Government Accountability Committee

January 24, 2018
11:30 AM—2:30 PM
Morris Hall (17 HOB)

Meeting Packet

Richard Corcoran
Speaker

Matt Caldwell
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Accountability Committee

Start Date and Time:	Wednesday, January 24, 2018 11:30 am
End Date and Time:	Wednesday, January 24, 2018 02:30 pm
Location:	Morris Hall (17 HOB)
Duration:	3.00 hrs

Consideration of the following bill(s):

HR 319 Gulf of Mexico Range Complex by Ponder, Rodrigues
HB 411 Public Records and Public Meetings/Firesafety Systems by Clemons
HB 545 Prohibition Against Contracting with Scrutinized Companies by Fine, Moskowitz
CS/CS/HB 551 Pub. Rec./Health Care Facilities by Health Innovation Subcommittee, Oversight, Transparency & Administration Subcommittee, Burton
HM 817 Renewal of Title IV-E Waivers for Child Welfare Services by Harrell
HB 891 St. Lucie County by Harrell
HR 1027 Capital of Israel by Moskowitz, Fine
HB 1115 Indian River Farms Water Control District, Indian River County by Grall
HB 6033 Volunteer Florida, Inc. by Ponder
HB 7041 OGSR/Ethics Complaints and Investigations by Oversight, Transparency & Administration Subcommittee, Williamson

Consideration of the following proposed committee bill(s):

PCB GAC 18-02 -- Natural Resources

NOTICE FINALIZED on 01/22/2018 4:15PM by Larson.Lisa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HR 319 Gulf of Mexico Range Complex
SPONSOR(S): Ponder, Rodrigues and others
TIED BILLS: **IDEN./SIM. BILLS:** SR 550

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N	Renner	Miller
2) Government Accountability Committee		Renner	Williamson

SUMMARY ANALYSIS

The Gulf of Mexico Range Complex (GOMEX Range Complex) stretches from the Florida Panhandle (commonly referred to as the Military Mission Line) south to Key West and is the largest military testing and training range in the United States. Surrounding the GOMEX Range Complex are numerous Department of Defense joint installations and multiple live-fire bombing ranges. Additionally, Florida's military bases, which help account for an $85 billion state economic impact in defense-related spending, are dependent on access to the air and sea space the GOMEX Range Complex provides. Due to its capabilities of offering joint training exercises, access to sea and land, and close proximity to Florida's bases, the GOMEX Range Complex serves as a vital part to the Department of Defense's training strategies.

While offshore drilling and oil exploration have taken place in the Gulf of Mexico since the 1930's, the interest in new exploration and drilling technologies has caused drilling to increase over the last few decades. To ensure that drilling platforms and activities would not encroach on the GOMEX Range Complex, and thus jeopardize military training, the Gulf of Mexico Security Act (GOMESA) was signed into law on December 20, 2006. Among other things, the GOMESA implemented a moratorium on oil exploration in the eastern Gulf of Mexico east of the Military Mission Line until 2022.

HR 319 pronounces that:

- The State of Florida must maintain a unified front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line;
- Drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas; and
- The Florida House of Representatives supports an indefinite extension of the restriction, specified in the GOMESA, on oil and gas leasing in all areas east of the Military Mission Line established at 86°41' west longitude and indefinite extension of the GOMESA's ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Gulf of Mexico Range Complex

Florida's 20 major military installations and defense business presence provide a nearly $85 billion annual economic impact and account for roughly 800,000 jobs in Florida.[1] Additionally, Florida houses three of 10 unified combatant commands and hosts two of only four Navy deep water ports in the United States with adjacent airfields, the military's only east coast space launch facility, the Marine Corps' only maritime prepositioning force facility, and one of only three Navy Fleet Readiness Centers, as well as several critical research, development, training, and evaluation centers.[2]

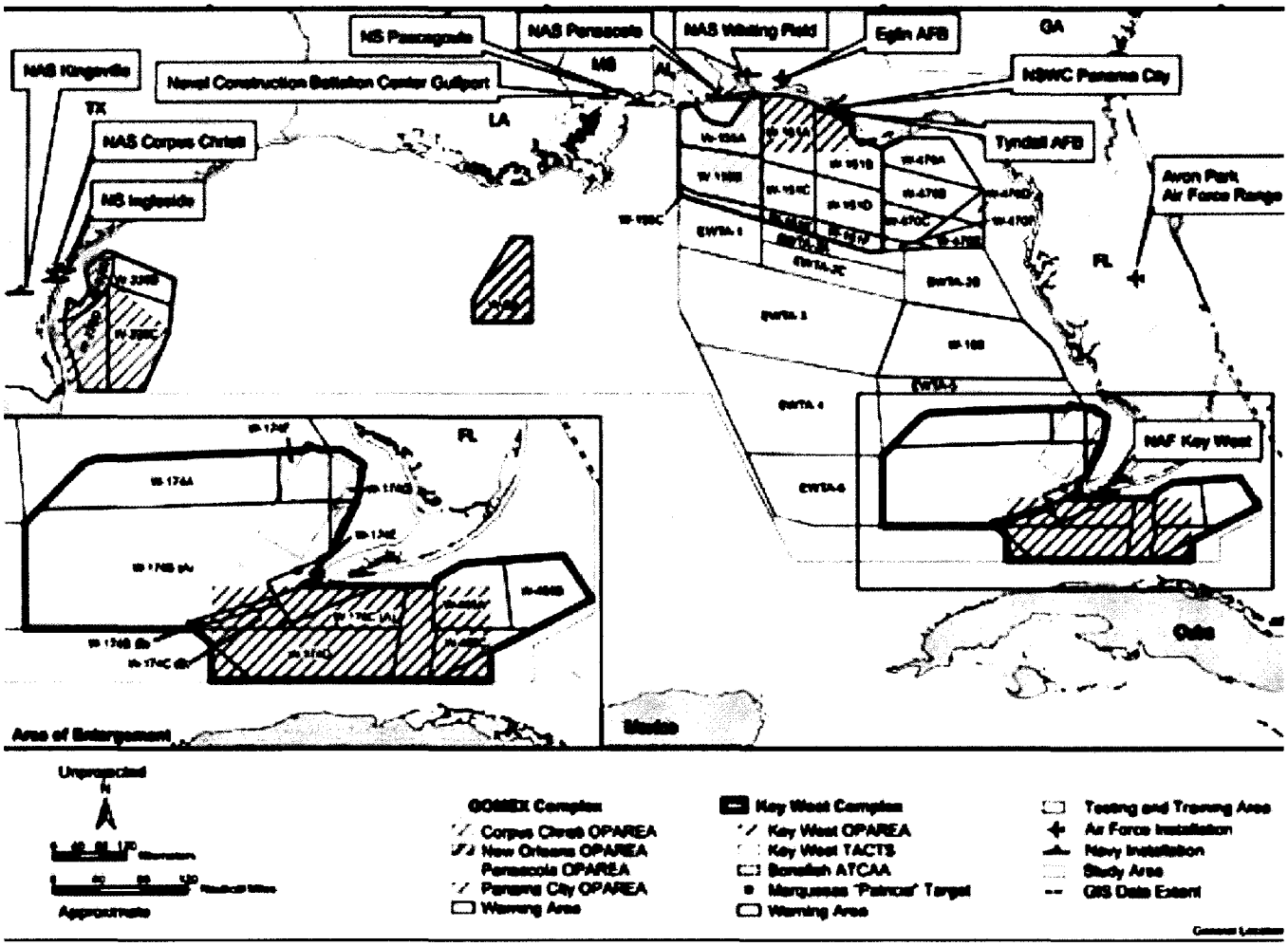
Joint basing, joint usage, and joint training areas are vital to assessing the future of a military base. The Gulf of Mexico Range Complex (GOMEX Range Complex) is larger than all other training ranges inside the continental United States combined and has been in use for over 60 years. The GOMEX Range Complex stretches from the Florida Panhandle (commonly referred to as the Military Mission Line) south to Key West and encompasses 180,000 square miles in the eastern Gulf of Mexico.[3] The GOMEX Range Complex supports Naval Air Station (NAS) Pensacola, NAS Whiting Field, Hurlburt Air Force Base, Duke Field, Eglin Air Force Base, NAS Panama City, Tyndall Air Force Base, MacDill Air Force Base, and NAS Key West missions, while also supporting joint live fire weapons and operational testing for the Air Force, Navy, and Marine units from around the world.[4] The GOMEX Range Complex also contains multiple live-fire bombing ranges, including Pinecastle Range, Avon Park Air Force Range, and Eglin Bombing Range, which allow for simultaneous maritime, air, and land training exercises.[5]

New technology and the need for more integrated realistic training missions are constantly changing in order to keep up with ever changing global threats. Consequently, Air Force and Navy ranges within the GOMEX Range Complex must keep pace to ensure they will be capable of handling the new aircraft and weapons requirements.[6] Due to its capabilities of offering joint training exercises, access to sea and land, and close proximity to Florida's bases, the GOMEX Range Complex serves as a vital part to the Department of Defense's training strategies.

---

[1] Florida Defense Factbook, pg. 1 (December 2017), available at https://www.enterpriseflorida.com/wp-content/uploads/Florida-Defense-Factbook-2017-1.pdf (last viewed 1/7/2018).
[2] *Id.* at pg. 5.
[3] Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility,* pg. 1 (January 2017), available at https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatability.pdf (last viewed 10/23/2017).
[4] *Id.* at 2.
[5] *Supra* note 2
[6] *Supra* note 3, at 3

The following map represents the various bombing ranges and testing areas within the GOMEX Range Complex.



Oil Production in the Gulf of Mexico

Offshore drilling and oil exploration in the Gulf of Mexico began in the 1930s. Gulf of Mexico offshore production accounts for 17 percent of total U.S. crude oil production and five percent of total U.S. dry natural gas production.[7]

The federal government administers the submerged lands, subsoil, and seabed lying between the seaward extent of the state's jurisdiction and the seaward extent of federal jurisdiction. Florida's jurisdiction extends nine nautical miles seaward off the Gulf coast.[8] The Department of Interior's Bureau of Ocean Energy Management is responsible for administering the National Outer Continental Shelf Oil and Gas Leasing Program for oil and gas lease sales proposed for planning areas of the U.S. Outer Continental Shelf. The program specifies the size, timing, and location of potential leasing activity that the Secretary of the Interior determines will best meet national energy needs.[9]

---

[7] U.S. Energy Information Administration website, *Gulf of Mexico Fact Sheet,* available at https://www.eia.gov/special/gulf_of_mexico/ (last viewed 10/25/2017).

[8] Department of the Interior Bureau of Ocean Energy Management website, *Outer Continental Shelf*, available at https://www.boem.gov/Outer-Continental-Shelf/ (last viewed 10/25/2017).

[9] Department of the Interior Bureau of Ocean Energy Management website, *National OCS Oil and Gas Leasing Program,* available at https://www.boem.gov/National-OCS-Program/ (last viewed 10/25/2017).

After the OPEC crisis in the 1970's and the attacks on September 11, 2001, an interest in energy production, particularly domestic oil and natural gas, grew. The Department of Defense was concerned about the possibility of an unchecked expansion of oil drilling platforms in the eastern Gulf of Mexico conflicting with military training and weapons testing in the GOMEX Range Complex. In 2005, the Secretary of Defense sent a memo to the U.S. Senate Armed Services Committee stating the concern and said the Department of Defense would work with the Department of Interior to strike a balance between energy needs and national security goals.[10]

Gulf of Mexico Energy Security Act of 2006

The Secretary of Defense's memo led to legislation limiting oil and gas production in the Gulf of Mexico. On December 20, 2006, the Gulf of Mexico Energy Security Act of 2006 (GOMESA)[11] was signed into law. GOMESA enhances Outer Continental Shelf oil and gas leasing activities and revenue sharing in the Gulf of Mexico by doing the following:

- Shares leasing revenues with Gulf producing states and the Land and Water Conservation Fund for coastal restoration projects;
- Bans oil and gas leasing within 125 miles off the Florida coastline in the Eastern Gulf of Mexico Planning Area, and a portion of the Central Planning Area until 2022; and
- Allows companies to exchange certain existing leases in moratorium areas for bonus and royalty credits to be used on other Gulf of Mexico leases.

Specifically, GOMESA restricts leasing activities that include portions of the Eastern Planning Area within 125 miles of Florida, all areas in the Gulf of Mexico east of the Military Mission Line (86° 41' west longitude), and the area within the Central Planning Area that is within 100 miles of Florida.[12]

Efforts to Revise the Moratorium

In 2013, the "Offshore Energy and Jobs Act was introduced to remove limits imposed by the GOMESA, including shortening the duration of the moratorium from 2022 to 2017. The bill passed the U.S. House of Representatives; however, it was never taken up in the Senate.[13]

Two years later a similar bill, the "Offshore Energy Jobs Act of 2015, was filed. Among other things, the bill reduced the exclusion area east of the Military Mission Line from 125 miles to 50 miles off shore and reduced the area subject to the moratorium in the Central Planning Area off the coastline of Florida. The bill was never heard in the Senate.[14]

On April 28, 2017, President Trump signed an executive order with the intent to expand offshore drilling in the Arctic and Atlantic Oceans, in addition to assessing whether energy exploration can take place in marine sanctuaries in the Pacific and Atlantic.[15] The order also directs the Secretary of the Interior, in consultation with the Secretary of Defense, to review "the schedule of proposed oil and gas lease sales...in the Western Gulf of Mexico, Central Gulf of Mexico, Chukchi Sea, Beaufort Sea, Cook Inlet,

---

[10] *Supra* note 3, at 4.

[11] Gulf of Mexico Energy Security Act of 2006, Pub. L. No. 109-432, S. 3711, 109th Cong. (Dec. 20, 2006), available at https://www.congress.gov/bill/109th-congress/senate-bill/3711 (last viewed 10/23/2017).

[12] Department of the Interior Bureau of Ocean Energy Management website, *Gulf of Mexico Energy Security Act*, available at https://www.boem.gov/Revenue-Sharing/ (last viewed 10/25/2017).

[13] H.R. 2231, 113th Cong. (June 4, 2013). *See* https://www.congress.gov/bill/113th-congress/house-bill/2231 (last viewed 10/23/2017).

[14] S. 1276, 114th Cong. (May 11, 2015). *See* https://www.congress.gov/bill/114th-congress/senate-bill/1276 (last viewed 10/23/2017).

[15] Executive Order 13795, available at https://www.whitehouse.gov/the-press-office/2017/04/28/presidential-executive-order-implementing-america-first-offshore-energy (last viewed 10/24/2017).

Mid-Atlanta, and the South Atlantic."[16] The executive order does not require a review of oil and gas lease sales in the eastern Gulf of Mexico; however, the oil industry is pushing to drill in the region.[17]

Subsequently, in October, 2017, Department of the Interior Secretary Zinke announced that the department is proposing "the largest oil and gas lease sale ever held in the United States, 76,967,935 acres in federal waters of the Gulf of Mexico, offshore Texas, Louisiana, Mississippi, Alabama and Florida."[18] The proposed lease sale is scheduled for March 2018. The lease sale appears to exclude all portions of the Eastern Gulf of Mexico east of the Military Mission Line, including the GOMEX Range Complex due to the GOMESA moratorium.

Expanding the Current Moratorium

Senator Bill Nelson (D-FL) filed the "Marine Oil Spill Prevention Act" in January 2017. The bill, among other things, expands the GOMESA to 2027. The bill has been referred to committees but has not received a hearing.[19]

Senator Nelson also filed the "Florida Coastal Protection Act" on January 10, 2018. The bill would create a permanent ban on drilling in any area of the Eastern Gulf of Mexico that is referred to in section 104(a) of the GOMESA; the portion of the South Atlantic Planning Area south of 30 degrees, 43 minutes North Latitude; or the Straits of Florida Planning Area. The bill has been referred to committees.[20]

In May 2017, Acting Under Secretary of Defense, A.M. Kurta, sent a letter to Representative Matt Gaetz (R-FL) stating military training and related exercises in the Eastern Gulf necessitate a continuation of the GOMESA. Kurta also stated the:

> Emerging technologies such as hypersonics, autonomous systems, and advanced sub-surface systems will require enlarged testing and training footprints and increased Department of Defense reliance on the Gulf of Mexico Energy Security Act's moratorium beyond 2022. The moratorium is essential for developing and sustaining our nation's future combat capabilities.[21]

Additionally, county commissions, chambers of commerce, local economic development councils, and military affairs committees from the counties bordering the Gulf of Mexico have provided resolutions in support of the GOMESA to the Florida Legislature.[22]

Effect of the Resolution

The resolution pronounces that:

- The State of Florida must maintain a unified front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line;

---

[16] *Id.*

[17] Timothy Cama, *Pentagon wants offshore drilling ban maintained in eastern Gulf,* THE HILL (May 2, 2017), http://thehill.com/policy/energy-environment/331520-pentagon-wants-offshore-drilling-ban-maintained-in-eastern-gulf (last viewed 10/24/2017).

[18] Department of the Interior Press Release, October 24, 2017, available at https://www.doi.gov/pressreleases/secretary-zinke-announces-largest-oil-gas-lease-sale-us-history (last viewed 10/25/2017).

[19] S. 74, 115th Cong. (January 9, 2017). *See* https://www.congress.gov/bill/115th-congress/senate-bill/74?q=%7B%22search%22%3A%5B%22oil+drilling+moratorium%22%5D%7D&r=1 (last viewed 10/24/2017).

[20] S. 2292, 115th Cong. (January 10, 2018). *See* https://www.congress.gov/bill/115th-congress/senate-bill/2292/text?q=%7B%22search%22%3A%5B%22S.+2292%22%5D%7D&r=1 (last viewed 1/19/2018).

[21] Congressional Record on *Gulf of Mexico Oil Drilling Moratorium*, Senator Bill Nelson remarks, May 1, 2017, available at https://www.congress.gov/congressional-record/2017/05/01/senate-section/article/S2654-4 (last viewed 10/24/2017).

[22] *Supra* note 3, at 5.

- Drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas; and
- The Florida House of Representatives supports an indefinite extension of the restriction, specified in the GOMESA, oil and gas leasing in all areas east of the Military Mission Line established at 86°41' west longitude and indefinite extension of the GOMESA's ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

B. SECTION DIRECTORY:

Not applicable.

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:

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

House Resolution

A resolution supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line.

WHEREAS, the Florida Legislature represents the military bases and personnel that maintain, manage, and use the Gulf of Mexico Range Complex (GOMEX Range Complex) which provides for the common defense of this state and the nation, and

WHEREAS, defense is the State of Florida's fourth largest industry, accounting for more than 775,000 jobs, $80 billion in economic impact, and 65 percent of the regional economy of Northwest Florida, and

WHEREAS, testing and training activities conducted from Florida's air and sea bases are considerably dependent on unconstrained access to the Eastern Gulf of Mexico airspace and seaspace, and

WHEREAS, the GOMEX Range Complex is a unique national resource, and

WHEREAS, the range is larger than all other training ranges inside the continental United States combined, stretching from the Florida Panhandle south to Key West and encompassing the Eastern Gulf of Mexico, and

WHEREAS, surrounding the GOMEX Range Complex are numerous United States Department of Defense installations, ranges, and

airspaces, which make the complex unique, and

WHEREAS, originally a place to practice air-to-air engagements and air-to-surface bombing and strafing, the GOMEX Range Complex has served the nation for over 60 years, and

WHEREAS, after World War II, the GOMEX Range Complex was used to test surface-to-air rockets against drones and, with the advent of fifth-generation aircraft at Tyndall and Eglin Air Force Bases, has been used extensively to test future weapons systems, and

WHEREAS, the military missions require day and night access to the airspace, from the surface up to 60,000 feet, for high-speed flying and maneuvering, as well as day and night access to the seaspace, from the sea surface to the subsurface areas, for use by ships and submarines, and

WHEREAS, the military uses live ammunition and missiles against remotely piloted full-scale targets and drones, resulting in large debris fields of dangerous objects, and

WHEREAS, for well over a decade and through two presidential administrations, the United States Department of Defense policy has been to keep the Eastern Gulf of Mexico free from obstruction, and

WHEREAS, oil exploration and offshore platforms placed in the Eastern Gulf of Mexico could jeopardize military missions and severely reduce the state's appeal in keeping military installations, and

WHEREAS, without access to airspace in order to test modern and emerging weapons systems and train the aircrews that support such systems, Florida would lose its primary reason for hosting the GOMEX Range Complex, and

WHEREAS, the Gulf of Mexico Energy Security Act (GOMESA) of 2006 restricts oil and gas leasing in all areas east of the Military Mission Line established at 86°41' W. longitude and bans oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area until 2022, and

WHEREAS, attempts to reduce restrictions on oil and gas exploration and production arose in 2013 and 2015, when the members of the United States Senate and the United States House of Representatives developed and introduced bills to change GOMESA without addressing the military need to maintain the GOMEX Range Complex, and

WHEREAS, in 2013, the Offshore Energy and Jobs Act was introduced by United States Representative Doc Hastings of Washington to propose changes in oil and gas drilling and exploration locations, and

WHEREAS, the Offshore Energy and Jobs Act of 2015 was introduced by United States Senator Bill Cassidy of Louisiana, to increase oil and gas exploration and production, most notably through reducing the exclusion area east of the Military Mission Line from 125 miles to 50 miles offshore and through shortening

the time limit of the moratorium from 2022 to 2017, but the bill ultimately did not advance past committee, and GOMESA remained intact for the time being, and

WHEREAS, the United States Secretary of Defense, the Chief of Staff of the United States Air Force, and fifteen members of the United States Congress from Florida have written letters requesting an extension to the moratorium, which is essential for developing and sustaining the military's future capabilities and for guaranteeing long-term capabilities for future test missions that may enable new technologies such as hypersonic fifth-generation fighters, advanced subsurface weapons systems, and other projects that require enlarged testing and training footprints well beyond 2022, and

WHEREAS, without the certainty of an extension to the moratorium, investment in upgrades in telemetry, tracking, and other important improvements are at risk, and

WHEREAS, in March 2017, twenty local county commissions, chambers of commerce, local economic development councils, and military affairs committees drafted resolutions in support of the moratorium and submitted them to the Florida Legislature, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That State of Florida must maintain a united front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line.

BE IT FURTHER RESOLVED that to allow drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas.

BE IT FURTHER RESOLVED that the Florida House of Representatives supports an indefinite extension of the restriction, specified in the Gulf of Mexico Energy Security Act of 2006, oil and gas leasing in all areas east of the Military Mission Line established at 86°41' W. longitude and indefinite extension of the Act's ban oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 411 Public Records and Public Meetings/Firesafety Systems
SPONSOR(S): Clemons, Sr. and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N	Moore	Harrington
2) Government Accountability Committee		Moore	Williamson

SUMMARY ANALYSIS

Current law provides public record and public meeting exemptions for certain information related to security systems. A security system plan or any portion thereof and any information relating to security systems held by an agency is confidential and exempt from public record requirements if the plan or information is for:

- Any property owned by or leased to the state or any of its political subdivisions; or
- Any privately owned or leased property.

An agency is authorized to disclose the confidential and exempt information:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

Any portion of a meeting that would reveal a security system plan or portion thereof or information relating to a security system is exempt from public meeting requirements.

The bill creates public record and public meeting exemptions for firesafety system plans and information relating to firesafety systems that are identical to the exemptions currently in law for security system plans and information relating to security systems. The bill provides for repeal of the exemptions on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the State Constitution.

The bill may have a minimal fiscal impact on the state and local governments. *See* Fiscal Comments section.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records Law
Article I, s. 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law
Article I, s. 24(b) of the Florida Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.[1] The board or commission must provide reasonable notice of all public meetings.[2] Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public's access to the facility.[3] Minutes of a public meeting must be promptly recorded and open to public inspection.[4]

Public Record and Public Meeting Exemptions
The Legislature may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.[5] The general law must state with specificity the public necessity justifying the exemption[6] and must be no more broad than necessary to accomplish its purpose.[7]

Furthermore, the Open Government Sunset Review Act[8] provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no more broad than necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.

[1] Section 286.011(1), F.S.
[2] *Id.*
[3] Section 286.011(6), F.S.
[4] Section 286.011(2), F.S.
[5] FLA. CONST. art. I, s. 24(c).
[6] This portion of a public record or public meeting exemption is commonly referred to as a "public necessity statement."
[7] FLA. CONST. art. I, s. 24(c).
[8] Section 119.15, F.S.

- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[9]

The Act also requires the automatic repeal of a public record or public meeting exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.[10]

Public Record and Public Meeting Exemptions Related to Security Systems

Current law provides public record and public meeting exemptions for certain information related to security systems. The law specifies the circumstances under which the information may be disclosed and to whom it may be disclosed.

Security System Plans

Section 119.071(3)(a)1., F.S., defines "security system plan" to include all:

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems;
- Threat assessments conducted by any agency or any private entity;
- Threat response plans;
- Emergency evacuation plans;
- Sheltering arrangements; or
- Manuals for security personnel, emergency equipment, or security training.

A security system plan or any portion thereof that is held by an agency[11] is confidential and exempt[12] from public record requirements if the plan is for any property owned by or leased to the state or any of its political subdivisions or any privately owned or leased property.[13] An agency is authorized to disclose the confidential and exempt information:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.[14]

Any portion of a meeting that would reveal a security system plan or portion thereof is exempt from public meeting requirements.[15]

---

[9] Section 119.15(6)(b), F.S.

[10] Section 119.15(3), F.S.

[11] Section 119.011(2), F.S., defines "agency" to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of chapter 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

[12] There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See* Attorney General Opinion 85-62 (August 1, 1985).

[13] Section 119.071(3)(a)2., F.S.

[14] Section 119.071(3)(a)3., F.S.

[15] Section 286.0113(1), F.S.

Other Information Related to Security Systems
Section 281.301, F.S., provides that information relating to security systems that is in the possession of an agency and all meetings relating directly to or that would reveal such security systems or information are confidential and exempt from public record and public meeting requirements if the security systems are for:

- Any property owned by or leased to the state or any of its political subdivisions; or
- Any privately owned or leased property.

The law specifies that the protected information includes all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to or revealing such systems or information.

An agency is authorized to disclose the confidential and exempt information:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

Effect of the Bill

The bill creates public record and public meeting exemptions for firesafety system plans and information relating to firesafety systems that are identical to the exemptions currently in law for security system plans and information relating to security systems.

The bill specifies that the public record and public meeting exemptions must be given retroactive application because they are remedial in nature. Thus, records of firesafety system plans and records relating to firesafety systems in existence prior to the effective date of the bill will be protected by the exemptions.

The bill provides a public necessity statement as required by the State Constitution, specifying that as firesafety systems become more integrated with security systems, disclosure of sensitive information relating to the firesafety systems could result in identification of vulnerabilities in the systems and allow a security breach that could damage the systems and disrupt their safe and reliable operation.

The bill provides for repeal of the exemptions on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

B. SECTION DIRECTORY:

Section 1. amends s. 119.071, F.S., relating to a general exemption from inspection or copying of public records.

Section 2. amends s. 281.301, F.S., relating to security systems; records and meetings exempt from public access or disclosure.

Section 3. amends s. 286.0113, F.S., relating to general exemptions from public meetings.

Section 4. provides a public necessity statement.

Section 5. provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have an impact on state government revenues.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have an impact on local government revenues.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill could have a minimal fiscal impact on agencies because agency staff responsible for complying with public record requests and public meeting requirements may require training related to creation of the public record and public meeting exemptions. In addition, agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of agencies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. 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, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   Vote Requirement
   Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

   Public Necessity Statement
   Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates public record and public meeting exemptions for firesafety system plans and information relating to firesafety systems. As such, the exemption does not appear to be in conflict with the constitutional requirement that it be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues: Public Meeting Exemption

Lines 80, 109, and 113 refer to "confidential and exempt" meetings; however, meetings are only made exempt from public meeting requirements.

The bill also provides for retroactive application of the public meeting exemption. A public meeting exemption cannot apply to meetings that have already occurred.

Drafting Issues: Public Necessity Statement

Lines 131-138 provide the public necessity statement for making firesafety system records and information "exempt" from public record requirements; however, the public record exemption provides that such records and information are "confidential and exempt" from public records requirements. As such, the public necessity statement should be revised to conform to the public record exemption.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to public records and public meetings; amending s. 119.071, F.S.; providing an exemption from public records requirements for firesafety system plans held by an agency; amending s. 281.301, F.S.; providing an exemption from public records and public meetings requirements for information relating to firesafety systems for certain properties and meetings relating to such systems and information; amending s. 286.0113, F.S.; providing an exemption from public meetings requirements for portions of meetings that would reveal firesafety system plans held by an agency; providing for retroactive application; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(3) SECURITY AND FIRESAFETY.—

(a)1. As used in this paragraph, the term "security or

firesafety system plan" includes all:

a. Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security or firesafety of the facility or revealing security or firesafety systems;

b. Threat assessments conducted by any agency or any private entity;

c. Threat response plans;

d. Emergency evacuation plans;

e. Sheltering arrangements; or

f. Manuals for security or firesafety personnel, emergency equipment, or security or firesafety training.

2. A security or firesafety system plan or portion thereof for:

a. Any property owned by or leased to the state or any of its political subdivisions; or

b. Any privately owned or leased property

held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to security or firesafety system plans held by an agency before, on, or after the effective date of this paragraph. This paragraph is subject to the Open Government

Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

3. Information made confidential and exempt by this paragraph may be disclosed:

a. To the property owner or leaseholder;

b. In furtherance of the official duties and responsibilities of the agency holding the information;

c. To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or

d. Upon a showing of good cause before a court of competent jurisdiction.

Section 2. Subsection (1) of section 281.301, Florida Statutes, is amended to read:

281.301 Security and firesafety systems; records and meetings exempt from public access or disclosure.—

(1) Information relating to the security or firesafety systems for any property owned by or leased to the state or any of its political subdivisions, and information relating to the security or firesafety systems for any privately owned or leased property which is in the possession of any agency as defined in s. 119.011(2), including all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating

directly to or revealing such systems or information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and any portion of a meeting ~~all meetings~~ relating directly to or that would reveal such systems or information is ~~are~~ confidential and exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, ~~ss. 119.07(1) and 286.011~~ and other laws and rules requiring public access or disclosure. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. Subsection (1) of section 286.0113, Florida Statutes, is amended to read:

286.0113 General exemptions from public meetings.—

(1) That portion of a meeting that would reveal a security or firesafety system plan or portion thereof made confidential and exempt by s. 119.071(3)(a) is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. (1) The Legislature finds that it is a public necessity that:

(a) Firesafety system plans held by an agency be made

confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution.

(b) Information relating to firesafety systems for any property owned by or leased to the state or any of its political subdivisions or which is in the possession of an agency be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution, and any portion of a meeting relating directly to or that would reveal such systems or information be made confidential and exempt from s. 286.011, Florida Statutes, and s. 24(b), Art. I of the State Constitution.

(c) Any portion of a meeting revealing firesafety system plans held by an agency be made confidential and exempt from s. 286.011, Florida Statutes, and s. 24(b), Art. I of the State Constitution.

(2) As firesafety systems become more connected and integrated with security systems, this connectivity and integration exposes such systems to threats intended to disable their operation. Disabling a firesafety system could impact the safety of individuals within the building and the integrity of the building's security system. Maintaining safe and reliable firesafety systems is vital to protecting the public health and safety and ensuring the economic well-being of the state. Disclosure of sensitive information relating to firesafety systems could result in identification of vulnerabilities in

such systems and allow a security breach that could damage firesafety systems and disrupt their safe and reliable operation, adversely impacting the public health and safety and economic well-being of the state. Because of the interconnected nature of firesafety and security systems, such a security breach may also impact security systems. As a result, the Legislature finds that the public and private harm in disclosing the information made exempt by this act outweighs any public benefit derived from the disclosure of such information. The protection of information made exempt by this act will ensure that firesafety systems are better protected against security threats and will bolster efforts to develop more resilient firesafety systems. Therefore, the Legislature finds that it is a public necessity to make firesafety system plans held by an agency and information relating to firesafety systems for certain properties exempt from public records and public meetings requirements.

(3) The Legislature further finds that these public meetings and public records exemptions must be given retroactive application because they are remedial in nature.

Section 5. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Clemons offered the following:

Amendment

Remove lines 80-144 and insert:

or information is ~~are confidential and~~ exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, ~~ss. 119.07(1) and 286.011~~ and other laws and rules requiring public access or disclosure. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. Subsection (1) of section 286.0113, Florida Statutes, is amended to read:

286.0113 General exemptions from public meetings.—

(1) That portion of a meeting that would reveal a security or firesafety system plan or portion thereof made confidential and exempt by s. 119.071(3)(a) is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. (1) The Legislature finds that it is a public necessity that:

(a) Firesafety system plans held by an agency be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution.

(b) Information relating to firesafety systems for any property owned by or leased to the state or any of its political subdivisions or which is in the possession of an agency be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution, and any portion of a meeting relating directly to or that would reveal such systems or information be made exempt from s. 286.011, Florida Statutes, and s. 24(b), Art. I of the State Constitution.

(c) Any portion of a meeting revealing firesafety system plans held by an agency be made exempt from s. 286.011, Florida Statutes, and s. 24(b), Art. I of the State Constitution.

(2) As firesafety systems become more connected and integrated with security systems, this connectivity and integration exposes such systems to threats intended to disable their operation. Disabling a firesafety system could impact the safety of individuals within the building and the integrity of the building's security system. Maintaining safe and reliable firesafety systems is vital to protecting the public health and safety and ensuring the economic well-being of the state. Disclosure of sensitive information relating to firesafety systems could result in identification of vulnerabilities in such systems and allow a security breach that could damage firesafety systems and disrupt their safe and reliable operation, adversely impacting the public health and safety and economic well-being of the state. Because of the interconnected nature of firesafety and security systems, such a security breach may also impact security systems. As a result, the Legislature finds that the public and private harm in disclosing the information made confidential and exempt by this act outweighs any public benefit derived from the disclosure of such information. The protection of information made confidential and exempt by this act will ensure that firesafety systems are better protected against security threats and will bolster efforts to develop more resilient firesafety systems. Therefore, the Legislature finds that it is a public necessity to make firesafety system plans held by an agency and information

relating to firesafety systems for certain properties exempt from public records and public meetings requirements.

(3) The Legislature further finds that these public records exemptions must be given retroactive

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 545 Prohibition Against Contracting with Scrutinized Companies
SPONSOR(S): Fine, Moskowitz, and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 780

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	11 Y, 0 N	Moore	Harrington
2) Government Accountability Committee		Moore	Williamson

SUMMARY ANALYSIS

Current law prohibits a company that is on the Scrutinized Companies that Boycott Israel List (Israel List) or that is engaged in a boycott of Israel from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity for goods or services of $1 million or more. A company that submits a bid or proposal for or enters into or renews such a contract must certify that the company is not participating in a boycott of Israel.

The bill amends the provision prohibiting agencies and local governmental entities from contracting with companies on the Israel List or that boycott Israel to apply the prohibition to contracts for goods or services of any amount, rather than only contracts of $1 million or more. The bill requires a contract with an agency or local governmental entity for goods or services of any amount entered into or renewed on or after July 1, 2018, to contain a provision that allows for the termination of the contract at the option of the awarding body if the company has been placed on the Israel List or is engaged in a boycott of Israel.

The bill may have an indeterminate negative fiscal impact on the state and local governments. *See* Fiscal Comments section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Procurement of Commodities and Services

Chapter 287, F.S., regulates state agency[1] procurement of personal property and services. Depending on the cost and characteristics of the needed goods or services, agencies may utilize a variety of procurement methods that include:

- Single source contracts, which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid, which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals, which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate, which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services. [2]

For contracts for commodities or services in excess of $35,000, agencies must utilize a competitive solicitation process.[3] However, specified contractual services and commodities are not subject to competitive solicitation requirements.[4]

The Department of Management Services (DMS) is statutorily designated as the central executive agency procurement authority and its responsibilities include overseeing agency implementation of the procurement process,[5] creating uniform agency procurement rules,[6] implementing the online procurement program,[7] and establishing state term contracts.[8] The agency procurement process is partly decentralized in that agencies, except in the case of state term contracts, may procure goods and services themselves in accordance with requirements set forth in statute and rule, rather than placing orders through DMS.

Prohibition against Contracting with Companies that Boycott Israel

Current law prohibits a company that is on the Scrutinized Companies that Boycott Israel List (Israel List)[9] or that is engaged in a boycott of Israel[10] from bidding on, submitting a proposal for, or entering

---

[1] Section 287.012(1), F.S., defines the term "agency" as any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges.

[2] *See ss.* 287.012(6) and 287.057(1), F.S.

[3] Section 287.057(1), F.S., requires all projects that exceed the Category Two threshold amount ($35,000) contained in s. 287.017, F.S., to be competitively procured.

[4] *See* s. 287.057(3)(e), F.S.

[5] *See* ss. 287.032 and 287.042, F.S.

[6] *See* ss. 287.032(2) and 287.042(3), (4), and (12), F.S.

[7] *See* s. 287.057(23), F.S.

[8] *See* ss. 287.042(2), 287.056, and 287.1345, F.S.

[9] The Israel List is a list of companies that boycott Israel that is compiled by the State Board of Administration. Section 215.4725(2), F.S.

[10] The term "boycott of Israel" means refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner. Sections 287.135(1)(b) and 215.4725(1)(a), F.S.

into or renewing a contract with an agency or local governmental entity[11] for goods or services of $1 million or more.[12] A company that submits a bid or proposal for or enters into or renews such a contract must certify that the company is not participating in a boycott of Israel.[13] The certification must be submitted at the time a bid or proposal is submitted or before a contract is executed or renewed.[14] In addition, a contract for goods or services of $1 million or more entered into or renewed on or after October 1, 2016, must contain a provision that allows for the termination of the contract, at the option of the awarding body, if the company is found to have submitted a false certification, has been placed on the Israel List, or is engaged in a boycott of Israel.[15]

If an agency or local governmental entity determines that a company has submitted a false certification, it must provide the company with written notice, and the company has 90 days to respond in writing to such determination.[16] If the company fails to demonstrate that the determination of false certification was made in error, the awarding body must bring a civil action against the company.[17] If a civil action is brought and the court determines that the company submitted a false certification, the company must pay all reasonable attorney fees and costs (including costs for investigations that led to the finding of false certification).[18] In addition, a civil penalty equal to the greater of $2 million or twice the amount of the contract for which the false certification was submitted must be imposed.[19] The company is ineligible to bid on any contract with an agency or local governmental entity for three years after the date the agency or local governmental entity determined that the company submitted a false certification.[20] A civil action to collect the penalties must commence within three years after the date the false certification is submitted.[21]

An agency or local governmental entity is authorized to make a case-by-case exception to the contracting prohibition for a company on the Israel List if all of the following occur:

- The boycott of Israel was initiated before October 1, 2016.
- The company certifies in writing that it has ceased its boycott of Israel.
- The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.
- The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations[22] and to refrain from engaging in any new scrutinized business operations.[23]

An agency or local governmental entity is also authorized to make an exception to the contracting prohibition for a company on the Israel List if one of the following occurs:

- The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.
- For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.

---

[11] The term "local governmental entity" means a county, municipality, special district, or other political subdivision of the state. Section 287.135(1)(d), F.S.
[12] Section 287.135(2), F.S.
[13] Section 287.135(5), F.S.
[14] *Id.*
[15] Section 287.135(3)(c), F.S.
[16] Section 287.135(5)(a), F.S.
[17] *Id.*
[18] *Id.*
[19] Section 287.135(5)(a)1., F.S.
[20] Section 287.135(5)(a)2., F.S.
[21] Section 287.135(5)(b), F.S.
[22] Section 215.473(1)(u), F.S., defines "scrutinized business operations" to mean business operations that result in a company becoming a scrutinized company.
[23] Section 287.135(4), F.S.

- For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.[24]

Effect of the Bill

The bill amends the provision prohibiting agencies and local governmental entities from contracting with companies on the Israel List or that boycott Israel to apply the prohibition to contracts for goods or services of any amount, rather than only contracts of $1 million or more.

The bill requires a contract with an agency or local governmental entity for goods or services of any amount entered into or renewed on or after July 1, 2018, to contain a provision that allows for the termination of the contract at the option of the awarding body if the company has been placed on the Israel List or is engaged in a boycott of Israel.

An agency or local governmental entity is authorized to make a case-by-case exception to the contracting prohibition for a company on the Israel List based on the same conditions currently applicable to contracts of $1 million or more.

B. SECTION DIRECTORY:

Section 1. amends s. 287.135, F.S., relating to prohibition against contracting with scrutinized companies.

Section 2. provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to impact state government revenues.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to impact local government revenues.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on the private sector. A company that engages in a boycott of Israel may not be eligible to contract with the state and local governmental entities, which may have a negative fiscal impact on the company.

[24] *Id.*

D. FISCAL COMMENTS:

The bill may have an indeterminate negative fiscal impact on the state and local governments. State agencies and local governments will not be authorized to contract with certain companies that boycott Israel in certain instances. This prohibition may eliminate companies that otherwise would have been the least expensive source for certain goods or services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Dormant Foreign Affairs Doctrine

The United States Constitution grants the federal government various powers related to foreign affairs, such as the power to declare war,[25] maintain a military,[26] enter into treaties and other international agreements,[27] regulate foreign commerce,[28] and hear cases involving foreign states and citizens.[29] These grants of power have been interpreted to grant the federal government the exclusive power to act in the area of foreign affairs.[30] The federal government's exclusive authority to act in the area of foreign affairs is known as the dormant foreign affairs doctrine.

When a state law operates in the field of foreign affairs without federal authorization, a reviewing court might find the state law to be invalid as a violation of the dormant foreign affairs doctrine.[31] If the purpose of the bill is to impact foreign affairs,[32] or if the effects of the bill have a sufficiently serious impact on foreign policy,[33] the bill may be found in violation of the dormant foreign affairs doctrine.[34]

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

---

[25] Section 8, Art. I, U.S. Constitution.
[26] *Id.*
[27] Section 2, Art. II, U.S. Constitution.
[28] Section 8, Art. I, U.S. Constitution.
[29] Section 2, Art. III, U.S. Constitution.
[30] *Hines v. Davidowitz*, 312 U.S. 52, 63 (1941) (stating that the "Federal Government, representing as it does the collective interests of the forty-eight states, is entrusted with full and exclusive responsibility for the conduct of affairs with foreign sovereignties.").
[31] *Zschernig v. Miller*, 389 U.S. 429 (1968); *American Ins. Ass'n v. Garamendi*, 539 U.S. 396 (2003).
[32] *Crosby v. National Foreign Trade Council*, 530 U.S. 363, 381 (2000) (pointing out that a congressional invocation of exclusively national powers with respect to addressing human rights violations in Burma precluded Massachusetts from restricting its agencies from purchasing goods or services from companies that did business with Burma; the case, however, was decided on the basis that a federal law preempted the state law.).
[33] *Clark v. Allen*, 331 U.S. 503, 517-518 (1947) (finding a state law that addressed the disposition of personal property of alien decedents valid, in spite of noting that the law would "have some incidental or indirect effect in foreign countries."); *Zschernig v. Miller*, 389 U.S. 429 (1968).
[34] Matthew Shaefer, *Constraints on State-Level Foreign Policy: (Re) Justifying, Refining, and Distinguishing the Dormant Foreign Affairs Doctrine*, 41 SETON HALL L. REV. 201, 237-239 (2011).

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the prohibition against contracting with scrutinized companies; amending s. 287.135, F.S.; prohibiting a company that is on the Scrutinized Companies that Boycott Israel List or that is engaged in a boycott of Israel from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity for goods or services of any amount; providing exceptions; requiring such contracts entered into or renewed on or after July 1, 2018, to include a provision authorizing termination in specified circumstances; requiring a company to provide a specified certification before submitting a bid or proposal for or entering into or renewing such contracts; providing for preemption of agency or local governmental entity ordinances and rules involving such contracts; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 287.135, Florida Statutes, is amended to read:

287.135 Prohibition against contracting with scrutinized

companies.—

(1) In addition to the terms defined in ss. 287.012 and 215.473, as used in this section, the term:

(a) "Awarding body" means, for purposes of state contracts, an agency or the department, and for purposes of local contracts, the governing body of the local governmental entity.

(b) "Boycott of Israel" has the same meaning as defined in s. 215.4725.

(c) "Business operations" means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.

(d) "Local governmental entity" means a county, municipality, special district, or other political subdivision of the state.

(2) A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of ~~$1 million or more if at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, the company~~:

(a) Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, or is engaged in a boycott of Israel; or

(b) One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

1. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473; or

2.~~(c)~~ Is engaged in business operations in Cuba or Syria.

(3)(a) Any contract with an agency or local governmental entity for goods or services of $1 million or more entered into or renewed on or after:

1.~~(a)~~ July 1, 2011, through June 30, 2012, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5) or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

2.~~(b)~~ July 1, 2012, through September 30, 2016, must contain a provision that allows for the termination of such

contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5), been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria.

3.~~(c)~~ October 1, 2016, through June 30, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company:

a.~~1.~~ Is found to have submitted a false certification as provided under subsection (5);

b.~~2.~~ Has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel;

c.~~3.~~ Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or

d.~~4.~~ Has been engaged in business operations in Cuba or Syria.

4. July 1, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5), been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in

Cuba or Syria.

(b) Any contract with an agency or local governmental entity for goods or services of any amount entered into or renewed on or after July 1, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

(4) Notwithstanding subsection (2) or subsection (3), an agency or local governmental entity, on a case-by-case basis, may permit a company on ~~the Scrutinized Companies that Boycott Israel List,~~ the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or a company engaged in ~~with~~ business operations in Cuba or Syria, to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of $1 million or more, or may permit a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, under the conditions set forth in paragraph (a) or the conditions set forth in paragraph (b):

(a)1. With respect to a company on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector

List, all of the following occur:

a. The scrutinized business operations were made before July 1, 2011.

b. The scrutinized business operations have not been expanded or renewed after July 1, 2011.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

2. With respect to a company engaged in business operations in Cuba or Syria, all of the following occur:

a. The business operations were made before July 1, 2012.

b. The business operations have not been expanded or renewed after July 1, 2012.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease business operations and to refrain from engaging in any new business operations.

3. With respect to a company on the Scrutinized Companies that Boycott Israel List, all of the following occur:

a. The boycott of Israel was initiated before October 1, 2016.

b. The company certifies in writing that it has ceased its boycott of Israel.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

(b) One of the following occurs:

1. The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.

2. For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.

3. For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.

(5) At the time a company submits a bid or proposal for a contract or before the company enters into or renews a contract with an agency or local governmental entity for goods or services of $1 million or more, the company must certify that the company is not ~~participating in a boycott of Israel,~~ on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and~~, or~~ that it does not have business operations in Cuba or Syria. At the time a company submits a bid or proposal for a contract or before the company enters into or renews a contract with an agency or local governmental entity for goods or services of any amount, the company must certify that the company is not participating in a boycott of Israel.

(a) If, after the agency or the local governmental entity determines, using credible information available to the public, that the company has submitted a false certification, the agency or local governmental entity shall provide the company with written notice of its determination. The company shall have 90 days following receipt of the notice to respond in writing and to demonstrate that the determination of false certification was made in error. If the company does not make such demonstration within 90 days after receipt of the notice, the agency or the local governmental entity shall bring a civil action against the company. If a civil action is brought and the court determines that the company submitted a false certification, the company

shall pay the penalty described in subparagraph 1. and all reasonable attorney fees and costs, including any costs for investigations that led to the finding of false certification.

1. A civil penalty equal to the greater of $2 million or twice the amount of the contract for which the false certification was submitted shall be imposed.

2. The company is ineligible to bid on any contract with an agency or local governmental entity for 3 years after the date the agency or local governmental entity determined that the company submitted a false certification.

(b) A civil action to collect the penalties described in paragraph (a) must commence within 3 years after the date the false certification is submitted.

(6) Only the agency or local governmental entity that is a party to the contract may cause a civil action to be brought under this section. This section does not create or authorize a private right of action or enforcement of the penalties provided in this section. An unsuccessful bidder, or any other person other than the agency or local governmental entity, may not protest the award of a contract or contract renewal on the basis of a false certification.

(7) This section preempts any ordinance or rule of any agency or local governmental entity involving public contracts for goods or services <u>of:</u>

<u>(a) One million dollars</u> ~~Of $1 million~~ or more with a

company engaged in scrutinized business operations.

(b) Any amount with a company that has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

(8) The contracting prohibitions in this section applicable to companies on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or to companies engaged in business operations in Cuba or Syria become inoperative on the date that federal law ceases to authorize the states to adopt and enforce such contracting prohibitions.

Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 551 Pub. Rec./Health Care Facilities
SPONSOR(S): Health Innovation Subcommittee; Oversight, Transparency & Administration Subcommittee; Burton
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 906

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	11 Y, 0 N, As CS	Hoffman	Harrington
2) Health Innovation Subcommittee	14 Y, 0 N, As CS	Royal	Crosier
3) Government Accountability Committee		Hoffman	Williamson

SUMMARY ANALYSIS

Current law provides a public record exemption for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development held by an agency. Although health care facilities are required to submit similar building plans and related documents to agencies, there does not appear to be a public record exemption for these building plans.

The bill expands the public record exemption for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final forms, which depict the internal layout and structural elements to include health care facilities. Specifically, the bills provides that such plans for a hospital, ambulatory surgical center, nursing home, hospice, or intermediate care facility for the developmentally disabled are exempt from public disclosure.

The bill provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a statement of public necessity as required by the Florida Constitution.

The bill may have a minimal fiscal impact on the state and local governments. *See* Fiscal Comments.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption for building plans and related documents; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records

The Florida Constitution guarantees every person the right to inspect or copy any public record made or received in connection with the official business of the legislative, executive, or judicial branches of government.[1] The Legislature, however, may provide by general law for the exemption of records from the constitutional requirement.[2] The general law must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the law.[3] A bill enacting an exemption must pass by a two-thirds vote of the members present and voting.[4]

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose.[5] In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a government program, which administration would be significantly impaired without the exemption;
- Protect personal identifying information that, if released, would be defamatory or would jeopardize an individual's safety; or
- Protect trade or business secrets.[6]

Public Record Exemption for Building Plans and Related Documents

Current law provides a public record exemption for building plans, blueprints, schematic drawings, and diagrams that depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency.[7]

Current law also provides a public record exemption for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development held by an agency.[8] Such information is exempt from public disclosure.[9] This exemption does not apply to comprehensive plans or site plans which are submitted for approval or which have been approved

---

[1] FLA. CONST., art. I, s. 24(a).
[2] FLA. CONST., art. I, s. 24(c).
[3] *Id.*
[4] *Id.*
[5] Section 119.15, F.S.
[6] Section 119.15(6)(b), F.S.
[7] Section 119.071(3)(b), F.S.
[8] Section 119.071(3)(c), F.S.
[9] There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates as confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, the record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See 85-62 Fla. Op. Att'y Gen. (1985).

under local land development regulations, local zoning regulations, or development-of-regional-impact review.[10]

Health Care Facilities

Health care facilities require review of methods of proposed construction by the Agency for Health Care Administration.[11] The Agency ensures compliance with health care rules, codes and standards to provide protection of public health and safety.[12] Schematics, preliminary plans, and construction documents received by the Agency and other government agencies for hospitals, ambulatory surgical centers, nursing homes, and intermediate care facilities for the developmentally disabled are public record and subject to release upon request.[13] These plans include building floor plans, communication systems, medical gas systems, electrical systems, emergency generators, and other physical plant and security details.[14]

Recent security threats have been shared by state and federal security and emergency preparedness officials that describe the targeting of health care facilities by terrorists.[15] Because architectural and engineering plans reviewed and held by government agencies include information regarding emergency egress, locking arrangements, critical life safety systems, and restricted areas, these plans could be used by others to examine the physical plant for vulnerabilities and aid in the planning, training, and execution of criminal or terrorist activities.[16]

Effect of the Bill

This bill expands the public record exemption for building plans and other related documents for an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development held by an agency. Specifically, this bill expands this exemption to include health care facilities and provides that the public record exemption applies to building plans and other related documents held by an agency before, on, or after the effective date of this bill.

For purposes of the public record exemption, the term "health care facility" means a hospital, ambulatory surgical center, nursing home, hospice, or intermediate care facility for the developmentally disabled.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2023, unless saved from repeal through reenactment by the Legislature.

This bill provides a public necessity statement as required by the Florida Constitution, which states building plans could be used by criminals or terrorists to examine the physical plant for vulnerabilities. In addition, information contained in the documents could aid in the planning, training, and execution of criminal actions including infant abduction, cyber-crime, arson, and terrorism.

B. SECTION DIRECTORY:

Section 1 amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

---

[10] Section 119.071(3)(c)4., F.S.
[11] Section 408.035(h), F.S.
[12] Agency for Health Care Administration, Agency Analysis of 2018 House Bill 551, p. 2 (Nov. 16, 2017).
[13] *Id.*
[14] *Id.*
[15] *Id*; Department of Homeland Security, *Terrorists Call for Attacks on Hospitals, Healthcare Facilities* (Feb. 8, 2017) *available at:* http://www.arkhospitals.org/Misc.%20Files/AttacksHospitalsHCFacilities.pdf.
[16] Agency for Health Care Administration, Agency Analysis of 2018 House Bill 551, p. 2 (Nov. 16, 2017).

Section 2 provides a public necessity statement.

Section 3 provides that the bill will take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to impact state revenues.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to impact local government revenues.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill could have a minimal fiscal impact on agencies because agency staff responsible for complying with public record requests may require training related to the expansion of the public record exemption. In addition, agencies could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of agencies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. 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, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   Vote Requirement
   Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands an existing public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement
Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands an existing public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption
Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public record exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill expands an existing public record exemption for access to building plans, blueprints, schematic drawings and diagrams for healthcare facilities. The expansion of the public record exemption seeks to prevent criminals and terrorists from accessing information that could aid the conduct of criminal activity targeting health care facilities.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2017, the Oversight, Transparency & Administration Subcommittee adopted one amendment and reported the bill favorably with a committee substitute. The amendment conformed the public necessity statement to the bill by clarifying that the information is exempt only, rather than confidential.

On January 10, 2018, the Health Innovation Subcommittee adopted an amendment that removed emergency generators from the list of items or systems included in a health care facility's building plans that would be made exempt from public records by the bill. The bill was reported favorably as a committee substitute.

The analysis is drafted to the committee substitute as approved by the Health Innovation Subcommittee.

A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; providing an exemption from public records requirements for building plans, blueprints, schematic drawings, diagrams, and other construction documents received and held by certain agencies which depict the internal layout or structural elements of certain health care facilities; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(3) SECURITY.—

(c)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel

development, which records are held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to any such records held by an agency before, on, or after the effective date of this act.

3. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to the owner or owners of the structure in question or the owner's legal representative; or upon a showing of good cause before a court of competent jurisdiction.

4. This paragraph does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

5. As used in this paragraph, the term:

a. "Attractions and recreation facility" means any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility that:

(I) For single-performance facilities:

(A) Provides single-performance facilities; or

(B) Provides more than 10,000 permanent seats for spectators.

(II) For serial-performance facilities:

(A) Provides parking spaces for more than 1,000 motor vehicles; or

(B) Provides more than 4,000 permanent seats for spectators.

b. "Entertainment or resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity includes an area within a 5-mile radius of the theme park complex.

c. "Industrial complex" means any industrial, manufacturing, processing, distribution, warehousing, or wholesale facility or plant, as well as accessory uses and structures, under common ownership that:

(I) Provides onsite parking for more than 250 motor vehicles;

(II) Encompasses 500,000 square feet or more of gross floor area; or

(III) Occupies a site of 100 acres or more, but excluding

wholesale facilities or plants that primarily serve or deal onsite with the general public.

d. "Retail and service development" means any retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite and is operated under one common property ownership, development plan, or management that:

(I) Encompasses more than 400,000 square feet of gross floor area; or

(II) Provides parking spaces for more than 2,500 motor vehicles.

e. "Office development" means any office building or park operated under common ownership, development plan, or management that encompasses 300,000 or more square feet of gross floor area.

f. "Health care facility" means a hospital, ambulatory surgical center, nursing home, hospice, or intermediate care facility for the developmentally disabled.

g.~~f.~~ "Hotel or motel development" means any hotel or motel development that accommodates 350 or more units.

6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public

necessity that the building plans, blueprints, schematic drawings, diagrams, including draft, preliminary, and final formats, and other construction documents of a health care facility should be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution to ensure the safety of the health care facility's staff, patients, and visitors. Building plans, blueprints, schematic drawings, diagrams, including draft, preliminary, and final formats, and other construction documents received and held by the Agency for Health Care Administration and other governmental agencies which depict the internal layout or structural elements of hospitals, ambulatory surgical centers, nursing homes, hospices, and intermediate care facilities for the developmentally disabled are currently subject to release as public records and subject to release upon request. The Agency for Health Care Administration reviews the building plans for proposed health care facility construction to ensure compliance with building codes and agency rules and standards in order to protect the public health and safety. These building plans include diagrams and schematic drawings of building floor plans, communication systems, medical gas systems, electrical systems, and other physical plant and security details which depict the internal layout and structural elements of health care facilities. Recent security threats have been shared by state and federal security and emergency preparedness officials that describe the targeting

of health care facilities by terrorists. Because architectural and engineering plans reviewed and held by government agencies include information regarding emergency egress, locking arrangements, critical life safety systems, and restricted areas, these plans could be used by criminals or terrorists to examine the physical plant for vulnerabilities. Information contained in these documents could aid in the planning, training, and execution of criminal actions including infant abduction, cyber-crime, arson, and terrorism. Consequently, the Legislature finds that the public records exemption created by this act is a public necessity to reduce exposure to security threats and protect the public.

Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 817 Renewal of Title IV-E Waivers for Child Welfare Services
SPONSOR(S): Harrell and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Darden	Miller
2) Health & Human Services Committee	20 Y, 0 N	Grabowski	Calamas
3) Government Accountability Committee		Darden	Williamson

SUMMARY ANALYSIS

HM 817 is a memorial to the U.S. Congress requesting legislation under which Florida's existing Title IV-E waiver for child welfare services could be renewed in lieu of a return to traditional federal Title IV-E funding.

Title IV-E of the federal Social Security Act provides entitlement funding for out-of-home services for certain children eligible due to family income, placement setting, and vulnerability to maltreatment as well as for certain related purposes. However, Florida currently has a waiver to allow it instead to receive Title IV-E funding as a capped allocation and distribute it to community-based care lead agencies providing child welfare services, which may then use that funding for a wider array of services than otherwise specified in law. This waiver expires September 30, 2018, and federal law bars the operation of any Title IV-E waiver projects after September 30, 2019, which means Florida will have to revert to meeting more restrictive federal requirements for Title IV-E funding in the near future.

The memorial presents the rationale for continuing the existing Title IV-E waiver beyond September 30, 2019. The waiver allows the state to provide an expanded range of community-based services and supports to children and families that might otherwise be jeopardized by a reversion to the traditional Title IV-E funding model.

HM 817 also directs that copies of the memorial be provided to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

The memorial does not have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be ameliorated, the child welfare system finds safe out-of-home placements for such children, such as relative and non-relative caregivers, foster families, or adoptive families.

To serve families and children, the Department of Children and Families (DCF) contracts for foster care and related services with lead agencies, also known as community-based care organizations (CBCs). The transition to outsourced provision of child welfare services was intended to increase local community ownership of service delivery and design.[1] DCF, through the CBCs, administers a system of care for children to:[2]

- Prevent children's separation from their families;
- Intervene to allow children to remain safely in their own homes;
- Reunify families who have had children removed from their care, if possible and appropriate;
- Ensure safety and normalcy for children who are separated from their families;
- Enhance the well-being of children through educational stability and timely health care;
- Provide permanency; and
- Develop their independence and self-sufficiency.

As of October 31, 2017, 11,911 children were receiving services in their home, while 24,318 children were in out-of-home care.[3] Out-of-home placements range from temporary placement with a family member to a family foster home to a residential child-caring agency to a permanent adoptive placement with a family previously unknown to the child.[4]

Florida uses funds from a variety of sources for child welfare services, such as the Social Services Block Grant, the Temporary Assistance to Needy Families block grant, Title XIX Medicaid administration, Title IV-B, Title IV-E, various other child welfare grants, and general revenue.

Title IV-E Funding for Child Welfare

While states bear primary responsibility for child welfare, Congress appropriates funds to states through a variety of funding streams for services to children who have suffered maltreatment. One of these funding streams is Title IV-E of the Social Security Act. Title IV-E provides federal reimbursement to states for a portion of the cost of foster care, adoption assistance, and (in states electing to provide this kind of support) kinship guardianship assistance on behalf of each child who meets federal eligibility criteria. Title IV-E also authorizes funding to support services to youth who "age out" of foster

[1] DEPARTMENT OF CHILDREN AND FAMILIES, *Community-Based Care*, http://www.myflfamilies.com/service-programs/community-based-care (last accessed Dec. 20, 2017).
[2] Section 409.145(1), F.S.
[3] DEPARTMENT OF CHILDREN AND FAMILIES, *Child Welfare Key Indicators Monthly Report,* November 2017, p. 29, available at http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI_Monthly_Report_Nov2017.pdf (last accessed Dec. 20, 2017).
[4] Section 409.175, F.S.

care, or are expected to age out without placement in a permanent family. While Title IV-E funding is an entitlement, eligibility is limited to those children who:

- Are from a home with very low income (less than 50 percent of federal poverty level in most states);
- Have been determined by a judge to need to be in care;
- Are living in a licensed family foster home or a "child care institution"; and
- Be under 18 years old, unless the state has included older youth in its Title IV-E plan.

A Congressional Research Service analysis estimates that less than half of the children in foster care met Title IV-E foster care eligibility criteria in 2015.[5]

Eligible Title IV-E expenditures include:

- Foster care maintenance payments (for the child's room and board);
- Caseworker time to perform required activities on behalf of eligible children in foster care or children at imminent risk of entering foster care (e.g., finding a foster care placement for a child and planning services necessary to ensure the child does not need to enter care, is reunited with his or her parents, has a new permanent home, or is otherwise prepared to leave foster care);
- Program-related data system development and operation, training, and recruitment of foster care providers; and
- Other program administration costs.

The federal government pays a share of these costs ranging from 50-83 percent, depending on the nature of the expenditure. Regarding foster care maintenance payments, an additional consideration is the state's per capita income.[6]

Title IV-E Waivers

In 1994, Congress authorized the U.S. Department of Health and Human Services (HHS) to approve state demonstration projects made possible by waiving certain provisions of Title IV-E. This provided states flexibility in using federal funds for services promoting safety, well-being, and permanency for children in the child welfare system.[7] HHS may waive compliance with standard Title IV-E requirements and instead allow states to establish projects that allow them to serve children and provide services that are not typically eligible. To do so, states must enter into an agreement with the federal government outlining the terms and conditions to which the state will adhere in using the federal funds. The states also agree to evaluate the projects.[8] Currently 26 states have approved projects, including Florida.[9]

Florida's Title IV-E Waivers

Florida's original Title IV-E waiver was effective on October 1, 2006, and was to extend for five years. Key features of the original waiver were:

- A capped allocation of funds, similar to a block grant, distributed to community-based care lead agencies for service provision;
- Flexibility to use funds for a broader array of services beyond out-of-home care; and

---

[5] Emelie Stoltzfus, *Child Welfare: An Overview of Federal Programs and their Current Funding,* CONGRESSIONAL RESEARCH SERVICE, January 10, 2017, p. 13-15, *available at* https://fas.org/sgp/crs/misc/R43458.pdf (last accessed Dec. 20, 2017).
[6] *Id.*
[7] Amy C. Vargo et al., *Final Evaluation Report, IV-E Waiver Demonstration Evaluation, SFY 11-12*, March 15, 2012, p. 5, *available at* http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/IV-EWaiverFinalReport3-28-12.pdf (last accessed Dec. 20, 2017).
[8] 42 U.S.C. §1320a–9(f).
[9] Stoltzfus, *supra* note 6, at 15.

- Ability to serve children who did not meet Title IV-E criteria.[10]

The original waiver tested the hypotheses that under this approach:

- An expanded array of community-based care services would become available;
- Fewer children would need to enter out-of-home care;
- Child outcomes would improve; and
- Out-of-home care costs would decrease while expenditures for in-home and preventive services would increase.

Results indicated that the waiver generally achieved these goals, though evaluators noted areas of improvement available regarding the ongoing assessment of fathers' needs; assessment of children's dental, educational, and physical health needs and provision of needed services; frequency of case manager visits with parents; and engagement of fathers in services. [11]

The federal government extended Florida's original waiver to 2014, then approved a renewal retroactively beginning October 1, 2013. The renewal is authorized until September 30, 2018. The renewal waiver's terms and conditions include the following goals:

- Improving child and family outcomes through flexible use of Title IV-E funds;
- Providing a broader array of community-based services and increasing the number of children eligible for services; and
- Reducing administrative costs associated with the provision of child welfare services by removing current restrictions on Title IV-E eligibility and on the types of services that may be paid for using Title IV-E funds. [12]

Like the original waiver, the renewal waiver also involves a capped allocation of funds, flexibility to use funds for a wider array of services, and expanded eligibility for children.[13] The renewal waiver also required that the state procure an independent evaluation of the processes and outcomes under the waiver. The University of South Florida was chosen to complete these evaluations, which are available on the DCF website.[14] Florida was projected to expend an estimated $182 million in Title IV-E waiver funds in 2016-17, about 15 percent of total child welfare spending.[15]

Sunset of Waiver and Non-Renewal

As stated above, Florida's waiver is due to end September 30, 2018. Federal law prohibits the federal government from establishing new waivers or allowing current waivers to operate after September 30, 2019.[16] Thus, Florida will revert to more restrictive Title IV-E federal funding requirements beginning in 2018, or in 2019 if the waiver is renewed for an additional year.

Child and Family Services Review

HHS, through the Children's Bureau, conducts periodic Child and Family Services Reviews in each state. As authorized by federal law, these reviews assess states' compliance with the federal requirements for child welfare systems in Title IV-B and Title IV-E of the Social Security Act. In

[10] Vargo, *supra* note 7, at 5-6.
[11] *Id.* at 2-3.
[12] *Demonstration Project Terms and Conditions*, p. 4, *available at* http://www.centerforchildwelfare.org/kb/GenIVE/WaiverTErms2013-2018.pdf (last accessed Dec. 20, 2017).
[13] *Waiver Authority*, p.1, *available at* http://www.centerforchildwelfare.org/kb/GenIVE/WaiverTErms2013-2018.pdf (last accessed Dec. 20, 2017).
[14] Department of Children and Families, *IV-E Waiver Evaluation Reports, available at* http://centerforchildwelfare.fmhi.usf.edu/IVEReport.shtml (last accessed Dec. 20, 2017).
[15] Department of Children and Families, *Child Welfare Funding Basics for Florida in Light of Our Title IV-E Demonstration Waiver and the Family First Prevention Services Act of 2016 - HR 5456,* presented at the Florida Coalition for Children Foundation's 2016 Annual Conference, on file with Local, Federal & Veterans Affairs Subcommittee staff.
[16] 42 U.S.C. s. 1320a–9(d)(2).

particular, the Children's Bureau examines whether desired child outcomes are being achieved and whether the child welfare system is structured appropriately and its processes operate effectively.

In two previous rounds of reviews,[17] no state was assessed as meeting all requirements.[18] The third round began in 2015 and involves a comprehensive analysis of the child welfare system comprising a statewide assessment, interviews, focus groups, and reviews of 80 cases. Through this analysis, the Children's Bureau rates whether a state is in "substantial conformity" with each outcome or systemic factor. For a state to be in substantial conformity with a particular outcome, 95 percent or more of the cases reviewed must be rated as having substantially achieved the outcome. The substantial conformity assessment for the systemic factors considers information from the statewide assessment, interviews, and focus groups.[19]

The report summarizing Florida's results was issued in late 2016. The report indicated that Florida was not in substantial conformity of any of the seven outcomes but was in substantial conformity with three of seven systemic factors, including quality assurance system, staff and provider training, and agency responsiveness to the community.[20]

As the reviews are currently in progress, 24 states and the District of Columbia have a Final State Report for Round 3 posted to the Children's Bureau website.[21] Once a state's review is complete, the state formulates a Performance Improvement Plan to address those outcomes and systemic factors not in substantial conformity.[22] Florida's current Performance Improvement Plan is available on the DCF website.[23]

Effect of the Memorial

The memorial requests that Congress amend federal law to allow for the extension of the existing Title IV-E waiver beyond September 30, 2019. An extension on the existing waiver program would give Florida the flexibility to continue alternative funding models and preserve the expanded array of services and supports that have been developed statewide. In the absence of an extension for the existing waiver, maintaining current service levels may require additional appropriations of state funds.

HM 817 also directs that copies of the memorial be provided to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

---

[17] U.S. Department of Health and Human Services, *Children's Bureau Fact Sheet: Child and Family Services Reviews*, *available at* https://www.acf.hhs.gov/sites/default/files/cb/cfsr_general_factsheet.pdf_ (last accessed Dec. 20, 2017). Note that because of differences in how the third round of reviews is being conducted, state performance cannot be compared across the reviews. *See* http://www.centerforchildwelfare.org/qa/CFSRTools/2016%20CFSR%20Final%20Report.pdf (last accessed Dec. 20, 2017).

[18] *Id.* The outcomes address safety (children are, first and foremost, protected from abuse and neglect and safely maintained in their homes whenever possible and appropriate), permanency (children have permanency and stability in their living situations, and the continuity of family relationships and connections is preserved for families), and family and child well-being (families have enhanced capacity to provide for their children's needs, and children receive appropriate services to meet their educational needs and adequate services to meet their physical and mental health needs). The systemic factors include the effectiveness of the statewide child welfare information system; the case review system; the quality assurance system; staff and provider training; the service array and resource development; the agency's responsiveness to the community; and foster and adoptive parent licensing, recruitment, and retention.

[19] U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth, and Families, Children's Bureau, *Child and Family Services Reviews, Florida Final Report, 2016*, p. 2, at http://www.centerforchildwelfare.org/qa/CFSRTools/2016%20CFSR%20Final%20Report.pdf (last accessed Dec. 20, 2017).

[20] *Id* at 3.

[21] U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *Reports and Results of the Child and Family Services Reviews (CFSRs)*, https://library.childwelfare.gov/cwig/ws/cwmd/docs/cb_web/SearchForm (last accessed Dec. 20, 2017).

[22] *Supra* note 17.

[23] FLORIDA'S CENTER FOR CHILD WELFARE, *Child and Family Services Review*, http://www.centerforchildwelfare.org/CFSRHome.shtml (last accessed Dec. 20, 2017).

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

B. SECTION DIRECTORY:

Not applicable.

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:

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 memorial does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The memorial does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

House Memorial

A memorial to the Congress of the United States, urging Congress to allow renewal of Title IV-E waivers for child welfare services.

WHEREAS, one of the most important roles of government is ensuring the safety and well-being of society's most vulnerable members, including children, and

WHEREAS, children enter the child welfare system for many reasons, such as parental substance abuse, domestic violence, mental illness, and generational poverty, and the complexity of cases is growing due to the interplay of these factors, and

WHEREAS, preventing child abuse, abandonment, and neglect saves children from trauma and avoids costs for more intensive treatment services, juvenile justice interventions, public benefits expenditures, and other social services, and

WHEREAS, with the federal funding flexibility provided by Florida's Title IV-E waiver for child welfare services, professionals working closely with children and families can tailor services to best meet individual needs, regardless of the level of involvement in the child welfare system, thus making the most effective and efficient use of funding, and

WHEREAS, Florida has been a national leader in innovative child welfare service provision through a community-based system of care and flexible funding streams, providing communities with

the responsibility, authority, and resources to care for their own children, and

WHEREAS, while the federal Child and Family Services Review found that Florida exceeds national standards with respect to certain indicators and systemic factors, the state still faces challenges in meeting other requirements and would benefit from continued flexibility in federal funding to most effectively meet these challenges, and

WHEREAS, Florida's Title IV-E waiver will expire September 30, 2018, and federal law requires all waiver operations to terminate by September 30, 2019, such that Florida will soon revert to more restrictive funding limitations unless Congress takes action, and

WHEREAS, widespread support exists nationally to transform the current Title IV-E funding approach to emphasize prevention and greater provision of a wider array of services tailored to meet individual families' needs so that children may be safe while avoiding the trauma of placement outside the home when possible, which is what Florida's waiver currently allows, and

WHEREAS, meeting traditional Title IV-E obligations will force significant changes to Florida's child welfare system, requiring professionals to spend time revising policies and processes instead of working to meet the needs of children and families, NOW, THEREFORE,

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

That the Legislature of the State of Florida requests the Congress of the United States to amend federal law to allow the Secretary of the Department of Health and Human Services to renew existing Title IV-E waivers to extend beyond September 30, 2019, giving Florida the flexibility to continue providing an expanded array of community-based programs and support to children who are in or who are at risk of entering out-of-home placement and their families.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 891 St. Lucie County
SPONSOR(S): Harrell
TIED BILLS: **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Renner	Miller
2) Careers & Competition Subcommittee	11 Y, 0 N	Willson	Anstead
3) Government Accountability Committee		Renner	Williamson

SUMMARY ANALYSIS

In 1967, the Legislature enacted ch. 67-1990, Laws of Florida, to provide specific requirements regarding the issuance of Special Restaurant Beverage (SRX) licenses in St. Lucie County. Under the special act, in St. Lucie County SRX licenses may be issued to any bona fide restaurant with service for 200 or more patrons at tables and occupying more than 4,000 square feet of floor space.

The bill repeals ch. 67-1990, Laws of Florida, relating to the issuance of SRX licenses for restaurants in St. Lucie County. The issuance of subsequent SRX licenses in the county will be as provided under general law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Division of Alcoholic Beverages and Tobacco (DABT) of the Department of Business and Profession Regulation (DBPR) is responsible for the enforcement of Florida's Beverage Laws.[1]

Florida law limits the number of alcoholic beverage licenses that may be issued to one license for every 7,500 residents in a county, known as the "quota".[2] Special Restaurant Beverage (SRX) licenses may be issued in excess of the quota limitations in s. 561.20(1), F.S., and are regulated under Rule 61A-3.0141, F.A.C. To qualify for the SRX license, a restaurant must have a service area of at least 2,500 square feet, be equipped to serve at least 150 persons full meals at one time, and derive at least 51 percent of its revenue from the sale of food and nonalcoholic beverages.[3]

The specific requirements regarding the issuance of SRX licenses in St. Lucie County are found in ch. 67-1990, Laws of Florida. In St. Lucie County, SRX licenses may be issued to any bona fide restaurant with service for 200 or more patrons at tables and occupying more than 4,000 square feet of floor space. Licensees are prohibited from selling alcoholic beverages in packages for consumption off of the premises and from operating as a package store.

Effect of Proposed Changes

The bill repeals ch. 67-1990, Laws of Florida, relating to the issuance of SRX licenses for bona fide restaurants in St. Lucie County. The issuance of subsequent SRX licenses in the county will be as provided under general law.

B. SECTION DIRECTORY:

Section 1 Repeals Chapter 67-1990, Laws of Florida, relating to the issuance of SRX licenses in St. Lucie County

Section 2 Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? September 24, 2017

WHERE? *St. Lucie News-Tribune*

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

[1] Chs. 561-565 and 567-568, F.S.
[2] Section 561.20(1), F.S.
[3] Section 561.20(2)(a)4., F.S.

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to St. Lucie County; repealing ch. 67-1990, Laws of Florida, relating to the issuance of alcoholic beverage licenses; providing an effective date.

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

Section 1. Chapter 67-1990, Laws of Florida, is repealed.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HR 1027 Capital of Israel
SPONSOR(S): Moskowitz and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 1 N	Miller	Miller
2) Government Accountability Committee		Miller	Williamson

SUMMARY ANALYSIS

The city of Jerusalem is located on one of the oldest continuously occupied sites in the world, with a history extending back over 3,000 years. In 1917, Great Britain issued the Balfour Declaration, stating support for a Jewish homeland in Palestine. At the end of World War I, the League of Nations placed Jerusalem and the larger area of Palestine under British control with a mandate to administer the area for the benefit of the residents. After World War II, Great Britain brought the issue of the Palestine mandate before the United Nations (U.N.) and in 1948, the U.N. proposed a partition of Palestine into two separate nations, with Jerusalem to be under international administration. With the declaration of the State of Israel in the partition area set aside for a Jewish nation, war broke out resulting in an armistice that divided Jerusalem between Israeli and Jordanian sections. In the Six Day War of 1967, Israel gained control of the entire city and has administered Jerusalem, including its key holy and historical sites, ever since.

In 1950, the State of Israel declared Jerusalem as its national capital. This position has always been opposed by the U.N., which continues to call for Jerusalem to be a separate area under international administration.

The United States was the first county to recognize the State of Israel as a nation. The United States Congress passed the Jerusalem Embassy Act of 1995, directing the United States Embassy to the State of Israel to be moved to Jerusalem. The Act allowed the President to waive its requirements for a period of six months if found to be necessary for national security purposes, which waivers were continued by each administration. On December 6, 2017, President Trump issued a Presidential Proclamation recognizing Jerusalem as the undivided capital of the State of Israel and stating the United States Embassy would be relocated to Jerusalem as soon as practicable.

The resolution recognizes the historical, religious, and cultural importance of Jerusalem; supports recognizing Jerusalem as the undivided capital of the State of Israel; and supports relocating the United States Embassy to Jerusalem. The resolution does not provide for its transmission to any specific authority.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Jerusalem is located within the State of Israel (Israel),[1] adjacent to the west of the area known as the West Bank. The city sits on one of the oldest continuously occupied sites in the world, with a history extending back over 3,000 years. Originally recorded as occupied by a Canaanite people known as the Jebusites, Jerusalem in turn has been occupied by Hebrew (later known as Jewish), Babylonian, Persian, Hellenistic, Roman, Byzantine, Muslim, Christian, and Ottoman rulers. As noted by the International Council on Monuments and Sites:

> The site of Jerusalem, which has been continuously inhabited from prehistory, presents a series of exceptional testimonies to its vanished civilizations: that of the Jebusites (from the third millennium to ca. 1,000 before Christ); also, that of the Hebrews, from David to the siege of Titus in 70 A.D.; that of the Roman Empire, of which Aelia Capitolina, from 135, became one of the most important Eastern colonies; and, of course, that of Byzantium, not to mention the successive medieval civilizations characterized by the co-existence of Arabs and Christians from 638 to 1099, by a short western interlude terminated definitively in 1244 and by the Turkish domination which reached its peak under the reign of Sulaiman the Magnificent.[2]

From ancient times to the present, Jerusalem occupies a central historical, religious, and political role in the Jewish, Christian, and Muslim faiths.

First Mandate for Palestine and the Balfour Declaration

Jerusalem and the surrounding area known as Palestine remained within the Ottoman Empire until the upheavals of the First World War and the collapse of the Empire. Among the diplomatic complexities of World War I were the internal discussions of the major allies about the disposition of the Ottoman possessions in the event of the Empire's defeat. After two months of negotiations, on January 3, 1916, Great Britain and France entered a preliminary agreement dividing into respective spheres of influence the area south of present day Turkey and north of present day Saudi Arabia. France would control the area north of an artificial boundary (present day Lebanon and Syria) and Britain would control the southern area (present day Jordan and Iraq). Some sort of international body would administer Palestine, defined to include Jerusalem.[3]

In a letter dated November 2, 1917, the British Foreign Secretary, Arthur Balfour,[4] wrote "'[h]is Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine...'"[5] Known as the Balfour Declaration, this principle would inform and confound British action in Palestine after the War. Concurrent with the final peace

---

[1] In Hebrew, Medinat Yisra'el. *See* at https://www.britannica.com/place/Israel (accessed 1/6/2018).
[2] Report on Application C 148 (April 1981), at http://whc.unesco.org/en/list/148 (accessed 1/6/2018). The Kingdom of Jordan submitted the application for the Old City of Jerusalem and its Walls to be placed on the List of World Heritage in Danger. *See* at *id.*
[3] David Fromkin, *A Peace to End All Peace*, 192 (Holt Paperbacks, NY 1989). This is the Sykes-Picot agreement, named for the principal negotiators: Sir Mark Sykes for Great Britain and François Georges Picot for France.
[4] Arthur James Balfour, First Earl of Balfour. Fromkin, at 631.
[5] Fromkin, at 297.

settlement entered with the new nationalist Turkish government, Great Britain received the League of Nations mandate to administer Palestine and Jerusalem.[6]

Division of Palestine and Jerusalem, Creation of Nation of Israel

Britain administered the Mandate for Palestine until relinquishing the issue for resolution by the newly formed United Nations (U.N.). On November 26, 1947, the U.N. adopted Resolution 181, providing for the division of Palestine into two separate Jewish and Arab states. Jerusalem would be a separate region administered by the U.N. and not included in either of the new nations.[7] On May 14, 1948, Great Britain withdrew its forces. On the same day, a Jewish state was proclaimed in the areas allotted under U.N. Resolution 181. After extensive fighting that saw the State of Israel forces occupy additional areas originally allotted to the Palestine sector, as well as the western portion of Jerusalem, the U.N. imposed an armistice.

Jerusalem as the Capital of Israel

On December 5, 1949, the Israeli Cabinet declared Jerusalem to be the capital of Israel. The Knesset issued a similar proclamation[8] on January 23, 1950.[9] As recited on the website of Israel's Knesset, "[o]n December 13th 1949, the first Prime Minister of Israel, David Ben Gurion, stated that 'Jewish Jerusalem is an organic and inseparable part of the State of Israel, just as it is inseparable from Israeli history, from the faith of Israel and from the soul of our people.'"[10] The Knesset moved its place of meeting from Tel Aviv to Jerusalem in 1950.[11]

After years of armed tension with its neighbors Egypt, Jordan, and Syria, Israel determined a series of actions taken principally by Egypt's head of state, Gamel Nasser, constituted existential threats to the nation. War broke out on June 5, 1967, ending with a cease-fire on June 11. During the Six Day War Israel captured the West Bank from Jordan, Gaza from Egypt, and the Golan Heights from Syria. On June 6, 1967, Israeli forces captured the eastern portions of Jerusalem, giving the nation control of the entire city.[12]

Response of the United Nations

For its part, the U.N. continues to adhere to the general outline of Resolution 181, calling for a partition into two states with Jerusalem as a separate area under international administration.[13] Responding to the changed situation brought about by the Six Day War, the U.N. General Assembly called on Israel to return to its 1948 borders and reaffirmed the desirability of international regime for Jerusalem.[14] On August 20, 1980, the General Assembly adopted Resolution 478, refusing to recognize the Knesset vote declaring Jerusalem as the capital of Israel and directing all member nations not to place diplomatic missions to Israel in Jerusalem.

---

[6] Fromkin, at 558-559. *See also* The Palestine Mandate adopted by the League of Nations (7/24/1922), at http://avalon.law.yale.edu/20th_century/palmanda.asp (accessed 1/6/2018).

[7] U.N. Resolution 181, Parts II & III. *See also* U.N. Brochure DPI/2157/Rev. 1 "The Question of Palestine and the United Nations," ch. 2 (2003), at http://www.un.org/Depts/dpi/palestine/ (accessed 1/6/2018).

[8] The Knesset is the parliament of the State of Israel. *See* https://www.knesset.gov.il/description/eng/eng_mimshal0.htm (accessed 1/6/2018).

[9] Martin Gilbert, *Jerusalem in the Twentieth Century* (New York, 1996), pp. 243-244.

[10] At https://www.knesset.gov.il/birthday/eng/EarlyYears_eng.htm

[11] *Id.*

[12] John Westwood, *The History of the Middle East Wars*, 80-107 (World Publications Group, Inc., Boston 2002).

[13] Since 1947, the General Assembly has considered 368 reports and resolutions pertaining to the status of Jerusalem. *See* listing at http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=1515O576L7585.2672&profile=bib&page=8&group=0&term=Jerusalem&index=.GW&uindex=&aspect=subtab124&menu=search&ri=2&limitbox_2=TM01+%3D+tm_b01&source=~!horizon&1515257677439 (accessed 1/6/2018).

[14] General Assembly, A/L.523/Rev.1, 4 July 1967, at https://unispal.un.org/DPA/DPR/unispal.nsf/0/510EF41FAC855100052566CD00750CA4 (accessed 1/6/2018).

United States Recognition of Jerusalem as Capital

After Israel's founding in 1948, the United States was the first country to recognize the State of Israel.[15] United States-Israel relations are characterized by support, cultural resonance, and cooperative mutual interests. The shared democratic values and religious affinities of the two countries have contributed to the bilateral ties.[16] Regarding the Israeli-Palestinian conflict, official United States policy continues to favor a two-state solution to "address core Israeli security demands as well as Palestinian aspirations for national self-determination."[17] The United States, together with the European Union and the U.N., continues to advocate for Israeli-Palestinian talks in order to broker a peace deal.

In 1995, Congress enacted the Jerusalem Embassy Act of 1995 (Act).[18] Congress made numerous findings supporting the Act, including:

- Israel, as a sovereign nation, has designated Jerusalem as its capital since 1950.
- Not only is Jerusalem home to the three main branches of Israel's government, it is the spiritual center of Judaism and holy to members of other religious faiths.
- Divided in 1948, since 1967 Jerusalem has been a united city administered by Israel.
- Under Israeli administration, members of all religious faiths are guaranteed access to the holy sites in the city.
- The United States maintains its embassy in the functioning capital of every nation except in the case of the State of Israel.[19]

The Act states the policy of the United States is for Jerusalem to remain an undivided city, to be recognized as the capital of the State of Israel, and to establish the United States Embassy in Jerusalem. If the embassy is not so established by the deadline in the bill, 50 percent of the funds appropriated to the State Department for "Acquisition and Maintenance of Buildings Abroad" may not be obligated until the Secretary of State reports to Congress that the Embassy in Jerusalem is officially opened.[20] The Act further provides that the President may suspend the limitation on the use of funds for six months if the President determines such suspension is necessary to protect national security and so reports to Congress in advance. The suspension may be renewed at the end of any six-month period if necessary to protect national security.[21] The Act became law without the President's signature.[22] In a 1995 Memorandum, the Justice Department expressed significant concerns that the requirements of the Act may violate the President's exclusive constitutional authority over foreign affairs, including the appointment of ambassadors and recognition of foreign governments.[23] Since the 1995 enactment of the Act, every President has renewed the waiver every six months.

On June 1, 2017, President Trump signed another waiver of the Act.[24] On June 5, 2017, by a 90-0 vote the United States Senate passed Senate Resolution 176, acknowledging the 50th anniversary of the

---

[15] U.S. Department of State, *U.S. Relations with Israel,* available at https://www.state.gov/r/pa/ei/bgn/3581.htm (last visited January 30, 2017).

[16] Congressional Research Service report, *Israel: Background and U.S. Relations,* October 28, 2016, available at https://webcache.googleusercontent.com/search?q=cache:kCSNhsZzquUJ:https://fas.org/sgp/crs/mideast/RL33476.pdf+&cd=1&hl=en&ct=clnk&gl=us (last visited February 3, 2017).

[17] *Supra* note 2

[18] Pub. L. 104-45, Nov. 8, 1995, 109 Stat. 398. *See* at https://www.congress.gov/bill/104th-congress/senate-bill/1322/text (accessed 1/6/2018).

[19] 109 Stat. 398, s. 2.

[20] 109 Stat. 398, s. 3.

[21] 109 Stat. 398, s. 7(a).

[22] *See* at https://www.congress.gov/bill/104th-congress/senate-bill/1322/text (accessed 1/6/2018).

[23] Walter Dellinger, Asst. Attorney General, "Memorandum Opinion For The Counsel To The President" (May 16, 1995), at https://web.archive.org/web/20100209074518/http://www.justice.gov/olc/s770.16.htm (accessed 1/6/2018).

[24] At https://www.whitehouse.gov/briefings-statements/statement-american-embassy-israel/ (accessed 1/6/2018).

reunification of Jerusalem and reaffirming the 1995 Act.[25] On December 6, 2017, President Trump issued a Presidential Proclamation recognizing Jerusalem as the capital and stating the United States Embassy will be moved to Jerusalem "as soon as practicable." The Proclamation provided that the move is a determination of the President "consistent with the will of Congress, as expressed in the Act."[26] On the same date, the President issued a Memorandum to the Secretary of State renewing the waiver under section 7(a) of the Act due to national security concerns.[27]

In an emergency special session held on December 21, 2017, the U.N. General Assembly adopted draft resolution ES-10/L.22, declaring the United States decision recognizing Jerusalem as the capital of the State of Israel to be "null and void."[28] As with any other nation joining the U.N., the United States did not relinquish sovereignty over its own affairs, the United States is the sovereign equal of any other nation, and the resolution does not appear to impair the efficacy of the President's actions.[29]

Effect of the Resolution

The resolution recognizes the historical, religious, and cultural importance of Jerusalem; supports recognizing Jerusalem as the undivided capital of the State of Israel; and supports relocating the United States Embassy to Jerusalem. The resolution further approves the actions of the federal government recognizing Jerusalem as the undivided capital of the State of Israel.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

B. SECTION DIRECTORY:

Not applicable.

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.

---

[25] S.R. 176, at https://www.congress.gov/bill/115th-congress/senate-resolution/176/text (accessed 1/6/2018). Sen. Rubio was a co-sponsor of the resolution and Sen. Nelson voted for it.

[26] Presidential Proclamation Recognizing Jerusalem as the Capital of the State of Israel and Relocating the United States Embassy to Israel to Jerusalem, at https://www.whitehouse.gov/presidential-actions/presidential-proclamation-recognizing-jerusalem-capital-state-israel-relocating-united-states-embassy-israel-jerusalem/ (accessed 1/6/2018).

[27] *Presidential Determination No. 18-02*, at https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-5/ (accessed 1/6/2018).

[28] The vote was 128 For and 9 Against, with 35 abstentions. At http://research.un.org/en/docs/ga/quick/emergency (accessed 1/6/2018).

[29] Art. II, principle 1, U.N. Charter, at http://www.un.org/en/sections/un-charter/un-charter-full-text/ (accessed 1/6/2018).

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The resolution neither provides authority nor requires rulemaking by executive branch entities.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The resolution does not provide for its transmission to any specific authority in the United States Government or to Ambassadorial or Consular officials of the State of Israel.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

House Resolution

A resolution recognizing the historical, religious, and cultural importance of Jerusalem, supporting the recognition of Jerusalem as the capital of Israel and the relocation of the United States Embassy in Israel to Jerusalem, and applauding the Federal Government for recognizing Jerusalem as the capital of Israel.

WHEREAS, for over 3,000 years, Jerusalem has played a central role in the history and identity of the Jewish people, and

WHEREAS, Jerusalem is the location of the holiest site for the Jewish people, the Temple Mount, as well as the Western Wall, where people from around the world come to pray, and

WHEREAS, Jerusalem has been a Christian pilgrimage site for over 2,000 years, and holds considerable religious significance for Christians, and

WHEREAS, Jerusalem is home to the third holiest site in Islam, and holds considerable religious significance for Muslims, and

WHEREAS, Jerusalem serves as a cultural and religious inspiration to billions of people around the world, and

WHEREAS, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) has passed a series of anti-Israel resolutions in recent years regarding Jerusalem, and

WHEREAS, these biased resolutions are attempts to erase or minimize Jewish and Christian historical and religious ties to Jerusalem and unjustly single out our close ally Israel with false accusations and criticism, and

WHEREAS, numerous archeological excavations, such as those taking place in the City of David, Israel's most archaeologically excavated site, have uncovered a myriad of antiquities which scientifically reaffirm Jerusalem's historical significance to Judaism and Christianity, and

WHEREAS, the City of David is believed to be the site recorded in the Bible upon which King David established the capital of ancient Israel, and

WHEREAS, since 1867, international delegations of archaeologists from the United States, England, France, and Germany have conducted excavations of the City of David, and

WHEREAS, these excavations have unearthed antiquities from over 10 different civilizations, including Canaanite, Israelite, Roman, Byzantine, and Persian, and

WHEREAS, the current excavations of the City of David are conducted under the auspices of the Israel Antiquities Authority, and held to the highest scientific standards, and

WHEREAS, among the most significant archaeological discoveries unearthed from the City of David are the Siloam Inscription (8th century B.C.E.), which recounts the preparations made by King Hezekiah of Judah for the impending

Assyrian siege against Jerusalem, consistent with the biblical account from 2 Kings; clay seal impressions/bullae (6th century B.C.E.) bearing the names of two Judean government officials who are mentioned in Jeremiah 38:1; the Pool of Siloam (1st century B.C.E.), which, during the Second Temple period, served as a ritual bath for the hundreds of thousands of Jewish pilgrims ascending annually to the temple atop the Temple Mount; and the Second Temple Pilgrimage Road (1st century C.E.), which began at the Pool of Siloam and served as the main thoroughfare of Second Temple period Jerusalem, carrying hundreds of thousands of people on their annual pilgrimages to the temple, and

WHEREAS, the Pilgrimage Road located within the City of David, which stretches 600 meters from the Pool of Siloam to the footsteps of the Western Wall, will be open to visitors upon completion of excavation, and

WHEREAS, these discoveries affirm the undeniable truth that the City of David, the Western Wall, and the Temple Mount are inextricably linked together, physically, historically, and symbolically, as the bedrock of the connection between the Jewish people and Jerusalem and have been for millennia, and

WHEREAS, these discoveries further affirm the importance of Jerusalem within Israel, such that Jerusalem should be rightfully recognized as the capital of Israel and the United States Embassy in Israel should be relocated to Jerusalem, and

WHEREAS, the Federal Government has recently recognized Jerusalem as the undivided capital of Israel and plans to relocate the United States Embassy in Israel from Tel Aviv to Jerusalem, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the State of Florida recognizes the historical, religious, and cultural importance of Jerusalem and supports both the recognition of Jerusalem as the undivided capital of Israel and the relocation of the United States Embassy in Israel from Tel Aviv to Jerusalem. Furthermore, the State of Florida supports and applauds the recent action taken by the Federal Government to recognize Jerusalem as the undivided capital of Israel.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1115 Indian River Farms Water Control District, Indian River County
SPONSOR(S): Grall
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	10 Y, 0 N	Renner	Miller
2) Government Accountability Committee		Renner	Williamson

SUMMARY ANALYSIS

The Indian River Farms Water Control District (District) is an independent special district located in Indian River County. The District was created and incorporated by judicial decree of the Fifteenth Circuit, in St. Lucie County, in 1919. The decree gave the District a 99-year lifespan from that date and extends to May 8, 2018. The purpose of the District is to provide drainage and stormwater control for an area comprising of approximately 54,000 acres. Chapter 2006-343, Laws of Florida, codified and reenacted all prior special acts of the District into a single act.

The bill removes the 99-year term limitation of the District originally provided by the decree of the Circuit Court for the Fifteenth Judicial Circuit in St. Lucie County so that the District can continue in existence and authority as provided in ch. 2006-343, Laws of Florida.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Independent Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,[1] special act,[2] local ordinance,[3] or by rule of the Governor and Cabinet.[4] A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.[5]

A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.[6] An "independent special district" is any district that is not a dependent special district.[7]

Water Control Districts

Chapter 298, F.S., governs the creation and operation of a water control district (WCD).[8] A WCD has the authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.[9] A WCD may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of the district. A WCD also may acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including pumping stations, pumping machinery, motive equipment, electric lines, and all appurtenant or auxiliary machines, devices, or equipment.[10]

Indian River Farms Water Control District

The Indian River Farms Water Control District (District) is an independent special district located in Indian River County. The District was created and incorporated by judicial decree of the Fifteenth Circuit, in St. Lucie County, in the case "In re: Indian River Farms Drainage District" in 1919.[11] The decree gave the District a 99-year lifespan from that date and extends to May 8, 2018.[12] The purpose of the District is to provide drainage and stormwater control for an area comprising approximately

---

[1] Section 189.031(3), F.S.
[2] *Id.*
[3] Section 189.02(1), F.S.
[4] Section 190.005(1), F.S. *See*, generally, s. 189.012(6), F.S.
[5] *2017 – 2018 Local Gov't Formation Manual*, p. 60, at http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911 (last accessed 1/4/2018).
[6] Section 189.012(2), F.S.
[7] Section 189.012(3), F.S.
[8] All special districts operating under ch. 298, F.S., and formerly known as "drainage districts" or "water management districts" are now officially called water control districts. Section 298.001, F.S.
[9] Section 298.22, F.S.
[10] Section 298.22(3), F.S.
[11] Ch. 2006-343, s. 3, Laws of Fla.
[12] *See* Indian River Farms Water Control District, available at http://www.irfwcd.com/about.html (last accessed 1/4/2018).

54,000 acres. Chapter 2006-343, Laws of Florida, codified and reenacted all prior special acts of the District into a single act.

Effect of Proposed Changes

The bill removes the 99-year term limitation of the District originally provided by the decree of the Fifteenth Judicial Circuit in St. Lucie County so that the District can continue in existence and authority as provided in ch. 2006-343, Laws of Florida.

B. SECTION DIRECTORY:

Section 1 Removes the 99-year term limitation of the Indian River Farms Water Control District originally provided by court decree.

Section 2 Provides that the bill takes effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? November 17, 2017

WHERE? *Indian River Press Journal*

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Indian River Farms Water Control District, Indian River County; removing the 99-year term limitation of the district originally provided by court decree; providing an effective date.

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

Section 1. This act shall serve to remove the 99-year term limitation of the Indian River Farms Water Control District originally provided by court decree in the case In re: Indian River Farms Drainage District issued on May 6, 1919, by the Circuit Court of the Fifteenth Judicial Circuit, in and for St. Lucie County, so that the district shall continue in existence and authority as provided in chapter 2006-343, Laws of Florida.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6033 Volunteer Florida, Inc.
SPONSOR(S): Ponder
TIED BILLS: **IDEN./SIM. BILLS:** SB 1110, SB 1500

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N	Toliver	Harrington
2) Government Accountability Committee		Toliver	Williamson

SUMMARY ANALYSIS

Direct-support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the DSO was created to support.

The Legislature created the Florida Volunteer and Community Service Act of 2001 (Act) "to promote the development of better communities by fostering greater civic responsibility through volunteerism and service to the community." The Florida Commission on Community Service (commission) helps administer the Act. Current law authorizes the commission to establish a DSO to aid in fundraising efforts and to assist in carrying out the commission's goal of increasing volunteerism across the state. The commission established a DSO known as the Volunteer Florida Foundation (VFF). The members of VFF's board of directors must include members of the commission. VFF is a Florida not for profit corporation, organized and operated exclusively to receive, hold, invest, and administer property and funds and to make expenditures to or for the benefit of the programs overseen by the commission. VFF is required to operate under a written contract with the commission. The statutory authority for VFF is scheduled to repeal on October 1, 2018, unless reviewed and reenacted by the Legislature.

The bill removes the scheduled repeal of the law authorizing the commission to create a DSO.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Direct-support Organizations (DSOs)
DSOs are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the DSO was created to support.

Prior to 2014, there was no formal, statutory review process for DSOs. Chapter 2014-96, L.O.F.,[1] established reporting and transparency requirements for each DSO created or authorized pursuant to law or executive order and created, approved, or administered by a state agency. The DSO must report information related to its organization, mission, and finances to the agency it was created to support by August 1 of each year.[2] Specifically, a DSO must provide:[3]

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

Each agency receiving the above information must make the information available to the public through the agency's website. If the DSO maintains a website, the agency's website must provide a link to the website of the DSO.[4] Additionally, any contract between an agency and a DSO must be contingent upon the DSO submitting and posting the information.[5] If a DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the DSO.[6]

By August 15 of each year, each agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and Office of Program Policy Analysis and Government Accountability the information provided by the DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization.[7]

Lastly, a law creating or authorizing the creation of a DSO must state that the creation of or authorization for the DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.[8]

DSO Audit Requirements
DSOs with annual expenditures in excess of $100,000 and that are administered by a state agency are statutorily-required to provide for an annual financial audit of accounts and records to be conducted by

[1] Section 20.058, F.S.
[2] Section 20.058(1), F.S.
[3] Section 20.058(1)(a)-(f), F.S.
[4] Section 20.058(2), F.S.
[5] Section 20.058(4), F.S.
[6] *Id.*
[7] Section 20.058(3), F.S.
[8] Section 20.058(5), F.S.

an independent certified public accountant, with certain exceptions. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency responsible for its creation, administration, or approval of the DSO.[9]

Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of the accounts and records of the DSO.[10] The Auditor General is authorized to require and receive any records from the DSO, or from its independent auditor.[11]

DSO Ethics Code Requirements

A DSO created or authorized pursuant to law must adopt its own ethics code.[12] The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.[13]

Florida Volunteer and Community Service Act of 2001

The Legislature passed HB 47 (2001), the Florida Volunteer and Community Service Act of 2001 (Act) "to promote the development of better communities by fostering greater civic responsibility through volunteerism and service to the community."[14] The Act directed the Executive Office of the Governor to "establish policies and procedures which provide for the expenditure of funds to develop and facilitate initiatives by public agencies, scholastic institutions, private institutions, and individuals that establish and implement programs that encourage and reward volunteerism."[15] The programs and initiatives developed pursuant to the Act must meet the following purposes and objectives:

- To place increased priority on citizen participation and volunteerism as a means of addressing the increasingly complex problems facing Florida's communities.
- To encourage local community leaders to implement strategies that expand civic participation.
- To promote the concept and practice of corporate citizenship.
- To build the enthusiasm, dedication, and combined expertise of individual citizens and public and private systems to find new and creative ways to effectively use volunteerism and community service.
- To foster the alignment of community volunteer resources with the goals of the state.
- To implement policy and administrative changes that encourage and enable individuals to participate in volunteer and community service activities.
- To encourage nonprofit agencies to interweave volunteers into the fabric of their service delivery as a means of increasing the effectiveness and efficiency of their services.
- To support and promote volunteer service to all citizens as an effective means to address community needs and foster a collective commitment to lifelong community service.
- To recognize National Volunteer Week as a time to encourage all citizens of Florida to participate in local service projects.
- To recognize the value of individual volunteers and volunteer and service organizations and programs and to honor and celebrate the success of volunteers.
- To encourage volunteer and service efforts to point children in the right direction and to endow them with the character and competence they need to achieve success in life.[16]

[9] Section 215.981(1), F.S.
[10] Section 11.45(3), F.S.
[11] Section 11.45(3)(d), F.S.
[12] Section 112.3251, F.S.; *see also* s. 20.058(1)(e), F.S.
[13] Section 112.3251, F.S.
[14] Chapter 2001-84, L.O.F. and s. 14.295(2), F.S.
[15] Section 14.295(2), F.S.
[16] Section 14.295(3), F.S.

The Florida Commission on Community Service

The Florida Commission on Community Service (commission) is a commission, administratively housed within the Executive Office of the Governor, that serves as an advisory board to the Governor, the Cabinet, the Legislature, and appropriate state agencies and entities on matters relating to volunteerism and community service.[17] The commission is required to consist of no less than 15 and no more than 25 voting members[18] appointed on a bipartisan basis by the Governor and confirmed by the Senate.[19] Voting members may represent one, or any combination, of the following categories, so long as each of the respective categories is represented:

- A representative of a community-based agency or organization.
- The Commissioner of Education or designee thereof.
- A representative of local labor organizations.
- A representative of local government.
- A representative of business.
- An individual between the ages of 16 and 25, inclusive, who is a participant in or a supervisor of a service program for school-age youth, or of a campus-based or national service program.
- A representative of a national service program.
- An individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth.
- An individual with experience in promoting service and volunteerism among older adults.[20]

Members of the commission serve without compensation[21] for terms of three years[22] and meet at the call of its chair or at the request of a majority of its total voting membership, but must meet at least biannually.[23] A majority of the total voting membership constitutes a quorum, and the affirmative vote of a majority of a quorum is necessary to take official action.[24]

The commission is required by law to:

- Annually elect a chair and a vice chair. To be eligible to serve as chair, an individual must be a voting member of the commission.
- Employ an executive director, initially designated by the Governor, who reports directly to, and serves as the chief administrative officer of, the commission.
- Prepare an annual report detailing its activities during the preceding year and, to the extent possible, compile and synthesize any reports that it accepted on behalf of the Governor. The commission's report must be presented to the Governor no later than January 15, with copies provided to the President of the Senate and the Speaker of the House of Representatives.[25]

The commission is permitted, but not required, to perform the following actions:

- Secure assistance from all state departments and agencies in order for the commission to avail itself of expertise at minimal cost.
- Procure information and assistance from the state or any political subdivision, municipal corporation, public officer, or governmental department or agency thereof.
- Apply for and accept funds, grants, gifts, and services from local, state, or federal government, or from any of their agencies, or any other public or private source and is authorized to use funds derived from these sources to defray administrative costs, implement programs as may be necessary to carry out the commission's charge, and assist agencies, institutions, and

[17] Section 14.29(2), F.S.
[18] No more than 50 percent plus one of the voting members of Volunteer Florida may be aligned with the same political party. Section 14.29(3)(b), F.S.
[19] Section 14.29(3)(a), F.S.
[20] *Id.*
[21] Section 14.29(6), F.S.
[22] Section 14.29(4), F.S.
[23] Section 14.29(5), F.S.
[24] *Id.*
[25] Section 14.29(7), F.S.

individuals in the implementation of programs pursuant to the Act. The commission may also authorize Volunteer Florida, Inc., the commission's DSO, to assist in securing training, technical assistance, and other support needed to accomplish the intent and purposes of the Act.
- Contract for necessary goods and services.

The commission administers "more than $31.7 million in federal, state and local funding for national service and volunteer programs across the state ...[and] leads initiatives throughout Florida that use volunteerism as a strategy to meet needs."[26] In 2016 and 2017, the commission administered 32 AmeriCorps programs providing 1.67 million hours of service while serving 54,000 students.[27]

Volunteer Florida Foundation

The commission is authorized to create a DSO "to receive, hold, invest, and administer property and funds and to make expenditures" to or for the benefit of the programs overseen by the commission.[28] The commission has created a DSO, known as the Volunteer Florida Foundation (VFF). The members of VFF's board of directors must include members of the commission. The commission may authorize VFF to use its personal services, facilities, and property. Additionally, the commission is required to adopt rules prescribing the procedures by which VFF is governed and any conditions with which it must comply to use property, facilities, or personal services of the commission.

VFF must be:
- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., and approved by the Secretary of State;
- Organized and operated exclusively to receive, hold, invest, and administer property and funds and to make expenditures to or for the benefit of the program; and
- An organization which the commission, after review, has certified to be operating in a manner consistent with the goals of the program and in the best interests of the state.[29]

VFF is required to operate under a written contract with the commission. The contract must provide for:
- Approval of the articles of incorporation and bylaws of the DSO by the commission.
- Submission of an annual budget for the approval of the commission.
- Annual certification by the commission that VFF is complying with the terms of the contract and in a manner consistent with the goals and purposes of the commission and in the best interest of the state.
- The reversion to the commission, or the state if the commission ceases to exist, of moneys and property held in trust by VFF if VFF is no longer approved to operate.
- The fiscal year of VFF to begin July 1 of each year and end June 30 of the following year.
- The disclosure of material provisions of the contract and the distinction between the board of directors and VFF to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.[30]

Funds held by VFF may be held in a separate depository account and subject to the provisions of the contract with the commission.[31] Such funds may include membership fees, private donations, income derived from fundraising activities, and grants applied for and received by the DSO.[32] VFF must provide for an annual financial audit in accordance with law.[33]

---

[26] About Us, VOLUNTEER FLORIDA, https://www.volunteerflorida.org/about/ (last visited 1/11/18).
[27] Volunteer Florida Fact Sheet, on file with the Oversight, Transparency & Administration Subcommittee.
[28] Section 14.29(9), F.S.
[29] Section 14.29(9)(a), F.S.
[30] Section 14.29(9)(b), F.S.
[31] Section 14.29(9)(f), F.S.
[32] *Id.*
[33] Section 14.29(9)(g), F.S.

Lastly, the commission may authorize VFF "to assist in securing training, technical assistance, and other support needed to accomplish the intent and purposes of the [Act]"[34]

Staff Review of Volunteer Florida

Section 14.29(9), F.S., which provides the statutory authority for VFF, is scheduled to repeal on October 1, 2018, unless reviewed and reenacted by the Legislature. Staff reviewed VFF to verify its compliance with Florida Statutes.

Staff found that VFF is a DSO that supports the commission in its mission to "deliver high-impact national service and volunteer programs across the state."[35] During the 2017 interim, staff met with a representative of VFF and the commission to discuss the DSO's operations and structure and to receive documents to assist with the review. After reviewing the submitted documents and reviewing the other requirements to which VFF is subject, staff concluded that it appears VFF is in compliance with its enabling legislation as well as the DSO requirements laid out in s. 20.058, F.S.

Effect of the Bill

The bill removes the scheduled repeal of the law authorizing the commission to create a DSO, thus allowing VFF to continue to exist.

B. SECTION DIRECTORY:

Section 1 amends s. 14.29, F.S., to save VFF from repeal.

Section 2 provides an effective date of July 1, 2018.

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:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

---

[34] Section 14.29(8)(c), F.S.

[35] Volunteer Florida Foundation Fact Sheet, on file with House Oversight, Transparency & Administration Subcommittee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. 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, nor 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

None.

A bill to be entitled

An act relating to Volunteer Florida, Inc.; amending s. 14.29, F.S.; abrogating the future repeal date of the not for profit direct-support organization established by the Florida Commission on Community Service; providing an effective date.

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

Section 1. Paragraph (h) of subsection (9) of section 14.29, Florida Statutes, is amended to read:

14.29 Florida Commission on Community Service.—

(9)

~~(h) This subsection is repealed effective October 1, 2018, unless reviewed and saved from repeal by the Legislature.~~

Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7041 PCB OTA 18-05 OGSR/Ethics Complaints and Investigations
SPONSOR(S): Oversight, Transparency & Administration Subcommittee, Williamson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee	14 Y, 0 N	Toliver	Harrington
1) Government Accountability Committee		Toliver	Williamson

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Current law provides that the complaint and records relating to the complaint or to any preliminary investigation held by the Commission on Ethics (commission) or its agents, by a Commission on Ethics and Public Trust established by any county or by any municipality, or by any county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements than those provided in the Code of Ethics are confidential and exempt from public records requirements. Additionally, written referrals and records relating thereto, held by the commission, the Governor, the Department of Law Enforcement, or a state attorney, as well as records relating to any preliminary investigation of such referrals held by the commission, are confidential and exempt from public records requirements.

A proceeding, or any portion thereof, conducted by the commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process, pursuant to a complaint or preliminary investigation, is exempt from public meeting requirements. Moreover, any proceeding of the commission in which a determination regarding a referral is discussed or acted upon is exempt from public meeting requirements.

The above records and meetings are exempt until:

- The complaint is dismissed;
- The alleged violator requests in writing that such records or proceedings be made public;
- The commission determines it will not investigate the referral; or
- The commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process determines, based on such investigation, whether probable cause exists to believe that a violation has occurred.

The bill reenacts the public record and public meeting exemptions, which will repeal on October 2, 2018, if this bill does not become law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)[1] sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[2]

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.[4] If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created then a public necessity statement and a two-thirds vote for passage are not required.

Florida Commission on Ethics

The Florida Commission on Ethics (commission) serves as guardian of the standards of conduct for the officers and employees of the state and its political subdivisions.[5] It is an independent commission, created by the Florida Constitution,[6] responsible for investigating and issuing public reports on complaints of breaches of the public trust[7] by public officers and employees. The commission must investigate sworn complaints of violations of the Code of Ethics for Public Officers and Employees (Code of Ethics)[8] or of any other law over which it has jurisdiction.[9] The commission may only initiate an investigation if it receives a sworn complaint.[10]

Complaints or referrals against a candidate in any election may not be filed, nor may any intention of filing such a complaint or referral be disclosed, on the day of any such election or within the 30 days

---

[1] Section 119.15, F.S.
[2] Section 119.15(3), F.S.
[3] Section 119.15(6)(b), F.S.
[4] Section 24(c), Art. I, FLA. CONST.
[5] Section 112.320, F.S.
[6] Article II, s. 8(f), FLA. CONST.
[7] Section 112.312, F.S., defined "breach of the public trust" to mean a violation of a provision of the State Constitution or the Code of Ethics which establishes a standard of ethical conduct, a disclosure requirement, or a prohibition applicable to public officers or employees in order to avoid conflicts between public duties and private interests, including, without limitation, a violation of s. 8, Art. II of the State Constitution or of the Code of Ethics.
[8] Chapter 112, Part III, F.S.
[9] *See* s. 112.322(1), F.S.
[10] Section 112.324(1), F.S.

immediately preceding the date of the election, unless the complaint or referral is based upon personal information or information other than hearsay.

Current law provides that the Code of Ethics does not prohibit the governing body of a political subdivision or an agency from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in the Code of Ethics, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of the Code of Ethics.[11]

Public Record and Public Meeting Exemptions under Review

Current law provides that the complaint and records relating to the complaint or to any preliminary investigation held by the commission or its agents, by a Commission on Ethics and Public Trust established by any county[12] or by any municipality,[13] or by any county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements than those provided in the Code of Ethics are confidential and exempt[14] public records requirements.[15]

Written referrals, and records relating thereto, held by the commission, the Governor, the Department of Law Enforcement, or a state attorney, as well as records relating to any preliminary investigation of such referrals held by the commission, are confidential and exempt from public records requirements.[16]

A proceeding, or any portion thereof, conducted by the commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process, pursuant to a complaint or preliminary investigation, is exempt from public meetings requirements.[17] Additionally, any proceeding of the commission in which a determination regarding a referral is discussed or acted upon is exempt from public meetings requirements.[18]

The above records and meetings are exempt until:

- The complaint is dismissed;
- The alleged violator requests in writing that such records or proceeding be made public;
- The commission determines it will not investigate the referral; or
- The commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process determines, based on such investigation, whether probable cause exists to believe that a violation has occurred.[19]

---

[11] Section 112.326, F.S.

[12] Section 125.011(1), F.S., defines "county" to mean a county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred.

[13] Section 165.031(3), F.S., defines "municipality" to mean a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

[14] There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (*See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. (*See* Attorney General Opinion 85-62, August 1, 1985).

[15] Section 112.324(2)(a), F.S.

[16] Section 112.324(2)(b), F.S.

[17] Section 112.324(2)(c), F.S.

[18] Section 112.324(2)(d), F.S.

[19] Section 112.324(2)(e), F.S.

The public necessity statements for the exemptions provide the following policy rationale for their enactment:

> *Complaints and related records held by a Commission on Ethics and Public Trust:*
> The release of such information could potentially be defamatory to ... individuals [under investigation for alleged violations of ethical standards] or cause unwarranted damage to the good name or reputation...The exemption of this information would minimize the possibility of unnecessary scrutiny by the public or media of individuals under investigation and their families and will create a secure environment in which the Commission on Ethics and Public Trust may conduct its business.[20]
>
> *Complaints and related records held by a county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements than those required by law:*
> The exemption is necessary because the release of such information could potentially be defamatory to an individual under investigation, cause unwarranted damage to the good name or reputation of such individual, or significantly impair the investigation. The exemption creates a secure environment in which a county or municipality may conduct its investigation.[21]
>
> *Written referrals and records relating to such referrals held by the commission, its agents, the Governor, the Department of Law Enforcement, or a State Attorney and records relating to any preliminary investigation of such referrals:*
> The exemption is necessary because the release of such information could potentially be defamatory to an individual under investigation cause unwarranted damage to the reputation of such individual, or significantly impair the integrity of the investigation.[22]
>
> *Portions of proceedings of the commission at which a determination regarding a referral is discussed or acted upon:*
> The exemption is necessary because the release of such information could potentially be defamatory to an individual under investigation, cause unwarranted damage to the reputation of such individual, or significantly impair the integrity of the investigation.[23]

Pursuant to the Open Government Sunset Review Act, the public record and public meeting exemptions will repeal on October 2, 2018, unless reenacted by the Legislature.

Open Government Sunset Review

During the 2017 interim, subcommittee staff sent a questionnaire to the commission and to every county and city in the state. In all, 43 responses were received.[24] The commission stated it has received approximately five or six public record requests for the confidential and exempt information, however, the commission has not taken a position on whether the exemptions should be reenacted.

Of those received from the counties and cities, only three attested that they either had a Commission on Ethics and Public Trust or had established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements than those provided in the Code of Ethics. Those

[20] Chapter 97-293, L.O.F.
[21] Chapter 2010-130, L.O.F.
[22] Chapter 2013-38, L.O.F.
[23] Chapter 2013-38, L.O.F.
[24] The questionnaire and responses are on file with the House Oversight, Transparency & Administration Subcommittee.

respondents stated they have received public record requests for the confidential and exempt records and each recommended reenactment of the exemptions.

B. SECTION DIRECTORY:

Section 1 amends s. 112.324, F.S., to save from repeal the public records and meetings exemptions for certain complaints, referrals, and meetings of the commission, a Commission on Ethics and Public Trust, or a county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements than those provided in the Code of Ethics.

Section 2 provides an effective date of October 1, 2018.

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:

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. 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, nor 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

None.

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 112.324, F.S., which provides an exemption from public records and public meetings requirements for certain records held by, and meetings conducted by, the Commission on Ethics, a Commission on Ethics and Public Trust established by any county or any municipality, or by any county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements than required by law; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (g) of subsection (2) of section 112.324, Florida Statutes, is amended to read:

112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.—

(2)

~~(g) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GAC 18-02 Natural Resources
SPONSOR(S): Government Accountability Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee		Shugar	Williamson

SUMMARY ANALYSIS

The bill revises policies relating to Florida's natural resources including, but not limited to:

- Modifying the funding allocations currently identified in the Florida Forever Act by consolidating the allocations from nine categories to three categories: land acquisition, Florida Communities Trust, and the Rural and Family Lands Protection Program. Each category would receive 33 1/3 percent of the funding received for the Florida Forever Program.
- Removing the authorization to use Florida Forever funding for capital improvement projects, water resource development projects, and land management.
- Consolidating all land acquisition into one category, including acquisition projects selected by the Acquisition and Restoration Council; acquisitions identified on water management districts' (WMDs) priority lists; acquisitions of inholdings and additions to state parks, state forests, lands managed by the Fish and Wildlife Conservation Commission, and greenways and trails; and land acquisition grants under the Florida Recreation and Development Assistance Program.
- Requiring annual dedicated funding for Florida Forever from the Land Acquisition Trust Fund (LATF) beginning in fiscal year 2019-2020.
- Prioritizing eligible Comprehensive Everglades Restoration Plan (CERP) projects for funding under the LATF to prioritize Phase I and Phase II of the C-43 Reservoir above other CERP projects.
- Requiring counties, municipalities, and water management districts (WMDs) to deposit any proceeds generated from the disposal of conservation lands acquired with state funds in the appropriate state trust fund.
- Requiring WMDs to deposit any revenue generated from the use of conservation lands purchased with state funds into a separate agency trust fund to be used to support future land management activities.
- Authorizing the Department of Environmental Protection (DEP) and the Department of Agriculture and Consumer Services to assist local governments in implementing local rural-lands-protection easement programs.
- Exempting certain local governments from the comprehensive plan requirement to develop and maintain a water facilities work plan.
- Clarifying operation provisions of the C-51 reservoir project and providing waiver of repayment from the water storage facility revolving loan fund;
- Requiring regional water supply authorities to provide annual status reports to WMDs on water resource development projects for inclusion in the consolidated WMD annual report.
- Requiring the Department of Transportation to coordinate with WMDs, DEP, and local governments to redirect stormwater from road projects for beneficial use, if feasible.
- Requiring public water systems and domestic wastewater systems to develop an asset management plan (AMP) and create a reserve fund to implement AMP.

The bill appears to have an indeterminate fiscal impact on the state and local governments. *See* Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Forever

Present Situation

The Florida Forever Program seeks to purchase environmentally sensitive lands to protect natural resources, avoid degradation of water resources, improve recreational opportunities, and preserve wildlife habitat.[1] The state may issue up to $5.3 billion in Florida Forever bonds to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources, in urban and rural settings, for:

- Restoration, conservation, recreation, water resource development, or historical preservation; and
- Capital improvements[2] to lands and water areas that accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.[3]

The Florida Forever Trust Fund was created to serve as the repository for Florida Forever bond proceeds to fund the Florida Forever program. The Department of Environmental Protection (DEP) administers the Florida Forever Trust Fund. The Florida Forever Trust Fund receives its funding from the Land Acquisition Trust Fund (LATF).[4] DEP must distribute revenues from the Florida Forever Trust Fund in accordance with the Florida Forever Act.

Each year, at least 1 ½ percent of the cumulative total of funds deposited into the Florida Forever Trust Fund must be made available for the purposes of management, maintenance, and capital improvements, and for associated contractual services, for conservation and recreation lands acquired with funds deposited into the LATF or the former Preservation 2000 or Florida Forever programs.[5] The Board of Trustees of the Internal Improvement Trust Fund (BOT)[6] must reserve up to one-fifth of those funds for interim management of acquisitions and for associated contractual services to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands.[7] Further, managing agencies may use up to one-fourth of these funds to control and remove nonnative, invasive species on public lands.[8]

---

[1] Section 259.105(2), F.S.

[2] Section 259.03(3), F.S., defines a "capital improvement" or capital project expenditure" to mean those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of the Land Conservation Program. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities' signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas.

[3] Section 215.618(1)(a), F.S.; s. 259.03(6), F.S., defines a water resource development project to mean a project eligible for Florida Forever funding that increases the amount of water available to meet the needs of natural systems and the citizens of the state by enhancing or restoring aquifer recharge, facilitating the capture and storage of excess flows in surface waters, or promoting reuse.

[4] Section 259.1051, F.S.

[5] Section 259.032(9)(b), F.S.

[6] Section 253.001, F.S., provides that the BOT holds state lands in trust for the use and benefit of the people of Florida; s. 253.02(1), F.S., provides that the BOT consists of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture; The BOT may acquire, sell, transfer, and administer state lands in the manner consistent with chapters 253 and 259, F.S.

[7] Section 259.032(9)(d), F.S.

[8] Section 259.032(9)(e), F.S.

Florida Forever Projects

Florida Forever is Florida's conservation and recreation lands acquisition program, a blueprint for conserving natural resources and renewing Florida's commitment to conserve the state's natural and cultural heritage.[9] The Acquisition and Recreation Council (ARC),[10] with the assistance of the Florida Natural Area Inventories and several state agencies, evaluates applications for acquisition projects under the Florida Forever Program and provides recommendations to BOT on the projects to pursue.[11] To be considered for acquisition under the Florida Forever Program, the project must contribute to the achievement of the following goals:

- Enhance the coordination and completion of land acquisition projects;
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels;
- Protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state;
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state;
- Increase natural resource-based public recreational and educational opportunities;
- Preserve significant archaeological or historic sites;
- Increase the amount of forestland available for sustainable management of natural resources; or
- Increase the amount of open space available in urban areas.[12]

Further, ARC must consider the following factors when reviewing project applications to determine whether the project:

- Meets multiple goals described above;
- Is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources;
- Enhances or facilitates management of properties already under public ownership;
- Has significant archaeological or historic value;
- Has funding sources that are identified and assured through at least the first two years of the project;
- Contributes to the solution of water resource problems on a regional basis;
- Has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished;
- Implements an element from a plan developed by an ecosystem management team;
- Is one of the components of the Everglades restoration effort;
- May be purchased at 80 percent of appraised value;
- May be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements; and
- Is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.[13]

---

[9] DEP, *Florida Forever*, https://floridadep.gov/lands/environmental-services/content/florida-forever-0 (last visited January 18, 2018).
[10] Section 259.035(1), F.S., provides that the ARC is a 10-member board established to assist the BOT to review the recommendations and plans for state-owned lands. Four members are appointed by the Governor, one member is appointed by the Secretary of DEP, one member is appointed by the Director of the Florida Forest Service, two members are appointed by the Executive Director of the Fish and Wildlife Conservation Commission (FWC), one member is appointed by the Secretary of the Department of State, and one member is appointed by the Commissioner of Agriculture.
[11] Sections 259.105 (8), (14), and (15), F.S.
[12] Section 259.105(4), F.S.
[13] Section 259.105(9), F.S.

Using its established criteria, ARC develops a priority list of applications submitted. An affirmative vote of at least five members of ARC is required to place a proposed project on the priority list. ARC evaluates and selects projects twice per year, in June and December, and ranks the projects annually.[14] Each project on the priority list is placed in one of the following categories of expenditure for land conservation projects: climate change, critical natural, less-than-fee, partnerships, greater than 85 percent complete, and critical historical.[15] ARC ranks the projects within each category from highest to lowest priority.

ARC presents the priority list to the BOT.[16] Florida Forever projects may only be implemented if the BOT approves ARC's recommendations to acquire the particular parcel.[17] While the BOT may remove projects from the priority list, the BOT may not add or rearrange projects on the priority list.[18]

The Division of State Lands within DEP prepares an annual work plan based on the priority list developed by ARC. This work plan outlines the specific projects and acquisitions within projects that DEP will seek to acquire with Florida Forever funds available for that fiscal year.[19] Currently, there are 43 projects, totaling approximately 1.4 million acres, in the work plan.[20]

Water Management District Projects

Water management districts (WMDs) may acquire real property to conserve and protect water and water-related resources.[21] Each WMD must develop a five-year work plan that identifies projects necessary to promote reclamation, storage, or recovery of water and other properties or activities that would assist in meeting the goals of Florida Forever.[22] DEP must submit the WMDs report on acquisitions to the BOT along with the recommendations from ARC for Florida Forever projects.[23]

Florida Communities Trust and Stan Mayfield Working Waterfronts Program Projects

Florida Communities Trust (FCT) assists communities to protect important natural resources, provide recreational opportunities, and preserve Florida's traditional working waterfronts through the competitive criteria in the Parks and Open Space Florida Forever Grant Program and the Stan Mayfield Working Waterfronts Florida Forever Grant Program. These local land acquisition grant programs provide funding to local governments and eligible non-profit organizations to acquire land for parks, open space, greenways, and projects supporting Florida's seafood harvesting and aquaculture industries.[24] From the funds available to the FCT and used for land acquisition, local governments must match funds at least 75 percent on a dollar-for-dollar basis.[25]

---

[14] DEP, *Frequently Asked Questions about Florida Forever*, https://floridadep.gov/lands/environmental-services/content/faq-florida-forever (last visited January 18, 2018).
[15] Section 259.105(17), F.S.
[16] Section 259.105(14), F.S.
[17] Section 259.105(16), F.S.
[18] Section 259.105(14), F.S.
[19] Section 259.105(17), F.S.
[20] DEP, *Focused on Florida's Future, Florida Forever Program*, p. 7, presentation before the Senate Appropriations Subcommittee on the Environment and Natural Resources (Oct. 25, 2017), available at: https://www.flsenate.gov/Committees/Show/AEN/Meeting%20Packet/3992 (last visited January 18, 2018).
[21] Section 373.139, F.S.
[22] Sections 373.199(2) and (3), F.S.
[23] Section 373.199(7), F.S.
[24] DEP, *Florida Communities Trust Home*, https://floridadep.gov/ooo/land-and-recreation-grants/content/florida-communities-trust-fct-home (last visited January 18, 2018); *see also* s. 380.507, F.S.
[25] Section 259.105(3)(c), F.S.

Florida Recreation Development Assistance Program Projects

Florida Recreation Development Assistance Program Projects (FRDAP) is a competitive, reimbursement grant program. FRDAP provides financial assistance for acquisition or development of land for public outdoor recreation. Eligible participants include all county governments, municipalities, and other legally created local governmental entities with the responsibility for providing outdoor recreational sites and facilities for the public.[26] Local governments may submit three applications a year. The most any one project may receive is $200,000.[27]

State Parks Projects

The Division of Recreation and Parks (DRP) within DEP manages 175 parks covering 800,000 acres and 100 miles of beaches.[28] DRP may acquire in the name of the state any property, real or personal, by purchase, grant, devise, condemnation, donation, or otherwise. In DRP's judgement, this property must be necessary or proper toward the administration of the purposes of the parks.[29] DRP must develop its individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed by ARC for acquisitions. DRP may acquire proposed additions if DRP identified them within the original project boundary, adopted management plan, or management prospectus. If the proposed acquisition does not meet those criteria, ARC must approve the proposed acquisition.[30]

Florida Forest Service Projects

The Florida Forest Service (FFS) within the Department of Agriculture and Consumer Services (DACS) manages 37 state forests consisting of over a million acres of forest for multiple purposes including timber, recreation, and wildlife habitat.[31] FFS may acquire lands suitable for state forest purposes by gift, donation, contribution, purchase, or otherwise and may enter into agreements with the federal government or other agencies for acquiring by gift, purchase, or otherwise such lands as are suitable and desirable for state forests.[32] FFS must develop its individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed by ARC for acquisitions. FFS may acquire proposed additions if FFS identified them within the original project boundary, the adopted management plan, or the management prospectus. If the proposed acquisition does not meet FFS criteria, then ARC must approve the proposed acquisition.[33]

Fish and Wildlife Conservation Commission Projects

Wildlife management areas (WMAs) are public lands managed or cooperatively managed with other government agencies by the Fish and Wildlife Conservation Commission (FWC) for the enjoyment of anglers, hunters, wildlife viewers, and boaters.[34] FWC, with the approval of the Governor, may acquire in the name of the state lands and waters suitable for the protection and propagation of game, fish, nongame birds, or fur-bearing animals, or game farms for hunting purposes, by purchase, lease, gift, or

---

[26] DEP, *Florida Recreation Development Assistance Program*, https://floridadep.gov/ooo/land-and-recreation-grants/content/florida-recreation-development-assistance-program/ (last visited January 18, 2018).
[27] Section 375.075(3), F.S.
[28] DEP, *Division of Recreation and Parks*, https://floridadep.gov/parks (last visited January 18, 2018).
[29] Section 258.007(1), F.S. DRP's ability to use condemnation is limited to parks within its jurisdiction on July 1, 1980, and may not exceed 40 acres or 10 percent of the total acreage of the park, whichever is less.
[30] Section 259.105(3)(l), F.S.
[31] DACS, *Florida Forest Service*, http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service (last visited January 18, 2018); DACS, *Our Forests*, http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests (last visited January 18, 2018).
[32] Section 589.07, F.S.
[33] Section 259.105(3)(l), F.S.
[34] FWC, *What are Wildlife Management Areas?*, http://myfwc.com/viewing/recreation/wmas/ (last visited January 18, 2018).

otherwise to be known as state game lands.[35] FWC must develop its individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed by ARC for acquisitions. FWC may acquire proposed additions if it identified them within the original project boundary, adopted management plan, or management prospectus. If the proposed acquisition does not meet those criteria, ARC must approve the proposed acquisition.[36]

Florida Greenways and Trails Program Projects

The Office of Greenways and Trails (OGT) within DRP provides statewide leadership and coordination to establish, expand, and promote the Florida Greenways and Trails System (FGT).[37] FGT is a statewide system of greenways and trails that consists of individual and networks of greenways and trails designated by DEP as part of the statewide system.[38] DEP may acquire land by gift or purchase or any lesser interest in land, including easements, for purposes of greenways and trails.[39] The Florida Greenways and Trails Council (Council) recommends lands for acquisition based on ranking criteria developed by DEP. DEP's Secretary either approves the Council's recommendations or modifies them.[40] OGT must develop its individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed by ARC for acquisitions.[41] OGT is exempt from the evaluation and selection procedures developed by ARC.[42]

Rural and Family Lands Protection Program Projects

The Rural and Family Lands Protection Program (RFLPP) within DACS is an agricultural land preservation program designed to protect important agricultural lands through the acquisition of permanent agricultural land conservation easements. The program meets three needs:

- Protects valuable agricultural lands from conversion to other uses;
- Creates easement documents that work together with agricultural production to ensure sustainable agricultural practices and reasonable protection of the environment without interfering with agricultural operations in such a way that could put the continued economic viability of these operations at risk; and
- Protects natural resources, not as the primary purpose, but in conjunction with economically viable agricultural operations.[43]

DACS adopted rules that established an application process; a process and criteria for setting priorities for use of funds to achieve the purposes of the program and giving preference to ranch and timber lands managed using sustainable practices; an appraisal process; and a process for title review and compliance and approval of the rules by the BOT.[44]

Florida Forever Act

The proceeds from cash payments or bonds issued under the Florida Forever Act must be deposited into the Florida Forever Trust Fund, minus the costs of issuing and the costs of funding reserve

---

[35] Section 379.2222, F.S.
[36] Section 259.105(3)(l), F.S.
[37] DEP, *Office of Greenways and Trails*, https://floridadep.gov/parks/ogt (last visited January 18, 2018).
[38] Section 260.014, F.S.
[39] Section 260.015(1), F.S.
[40] Section 260.016(2), F.S.; rules 62S-1.300(7) and (8), F.A.C.
[41] Section 259.105(3)(l), F.S.
[42] Section 260.015(1)(c), F.S.
[43] DACS, *Rural and Family Lands Protection Program*, http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/Land-Planning-and-Administration-Section/Rural-and-Family-Lands-Protection-Program2 (last visited January 18, 2018); s. 570.71(1), F.S.
[44] Section 570.71(10), F.S.; ch. 5I-7, F.A.C.

accounts and other costs associated with bonds.[45] DEP must distribute those proceeds in the following manner:

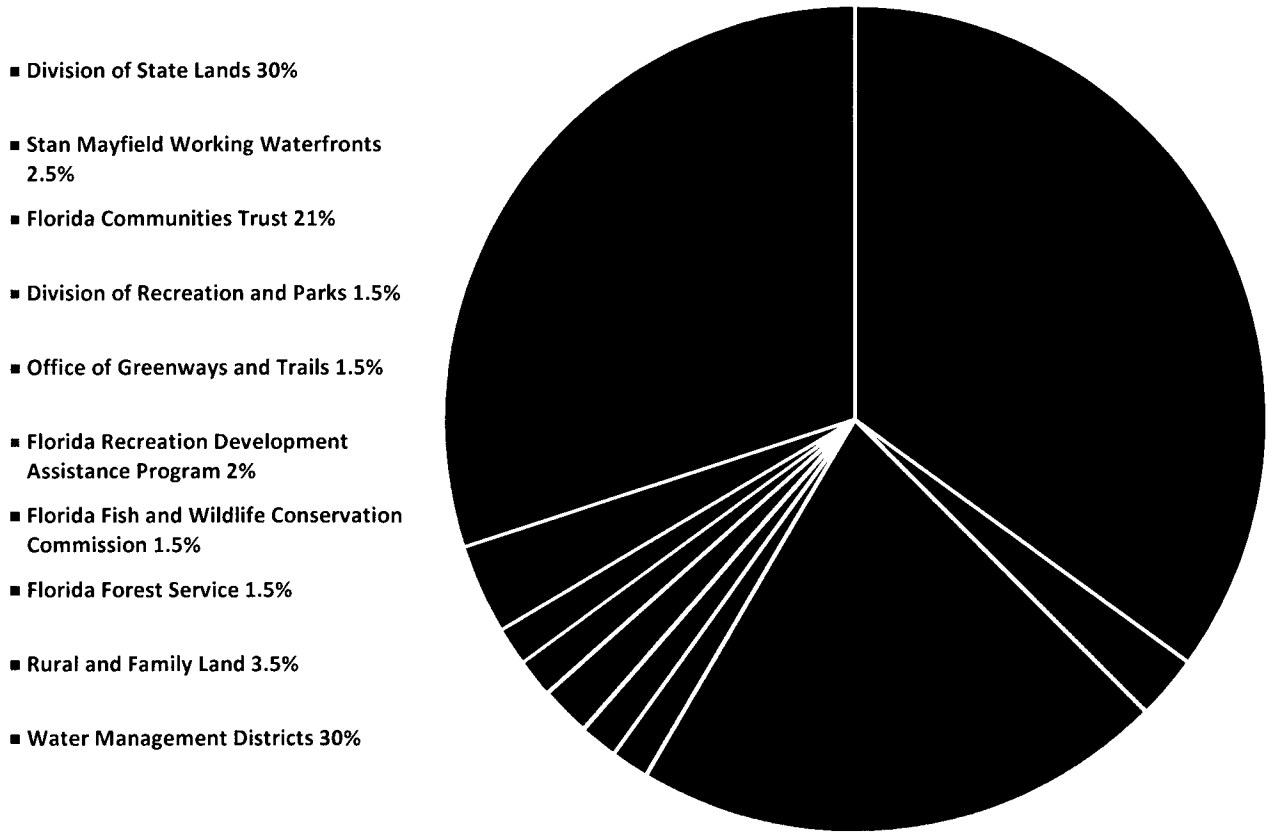
- Thirty percent to DEP for the acquisition of lands and capital project expenditures necessary to implement the WMDs' priority lists developed in their five-year work plans. WMDs must use a minimum of 50 percent of the total funds provided over the life of the Florida Forever Program for the acquisition of lands. The funds must be distributed to WMDs as follows: 35 percent to the South Florida WMD, 25 percent to the Southwest Florida WMD, 25 percent to the St. Johns River WMD, 7 ½ percent to the Suwannee River WMD, and 7 ½ percent to the Northwest Florida WMD.
- Thirty-five percent to DEP for the acquisition of lands and capital project expenditures under the Florida Forever Program. The funds for the Florida Forever Program must be spent as follows:
    - Increased priority should be given to those acquisitions that achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge;
    - At a minimum, 3 percent, and no more than 10 percent, of the funds allocated to the Florida Forever Program must be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access; and
    - Beginning in the 2017-2018 fiscal year (FY) and continuing through the 2026-2027 FY, at least $5 million must be spent on land acquisition within the Florida Keys Area of Critical State Concern.
- Twenty-one percent to DEP for use by FCT for purposes of the FCT Act 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. FCT and the grant recipients must use those funds for the acquisition of community-based projects, urban open spaces, parks, and greenways to implement local government comprehensive plans. The funds for FCT must be spent as follows:
    - Emphasize funding projects in low-income or otherwise disadvantaged communities and projects that provide areas for direct water access and water-dependent facilities that are open to the public and offer public access by vessels to waters of the state, including boat ramps and associated parking and other support facilities;
    - At least 30 percent of the total allocation must be used in Standard Metropolitan Statistical Areas. One-half of that amount must be used in localities where the project site is located in built-up commercial, industrial, or mixed-use areas and functions to intersperse open spaces within congested urban core areas; and
    - No less than 5 percent must be used to acquire lands for recreational trail systems, provided that in the event these funds are not needed for such projects, they will be available for other trust projects.
- Two percent to DEP for grants under FRDAP.
- One and five-tenths percent to DEP for the purchase of inholdings and additions to state parks and for capital project expenditures. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated to state parks must be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.
- One and five-tenths percent to FFS 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. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated for the acquisition of inholdings and additions for state forests may be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.
- One and five-tenths percent to FWC to fund the acquisition of inholdings and additions to lands managed by FWC. The acquisitions must be important to the conservation of fish and wildlife and for certain capital project expenditures. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated to FWC may be spent on capital project expenditures identified

[45] Section 259.105(3), F.S.

during the time of acquisition that meet land management planning activities necessary for public access.

- One and five-tenths percent to DEP for FGT to acquire greenways and trails or greenways and trail systems. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated to FGT may be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.
- Three and five-tenths percent to DACS for the acquisition of agricultural lands through perpetual conservation easements and other perpetual less than fee techniques that achieve the objectives of the Florida Forever Program and RFLPP.
- 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 FCT.[46]

Current Florida Forever Distribution



Effect of the Proposed Changes

The bill amends ss. 215.618(1)(a); 259.032(9)(b), (d), and (e); and 259.105(2)(a), (2)(e), (4)(c)3., (4)(d)2., and (6), F.S., to remove the authorization to use Florida Forever funds for improvements, land management, enhancement, restoration, water resource development projects, and capital improvement projects to focus Florida Forever on land acquisition. In addition, these activities are authorized and are typically funded directly from the LATF.

The bill amends s. 259.03, F.S., to remove the definitions of "capital improvement," "capital project expenditure," and "water resource development project" because those types of projects will no longer be funded through Florida Forever based on the changes in the bill.

[46] *Id.*

The bill amends s. 259.105(2)(a)9., F.S., to add connection of wildlife habitat with a wildlife crossing to the list of multiple benefits current and future Florida Forever acquisitions may provide. It also amends s. 259.105(4)(b)3., F.S., to add wildlife crossings to the criteria and numeric performance measures ARC must consider when evaluating projects that contribute to the goals of Florida Forever. These changes may require the BOT to amend chapter 18-24, F.A.C.

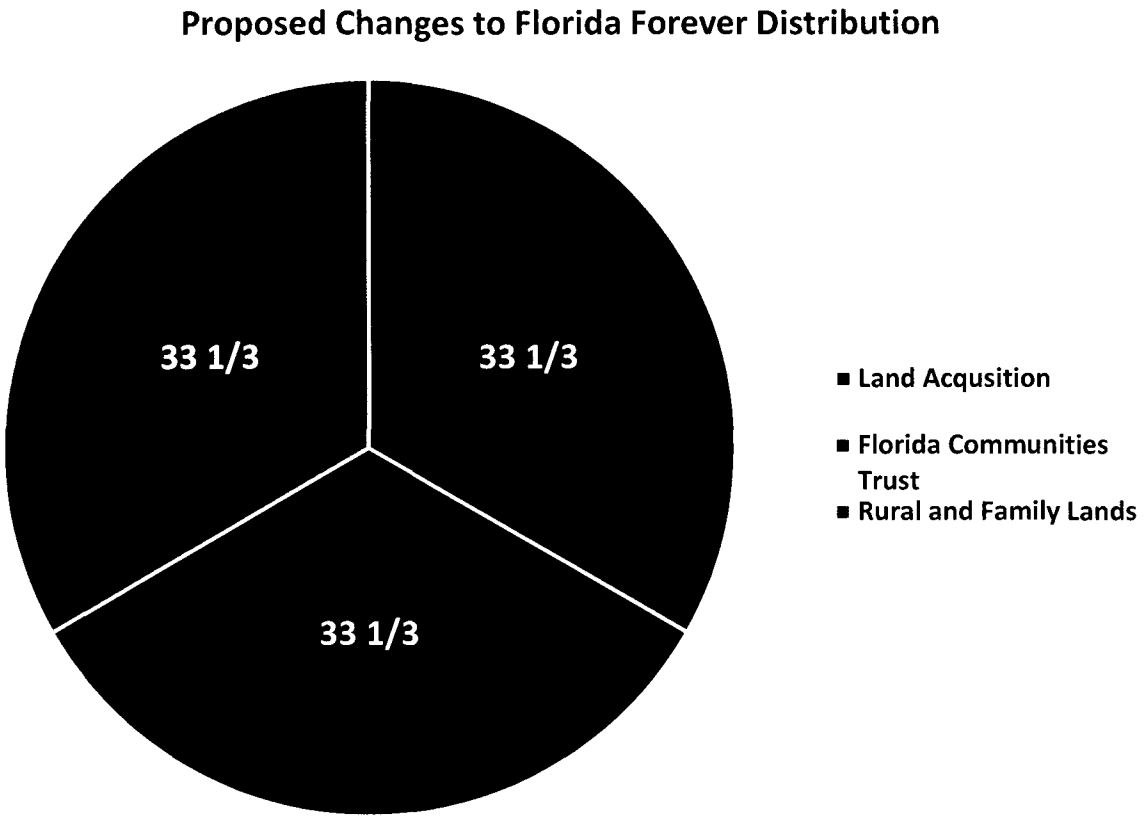
The bill amends s. 259.105(3), F.S., to consolidate the allocations identified in the Florida Forever Act into three categories: land acquisition, FCT, and RFLPP. Specifically, the bill:

- Consolidates funding allocations for land acquisition for Florida Forever projects selected by ARC; the purchase of inholdings for lands managed by DEP, FWC, and FFS; and FRDAP grants into one allocation receiving 33 ⅓ percent of the funding. FRDAP grants will not require review and approval by ARC.
- Removes funding allocations for acquisitions identified on WMDs' priority lists; acquisition of inholdings and additions to state parks, state forests, and lands managed by FWC; and greenways and trails. These projects will still be eligible to receive funding through the priority list developed by ARC.
- Increases the funding allocation for FCT projects from 21 percent to 33 ⅓ percent and consolidates the Stan Mayfield Working Waterfronts Program into this allocation.
- Removes the requirement that allocations from FCT funding be used to fund projects in low-income or otherwise disadvantaged communities and projects that provide areas for direct water access and water-dependent facilities that are open to the public and offer public access by vessels to waters of the state.
- Removes the requirement that at least 30 percent of the allocations from FCT funding be used in Standard Metropolitan Statistical Areas.
- Removes the requirement that no less than 5 percent of allocations from FCT funding be used to acquire lands for recreational trail systems.
- Increases funding allocations for RFLPP from 3 $^{5}/_{10}$ percent to 33 ⅓ percent and requires that DACS give higher priority to the acquisition of rural-lands-protection easements where local governments are willing to provide cost-share funding for the acquisition.
- Removes the authority for state parks, FFS, FWC, and OGT to create a list of acquisitions and inholdings based on the selection criteria established by ARC and acquire those lands if they are identified within the original project boundary, adopted management plan, or management prospectus. State parks, FFS, and FWC will now be required to seek approval through ARC to acquire such lands; however, this requirement will not apply to OGT.
- Removes specific appropriations for the 2016-2017 FY.

The bill repeals s. 259.105(11), F.S., to remove the requirement that each WMD receives a certain percentage of funds from the Florida Forever Trust Fund. It also amends s. 259.105(12), F.S., to prohibit WMDs from using Florida Forever funds to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas.

The bill amends s. 373.199(4)(h), F.S., to restrict the use of Florida Forever funds received by WMDs by providing that the funds may only be used to acquire land and pay associated land acquisition costs for projects identified in their annual work plans. WMDs must use other funding services to fund all other elements of their works plans.

The following graph represents the proposed changes to the Florida Forever distribution:



Land Acquisition Trust Fund

Present Situation

Article X, s. 28 of the Florida Constitution directs 33 percent of net revenues derived from existing excise tax on documents[47] to LATF for 20 years.[48] Funds from LATF must be used to:

- Finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for conservation lands; WMAs; lands that protect water resources and drinking water sources and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area; beaches and shores; outdoor recreation lands; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands;[49] and
- Pay the debt service on bonds.[50]

Section 375.041, F.S., implements Art. X, s. 28 of the Florida Constitution by allocating the distribution of funds from LATF. First, LATF funds must be used to pay debt service or to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds; and pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to

[47] The documentary stamp tax is imposed on documents that transfer interest in Florida real property and certain types of debt. Documents subject to the tax include deeds, bonds, corporate shares, notes and written obligations to pay money, and mortgages, liens, and other evidences of indebtedness. Sections 201.02, 201.07, and 201.08, F.S.
[48] FLA. CONST. art. X, s. 28(a).
[49] FLA. CONST. art. X, s. 28(b)(1).
[50] FLA. CONST. art. X, s. 28(b)(2).

Everglades restoration bonds.[51] Next, of the funds remaining after the payments to fund debt service, but before funds may be appropriated, pledged, or dedicated for other uses:

- A minimum of the lesser of 25 percent or $200 million must be appropriated annually for Everglades restoration projects;[52]
- A minimum of the lesser of 7 $^{6}/_{10}$ percent or $50 million must be appropriated annually for spring restoration, protection, and management projects;[53]
- The sum of $5 million must be appropriated each fiscal year through the 2025-2026 FY to the St. Johns River WMD for projects dedicated to the restoration of Lake Apopka;[54] and
- The sum of $64 million must be appropriated and transferred to the Everglades Trust Fund for the 2018-2019 FY, and each fiscal year thereafter, for the Everglades Agricultural Area reservoir project.[55]

Finally, any remaining moneys in LATF not distributed as previously discussed must be appropriated for the purposes set forth in Art. X, s. 28 of the Florida Constitution.[56]

C-43 Reservoir

The Comprehensive Everglades Restoration Plan (CERP) is the congressionally approved framework for restoring, protecting and preserving the water resources of central and southern Florida. CERP calls for the construction of the Caloosahatchee River (C-43) West Basin Storage Reservoir Project. The project will help store and manage basin runoff, as well as Lake Okeechobee regulatory discharges, to meet the needs of the Caloosahatchee Estuary during the wet and dry seasons by reducing the frequency of undesirable salinity ranges.[57]

Effect of the Proposed Changes

The bill creates s. 375.041(3)(b)5., F.S., to establish the funding allocations for the Florida Forever Trust Fund for FYs 2019-2020 through 2035-2036. The bill also amends s. 375.041(3)(b)1., F.S., to require funding priority for the construction of the C-43 West Basin Storage Reservoir Project.[58]

Conservation Lands

Revenue Generated from the Disposition of Conservation Lands

Present Situation

WMDs and local governments use a myriad of funding sources to purchase conservation lands. These funds may come from the state through the Florida Forever Program (or previously from Preservation 2000) or directly from the LATF. Funds for land acquisition may also come from taxes collected by the WMDs and local governments (ad valorem funds).[59]

For the disposal of property, WMDs follow the procedures in s. 373.089, F.S., while the BOT must follow the procedures found in s. 253.0341, F.S., which include additional requirements to ensure the public's interest is protected. The requirements include a study and standard for determining lands to

[51] Section 375.041(3)(a), F.S.
[52] Section 375.041(3)(b)1., F.S.
[53] Section 375.041(3)(b)2., F.S.
[54] Section 375.041(3)(b)3., F.S.
[55] Section 375.041(3)(b)4., F.S.
[56] Section 375.041(4), F.S.
[57] South Florida WMD, *Quick Facts on Caloosahatchee River (C-43) West Basin Storage Reservoir*, https://www.sfwmd.gov/sites/default/files/documents/spl_caloos_c43_reservoir.pdf (last visited January 18, 2018).
[58] South Florida WMD, *C-43 Draft Financial and Construction Update*, available upon request from the Natural Resources & Public Lands Subcommittee.
[59] Section 373.503, F.S.

sell, ARC review, first rights of refusal to local governments and colleges, appraisal procedures, bid requirements, and the management and accounting of funds generated from disposition of lands.

If a WMD sells conservation lands, with the exception of lands purchased with Preservation 2000 or Florida Forever funds, it is unclear where the proceeds of the sale must go. Beginning July 1, 2015, the BOT must deposit proceeds from any sale of conservation lands into the LATF.[60] This requirement arguably may not apply to WMDs because the statute directing the use of the disposition funds only mentions the BOT. The BOT, WMDs, and local governments must deposit any revenues generated from the disposal of lands acquired with Preservation 2000 funds into the Florida Forever Trust Fund within DEP.[61] WMDs cannot use any revenue derived from disposition of Preservation 2000 or Florida Forever lands for any purpose, except for the purchase of other lands meeting the criteria specified for the selection of WMD lands in s. 373.139, F.S., or payment of debt service on revenue bonds or notes issued by the WMD to undertake capital projects or other projects allowed by the Florida Constitution.[62] Further, the BOT and WMDs may not surplus or exchange lands if the effect of the sale or exchange would cause all or any portion of the interest on any revenue bonds issued to lose their tax-exempt status.[63]

It appears that at least one WMD improperly used funds from the disposition of conservation lands for purposes not authorized by statute. Further, some WMDs do not appear to be keeping proper records for the use and disposition of funds for conservation lands.[64]

Effect of the Proposed Changes

The bill creates ss. 125.35(4) and (5), 166.0452, and 373.089(10) and (11), F.S., to require counties, municipalities, and WMDs to deposit proceeds from the sale of surplus conservation lands purchased with Florida Forever funds before July 1, 2015, into the Florida Forever Trust Fund. The bill also requires counties, municipalities, and WMDs to deposit proceeds from the sale of surplus conservation lands purchased with funds from the state on or after July 1, 2015, into the LATF. When counties, municipalities, or WMDs purchase conservation lands with state funds other than those from LATF or a land acquisition trust fund created to implement s. 28, Art. X of the Florida Constitution, counties, municipalities, and WMDs must deposit the proceeds from the sale into the fund from which they purchased the lands. If counties, municipalities, or WMDs bought the conservation land with multiple revenue sources, counties, municipalities, and WMDs must deposit an amount based on the percentage of state funds used for the original purchase.

The bill also relocates the provision prohibiting WMDs from surplusing or exchanging lands in certain instances from s. 373.139(6), F.S., to s. 373.089(9), F.S.

Revenue Generated from the Use of Conservation Lands Purchased with State Funding

Present Situation

Several WMDs generate revenue from the use of conservation lands purchased with state funds, including timber sales, hunting, and recreation. All state agencies must return revenues generated through multiple-use management or compatible secondary use management of their lands to the lead managing agency. The lead managing agency may only use these funds to pay for management activities on conservation, preservation, and recreation lands under the agency's jurisdiction. In addition, the agency must segregate such revenue in an agency trust fund to remain available to the

[60] Section 253.0341(13), F.S.
[61] Section 259.101(5)(c), F.S.
[62] Section 373.139(6), F.S.
[63] Sections 215.618(6), 253.0341(15), and 373.139(6), F.S.
[64] State of Florida Auditor General, *Operational Audit Report NO. 2017-215, Suwannee River Water Management District* (June 2017), available at: https://flauditor.gov/pages/pdf_files/2017-215.pdf (last visited January 18, 2018).

agency in subsequent fiscal years to support land management activities.[65] It appears at least one WMD has used funds derived from the use of conservation lands purchased with state funding for purposes unrelated to land management, and the WMD did not segregate the revenue into the appropriate trust funds.[66]

Effect of the Proposed Changes

The bill creates s. 373.1391(7), F.S., to require revenue generated through management or compatible secondary use management of district conservation lands purchased with state funds be returned to the WMD responsible for such management. It requires the WMD to use such revenue to pay for management activities on all conservation, preservation, and recreation lands under the district's jurisdiction. In addition, the WMD must segregate such revenue in a district trust fund and such revenue must remain available to the district in subsequent fiscal years to support land management activities.

Local Rural Conservation Easement Programs

Present Situation

As previously discussed, the Rural and Family Lands Protection Program (RFLPP) within DACS is an agricultural land preservation program designed to protect important agricultural lands through the acquisition of permanent agricultural land conservation easements. Local governments may conduct similar programs within their jurisdictions to facilitate the preservation of agricultural lands through acquisition of development rights.[67] These types of programs provide several benefits including:

- Protecting important farmland while keeping the land in private ownership and on local tax rolls;
- Creating a flexible property interest that can be tailored to meet the needs of individual farmers and ranchers and unique properties;
- Providing land owners with several tax benefits including income, estate, and property tax reductions;[68] and
- Helping farmers and ranchers transfer their operations to the next generation.[69]

Effect of the Proposed Changes

The bill creates ss. 253.0251(8) and 570.76(9), F.S., authorizing DEP and DACS to provide assistance to local governments administering their own rural-lands-protection easement program. DEP may provide technical support to review applications for inclusion in the local government's rural-lands-protection easement program; serve as the acquisition agent for the local government using the procedures it uses for the RFLPP; facilitate real estate closings; and monitor compliance with the conservation easements. DACS may provide technical support to review applications for inclusion in the local governments' rural-lands-protection easement program and monitor compliance with the conservation easements. The departments may not use any state funds to assist in the purchase of such easements or pay any acquisition costs. The local government must compensate the departments for their services and the departments and local government must document the agreement for assistance in a memorandum of agreement. The local government holds title to the conservation easement acquired on its behalf.

---

[65] Sections 253.036 and 259.032(9)(c), F.S.

[66] State of Florida Auditor General, *Operational Audit Report NO. 2017-215, Suwannee River Water Management District* (June 2017), available at: https://flauditor.gov/pages/pdf_files/2017-215.pdf (last visited January 18, 2018).

[67] *See* Miami-Dade County, *Purchase of Development Rights*, http://www.miamidade.gov/business/agriculture-purchase-development-rights.asp (last visited January 18, 2018).

[68] *See* s. 193.501, F.S.

[69] Farmland Information Center, *Agricultural Conservation Easements*, available at: http://www.farmlandinfo.org/sites/default/files/Agricultural_Conservation_Easements_AFT_FIC_01-2016.pdf (last visited January 18, 2018).

Comprehensive Plan Water Facilities Work Plan

Present Situation

Local governments are required to include a general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element in their comprehensive plan, correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area.[70]

The element must describe the problems and needs and the general facilities that will be required for solution of the problems and needs, including correcting existing facility deficiencies. It must address coordinating the extension of, or increase in the capacity of, facilities to meet future needs while maximizing the use of existing facilities and discouraging urban sprawl; conserving potable water resources; and protecting the functions of natural groundwater recharge areas and natural drainage features.[71] The element must also identify traditional water supply projects, alternative water supply projects, conservation, and reuse necessary to meet the water needs within the local government's jurisdiction. It must include a work plan, covering at least a 10-year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which are identified as necessary to serve existing and new development (water facilities work plan). Local governments must update the work plan at least every five years within 18 months after a WMD approves an updated regional water supply plan.[72]

A local government that does not own, operate, or maintain its own water supply facilities, including, but not limited to, wells, treatment facilities, and distribution infrastructure, and is served by a public water utility with a permitted allocation of greater than 300 million gallons per day is not required to:

- Amend its comprehensive plan in response to an updated regional water supply plan; or
- Maintain a work plan if any such local government's usage of water constitutes less than one percent of the public water utility's total permitted allocation.

However, the local government must cooperate with and provide relevant data to any local government or utility provider that provides services within its jurisdiction, and keep its general sanitary sewer, solid waste, potable water, and natural groundwater aquifer recharge element updated.

Rural Area of Opportunity

A rural area of opportunity (RAO) is a rural community,[73] or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster that presents a unique economic development opportunity of regional impact.[74] The three designated RAOs are the:

- Northwest RAO, which includes Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport;
- South Central RAO, which includes DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay, and Immokalee; and

---

[70] Section 163.3177(6)(c), F.S.
[71] Section 163.3177(6)(c)2., F.S.
[72] Section 163.3177(6)(c)3., F.S.
[73] Section 288.0656(2)(e), defines a "rural community" to mean: a county with a population of 75,000 or fewer; a county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer; a municipality within a county meeting the definition of rural community; an unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors and verified by the Department of Economic Opportunity (DEO). Population must be determined in accordance with the most recent official estimate pursuant to s. 186.901, F.S.
[74] Section 288.0656(2)(d), F.S.

- North Central RAO, which includes Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.[75]

Effect of the Proposed Changes

The bill amends s. 163.3177(6)(c)3., F.S., to exempt a local government that is designated as a RAO, and that does not own, operate, or maintain its own water supply facilities, including, wells, treatment facilities, and distribution infrastructure, from developing or maintaining a water facilities work plan.

C-51 Reservoir Project

Present Situation

The C-51 reservoir project is a water storage facility[76] located in western Palm Beach County south of Lake Okeechobee consisting of in-ground reservoirs and conveyance structures that will provide water supply and water management benefits to participating water supply utilities and provide environmental benefits by reducing freshwater discharges to tide and making water available for natural systems.[77]

The C-51 reservoir project consists of Phase I and Phase II. Phase I will provide approximately 14,000 acre-feet of water storage and will hydraulically connect to the South Florida WMD's L-8 Flow Equalization Basin. Phase II will provide approximately 46,000 acre-feet of water storage, for a total increase of 60,000 acre-feet of water storage.[78]

If state funds are appropriated for Phase I or Phase II, the South Florida WMD must operate the reservoir to maximize the reduction of high-volume Lake Okeechobee regulatory releases to the St. Lucie or Caloosahatchee estuaries, in addition to providing relief to the Lake Worth Lagoon; water made available by the reservoir must be used for natural systems in addition to any allocated amounts for water supply; and any water received from Lake Okeechobee may not be available to support consumptive use permits.[79]

Phase I may be funded by appropriation or through the water storage facility revolving loan fund. Phase II may be funded by the issuance of Florida Forever bonds, through the water storage facility revolving loan fund, as a project component of the CERP, or through the Everglades Trust Fund.[80]

Water Storage Facility Revolving Loan Fund

The state, through DEP, must provide funding assistance to local governments or water supply entities for the development and construction of water storage facilities[81] to increase the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems. DEP may make loans, provide loan guarantees, purchase loan insurance, and refinance local debt through the issuance of new loans for water storage facilities approved by DEP. Local governments or water supply entities may borrow funds made available and may pledge any revenues or other adequate security available to them to repay any funds borrowed. DEP may award loan amounts for up to 75 percent of the costs of planning, designing, constructing, upgrading, or replacing water resource infrastructure or facilities,

[75] DEO, *RAO*, http://www.floridajobs.org/business-growth-and-partnerships/rural-and-economic-development-initiative/rural-areas-of-opportunity (last visited January 17, 2018).
[76] Section 373.475, F.S.
[77] Section 373.4598(9)(a), F.S.
[78] Section 373.4598(9)(b), F.S.
[79] Section 373.4598(9)(d), F.S.
[80] Section 373.4598(9)(e), F.S.
[81] Section 373.475(2)(b), F.S., defines water storage facility.

whether natural or manmade, including the acquisition of real property for water storage facilities.[82] The minimum amount of a loan is $75,000 and the term of the loan may not exceed 30 years.[83]

Effect of the Proposed Changes

The bill amends s. 373.4598(9)(d), F.S., and provides that if state funds are appropriated for Phase I or Phase II, the South Florida WMD, to the extent practicable, must operate Phase I or Phase II to maximize the reduction of high-volume Lake Okeechobee regulatory releases to the St. Lucie or Caloosahatchee estuaries, in addition to maximizing the reduction of harmful discharges to the Lake Worth Lagoon. However, the operation of Phase I must be in accordance with any operation and maintenance agreement adopted by the South Florida WMD, water made available by Phase I or Phase II must be used for natural systems in addition to any permitted amounts for water supply issued in accordance with executed capacity allocation agreements, and water received from Lake Okeechobee must solely be available to support consumptive use permits if the use is in accordance with rules of the applicable restricted allocation area.

The bill allows the South Florida WMD to enter into a capacity allocation agreement with a water supply entity for a pro rata share of unreserved capacity in the water storage facility and to request DEP to waive repayment of all or a portion of the loan issued under the water storage facility revolving loan fund. The bill allows DEP to authorize such waiver if, at its determination, it has received reasonable value for the waiver.

Regional Water Supply Authorities

Present Situation

Municipalities, counties, and special districts are encouraged to create regional water supply authorities (RWSA) or multijurisdictional water supply entities to develop, recover, store, and supply water for county or municipal purposes that will give priority to reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas.[84] RWSAs are created by interlocal agreement, and are reviewed and approved by DEP to ensure the agreement will be in the public interest. Currently, there are four RWSAs in Florida: Tampa Bay Water (formerly known as the West Coast RWSA), Peace River/Manasota RWSA, Withlacoochee RWSA, and Walton/Okaloosa/Santa Rosa Regional Utility Authority.[85]

Water Resource Development and Funding

WMDs take the lead in identifying and implementing water resource development[86] projects, and are responsible for securing necessary funding for regionally significant water resource development projects, including regionally significant projects that prevent or limit adverse water resource impacts, avoid competition among water users, or support the provision of new water supplies in order to meet a MFL or to implement a recovery or prevention strategy or water reservation.[87]

WMDs are required to include in their annual budget submittals the amount of funds for each water resource development project in the annual funding plan of the WMD's five-year Water Resource Development Work Program (Work Program).[88]

---

[82] Section 373.475(3)(a)-(b), F.S.
[83] Section 373.475(7), F.S.
[84] Sections 373.707(1)(c) and 373.713(1), F.S.
[85] DEO, *Water Supply Planning*, http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/water-supply-planning (last visited January 15, 2018).
[86] Section 373.019(24), F.S., defines water resource development.
[87] Sections 373.705(1)(a), and (2)(b), F.S.
[88] Section 373.705(3)(b)1., F.S.; s. 373.536(6)(a)4., F.S., is the Work Program.

Water Supply Development and Funding

Local governments, RWSAs, and government-owned and privately owned water utilities are the lead in securing funding for and implementing water supply development[89] projects.[90] Generally, direct beneficiaries of water supply development projects should pay the costs of the projects from which they benefit, and water supply development projects should continue to be paid for through local funding sources.[91]

Water supply development projects that are consistent with regional water supply plans (RWSP) and that meet one or more of the following criteria must receive priority consideration for state or WMD funding assistance:

- Supports establishment of a dependable, sustainable supply of water that is not otherwise financially feasible;
- Provides substantial environmental benefits, but requires assistance to be economically competitive; or
- Significantly implements reuse, storage, recharge, or conservation of water that contributes to the sustainability of regional water sources.[92]

Additionally, if a water supply development project meets one of the criteria previously mentioned and meets one or more of the following criteria then the project must be given first consideration for state or WMD funding assistance: brings about replacement of existing sources aiding in the implementation of an MFL; implements reuse assisting in the elimination of a domestic wastewater ocean outfall; or reduces or eliminates the adverse effects of competition between legal users and the natural system.[93]

Water supply development must be conducted in coordination with the WMD regional water supply plan and water resource development.[94]

Consolidated WMD Annual Report

By March 1, each WMD must prepare and submit to DEP, the Governor, and the Legislature a consolidated WMD annual report on the management of water resources.[95] Among the requirements of the consolidated WMD, annual report is the inclusion of the Work Program.[96]

The Work Program must describe the WMD's implementation strategy and include an annual funding plan for each of the five years included in the Work Plan for the water resource and water supply development components of each approved RWSP developed or revised. The Work Program must address all the elements of the water resource development component in the WMD's RWSPs, as well as the water supply projects proposed for WMD funding and assistance.[97]

Polk Regional Water Cooperative and Annual Report

In 2016, Polk County and 15 municipalities within the county entered into an interlocal agreement to create a RWSA known as the Polk Regional Water Cooperative (cooperative).[98] In 2017, HB 573

---

[89] Section 373.019(26), F.S., F.S., defines water supply development.
[90] Sections 373.705(1)(b), and (2)(c), F.S.
[91] Sections 373.705(2)(c), F.S.
[92] Section 373.705(4)(a), F.S.
[93] Section 373.705(4)(b), F.S.
[94] Section 373.705(2)(d), F.S.
[95] Section 373.036(7)(a), F.S.
[96] Section 373.036(7)(b)5., F.S.
[97] Section 373.536(6)(a)4., F.S.
[98] Polk Regional Water Cooperative, *Interlocal Agreement Relating to the Establishment of the Polk Regional Water Cooperative*, http://www.prwcwater.org/docs/default-source/documents/prwc-charter-(formation-interlocal-agreement).pdf?sfvrsn=fbb00418_4 (last visited January 15, 2018).

passed requiring the cooperative to prepare a comprehensive annual report for water resource projects it identified for state funding consideration.[99] The cooperative must submit its comprehensive annual report by December 1, 2017, and annually thereafter, to the Governor, Legislature, DEP, and appropriate WMDs.[100] Additionally, the cooperative must coordinate annually with the appropriate WMD to submit a status report on projects receiving priority state funding for inclusion in the consolidated WMD annual report.[101]

Effect of the Proposed Changes

The bill amends s. 373.713, F.S., and requires RWSAs to coordinate annually with the appropriate WMD to submit a status report on water resource development projects receiving state funding for inclusion in the consolidated WMD annual report.

Stormwater Management

Present Situation

Stormwater is generated from rain events that produce drainage and runoff, which is the flow of rainfall over land or impervious surfaces (e.g., paved streets, parking lots, rooftops) that does not soak into the ground.[102] The National Pollutant Discharge Elimination System (NPDES) Stormwater Program regulates discharges of stormwater from three potential sources: Municipal Separate Storm Sewer Systems (MS4s), construction activities, and industrial activities. The United States Environmental Protection Agency (EPA) developed the NPDES stormwater permitting program in two phases. Phase I, promulgated in 1990, addresses large and medium MS4s[103] and certain categories of industrial activity, one of which is large construction activity that disturbs five or more acres of land. Phase II, promulgated in 1999, addresses additional sources, including MS4s not regulated under Phase I, and small construction activity disturbing between one and five acres.[104] In October 2000, the EPA authorized DEP to implement the NPDES stormwater permitting program in all areas of the state, except tribal lands.[105]

Department of Transportation

Stormwater discharges from the Department of Transportation's (DOT) projects and facilities are regulated under multiple water pollution control programs, including the NPDES stormwater permitting program. DOT operates both Phase I and Phase II MS4s throughout the state.[106]

State, Regional, and Local Stormwater Management Plans and Programs

DEP, WMDs, and local governments are responsible for the development of mutually compatible stormwater management programs.[107] DEP is required to include goals in the water resource implementation rule for the proper management of stormwater.[108] WMDs are required to establish district and, where appropriate, watershed or drainage basin stormwater management goals, that are

[99] Ch. 2017-111, Laws of Fla.; s. 373.463(1), F.S.
[100] Section 373.463(2), F.S.
[101] Section 373.463(3), F.S.; *See* s. 373.036(7), F.S., for the consolidated WMD annual report.
[102] Rule 62-624.200(12), F.A.C.; DEP, *NPDES Stormwater Program*. https://floridadep.gov/water/stormwater (last visited January 16, 2018).
[103] Rules 62-624.200(4) and (7), F.A.C., define large and medium municipal separate storm sewer system, respectively.
[104] DEP, *NPDES Stormwater Program*. https://floridadep.gov/water/stormwater; DEP, *EPA Federal Regulations*, https://floridadep.gov/water/stormwater/content/epa-federal-regulations (last visited January 16, 2018).
[105] Section 403.0885, F.S.; DEP, *EPA Federal Regulations*, https://floridadep.gov/water/stormwater/content/epa-federal-regulations (last visited January 16, 2018).
[106] DOT, *NPDES Storm Water*, http://www.fdot.gov/maintenance/NPDES_StormWater.shtm (last visited January 16, 2018).
[107] Section 403.0891, F.S.
[108] Section 403.0891(1), F.S.

consistent with the goals adopted by the state and with plans adopted pursuant to the Surface Water Improvement and Management Act (SWIM).[109] In developing their stormwater management programs, local governments must consider the water resource implementation rule, WMD stormwater management goals, plans approved pursuant to the SWIM, and technical assistance information provided by WMDs. Local governments are encouraged to consult with WMDs, DOT, and DEP before adopting or updating their comprehensive plan or public facilities report, whichever is applicable.[110]

DEP, in coordination and cooperation with WMDs and local governments, must conduct a continuing review of the costs of stormwater management systems[111] and the effect on water quality and quantity and fish and wildlife values. DEP, WMDs, and local governments must use the review for planning purposes and to establish priorities for watersheds and stormwater management systems, which require better management and treatment of stormwater with emphasis on the costs and benefits of needed improvements to stormwater management systems to better meet needs for flood protection and protection of water quality, and fish and wildlife values.[112] The results of the review must be maintained by DEP and WMDs and be provided to appropriate local governments or other parties on request.[113]

Altamonte Springs-FDOT Integrated Reuse and Stormwater Treatment

A partnership between the City of Altamonte Springs, DOT, DEP, and the St. Johns River WMD provided a multi-faceted funding approach, bringing the Altamonte Springs-FDOT Integrated Reuse and Stormwater Treatment (A-FIRST) to fruition. This $11.5 million stormwater and reclaimed water management project will provide up to 4.5 million gallons of water to the City of Altamonte Springs and the City of Apopka.[114] The project captures stormwater from Interstate 4 and redirects it to the City of Altamonte Springs' reclaimed water system for use as irrigation. The City of Altamonte Springs sends any of its remaining water to the City of Apopka.[115]

Effect of Proposed Changes

The bill creates s. 403.0891(7), F.S., and requires DOT to coordinate with DEP, WMDs, and local governments to determine whether it is economically feasible to use stormwater resulting from road construction projects for the beneficial use of providing alternative water supplies, including, but not limited to, directing stormwater to reclaimed water facilities or water storage reservoirs. If it is determined that beneficial use of such stormwater is economically feasible, then such use must be implemented. The bill allows DEP, in consultation with DOT, to adopt rules to implement the provisions regarding beneficial uses of stormwater from DOT road construction projects.

Drinking Water and Domestic Wastewater Utilities Asset Management

Present Situation

Renewing and replacing drinking water and domestic wastewater infrastructure is an ongoing task. Asset management can help a utility maximize the value of its capital as well as its operations and maintenance dollars. Asset management provides utility managers and decision makers with critical information on capital assets and timing of investments. Some key steps for asset management are making an inventory of critical assets, evaluating the condition and performance of such assets, and

[109] Section 403.0891(2), F.S.
[110] Section 403.0891(3), F.S.
[111] Section 403.031(16), F.S., defines stormwater management system.
[112] Section 403.0891(4), F.S.
[113] Section 403.0891(5), F.S.
[114] DEP, *Regional Water Supply Planning 2016 Annual Report*, pg. 22, https://floridadep.gov/sites/default/files/FINAL%20Regional%20Water%20Supply%20Planning%202016%20Status%20Annual%20Report.pdf (last visited January 15, 2018).
[115] City of Altamonte Springs, *A-FIRST*, http://www.altamonte.org/index.aspx?NID=699 (last visited January 15, 2018).

developing plans to maintain, repair, and replace assets and to fund these activities.[116] The EPA provides guidance and reference manuals for utilities to aid in developing asset management plans (AMPs).[117] Many states, including Florida, provide financial incentives for the development and implementation of an AMP when requesting funding under the State Revolving Fund (SRF) or other state funding mechanism.[118]

State Revolving Loan Fund Asset Management Incentives

There are currently two SRF programs, the Clean Water SRF created under the Clean Water Act and the Drinking Water SRF created under the Safe Drinking Water Act. A SRF is a fund administered by a state to provide low interest loans for investments in drinking water and domestic wastewater infrastructure and implementation of nonpoint source pollution control and estuary protection projects. A SRF receives its initial capital from federal grants and state contributions, and then revolves through the repayment of principal and earned interest on outstanding loans.[119]

DEP administers both SRF programs.[120] With respect to AMPs,[121] development of such plans are incentivized through priority scoring,[122] reduction of interest rates,[123] principal forgiveness for financially disadvantaged small communities,[124] and eligibility for small community wastewater facilities grants.[125]

The AMP must be adopted by ordinance or resolution and written procedures must be in place that implement the plan in a timely manner. The AMP must include:

- Identification of all assets within the project sponsor's system;
- An evaluation of the current age, condition, and anticipated useful life of each asset;
- The current value of the assets and the cost to operate and maintain all assets;
- A capital improvement plan based on a survey of industry standards, life expectancy, life cycle analysis, and remaining useful life;
- An analysis of funding needs;
- An analysis of population growth and wastewater or stormwater flow projections and drinking water use projections, as applicable, for the sponsor's planning area, and a model, if applicable, for impact fees;
- Commercial, industrial and residential rate structures and the establishment of an adequate funding rate structure;
- A threshold rate set to ensure the proper operation of the utility, if the sponsor transfers any of the utility proceeds to other funds, the rates must be set higher than the threshold rate to facilitate the transfer and proper operation of the utility; and
- A plan to preserve the assets; renewal, replacement, and repair of the assets as necessary, and a risk-benefit analysis to determine the optimum renewal or replacement time.[126]

---

[116] EPA, *Sustainable Water Infrastructure - Asset Management for Water and Wastewater Utilities*, https://www.epa.gov/sustainable-water-infrastructure/asset-management-water-and-wastewater-utilities (last visited January 16, 2018).
[117] EPA, *Asset Management: A Best Practices Guide*, https://nepis.epa.gov/Exe/ZyPDF.cgi/P1000LP0.PDF?Dockey=P1000LP0.PDF; EPA, *Reference Guide for Asset Management Tools/Asset Management Plan Components and Implementation Tools for Small and Medium Sized Drinking Water and Wastewater Systems*, (May 2014) https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf (last visited January 16, 2018).
[118] EPA, *State Asset Management Initiatives*, (August 2012), https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf (last visited January 16, 2018).
[119] EPA, *Fed Funds for Water and Wastewater Utilities*, https://www.epa.gov/fedfunds/epa-state-revolving-funds (last visited January 16, 2018); DEP. *State Revolving Fund*, https://floridadep.gov/wra/srf (last visited January 16, 2018).
[120] Sections 403.1835(10), and 403.8532(9), F.S.; ch. 62-503, and 62-552, F.A.C.; DEP. *State Revolving Fund*, https://floridadep.gov/wra/srf (last visited January 16, 2018).
[121] Rules 62-503.200(3), and 62-552.200(2), F.A.C., define an AMP.
[122] Rule 62-503.300(e), F.A.C.
[123] Rules 62-503.300(5)(b)1., 62-503.700(7), 62-552.300(6)(c)1., and 62-552.700(7), F.A.C.
[124] Rules 62-503.500(4), and 552.300(2)(b)4., F.A.C.
[125] Rules 62-505.300(d), and 62-505.350(5)(c), F.A.C.
[126] Rules 62-503.700(7), and 62-552.700(7), F.A.C.

Water and Wastewater Utility Reserve Fund

In 2016, the Legislature authorized the Public Service Commission (PSC) to allow a utility to create a utility reserve fund for repair and replacement of existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. The utility reserve fund would be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit. The PSC was required to adopt rules governing the implementation, management, and use of the fund, including expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for PSC authorization before disbursements are made from the fund.[127]

An applicant that requests approval to create a utility reserve fund must provide a capital improvement plan,[128] or an AMP prepared by the Florida Rural Water Association,[129] to the PSC.[130] The request may be a stand-alone application or in conjunction with an application for rate increase.[131]

Domestic Wastewater Treatment Facility Renewal Operating Permit

Domestic wastewater treatment plant operating permits are issued for a term of five years.[132] An applicant may request renewal of an operation permit for a term of up to 10 years for the same fee and under the same conditions as a five-year permit and must be issued the permit if:

- The treatment facility is not regulated under the NPDES program;
- The waters from the treatment facility are not discharged to Class I municipal injection wells or the treatment facility is not required to comply with the federal standards under the Underground Injection Control Program;
- The treatment facility is not operating under a temporary operating permit or a permit with an accompanying administrative order and does not have any enforcement action pending against it by EPA, DEP, or an approved local program;
- The treatment facility has operated under an operation permit for five years and, for at least the preceding two years, has generally operated in conformance with the limits of permitted flows and other conditions specified in the permit;
- DEP has reviewed the discharge monitoring reports required by DEP rule and is satisfied that the reports are accurate;
- The treatment facility has generally met water quality standards in the preceding two years, except for violations attributable to events beyond the control of the treatment plant or its operator (e.g., destruction of equipment by fire, wind, or other abnormal events that could not reasonably be expected to occur); and
- DEP or an approved local program has conducted, in the preceding 12 months, an inspection of the facility and has verified in writing to the operator of the facility that it is not exceeding the permitted capacity and is in substantial compliance.[133]

Effect of the Proposed Changes

The bill creates s. 403.892, F.S., relating to AMPs and reserve funds for public water systems and domestic wastewater treatment systems. The bill provides legislative findings regarding the public

[127] Ch. 2016-226, Laws of Fla.; s. 367.081(2)(c), F.S.; *See* r. 25-30.444, F.A.C., for the adopted rule.
[128] Rule 25-30.444(2)(e), F.A.C., provides a list of requirements for inclusion in the capital improvement plan.
[129] The Florida Rural Water Association is a nonprofit, non-regulatory professional association that assists water and wastewater systems with water and wastewater operations; Florida Rural Water Association, *Home*, http://www.frwa.net/ (last visited January 16, 2018).
[130] Rules 25-30.444(2)(e) and (m), F.A.C.
[131] Rule 25-30.444(2), F.A.C.; *See* ss. 367.081(2)(a), 367.0814, or 367.0822, F.S., for rate increases.
[132] Section 430.087(1), F.S.; r. 62-620.320(8), F.A.C.
[133] Section 403.087(3), F.S.

health and natural resource benefits of developing and implementing AMPs for public water system and domestic wastewater treatment system assets. The findings include the necessity of establishing and properly funding a reserve fund to ensure the timely implementation of an AMP.

The bill requires each public water system[134] and domestic wastewater treatment system to develop an AMP by August 1, 2022, and create a reserve fund to implement the AMP in a cost effective and timely manner. Annually thereafter on August 1, each public water system and domestic wastewater treatment system must post on its website the implementation status of the AMP and reserve fund and must provide a report regarding such information to DEP. The bill requires a public water system or domestic wastewater treatment system to demonstrate that it is adequately implementing its AMP and has appropriate reserves in place in its reserve fund to be eligible for state funding.

The bill defines a domestic wastewater treatment system to mean any plant or other works used to treat, stabilize, or hold domestic wastes, including pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal. Domestic wastewater treatment systems do not include onsite sewage treatment and disposal systems, as defined in s. 381.0065, F.S.

The bill requires DEP to adopt rules by July 1, 2019, establishing AMP requirements that include, but are not limited to, identification of each asset; evaluation of the current age, condition, and useful life of each asset; a risk-benefit analysis to determine the optimum renewal or replacement time of each asset; and a list of renewal projects with projected timeframes for completion and estimated costs.

The bill amends s. 403.087(3), F.S., adding the timely implementation of the AMP as criteria for a domestic wastewater treatment facility to be eligible for a 10-year permit.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.35, F.S., relating to county authorized to sell real and personal property and to lease real estate.

Section 2. Amends s. 163.3177, F.S., relating to required and optional elements of a comprehensive plan.

Section 3. Creates s. 166.0452, F.S. relating to disposition of municipal conservation land purchased with state funds.

Section 4. Amends s. 215.618, F.S., relating to bonds for acquisition and improvement of land, water areas, and related property interests and resources.

Section 5. Amends s. 253.0251, F.S., relating to alternatives for fee simple acquisition for conservation and recreation lands.

Section 6. Amends s. 259.03, F.S., relating to definitions used for the Florida Forever program.

Section 7. Amends s. 259.032, F.S., relating to conservation and recreation lands.

Section 8. Amends s. 259.105, F.S., relating to the Florida Forever Act.

Section 9. Amends s. 373.089, F.S., relating to sale or exchange of lands, or interests or rights in lands by WMDs.

Section 10. Amends s. 373.139, F.S., relating to acquisition of real property by WMDs.

[134] Section 403.852(2), F.S., defines a public water system.

Section 11. Amends s. 373.1391, F.S., relating to management of real property by WMDs.

Section 12. Amends s. 373.199. F.S., relating to Florida Forever WMD Work Plan.

Section 13. Amends s. 373.4598, F.S., relating to the C-51 reservoir project.

Section 14. Amends s. 373.713, F.S., relating to RWSAs.

Section 15. Amends s. 375.041, F.S., relating to the LATF.

Section 16. Amends s. 403.087, F.S., relating to permits for domestic wastewater treatment facilities.

Section 17. Amends s. 403.0891, F.S., relating to state, regional and local stormwater management plans and programs.

Section 18. Creates s. 403.892, F.S., relating to an AMP and reserve fund.

Section 19. Amends s. 570.76, F.S., relating to DACS powers and duties.

Section 20. Amends s. 20.3315, F.S., conforming cross references.

Section 21. Amends s. 253.027, F.S., conforming cross references.

Section 22. Amends s. 253.034, F.S., conforming cross references.

Section 23. Amends s. 259.035, F.S., conforming cross references.

Section 24. Amends s. 259.037, F.S., conforming cross references.

Section 25. Amends s. 380.510, F.S., conforming cross references.

Section 26. Amends s. 570.715, F.S., conforming cross references.

Section 27. Amends s. 589.065, F.S., conforming cross references.

Section 28. Provides a statement of legislative findings.

Section 29. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on the private sector for water supply entities receiving waivers of loan repayment under the water storage facility revolving loan fund for the C-51 reservoir project.

The bill may have a negative fiscal impact on private sector entities that own and operate public water systems and domestic wastewater systems due to the requirement to develop and implement an AMP and reserve fund for their public water systems and domestic wastewater systems.

D. FISCAL COMMENTS:

The bill establishes the funding allocations for the Florida Forever Trust Fund for FYs 2019-2020 through 2035-2036.

The bill may have a positive fiscal impact on DEP and DACS by authorizing those agencies to provide assistance to local governments administering their own rural-lands-protection easement program for a fee. In addition, it may have a positive fiscal impact on those local governments choosing to seek assistance from the departments when administering their own rural-lands-protection easement program, because DEP and DACS may assist the local governments in more efficiently operating their program.

The bill may have a negative fiscal impact on counties, municipalities, and WMDs that do not currently return proceeds from the sale of surplus conservation lands purchased with state funds to the proper state trust fund. In addition, the bill may have a negative fiscal impact on WMDs by requiring the districts to deposit any revenue generated from the use of conservation lands purchased with state funds into a separate agency trust fund used to support future land management activities. WMDs will no longer be able to use such funds for other district activities.

The bill may have a positive fiscal impact on the South Florida WMD by prioritizing construction of the C-43 reservoir project.

The bill may have a negative fiscal impact on state agencies and local governments that own and operate public water systems and domestic wastewater systems due to the requirement that they develop and implement an AMP and reserve fund for their public water systems and domestic wastewater systems. The bill also requires a public water system or domestic wastewater system to demonstrate that it is adequately implementing its AMP and has appropriate reserves in place in its reserve fund to be eligible for state funds. Remote state facilities, such as Department of Corrections facilities, own and operate public water systems and domestic wastewater systems that are subject to the requirements as do local governments.

The bill may have a positive fiscal impact on those local governments designated as a RAO by exempting them from the requirement to develop or maintain a water facilities work plan.

The bill may have a negative fiscal impact on local governments who are a RWSA due to the requirement that such local governments coordinate annually with the appropriate WMD to submit a status report on water resource development projects receiving state funding for inclusion in the consolidated WMD annual report.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires local governments to develop and implement AMPs for public water supply systems and domestic wastewater systems that are local government owned. An exception may apply because the bill provides a legislative finding of important state interest and the bill appears to apply to similarly situated persons in that state agencies and local governments both most comply with the requirement. In addition, an exception would apply if the bill passes by a two-thirds vote of the membership since it also includes a legislative finding of important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill allows DEP, in consultation with DOT, to adopt rules to implement beneficial uses of stormwater from DOT road construction projects.

The bill requires DEP to adopt rules establishing AMP requirements by July 1, 2019. The rules also must establish requirements for the annual report on AMP implementation and provides requirements that the report must meet.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to natural resources; amending s. 125.35, F.S.; requiring counties to return specified state conservation funds to the state when certain lands purchased with such funds are sold; amending s. 163.3177, F.S.; exempting certain local governments from requirements to develop and maintain work plans for building public, private, and regional water supply facilities; creating s. 166.0452, F.S.; requiring municipalities to return specified state conservation funds to the state when certain lands purchased with such funds are sold; amending s. 215.618, F.S.; removing provisions authorizing the use of Florida Forever funds for capital improvement and water resource development projects; amending s. 253.0251, F.S.; authorizing the Department of Environmental Protection to assist local governments in administering local rural-lands-protection easement programs; providing requirements and restrictions for such assistance; amending s. 259.03, F.S.; removing the definitions of "capital improvement," "capital project expenditure," and "water resource development project"; amending s. 259.032, F.S.; removing provisions authorizing the use of Florida Forever funds for capital improvement and water resource

development projects; amending s. 259.105, F.S.; revising the distribution of proceeds from the Florida Forever Trust Fund; eliminating and consolidating funding for certain land acquisition and management programs; removing obsolete provisions; removing provisions authorizing the use of Florida Forever funds for water resource development projects, restoration, enhancement, and management of certain land and water areas, and certain capital improvements; including wildlife crossings and connections between such crossings and wildlife habitats as criteria for assessing certain projects and land acquisitions; amending s. 373.089, F.S.; prohibiting water management districts from disposing of lands acquired with state funds under certain conditions; requiring water management districts to return specified state conservation funds to the state when certain lands purchased with such funds are sold; amending s. 373.139, F.S.; removing provisions prohibiting water management districts from disposing of lands acquired with state funds under certain conditions; amending s. 373.1391, F.S.; requiring revenue generated from the management of certain conservation lands to be retained to the jurisdictional water management district and used for

specified purposes; amending s. 373.199, F.S.; limiting the use of Florida Forever funds for water management district projects; amending s. 373.4598, F.S.; revising requirements related to the operation of water storage and use for Phase I and Phase II of the C-51 reservoir project if state funds are appropriated for such phases; authorizing the South Florida Water Management District to enter into certain capacity allocation agreements and to request a waiver for repayment of certain loans; authorizing the Department of Environmental Protection to waive such loan repayment under certain conditions; amending s. 373.713, F.S.; requiring regional water supply authorities to annually coordinate with water management districts on the status of certain water resource development projects; amending s. 375.041, F.S.; requiring the Department of Environmental Protection and the South Florida Water Management District to give specified funding priority to the C-43 West Basin Storage Reservoir Project; requiring a specified amount of funds in the Land Acquisition Trust Fund within the Department of Environmental Protection to be appropriated annually each fiscal year to the Florida Forever Trust Fund; amending s. 403.087, F.S.; revising requirements for the renewal

of operation permits for domestic wastewater treatment facilities; amending s. 403.0891, F.S.; requiring the Department of Transportation to coordinate with the Department of Environmental Protection, water management districts, and local governments to make certain determinations regarding beneficial uses of stormwater from road construction projects and to implement such beneficial uses under certain conditions; authorizing the Department of Environmental Protection, in consultation with the Department of Transportation, to adopt rules; creating s. 403.892, F.S.; providing legislative findings; requiring public water systems and domestic wastewater treatment systems to develop management plans and create reserve funds by a specified date; defining domestic wastewater treatment system; providing requirements for such plans and funds; specifying eligibility criteria for state funding; directing the Department of Environmental Protection to adopt rules; amending s. 570.76, F.S.; authorizing the Department of Agriculture and Consumer Services to assist local governments in administering local rural-lands-protection easement programs; providing requirements and restrictions for such assistance; amending ss. 20.3315, 253.027, 253.034, 259.035, 259.037, 380.510,

570.715, and 589.065, F.S.; conforming cross-references; providing a declaration of important state interest; providing an effective date.

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

Section 1. Subsections (4) and (5) are added to section 125.35, Florida Statutes, to read:

125.35 County authorized to sell real and personal property and to lease real property.—

(4) Proceeds from the sale of surplus conservation lands purchased with Florida Forever funds before July 1, 2015, shall be deposited into the Florida Forever Trust Fund. If the county purchased the conservation land with multiple revenue sources, the county shall deposit an amount based on the percentage of Florida Forever funds used for the original purchase.

(5) Proceeds from the sale of surplus conservation lands purchased with state funds on or after July 1, 2015, shall be deposited into the Land Acquisition Trust Fund. If the county purchased the conservation land with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the land was purchased. If the county purchased the conservation land with multiple revenue sources, the county shall deposit an

amount based on the percentage of state funds used for the original purchase.

Section 2. Paragraph (c) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge.

1. Each local government shall address in the data and analyses required by this section those facilities that provide service within the local government's jurisdiction. Local governments that provide facilities to serve areas within other local government jurisdictions shall also address those facilities in the data and analyses required by this section, using data from the comprehensive plan for those areas for the purpose of projecting facility needs as required in this

subsection. For shared facilities, each local government shall indicate the proportional capacity of the systems allocated to serve its jurisdiction.

2. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs, including correcting existing facility deficiencies. The element shall address coordinating the extension of, or increase in the capacity of, facilities to meet future needs while maximizing the use of existing facilities and discouraging urban sprawl; conserving potable water resources; and protecting the functions of natural groundwater recharge areas and natural drainage features.

3. Within 18 months after the governing board approves an updated regional water supply plan, the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.709(2)(a) or proposed by the local government under s. 373.709(8)(b). If a local government is located within two water management districts, the local government shall adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan. The element must identify such alternative water supply projects and traditional water supply projects and conservation and reuse necessary to meet the water needs identified in s. 373.709(2)(a) within the local government's jurisdiction and include a work

plan, covering at least a 10-year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which are identified in the element as necessary to serve existing and new development. The work plan shall be updated, at a minimum, every 5 years within 18 months after the governing board of a water management district approves an updated regional water supply plan. A local government designated as a rural area of opportunity pursuant to s. 288.0656 which does not own, operate, or maintain its own water supply facilities, including, but not limited to, wells, treatment facilities, and distribution infrastructure, is not required to develop or maintain the work plan required under this subparagraph. Local governments, public and private utilities, regional water supply authorities, special districts, and water management districts are encouraged to cooperatively plan for the development of multijurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of groundwater and surface water supplies.

4. A local government that does not own, operate, or maintain its own water supply facilities, including, but not limited to, wells, treatment facilities, and distribution infrastructure, and is served by a public water utility with a permitted allocation of greater than 300 million gallons per day

is not required to amend its comprehensive plan in response to an updated regional water supply plan or to maintain a work plan if any such local government's usage of water constitutes less than 1 percent of the public water utility's total permitted allocation. However, any such local government is required to cooperate with, and provide relevant data to, any local government or utility provider that provides service within its jurisdiction, and to keep its general sanitary sewer, solid waste, potable water, and natural groundwater aquifer recharge element updated in accordance with s. 163.3191.

Section 3. Section 166.0452, Florida Statutes, is created to read:

166.0452 Disposition of municipal conservation land purchased with state funds.—

(1) Proceeds from the sale of surplus conservation lands purchased with Florida Forever funds before July 1, 2015, shall be deposited into the Florida Forever Trust Fund. If the municipality purchased the conservation land with multiple revenue sources, the municipality shall deposit an amount based on the percentage of Florida Forever funds used for the original purchase.

(2) Proceeds from the sale of surplus conservation lands purchased with state funds on or after July 1, 2015, shall be deposited into the Land Acquisition Trust Fund. If the municipality purchased the conservation land with funds other

than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the land was purchased. If the municipality purchased the conservation land with multiple revenue sources, the municipality shall deposit an amount based on the percentage of state funds used for the original purchase.

Section 4. Paragraph (a) of subsection (1) and subsection (6) of section 215.618, Florida Statutes, are amended to read:

215.618 Bonds for acquisition and improvement of land, water areas, and related property interests and resources.—

(1)(a) The issuance of Florida Forever bonds, not to exceed $5.3 billion, to finance or refinance the cost of acquisition ~~and improvement~~ of land, water areas, and related property interests and resources, in urban and rural settings, for the purposes of restoration, conservation, recreation, water resource development, or historical preservation~~, and for capital improvements to lands and water areas that accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development~~ is ~~hereby~~ authorized, subject to s. 259.105 and pursuant to s. 11(e), Art. VII of the State Constitution and, on or after July 1, 2015, to also finance or refinance the acquisition ~~and improvement~~ of land, water areas, and related property interests as provided in s.

28, Art. X of the State Constitution. The $5.3 billion limitation on the issuance of Florida Forever bonds does not apply to refunding bonds. The duration of each series of Florida Forever bonds issued may not exceed 20 annual maturities. Not more than 58.25 percent of documentary stamp taxes collected may be taken into account for the purpose of satisfying an additional bonds test set forth in any authorizing resolution for bonds issued on or after July 1, 2015.

(6) ~~There shall be~~ No sale, disposition, lease, easement, license, or other use of any land, water areas, or related property interests acquired ~~or improved~~ with proceeds of Florida Forever bonds may be made if it ~~which~~ would cause all or any portion of the interest of such bonds to lose the exclusion from gross income for federal income tax purposes.

Section 5. Subsection (8) is added to section 253.0251, Florida Statutes, to read:

253.0251 Alternatives to fee simple acquisition.—

(8) The Department of Environmental Protection may provide assistance to local governments administering rural-lands-protection easement programs. The department may provide technical support to review applications for inclusion in the local government's program, serve as acquisition agents for the local government using the procedures in s. 570.715, facilitate real estate closings, and monitor compliance with the conservation easements. The department may not use any state

funds to assist in the purchase of such easements or pay any acquisition costs. The local government must compensate the department for its services. The agreement for assistance must be documented in a memorandum of agreement between the department and the local government. The title to such conservation easements shall be held in the name of the local government.

Section 6. Subsections (3) and (6) of section 259.03, Florida Statutes, are amended to read:

259.03 Definitions.—The following terms and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~(3) "Capital improvement" or "capital project expenditure" means those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of this chapter. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities' signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas. Such activities shall be identified prior to the acquisition of a parcel or the approval~~

~~of a project. The continued expenditures necessary for a capital improvement approved under this subsection shall not be eligible for funding provided in this chapter.~~

~~(6) "Water resource development project" means a project eligible for funding pursuant to s. 259.105 that increases the amount of water available to meet the needs of natural systems and the citizens of the state by enhancing or restoring aquifer recharge, facilitating the capture and storage of excess flows in surface waters, or promoting reuse. The implementation of eligible projects under s. 259.105 includes land acquisition, land and water body restoration, aquifer storage and recovery facilities, surface water reservoirs, and other capital improvements. The term does not include construction of treatment, transmission, or distribution facilities.~~

Section 7. Paragraphs (b), (d), and (e) of subsection (9) of section 259.032, Florida Statutes, are amended to read:

259.032 Conservation and recreation lands.—

(9)

~~(b) An amount of not less than 1.5 percent of the cumulative total of funds ever deposited into the former Florida Preservation 2000 Trust Fund and the Florida Forever Trust Fund shall be made available for the purposes of management, maintenance, and capital improvements, and for associated contractual services, for conservation and recreation lands acquired with funds deposited into the Land Acquisition Trust~~

~~Fund pursuant to s. 28(a), Art. X of the State Constitution or pursuant to former s. 259.032, Florida Statutes 2014, former s. 259.101, Florida Statutes 2014, s. 259.105, s. 259.1052, or previous programs for the acquisition of lands for conservation and recreation, including state forests, to which title is vested in the board of trustees and other conservation and recreation lands managed by a state agency. Each agency with management responsibilities shall annually request from the Legislature funds sufficient to fulfill such responsibilities to implement individual management plans. For the purposes of this paragraph, capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets. Any equipment purchased with funds provided pursuant to this paragraph may be used for the purposes described in this paragraph on any conservation and recreation lands managed by a state agency. The funding requirement created in this paragraph is subject to an annual evaluation by the Legislature to ensure that such requirement does not impact the respective trust fund in a manner that would prevent the trust fund from meeting other minimum requirements.~~

~~(d) Up to one fifth of the funds appropriated for the purposes identified in paragraph (b) shall be reserved by the board for interim management of acquisitions and for associated~~

~~contractual services, to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive, nonnative species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (7)(f). The board shall make these interim funds available immediately upon purchase.~~

~~(e) The department shall set long-range and annual goals for the control and removal of nonnative, invasive plant species on public lands. Such goals shall differentiate between aquatic plant species and upland plant species. In setting such goals, the department may rank, in order of adverse impact, species that impede or destroy the functioning of natural systems. Notwithstanding paragraph (a), up to one-fourth of the funds provided for in paragraph (b) may be used by the agencies receiving those funds for control and removal of nonnative, invasive species on public lands.~~

Section 8. Section 259.105, Florida Statutes, is amended to read:

259.105 The Florida Forever Act.—

(1) This section may be cited as the "Florida Forever Act."

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

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

2. The continued alteration and development of the state'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.

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

4. It is essential to protect the state's ecosystems by promoting a more efficient use of land, to ensure opportunities for viable agricultural activities on working lands, and to promote vital rural and urban communities that support and produce development patterns consistent with natural resource protection.

5. The state's groundwater, surface waters, and springs

are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts, including the protection of uplands and springsheds that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity of the aquifers and springs. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, if compatible with the resource values of and management objectives for the lands, are appropriate.

6. The needs of urban, suburban, and small communities in the state for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, ecological greenways, and recreation properties within urban, suburban, and rural areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

7. Many of the state's unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to the

state's burgeoning population growth and other economic activities. To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.

8. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, if compatible with the resource values of and management objectives for such lands, promotes an appreciation for the state's natural assets and improves the quality of life.

9. Acquisition of lands, in fee simple, less than fee interest, or other techniques shall be based on a comprehensive science-based assessment of the state's natural resources which targets essential conservation lands by prioritizing all current and future acquisitions based on a uniform set of data and planned so as to protect the integrity and function of ecological systems and working landscapes, and provide multiple benefits, including preservation of fish and wildlife habitat, <u>connection of wildlife habitat with a wildlife crossing,</u> recreation space for urban and rural areas, and the restoration of natural water storage, flow, and recharge.

10. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable

goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

11. The state must play a major role in the recovery and management of its imperiled species through the acquisition, restoration, enhancement, and management of ecosystems that can support the major life functions of such species. It is the intent of the Legislature to support local, state, and federal programs that result in net benefit to imperiled species habitat by providing public and private land owners meaningful incentives for acquiring, restoring, managing, and repopulating habitats for imperiled species. It is the further intent of the Legislature that public lands, both existing and to be acquired, identified by the lead land managing agency, in consultation with the Fish and Wildlife Conservation Commission for animals or the Department of Agriculture and Consumer Services for plants, as habitat or potentially restorable habitat for imperiled species, be restored, enhanced, managed, and repopulated as habitat for such species to advance the goals and objectives of imperiled species management for conservation, recreation, or both, consistent with the land management plan

without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement, management, or repopulation of habitat for imperiled species. The council~~, in addition to the criteria in subsection (9),~~ shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term "imperiled species" as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services. As part of the state's role, all state lands that have imperiled species habitat shall include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats. In addition, the lead land managing agency of such state lands may use fees received from public or private entities for projects to offset adverse impacts to imperiled species or their habitat in order to restore, enhance, manage, repopulate, or acquire land and to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter. Such fees shall be deposited into a foundation or fund

created by each land management agency under s. 379.223, s. 589.012, or s. 259.032(9)(b) ~~s. 259.032(9)(c)~~, to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.

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

(b) The Legislature recognizes that acquisition of lands in fee simple is only one way to achieve the aforementioned goals and encourages the use of less-than-fee interests, other techniques, and the development of creative partnerships between governmental agencies and private landowners. Such partnerships may include those that advance the restoration, enhancement, management, or repopulation of imperiled species habitat on state lands as provided for in subparagraph (a)11. Easements acquired pursuant to s. 570.71(2)(a) and (b), land protection agreements, and nonstate funded tools such as rural land stewardship areas, sector planning, and mitigation should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection at a lower financial cost to the public, and to provide private landowners with the opportunity to enjoy and benefit from their property.

(c) Public agencies or other entities that receive funds under this section shall coordinate their expenditures so that

project acquisitions, when combined with acquisitions under Florida Forever, Preservation 2000, Save Our Rivers, the Florida Communities Trust, other public land acquisition programs, and the techniques, partnerships, and tools referenced in subparagraph (a)11. and paragraph (b), are used to form more complete patterns of protection for natural areas, ecological greenways, and functioning ecosystems, to better accomplish the intent of this section.

(d) A long-term financial commitment to restoring, enhancing, and managing the state's ~~Florida's~~ public lands in order to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter must accompany any land acquisition program to ensure that the natural resource values of such lands are restored, enhanced, managed, and protected; that the public enjoys the lands to their fullest potential; and that the state achieves the full benefits of its investment of public dollars. Innovative strategies such as public-private partnerships and interagency planning and sharing of resources shall be used to achieve the state's management goals.

(e) With limited dollars available for ~~restoration, enhancement, management, and~~ acquisition of land and water areas ~~and for providing long-term management and capital improvements~~, a competitive selection process shall select those projects best able to meet the goals of the Florida Forever program and

maximize the efficient use of the program's funding.

(f) To ensure success and provide accountability to the citizens of this state, it is the intent of the Legislature that any cash or bond proceeds used pursuant to this section be used to implement the goals and objectives recommended by a comprehensive science-based assessment and approved by the board ~~of Trustees of the Internal Improvement Trust Fund~~ and the Legislature.

(g) As it has with previous land acquisition programs, the Legislature recognizes the desires of the residents of this state to prosper through economic development and to preserve, restore, and manage the state's natural areas and recreational open space. The Legislature further recognizes the urgency of restoring the natural functions, including wildlife and imperiled species habitat functions, of public lands or water bodies before they are degraded to a point where recovery may never occur, yet acknowledges the difficulty of ensuring adequate funding for restoration, enhancement, and management efforts in light of other equally critical financial needs of the state. It is the Legislature's desire and intent to fund the implementation of this section and to do so in a fiscally responsible manner, by issuing bonds to be repaid with documentary stamp tax or other revenue sources, including those identified in subparagraph (a)11.

(h) The Legislature further recognizes the important role

that many of our state and federal military installations contribute to protecting and preserving the state's ~~Florida's~~ natural resources as well as our economic prosperity. Where the state's land conservation plans overlap with the military's need to protect lands, waters, and habitat to ensure the sustainability of military missions, it is the Legislature's intent that agencies receiving funds under this program cooperate with our military partners to protect and buffer military installations and military airspace, by:

1. Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;

2. Protecting areas underlying low-level military air corridors or operating areas;

3. Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners; and

4. Providing the military with technical assistance to restore, enhance, and manage military land as habitat for imperiled species or species designated as threatened or endangered, or a candidate for such designation, and for the recovery or reestablishment of such species.

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the

proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the department ~~of Environmental Protection~~ in the following manner:

~~(a) Thirty percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures necessary to implement the water management districts' priority lists developed pursuant to s. 373.199. The funds are to be distributed to the water management districts as provided in subsection (11). A minimum of 50 percent of the total funds provided over the life of the Florida Forever program pursuant to this paragraph shall be used for the acquisition of lands.~~

(a) ~~(b)~~ Thirty-three and one-third ~~Thirty-five~~ percent to the department ~~of Environmental Protection~~ for the acquisition of lands ~~and capital project expenditures~~ described in this section and the purchase of inholdings for lands managed by the department, the Fish and Wildlife Conservation Commission, and the Florida Forest Service within the Department of Agriculture and Consumer Services, and to provide grants pursuant to s. 375.075. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions that ~~which~~ achieve a combination of conservation goals, including protecting the state's ~~Florida's~~ water resources and natural groundwater recharge. ~~At a~~

~~minimum, 3 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access.~~ Beginning in the 2017-2018 fiscal year and continuing through the 2026-2027 fiscal year, at least $5 million of the funds allocated pursuant to this paragraph shall be spent on land acquisition within the Florida Keys Area of Critical State Concern as authorized pursuant to s. 259.045.

(b) ~~(c)~~ Thirty-three and one-third ~~Twenty-one~~ percent to the department ~~of Environmental Protection~~ for use by the Florida Communities Trust for the purposes of part III of chapter 380, including the Stan Mayfield Working Waterfronts program pursuant to s. 380.5105, as described and limited by this subsection, 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. From funds available to the trust and used for land acquisition, 75 percent shall be matched by local governments on a dollar-for-dollar basis. ~~The Legislature intends that the Florida Communities Trust emphasize funding projects in low-income or otherwise disadvantaged communities and projects that provide areas for direct water access and water-dependent~~

~~facilities that are open to the public and offer public access by vessels to waters of the state, including boat ramps and associated parking and other support facilities. At least 30 percent of the total allocation provided to the trust shall be used in Standard Metropolitan Statistical Areas, but one-half of that amount shall be used in localities in which the project site is located in built-up commercial, industrial, or mixed-use areas and functions to intersperse open spaces within congested urban core areas. From funds allocated to the trust, no less than 5 percent shall be used to acquire lands for recreational trail systems, provided that in the event these funds are not needed for such projects, they will be available for other trust projects.~~ Local governments may use federal grants or loans, private donations, or environmental mitigation funds for any part or all of any local match required for acquisitions funded through the Florida Communities Trust. Any lands purchased by nonprofit organizations using funds allocated under this paragraph must provide for such lands to remain permanently in public use through a reversion of title to local or state government, conservation easement, or other appropriate mechanism. Projects funded with funds allocated to the trust shall be selected in a competitive process measured against criteria adopted in rule by the trust.

~~(d) Two percent to the Department of Environmental Protection for grants pursuant to s. 375.075.~~

~~(c) One and five-tenths percent to the Department of Environmental Protection for the purchase of inholdings and additions to state parks and for capital project expenditures as described in this section. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access. For the purposes of this paragraph, "state park" means any real property in the state which is under the jurisdiction of the Division of Recreation and Parks of the department, or which may come under its jurisdiction.~~

~~(f) One and five-tenths percent to the Florida Forest Service of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions pursuant to s. 589.07, the implementation of reforestation plans or sustainable forestry management practices, and for capital project expenditures as described in this section. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated for the acquisition of inholdings and additions pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access.~~

~~(g) 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 as described in this section. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access.~~

~~(h) One and five-tenths percent to the Department of Environmental Protection for the Florida Greenways and Trails Program, to acquire greenways and trails or greenways and trail systems pursuant to chapter 260, including, but not limited to, abandoned railroad rights of way and the Florida National Scenic Trail and for capital project expenditures as described in this section. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access.~~

(c) ~~(i)~~ Thirty-three and one-third ~~Three and five-tenths~~ percent to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands, through perpetual conservation easements and other perpetual less than fee techniques, which will achieve the objectives of the Florida Forever program and s. 570.71. Rules concerning the application,

acquisition, and priority ranking process for such easements shall be developed pursuant to s. 570.71(10) and as provided by this paragraph. Higher priority shall be given to the acquisition of rural-lands-protection easements where local governments are willing to provide cost-share funding for the acquisition. The board shall ensure that such rules are consistent with the acquisition process provided for in s. 570.715. The rules developed pursuant to s. 570.71(10), shall also provide for the following:

1. An annual priority list shall be developed pursuant to s. 570.71(10), submitted to the council for review, and approved by the board pursuant to s. 259.04.

2. Terms of easements and acquisitions proposed pursuant to this paragraph shall be approved by the board and may not be delegated by the board to any other entity receiving funds under this section.

3. All acquisitions pursuant to this paragraph shall contain a clear statement that they are subject to legislative appropriation.

~~Funds provided under this paragraph may not be expended until final adoption of rules by the board pursuant to s. 570.71.~~

~~(j) Two and five-tenths percent to the Department of Environmental Protection for the acquisition of land and capital project expenditures necessary to implement the Stan Mayfield~~

~~Working Waterfronts Program within the Florida Communities Trust pursuant to s. 380.5105.~~

(d) ~~(k)~~ It is the intent of the Legislature that cash payments or proceeds of Florida Forever bonds distributed under this section shall be expended in an efficient and fiscally responsible manner. An agency that receives proceeds from Florida Forever bonds under this section may not maintain a balance of unencumbered funds in its Florida Forever subaccount beyond 3 fiscal years from the date of deposit of funds from each bond issue. Any funds that have not been expended or encumbered after 3 fiscal years from the date of deposit shall be distributed by the Legislature at its next regular session for use in the Florida Forever program.

~~(l) For the purposes of paragraphs (e), (f), (g), and (h), the agencies that receive the funds shall develop their individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4). Proposed additions may be acquired if they are identified within the original project boundary, the management plan required pursuant to s. 253.034(5), or the management prospectus required pursuant to s. 259.032(7)(c). Proposed additions not meeting the requirements of this paragraph shall be submitted to the council for approval. The council may only approve the proposed addition if it meets two or more of the following criteria: serves as a link or corridor~~

~~to other publicly owned property; enhances the protection or management of the property; would add a desirable resource to the property; would create a more manageable boundary configuration; has a high resource value that otherwise would be unprotected; or can be acquired at less than fair market value.~~

~~(m) Notwithstanding paragraphs (a)-(j) and for the 2016-2017 fiscal year only:~~

~~1. The amount of $15,156,206 to only the Division of State Lands within the Department of Environmental Protection for the Board of Trustees Florida Forever Priority List land acquisition projects.~~

~~2. Thirty five million dollars to the Department of Agriculture and Consumer Services 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 and s. 570.71.~~

~~3.a. Notwithstanding any allocation required pursuant to paragraph (c), $10 million shall be allocated to the Florida Communities Trust for projects acquiring conservation or recreation lands to enhance recreational opportunities for individuals with unique abilities.~~

~~b. The Department of Environmental Protection may waive the local government matching fund requirement of paragraph (c) for projects acquiring conservation or recreation lands to enhance recreational opportunities for individuals with unique~~

~~abilities.~~

~~c. Notwithstanding sub-subparagraphs a. and b., any funds required to be used to acquire conservation or recreation lands to enhance recreational opportunities for individuals with unique abilities which have not been awarded for those purposes by May 1, 2017, may be awarded to redevelop or renew outdoor recreational facilities on public lands, including recreational trails, parks, and urban open spaces, together with improvements required to enhance recreational enjoyment and public access to public lands, if such redevelopment and renewal is primarily geared toward enhancing recreational opportunities for individuals with unique abilities. The department may waive the local matching requirement of paragraph (c) for such redevelopment and renewal projects.~~

~~This paragraph expires July 1, 2017.~~

(4) It is the intent of the Legislature that projects or acquisitions funded pursuant to paragraph (3)(a) ~~paragraphs (3)(a) and (b)~~ contribute to the achievement of the following goals, which shall be evaluated in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4):

(a) Enhance the coordination and completion of the state's land acquisition projects, as measured by:

1. The number of acres acquired through the state's land

acquisition programs that contribute to the enhancement of essential natural resources, ecosystem service parcels, and connecting linkage corridors as identified and developed by the best available scientific analysis;

2. The number of acres protected through the use of alternatives to fee simple acquisition; or

3. The number of shared acquisition projects among Florida Forever funding partners and partners with other funding sources, including local governments and the Federal Government.

(b) Increase the protection of the state's ~~Florida's~~ biodiversity at the species, natural community, and landscape levels, as measured by:

1. The number of acres acquired of significant strategic habitat conservation areas;

2. The number of acres acquired of highest priority conservation areas for the state's ~~Florida's~~ rarest species;

3. The number of acres acquired of significant landscapes, landscape linkages, wildlife crossings, and conservation corridors, giving priority to completing linkages;

4. The number of acres acquired of underrepresented native ecosystems;

5. The number of landscape-sized protection areas of at least 50,000 acres that exhibit a mosaic of predominantly intact or restorable natural communities established through new acquisition projects or augmentations to previous projects; or

6. The percentage increase in the number of occurrences of imperiled species on publicly managed conservation areas.

(c) Protect, restore, and maintain the quality and natural functions of the state's land, water, and wetland systems of the state, as measured by:

1. The number of acres of publicly owned land identified as needing restoration, enhancement, and management, acres undergoing restoration or enhancement, acres with restoration activities completed, and acres managed to maintain such restored or enhanced conditions; the number of acres which represent actual or potential imperiled species habitat; the number of acres which are available pursuant to a management plan to restore, enhance, repopulate, and manage imperiled species habitat; and the number of acres of imperiled species habitat managed, restored, enhanced, repopulated, or acquired;

2. The percentage of water segments that fully meet, partially meet, or do not meet their designated uses as reported in the department's ~~Department of Environmental Protection's~~ State Water Quality Assessment 305(b) Report;

~~3. The percentage completion of targeted capital improvements in surface water improvement and management plans created under s. 373.453(2), regional or master stormwater management system plans, or other adopted restoration plans;~~

3.~~4.~~ The number of acres acquired that protect natural floodplain functions;

4.~~5.~~ The number of acres acquired that protect surface waters ~~of the state~~;

5.~~6.~~ The number of acres identified for acquisition to minimize damage from flooding and the percentage of those acres acquired;

6.~~7.~~ The number of acres acquired that protect fragile coastal resources;

7.~~8.~~ The number of acres of functional wetland systems protected;

8.~~9.~~ The percentage of miles of critically eroding beaches contiguous with public lands that are restored or protected from further erosion;

9.~~10.~~ The percentage of public lakes and rivers in which invasive, nonnative aquatic plants are under maintenance control; or

10.~~11.~~ The number of acres of public conservation lands in which upland invasive, exotic plants are under maintenance control.

(d) Ensure that sufficient quantities of water are available to meet the current and future needs of the state's natural systems and ~~the~~ citizens ~~of the state~~, as measured by:

1. The number of acres acquired which provide retention and storage of surface water in naturally occurring storage areas, such as lakes and wetlands, consistent with the maintenance of water resources or water supplies and consistent

with district water supply plans; or

~~2. The quantity of water made available through the water resource development component of a district water supply plan for which a water management district is responsible; or~~

2.~~3.~~ The number of acres acquired of groundwater recharge areas critical to springs, sinks, aquifers, other natural systems, or water supply.

(e) Increase the state's natural resource-based public recreational and educational opportunities, as measured by:

1. The number of acres acquired that are available for natural resource-based public recreation or education;

2. The miles of trails that are available for public recreation, giving priority to those that provide significant connections including those that will assist in completing the Florida National Scenic Trail; or

3. The number of new resource-based recreation facilities, by type, made available on public land.

(f) Preserve the state's significant archaeological or historic sites, as measured by:

1. The increase in the number of and percentage of historic and archaeological properties listed in the Florida Master Site File or National Register of Historic Places which are protected or preserved for public use; or

2. The increase in the number and percentage of historic and archaeological properties that are in state ownership.

(g) Increase the amount of forestland available for sustainable management of the state's natural resources, as measured by:

1. The number of acres acquired that are available for sustainable forest management;

2. The number of acres of state-owned forestland managed for economic return in accordance with current best management practices;

3. The number of acres of forestland acquired that will serve to maintain natural groundwater recharge functions; or

4. The percentage and number of acres identified for restoration actually restored by reforestation.

(h) Increase the amount of open space available in the state's urban areas, as measured by:

1. The percentage of local governments that participate in land acquisition programs and acquire open space in urban cores; or

2. The percentage and number of acres of purchases of open space within urban service areas.

Florida Forever projects and acquisitions funded pursuant to paragraph (3)(b) ~~(3)(c)~~ shall be measured by goals developed by rule by the Florida Communities Trust Governing Board created in s. 380.504.

(5)(a) All lands acquired pursuant to this section shall

be managed for multiple-use purposes, if ~~where~~ compatible with the resource values of and management objectives for such lands. As used in this section, "multiple-use" includes, but is not limited to, outdoor recreational activities as described in ss. 253.034 and 259.032(7)(b), ~~water resource development projects,~~ sustainable forestry management, carbon sequestration, carbon mitigation, or carbon offsets.

(b) Upon a decision by the entity in which title to lands acquired pursuant to this section has vested, such lands may be designated single use as defined in s. 253.034(2)(b).

(c) For purposes of this section, the board ~~of Trustees of the Internal Improvement Trust Fund~~ shall adopt rules that pertain to the use of state lands for carbon sequestration, carbon mitigation, or carbon offsets and that provide for climate-change-related benefits.

~~(6) As provided in this section, a water resource or water supply development project may be allowed only if the following conditions are met: minimum flows and levels have been established for those waters, if any, which may reasonably be expected to experience significant harm to water resources as a result of the project; the project complies with all applicable permitting requirements; and the project is consistent with the regional water supply plan, if any, of the water management district and with relevant recovery or prevention strategies if required pursuant to s. 373.0421(2).~~

(6)~~(7)~~(a) Beginning no later than July 1, 2001, and every year thereafter, the ~~Acquisition and Restoration~~ council shall accept applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and individuals for project proposals eligible for funding pursuant to paragraph (3)(a) ~~(3)(b)~~. The council shall evaluate the proposals received pursuant to this subsection to ensure that they meet at least one of the criteria under subsection (8) ~~(9)~~.

(b) Project applications shall contain, at a minimum, the following:

1. A minimum of two numeric performance measures that directly relate to the overall goals adopted by the council. Each performance measure shall include a baseline measurement, which is the current situation; a performance standard which the project sponsor anticipates the project will achieve; and the performance measurement itself, which should reflect the incremental improvements the project accomplishes towards achieving the performance standard.

2. Proof that property owners within any proposed acquisition have been notified of their inclusion in the proposed project. Any property owner may request the removal of such property from further consideration by submitting a request to the project sponsor or the Acquisition and Restoration Council by certified mail. Upon receiving this request, the council shall delete the property from the proposed project;

however, the board ~~of trustees~~, at the time it votes to approve the proposed project lists pursuant to subsection (14) ~~(16)~~, may add the property back on to the project lists if it determines by a super majority of its members that such property is critical to achieve the purposes of the project.

(c) The title to lands acquired under this section shall vest in the board ~~of Trustees of the Internal Improvement Trust Fund~~, except that title to lands acquired by a water management district shall vest in the name of that district and lands acquired by a local government shall vest in the name of the purchasing local government.

(7) ~~(8)~~ The ~~Acquisition and Restoration~~ council shall develop a project list that shall represent those projects submitted pursuant to subsection (6) ~~(7)~~.

(8) ~~(9)~~ The ~~Acquisition and Restoration~~ council shall recommend rules for adoption by the board of trustees to competitively evaluate, select, and rank projects eligible for Florida Forever funds pursuant to paragraph (3)(a) ~~(3)(b)~~. In developing these proposed rules, the ~~Acquisition and Restoration~~ council shall give weight to the following criteria:

(a) The project meets multiple goals described in subsection (4).

(b) The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.

(c) The project enhances or facilitates management of

properties already under public ownership.

(d) The project has significant archaeological or historic value.

(e) The project has funding sources that are identified and assured through at least the first 2 years of the project.

(f) The project contributes to the solution of water resource problems on a regional basis.

(g) The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished.

(h) The project implements an element from a plan developed by an ecosystem management team.

(i) The project is one of the components of the Everglades restoration effort.

(j) The project may be purchased at 80 percent of appraised value.

(k) The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements.

(l) The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.

(9)~~(10)~~ The council shall give increased priority to:

(a) Projects for which matching funds are available.

(b) Project elements previously identified on an acquisition list pursuant to this section that can be acquired at 80 percent or less of appraised value.

(c) Projects that can be acquired in less than fee ownership, such as a permanent conservation easement.

(d) Projects that contribute to improving the quality and quantity of surface water and groundwater.

(e) Projects that contribute to improving the water quality and flow of springs.

(f) Projects for which the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:

1. Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;

2. Protecting areas underlying low-level military air corridors or operating areas; and

3. Protecting areas identified as clear zones, accident

potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project.

~~(11) For the purposes of funding projects pursuant to paragraph (3)(a), the Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:~~

~~(a) Thirty-five percent to the South Florida Water Management District, of which amount $25 million for 2 years beginning in fiscal year 2000-2001 shall be transferred by the Department of Environmental Protection into the Save Our Everglades Trust Fund and shall be used exclusively to implement the comprehensive plan under s. 373.470.~~

~~(b) Twenty-five percent to the Southwest Florida Water Management District.~~

~~(c) Twenty-five percent to the St. Johns River Water Management District.~~

~~(d) Seven and one-half percent to the Suwannee River Water Management District.~~

~~(e) Seven and one-half percent to the Northwest Florida Water Management District.~~

(10)~~(12)~~ Water management districts may not use funds received from the Florida Forever Trust Fund ~~It is the intent of the Legislature that in developing the list of projects for funding pursuant to paragraph (3)(a), that these funds not be~~

~~used~~ to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. ~~Therefore, an increased priority shall be given by~~ The water management district governing boards shall give increased priority to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

(11) ~~(13)~~ An affirmative vote of at least five members of the council shall be required in order to place a project submitted pursuant to subsection (6) ~~(7)~~ on the proposed project list developed pursuant to subsection (7) ~~(8)~~. Any member of the council who by family or a business relationship has a connection with any project proposed to be ranked shall declare such interest before voting for a project's inclusion on the list.

(12) ~~(14)~~ Each year that cash disbursements or bonds are to be issued pursuant to this section, the ~~Acquisition and Restoration~~ council shall review the most current approved project list and shall, by the first board meeting in May, present to the board ~~of Trustees of the Internal Improvement Trust Fund~~ for approval a listing of projects developed pursuant to subsection (7) ~~(8)~~. The board ~~of trustees~~ may remove projects from the list developed pursuant to this subsection, but may not add projects or rearrange project rankings.

(13) ~~(15)~~ The council shall submit to the board, with its

list of projects, a report that includes, but need not be limited to, the following information for each project listed:

(a) The stated purpose for inclusion.

(b) Projected costs to achieve the project goals.

(c) An interim management budget that includes all costs associated with immediate public access.

(d) Specific performance measures.

(e) Plans for public access.

(f) An identification of the essential parcel or parcels within the project without which the project cannot be properly managed.

(g) Where applicable, an identification of those projects or parcels within projects which should be acquired in fee simple or in less than fee simple.

(h) An identification of those lands being purchased for conservation purposes.

(i) A management policy statement for the project and a management prospectus pursuant to s. 259.032(7)(c).

(j) An estimate of land value based on county tax assessed values.

(k) A map delineating project boundaries.

(l) An assessment of the project's ecological value, outdoor recreational value, forest resources, wildlife resources, ownership pattern, utilization, and location.

(m) A discussion of whether alternative uses are proposed

for the property and what those uses are.

(n) A designation of the management agency or agencies.

(14) ~~(16)~~ All proposals for projects pursuant to paragraph (3)(a) ~~(3)(b)~~ shall be implemented only if adopted by the ~~Acquisition and Restoration~~ council and approved by the board ~~of trustees~~. The council shall consider and evaluate in writing the merits and demerits of each project that is proposed for Florida Forever funding. The council shall ensure that each proposed project will meet a stated public purpose for the restoration, conservation, or preservation of environmentally sensitive lands and water areas or for providing outdoor recreational opportunities. The council also shall determine whether the project or addition conforms, where applicable, with the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive multipurpose outdoor recreation plan developed pursuant to s. 375.021, the state lands management plan adopted pursuant to s. 253.03(7), the water resources work plans developed pursuant to s. 373.199, and the provisions of this section. Grants provided pursuant to s. 375.075 which are funded under paragraph (3)(b) are not subject to review or approval by the council.

(15) ~~(17)~~ On an annual basis, the Division of State Lands shall prepare an annual work plan that prioritizes projects on the Florida Forever list and sets forth the funding available in the fiscal year for land acquisition. The work plan shall

consider the following categories of expenditure for land conservation projects already selected for the Florida Forever list pursuant to subsection (7) ~~(8)~~:

(a) A critical natural lands category, including functional landscape-scale natural systems, intact large hydrological systems, lands that have significant imperiled natural communities, and corridors linking large landscapes, as identified and developed by the best available scientific analysis.

(b) A partnerships or regional incentive category, including:

1. Projects where local and regional cost-share agreements provide a lower cost and greater conservation benefit to the people of the state. Additional consideration shall be provided under this category where parcels are identified as part of a local or regional visioning process and are supported by scientific analysis; and

2. Bargain and shared projects where the state will receive a significant reduction in price for public ownership of land as a result of the removal of development rights or other interests in lands or receives alternative or matching funds.

(c) A substantially complete category of projects where mainly inholdings, additions, and linkages between preserved areas will be acquired and where 85 percent of the project is complete.

(d) A climate-change category list of lands where acquisition or other conservation measures will address the challenges of global climate change, such as through protection, restoration, mitigation, and strengthening of the state's ~~Florida's~~ land, water, and coastal resources. This category includes lands that provide opportunities to sequester carbon, provide habitat, protect coastal lands or barrier islands, and otherwise mitigate and help adapt to the effects of sea-level rise and meet other objectives of the program.

(e) A less-than-fee category for working agricultural lands that significantly contribute to resource protection through conservation easements and other less-than-fee techniques, tax incentives, life estates, landowner agreements, and other partnerships, including conservation easements acquired in partnership with federal conservation programs, which will achieve the objectives of the Florida Forever program while allowing the continuation of compatible agricultural uses on the land. Terms of easements proposed for acquisition under this category shall be developed by the Division of State Lands in coordination with the Department of Agriculture and Consumer Services.

Projects within each category shall be ranked by order of priority. The work plan shall be adopted by the ~~Acquisition and Restoration~~ council after at least one public hearing. A copy of

the work plan shall be provided to the board ~~of trustees of the Internal Improvement Trust Fund~~ no later than October 1 of each year.

(16)~~(18)~~(a) The board ~~of Trustees of the Internal Improvement Trust Fund~~, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of certain lands acquired pursuant to this section, for certain uses that are determined by the appropriate board to be compatible with the resource values of and management objectives for such lands.

(b) Any existing lease, easement, or license acquired for incidental public or private use on, under, or across any lands acquired pursuant to this section shall be presumed to be compatible with the purposes for which such lands were acquired.

(c) Notwithstanding the provisions of paragraph (a), no such lease, easement, or license may ~~shall~~ be entered into by the department ~~of Environmental Protection~~ or other appropriate state agency if the granting of such lease, easement, or license would adversely affect the exclusion of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, pursuant to Internal Revenue Service regulations.

(17)~~(19)~~ The council shall recommend adoption of rules by the board necessary to implement this section relating to

solicitation, scoring, selecting, and ranking of Florida Forever project proposals; disposing of or leasing lands or water areas selected for funding through the Florida Forever program; and the process of reviewing and recommending for approval or rejection the land management plans associated with publicly owned properties.

(18) ~~(20)~~ Lands listed as projects for acquisition under the Florida Forever program may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost-share arrangements, or resource conservation agreements. Lands designated as eligible under this subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land and to accelerate public access to the lands as soon as practicable. Funding for these contractual arrangements may originate from the documentary stamp tax revenue deposited into the Land Acquisition Trust Fund. No more than $6.2 million may be expended from the Land Acquisition Trust Fund for this purpose.

Section 9. Subsections (9), (10), and (11) are added to section 373.089, Florida Statutes, to read:

373.089 Sale or exchange of lands, or interests or rights in lands.—The governing board of the district may sell lands, or

interests or rights in lands, to which the district has acquired title or to which it may hereafter acquire title in the following manner:

(9) No disposition of land may be made if it would cause all or any portion of the interest on any revenue bonds to fund acquisitions made by the district to lose the exclusion from gross income for purposes of federal income taxation. Proceeds derived from such disposition may not be used for any purpose except the purchase of other lands meeting the criteria specified in s. 373.139 or payment of debt service on revenue bonds or notes issued under s. 373.584.

(10) Proceeds from the sale of surplus conservation lands purchased with Florida Forever funds before July 1, 2015, shall be deposited into the Florida Forever Trust Fund. If the district purchased the conservation land with multiple revenue sources, the district shall deposit an amount based on the percentage of Florida Forever funds used for the original purchase.

(11) Proceeds from the sale of surplus conservation lands purchased with state funds on or after July 1, 2015, shall be deposited into the Land Acquisition Trust Fund. If the district purchased the conservation land with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the

land was purchased. If the district purchased the conservation land with multiple revenue sources, the district shall deposit an amount based on the percentage of state funds used for the original purchase.

If the Board of Trustees of the Internal Improvement Trust Fund declines to accept title to the lands offered under this section, the land may be disposed of by the district under the provisions of this section.

Section 10. Subsection (6) of section 373.139, Florida Statutes, is amended to read:

373.139 Acquisition of real property.—

~~(6) A district may dispose of land acquired under this section pursuant to s. 373.056 or s. 373.089. However, no such disposition of land shall be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued pursuant to s. 259.101 or s. 259.105 to fund the acquisition programs detailed in this section to lose the exclusion from gross income for purposes of federal income taxation. Revenue derived from such disposition may not be used for any purpose except the purchase of other lands meeting the criteria specified in this section or payment of debt service on revenue bonds or notes issued under s. 373.584.~~

Section 11. Subsection (7) is added to section 373.1391, Florida Statutes, to read:

373.1391 Management of real property.—

(7) All revenues generated through multiple-use management or compatible secondary-use management of district conservation lands purchased with state funds shall be retained by the district responsible for such management and shall be used to pay for management activities on all conservation, preservation, and recreation lands under the district's jurisdiction. In addition, such revenues shall be segregated in an district trust fund and shall remain available to the district in subsequent fiscal years to fund land management activities.

Section 12. Paragraph (h) of subsection (4) of section 373.199, Florida Statutes, is amended to read:

373.199 Florida Forever Water Management District Work Plan.—

(4) The list submitted by the districts shall include, where applicable, the following information for each project:

(h) A clear and concise estimate of the funding needed to carry out the restoration, protection, or improvement project, or the development of new water resources, where applicable, and a clear and concise identification of the projected sources and uses of Florida Forever funds. Only the land acquisition elements and associated land acquisition costs for projects identified on the list may receive Florida Forever funding. All other project elements must use other funding sources.

Section 13. Paragraph (d) of subsection (9) of section

373.4598, Florida Statutes, is amended and paragraph (f) is added to that subsection to read:

373.4598 Water storage reservoirs.—

(9) C-51 RESERVOIR PROJECT.—

(d) If state funds are appropriated for Phase I or Phase II of the C-51 reservoir project:

1. The district, to the extent practicable, shall operate either Phase I or Phase II of the reservoir to maximize the reduction of high-volume Lake Okeechobee regulatory releases to the St. Lucie or Caloosahatchee estuaries, in addition to maximizing the reduction of harmful discharges ~~providing relief~~ to the Lake Worth Lagoon. However, the operation of Phase I of the C-51 reservoir project must be in accordance with any operation and maintenance agreement adopted by the district;

2. Water made available by Phase I or Phase II of the reservoir must ~~shall~~ be used for natural systems in addition to any permitted ~~allocated~~ amounts for water supply issued in accordance with executed capacity allocation agreements; and

3. ~~Any~~ Water received from Lake Okeechobee may only ~~not~~ be available to support consumptive use permits if such use is in accordance with the South Florida Water Management District rules for the applicable restricted allocation area as defined in s. 373.037(1).

(f) The South Florida Water Management District may enter into a capacity allocation agreement with a water supply entity

for a pro rata share of unreserved capacity in the water storage facility and may request the department to waive repayment of all or a portion of the loan issued pursuant to s. 373.475. The department may authorize such waiver if the department determines it has received reasonable value for such waiver.

Section 14. Subsection (10) is added to section 373.713, Florida Statutes, to read:

373.713 Regional water supply authorities.—

(10) Each regional water supply authority shall annually coordinate with the appropriate water management district to submit a status report on water resource development projects receiving state funding for inclusion in the consolidated water management district annual report required by s. 373.036(7).

Section 15. Paragraph (b) of subsection (3) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(3) Funds distributed into the Land Acquisition Trust Fund pursuant to s. 201.15 shall be applied:

(b) Of the funds remaining after the payments required under paragraph (a), but before funds may be appropriated, pledged, or dedicated for other uses:

1. A minimum of the lesser of 25 percent or $200 million shall be appropriated annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan as set forth in s. 373.470, including the Central Everglades Planning

Project subject to Congressional authorization; the Long-Term Plan as defined in s. 373.4592(2); and the Northern Everglades and Estuaries Protection Program as set forth in s. 373.4595. From these funds, $32 million shall be distributed each fiscal year through the 2023-2024 fiscal year to the South Florida Water Management District for the Long-Term Plan as defined in s. 373.4592(2). After deducting the $32 million distributed under this subparagraph, from the funds remaining, a minimum of the lesser of 76.5 percent or $100 million shall be appropriated each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering, and construction of the Comprehensive Everglades Restoration Plan as set forth in s. 373.470, including the Central Everglades Planning Project , the Everglades Agricultural Area Storage Reservoir Project, the Lake Okeechobee Watershed Project, the C-43 West Basin Storage Reservoir Project, the Indian River Lagoon-South Project, the Western Everglades Restoration Project, and the Picayune Strand Restoration Project. The Department of Environmental Protection and the South Florida Water Management District shall give preference to those Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner, with the highest priority given to the C-43 West Basin Storage Reservoir Project. For the purpose of performing the calculation provided in this subparagraph, the amount of debt service paid pursuant

to paragraph (a) for bonds issued after July 1, 2016, for the purposes set forth under paragraph (b) shall be added to the amount remaining after the payments required under paragraph (a). The amount of the distribution calculated shall then be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2016, for the purposes set forth under this subparagraph.

2. A minimum of the lesser of 7.6 percent or $50 million shall be appropriated annually for spring restoration, protection, and management projects. For the purpose of performing the calculation provided in this subparagraph, the amount of debt service paid pursuant to paragraph (a) for bonds issued after July 1, 2016, for the purposes set forth under paragraph (b) shall be added to the amount remaining after the payments required under paragraph (a). The amount of the distribution calculated shall then be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2016, for the purposes set forth under this subparagraph.

3. The sum of $5 million shall be appropriated annually each fiscal year through the 2025-2026 fiscal year to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka. This distribution shall be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2016, for the

purposes set forth in this subparagraph.

4. The sum of $64 million is appropriated and shall be transferred to the Everglades Trust Fund for the 2018-2019 fiscal year, and each fiscal year thereafter, for the EAA reservoir project pursuant to s. 373.4598. Any funds remaining in any fiscal year shall be made available only for Phase II of the C-51 reservoir project or projects identified in subparagraph 1. and must be used in accordance with laws relating to such projects. Any funds made available for such purposes in a fiscal year are in addition to the amount appropriated under subparagraph 1. This distribution shall be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2017, for the purposes set forth in this subparagraph.

5. The following sums shall be appropriated annually each fiscal year to the Florida Forever Trust Fund for distribution by the Department of Environmental Protection pursuant to s. 259.105(3):

a. For the 2019-2020 fiscal year and the 2020-2021 fiscal year, the sum of $57 million.

b. For the 2021-2022 fiscal year, the sum of $78 million.

c. For the 2022-2023 fiscal year, the sum of $89 million.

d. For the 2023-2024 fiscal year and the 2024-2025 fiscal year, the sum of $110 million.

e. For the 2025-2026 fiscal year, the sum of $127 million.

f. For the 2026-2027 fiscal year, the sum of $147 million.

g. For the 2027-2028 fiscal year, the sum of $157 million.

h. For the 2028-2029 fiscal year, the sum of $179 million.

i. For the 2029-2030 fiscal year and each fiscal year through the 2035-2036 fiscal year, the sum of $200 million.

The distribution shall be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2018, for the purposes set forth in this subparagraph.

~~5. Notwithstanding subparagraph 3., for the 2017-2018 fiscal year, funds shall be appropriated as provided in the General Appropriations Act. This subparagraph expires July 1, 2018.~~

Section 16. Paragraphs (e) and (f) of subsection (3) of section 403.087, Florida Statutes, are amended and paragraph (g) is added to that subsection to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(3) A renewal of an operation permit for a domestic wastewater treatment facility other than a facility regulated under the National Pollutant Discharge Elimination System (NPDES) Program under s. 403.0885 must be issued upon request for a term of up to 10 years, for the same fee and under the same conditions as a 5-year permit, in order to provide the owner or operator with a financial incentive, if:

(e) The treatment facility has generally met water quality standards in the preceding 2 years, except for violations attributable to events beyond the control of the treatment plant or its operator, such as destruction of equipment by fire, wind, or other abnormal events that could not reasonably be expected to occur; ~~and~~

(f) The department, or a local program approved under s. 403.182, has conducted, in the preceding 12 months, an inspection of the facility and has verified in writing to the operator of the facility that it is not exceeding the permitted capacity and is in substantial compliance; and

(g) The department has reviewed the annual status reports required by s. 403.892 and is satisfied that the treatment facility is timely implementing its asset management plan.

The department shall keep records of the number of 10-year permits applied for and the number and duration of permits issued for longer than 5 years.

Section 17. Section 403.0891, Florida Statutes, is amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, ~~and~~ local governments, and the Department of Transportation shall have the responsibility for the development of mutually compatible stormwater management programs.

(1) The department shall include goals in the water resource implementation rule for the proper management of stormwater.

(2) Each water management district to which the state's stormwater management program is delegated shall establish district and, where appropriate, watershed or drainage basin stormwater management goals which are consistent with the goals adopted by the state and with plans adopted pursuant to ss. 373.451-373.4595, the Surface Water Improvement and Management Act.

(3)(a) Each local government required by chapter 163 to submit a comprehensive plan, whose plan is submitted after July 1, 1992, and the others when updated after July 1, 1992, in the development of its stormwater management program described by elements within its comprehensive plan shall consider the water resource implementation rule, district stormwater management goals, plans approved pursuant to the Surface Water Improvement and Management Act, ss. 373.451-373.4595, and technical assistance information provided by the water management districts pursuant to s. 373.711.

(b) Local governments are encouraged to consult with the water management districts, the Department of Transportation, and the department before adopting or updating their local government comprehensive plan or public facilities report as required by s. 189.08, whichever is applicable.

(4) The department, in coordination and cooperation with water management districts and local governments, shall conduct a continuing review of the costs of stormwater management systems and the effect on water quality and quantity, and fish and wildlife values. The department, the water management districts, and local governments shall use the review for planning purposes and to establish priorities for watersheds and stormwater management systems which require better management and treatment of stormwater with emphasis on the costs and benefits of needed improvements to stormwater management systems to better meet needs for flood protection and protection of water quality, and fish and wildlife values.

(5) The results of the review shall be maintained by the department and the water management districts and shall be provided to appropriate local governments or other parties on request. The results also shall be used in the development of the goals developed pursuant to subsections (1) and (2).

(6) The department and the Department of Economic Opportunity, in cooperation with local governments in the coastal zone, shall develop a model stormwater management program that could be adopted by local governments. The model program shall contain dedicated funding options, including a stormwater utility fee system based upon an equitable unit cost approach. Funding options shall be designed to generate capital to retrofit existing stormwater management systems, build new

treatment systems, operate facilities, and maintain and service debt.

(7) The Department of Transportation shall coordinate with the department, water management districts, and local governments to determine whether it is economically feasible to use stormwater resulting from road construction projects for the beneficial use of providing alternative water supplies, including, but not limited to, directing stormwater to reclaimed water facilities or water storage reservoirs. If it is determined that beneficial use of such stormwater is economically feasible, such use shall be implemented. The department, in consultation with the Department of Transportation, may adopt rules to implement this subsection.

Section 18. Section 403.892, Florida Statutes, is created to read:

403.892 Asset management plan and reserve fund.—

(1) The Legislature finds that the systematic management of public water system and domestic wastewater treatment system assets is essential to the protection of public health and natural resources. The development and implementation of an asset management plan focusing on the long-term life cycle and performance of system assets, including transmission, distribution, and collection lines, is necessary to ensure the timely planning, assessment, maintenance, repair, and replacement of these system components. The establishment and

proper funding of a reserve fund is necessary to ensure the timely implementation of an asset management plan.

(2) By August 1, 2022, each public water system, as defined in s. 403.852, and domestic wastewater treatment system shall develop an asset management plan and create a reserve fund to implement the asset management plan in a cost effective and timely manner. Each August 1 thereafter, each public water system and domestic wastewater treatment system shall post on its website the implementation status of its asset management plan and reserve fund and shall provide a report regarding such information to the department. For purposes of this subsection, the term "domestic wastewater treatment system" means any plant or other works used to treat, stabilize, or hold domestic wastes, including pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal. Domestic wastewater treatment systems do not include onsite sewage treatment and disposal systems, as defined in s. 381.0065.

(3) To be eligible for state funding, a public water system or domestic wastewater treatment system must demonstrate that it is adequately implementing its asset management plan and has reserves available in its reserve fund.

(4) By July 1, 2019, the department shall adopt rules establishing the asset management plan requirements, including,

but not limited to:

(a) Identification of each asset;

(b) Evaluation of the current age, condition, and useful life of each asset;

(c) A risk-benefit analysis to determine the optimum renewal or replacement time of each asset; and

(d) A list of renewal projects with projected timeframes for completion and estimated costs.

Section 19. Subsection (9) is added to section 570.76, Florida Statutes, to read:

570.76 Department of Agriculture and Consumer Services; powers and duties.—For the accomplishment of the purposes specified in this act, the department shall have all powers and duties necessary, including, but not limited to, the power and duty to:

(9) Provide assistance to local governments in administering local rural-lands-protection easement programs. The department may provide technical support to review applications for inclusion in the local government's program and monitor compliance with the conservation easements. The department may not use any state funds to assist in the purchase of such easements or pay any acquisition costs. The local government must compensate the department for its services. The agreement for assistance must be documented in a memorandum of agreement between the department and the local government. The

title to such conservation easements shall be held in the name of the local government.

Section 20. Subsection (1) of section 20.3315, Florida Statutes, is amended to read:

20.3315 Florida Forever Program Trust Fund of the Florida Fish and Wildlife Conservation Commission.—

(1) There is created a Florida Forever Program Trust Fund within the Florida Fish and Wildlife Conservation Commission to carry out the duties of the commission under the Florida Forever Act as specified in s. 259.105 ~~259.105(3)(g)~~. The trust fund shall receive funds pursuant to s. 259.105 ~~259.105(3)(g)~~.

Section 21. Subsection (4) and paragraph (b) of subsection (5) of section 253.027, Florida Statutes, are amended to read:

253.027 Emergency archaeological property acquisition.—

(4) EMERGENCY ARCHAEOLOGICAL ACQUISITION.—The sum of $2 million shall be reserved annually within the Florida Forever Trust Fund for the purpose of emergency archaeological acquisition. Any portion of that amount not spent or obligated by the end of the third quarter of the fiscal year may be used for approved acquisitions pursuant to s. 259.105(3)(a) ~~259.105(3)(b)~~.

(5) ACCOUNT EXPENDITURES.—

(b) Funds may not ~~No moneys shall~~ be spent from the account for excavation or restoration of the properties acquired. Funds may be spent for preliminary surveys to

determine if the sites meet the criteria of this section. An amount not to exceed $100,000 may also be spent from the account to inventory and evaluate archaeological and historic resources on properties purchased, or proposed for purchase, pursuant to s. 259.105(3)(a) ~~259.105(3)(b)~~.

Section 22. Subsections (3) and (9) of section 253.034, Florida Statutes, are amended to read:

253.034 State-owned lands; uses.—

(3) Recognizing that recreational trails purchased with rails-to-trails funds pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or former s. 259.105(3)(h), Florida Statutes 2017, have had historic transportation uses and that their linear character may extend many miles, the Legislature intends that if the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent feasible and practical, transportation uses shall be allowed to cross recreational trails purchased pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or former s. 259.105(3)(h), Florida Statutes 2017. When these crossings are needed, the location and design should consider and mitigate the impact on humans and environmental resources, and the value of the land shall be paid based on fair market value.

(9) The following additional uses of conservation lands

acquired pursuant to the Florida Forever program and other state-funded conservation land purchase programs shall be authorized, upon a finding by the board of trustees, if they meet the criteria specified in paragraphs (a)-(e): water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if:

(a) The use is not inconsistent with the management plan for such lands;

(b) The use is compatible with the natural ecosystem and resource values of such lands;

(c) The use is appropriately located on such lands and due consideration is given to the use of other available lands;

(d) The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and

(e) The use is consistent with the public interest.

A decision by the board of trustees pursuant to this section shall be given a presumption of correctness. Moneys received from the use of state lands pursuant to this section shall be returned to the lead managing entity in accordance with s. 259.032(9)(b) ~~s. 259.032(9)(c)~~.

Section 23. Subsection (3), paragraph (b) of

subsection(4), and subsection (6) of section 259.035, Florida Statutes, are amended to read:

259.035 Acquisition and Restoration Council.—

(3) The council shall provide assistance to the board in reviewing the recommendations and plans for state-owned conservation lands required under s. 253.034 and this chapter. The council shall, in reviewing such plans, consider the optimization of multiple-use and conservation strategies to accomplish the provisions funded pursuant to former s. 259.101(3)(a), Florida Statutes 2014, and to s. 259.105(3)(a) ~~259.105(3)(b)~~.

(4)

(b) In developing or amending rules, the council shall give weight to the criteria included in s. 259.105(8) ~~s. 259.105(9)~~. The board of trustees shall review the recommendations and shall adopt rules necessary to administer this section.

(6) The proposal for a project pursuant to this section or s. 259.105(3)(a) ~~259.105(3)(b)~~ may be implemented only if adopted by the council and approved by the board of trustees. The council shall consider and evaluate in writing the merits and demerits of each project that is proposed for acquisition using funds available pursuant to s. 28, Art. X of the State Constitution or Florida Forever funding and shall ensure that each proposed project meets the requirements of s. 28, Art. X of

the State Constitution. The council also shall determine whether the project conforms, where applicable, with the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive multipurpose outdoor recreation plan developed pursuant to s. 375.021, the state lands management plan adopted pursuant to s. 253.03(7), the water resources work plans developed pursuant to s. 373.199, and the provisions of s. 259.032, s. 259.101, or s. 259.105, whichever is applicable.

Section 24. Paragraph (b) of subsection (3) of section 259.037, Florida Statutes, is amended to read:

259.037 Land Management Uniform Accounting Council.—

(3)

(b) Each reporting agency shall also:

1. Include a report of the available public use opportunities for each management unit of state land, the total management cost for public access and public use, and the cost associated with each use option.

2. List the acres of land requiring minimal management effort, moderate management effort, and significant management effort pursuant to s. 259.032(9)(b) ~~s. 259.032(9)(c)~~. For each category created in paragraph (a), the reporting agency shall include the amount of funds requested, the amount of funds received, and the amount of funds expended for land management.

3. List acres managed and cost of management for each park, preserve, forest, reserve, or management area.

4. List acres managed, cost of management, and lead manager for each state lands management unit for which secondary management activities were provided.

5. Include a report of the estimated calculable financial benefits to the public for the ecosystem services provided by conservation lands, based on the best readily available information or science that provides a standard measurement methodology to be consistently applied by the land managing agencies. Such information may include, but need not be limited to, the value of natural lands for protecting the quality and quantity of drinking water through natural water filtration and recharge, contributions to protecting and improving air quality, benefits to agriculture through increased soil productivity and preservation of biodiversity, and savings to property and lives through flood control.

Section 25. Subsection (7) of section 380.510, Florida Statutes, is amended to read:

380.510 Conditions of grants and loans.—

(7) Any funds received by the trust pursuant to s. 259.105(3)(b) ~~259.105(3)(c)~~ or s. 375.041 shall be held separate and apart from any other funds held by the trust and used for the land acquisition purposes of this part.

(a) The administration and use of Florida Forever funds are subject to such terms and conditions imposed thereon by the agency of the state responsible for the bonds, the proceeds of

which are deposited into the Florida Forever Trust Fund, including restrictions imposed to ensure that the interest on any such bonds issued by the state as tax-exempt bonds is not included in the gross income of the holders of such bonds for federal income tax purposes.

(b) All deeds or leases with respect to any real property acquired with funds received by the trust from the former Preservation 2000 Trust Fund, the Florida Forever Trust Fund, or the Land Acquisition Trust Fund must contain such covenants and restrictions as are sufficient to ensure that the use of such real property at all times complies with s. 375.051 and s. 9, Art. XII of the State Constitution. Each deed or lease with respect to any real property acquired with funds received by the trust from the Florida Forever Trust Fund before July 1, 2015, must contain covenants and restrictions sufficient to ensure that the use of such real property at all times complies with s. 11(e), Art. VII of the State Constitution. Each deed or lease with respect to any real property acquired with funds received by the trust from the Florida Forever Trust Fund after July 1, 2015, must contain covenants and restrictions sufficient to ensure that the use of such real property at all times complies with s. 28, Art. X of the State Constitution. Each deed or lease must contain a reversion, conveyance, or termination clause that vests title in the Board of Trustees of the Internal Improvement Trust Fund if any of the covenants or restrictions are violated

by the titleholder or leaseholder or by some third party with the knowledge of the titleholder or leaseholder.

Section 26. Paragraph (d) of subsection (1) of section 570.715, Florida Statutes, is amended to read:

570.715 Conservation easement acquisition procedures.—

(1) For less than fee simple acquisitions pursuant to s. 570.71, the Department of Agriculture and Consumer Services shall comply with the following acquisition procedures:

(d) On behalf of the board of trustees and before the appraisal of parcels approved for purchase under ss. 259.105(3)(c) ~~259.105(3)(i)~~ and 570.71, the department may enter into option contracts to buy less than fee simple interest in such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board of trustees and that the final purchase price may not exceed the maximum offer authorized by law. Any such option contract presented to the board of trustees for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an appropriation by the Legislature. The consideration for any such option contract may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

Section 27. Subsection (1) of section 589.065, Florida Statutes, is amended to read:

589.065 Florida Forever Program Trust Fund of the Department of Agriculture and Consumer Services.—

(1) There is created a Florida Forever Program Trust Fund within the Department of Agriculture and Consumer Services to carry out the duties of the department under the Florida Forever Act as specified in s. 259.105 ~~259.105(3)(f)~~. The trust fund shall receive funds pursuant to s. 259.105 ~~259.105(3)(f)~~.

Section 28. The Legislature finds that the systematic management of public water system and domestic wastewater system assets is essential to the protection of public health and natural resources. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 29. This act shall take effect July 1, 2018.