



Agriculture & Natural Resources Subcommittee

**Tuesday, January 12, 2016
1:30 PM
Reed Hall (102 HOB)**

Meeting Packet

**Steve Crisafulli
Speaker**

**Tom Goodson
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture & Natural Resources Subcommittee

Start Date and Time: Tuesday, January 12, 2016 01:30 pm
End Date and Time: Tuesday, January 12, 2016 03:30 pm
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 447 Local Government Environmental Financing by Raschein
HB 497 State Designations by Jenne
HB 525 Small Community Sewer Construction Assistance Act by Beshears
HB 851 Environmental Protection by Drake

Presentation on Water Reuse by the WateReuse Association

NOTICE FINALIZED on 01/08/2016 3:55PM by Love.John

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 447 Local Government Environmental Financing
SPONSOR(S): Raschein
TIED BILLS: IDEN./SIM. BILLS: SB 770

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Moore, R. <i>RM</i>	Harrington <i>TH</i>
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The bill revises various policies relating to local government environmental financing, including, but not limited to:

- Requiring the Department of Environmental Protection (DEP) to annually consider the recommendations of the Department of Economic Opportunity (DEO) relating to purchases of land within an area of critical state concern or lands outside an area of critical state concern that directly impact an area of critical state concern, which may include lands used to preserve and protect water supply, and to make recommendations to the Board of Trustees of the Internal Improvement Trust Fund (Board) with respect to the purchase of fee or any lesser interest in specified types of lands.
- Adding local governments and special districts within an area of critical state concern as entities that may make recommendations to the Board for additional land purchases that were not included in DEO's recommendations.
- Authorizing a land authority to acquire and dispose of real and personal property or any interest therein when the acquisition is necessary or appropriate to reduce the impacts of additional development on hurricane evacuation clearance times, and to contribute funds to DEP for the purchase of lands by DEP.
- Expanding legislative intent provisions to provide that it is the intent of the Legislature to provide state funding of water quality improvement projects, including the construction and operation of wastewater management facilities, to protect and improve the nearshore water quality of the Florida Keys.
- Providing additional principles for guiding development within the Florida Keys Area of Critical State Concern.
- Expanding the purposes for which the local government infrastructure surtax can be used to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to reduce the impacts of additional development on hurricane evacuation clearance times.
- Extending the timeframe in which Everglades restoration bonds may be issued and increasing the maturation date of Everglades restoration bonds.
- Expanding the uses for Everglades restoration bonds to include projects that protect, restore or enhance nearshore water quality and fisheries, and protect and enhance water supply to the Florida Keys.
- Providing a procedure to dispose of certain lands purchased with Everglades restoration bond proceeds.
- Amending the legislative findings and declarations of the Florida Forever Act to include coral reefs.
- Providing a 10-year appropriation of at least \$5 million annually through the Florida Forever Act for land acquisition within the Florida Keys Area of Critical State Concern.
- Providing for a 10-year appropriation of at least \$20 million annually through the issuance of Everglades restoration bonds or through appropriation to DEP to be distributed to local governments in the Florida Keys Area of Critical State Concern.

The bill appears to have a significant negative fiscal impact on the state. The bill appears to have a positive fiscal impact on local governments in the Florida Keys Area of Critical State Concern.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Areas of Critical State Concern

The Governor and Cabinet, sitting as the Administration Commission,¹ are authorized to designate certain areas within the state that contain resources of statewide significance as areas of critical state concern.² An area of critical state concern may be designated for an area:

- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources;³
- Containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts;⁴ or
- Having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment including, highways, ports, airports, energy facilities, and water management projects.⁵

The designated areas of critical state concern in the state are: the Big Cypress Area,⁶ the Green Swamp Area,⁷ the Florida Keys Area, the City of Key West Area,⁸ and the Apalachicola Bay Area.⁹

The Florida Keys Area of Critical State Concern

Present Situation

In 1975, the Florida Keys were designated as an area of critical state concern. The designation includes the municipalities of Key West,¹⁰ Islamorada, Marathon, Layton and Key Colony Beach, and unincorporated Monroe County.¹¹ The designation is intended to:

- Establish a land use management system that protects the natural environment of the Florida Keys; conserves and promotes the community character of the Florida Keys; promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services; and promotes and supports a diverse and sound economic base;¹²
- Provide affordable housing in close proximity to places of employment in the Florida Keys;¹³

¹ See ss. 380.031(1) and 14.202, F.S.

² Section 380.05, F.S.

³ Section 380.05(2)(a), F.S.

⁴ Section 380.05(2)(b), F.S.

⁵ Section 380.05(2)(c), F.S.

⁶ Section 380.055, F.S.

⁷ Section 380.0551, F.S.

⁸ Section 380.0552, F.S.

⁹ Section 380.0555, F.S.

¹⁰ The City of Key West challenged the designation as a critical area and after litigation in 1984 was given its own area of critical state concern designation. See *2013 Florida Keys Area of Critical State Concern Annual Report* available at <http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmty-plan-acsc/2013annualreport.pdf?sfvrsn=2>.

¹¹ Section 380.0552, F.S.; *2013 Florida Keys Area of Critical State Concern Annual Report* available at <http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmty-plan-acsc/2013annualreport.pdf?sfvrsn=2>.

¹² Section 380.0552(2)(a)-(c) and (e), F.S.

¹³ Section 380.0552(2)(d), F.S.

- Protect the constitutional rights of property owners to own, use, and dispose of their real property;¹⁴
- Promote coordination and efficiency among governmental agencies that have permitting jurisdiction over land use activities in the Florida Keys;¹⁵
- Promote an appropriate land acquisition and protection strategy for environmentally sensitive lands within the Florida Keys;¹⁶
- Protect and improve the nearshore water quality of the Florida Keys through the construction and operation of wastewater management facilities, as applicable;¹⁷ and
- Ensure that the population of the Florida Keys can be safely evacuated.¹⁸

State, regional and local governments in the Florida Keys Area of Critical State Concern are required to coordinate development plans and conduct programs and activities consistent with principles for guiding development that:

- Strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation;¹⁹
- Protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat;²⁰
- Protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (e.g., hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat;²¹
- Ensure the maximum well-being of the Florida Keys and its citizens through sound economic development;²²
- Limit the adverse impacts of development on the quality of water throughout the Florida Keys;²³
- Enhance natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys;²⁴
- Protect the historical heritage of the Florida Keys;²⁵
- Protect the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
 - The Florida Keys Aqueduct and water supply facilities;
 - Sewage collection, treatment, and disposal facilities;
 - Solid waste treatment, collection, and disposal facilities;
 - Key West Naval Air Station and other military facilities;
 - Transportation facilities;
 - Federal parks, wildlife refuges, and marine sanctuaries;
 - State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
 - City electric service and the Florida Keys Electric Co-op; and
 - Other utilities, as appropriate.²⁶
- Protect and improve water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and

¹⁴ Section 380.0552(2)(f), F.S.

¹⁵ Section 380.0552(2)(g), F.S.

¹⁶ Section 380.0552(2)(h), F.S.

¹⁷ Section 380.0552(2)(i), F.S.

¹⁸ Section 380.0552(2)(j), F.S.

¹⁹ Section 380.0552(7)(a), F.S.

²⁰ Section 380.0552(7)(b), F.S.

²¹ Section 380.0552(7)(c), F.S.

²² Section 380.0552(7)(d), F.S.

²³ Section 380.0552(7)(e), F.S.

²⁴ Section 380.0552(7)(f), F.S.

²⁵ Section 380.0552(7)(g), F.S.

²⁶ Section 380.0552(7)(h), F.S.

disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems;²⁷

- Ensure the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems;²⁸
- Limit the adverse impacts of public investments on the environmental resources of the Florida Keys;²⁹
- Make available adequate affordable housing for all sectors of the population of the Florida Keys;³⁰
- Provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan;³¹ and
- Protect the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.³²

Section 380.0552(9)(a), F.S., provides that a land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency³³ (DEO). Amendments to local comprehensive plans must also be reviewed for compliance with the following:

- Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed criteria for wastewater treatment and disposal facilities or onsite sewage treatment and disposal systems; and
- Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time must be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by DEO.³⁴

In 2011, the Administration Commission, directed DEO and the Division of Emergency Management to enter into a Memorandum of Understanding (MOU) with Monroe County, Village of Islamorada, and the cities of Marathon, Key West, Key Colony Beach, and Layton regarding hurricane evacuation modeling.³⁵ The MOU is the basis for an analysis on the maximum build-out capacity of the Florida Keys while maintaining the ability of the permanent population to evacuate within 24 hours.³⁶ Based on the MOU that stipulates the input variables and assumptions, DEO has determined that an additional 3,550 residential building allocations could be constructed while still maintaining the 24 hour hurricane evacuation clearance time.³⁷ Thus, once 3,550 additional residential units are constructed, the evacuation time for the Florida Keys will be at the 24 hour mark. Unless the highway is widened or

²⁷ Section 380.0552(7)(i), F.S.

²⁸ Section 380.0552(7)(j), F.S.

²⁹ Section 380.0552(7)(k), F.S.

³⁰ Section 380.0552(7)(l), F.S.

³¹ Section 380.0552(7)(m), F.S.

³² Section 380.0552(7)(n), F.S.

³³ Section 380.031(18), F.S., defines the "state land planning agency" as the Department of Economic Opportunity.

³⁴ Section 380.0552(9)(a)1. and 2., F.S.

³⁵ DEO Florida Keys Hurricane Evacuation available at <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/city-of-key-west-and-the-florida-keys/florida-keys-hurricane-evacuation>.

³⁶ *Id.*

³⁷ 2013 Florida Keys Area of Critical State Concern Annual Report available at <http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmy-plan-aesc/2013annualreport.pdf?sfvrsn=2>.

s. 380.0552(9)(a)2., F.S., is amended to allow additional hurricane evacuation times, no new residential permits could be issued for the area.³⁸

Effect of Proposed Changes

The bill amends s. 380.0552(2)(i), F.S., relating to the Florida Keys Area of Critical State Concern, providing that it is the intent of the Legislature to protect and improve the nearshore water quality of the Florida Keys through state funding of water quality improvement projects, including the construction and operation of wastewater management facilities.

The bill also amends s. 380.0552(7)(i), F.S., to provide additional principles for guiding development within the Florida Keys Area of Critical State Concern. Specifically, that development plans be consistent with the principle of protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of other water quality and water supply projects, including direct and indirect potable reuse.

Purchase of Lands in Areas of Critical State Concern

Present Situation

Within 45 days of being designated as an area of critical state concern, the Department of Environmental Protection (DEP) must consider the recommendations of DEO relating to the purchase of lands within the proposed area and must make recommendations to the Board of Trustees of the Internal Improvement Trust Fund³⁹ (Board) with respect to the purchase of fee or any lesser interest in any lands situated in an area of critical state concern as environmentally endangered lands or outdoor recreation lands.⁴⁰ DEP, and a land authority within an area of critical state concern,⁴¹ may make recommendations with respect to additional purchases which were not included in DEO's recommendations.

In carrying out the purposes of the areas of critical state concern program, the land authority is also authorized to:

- Acquire and dispose of real and personal property or any interest therein when the acquisition is necessary or appropriate to protect the natural environment, provide public access or public recreational facilities, preserve wildlife habitat areas, provide affordable housing to families whose income does not exceed 160 percent of the median family income for the area, or provide access to management of acquired lands;
- Acquire interests in land by means of land exchanges;
- Contribute tourist impact tax revenues received to its most populous municipality or the housing authority of such municipality, at the request of the commission or council of such municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality; and
- Enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback arrangements.⁴²

³⁸ *Id.*

³⁹ Section 259.03(2), F.S.

⁴⁰ Section 259.045, F.S.

⁴¹ Section 380.0663, F.S., provides that each county in which one or more areas of critical state concern are located is authorized to create, by ordinance, a public body corporate and politic, to be known as a land authority.

⁴² Section 380.0666(3), F.S.

Effect of Proposed Changes

The bill amends s. 259.045, F.S., to require DEP to annually consider the recommendations of DEO relating to purchases of land within an area of critical state concern or lands outside an area of critical state concern that directly impact an area of critical state concern, which may include lands used to preserve and protect water supply, and to make recommendations to the Board with respect to the purchase of fee or any lesser interest in lands that are:

- Environmentally endangered lands;
- Outdoor recreation lands;
- Lands that conserve sensitive habitat;
- Lands that protect, restore, or enhance nearshore water quality and fisheries;
- Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or
- Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern.

The bill also adds local governments and special districts within an area of critical state concern as entities that may make recommendations to the Board for additional purchases that were not included in DEO's recommendations.

The bill amends s. 380.0666(3), F.S., to authorize a land authority to acquire and dispose of real and personal property or any interest therein when the acquisition is necessary or appropriate to reduce the impacts of additional development on hurricane evacuation clearance times. However, it is unclear what interests in real or personal property would be included for purposes of reducing the impacts of additional development on hurricane evacuation clearance times. The bill also allows a land authority to contribute funds to DEP for the purchase of lands by DEP.

Discretionary Sales Surtaxes

Present Situation

There are eight discretionary sales surtaxes that serve as potential revenue sources for county and municipal governments and school districts.⁴³ They are:

- The charter county and regional transportation system surtax;⁴⁴
- The local government infrastructure surtax;⁴⁵
- The small county surtax;⁴⁶
- The indigent care and trauma center surtax;⁴⁷
- The county public hospital surtax;⁴⁸
- The school capital outlay surtax;⁴⁹
- The voter-approved indigent care surtax;⁵⁰ and
- The emergency fire rescue services and facilities surtax.⁵¹

⁴³ Section 212.055, F.S.

⁴⁴ Section 212.055(1), F.S.

⁴⁵ Section 212.055(2), F.S.

⁴⁶ Section 212.055(3), F.S.

⁴⁷ Section 212.055(4), F.S.

⁴⁸ Section 212.055(5), F.S.

⁴⁹ Section 212.055(6), F.S.

⁵⁰ Section 212.055(7), F.S.

⁵¹ Section 212.055(8), F.S.

The Local Government Infrastructure Surtax

A county may levy a discretionary sales surtax of 0.5 percent or 1 percent pursuant to ordinance enacted by a majority of the members of the county and approved by a majority of the electors of the county voting in a referendum on the surtax.⁵² If municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax must be placed on the ballot and will take effect if approved by a majority of the electors of the county voting on the surtax.⁵³

Surtax proceeds and any accrued interest must be expended by the school district within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or
- Finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of DEP.⁵⁴

Proceeds and any interest may not be used for operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure.⁵⁵

For purposes of the local government infrastructure surtax, the term "infrastructure" means:

- Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any related land acquisition, land improvement, design, and engineering costs;⁵⁶
- A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years;⁵⁷
- Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities;⁵⁸
- Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government;⁵⁹ or
- Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing.⁶⁰

⁵² Section 212.055(2)(a)1., F.S.

⁵³ *Id.*

⁵⁴ Section 212.055(2)(d), F.S.

⁵⁵ *Id.*

⁵⁶ Section 212.055(2)(d)1.a., F.S.

⁵⁷ Section 212.055(2)(d)1.b., F.S.

⁵⁸ Section 212.055(2)(d)1.c., F.S.

⁵⁹ Section 212.055(2)(d)1.d., F.S.

⁶⁰ Section 212.055(2)(d)1.e., F.S.

Effect of Proposed Changes

The bill amends s. 212.055(2)(d), F.S., to expand the purposes for which proceeds and accrued interest from the local government infrastructure surtax can be used to include acquiring *any interest* in land for public recreation, conservation, or protection of natural resources or to reduce the impacts of additional development on hurricane evacuation clearance times. It is unclear what interests in land would “reduce the impacts of additional development on hurricane evacuation clearance times.”

The bill amends the definition of “infrastructure” in s. 212.055(2)(d)1.a., F.S., to include any fixed capital expenditure or capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, including all other professional and related costs required to bring public facilities into service. By including “all other professional and related costs” the bill expands the array of costs which can be paid from this surtax. Such an expansion may include costs associated with land acquisition or attorney fees among other related costs.

The bill also defines the term “public facility” to mean a facility as defined in three other sections of law, regardless of whether the facility is owned by the local taxing authority or another governmental entity. The three sections of law are:

- Section 163.3164(38), F.S., which defines the term “public facility” as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities;
- Section 163.3221(13), F.S., which defines the term “public facility” as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities; or
- Section 189.012(5), F.S., which defines the term “public facility” as major capital improvements, including transportation facilities, sanitary sewer facilities, solid waste facilities, water management and control facilities, potable water facilities, alternative water systems, educational facilities, parks and recreational facilities, health systems and facilities, and, except for spoil disposal by those ports listed in s. 311.09(1), F.S., spoil disposal sites for maintenance dredging in waters of the state.

Everglades Restoration Bonds

Present Situation

Everglades restoration bonds are issued to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan,⁶¹ the Lake Okeechobee Watershed Protection Plan,⁶² the Caloosahatchee River Watershed Protection Plan,⁶³ the St. Lucie River Watershed Protection Plan,⁶⁴ and the Florida Keys Area of Critical State Concern⁶⁵ protection program in order to restore and conserve natural systems through the implementation of water management projects, including wastewater management projects identified in the Keys Wastewater Plan^{66, 67}.

Everglades restoration bonds, except refunding bonds, may only be issued in fiscal years 2002-2003 through 2019-2020, and may not be issued in an amount exceeding \$100 million per fiscal year, unless:

⁶¹ Section 373.470, F.S.

⁶² Section 373.4595, F.S.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Sections 380.05 and 380.0552, F.S.

⁶⁶ *Keys Wastewater Plan*, available at <http://www.monroecounty-fl.gov/DocumentView.aspx?DID=478>.

⁶⁷ Section 215.619(1), F.S.

- DEP requests additional amounts in order to achieve cost savings or accelerate the purchase of land;⁶⁸ or
- The Legislature authorizes an additional amount of bonds not to exceed \$200 million, limited to \$50 million per fiscal year, to fund the Florida Keys Area of Critical State Concern protection program. Proceeds from the bonds must be managed by DEP for the purpose of entering into financial assistance agreements with local governments located in the Florida Keys Area of Critical State Concern to finance or refinance the cost of constructing sewage collection, treatment, and disposal facilities.⁶⁹

The Legislature authorized the issuance of \$50 million in Everglades restoration bonds in fiscal year 2012-2013 and fiscal year 2014-2015 to fund wastewater treatment efforts in the Florida Keys.⁷⁰

The duration of Everglades restoration bonds may not exceed 20 annual maturities and must mature by December 31, 2040.⁷¹

Effect of Proposed Changes

The bill amends s. 215.619(1), F.S., to provide that the City of Key West Area of Critical State Concern may receive Everglades restoration bonds and adds certain other projects for which Everglades restoration bonds may be issued to include projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects, projects to protect and enhance water supply to the Florida Keys, including alternative water systems such as reverse osmosis and reclaimed water systems. Section 11(e), Art. VII of the State Constitution provides that bonds may be issued by the state to finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation. As such, the expansion of projects for which bonds may be issued to include water supply projects may raise constitutional concerns if such projects do not fall within the constitutional limitations.

The bill amends s. 215.619(1)(a), F.S., regarding the timeframe in which Everglades restoration bonds may be issued, extending the timeframe from fiscal year 2019-2020 to fiscal year 2026-2027.

The bill amends s. 215.619(1)(a)2., F.S., regarding the conditions under which Everglades restoration bonds may be issued in an amount exceeding \$100 million per fiscal year. The bill provides that beginning in fiscal year 2016-2017 bonds may not be issued in excess of \$100 million per fiscal year unless the Legislature authorizes an additional amount not to exceed \$200 million, limited to \$20 million per fiscal year to fund the Florida Keys Area of Critical State Concern. The bill provides that if \$20 million in bonds are not authorized pursuant to this section, \$20 million must be appropriated to DEP to be distributed to local governments in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern for specified projects.

The bill also provides that proceeds from the bonds may be used to finance or refinance the cost of building projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects and projects to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems.

⁶⁸ Section 215.619(1)(a)1., F.S.

⁶⁹ Section 215.619(1)(a)2., F.S.

⁷⁰ DEP's analysis of HB 447, on file with the Agriculture & Natural Resources Subcommittee; *2013 Florida Keys Area of Critical State Concern Annual Report* available at <http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cmty-plan-acsc/2013annualreport.pdf?sfvrsn=2>.

⁷¹ Section 215.619(1)(b), F.S.

The bill amends s. 215.619(1)(b), F.S., regarding the maturation date of Everglades restoration bonds, increasing the maturation date from December 31, 2040, to December 31, 2056.

The bill also creates s. 215.619(7), F.S., to address certain surplus lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside of the Florida Keys Area of Critical State Concern.⁷² The bill provides that if the South Florida Water Management District (SFWMD) and DEP determine that lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside the Florida Keys Area of Critical State Concern were required to be purchased to preserve and protect the potable water supply to the Florida Keys and are no longer needed for the purpose for which they were purchased, the entity owning the lands may dispose of them. However, before the lands can be disposed of, each local government within whose boundaries a portion of the land lies must agree to the disposal of lands within its boundaries and must be offered the first right to purchase.⁷³ The bill provides that if the lands are surplus, they must be surplus at no less than the appraised value with the proceeds from the sale being deposited into the Save Our Everglades Trust Fund and used to implement the respective plans, or the SFWMD must use a different source of funds to pay for or reimburse the Save Our Everglades Trust Fund for the portion of lands not needed to implement the respective plans.

The Florida Forever Act

Present Situation

The Florida Forever Act is a land acquisition program to conserve the state's natural resources and cultural heritage.⁷⁴ The continued alteration and development of Florida's natural and rural areas to accommodate the state's growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, working landscapes, and coastal open space.⁷⁵ Many of Florida's unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to Florida's burgeoning population growth and other economic activities.⁷⁶ To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.⁷⁷

The proceeds of cash payments or bonds used under the Florida Forever Act are deposited into the Florida Forever Trust Fund and are distributed by DEP as follows:

- Thirty percent to DEP for the acquisition of lands and capital project expenditures necessary to implement water management districts' priority lists;⁷⁸
- Thirty-five percent to DEP for the acquisition of lands and capital project expenditures. Priority should be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge;⁷⁹
- Twenty-one percent to DEP for use by the Florida Communities Trust, and grants to local governments or nonprofit environmental organizations that are tax-exempt under s. 501(c)(3) of the United States Internal Revenue Code for the acquisition of community-based projects, urban open spaces, parks, and greenways to implement local government comprehensive plans;⁸⁰

⁷² Section 215.619(6), F.S., provides a similar process for surplus lands within the Northern Everglades and Estuaries Protection Program.

⁷³ Generally, procedures for the surplus of lands do not require local governments to agree prior to surplus. See ss. 253.111, 215.619, and 253.034, F.S.

⁷⁴ Section 259.105, F.S.

⁷⁵ Section 259.105(2)(a)2., F.S.

⁷⁶ Section 259.105(2)(a)7., F.S.

⁷⁷ Section 259.105(2)(a)7., F.S.

⁷⁸ Section 259.105(3)(a), F.S.

⁷⁹ Section 259.105(3)(b), F.S.

⁸⁰ Section 259.105(3)(c), F.S.

- Two percent to DEP for grants pursuant to the Florida Recreation Development Assistance Program;⁸¹
- One and five-tenths percent to DEP for the purchase of inholdings and additions to state parks and for capital project expenditures;⁸²
- One and five-tenths percent to the Florida Forest Service of the Department of Agriculture and Consumer Services (DACS) to fund the acquisition of state forest inholdings and additions, the implementation of reforestation plans or sustainable forestry management practices, and for capital project expenditures;⁸³
- One and five-tenths percent to the Fish and Wildlife Conservation Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife and for capital project expenditures;⁸⁴
- One and five-tenths percent to DEP for the Florida Greenways and Trails Program, to acquire greenways and trails or greenways and trail systems, including, but not limited to, abandoned railroad rights-of-way and the Florida National Scenic Trail and for capital project expenditures;⁸⁵
- Three and five-tenths percent to DACS for the acquisition of agricultural lands, through perpetual conservation easements and other perpetual less-than-fee techniques, which will achieve the objectives of Florida Forever;⁸⁶ and
- Two and five-tenths percent to DEP for the acquisition of land and capital project expenditures necessary to implement the Stan Mayfield Working Waterfronts Program within the Florida Communities Trust.⁸⁷

Effect of Proposed Changes

The bill amends the legislative findings and declarations of the Florida Forever Act in s. 259.105(2)(a)2. and 7., F.S., to include recognition that the continued alteration and development of Florida's natural and rural areas to accommodate the state's growing population have contributed to the degradation of coral reefs⁸⁸ and that many of Florida's unique ecosystems, such as coral reefs, are facing ecological collapse due to Florida's burgeoning population growth and other economic activities.

The bill also amends s. 259.105(3)(b), F.S., to provide that, beginning in fiscal year 2016-2017 and continuing through fiscal year 2026-2027, at least \$5 million of the proceeds distributed to DEP for the acquisition of lands and capital project expenditures must be spent on land acquisition within the Florida Keys Area of Critical State Concern.

B. SECTION DIRECTORY:

Section 1. Provides the act may be cited as the "Florida Keys Stewardship Act."

Section 2. Amends s. 212.055(2), F.S., regarding local government infrastructure surtaxes.

Section 3. Amends s. 215.619, F.S., regarding bonds for Everglades restoration.

⁸¹ Section 259.105(3)(d), F.S.

⁸² Section 259.105(3)(e), F.S.

⁸³ Section 259.105(3)(f), F.S.

⁸⁴ Section 259.105(3)(g), F.S.

⁸⁵ Section 259.105(3)(h), F.S.

⁸⁶ Section 259.105(3)(i), F.S.

⁸⁷ Section 259.105(3)(j), F.S.

⁸⁸ Section 403.93345(3)(b), F.S., defines "coral reefs" as:

1. Limestone structures composed wholly or partially of living corals, their skeletal remains, or both, and hosting other coral, associated benthic invertebrates, and plants; or
2. Hard-bottom communities, also known as live bottom habitat or colonized pavement, characterized by the presence of coral and associated reef organisms or worm reefs created by the *Phragmatopoma* species.

Section 4. Amends s. 259.045, F.S., regarding purchases of lands in areas of critical state concern.

Section 5. Amends s. 259.105, F.S., regarding the Florida Forever Act.

Section 6. Amends s. 380.0552, F.S., regarding the Florida Keys Area of Critical State Concern.

Section 7. Amends s. 380.0666, F.S., regarding the powers of the land authority.

Section 8. Provides an appropriation.

Section 9. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides for a 10-year annual appropriation, beginning in fiscal year 2016-2017 through fiscal year 2026-2027, of at least \$20 million annually through the issuance of Everglades restoration bonds or through appropriation to DEP to be distributed to local governments in the Florida Keys Area of Critical State Concern. The bill provides that if the bonds are not authorized then \$20 million must be appropriated to DEP to be distributed to local governments in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern for specified projects in the Florida Keys. If this provision is strictly construed, this provision may require an annual appropriation of \$20 million to DEP if \$20 million in Everglades restoration bonds is not issued, regardless of whether some bonds have been issued.

The bill also provides for a 10-year annual appropriation, beginning in fiscal year 2016-2017 through fiscal year 2026-2027, of \$5 million annually. The bill provides that the annual appropriation must be distributed to DEP under the Florida Forever Act and be spent on land acquisition within the Florida Keys Area of Critical State Concern.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill provides for a 10-year annual appropriation, beginning in fiscal year 2016-2017 through fiscal year 2026-2027, of at least \$20 million annually through the issuance of Everglades restoration bonds or through appropriation to DEP to be distributed to local governments in the Florida Keys Area of Critical State Concern. The bill also provides for a 10-year annual appropriation, beginning in fiscal year 2016-2017 through fiscal year 2026-2027, of \$5 million annually. The bill provides that the annual appropriation must be distributed to DEP under the Florida Forever Act and be spent on land acquisition within the Florida Keys Area of Critical State Concern.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Section 11(e), Art. VII of the State Constitution provides that bonds may be issued by the state to finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation. As such, the expansion of projects for which bonds may be issued to include water supply projects may raise constitutional concerns if such projects do not fall within the constitutional limitations.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to local government environmental
 3 financing; providing a short title; amending s.
 4 212.055, F.S.; expanding the use of local government
 5 infrastructure surtaxes to include acquiring any
 6 interest in land to reduce impacts of new development
 7 on hurricane evacuation clearance times or for public
 8 recreation, conservation, or protection of natural
 9 resources; revising definitions for purposes of using
 10 surtax proceeds; amending s. 215.619, F.S.; expanding
 11 the use of Everglades restoration bonds to include the
 12 City of Key West Area of Critical State Concern;
 13 expanding the types of water management projects
 14 eligible for funding; revising the dates for issuance
 15 and maturity of Everglades restoration bonds; reducing
 16 the annual appropriation amount dedicated to fund the
 17 Florida Keys Area of Critical State Concern protection
 18 program; authorizing bond proceeds to be spent on the
 19 City of Key West Area of Critical State Concern;
 20 expanding projects that may be funded by bond
 21 proceeds; specifying procedures to be followed for
 22 certain lands that are no longer needed for certain
 23 restoration purposes; amending s. 259.045, F.S.;
 24 requiring the Department of Environmental Protection
 25 to annually consider certain recommendations to buy
 26 specific lands within and outside an area of critical

27 state concern; authorizing certain local governments
 28 and special districts to recommend additional lands
 29 for purchase; amending s. 259.105, F.S.; revising
 30 Florida Forever provisions to recognize the
 31 diminishment of coral reefs; requiring specific
 32 Florida Forever appropriations to be used for the
 33 purchase of lands in the Florida Keys Area of Critical
 34 State Concern; amending s. 380.0552, F.S.; revising
 35 legislative intent regarding the Florida Keys Area of
 36 Critical State Concern; specifying that plan
 37 amendments in the Florida Keys must also be consistent
 38 with protecting and improving specified water quality
 39 and water supply projects; amending s. 380.0666, F.S.;
 40 expanding powers of a land authority to include
 41 acquiring lands to reduce impacts of new development
 42 on hurricane evacuation clearance times and contribute
 43 funds for certain land purchases by the department;
 44 providing a contingent appropriation; providing an
 45 effective date.

46
 47 Be It Enacted by the Legislature of the State of Florida:
 48

49 Section 1. This act may be cited as the "Florida Keys
 50 Stewardship Act."

51 Section 2. Paragraph (d) of subsection (2) of section
 52 212.055, Florida Statutes, is amended to read:

53 212.055 Discretionary sales surtaxes; legislative intent;
54 authorization and use of proceeds.—It is the legislative intent
55 that any authorization for imposition of a discretionary sales
56 surtax shall be published in the Florida Statutes as a
57 subsection of this section, irrespective of the duration of the
58 levy. Each enactment shall specify the types of counties
59 authorized to levy; the rate or rates which may be imposed; the
60 maximum length of time the surtax may be imposed, if any; the
61 procedure which must be followed to secure voter approval, if
62 required; the purpose for which the proceeds may be expended;
63 and such other requirements as the Legislature may provide.
64 Taxable transactions and administrative procedures shall be as
65 provided in s. 212.054.

66 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

67 (d) The proceeds of the surtax authorized by this
68 subsection and any accrued interest shall be expended by the
69 school district, within the county and municipalities within the
70 county, or, in the case of a negotiated joint county agreement,
71 within another county, to finance, plan, and construct
72 infrastructure; to acquire any interest in land for public
73 recreation, conservation, or protection of natural resources or
74 to reduce the impacts of additional development on hurricane
75 evacuation clearance times; to provide loans, grants, or rebates
76 to residential or commercial property owners who make energy
77 efficiency improvements to their residential or commercial
78 property, if a local government ordinance authorizing such use

79 is approved by referendum; or to finance the closure of county-
 80 owned or municipally owned solid waste landfills that have been
 81 closed or are required to be closed by order of the Department
 82 of Environmental Protection. Any use of the proceeds or interest
 83 for purposes of landfill closure before July 1, 1993, is
 84 ratified. The proceeds and any interest may not be used for the
 85 operational expenses of infrastructure, except that a county
 86 that has a population of fewer than 75,000 and that is required
 87 to close a landfill may use the proceeds or interest for long-
 88 term maintenance costs associated with landfill closure.
 89 Counties, as defined in s. 125.011, and charter counties may, in
 90 addition, use the proceeds or interest to retire or service
 91 indebtedness incurred for bonds issued before July 1, 1987, for
 92 infrastructure purposes, and for bonds subsequently issued to
 93 refund such bonds. Any use of the proceeds or interest for
 94 purposes of retiring or servicing indebtedness incurred for
 95 refunding bonds before July 1, 1999, is ratified.

96 1. For the purposes of this paragraph, the term
 97 "infrastructure" means:

98 a. Any fixed capital expenditure or fixed capital outlay
 99 associated with the construction, reconstruction, or improvement
 100 of public facilities that have a life expectancy of 5 or more
 101 years, ~~and~~ any related land acquisition, land improvement,
 102 design, and engineering costs, and all other professional and
 103 related costs required to bring the public facilities into
 104 service. For purposes of this sub-subparagraph, the term "public

105 facility" means a facility as defined in s. 163.3164(38), s.
 106 163.3221(13), or s. 189.012(5), regardless of whether the
 107 facility is owned by the local taxing authority or another
 108 governmental entity.

109 b. A fire department vehicle, an emergency medical service
 110 vehicle, a sheriff's office vehicle, a police department
 111 vehicle, or any other vehicle, and the equipment necessary to
 112 outfit the vehicle for its official use or equipment that has a
 113 life expectancy of at least 5 years.

114 c. Any expenditure for the construction, lease, or
 115 maintenance of, or provision of utilities or security for,
 116 facilities, as defined in s. 29.008.

117 d. Any fixed capital expenditure or fixed capital outlay
 118 associated with the improvement of private facilities that have
 119 a life expectancy of 5 or more years and that the owner agrees
 120 to make available for use on a temporary basis as needed by a
 121 local government as a public emergency shelter or a staging area
 122 for emergency response equipment during an emergency officially
 123 declared by the state or by the local government under s.
 124 252.38. Such improvements are limited to those necessary to
 125 comply with current standards for public emergency evacuation
 126 shelters. The owner must enter into a written contract with the
 127 local government providing the improvement funding to make the
 128 private facility available to the public for purposes of
 129 emergency shelter at no cost to the local government for a
 130 minimum of 10 years after completion of the improvement, with

131 the provision that the obligation will transfer to any
 132 subsequent owner until the end of the minimum period.

133 e. Any land acquisition expenditure for a residential
 134 housing project in which at least 30 percent of the units are
 135 affordable to individuals or families whose total annual
 136 household income does not exceed 120 percent of the area median
 137 income adjusted for household size, if the land is owned by a
 138 local government or by a special district that enters into a
 139 written agreement with the local government to provide such
 140 housing. The local government or special district may enter into
 141 a ground lease with a public or private person or entity for
 142 nominal or other consideration for the construction of the
 143 residential housing project on land acquired pursuant to this
 144 sub-subparagraph.

145 2. For the purposes of this paragraph, the term "energy
 146 efficiency improvement" means any energy conservation and
 147 efficiency improvement that reduces consumption through
 148 conservation or a more efficient use of electricity, natural
 149 gas, propane, or other forms of energy on the property,
 150 including, but not limited to, air sealing; installation of
 151 insulation; installation of energy-efficient heating, cooling,
 152 or ventilation systems; installation of solar panels; building
 153 modifications to increase the use of daylight or shade;
 154 replacement of windows; installation of energy controls or
 155 energy recovery systems; installation of electric vehicle
 156 charging equipment; installation of systems for natural gas fuel

157 as defined in s. 206.9951; and installation of efficient
158 lighting equipment.

159 3. Notwithstanding any other provision of this subsection,
160 a local government infrastructure surtax imposed or extended
161 after July 1, 1998, may allocate up to 15 percent of the surtax
162 proceeds for deposit into a trust fund within the county's
163 accounts created for the purpose of funding economic development
164 projects having a general public purpose of improving local
165 economies, including the funding of operational costs and
166 incentives related to economic development. The ballot statement
167 must indicate the intention to make an allocation under the
168 authority of this subparagraph.

169 Section 3. Subsection (1) of section 215.619, Florida
170 Statutes, is amended, subsections (7) and (8) are renumbered as
171 subsections (8) and (9), respectively, and a new subsection (7)
172 is added to that section, to read:

173 215.619 Bonds for Everglades restoration.—

174 (1) The issuance of Everglades restoration bonds to
175 finance or refinance the cost of the acquisition and improvement
176 of land, water areas, and related property interests and
177 resources for the purpose of implementing the Comprehensive
178 Everglades Restoration Plan under s. 373.470, the Lake
179 Okeechobee Watershed Protection Plan under s. 373.4595, the
180 Caloosahatchee River Watershed Protection Plan under s.
181 373.4595, the St. Lucie River Watershed Protection Plan under s.
182 373.4595, the City of Key West Area of Critical State Concern as

183 designated by the Administration Commission under s. 380.05, and
184 the Florida Keys Area of Critical State Concern protection
185 program under ss. 380.05 and 380.0552 in order to restore and
186 conserve natural systems through ~~the~~ implementation of water
187 management projects, including projects that protect, restore,
188 or enhance nearshore water quality and fisheries, such as
189 stormwater or canal restoration projects, projects to protect
190 and enhance water supply to the Florida Keys, including
191 alternative water supplies such as reverse osmosis and reclaimed
192 water systems, and wastewater management projects identified in
193 the Keys Wastewater Plan, dated November 2007, and submitted to
194 the Florida House of Representatives on December 4, 2007, is
195 authorized in accordance with s. 11(e), Art. VII of the State
196 Constitution.

197 (a) Everglades restoration bonds, except refunding bonds,
198 may be issued only in fiscal years 2002-2003 through 2026-2027
199 ~~2019-2020~~ and may not be issued in an amount exceeding \$100
200 million per fiscal year unless:

201 1. The Department of Environmental Protection has
202 requested additional amounts in order to achieve cost savings or
203 accelerate the purchase of land; or

204 2. Beginning in fiscal year 2016-2017, the Legislature
205 authorizes an additional amount of bonds not to exceed \$200
206 million, and limited to \$20 ~~\$50~~ million per fiscal year,
207 specifically for the purpose of funding the Florida Keys Area of
208 Critical State Concern protection program. Proceeds from the

209 bonds shall be managed by the Department of Environmental
 210 Protection for the purpose of entering into financial assistance
 211 agreements with local governments located in the Florida Keys
 212 Area of Critical State Concern or the City of Key West Area of
 213 Critical State Concern to finance or refinance the cost of
 214 constructing sewage collection, treatment, and disposal
 215 facilities or building projects that protect, restore, or
 216 enhance nearshore water quality and fisheries, such as
 217 stormwater or canal restoration projects and projects to protect
 218 and enhance water supply to the Florida Keys, including
 219 alternative water supplies such as reverse osmosis and reclaimed
 220 water systems.

221 (b) The duration of Everglades restoration bonds may not
 222 exceed 20 annual maturities and must mature by December 31, 2056
 223 ~~2040~~. Except for refunding bonds, a series of bonds may not be
 224 issued unless an amount equal to the debt service coming due in
 225 the year of issuance has been appropriated by the Legislature.
 226 Not more than 58.25 percent of documentary stamp taxes collected
 227 may be taken into account for the purpose of satisfying an
 228 additional bonds test set forth in any authorizing resolution
 229 for bonds issued on or after July 1, 2015. Beginning July 1,
 230 2010, the Legislature shall analyze the ratio of the state's
 231 debt to projected revenues before authorizing the issuance of
 232 bonds under this section.

233 (7) If the South Florida Water Management District and the
 234 Department of Environmental Protection determine that lands

235 purchased using bond proceeds within the Florida Keys Area of
 236 Critical State Concern, the City of Key West Area of Critical
 237 State Concern, or outside the Florida Keys Area of Critical
 238 State Concern but which were required to be purchased to
 239 preserve and protect the potable water supply to the Florida
 240 Keys are no longer needed for the purpose for which they were
 241 purchased, the entity owning the lands may dispose of them.
 242 However, before the lands can be disposed of, each general
 243 purpose local government within whose boundaries a portion of
 244 the land lies must agree to the disposal of lands within its
 245 boundaries and must be offered the first right to purchase those
 246 lands. If the lands are surplus, they shall either be
 247 surplus at no less than appraised value with the proceeds from
 248 the sale of such lands being deposited into the Save Our
 249 Everglades Trust Fund and used to implement the respective
 250 plans, or the South Florida Water Management District shall use
 251 a different source of funds to pay for or reimburse the Save Our
 252 Everglades Trust Fund for that portion of lands not needed to
 253 implement the respective plans.

254 Section 4. Section 259.045, Florida Statutes, is amended to
 255 read:

256 259.045 Purchase of lands in areas of critical state
 257 concern; recommendations by department and land authorities.—
 258 Within 45 days after ~~of the designation by~~ the Administration
 259 Commission designates ~~of~~ an area as an area of critical state
 260 concern under s. 380.05, and annually thereafter, the Department

261 of Environmental Protection shall consider the recommendations
 262 of the state land planning agency pursuant to s. 380.05(1)(a)
 263 relating to purchase of lands within an area of critical state
 264 concern or lands outside an area of critical state concern that
 265 directly impact an area of critical state concern, which may
 266 include lands used to preserve and protect water supply, ~~the~~
 267 ~~proposed area~~ and shall make recommendations to the board with
 268 respect to the purchase of the fee or any lesser interest in any
 269 such lands that are: situated in such area of critical state
 270 ~~concern as~~

- 271 (1) Environmentally endangered lands; ~~or~~
- 272 (2) Outdoor recreation lands;
- 273 (3) Lands that conserve sensitive habitat;
- 274 (4) Lands that protect, restore, or enhance nearshore
 275 water quality and fisheries;
- 276 (5) Lands used to protect and enhance water supply to the
 277 Florida Keys, including alternative water supplies such as
 278 reverse osmosis and reclaimed water systems; or
- 279 (6) Lands used to prevent or satisfy private property
 280 rights claims resulting from limitations imposed by the
 281 designation of an area of critical state concern.

282

283 The department, or a local government, special district, or ~~and~~
 284 a land authority within an area of critical state concern ~~as~~
 285 ~~authorized in chapter 380~~, may make recommendations with respect
 286 to additional purchases which were not included in the state

287 | land planning agency recommendations.

288 | Section 5. Paragraph (a) of subsection (2) and paragraph
 289 | (b) of subsection (3) of section 259.105, Florida Statutes, are
 290 | amended to read:

291 | 259.105 The Florida Forever Act.—

292 | (2)(a) The Legislature finds and declares that:

293 | 1. Land acquisition programs have provided tremendous
 294 | financial resources for purchasing environmentally significant
 295 | lands to protect those lands from imminent development or
 296 | alteration, thereby ensuring present and future generations'
 297 | access to important waterways, open spaces, and recreation and
 298 | conservation lands.

299 | 2. The continued alteration and development of Florida's
 300 | natural and rural areas to accommodate the state's growing
 301 | population have contributed to the degradation of water
 302 | resources, the fragmentation and destruction of wildlife
 303 | habitats, the loss of outdoor recreation space, and the
 304 | diminishment of wetlands, forests, working landscapes, ~~and~~
 305 | coastal open space, and coral reefs as defined in s.
 306 | 403.93345(3).

307 | 3. The potential development of Florida's remaining
 308 | natural areas and escalation of land values require government
 309 | efforts to restore, bring under public protection, or acquire
 310 | lands and water areas to preserve the state's essential
 311 | ecological functions and invaluable quality of life.

312 | 4. It is essential to protect the state's ecosystems by

313 promoting a more efficient use of land, to ensure opportunities
314 for viable agricultural activities on working lands, and to
315 promote vital rural and urban communities that support and
316 produce development patterns consistent with natural resource
317 protection.

318 5. Florida's groundwater, surface waters, and springs are
319 under tremendous pressure due to population growth and economic
320 expansion and require special protection and restoration
321 efforts, including the protection of uplands and springsheds
322 that provide vital recharge to aquifer systems and are critical
323 to the protection of water quality and water quantity of the
324 aquifers and springs. To ensure that sufficient quantities of
325 water are available to meet the current and future needs of the
326 natural systems and citizens of the state, and assist in
327 achieving the planning goals of the department and the water
328 management districts, water resource development projects on
329 public lands, where compatible with the resource values of and
330 management objectives for the lands, are appropriate.

331 6. The needs of urban, suburban, and small communities in
332 Florida for high-quality outdoor recreational opportunities,
333 greenways, trails, and open space have not been fully met by
334 previous acquisition programs. Through such programs as the
335 Florida Communities Trust and the Florida Recreation Development
336 Assistance Program, the state shall place additional emphasis on
337 acquiring, protecting, preserving, and restoring open space,
338 ecological greenways, and recreation properties within urban,

339 suburban, and rural areas where pristine natural communities or
340 water bodies no longer exist because of the proximity of
341 developed property.

342 7. Many of Florida's unique ecosystems, such as the
343 Florida Everglades and coral reefs, are facing ecological
344 collapse due to Florida's burgeoning population growth and other
345 economic activities. To preserve these valuable ecosystems for
346 future generations, essential parcels of land must be acquired
347 to facilitate ecosystem restoration.

348 8. Access to public lands to support a broad range of
349 outdoor recreational opportunities and the development of
350 necessary infrastructure, where compatible with the resource
351 values of and management objectives for such lands, promotes an
352 appreciation for Florida's natural assets and improves the
353 quality of life.

354 9. Acquisition of lands, in fee simple, less-than-fee
355 interest, or other techniques shall be based on a comprehensive
356 science-based assessment of Florida's natural resources which
357 targets essential conservation lands by prioritizing all current
358 and future acquisitions based on a uniform set of data and
359 planned so as to protect the integrity and function of
360 ecological systems and working landscapes, and provide multiple
361 benefits, including preservation of fish and wildlife habitat,
362 recreation space for urban and rural areas, and the restoration
363 of natural water storage, flow, and recharge.

364 10. The state has embraced performance-based program

365 budgeting as a tool to evaluate the achievements of publicly
366 funded agencies, build in accountability, and reward those
367 agencies which are able to consistently achieve quantifiable
368 goals. While previous and existing state environmental programs
369 have achieved varying degrees of success, few of these programs
370 can be evaluated as to the extent of their achievements,
371 primarily because performance measures, standards, outcomes, and
372 goals were not established at the outset. Therefore, the Florida
373 Forever program shall be developed and implemented in the
374 context of measurable state goals and objectives.

375 11. The state must play a major role in the recovery and
376 management of its imperiled species through the acquisition,
377 restoration, enhancement, and management of ecosystems that can
378 support the major life functions of such species. It is the
379 intent of the Legislature to support local, state, and federal
380 programs that result in net benefit to imperiled species habitat
381 by providing public and private land owners meaningful
382 incentives for acquiring, restoring, managing, and repopulating
383 habitats for imperiled species. It is the further intent of the
384 Legislature that public lands, both existing and to be acquired,
385 identified by the lead land managing agency, in consultation
386 with the Florida Fish and Wildlife Conservation Commission for
387 animals or the Department of Agriculture and Consumer Services
388 for plants, as habitat or potentially restorable habitat for
389 imperiled species, be restored, enhanced, managed, and
390 repopulated as habitat for such species to advance the goals and

391 objectives of imperiled species management consistent with the
392 purposes for which such lands are acquired without restricting
393 other uses identified in the management plan. It is also the
394 intent of the Legislature that of the proceeds distributed
395 pursuant to subsection (3), additional consideration be given to
396 acquisitions that achieve a combination of conservation goals,
397 including the restoration, enhancement, management, or
398 repopulation of habitat for imperiled species. The Acquisition
399 and Restoration Council, in addition to the criteria in
400 subsection (9), shall give weight to projects that include
401 acquisition, restoration, management, or repopulation of habitat
402 for imperiled species. The term "imperiled species" as used in
403 this chapter and chapter 253, means plants and animals that are
404 federally listed under the Endangered Species Act, or state-
405 listed by the Fish and Wildlife Conservation Commission or the
406 Department of Agriculture and Consumer Services.

407 a. As part of the state's role, all state lands that have
408 imperiled species habitat shall include as a consideration in
409 management plan development the restoration, enhancement,
410 management, and repopulation of such habitats. In addition, the
411 lead land managing agency of such state lands may use fees
412 received from public or private entities for projects to offset
413 adverse impacts to imperiled species or their habitat in order
414 to restore, enhance, manage, repopulate, or acquire land and to
415 implement land management plans developed under s. 253.034 or a
416 land management prospectus developed and implemented under this

417 chapter. Such fees shall be deposited into a foundation or fund
418 created by each land management agency under s. 379.223, s.
419 589.012, or s. 259.032(9)(c), to be used solely to restore,
420 manage, enhance, repopulate, or acquire imperiled species
421 habitat.

422 b. Where habitat or potentially restorable habitat for
423 imperiled species is located on state lands, the Fish and
424 Wildlife Conservation Commission and the Department of
425 Agriculture and Consumer Services shall be included on any
426 advisory group required under chapter 253, and the short-term
427 and long-term management goals required under chapter 253 must
428 advance the goals and objectives of imperiled species management
429 consistent with the purposes for which the land was acquired
430 without restricting other uses identified in the management
431 plan.

432 12. There is a need to change the focus and direction of
433 the state's major land acquisition programs and to extend
434 funding and bonding capabilities, so that future generations may
435 enjoy the natural resources of this state.

436 (3) Less the costs of issuing and the costs of funding
437 reserve accounts and other costs associated with bonds, the
438 proceeds of cash payments or bonds issued pursuant to this
439 section shall be deposited into the Florida Forever Trust Fund
440 created by s. 259.1051. The proceeds shall be distributed by the
441 Department of Environmental Protection in the following manner:

442 (b) Thirty-five percent to the Department of Environmental

443 Protection for the acquisition of lands and capital project
 444 expenditures described in this section. Of the proceeds
 445 distributed pursuant to this paragraph, it is the intent of the
 446 Legislature that an increased priority be given to those
 447 acquisitions which achieve a combination of conservation goals,
 448 including protecting Florida's water resources and natural
 449 groundwater recharge. At a minimum, 3 percent, and no more than
 450 10 percent, of the funds allocated pursuant to this paragraph
 451 shall be spent on capital project expenditures identified during
 452 the time of acquisition which meet land management planning
 453 activities necessary for public access. Beginning in fiscal year
 454 2016-2017 and continuing through fiscal year 2026-2027, at least
 455 \$5 million of the funds allocated pursuant to this paragraph
 456 shall be spent on land acquisition within the Florida Keys Area
 457 of Critical State Concern.

458 Section 6. Paragraph (i) of subsection (2) and paragraph
 459 (i) of subsection (7) of section 380.0552, Florida Statutes, are
 460 amended to read:

461 380.0552 Florida Keys Area; protection and designation as
 462 area of critical state concern.-

463 (2) LEGISLATIVE INTENT.-It is the intent of the
 464 Legislature to:

465 (i) Protect and improve the nearshore water quality of the
 466 Florida Keys through state funding of water quality improvement
 467 projects, including the construction and operation of wastewater
 468 management facilities that meet the requirements of ss.

469 381.0065(4)(1) and 403.086(10), as applicable.

470 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
 471 and local agencies and units of government in the Florida Keys
 472 Area shall coordinate their plans and conduct their programs and
 473 regulatory activities consistent with the principles for guiding
 474 development as specified in chapter 27F-8, Florida
 475 Administrative Code, as amended effective August 23, 1984, which
 476 is adopted and incorporated herein by reference. For the
 477 purposes of reviewing the consistency of the adopted plan, or
 478 any amendments to that plan, with the principles for guiding
 479 development, and any amendments to the principles, the
 480 principles shall be construed as a whole and specific provisions
 481 may not be construed or applied in isolation from the other
 482 provisions. However, the principles for guiding development are
 483 repealed 18 months from July 1, 1986. After repeal, any plan
 484 amendments must be consistent with the following principles:

485 (i) Protecting and improving water quality by providing
 486 for the construction, operation, maintenance, and replacement of
 487 stormwater management facilities; central sewage collection;
 488 treatment and disposal facilities; ~~and~~ the installation and
 489 proper operation and maintenance of onsite sewage treatment and
 490 disposal systems; and other water quality and water supply
 491 projects, including direct and indirect potable reuse.

492 Section 7. Subsection (3) of section 380.0666, Florida
 493 Statutes, is amended to read:

494 380.0666 Powers of land authority.—The land authority

495 shall have all the powers necessary or convenient to carry out
496 and effectuate the purposes and provisions of this act,
497 including the following powers, which are in addition to all
498 other powers granted by other provisions of this act:

499 (3) To acquire and dispose of real and personal property
500 or any interest therein when such acquisition is necessary or
501 appropriate to protect the natural environment, provide public
502 access or public recreational facilities, preserve wildlife
503 habitat areas, provide affordable housing to families whose
504 income does not exceed 160 percent of the median family income
505 for the area, reduce the impacts of additional development on
506 hurricane evacuation clearance times, or provide access to
507 management of acquired lands; to acquire interests in land by
508 means of land exchanges; to contribute tourist impact tax
509 revenues received pursuant to s. 125.0108 to its most populous
510 municipality or the housing authority of such municipality, at
511 the request of the commission or council of such municipality,
512 for the construction, redevelopment, or preservation of
513 affordable housing in an area of critical state concern within
514 such municipality; to contribute funds to the Department of
515 Environmental Protection for the purchase of lands by the
516 department; and to enter into all alternatives to the
517 acquisition of fee interests in land, including, but not limited
518 to, the acquisition of easements, development rights, life
519 estates, leases, and leaseback arrangements. However, the land
520 authority shall make an ~~such~~ acquisition or contribution only

521 if:

522 (a) Such acquisition or contribution is consistent with
523 land development regulations and local comprehensive plans
524 adopted and approved pursuant to this chapter;

525 (b) The property acquired is within an area designated as
526 an area of critical state concern at the time of acquisition or
527 is within an area that was designated as an area of critical
528 state concern for at least 20 consecutive years prior to removal
529 of the designation; and

530 (c) The property to be acquired has not been selected for
531 purchase through another local, regional, state, or federal
532 public land acquisition program. Such restriction shall not
533 apply if the land authority cooperates with the other public
534 land acquisition programs which listed the lands for
535 acquisition, to coordinate the acquisition and disposition of
536 such lands. In such cases, the land authority may enter into
537 contractual or other agreements to acquire lands jointly or for
538 eventual resale to other public land acquisition programs.

539 Section 8. Notwithstanding any other provision of law, in
540 fiscal year 2016-2017 through fiscal year 2026-2027, if \$20
541 million in bonds are not authorized to be issued pursuant to s.
542 215.619, Florida Statutes, \$20 million shall be appropriated to
543 the Department of Environmental Protection to be distributed to
544 local governments in the Florida Keys Area of Critical State
545 Concern and the City of Key West Area of Critical State Concern
546 for projects that protect, restore, or enhance nearshore water

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547 | quality and fisheries and projects to protect and enhance water
548 | supply to the Florida Keys, including alternative water supplies
549 | such as reverse osmosis and reclaimed water systems.

550 | Section 9. This act shall take effect July 1, 2016.



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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	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative Raschein offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. This act may be cited as the "Florida Keys
 8 Stewardship Act."

9 Section 2. Paragraph (d) of subsection (2) of section
 10 212.055, Florida Statutes, is amended to read:

11 212.055 Discretionary sales surtaxes; legislative intent;
 12 authorization and use of proceeds.—It is the legislative intent
 13 that any authorization for imposition of a discretionary sales
 14 surtax shall be published in the Florida Statutes as a
 15 subsection of this section, irrespective of the duration of the
 16 levy. Each enactment shall specify the types of counties
 17 authorized to levy; the rate or rates which may be imposed; the



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18 maximum length of time the surtax may be imposed, if any; the
19 procedure which must be followed to secure voter approval, if
20 required; the purpose for which the proceeds may be expended;
21 and such other requirements as the Legislature may provide.
22 Taxable transactions and administrative procedures shall be as
23 provided in s. 212.054.

24 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

25 (d) The proceeds of the surtax authorized by this
26 subsection and any accrued interest shall be expended by the
27 school district, within the county and municipalities within the
28 county, or, in the case of a negotiated joint county agreement,
29 within another county, to finance, plan, and construct
30 infrastructure; to acquire any interest in land for public
31 recreation, conservation, or protection of natural resources or
32 to prevent or satisfy private property rights claims resulting
33 from limitations imposed by the designation of an area of
34 critical state concern; to provide loans, grants, or rebates to
35 residential or commercial property owners who make energy
36 efficiency improvements to their residential or commercial
37 property, if a local government ordinance authorizing such use
38 is approved by referendum; or to finance the closure of county-
39 owned or municipally owned solid waste landfills that have been
40 closed or are required to be closed by order of the Department
41 of Environmental Protection. Any use of the proceeds or interest
42 for purposes of landfill closure before July 1, 1993, is
43 ratified. The proceeds and any interest may not be used for the



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44 operational expenses of infrastructure, except that a county
45 that has a population of fewer than 75,000 and that is required
46 to close a landfill may use the proceeds or interest for long-
47 term maintenance costs associated with landfill closure.
48 Counties, as defined in s. 125.011, and charter counties may, in
49 addition, use the proceeds or interest to retire or service
50 indebtedness incurred for bonds issued before July 1, 1987, for
51 infrastructure purposes, and for bonds subsequently issued to
52 refund such bonds. Any use of the proceeds or interest for
53 purposes of retiring or servicing indebtedness incurred for
54 refunding bonds before July 1, 1999, is ratified.

55 1. For the purposes of this paragraph, the term
56 "infrastructure" means:

57 a. Any fixed capital expenditure or fixed capital outlay
58 associated with the construction, reconstruction, or improvement
59 of public facilities that have a life expectancy of 5 or more
60 years, ~~and~~ any related land acquisition, land improvement,
61 design, and engineering costs, and all other professional and
62 related costs required to bring the public facilities into
63 service. For purposes of this sub-subparagraph, the term "public
64 facilities" means a facility as defined in s. 163.3164(38), s.
65 163.3221(13), or s. 189.012(5), regardless of whether the
66 facility is owned by the local taxing authority or another
67 governmental entity.

68 b. A fire department vehicle, an emergency medical service
69 vehicle, a sheriff's office vehicle, a police department



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70 vehicle, or any other vehicle, and the equipment necessary to
71 outfit the vehicle for its official use or equipment that has a
72 life expectancy of at least 5 years.

73 c. Any expenditure for the construction, lease, or
74 maintenance of, or provision of utilities or security for,
75 facilities, as defined in s. 29.008.

76 d. Any fixed capital expenditure or fixed capital outlay
77 associated with the improvement of private facilities that have
78 a life expectancy of 5 or more years and that the owner agrees
79 to make available for use on a temporary basis as needed by a
80 local government as a public emergency shelter or a staging area
81 for emergency response equipment during an emergency officially
82 declared by the state or by the local government under s.

83 252.38. Such improvements are limited to those necessary to
84 comply with current standards for public emergency evacuation
85 shelters. The owner must enter into a written contract with the
86 local government providing the improvement funding to make the
87 private facility available to the public for purposes of
88 emergency shelter at no cost to the local government for a
89 minimum of 10 years after completion of the improvement, with
90 the provision that the obligation will transfer to any
91 subsequent owner until the end of the minimum period.

92 e. Any land acquisition expenditure for a residential
93 housing project in which at least 30 percent of the units are
94 affordable to individuals or families whose total annual
95 household income does not exceed 120 percent of the area median



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96 income adjusted for household size, if the land is owned by a
97 local government or by a special district that enters into a
98 written agreement with the local government to provide such
99 housing. The local government or special district may enter into
100 a ground lease with a public or private person or entity for
101 nominal or other consideration for the construction of the
102 residential housing project on land acquired pursuant to this
103 sub-subparagraph.

104 2. For the purposes of this paragraph, the term "energy
105 efficiency improvement" means any energy conservation and
106 efficiency improvement that reduces consumption through
107 conservation or a more efficient use of electricity, natural
108 gas, propane, or other forms of energy on the property,
109 including, but not limited to, air sealing; installation of
110 insulation; installation of energy-efficient heating, cooling,
111 or ventilation systems; installation of solar panels; building
112 modifications to increase the use of daylight or shade;
113 replacement of windows; installation of energy controls or
114 energy recovery systems; installation of electric vehicle
115 charging equipment; installation of systems for natural gas fuel
116 as defined in s. 206.9951; and installation of efficient
117 lighting equipment.

118 3. Notwithstanding any other provision of this subsection,
119 a local government infrastructure surtax imposed or extended
120 after July 1, 1998, may allocate up to 15 percent of the surtax
121 proceeds for deposit into a trust fund within the county's



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122 accounts created for the purpose of funding economic development
123 projects having a general public purpose of improving local
124 economies, including the funding of operational costs and
125 incentives related to economic development. The ballot statement
126 must indicate the intention to make an allocation under the
127 authority of this subparagraph.

128 Section 3. Subsection (1) of section 215.619, Florida
129 Statutes, is amended, subsections (7) and (8) are renumbered as
130 subsections (8) and (9), respectively, and a new subsection (7)
131 is added to that section, to read:

132 215.619 Bonds for Everglades restoration.-

133 (1) The issuance of Everglades restoration bonds to
134 finance or refinance the cost of the acquisition and improvement
135 of land, water areas, and related property interests and
136 resources for the purpose of implementing the Comprehensive
137 Everglades Restoration Plan under s. 373.470, the Lake
138 Okeechobee Watershed Protection Plan under s. 373.4595, the
139 Caloosahatchee River Watershed Protection Plan under s.
140 373.4595, the St. Lucie River Watershed Protection Plan under s.
141 373.4595, the City of Key West Area of Critical State Concern as
142 designated by the Administration Commission under s. 380.05 and
143 the Florida Keys Area of Critical State Concern protection
144 program under ss. 380.05 and 380.0552 in order to restore and
145 conserve natural systems through ~~the~~ implementation of water
146 management projects, including projects that protect, restore,
147 or enhance nearshore water quality and fisheries, such as



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148 stormwater or canal restoration projects, projects to protect
149 water resources available to the Florida Keys, including
150 alternative water supplies such as reverse osmosis and reclaimed
151 water systems, and wastewater management projects identified in
152 the Keys Wastewater Plan, dated November 2007, and submitted to
153 the Florida House of Representatives on December 4, 2007, is
154 authorized in accordance with s. 11(e), Art. VII of the State
155 Constitution.

156 (a) Everglades restoration bonds, except refunding bonds,
157 may be issued only in fiscal years 2002-2003 through 2026-2027
158 ~~2019-2020~~ and may not be issued in an amount exceeding \$100
159 million per fiscal year unless:

160 1. The Department of Environmental Protection has
161 requested additional amounts in order to achieve cost savings or
162 accelerate the purchase of land; or

163 2. Beginning in fiscal year 2016-2017, the Legislature
164 authorizes an additional amount of bonds not to exceed \$200
165 million, and limited to \$20 ~~\$50~~ million per fiscal year,
166 specifically for the purpose of funding the Florida Keys Area of
167 Critical State Concern protection program and the City of Key
168 West Area of Critical State Concern. Proceeds from the bonds
169 shall be managed by the Department of Environmental Protection
170 for the purpose of entering into financial assistance agreements
171 with local governments located in the Florida Keys Area of
172 Critical State Concern or the City of Key West Area of Critical
173 State Concern to finance or refinance the cost of constructing



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174 sewage collection, treatment, and disposal facilities or
175 building projects that protect, restore, or enhance nearshore
176 water quality and fisheries, such as stormwater or canal
177 restoration projects and projects to protect water resources
178 available to the Florida Keys, including alternative water
179 supplies such as reverse osmosis and reclaimed water systems.

180 (b) The duration of Everglades restoration bonds may not
181 exceed 20 annual maturities and must mature by December 31, 2047
182 2040. Except for refunding bonds, a series of bonds may not be
183 issued unless an amount equal to the debt service coming due in
184 the year of issuance has been appropriated by the Legislature.
185 Not more than 58.25 percent of documentary stamp taxes collected
186 may be taken into account for the purpose of satisfying an
187 additional bonds test set forth in any authorizing resolution
188 for bonds issued on or after July 1, 2015. Beginning July 1,
189 2010, the Legislature shall analyze the ratio of the state's
190 debt to projected revenues before authorizing the issuance of
191 bonds under this section.

192 (7) If the South Florida Water Management District and the
193 Department of Environmental Protection determine that lands
194 purchased using bond proceeds within the Florida Keys Area of
195 Critical State Concern, the City of Key West Area of Critical
196 State Concern, or outside the Florida Keys Area of Critical
197 State Concern but which were purchased to preserve and protect
198 the potable water supply to the Florida Keys are no longer
199 needed for the purpose for which they were purchased, the entity



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200 owning the lands may dispose of them. However, before the lands
201 can be disposed of, each general purpose local government within
202 whose boundaries a portion of the land lies must agree to the
203 disposal of lands within its boundaries and must be offered the
204 first right to purchase those lands.

205 Section 4. Section 259.045, Florida Statutes, is amended to
206 read:

207 259.045 Purchase of lands in areas of critical state
208 concern; recommendations by department and land authorities.-
209 Within 45 days after ~~of the designation by~~ the Administration
210 Commission designates ~~of~~ an area as an area of critical state
211 concern under s. 380.05, and annually thereafter, the Department
212 of Environmental Protection shall consider the recommendations
213 of the state land planning agency pursuant to s. 380.05(1)(a)
214 relating to purchase of lands within an area of critical state
215 concern or lands outside an area of critical state concern that
216 directly impact an area of critical state concern, which may
217 include lands used to preserve and protect water supply, the
218 ~~proposed area~~ and shall make recommendations to the board with
219 respect to the purchase of the fee or any lesser interest in any
220 such lands that are: situated in such area of critical state
221 ~~concern as~~

- 222 (1) Environmentally endangered lands; ~~or~~
223 (2) Outdoor recreation lands;
224 (3) Lands that conserve sensitive habitat;



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225 (4) Lands that protect, restore, or enhance nearshore
226 water quality and fisheries;

227 (5) Lands used to protect and enhance water supply to the
228 Florida Keys, including alternative water supplies such as
229 reverse osmosis and reclaimed water systems; or

230 (6) Lands used to prevent or satisfy private property
231 rights claims resulting from limitations imposed by the
232 designation of an area of critical state concern.

233
234 The department, or a local government, special district, or ~~and~~
235 a land authority within an area of critical state concern as
236 authorized in chapter 380, may make recommendations with respect
237 to additional purchases which were not included in the state
238 land planning agency recommendations.

239 Section 5. Subsection (3) of section 259.105, Florida
240 Statutes, is amended to read:

241 259.105 The Florida Forever Act.-

242 (3) Less the costs of issuing and the costs of funding
243 reserve accounts and other costs associated with bonds, the
244 proceeds of cash payments or bonds issued pursuant to this
245 section shall be deposited into the Florida Forever Trust Fund
246 created by s. 259.1051. The proceeds shall be distributed by the
247 Department of Environmental Protection in the following manner:

248 (b) Thirty-five percent to the Department of Environmental
249 Protection for the acquisition of lands and capital project
250 expenditures described in this section. Of the proceeds



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251 distributed pursuant to this paragraph, it is the intent of the
252 Legislature that an increased priority be given to those
253 acquisitions which achieve a combination of conservation goals,
254 including protecting Florida's water resources and natural
255 groundwater recharge. At a minimum, 3 percent, and no more than
256 10 percent, of the funds allocated pursuant to this paragraph
257 shall be spent on capital project expenditures identified during
258 the time of acquisition which meet land management planning
259 activities necessary for public access. Beginning in fiscal year
260 2016-2017 and continuing through fiscal year 2026-2027, at least
261 \$5 million of the funds allocated pursuant to this paragraph
262 shall be spent on land acquisition within the Florida Keys Area
263 of Critical State Concern.

264 Section 6. Paragraph (i) of subsection (2) and paragraph
265 (i) of subsection (7) of section 380.0552, Florida Statutes, are
266 amended to read:

267 380.0552 Florida Keys Area; protection and designation as
268 area of critical state concern.-

269 (2) LEGISLATIVE INTENT.-It is the intent of the
270 Legislature to:

271 (i) Protect and improve the nearshore water quality of the
272 Florida Keys through federal, state, and local funding of water
273 quality improvement projects, including the construction and
274 operation of wastewater management facilities that meet the
275 requirements of ss. 381.0065(4)(1) and 403.086(10), as
276 applicable.



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277 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
278 and local agencies and units of government in the Florida Keys
279 Area shall coordinate their plans and conduct their programs and
280 regulatory activities consistent with the principles for guiding
281 development as specified in chapter 27F-8, Florida
282 Administrative Code, as amended effective August 23, 1984, which
283 is adopted and incorporated herein by reference. For the
284 purposes of reviewing the consistency of the adopted plan, or
285 any amendments to that plan, with the principles for guiding
286 development, and any amendments to the principles, the
287 principles shall be construed as a whole and specific provisions
288 may not be construed or applied in isolation from the other
289 provisions. However, the principles for guiding development are
290 repealed 18 months from July 1, 1986. After repeal, any plan
291 amendments must be consistent with the following principles:

292 (i) Protecting and improving water quality by providing
293 for the construction, operation, maintenance, and replacement of
294 stormwater management facilities; central sewage collection;
295 treatment and disposal facilities; ~~and~~ the installation and
296 proper operation and maintenance of onsite sewage treatment and
297 disposal systems; and other water quality and water supply
298 projects, including direct and indirect potable reuse.

299 Section 7. Subsection (3) of section 380.0666, Florida
300 Statutes, is amended to read:

301 380.0666 Powers of land authority.—The land authority
302 shall have all the powers necessary or convenient to carry out



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303 and effectuate the purposes and provisions of this act,
304 including the following powers, which are in addition to all
305 other powers granted by other provisions of this act:

306 (3) To acquire and dispose of real and personal property
307 or any interest therein when such acquisition is necessary or
308 appropriate to protect the natural environment, provide public
309 access or public recreational facilities, preserve wildlife
310 habitat areas, provide affordable housing to families whose
311 income does not exceed 160 percent of the median family income
312 for the area, prevent or satisfy private property rights claims
313 resulting from limitations imposed by the designation of an area
314 of critical state concern, or provide access to management of
315 acquired lands; to acquire interests in land by means of land
316 exchanges; to contribute tourist impact tax revenues received
317 pursuant to s. 125.0108 to its most populous municipality or the
318 housing authority of such municipality, at the request of the
319 commission or council of such municipality, for the
320 construction, redevelopment, or preservation of affordable
321 housing in an area of critical state concern within such
322 municipality; to contribute funds to the Department of
323 Environmental Protection for the purchase of lands by the
324 department; and to enter into all alternatives to the
325 acquisition of fee interests in land, including, but not limited
326 to, the acquisition of easements, development rights, life
327 estates, leases, and leaseback arrangements. However, the land



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328 authority shall make an ~~such~~ acquisition or contribution only
329 if:

330 (a) Such acquisition or contribution is consistent with
331 land development regulations and local comprehensive plans
332 adopted and approved pursuant to this chapter;

333 (b) The property acquired is within an area designated as
334 an area of critical state concern at the time of acquisition or
335 is within an area that was designated as an area of critical
336 state concern for at least 20 consecutive years prior to removal
337 of the designation; ~~and~~

338 (c) The property to be acquired has not been selected for
339 purchase through another local, regional, state, or federal
340 public land acquisition program. Such restriction shall not
341 apply if the land authority cooperates with the other public
342 land acquisition programs which listed the lands for
343 acquisition, to coordinate the acquisition and disposition of
344 such lands. In such cases, the land authority may enter into
345 contractual or other agreements to acquire lands jointly or for
346 eventual resale to other public land acquisition programs; ~~and-~~

347 (d) Such acquisition or contribution is not used to
348 improve public transportation facilities or otherwise increase
349 road capacity to reduce hurricane evacuation clearance times.

350 Section 8. Notwithstanding any other provision of law, in
351 fiscal year 2016-2017 through fiscal year 2026-2027, if \$20
352 million in bonds are not authorized to be issued pursuant to s.
353 215.619, Florida Statutes, \$20 million shall be appropriated to



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354 the Department of Environmental Protection to be distributed to
 355 local governments in the Florida Keys Area of Critical State
 356 Concern and the City of Key West Area of Critical State Concern
 357 for projects that protect, restore, or enhance nearshore water
 358 quality and fisheries and projects to protect and enhance water
 359 supply to the Florida Keys, including alternative water supplies
 360 such as reverse osmosis and reclaimed water systems.

361 Section 9. This act shall take effect July 1, 2016.

362
 363 -----
 364 **T I T L E A M E N D M E N T**

365 Remove everything before the enacting clause and insert:

366 An act relating to local government environmental financing;
 367 providing a short title; amending s. 212.055, F.S.; expanding
 368 the use of local government infrastructure surtaxes to include
 369 acquiring any interest in land for public recreation,
 370 conservation, or protection of natural resources or to prevent
 371 or satisfy private property rights claims resulting from
 372 limitations imposed by the designation of an area of critical
 373 state concern; revising definitions for purposes of using surtax
 374 proceeds; amending s. 215.619, F.S.; expanding the use of
 375 Everglades restoration bonds to include the City of Key West
 376 Area of Critical State Concern; expanding the types of water
 377 management projects eligible for funding; revising the dates for
 378 issuance and maturity of Everglades restoration bonds; reducing
 379 the annual appropriation amount dedicated to fund the Florida



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380 Keys Area of Critical State Concern protection program;
381 authorizing bond proceeds to be spent on the City of Key West
382 Area of Critical State Concern; expanding projects that may be
383 funded by bond proceeds; specifying procedures to be followed
384 for certain lands that are no longer needed for certain
385 restoration purposes; amending s. 259.045, F.S.; requiring the
386 Department of Environmental Protection to annually consider
387 certain recommendations to buy specific lands within and outside
388 an area of critical state concern; authorizing certain local
389 governments and special districts to recommend additional lands
390 for purchase; amending s. 259.105, F.S.; requiring specific
391 Florida Forever appropriations to be used for the purchase of
392 lands in the Florida Keys Area of Critical State Concern;
393 amending s. 380.0552, F.S.; revising legislative intent
394 regarding the Florida Keys Area of Critical State Concern;
395 specifying that plan amendments in the Florida Keys must also be
396 consistent with protecting and improving specified water quality
397 and water supply projects; amending s. 380.0666, F.S.; expanding
398 powers of a land authority to include acquiring lands to reduce
399 impacts of new development on hurricane evacuation clearance
400 times and contribute funds for certain land purchases by the
401 department; providing limitations relating to hurricane
402 evacuation clearance times; providing a contingent
403 appropriation; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 497 State Designations
SPONSOR(S): Jenne
TIED BILLS: IDEN./SIM. BILLS: SB 288

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

SUMMARY ANALYSIS

In 1954, Broward County acquired the area now known as the John U. Lloyd Beach State Park, designated it as an African-American beach, and promised to make the beach accessible. However, a road was never built. By 1961, the beach still lacked tables, restrooms, shelter, and fresh water. In response, Eula Johnson and many others led a series of protest "wade-ins" on all white public beaches in Fort Lauderdale. Approximately 200 African American residents took part in the wade-ins between July and August 1961. These protests received national press attention. The City of Fort Lauderdale requested an injunction to end the wade-ins. The court disagreed with the municipality's position and entered an order in favor of the defendants, effectively ending segregation of public beaches. In 1973, the state designated the area as the John U. Lloyd Beach State Park in recognition of Mr. Lloyd's efforts to acquire the land for Broward County.

The bill redesignates the John U. Lloyd Beach State Park in Broward County as the Eula Johnson State Park. Further, the bill directs the Department of Environmental Protection (DEP) to erect suitable markers to designate the area as the Eula Johnson State Park.

The bill will likely have an insignificant negative fiscal impact on the state by requiring DEP to erect signs to reflect the renaming of the park.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

African Americans living in South Florida in the earlier part of the 20th century traveled from as far away as Palm Beach and Miami to use Fort Lauderdale's beaches, but met significant resistance from oceanfront property owners.¹ In 1946, a delegation from the Negro Professional and Business Men's League, Inc., petitioned the Board of County Commissioners "seeking a public bathing beach for colored people in Broward County."² In 1954, Broward County acquired a barrier island site, designated it for segregation, and promised to make the beach accessible.³

By 1961, the beach still lacked road access, tables, restrooms, shelter, and fresh water.⁴ In response, Eula Johnson (president of the Fort Lauderdale NAACP chapter from 1959 to 1967),⁵ Dr. Von D Mizell, and many others led a series of protest "wade-ins" on all white public beaches in Fort Lauderdale.⁶ Approximately 200 African American residents took part in the wade-ins between July and August 1961.⁷ These protests attracted national press attention.⁸

The City of Fort Lauderdale requested an injunction to end the wade-ins.⁹ The court disagreed with the municipality's position and entered an order in favor of the defendants, effectively ending segregation of public beaches. This inspired a larger civil rights movement that soon brought integration to local schools.¹⁰

The state purchased the park from Broward County on August 23, 1973.¹¹ The state designated the Broward Beach State Recreation Area as the John U. Lloyd Beach State Park in recognition of Mr. Lloyd's efforts in acquisition of the land.¹² Mr. Lloyd served as Broward County's attorney from 1945 to 1975.¹³

Today, the park area encompasses 310 acres between the Atlantic Ocean and the Intracoastal Waterway, stretching from Port Everglades Inlet on the north to Dania on the south.¹⁴ In fiscal year 2014-2015, the John U. Lloyd Beach State Park attracted 581,850 visitors, 15th overall for state parks, and generated \$1,033,769 in revenue, 22nd overall for state parks.¹⁵

¹ Florida State Parks, *Welcome to John U. Lloyd Beach State Park*, <https://www.floridastateparks.org/park-history/Lloyd-Beach> (last visited December 3, 2015).

² *Id.*

³ *Id.*

⁴ William G. Crawford, Jr., *The Long Hard Fight for Equal Rights: A History of Broward County's Colored Beach and the Fort Lauderdale Beach 'Wade-Ins' of the Summer of 1961*, p. 30, available at <http://www.floridasbigdig.com/uploads/ColoredBeachWadeInTequesta0001.pdf> (last visited December 3, 2015).

⁵ South Florida Times, *Eula Johnson Arrived, Jim Crow Had to Go*, <http://www.sfltimes.com/uncategorized/eula-johnson-arrived-jim-crow-had-to-go> (last visited December 3, 2015).

⁶ Crawford, *supra* note 4, at 30.

⁷ Department of State, *Florida Historical Markers Programs – Marker: Broward*, <http://apps.flheritage.com/markers/markers.cfm?ID=broward> (last visited December 3, 2015).

⁸ Crawford, *supra* note 4, at 30 – 32.

⁹ Crawford, *supra* note 4.

¹⁰ Department of State, *supra* note 7.

¹¹ Florida State Parks, *supra* note 1.

¹² Chapter 76-300, Laws of Fla.

¹³ Broward County Bar Association, *History of the Broward County Courthouse*, <https://www.browardbar.org/history-of-the-broward-county-courthouse/> (last visited December 3, 2015).

¹⁴ Florida State Parks, *supra* note 1.

¹⁵ Department of Environmental Protection, Final Balance Report FY 14-15, on file with the Agriculture and Natural Resources Subcommittee.

Effect of the Proposed Changes

The bill redesignates the John U. Lloyd Beach State Park in Broward County as the Eula Johnson State Park. Further, the bill directs DEP to erect suitable markers to designate the area as the Eula Johnson State Park.

B. SECTION DIRECTORY:

Section 1. Redesignates the John U. Lloyd Beach State Park in Broward County as the Eula Johnson State Park.

Section 2. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will likely have an insignificant negative fiscal impact on the state by requiring DEP to erect signs to reflect the renaming of the park. DEP may also have to change the name of the park on promotional and other materials.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments: Naming Conventions

Florida state parks are typically named with their use in the middle of the name (e.g., Alfred B. McClay Gardens State Park; Stump Pass Beach State Park). The name in the bill does not follow that naming convention.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.



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		

1 Committee/Subcommittee hearing bill: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative Jenne offered the following:

Amendment

Remove lines 11-13 and insert:

Broward County is redesignated as the "Von D. Mizell - Eula
Johnson State Park."

(2) The Department of Environmental Protection is directed
to erect suitable markers designating the Von D. Mizell - Eula
Johnson State

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 525 Small Community Sewer Construction Assistance Act
SPONSOR(S): Beshears
TIED BILLS: IDEN./SIM. **BILLS:** SB 444

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Moore, R. <i>RM</i>	Harrington <i>TH</i>
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Small Community Sewer Construction Assistance Act (Act) assists financially disadvantaged small communities with their needs for adequate sewer facilities. Currently, the Act defines the term "financially disadvantaged small community" as a municipality, which has a population of 10,000 or less, according to the latest decennial census, and a per capita annual income less than the state per capita annual income, as determined by the United States Department of Commerce.

The bill expands the definition of the term "financially disadvantaged small community" to include a county or special district that falls under the same population and per capita annual income parameters as currently required under the Act. Additionally, the bill provides that a special district may only be eligible under the Act if its public purpose includes water and sewer services, utility systems and services, or wastewater systems and services.

The may have a positive fiscal impact on those counties and special districts eligible for grant funding assistance under the Act.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Small Community Sewer Construction Assistance Act¹ (Act) assists financially disadvantaged small communities with their needs for adequate sewer facilities.² The Department of Environmental Protection (DEP) awards grants using funds specifically appropriated for this purpose.³ For purposes of the Act, the term "financially disadvantaged small community" means a municipality that has a population of 10,000 or less, according to the latest decennial census, and a per capita annual income less than the state per capita annual income, as determined by the United States Department of Commerce.⁴

DEP may provide grants for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.⁵ DEP is required to perform adequate overview of each grant, including technical review, regular inspections, disbursement approvals, and auditing.⁶ DEP is authorized to use up to 2 percent of the grant funds made available each year toward the cost of administering the Act.⁷

Effect of Proposed Changes

The bill expands the definition of the term "financially disadvantaged small community" to include a county or special district that falls within the same population and per capita annual income parameters as currently required under the Act. The bill also defines a "special district" as having the same meaning as provided in s. 189.012, F.S.,⁸ and includes only those special districts whose public purpose includes water and sewer services, utility systems and services, or wastewater systems and services.

The bill appears to expand eligibility for grant assistance under the Act to two counties, Liberty and Lafayette, and six special districts, Big Ben Water Authority, Cedar Key Special Water and Sewer District, Immokalee Water and Sewer District, Eastpoint Water and Sewer District, Suwannee Water and Sewer District, and Taylor Coastal Water and Sewer District.⁹

B. SECTION DIRECTORY:

Section 1. Amends s. 403.1838(2), F.S., expanding the definition of "financially disadvantaged small community."

Section 2. Provides an effective date.

¹ Section 403.1838(1), F.S.

² Section 403.1838(2), F.S.

³ Section 403.1838(2)-(3), F.S.

⁴ Section 403.1838(2), F.S.

⁵ Section 403.1838(3)(a), F.S.

⁶ Section 403.1838(3)(c), F.S.

⁷ Section 403.1838(3)(d), F.S.

⁸ Section 189.012(6), F.S., defines the term "special district" as a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. It does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

⁹ DEP's 2016 Agency Legislative Bill Analysis for SB 444 on file with the Agriculture & Natural Resources Subcommittee.

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:

None.

2. Expenditures:

The bill may provide a positive fiscal impact for those counties and special districts that are eligible for grant funding assistance under the Act.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to the Small Community Sewer
 3 Construction Assistance Act; amending s. 403.1838,
 4 F.S.; redefining the term "financially disadvantaged
 5 small community" to include counties and special
 6 districts; defining the term "special district";
 7 providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Subsection (2) of section 403.1838, Florida
 12 Statutes, is amended to read:

13 403.1838 Small Community Sewer Construction Assistance
 14 Act.—

15 (2) The department shall use funds specifically
 16 appropriated to award grants under this section to assist
 17 financially disadvantaged small communities with their needs for
 18 adequate sewer facilities. For purposes of this section, the
 19 term "financially disadvantaged small community" means a county,
 20 municipality, or special district that has a population of
 21 10,000 or fewer, according to the latest decennial census, and a
 22 per capita annual income less than the state per capita annual
 23 income as determined by the United States Department of
 24 Commerce. For purposes of this subsection, the term "special
 25 district" has the same meaning as provided in s. 189.012 and
 26 includes only those special districts whose public purpose

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27 | includes water and sewer services, utility systems and services,
28 | or wastewater systems and services.

29 | Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 851 Environmental Protection

SPONSOR(S): Drake

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Moore, R. <i>AM</i>	Harrington <i>FA</i>
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Global RBCA

Contaminated sites are any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment. "Global Risk-Based Corrective Action" or "Global RBCA" requires risk-based corrective action (RBCA) to be applied to all contaminated sites in Florida, except if program specific cleanup requirements apply. RBCA is a process that bases remedial action for contaminated sites on potential human health effects resulting from exposure to chemical compounds. Persons responsible for site rehabilitation must follow the Department of Environmental Protection's (DEP's) RBCA procedure when rehabilitating a contaminated site.

This bill amends the Global RBCA cleanup statutes to:

- Add a definition of "background concentration" to include concentrations of contaminants that are naturally occurring or the result of human impacts unrelated to the discharge of pollutants or hazardous substances at the contaminated site undergoing rehabilitation;
- Require DEP rules to include protocols for long-term natural attenuation for site rehabilitation;
- Require DEP to consider the interactive effects of contaminants, including additives, synergistic, and antagonistic effects when determining what constitutes a rehabilitation program task;
- Create an exception when applying state water quality standards if it is shown that the contaminants do not cause or contribute to the exceedance of applicable surface water quality criteria;
- Allow for risk assessment modeling and probabilistic risk assessment to create site-specific alternative CTLs; and
- Allow the use of alternative CTLs without institutional controls if certain conditions exist.

Land Application of Septage

There are approximately 2.6 million onsite sewage treatment and disposal systems (OSTDSs), more commonly known as septic tanks, serving approximately 30 percent of the state's population. Each year, nearly 100,000 OSTDSs are pumped out, generating approximately 100 million gallons of septage. Septage is the mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping or cleaning of an OSTDS. Approximately 40 percent of Florida's septage is treated at a Department of Health (DOH) permitted septage treatment facility and applied to a land application site, which is also permitted by DOH. The remaining septage is treated at a DEP regulated domestic wastewater treatment plant or disposed of in a DEP regulated Class I landfill.

Beginning June 30, 2016, OSTDS septage may not be applied to a land application site. The bill eliminates the upcoming prohibition on the land application of septage.

The bill may have an insignificant negative fiscal impact on DEP, which can be absorbed within existing resources, and an indeterminate positive fiscal impact on the private sector responsible for site rehabilitation under RBCA. The bill may also have a positive fiscal impact on the private sector because the treatment of and subsequent land application of septage is less costly than using alternative methods (e.g., treatment at a wastewater treatment plant or disposal in a Class I landfill).

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0851.ANRS.DOCX

DATE: 1/11/2016

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Risk Based Corrective Action

Present Situation

Contaminated sites are any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment.¹ Prior to 2003, Florida used risk based corrective action (RBCA) at contaminated sites under the following Department of Environmental Protection (DEP) programs: the Petroleum Restoration Program, the Brownfield Program, and the Drycleaning Facility Restoration Program (collectively "program sites").² The program sites made up approximately 90 percent of all of the contaminated sites in Florida.³

RBCA is a process that bases remedial action for contaminated sites on potential human health effects resulting from exposure to chemical compounds.⁴ RBCA utilizes site-specific data, modeling results, risk assessment studies, institutional controls (e.g., deed restrictions limiting future use to industrial), engineering controls (e.g., placing an impervious surface over contaminated soils to prevent human exposure), or any combination thereof.⁵

DEP managed non-program sites under the Contamination Assessment Plan/Remedial Action Plan process (CAP/RAP) set forth in the Model Corrective Action for Contaminated Site Cases guidance document.⁶ These sites were required to be remediated to default cleanup target levels (CTLs).⁷ A CTL is the concentration of a contaminant identified by an applicable analytical test method, in the medium of concern (e.g., soil or water), at which a site rehabilitation program is deemed complete.⁸ DEP developed the CTLs based on human health and aesthetic factors.⁹ Aesthetic considerations include altered taste, odor, or color of the water.¹⁰ This approach offered little flexibility to provide site-specific remediation strategies, was inefficient,¹¹ and created a significant expense.¹²

In 2003, the Legislature created s. 376.30701, F.S., (Global Risk-Based Corrective Action or Global RBCA) which required RBCA to be applied to all contaminated sites in Florida to meet CTLs.¹³ Chapter 62-777, F.A.C., provides the default CTLs and a methodology for RBCA.¹⁴

Global RBCA does not apply to contaminated sites subject to the risk-based corrective action cleanup criteria established for the Petroleum Restoration Program, the Brownfield Program, and the Drycleaning

¹ Section 376.301(10), F.S.

² Charles F. Mills III, *Global RBCA: Its Implementation, Foundation in Risk-Based Theory, and Implications*, 22 J. Land Use & Envtl. L. 101, 116 (Fall 2006).

³ *Id.* at 117.

⁴ *Id.* at 102.

⁵ Ralph A. DeMeo, Michael P. Petrovich, Christopher M. Teal, *Risk-Based Corrective Action In Florida: How Is It Working?*, the Florida Bar Journal, January 2015, at 47.

⁶ Mills, *supra* note 2, at 118. In 2005, the Fifth District Court of Appeals found this guidance document to be an unpromulgated rule, and therefore invalid. *Kerper v. Dept. of Envtl. Protection*, 894 So.2d 1006 (Fla. 5th DCA 2005).

⁷ DeMeo, *supra* note 5, at 47.

⁸ Section 376.301(7), F.S.

⁹ DEP, *Technical Report: Development of Cleanup Target Levels (CTLs) For Chapter 62-777, F.A.C.*, at 7, incorporated by reference in rule 62-777.100, F.A.C.

¹⁰ *Id.*

¹¹ DeMeo, *supra* note 5, at 47.

¹² Mills, *supra* note 2, at 133.

¹³ *Id.* at 102.

¹⁴ *Id.* at 118.

Facility Restoration Program.¹⁵ These programs provide financial and regulatory incentives to facilitate cleanup, and are subject to RBCA criteria established for the specific program.¹⁶

In 2005, DEP adopted rules to implement Global RBCA.¹⁷ The goal was to provide for a flexible site-specific cleanup process that reflected the intended use of the property following cleanup, while maintaining adequate protection of human health, safety, and the environment.¹⁸ In 2013, DEP consolidated the contamination site cleanup criteria for petroleum contamination,¹⁹ drycleaning solvents,²⁰ brownfield cleanup,²¹ and all other contaminated sites²² into the Global RBCA rule chapter.²³

The ultimate goal for any contaminated site is for DEP to issue it a "No Further Action" (NFA) order. Upon discovery of a contaminant, DEP must be notified.²⁴ The person responsible for site rehabilitation²⁵ must commence site assessment within 60 days of discovery of a discharge to determine the extent of contamination and facilitate selection of an appropriate remediation strategy.²⁶ This includes establishing any background concentrations of contaminations.²⁷ Background concentrations are concentrations of contaminants that are naturally occurring in the groundwater, surface water, soil, or sediment in the vicinity of the site.²⁸ DEP cannot require site rehabilitation to achieve a CTL for any contaminant more stringent than the naturally occurring background contamination.²⁹

Once a person responsible for site rehabilitation completes a site assessment, it has three Risk Management Options (RMOs) available to perform site rehabilitation to achieve a NFA order. Under the RMO options, the person responsible for site rehabilitation must either rehabilitate the site to the default CTLs established in ch. 62-777, F.A.C., or to the alternative CTLs established through a risk assessment. A person responsible for site rehabilitation may choose to create their own alternative CTLs when present and future use of the site and site exposure characteristics differ greatly from those utilized to calculate the default CTLs such that the default CTLs are overly conservative or not conservative enough.³⁰

Under RMO I, DEP will issue a NFA order without institutional controls or without institutional and engineering controls if the exposure point concentration (EPC) for all detected chemicals do not exceed the less stringent of their corresponding default residential CTLs or their background concentration.³¹ Under RMO II, DEP will grant a NFA order, subject to institutional controls, if the EPCs for all detected chemicals do not exceed default commercial/industrial CTLs or alternative CTLs adjusted for site-specific geologic or hydrogeologic conditions.³² Under RMO III, DEP will grant a NFA order, subject to institutional controls, if

¹⁵ Section 376.30701(1)(b), F.S.

¹⁶ Sections 376.3071, 376.7078, and 376.83, F.S.

¹⁷ DeMeo, *supra* note 5, at 47.

¹⁸ *Id.*

¹⁹ Former ch. 62-770, F.A.C.

²⁰ Former ch. 62-782, F.A.C.

²¹ Former ch. 62-785, F.A.C.

²² Chapter 62-780, F.A.C.

²³ Notice of Rule Development, 39 Fla. Admin. R. 105 (May 30, 2013).

²⁴ Rule 62-780.210, F.A.C.

²⁵ Section 376.301(29), F.S., defines a "person responsible for site rehabilitation" as the person performing site rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, F.S. Such person may include any person who has legal responsibility for site rehabilitation pursuant to this chapter or ch. 403, F.S., DEP when it conducts site rehabilitation, a real property owner, a facility owner or operator, any person responsible for brownfield site rehabilitation, or any person who voluntarily rehabilitates a site and seeks acknowledgment from DEP for approval of site rehabilitation program tasks.

²⁶ Rule 62-780.600, F.A.C.

²⁷ Rule 62-780.600(3)(d), F.A.C.

²⁸ Rule 62-780.200(3), F.A.C.

²⁹ Section 376.30701(2)(g) and (i), F.S.

³⁰ DEP, *supra* note 9, at 43-44.

³¹ Mills, *supra* note 2, at 125; rule 62-780.680(1), F.A.C.

³² *Id.*; rule 62-780.680(2), F.A.C.

the EPCs for all detected chemicals do not exceed alternative CTLs adjusted for site-specific exposure scenarios determined in the exposure assessment.³³

Under each RMO, a person responsible for site rehabilitation may use several methods to rehabilitate the site to achieve a NFA order. Section 376.30701(2), F.S., requires DEP's rule to include protocols for natural attenuation as a method for site rehabilitation. Natural attenuation allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil.³⁴ Natural attenuation processes may include sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.³⁵ This practice may be used depending on individual site characteristics, current and projected use of the land and groundwater, the exposed population, the location of the contamination plume, the degree and extent of contamination, the rate of migration of the plume, the apparent or potential rate of degradation of contaminants through natural attenuation, and the potential for further migration in relation to the site's property boundary.³⁶

Natural attenuation monitoring is allowable if:

- Free product is not present or free product removal is not feasible;
- Contaminated soil is not present in the unsaturated zone;
- Contaminants present in the groundwater above background concentrations or applicable CTLs are not migrating beyond the temporary point of compliance or vertically;
- The characteristics of the contaminant and its transformation products are conducive to natural attenuation; and
- One of the following is met:
 - The contaminated site is anticipated to meet NFA criteria in 5 years or less as a result of natural attenuation, the background concentrations or applicable CTLs are not exceeded at the temporary point of compliance, and contaminant concentrations do not meet certain criteria; or
 - The appropriateness of natural attenuation is demonstrated by:
 - A technical evaluation of the groundwater and soil;
 - A scientific evaluation of the contamination plume migration, an estimate of the annual reduction in contaminant concentrations, and the estimated time to meet NFA; and
 - A life-cycle cost analysis of remedial alternatives.³⁷

Effect of Proposed Changes

The bill amends s. 376.301, F.S., to add a definition for "background concentration." This definition includes concentrations of contaminants that are naturally occurring or the result of anthropogenic (human) impacts unrelated to the discharge of pollutants or hazardous substances at the contaminated site undergoing rehabilitation. The bill also makes conforming changes to remove references to "naturally occurring" in front of "background concentration."

Currently, DEP may not require a person responsible for site rehabilitation to achieve a CTL for any contaminant more stringent than the background contamination. DEP's rule only includes naturally occurring concentrations of contaminants in its definition of "background concentration." Under the proposed change, human-created contamination may be treated as background contamination as well as naturally occurring contaminants. The change is similar to the Environmental Protection Agency's (EPA's) policy for addressing background concentrations. In certain situations, the EPA will not require rehabilitation below naturally occurring or anthropogenic background concentrations.³⁸ The EPA guidance

³³ *Id.*; rule 62-780.680(3), F.A.C.

³⁴ Section 376.301(24), F.S.

³⁵ *Id.*

³⁶ Rule 62-780.690(1), F.A.C.

³⁷ *Id.*

³⁸ See EPA, *Transmittal of Policy Statement: "Role of Background in CERCLA Cleanup Program" OSWER 9285.6-07P* (May 2002), available at http://rais.ornl.gov/documents/bkgpol_jan01.pdf; EPA, *Guidance for Comparing Background and Chemical*

requires that the anthropogenic background contamination be unrelated to the release of hazardous substances at the contaminated site.³⁹ Under the proposed change, persons responsible for site rehabilitation would only be required to rehabilitate their contaminated site for the discharge of pollutants or hazardous substances at the contaminated site undergoing rehabilitation.

The bill also amends s. 376.601, F.S., to define "long-term natural attenuation" to mean natural attenuation approved by DEP as a site rehabilitation program task that lasts more than five years. The bill amends s. 376.30701(2), F.S., to require DEP's Global RBCA rules to include protocols for long-term natural attenuation where site conditions warrant.

The bill amends s. 376.30701(2)(e), F.S., to require DEP to consider the interactive effects of contaminants, including additive, synergistic, and antagonistic effects when determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task, or site rehabilitation program, including a voluntary site rehabilitation program.

The bill amends s. 376.30701(2)(g)2., F.S., to create an exception when applying state water quality standards in determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task, or site rehabilitation program, including a voluntary site rehabilitation program. Currently, the statute requires that when surface waters are exposed to contaminated groundwater, the more protective groundwater or surface water standard CTL must be applied. The bill waives this requirement when it has been demonstrated that contaminants do not cause or contribute to the exceedance of the applicable surface water criteria.

The bill amends ss. 376.30701(2)(g)3., F.S., and 376.30701(2)(i)3., F.S., to include an applicant's risk assessment modeling results, including results from probabilistic risk assessment (PRA) modeling, among the factors that DEP is required to consider in approving alternative CTLs for state water quality standards and soils. PRA is a risk assessment that yields a probability distribution for risk, generally by assigning a probability distribution to represent variability or uncertainty in one or more inputs to the risk equation.⁴⁰ This method is different from the point estimate risk assessment for single values because it uses multiple variables.⁴¹ The EPA uses this new method of risk assessment when evaluating risk at contaminated sites it regulates.⁴²

The bill also amends s. 376.30701(2)(g)3., F.S., to allow the use of alternative CTLs for state water quality standards without institutional controls if:

- The only CTLs exceeded are the groundwater CTLs derived from nuisance, organoleptic,⁴³ or aesthetic considerations;
- Concentrations of all contaminants meet the state water quality standards or the minimum criteria, based on the protection of human health, public safety, and the environment;
- All of the groundwater CTLs for the contaminated site are met at the property boundary;
- The person responsible for site rehabilitation has demonstrated that the contaminants will not migrate beyond the property boundary at concentrations that exceed the groundwater CTLs established for the contaminated site;
- The property has access to and is using an offsite water supply, and an unplugged private well is not used for domestic purposes; and
- The property owner does not object to the NFA proposal to DEP or the local pollution control program.

Concentrations in Soil for CERCLA Sites OSWER 9285.7-41 (September 2002), available at https://dec.alaska.gov/spar/csp/guidance_forms/docs/background.pdf.

³⁹ *Id.*

⁴⁰ EPA, *Risk Assessment Guidance for Superfund: Volume III – Part A, Process for Conducting Probabilistic Risk Assessment at 1-3* (December 2001) available at <http://www2.epa.gov/risk/risk-assessment-guidance-superfund-rags-volume-iii-part>.

⁴¹ *Id.* at 1-7.

⁴² *Id.*; rule 62-780.650(3), F.A.C., allows the use of PRA to perform risk assessment when establishing alternative CTLs.

⁴³ "Organoleptic" is defined in r. 62-780.200(28), F.A.C., as pertaining to, or perceived by, a sensory organ (i.e., color, taste, or odor).

The bill amends s. 287.0595(1)(a), F.S., to correct a cross reference.

Land Application of Septage

Present Situation

Each person in the state generates approximately 100 gallons of domestic wastewater⁴⁴ per day.⁴⁵ This wastewater must be managed to protect public health, water quality, recreation, fish and wildlife, and the aesthetic appeal of our waterways.⁴⁶ In Florida, domestic wastewater is treated by onsite sewage treatment and disposal systems⁴⁷ (OSTDSs), commonly referred to as septic tanks, or by centralized domestic wastewater treatment plants⁴⁸ (WWTPs).⁴⁹

The Department of Health (DOH) is responsible for regulating OSTDSs with a design capacity of 10,000 gallons per day or less.⁵⁰ As a result, DOH regulates approximately 30 percent of the state's domestic wastewater from an estimated 2.6 million OSTDSs.⁵¹

Each year in Florida, nearly 100,000 OSTDSs are pumped out, generating approximately 100 million gallons of septage requiring treatment and disposal.⁵² Septage is the mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping of an OSTDS.⁵³ It does not include the contents of portable toilets, holding tanks, or grease interceptors.⁵⁴ The treatment and disposal of septage is regulated by the EPA under 40 CFR Part 503. DOH administers the program through ch. 64E-6, F.A.C.⁵⁵

Approximately 40 percent of Florida's septage is treated at a DOH-permitted septage treatment facility and applied to a DOH-permitted land application site.⁵⁶ The remaining septage is treated at a DEP regulated WWTP or disposed of in a DEP regulated Class I landfill.⁵⁷ Septage treated at a WWTP loses its identity as septage and becomes part of the facility's biosolids.⁵⁸ Biosolids are regulated more stringently than septage, with a variety of treatment, management and land application requirements governed by ch. 62-640, F.A.C.⁵⁹

⁴⁴ "Domestic wastewater" is defined in r. 62-600.200(25), F.A.C., as the wastewater derived principally from dwellings, business buildings, institutions, and the like; sanitary wastewater; sewage.

⁴⁵ DEP's Domestic Wastewater Program, available at <http://www.dep.state.fl.us/water/wastewater/dom/index.htm>.

⁴⁶ Sections 381.0065(1) and 403.021, F.S.

⁴⁷ Section 381.0065(2)(k), F.S., defines an "OSTDS" as a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

⁴⁸ Section 403.866, F.S., defines a "domestic wastewater treatment plant" as any plant or other works used for the purpose of treating, stabilizing, or holding domestic wastes.

⁴⁹ Sections 381.0065(2)(k) and (3), F.S.; chs. 62-600, and 62-701, F.A.C.

⁵⁰ Sections 381.006(7) and 381.0065, F.S.; rule 62-600.120, F.A.C.; DEP's *Wastewater - Septic Systems*, available at <http://www.dep.state.fl.us/water/wastewater/dom/septic.htm>.

⁵¹ DOH's *Onsite Sewage*, available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html>.

⁵² DOH's *Report on Alternative Methods for the Treatment and Disposal of Septage*, available at http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/septage_alternatives.pdf.

⁵³ Section 381.0065(2)(n), F.S.

⁵⁴ Rule 64E-6.002(48), F.A.C.

⁵⁵ Chapter 64E-6, F.A.C.

⁵⁶ Rule 64E-6.010(7), F.A.C.; DOH's *Report on Alternative Methods for the Treatment and Disposal of Septage*, available at http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/septage_alternatives.pdf

⁵⁷ DOH's *Report on Alternative Methods for the Treatment and Disposal of Septage*, available at http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/septage_alternatives.pdf.

⁵⁸ DEP's analysis of HB 687 (2015), on file with the Agriculture & Natural Resources Subcommittee.

⁵⁹ DEP's analysis of HB 687 (2015), on file with the Agriculture & Natural Resources Subcommittee; ch. 62-640, F.A.C.

Septage received at a DOH-permitted septage treatment facility is screened using bar screens having a maximum gap of ½ inch or rock screens or other similar mesh material having a maximum ¾ inch opening, and treated with lime to raise the pH to 12 for a minimum of two hours or to 12.5 for thirty minutes.⁶⁰ Septage land application rates are limited by nitrogen content and, if applicable, phosphorous content.⁶¹

Land application is limited to:

- Sod farms;
- Pasture lands;
- Forests;
- Highway shoulders and medians;
- Plant nursery use;
- Land reclamation projects; and
- Soils used for growing human food chain crops.⁶²

Pasture vegetation must not be cut for hay or silage or grazed for 30 days following septage application.⁶³ No human food chain crops except hay, silage, or orchard crops may be harvested from the site for 60 days following septage application.⁶⁴ Vegetables and fruits that come into contact with the ground surface must not be grown on land used for septage application for 18 months after application.⁶⁵

DOH prohibits septage from being land applied if the application is closer than:

- 3000 feet of any Class I water body or Outstanding Florida Water;
- 200 feet of any surface water bodies, except canals or bodies of water used for irrigation located completely within and not discharging from the site;
- 500 feet of any shallow public water supply well;
- 300 feet of any private drinking water supply well;
- 300 feet of any habitable building; or
- 75 feet of property lines and drainage ditches.⁶⁶

DOH requires the land application site to:

- Have a minimum of 24 inches of unsaturated soil above the ground water table at the time of septage application. If the wet season high ground water table is within two feet of the surface or is not determined in an Agricultural Use Plan, then the water table at the time of application must be determined using a monitoring well;⁶⁷
- Prohibit land application during rain events that are significant enough to cause runoff, or when the soil is saturated;⁶⁸
- Have sufficient buffer areas or stormwater management structures to retain the run-off from a 10-year one-hour storm;⁶⁹
- Have a topographic grade that does not exceed 8 percent;⁷⁰
- Have a layer of permeable soil at least two feet thick that covers the surface of the land application area;⁷¹ and
- Be free from:⁷²

⁶⁰ Rule 64E-6.010(7)(a), F.A.C.

⁶¹ Rule 64E-6.010(7)(q), F.A.C.

⁶² Rule 62E-6.010(7)(a)2., F.A.C.

⁶³ Rule 62E-6.010(7)(a)2.a., F.A.C.

⁶⁴ Rule 62E-6.010(7)(a)2.b., F.A.C.

⁶⁵ Rule 62E-6.010(7)(a)2.c., F.A.C.

⁶⁶ Rule 62E-6.010(7)(j), F.A.C.

⁶⁷ Rule 62E-6.010(7)(k), F.A.C.

⁶⁸ Rule 64E-6.010(7)(l), F.A.C.

⁶⁹ *Id.*

⁷⁰ Rule 64E-6.010(7)(m), F.A.C.

⁷¹ Rule 64E-6.010(7)(p), F.A.C.

⁷² This requirement applies to the land application site as well as the area 200 feet wide adjacent to, and exterior of, the site.

- Subsurface fractures,
- Solution cavities;
- Sink holes;
- Excavation core holes;
- Abandoned holes; or
- Other natural or manmade conduits which would allow contamination of ground water.⁷³

In 2010, the Legislature passed SB 550, which created a five-year OSTDS inspection program, which DOH was to fully implement by January 1, 2016, and banned the land application of septage by the same date.⁷⁴ It also required DOH, in consultation with DEP, to provide a report to the Governor and the Legislature, by February 1, 2011, recommending alternative methods for enhanced treatment of septage for land application, including a schedule for reducing land application, appropriate treatment levels, alternative disposal methods, enhanced permitting requirements, and costs to local governments, affected businesses, and individuals for alternative treatment and disposal methods.⁷⁵ In 2012, the Legislature passed HB 1263 repealing the OSTDS inspection program, but the January 1, 2016, prohibition on the land application of septage remained.⁷⁶

During Special Session 2015A, the prohibition on the land application of septage from OSTDSs was extended until June 30, 2016.⁷⁷

DOH's Report on Alternative Methods for the Treatment and Disposal of Septage

DOH's report, dated February 1, 2011, provided alternatives to the land application of septage, as follows.⁷⁸

- Treatment at WWTPs - Treating septage at WWTPs utilizes existing WWTPs and further centralizes wastewater treatment. However, the quantity of septage that can be treated is dependent upon the WWTPs processes and design capacity. Additionally, accepting septage at a WWTP has the potential to upset wastewater treatment processes resulting in increased operation and maintenance requirements and costs. Also, some WWTPs choose not to accept grease with septage, which necessitates the transport of grease for separate treatment and land application.
- Disposal at Class I landfills - Acceptance of septage at Class I landfills increases microbial activity resulting in increased waste decomposition and more rapid waste stabilization, requires less area than land application, and no additional land is required if septage is managed at an existing landfill. However, accepting septage can increase landfill instability (e.g., differential settlement and slope instability) and difficulty in operating equipment due to a wet slick medium.
- Increased treatment for land application - While possible, Florida's current law already meets the EPA's federal requirements.
- Enhancements to existing land application practices - Such as:
 - Requiring third-party oversight of septage treatment and land application activities, including:
 - Having Class C WWTP operators visit to oversee operations;
 - Increasing frequency of DOH inspections;
 - Establishing regional DOH inspections; and
 - Limiting application sites to use by one applier.
 - Changing operational procedures, including:
 - Metering receiving at treatment facilities;
 - Requiring larger stabilization and holding tanks at treatment facilities;

⁷³ Rule 64E-6.010(7)(n), F.A.C.

⁷⁴ Section 35, ch. 2010-205, Laws of Florida.

⁷⁵ *Id.*

⁷⁶ Section 32, ch. 2012-184, Laws of Florida.

⁷⁷ Section 50, ch. 2015-222, Laws of Florida.

⁷⁸ DOH's *Report on Alternative Methods for the Treatment and Disposal of Septage*, available at

http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/septage_alternatives.pdf.

- Requiring longer treatment exposure times and post-treatment holding times;
- Requiring electronic pH meters to replace testing with paper strips;
- Requiring sampling of stabilized septage;
- Tracking yearly nutrient loading based on septage sampling; and
- Requiring annual soil sampling of active application sites.

These enhancements could be accomplished within DOH's existing statutory rulemaking authority.

- Incineration, bioenergy production, and conversion to fertilizer - However, these alternatives have not yet captured a significant portion of the septage industry and would require large capital commitments from government or industry.⁷⁹

If the prohibition on the land application of septage were to become effective, DOH recommended the following:

- Legislation requiring local governments to make provisions for the treatment and disposal of septage generated within their geographic jurisdiction;
- Legislation requiring county comprehensive plans to include provisions for the treatment and disposal of septage if the plan includes areas already developed or to be developed using OSTDSs;
- Legislation requiring WWTPs to make provisions for receiving and treating septage if there are OSTDSs within their franchise area;
- Legislation that provides incentives for WWTPs and landfills to accept grease; and
- Legislation requiring local governments to provide for the disposal of grease.⁸⁰

DOH further recommended that, instead of discontinuing the land application of septage, land application practices be enhanced with increased third-party inspection and oversight along with enhanced nutrient and soil sampling.⁸¹

DEP's Study of the Land Application of Septage

Legislation was introduced during the 2014 legislative session that, if passed, would have required DEP, in consultation with DOH and other entities, to examine and report on the potential options for the safe and appropriate disposal or reuse of septage.⁸² While such legislation did not pass, DEP is currently conducting a study focusing on the leaching potential of land applied septage to ground water, with monitoring focused on ground water beneath and up-gradient from application sites.⁸³ Site history information, up-gradient monitoring and monitoring tracer analyses is expected to help differentiate between water quality impacts from the application, adjacent land use activities, and past and ongoing fertilizer applications at the sites.⁸⁴ The study includes 12 sites, which are located mostly in spring areas.⁸⁵ Each site has four wells, for a total of 48 wells being monitored.⁸⁶ Monitoring is expected to continue until late 2016, and DEP will produce a report on the results.⁸⁷

Effect of Proposed Changes

The bill removes the June 30, 2016 prohibition on the land application of septage. The bill also repeals s. 51, ch. 2015-222, Laws of Florida, which is a conforming change made by the bill.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² HB 1113 and SB 1160 (2014); DEP's analysis of HB 687 (2015), on file with the Agriculture & Natural Resources Subcommittee.

⁸³ DEP's analysis of HB 687 (2015), on file with the Agriculture & Natural Resources Subcommittee.

⁸⁴ *Id.*

⁸⁵ *DEP's Legislative Update: Septage Land Application Site Monitoring*, dated December 23, 2015, on file with the Agriculture & Natural Resources Subcommittee.

⁸⁶ *Id.*

⁸⁷ *Id.*

B. SECTION DIRECTORY:

Section 1. Amends s. 376.301, F.S., relating to definitions used in ss. 376.30-376.317, 376.70, and 376.75, F.S.

Section 2. Amends s. 376.30701, F.S., relating to the application of RBCA principles to contaminated sites.

Section 3. Amends s. 381.0065, F.S., removing the prohibition on the land application of septage.

Section 4. Repeals s. 51, ch. 2015-222, Laws of Florida.

Section 4.⁸⁸ Amends s. 287.0595, F.S., correcting a cross reference.

Section 5. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill appears to have an insignificant negative fiscal impact on DEP because it may need to revise rules as a result of the changes in the bill, which may be absorbed by existing agency resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate positive economic impact on persons responsible for site rehabilitation of contaminated sites. The amounts and types of contaminants, as well as the underlying geology, vary at each site resulting in a wide range of costs associated with site rehabilitation. However, property owners will no longer be required to rehabilitate a site for background concentrations caused by human activities unrelated to the discharge of pollutants or hazardous substances at the contaminated site undergoing rehabilitation. Further, these property owners will not be required to use institutional controls when an alternative CTL is used for site remediation in certain situations.

The bill may also have a positive fiscal impact on the private sector because the bill deletes the prohibition on the land application of septage. Land application of septage from OSTDSs provides a

⁸⁸ There are two sections in the bill numbered as "Section 4." This reference is to the section beginning on line 313 of the bill through line 325.

method for disposal that is typically lower in cost than alternative methods (e.g. treatment at a WWTP or disposal at a Class I landfill).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue

The bill contains two sections designated as "Section 4."

Other Comments: Applicability of RBCA Amendments

The changes in the bill pertaining to Global RBCA primarily apply to waste cleanup sites. The contaminated site cleanup criteria for petroleum contamination sites, drycleaning contamination sites, and brownfield sites may need to be amended to apply the new criteria to all contaminated sites in Florida.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
 An act relating to environmental protection; amending
 s. 376.301, F.S.; defining the terms "background
 concentration" and "long-term natural attenuation";
 amending s. 376.30701, F.S.; requiring the Department
 of Environmental Protection to include protocols for
 the use of long-term natural attenuation where site
 conditions warrant; requiring specified interactive
 effects of contaminants to be considered as cleanup
 criteria; revising how cleanup target levels are
 applied where surface waters are exposed to
 contaminated groundwater; authorizing the use of
 relevant data and information when assessing cleanup
 target levels; providing that institutional controls
 are not required under certain circumstances if using
 alternative cleanup target levels; amending s.
 381.0065, F.S., and repealing s. 51, chapter 2015-222,
 Laws of Florida; deleting the prohibition of the land
 application of septage from onsite sewage treatment
 and disposal systems and abrogating the scheduled
 reversion of amendments to s. 381.0065(6), F.S.;
 amending s. 287.0595, F.S.; conforming a cross-
 reference; providing effective dates.

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

27 Section 1. Subsections (4) through (22) and subsections
 28 (23) through (48) of section 376.301, Florida Statutes, are
 29 renumbered as subsections (5) through (23) and subsections (25)
 30 through (50), respectively, and new subsections (4) and (24) are
 31 added to that section, to read:

32 376.301 Definitions of terms used in ss. 376.30-376.317,
 33 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
 34 376.75, unless the context clearly requires otherwise, the term:

35 (4) "Background concentration" means the concentration of
 36 contaminants naturally occurring or resulting from anthropogenic
 37 impacts unrelated to the discharge of pollutants or hazardous
 38 substances at a contaminated site undergoing site
 39 rehabilitation.

40 (24) "Long-term natural attenuation" means natural
 41 attenuation approved by the department as a site rehabilitation
 42 program task for a period of more than 5 years.

43 Section 2. Subsection (2) of section 376.30701, Florida
 44 Statutes, is amended to read:

45 376.30701 Application of risk-based corrective action
 46 principles to contaminated sites; applicability; legislative
 47 intent; rulemaking authority; contamination cleanup criteria;
 48 limitations; reopeners.—

49 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is
 50 the intent of the Legislature to protect the health of all
 51 people under actual circumstances of exposure. By July 1, 2004,
 52 the secretary of the department shall establish criteria by rule

53 | for the purpose of determining, on a site-specific basis, the
54 | rehabilitation program tasks that comprise a site rehabilitation
55 | program, including a voluntary site rehabilitation program, and
56 | the level at which a rehabilitation program task and a site
57 | rehabilitation program may be deemed completed. In establishing
58 | these rules, the department shall apply, to the maximum extent
59 | feasible, a risk-based corrective action process to achieve
60 | protection of human health and safety and the environment in a
61 | cost-effective manner based on the principles set forth in this
62 | subsection. These rules shall prescribe a phased risk-based
63 | corrective action process that is iterative and that tailors
64 | site rehabilitation tasks to site-specific conditions and risks.
65 | The department and the person responsible for site
66 | rehabilitation are encouraged to establish decision points at
67 | which risk management decisions will be made. The department
68 | shall provide an early decision, when requested, regarding
69 | applicable exposure factors and a risk management approach based
70 | on the current and future land use at the site. These rules must
71 | ~~shall also~~ include protocols for the use of natural attenuation,
72 | including long-term natural attenuation where site conditions
73 | warrant, the use of institutional and engineering controls, and
74 | the issuance of "No Further Action" orders. The criteria for
75 | determining what constitutes a rehabilitation program task or
76 | completion of a site rehabilitation program task or site
77 | rehabilitation program, including a voluntary site
78 | rehabilitation program, must:

79 (a) Consider the current exposure and potential risk of
80 exposure to humans and the environment, including multiple
81 pathways of exposure. The physical, chemical, and biological
82 characteristics of each contaminant must be considered in order
83 to determine the feasibility of a risk-based corrective action
84 assessment.

85 (b) Establish the point of compliance at the source of the
86 contamination. However, the department is authorized to
87 temporarily move the point of compliance to the boundary of the
88 property, or to the edge of the plume when the plume is within
89 the property boundary, while cleanup, including cleanup through
90 natural attenuation processes in conjunction with appropriate
91 monitoring, is proceeding. The department may ~~also is~~
92 ~~authorized~~, pursuant to criteria provided in this section, ~~to~~
93 temporarily extend the point of compliance beyond the property
94 boundary with appropriate monitoring, if such extension is
95 needed to facilitate natural attenuation or to address the
96 current conditions of the plume, provided human health, public
97 safety, and the environment are protected. When temporarily
98 extending the point of compliance beyond the property boundary,
99 it cannot be extended further than the lateral extent of the
100 plume, if known, at the time of execution of a cleanup
101 agreement, if required, or the lateral extent of the plume as
102 defined at the time of site assessment. Temporary extension of
103 the point of compliance beyond the property boundary, as
104 provided in this paragraph, must include actual notice by the

105 person responsible for site rehabilitation to local governments
106 and the owners of any property into which the point of
107 compliance is allowed to extend and constructive notice to
108 residents and business tenants of the property into which the
109 point of compliance is allowed to extend. Persons receiving
110 notice pursuant to this paragraph shall have the opportunity to
111 comment within 30 days after receipt of the notice. Additional
112 notice concerning the status of natural attenuation processes
113 shall be similarly provided to persons receiving notice pursuant
114 to this paragraph every 5 years.

115 (c) Ensure that the site-specific cleanup goal is that all
116 contaminated sites being cleaned up pursuant to this section
117 ultimately achieve the applicable cleanup target levels provided
118 in this subsection. In the circumstances provided in this
119 subsection, and after constructive notice and opportunity to
120 comment within 30 days after receipt of the notice to local
121 government, owners of any property into which the point of
122 compliance is allowed to extend, and residents of any property
123 into which the point of compliance is allowed to extend, the
124 department may allow concentrations of contaminants to
125 temporarily exceed the applicable cleanup target levels while
126 cleanup, including cleanup through natural attenuation processes
127 in conjunction with appropriate monitoring, is proceeding, if
128 human health, public safety, and the environment are protected.

129 (d) Allow the use of institutional or engineering controls
130 at contaminated sites being cleaned up pursuant to this section,

131 where appropriate, to eliminate or control the potential
 132 exposure to contaminants of humans or the environment. The use
 133 of controls must be preapproved by the department and only after
 134 constructive notice and opportunity to comment within 30 days
 135 after receipt of notice is provided to local governments, owners
 136 of any property into which the point of compliance is allowed to
 137 extend, and residents on any property into which the point of
 138 compliance is allowed to extend. When institutional or
 139 engineering controls are implemented to control exposure, the
 140 removal of the controls must have prior department approval and
 141 must be accompanied by the resumption of active cleanup, or
 142 other approved controls, unless cleanup target levels under this
 143 section have been achieved.

144 (e) Consider the interactive ~~additive~~ effects of
 145 contaminants, including additive, synergistic, and antagonistic
 146 effects. ~~The synergistic and antagonistic effects shall also be~~
 147 ~~considered when the scientific data become available.~~

148 (f) Take into consideration individual site
 149 characteristics, which shall include, but not be limited to, the
 150 current and projected use of the affected groundwater and
 151 surface water in the vicinity of the site, current and projected
 152 land uses of the area affected by the contamination, the exposed
 153 population, the degree and extent of contamination, the rate of
 154 contaminant migration, the apparent or potential rate of
 155 contaminant degradation through natural attenuation processes,
 156 the location of the plume, and the potential for further

157 migration in relation to site property boundaries.

158 (g) Apply state water quality standards as follows:

159 1. Cleanup target levels for each contaminant found in
 160 groundwater shall be the applicable state water quality
 161 standards. Where such standards do not exist, the cleanup target
 162 levels for groundwater shall be based on the minimum criteria
 163 specified in department rule. The department shall apply the
 164 following, as appropriate, in establishing the applicable
 165 cleanup target levels: calculations using a lifetime cancer risk
 166 level of 1.0E-6; a hazard index of 1 or less; the best
 167 achievable detection limit; and nuisance, organoleptic, and
 168 aesthetic considerations. However, the department may not ~~shall~~
 169 ~~not~~ require site rehabilitation to achieve a cleanup target
 170 level for any individual contaminant that is more stringent than
 171 the site-specific, ~~naturally occurring~~ background concentration
 172 for that contaminant.

173 2. Where surface waters are exposed to contaminated
 174 groundwater, the cleanup target levels for the contaminants must
 175 ~~shall~~ be based on the more protective of the groundwater or
 176 surface water standards as established by department rule,
 177 unless it has been demonstrated that the contaminants do not
 178 cause or contribute to the exceedance of applicable surface
 179 water quality criteria. In such circumstance, the point of
 180 measuring compliance with the surface water standards shall be
 181 in the groundwater immediately adjacent to the surface water
 182 body.

183 3. Using risk-based corrective action principles, the
184 department shall approve alternative cleanup target levels in
185 conjunction with institutional and engineering controls, if
186 needed, based upon an applicant's demonstration, using site-
187 specific or other relevant data and information, risk assessment
188 modeling results, including results from probabilistic risk
189 assessment modeling, risk assessment studies, risk reduction
190 techniques, or a combination thereof, that human health, public
191 safety, and the environment are protected to the same degree as
192 provided in subparagraphs 1. and 2. Where a state water quality
193 standard is applicable, a deviation may not result in the
194 application of cleanup target levels more stringent than the
195 standard. In determining whether it is appropriate to establish
196 alternative cleanup target levels at a site, the department must
197 consider the effectiveness of source removal, if any, that has
198 been completed at the site and the practical likelihood of the
199 use of low yield or poor quality groundwater, the use of
200 groundwater near marine surface water bodies, the current and
201 projected use of the affected groundwater in the vicinity of the
202 site, or the use of groundwater in the immediate vicinity of the
203 contaminated area, where it has been demonstrated that the
204 groundwater contamination is not migrating away from such
205 localized source, provided human health, public safety, and the
206 environment are protected. Groundwater resource protection
207 remains the ultimate goal of cleanup, particularly in light of
208 the state's continued growth and consequent demands for drinking

209 | water resources. The Legislature recognizes the need for a
 210 | protective yet flexible cleanup approach that risk-based
 211 | corrective action provides. Only where it is appropriate on a
 212 | site-specific basis, using the criteria in this paragraph and
 213 | careful evaluation by the department, shall proposed alternative
 214 | cleanup target levels be approved. If alternative cleanup target
 215 | levels are used, institutional controls are not required if:

216 | a. The only cleanup target levels exceeded are the
 217 | groundwater cleanup target levels derived from nuisance,
 218 | organoleptic, or aesthetic considerations;

219 | b. Concentrations of all contaminants meet the state water
 220 | quality standards or the minimum criteria, based on the
 221 | protection of human health, public safety, and the environment,
 222 | as provided in subparagraph 1.;

223 | c. All of the groundwater cleanup target levels
 224 | established pursuant to subparagraph 1. are met at the property
 225 | boundary;

226 | d. The person responsible for site rehabilitation has
 227 | demonstrated that the contaminants will not migrate beyond the
 228 | property boundary at concentrations that exceed the groundwater
 229 | cleanup target levels established pursuant to subparagraph 1.;

230 | e. The property has access to and is using an offsite
 231 | water supply, and an unplugged private well is not used for
 232 | domestic purposes; and

233 | f. The property owner does not object to the "No Further
 234 | Action" proposal to the department or the local pollution

235 control program.

236 (h) Provide for the department to issue a "No Further
237 Action" order, with conditions, including, but not limited to,
238 the use of institutional or engineering controls where
239 appropriate, when alternative cleanup target levels established
240 pursuant to subparagraph (g)3. have been achieved or when the
241 person responsible for site rehabilitation can demonstrate that
242 the cleanup target level is unachievable with the use of
243 available technologies. Before ~~Prior to~~ issuing such an order,
244 the department shall consider the feasibility of an alternative
245 site rehabilitation technology at the contaminated site.

246 (i) Establish appropriate cleanup target levels for soils.
247 Although there are existing state water quality standards, there
248 are no existing state soil quality standards. The Legislature
249 does not intend, through the adoption of this section, to create
250 such soil quality standards. The specific rulemaking authority
251 granted pursuant to this section merely authorizes the
252 department to establish appropriate soil cleanup target levels.
253 These soil cleanup target levels shall be applicable at sites
254 only after a determination as to legal responsibility for site
255 rehabilitation has been made pursuant to other provisions of
256 this chapter or chapter 403.

257 1. In establishing soil cleanup target levels for human
258 exposure to each contaminant found in soils from the land
259 surface to 2 feet below land surface, the department shall apply
260 the following, as appropriate: calculations using a lifetime

261 cancer risk level of 1.0E-6; a hazard index of 1 or less; and
262 the best achievable detection limit. However, the department may
263 ~~shall~~ not require site rehabilitation to achieve a cleanup
264 target level for an individual contaminant that is more
265 stringent than the site-specific, ~~naturally occurring~~ background
266 concentration for that contaminant. Institutional controls or
267 other methods shall be used to prevent human exposure to
268 contaminated soils more than 2 feet below the land surface. Any
269 removal of such institutional controls shall require such
270 contaminated soils to be remediated.

271 2. Leachability-based soil cleanup target levels shall be
272 based on protection of the groundwater cleanup target levels or
273 the alternate cleanup target levels for groundwater established
274 pursuant to this paragraph, as appropriate. Source removal and
275 other cost-effective alternatives that are technologically
276 feasible shall be considered in achieving the leachability soil
277 cleanup target levels established by the department. The
278 leachability goals are ~~shall~~ not be applicable if the department
279 determines, based upon individual site characteristics, and in
280 conjunction with institutional and engineering controls, if
281 needed, that contaminants will not leach into the groundwater at
282 levels that pose a threat to human health, public safety, and
283 the environment.

284 3. Using risk-based corrective action principles, the
285 department shall approve alternative cleanup target levels in
286 conjunction with institutional and engineering controls, if

287 needed, based upon an applicant's demonstration, using site-
288 specific or other relevant data and information, risk assessment
289 modeling results, including results from probabilistic risk
290 assessment modeling, risk assessment studies, risk reduction
291 techniques, or a combination thereof, that human health, public
292 safety, and the environment are protected to the same degree as
293 provided in subparagraphs 1. and 2.

294

295 The department shall require source removal as a risk reduction
296 measure if warranted and cost-effective. Once source removal at
297 a site is complete, the department shall reevaluate the site to
298 determine the degree of active cleanup needed to continue.

299 Further, the department shall determine if the reevaluated site
300 qualifies for monitoring only or if no further action is
301 required to rehabilitate the site. If additional site
302 rehabilitation is necessary to reach "No Further Action" status,
303 the department is encouraged to utilize natural attenuation
304 monitoring, including long-term natural attenuation ~~and~~
305 monitoring, where site conditions warrant.

306 Section 3. Effective June 30, 2016, subsection (6) of
307 section 381.0065, Florida Statutes, is amended to read:

308 ~~(6) LAND APPLICATION OF SEPTAGE PROHIBITED. Effective June~~
309 ~~30, 2016, the land application of septage from onsite sewage~~
310 ~~treatment and disposal systems is prohibited.~~

311 Section 4. Effective June 30, 2016, section 51 of chapter
312 2015-222, Laws of Florida, is repealed.

313 Section 4. Paragraph (a) of subsection (1) of section
 314 287.0595, Florida Statutes, is amended to read:

315 287.0595 Pollution response action contracts; department
 316 rules.—

317 (1) The Department of Environmental Protection shall
 318 establish, by adopting administrative rules as provided in
 319 chapter 120:

320 (a) Procedures for determining the qualifications of
 321 responsible potential vendors before ~~prior to~~ advertisement for
 322 and receipt of bids, proposals, or replies for pollution
 323 response action contracts, including procedures for the
 324 rejection of unqualified vendors. Response actions are those
 325 activities described in s. 376.301(39) ~~s. 376.301(37)~~.

326 Section 5. Except as otherwise expressly provided in this
 327 act and except for this section, which shall take effect upon
 328 this act becoming a law, this act shall take effect July 1,
 329 2016.



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		

1 Committee/Subcommittee hearing bill: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative Drake offered the following:
 4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Subsection (6) of section 381.0065, Florida
 8 Statutes, is amended to read:

9 381.0065 Onsite sewage treatment and disposal systems;
 10 regulation.-

11 ~~(6) LAND APPLICATION OF SEPTAGE PROHIBITED.-Effective June~~
 12 ~~30, 2016, the land application of septage from onsite sewage~~
 13 ~~treatment and disposal systems is prohibited.~~

14 Section 2. Effective June 30, 2016, section 51 of chapter
 15 2015-222, Laws of Florida, is repealed.

16 Section 3. Except as otherwise expressly provided in this
 17 act, this act shall take effect upon becoming a law.



Amendment No.

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30

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 onsite sewage treatment and disposal systems; amending s. 381.0065, F.S., and repealing s. 51, chapter 2015-222, Laws of Florida; deleting the prohibition of the land application of septage from onsite sewage treatment and disposal systems and abrogating the scheduled reversion of amendments to s. 381.0065(6), F.S.; providing effective dates.



National & State Trends in Reuse Implementation

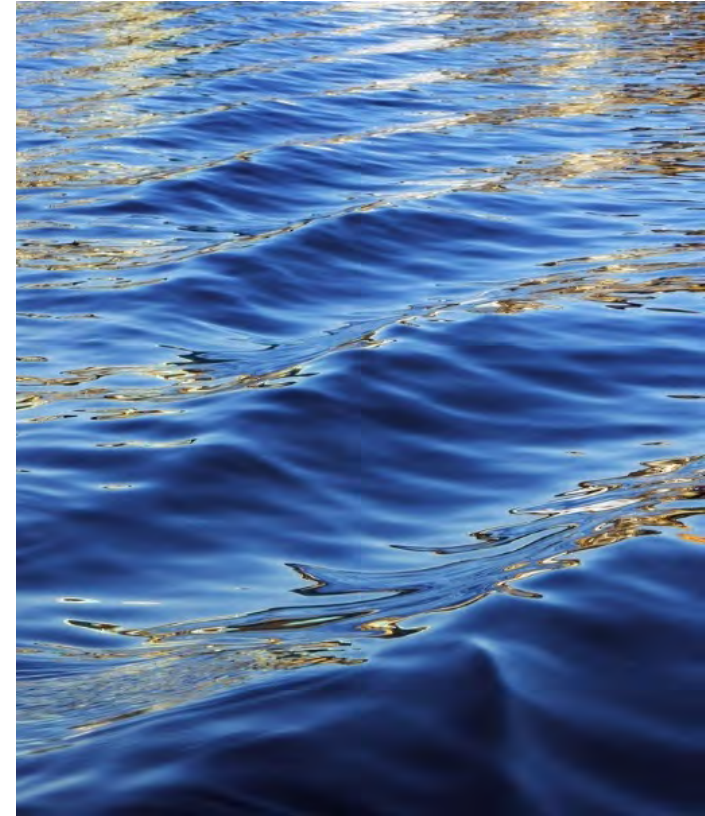
Melissa L. Meeker

Executive Director, WaterReuse Association

Amy Tracy

President, WaterReuse Florida

Florida House of Representatives
Agriculture and Natural Resources
Subcommittee
January 12, 2016





Urban
Irrigation
Industrial
Reuse



Potable Reuse

Food Crop
Irrigation

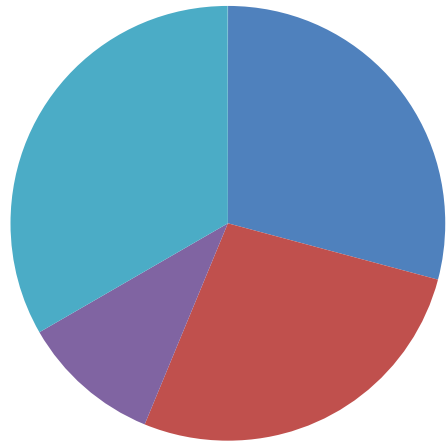
Wetland/
Habitat
Restoration



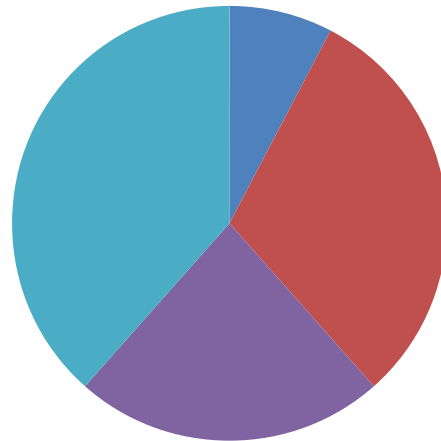


WRRF Research Focus Areas

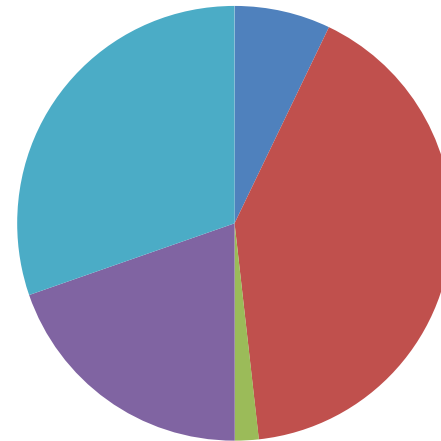
2001 - 2004



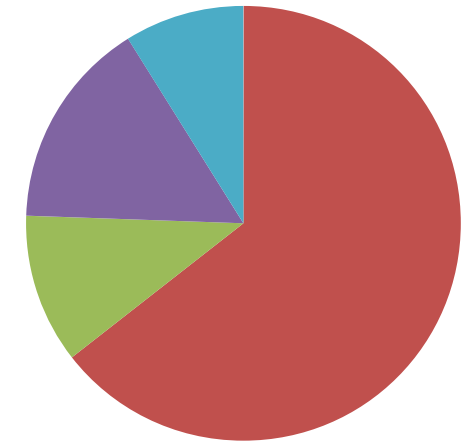
2005 - 2008



2009 - 2012



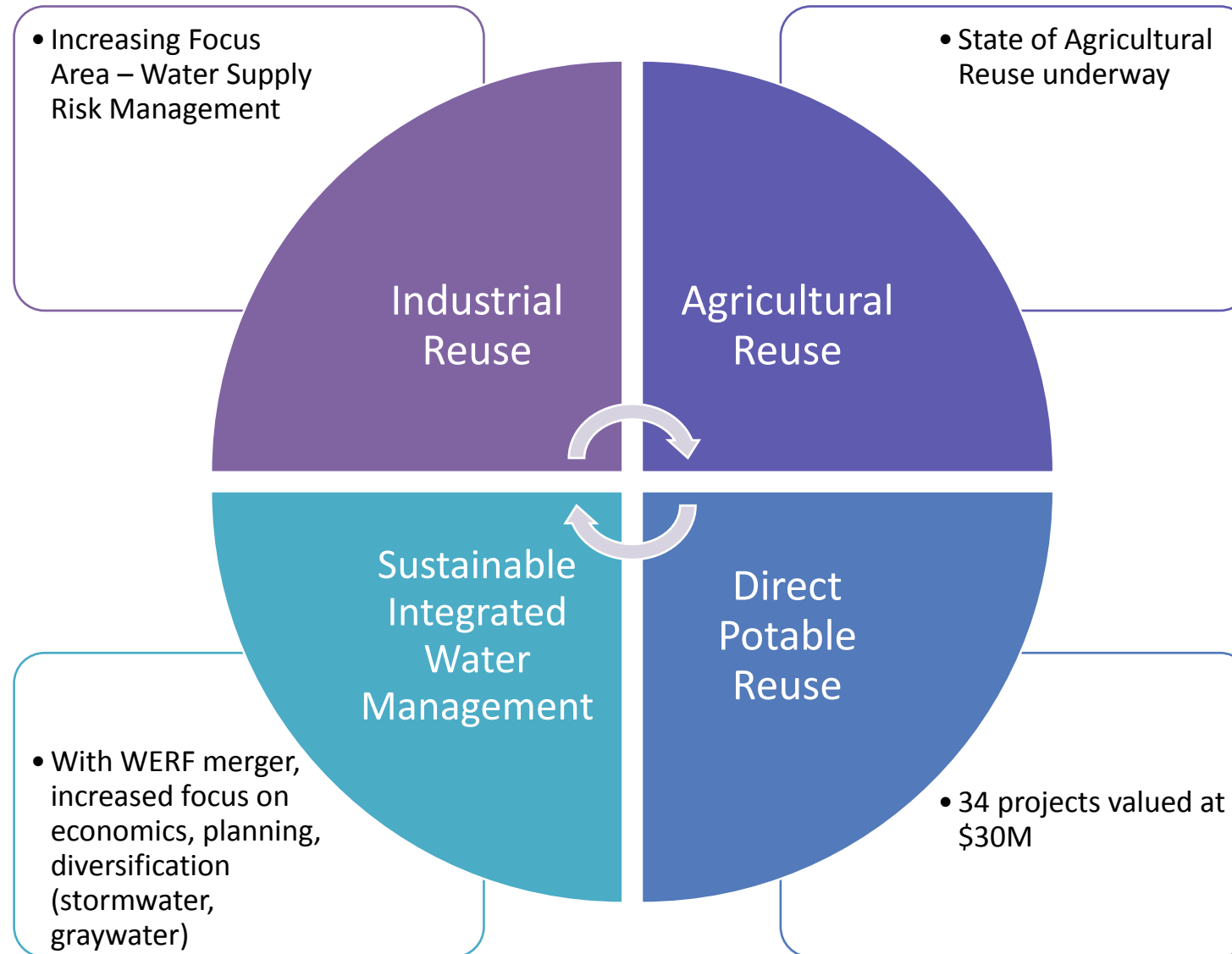
2013 - Present



- Non-Potable Reuse
- Potable Reuse
- Industrial Reuse
- Desal/Salinity Mgmt
- Social Science



Current and Future Research Priorities



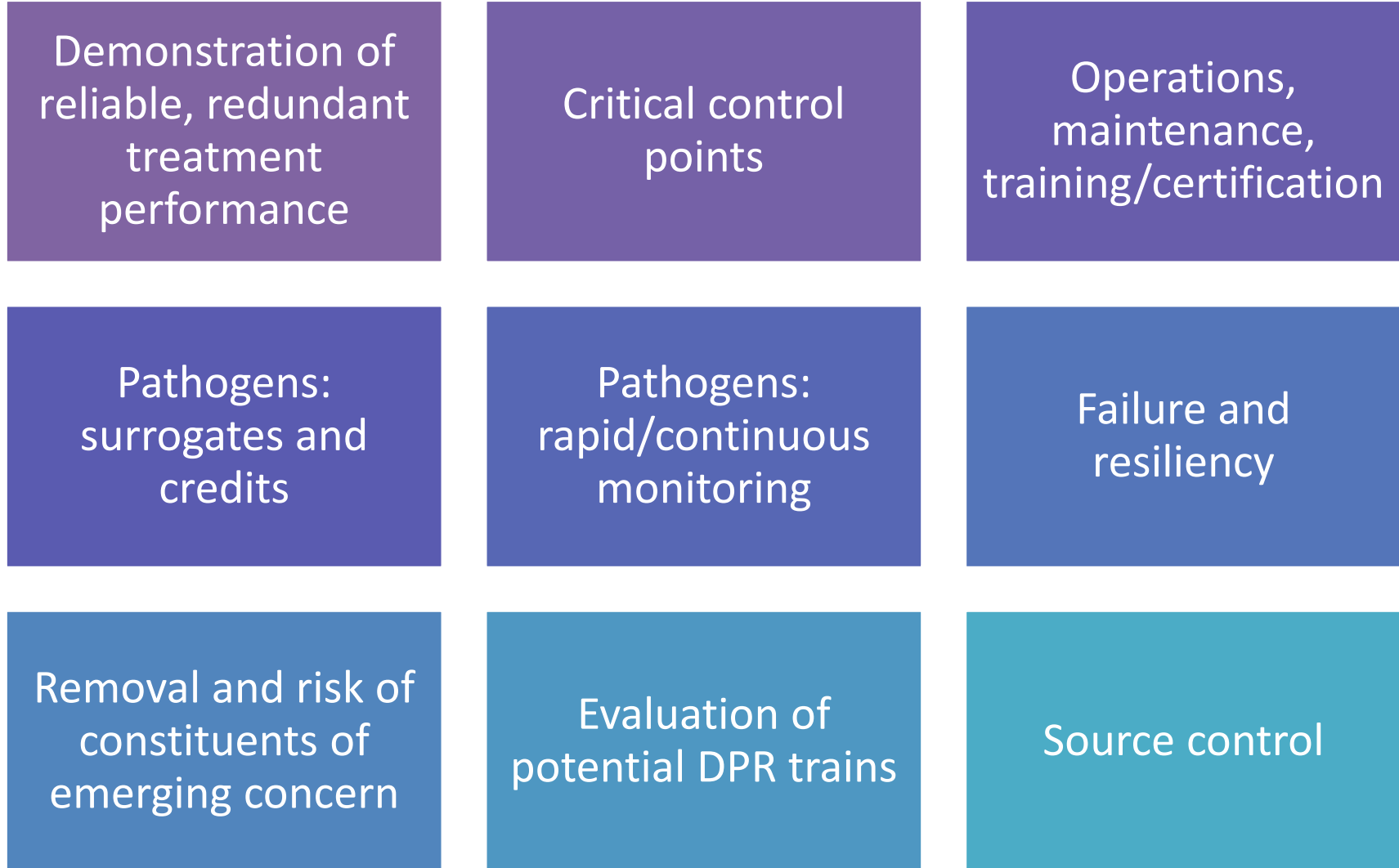
New Release: Framework for DPR



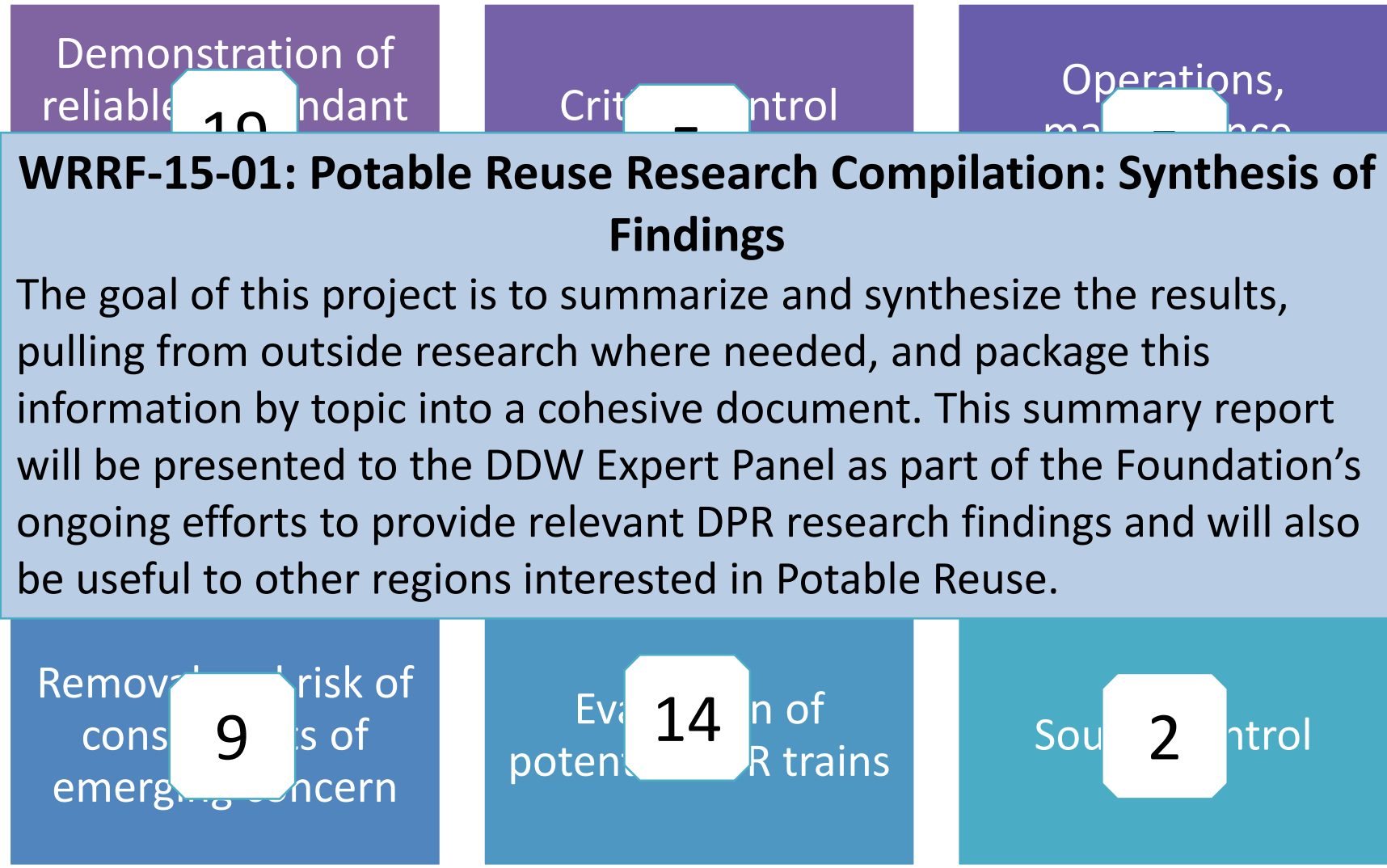
Purpose: To provide an overview of the key elements that make up a DPR program and a framework for assessing the specific topics and issues that need to be addressed in the development of future DPR Guidelines.



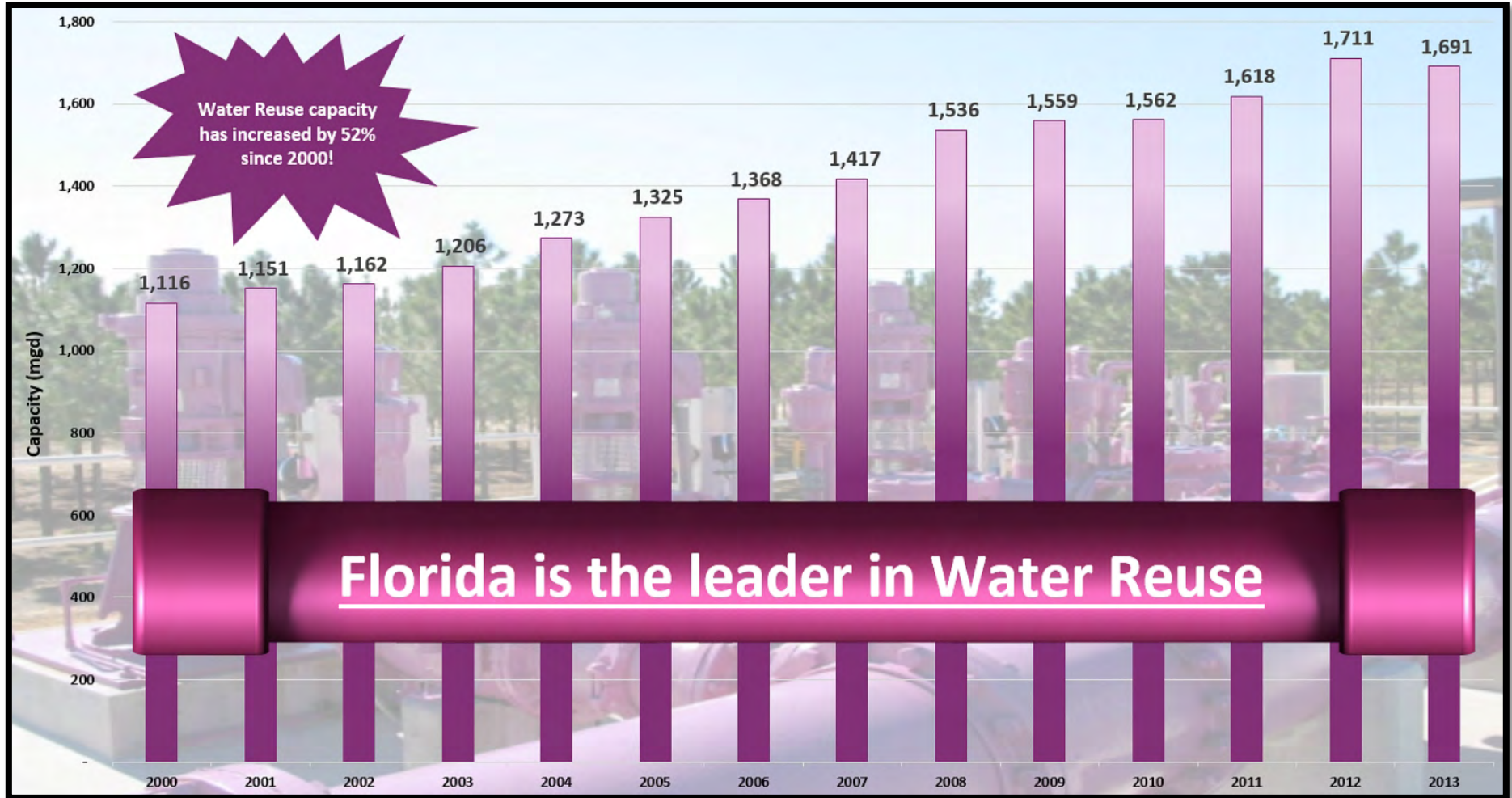
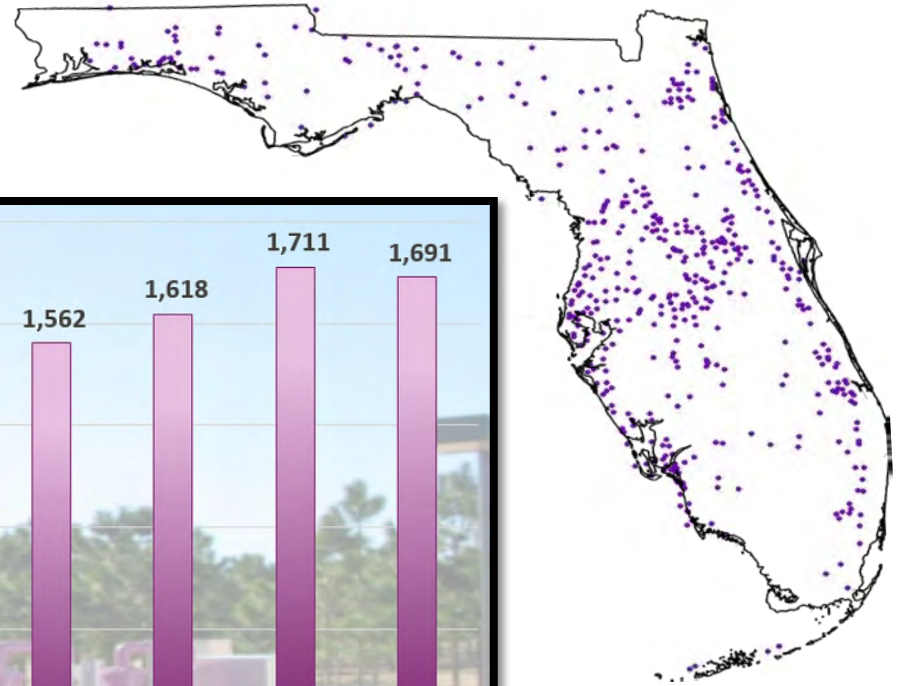
Technical Barriers of Potable Reuse being addressed through Research



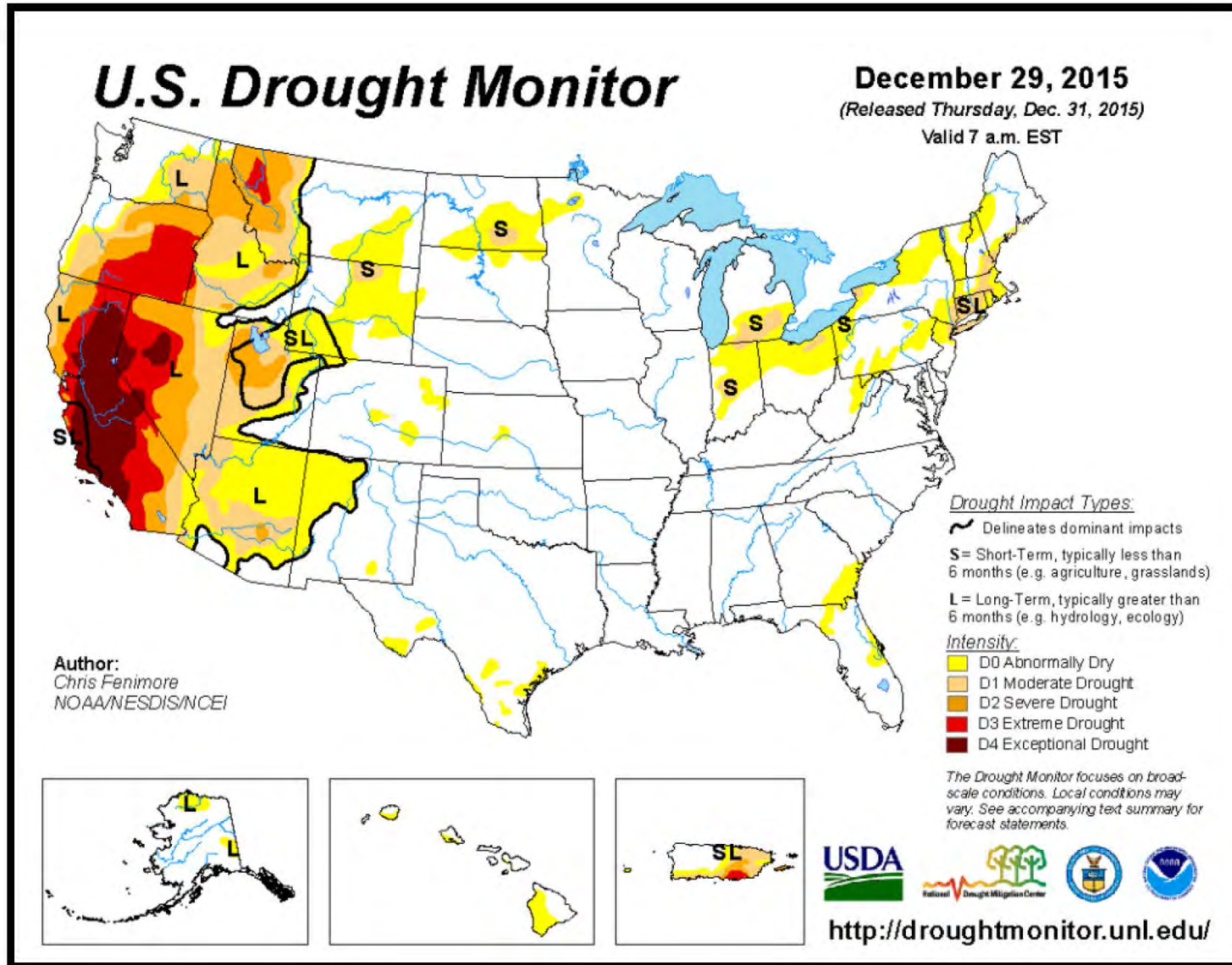
Technical Barriers of Potable Reuse being addressed through Research



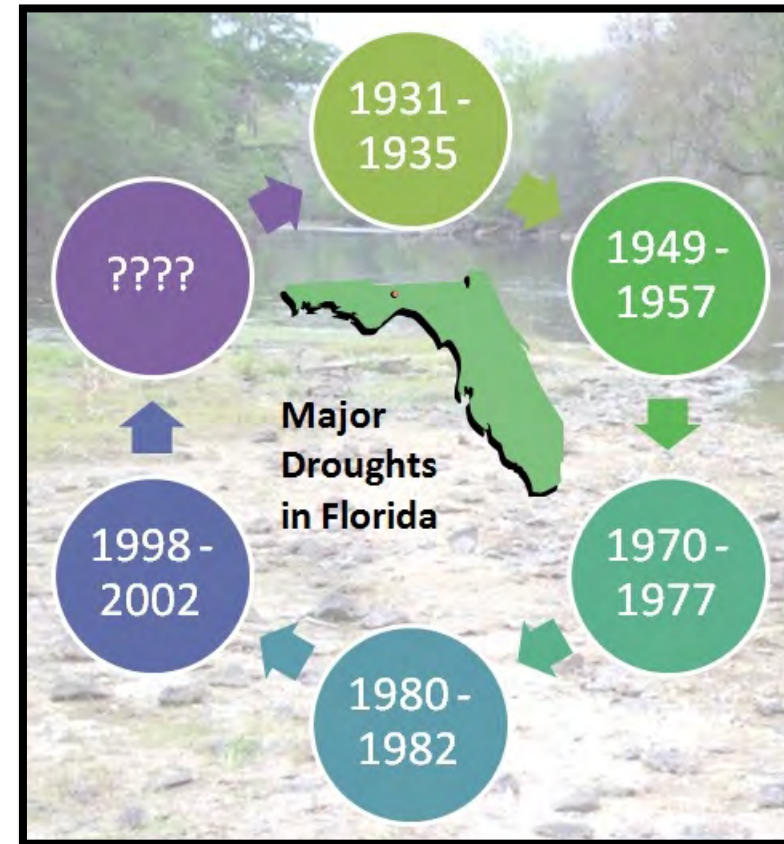
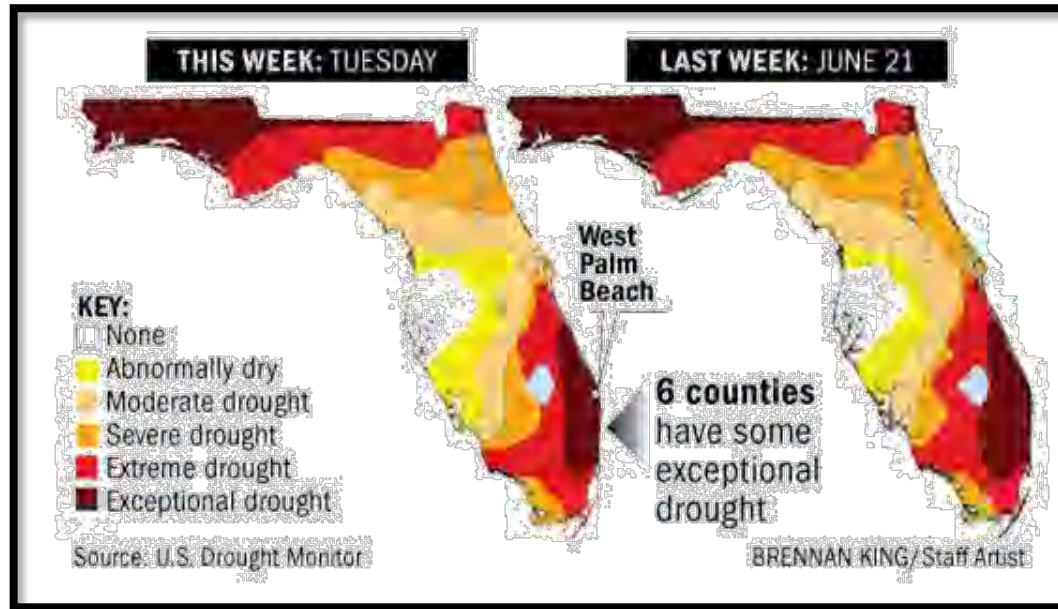
Water Reuse is on the rise in Florida



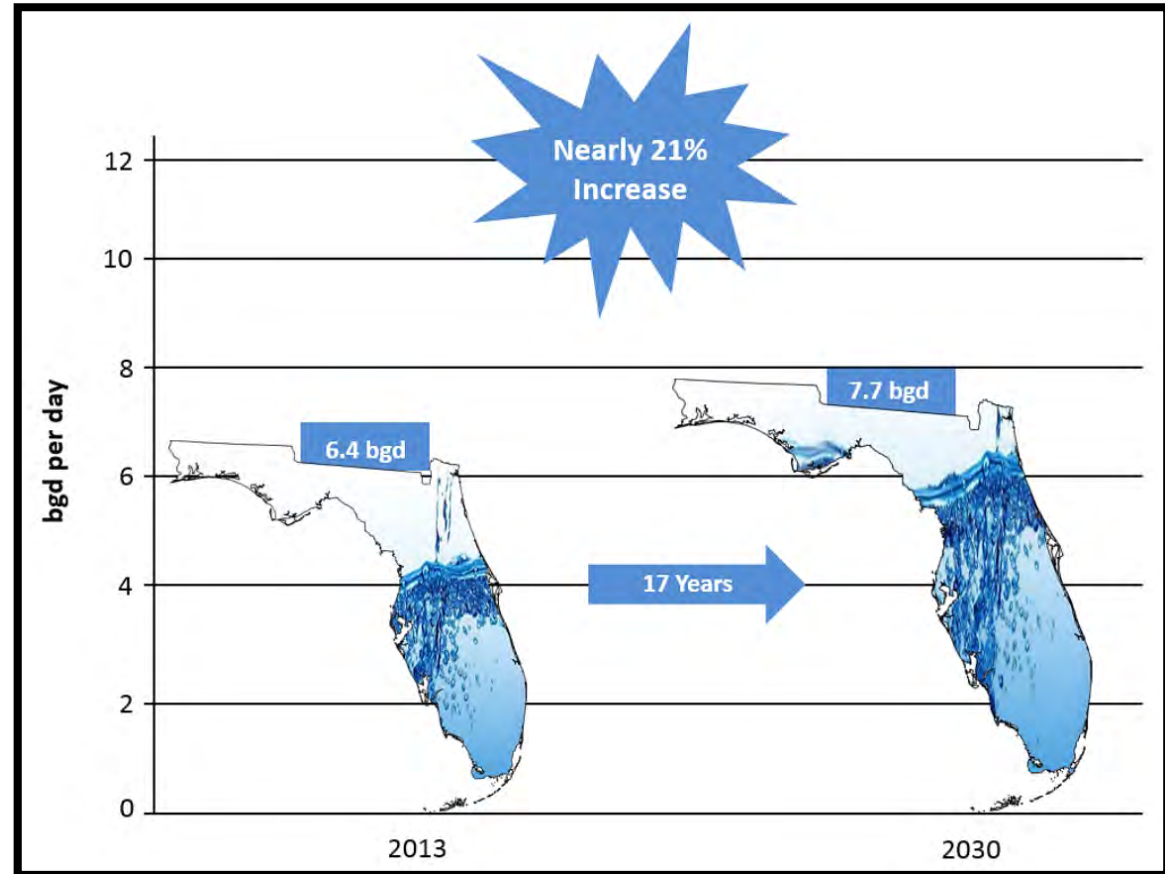
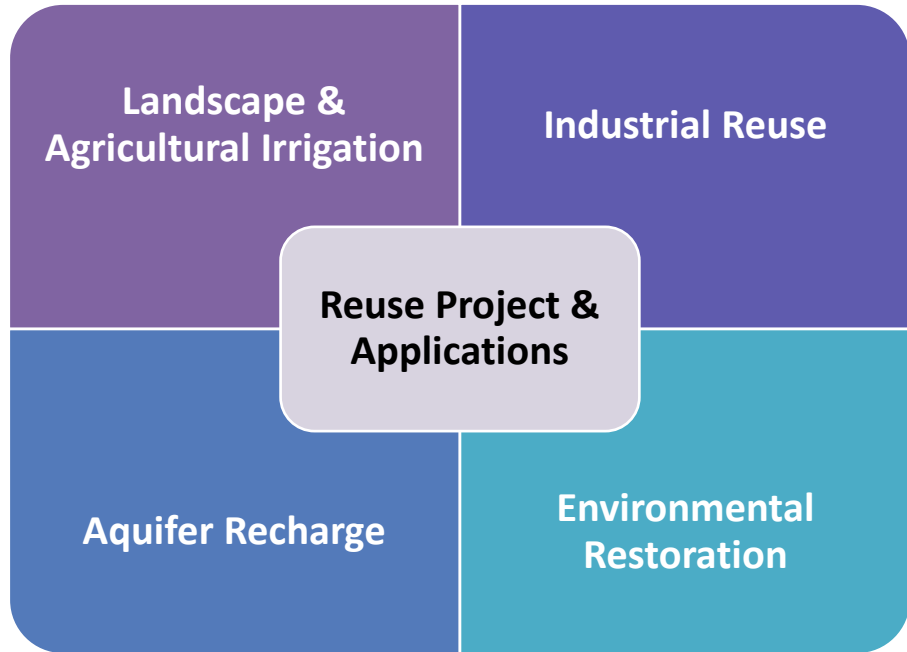
Necessity Driving Technology in the Western States



Florida Drought – Not If - But When



SB 536 – Roadmap to Reuse Implementation in Florida



**Feasibility & Benefit of Reuse Implementation Projects
Varies by Region & Utility**

Environmental Impacts

As demands on Florida's water resources increase, it becomes ever more important to utilize alternative water sources, such as Reuse Water, to help lessen the environmental impacts of depleted water resources.



Florida Springs & Lakes
Minimum Flows
& Levels



Indian River Lagoon
Algal Blooms

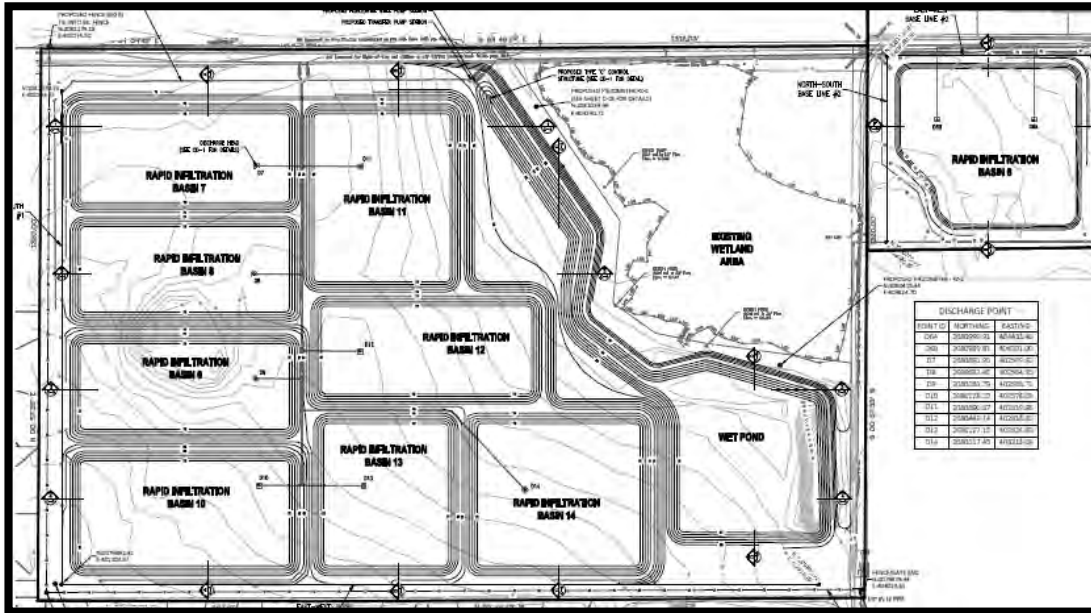


Florida Estuaries
Seagrass Habitat



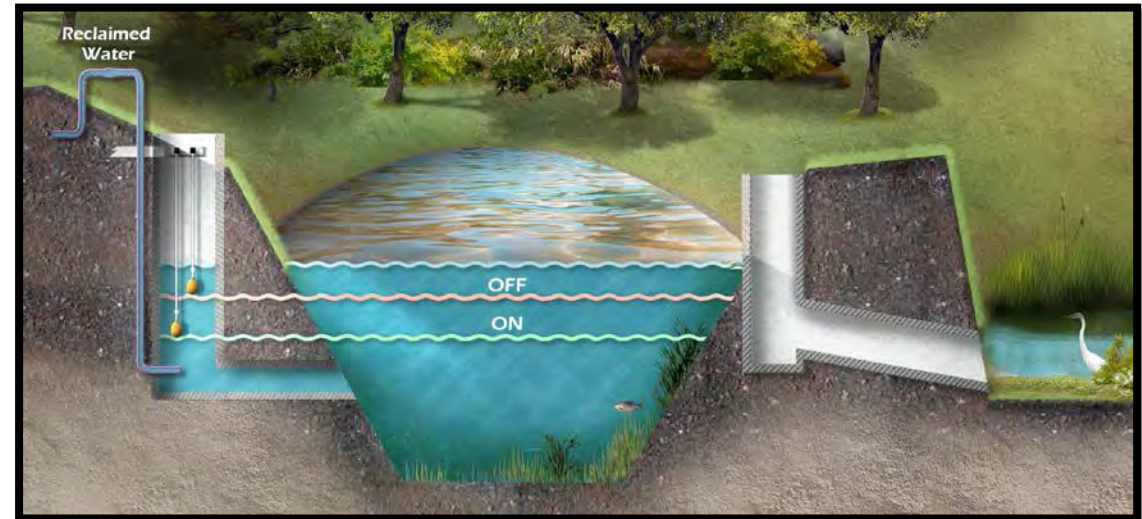
Northeast Florida Projects

Clay County Mid-Clay Rapid Infiltration Basins (RIBs)



- Storage and Recharge
- Reduce Nitrogen to St Johns River by 18,298 kg/yr

Town of Nocatee Stormwater Harvesting



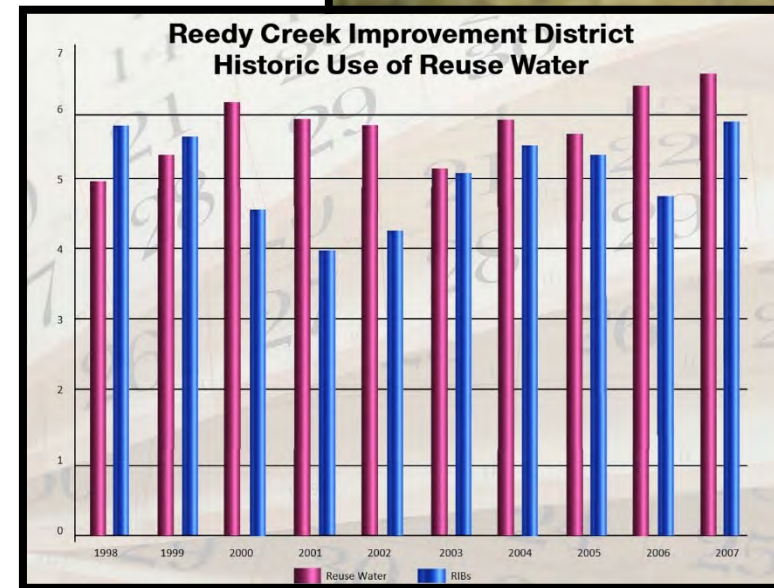
- Conserves 563 MGY of Potable Supply
- Private Development Project, Demonstrates the Value and Economy of Reuse

Central Florida Projects

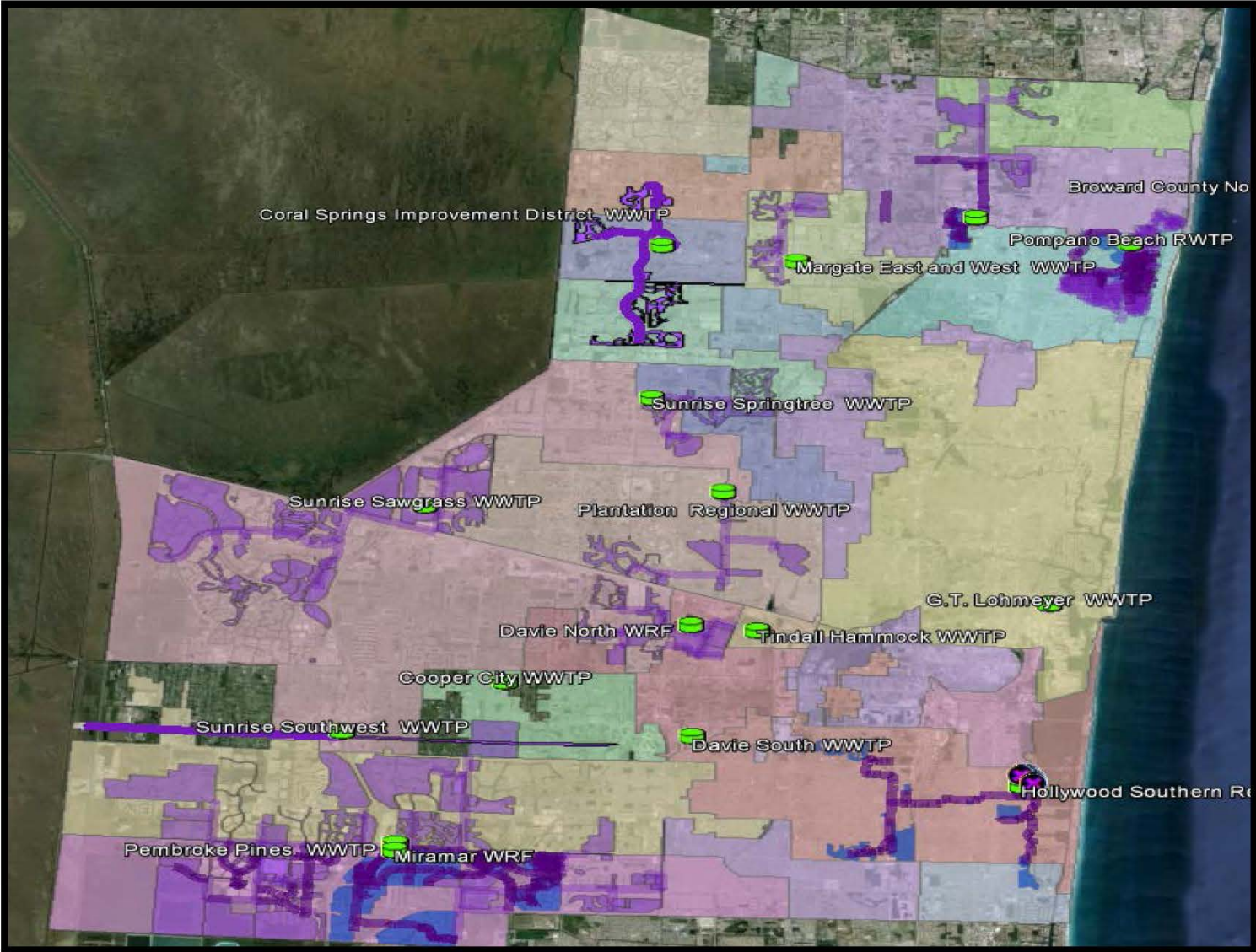
AFIRST



Reedy Creek
Rapid Infiltration Basins (RIBs)



South Florida Initiatives



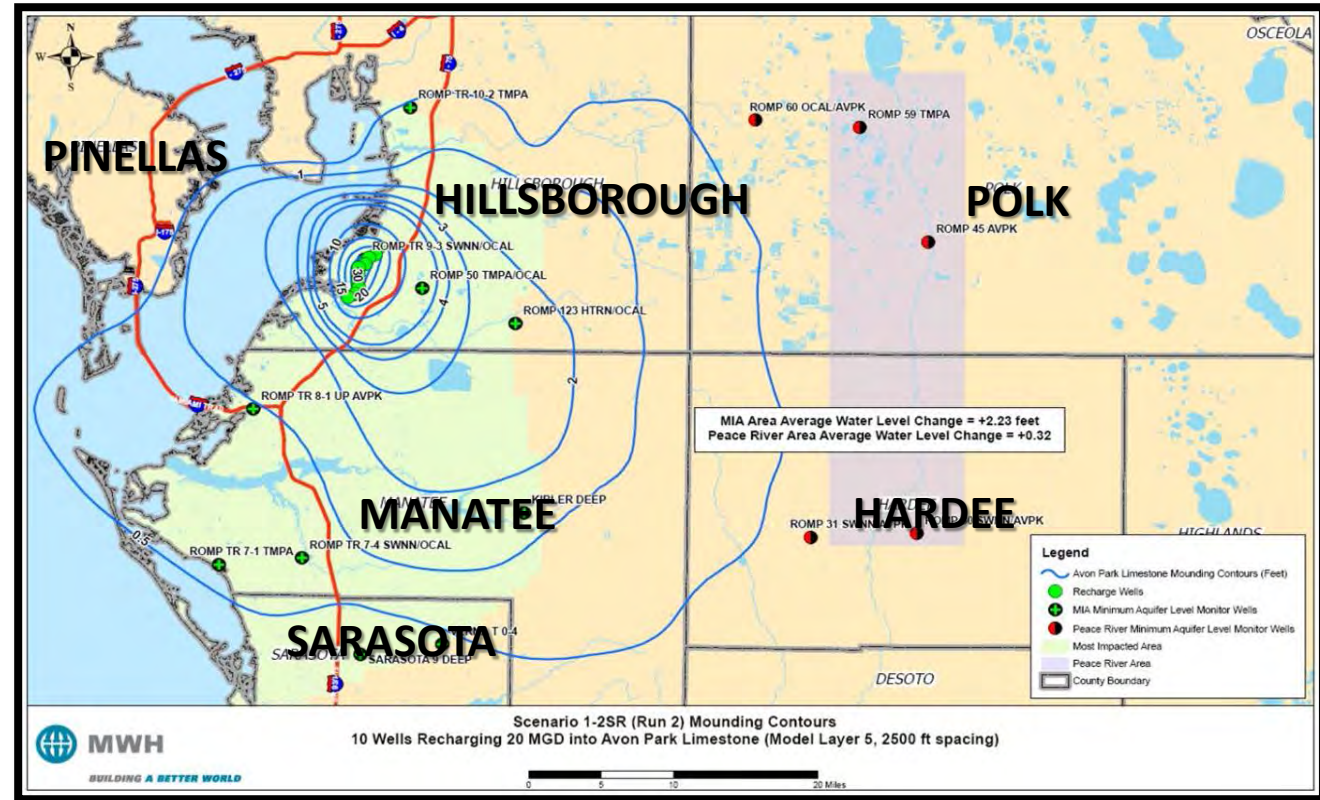
Southwest Florida Projects

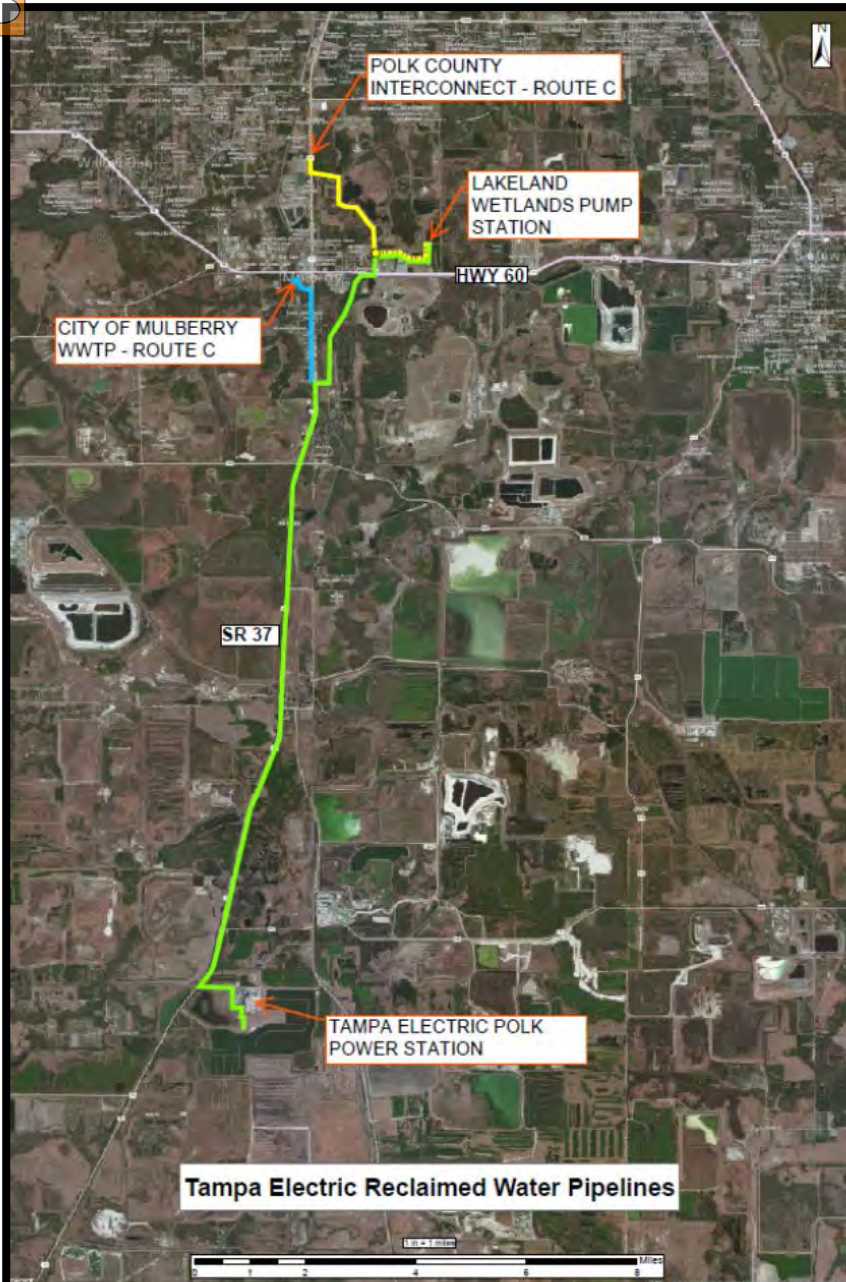
City of Clearwater & City of Tampa Aquifer Augmentation Project



Earthobservatory.nasa.gov

Southern Hillsborough Aquifer Recharge Project "SHARP"





Regional Partnerships

TECO, Lakeland and the SWFWMD



SUMMARY

Investment in Reuse Water Projects is a Smart Investment because...

