNTY UTILITIES
Silver Springs Water Quality Improvement
Nitrate Content 5 miles from the Springs

FIGURE 3-2

Santa Fe & Suwannee Rivers – Rural Setting

Springs Protection - Water Supply

Reduced spring flows

- **Decreased rainfall**
  - Prolonged drought conditions
- **Withdrawals for consumptive use**
  - Effects range from an average of 5%-10% where data has been analyzed
  - Some springs have greater reductions from withdrawals that began prior to CUP (1980s)

Planning and Regulatory Tools – Water Supply

- **Regional Water Supply Plans**
  - Used as the blueprints for development of sustainable water sources to ensure future needs are met while protecting natural resources

- **Consumptive Use Permits (CUP)**
  - Required for withdrawal and use of water

- **Minimum Flow and Levels (MFL)**
  - Used in planning and permitting to prevent significant harm to water resources from water withdrawals

- **Recovery and Prevention Strategies**
  - Developed where springs are not meeting MFLs or will not meet them within 20 years; includes the development of alternative water supplies and other measures to meet demands for human use while achieving the MFL

MFL Progress to Date

- WMDs submit an annual MFL priority list to DEP

  (Priority List must include all 1st and many 2nd magnitude springs)

  - 22 springs have adopted MFLs
  - 26 springs are scheduled to have MFLs set in 2013
  - 23 springs are scheduled to have MFLs set in 2014

Planned efforts over the next 2 years will more than double the efforts of the last decade of springs protection

Commitment to Springs Restoration

Recommendations for moving forward

- DEP & WMDs will continue to
  - Support monitoring and data analysis of spring flows and water quality
  - Establish and implement TMDLs and BMAPs
  - Establish and implement MFLs and Recovery and Prevention strategies
  - Support wastewater and stormwater improvement projects and restoration projects
  - Promote local education and awareness activities

Contact

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Florida Department of Environmental Protection
Florida Department of Management Services

Florida State-Owned Land and Records Information System

House Agriculture and Natural Resources Subcommittee

March 27, 2013





FL-SOLARIS Timeline

1990 Florida Statute 253.0325

- Required DSL to develop a computerized system for state lands records (Board of Trustees Land Document System BTLDS)

2008 S.B 542 amended Section 253.0325

- Required DSL to maintain an inventory of land owned by all agencies including land purchased under the Florida Preservation 2000 Act pursuant to s. 259.101 or the Florida Forever Act pursuant to s. 259.10520

2010 Senate Bill 1516

- Expanded the scope of the original Senate Bill to include ***FACILITIES*** that are owned, leased, rented or otherwise occupied by any agency, judicial branch, or water management district and expanded ***LAND*** inventory to include all land that is owned, disposed, leased, or otherwise occupied or managed by agency, judicial branch, or water management district.

FL-SOLARIS Timeline

Apr 2012 Facilities Inventory Tracking System (FITS) went live.

Jun 2012 FITS data input complete. 20,368 State-owned facilities successfully integrated into FL-SOLARIS.

Oct 2012 DEP / DMS submitted first annual Disposition Report utilizing FL-SOLARIS provided data.

Jan 2013 Land Inventory Tracking System (LITS) goes live thus satisfying legislative intent and completes the initial program development of FL-SOLARIS covering 114,232 parcels.

FL-SOLARIS High-Level Project Objectives

1. Land Inventory:

- A populated and reconciled current state land inventory that enables DSL to produce reports and maps on all state lands that are owned.

2. Facilities Inventory:

- A populated current facility inventory on all state facilities that are owned, rented, leased, or otherwise occupied or maintained.

3. Public Land Inventory:

- A populated current public land inventory that can be used to reconcile the land inventory.

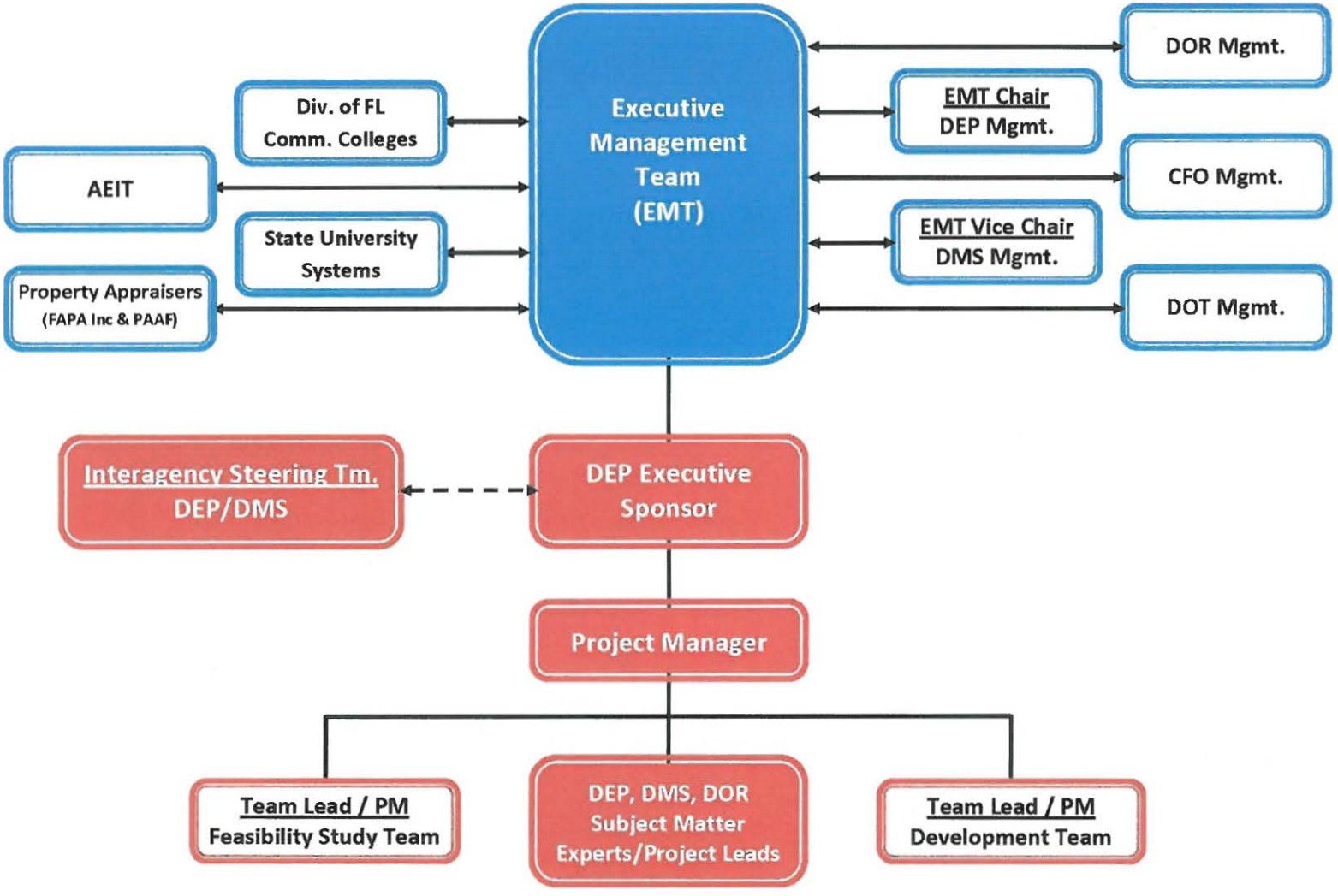
4. Data Warehouse:

- Agencies need to have a complete inventory of what the state owns, leases, or rents to improve efficiency in occupancy and use and to avoid building or buying in areas where there may be space or land available.

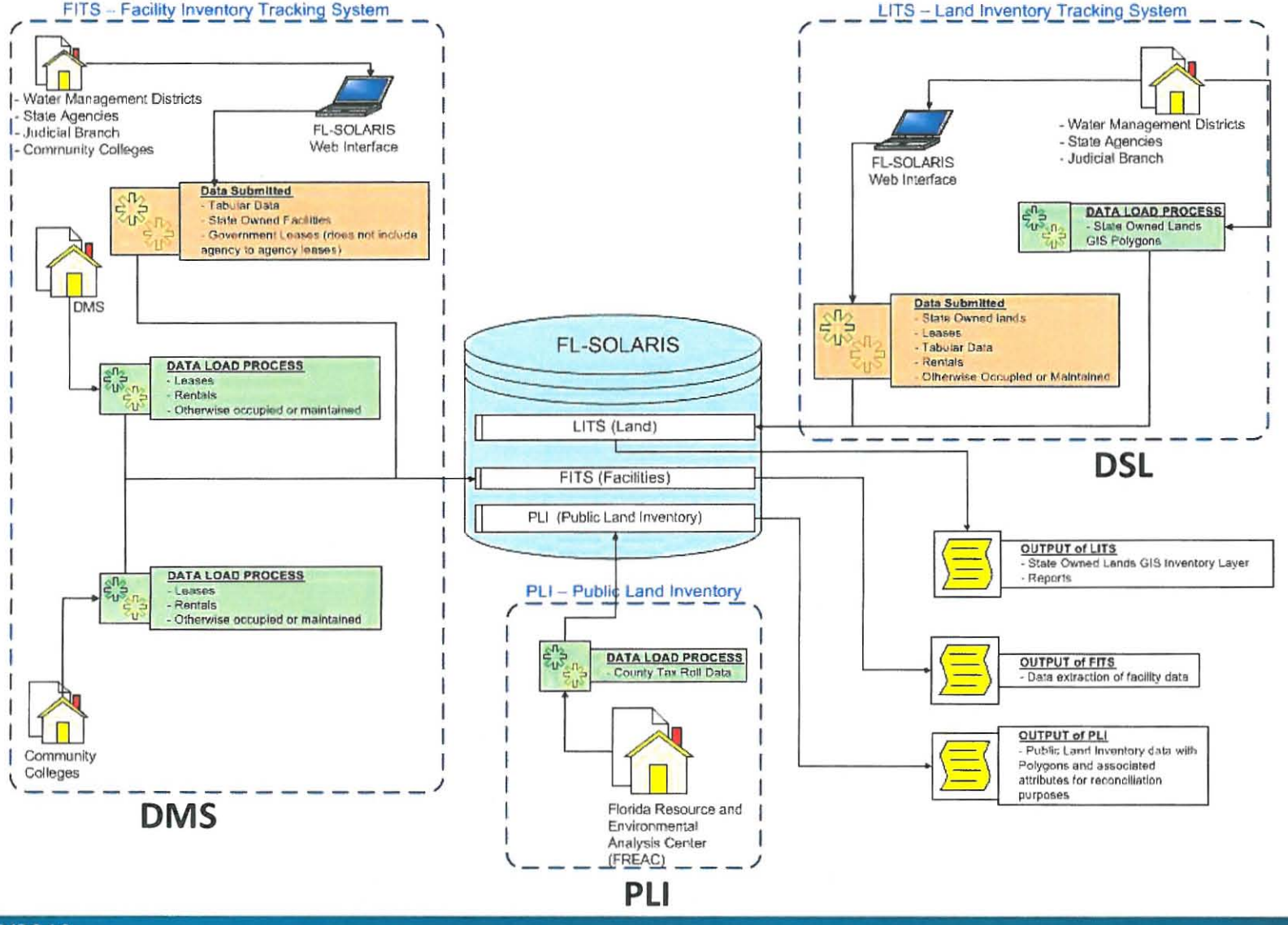
5. Access / Data Extraction:

- Each agency should be able to log into the FL-SOLARIS system and extract land / facility information only pertaining to them.

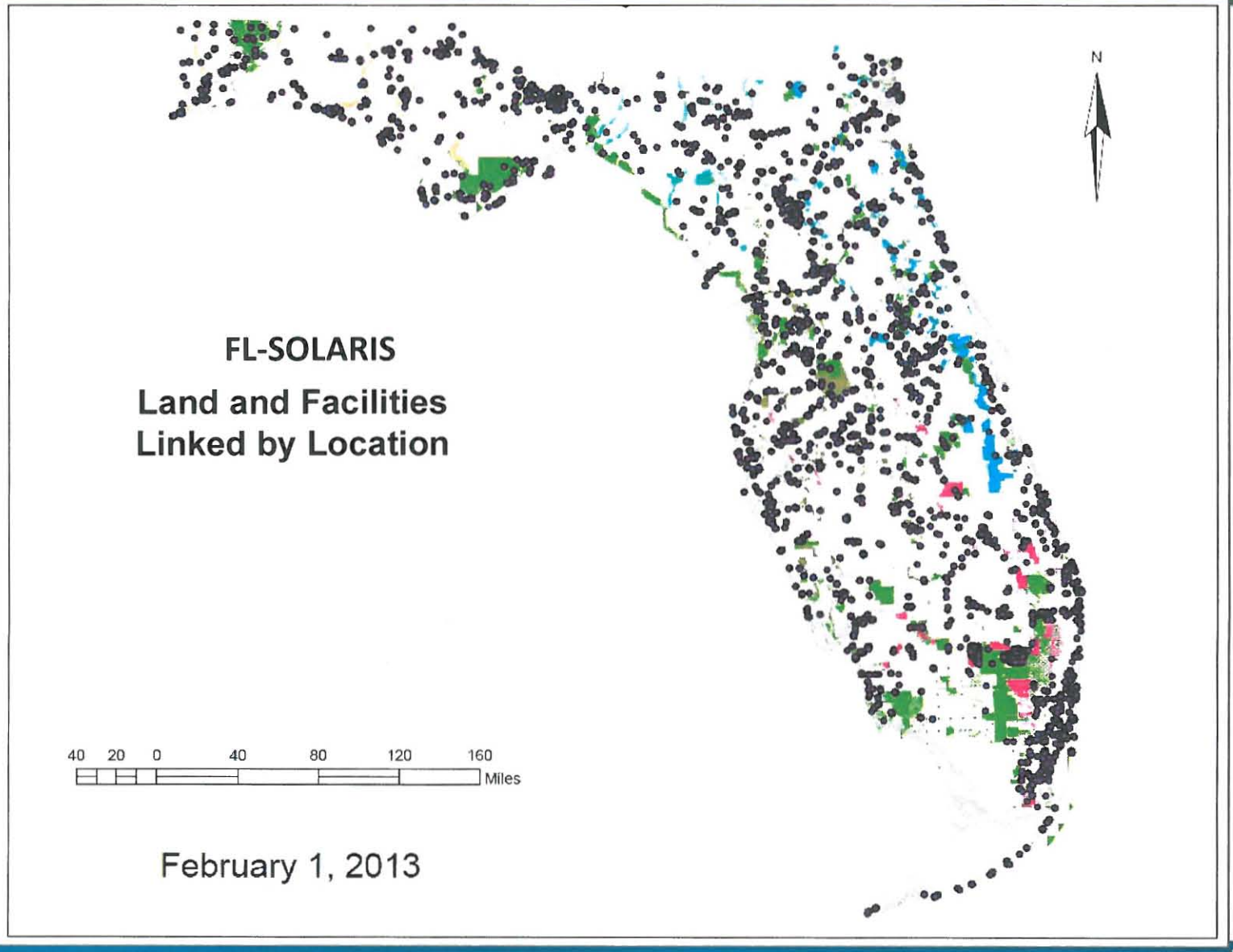
FL-SOLARIS Project High Level Structure



FL-SOLARIS High Level Process Overview



FL-SOLARIS Data



FL-SOLARIS Benefits

- For the first time, an inventory of all state-owned lands and facilities is available in one place.
- State owned land records are compared and reconciled with DOR and tax assessor records information.
- GIS mapping showing the location of all facilities and lands is available to users.
- Allows agencies to identify lands and facilities that are candidates for disposition.
- Provides users the ability to download reports based on selected criteria.

FL-SOLARIS: Next Phase

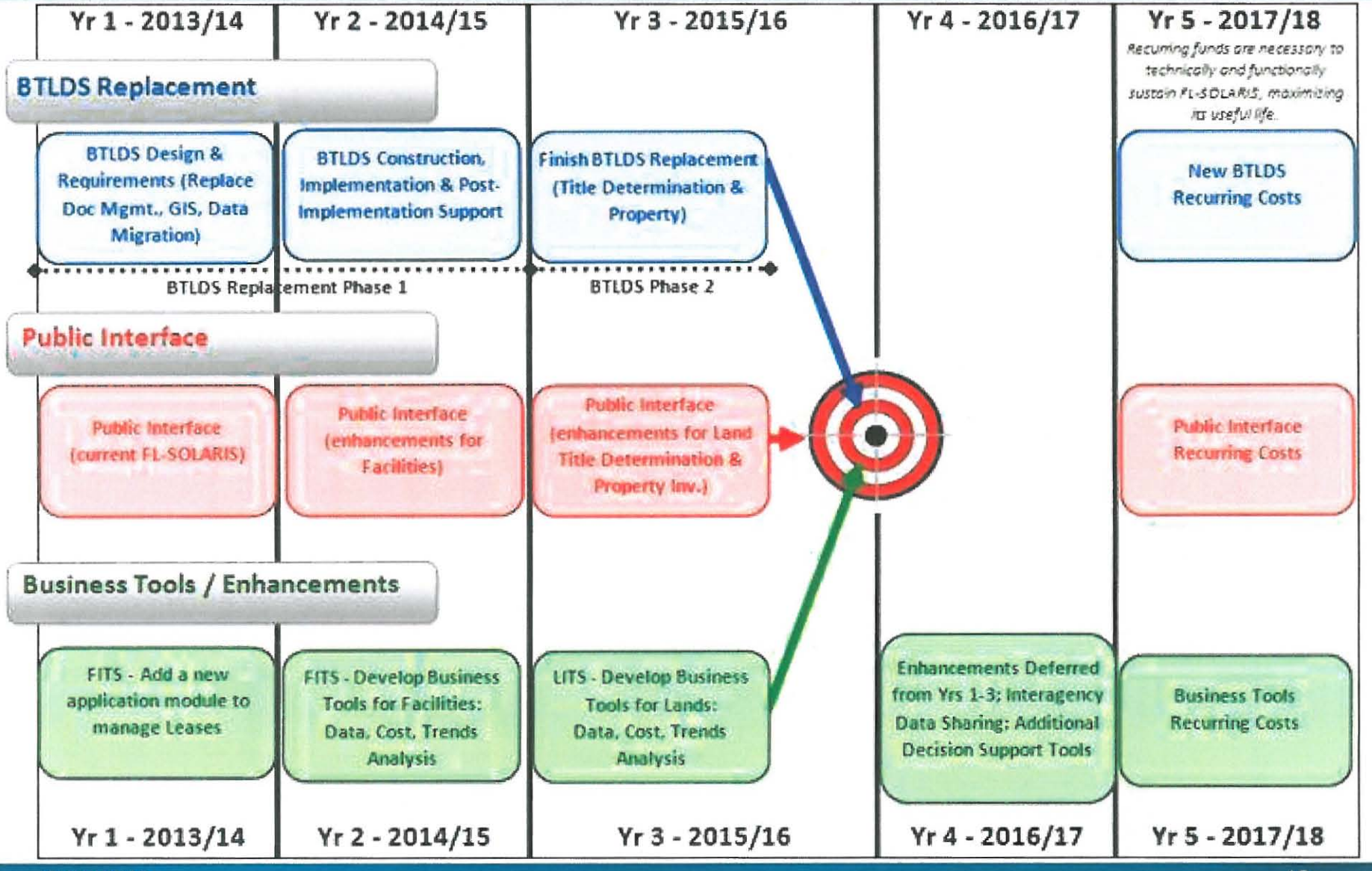
A 3-Pronged Approach to the Next Phase of FL-SOLARIS

1. **Replace Board of Trustees Land Data System (BTLDS)**
   - Incorporating BTLDS will allow us to retire several proprietary components of this system along with their long-term operating obligations.

2. **Web-Based Public Access / Graphical Interface**
   - A simplified map-based graphical "point and click" and searchable interface.

3. **Business Tool Improvements / Enhancements**
   - Facilities lease management capabilities.
   - Enhanced business management tools.

FL-SOLARIS Five Year Plan



Questions?

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