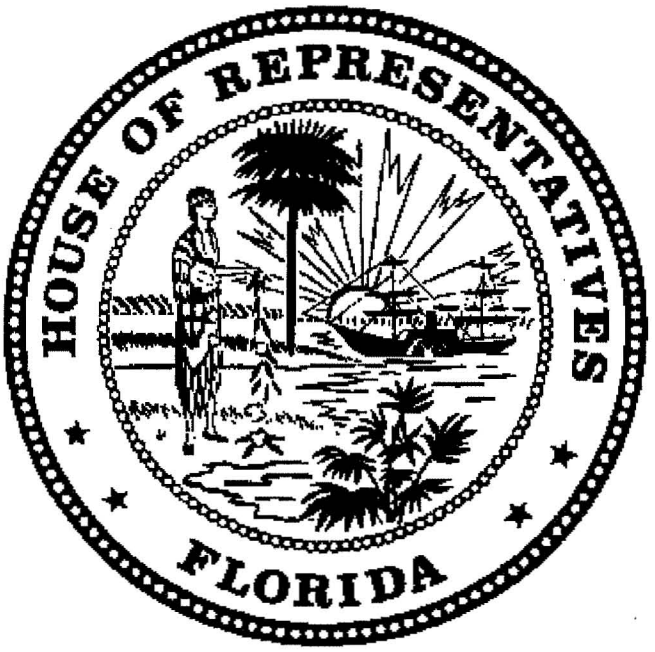

Environment
&
Natural Resources Council

March 5, 2008
9:00 AM
404 HOB

REVISED1

Marco Rubio
Speaker

Rep. Stan Mayfield
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Environment & Natural Resources Council

Start Date and Time:	Wednesday, March 05, 2008 09:00 am
End Date and Time:	Wednesday, March 05, 2008 10:45 am
Location:	404 HOB
Duration:	1.75 hrs

Consideration of the following bill(s):

HB 39 POW-MIA Flag by Boyd
HB 147 Expedited Permitting Process for Economic Development Projects by Schenck
HB 197 Pest Control Call Centers by Kendrick
HB 199 Desalination Technology by Kelly
HB 201 Relief/Laura Laporte/DOACS by Mayfield
HB 261 State Parks by Culp
HB 819 Hunter Safety Course Requirements by Kendrick

Consideration of the following proposed council substitute(s):

PCS for HB 547 -- Water Pollution Control

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00p.m., Tuesday, March, 2008.

NOTICE FINALIZED on 03/03/2008 16:29 by BLR

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 39 POW-MIA Flag
SPONSOR(S): Boyd
TIED BILLS: **IDEN./SIM. BILLS:** SB 274

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Conservation & State Lands	8 Y, 0 N	Palmer	Zeiler
2) Environment & Natural Resources Council		Palmer / Perkins	Dixon / Hamby
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill requires the Department of Environmental Protection (DEP) to display the POW-MIA flag year round at each state park where the flag of the United States is displayed.

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

The bill would become effective on July 1, 2008.

There is an amendment traveling with the bill. The amendment is described in "Section IV. Amendment/Council Substitute Changes" of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill requires the Department of Environmental Protection (DEP) to display the POW-MIA flag year round at each state park where the flag of the United States is displayed.

B. EFFECT OF PROPOSED CHANGES:

Background on POW-MIA Flag[1]

In 1971, Mrs. Michael Hoff, an MIA wife and member of the National League of Families of American Prisoners and Missing in Southeast Asia (League), recognized the need for a symbol of our prisoner of war (POW) and missing in action (MIA) military personnel. Prompted by an article in the Jacksonville, Florida Times-Union, Mrs. Hoff contacted Norman Rivkees, Vice President of Annin & Company which had made a banner for the newest member of the United Nations, the People's Republic of China, as a part of their policy to provide flags to all United Nations member states. Mrs. Hoff found Mr. Rivkees very sympathetic to the POW/MIA issue, and he, along with Annin's advertising agency, designed a flag to represent our missing military personnel. Following League approval, flags were manufactured for distribution.

On March 9, 1989, an official League flag, which flew over the White House on 1988 National POW/MIA Recognition Day, was installed in the U.S. Capitol Rotunda as a result of legislation passed overwhelmingly during the 100th Congress. In a demonstration of bipartisan Congressional support, the leadership of both Houses hosted the installation ceremony.

The League's POW/MIA flag is the only flag ever displayed in the U.S. Capitol Rotunda, where it will stand as a powerful symbol of national commitment to America's POW-MIA's until the fullest possible accounting has been achieved for U.S. personnel still missing and unaccounted for from the Vietnam War.

On August 10, 1990, the 101st Congress passed U.S. Public Law 101-355, which recognized the League's POW/MIA flag and designated it *"as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing and unaccounted for in Southeast Asia, thus ending the uncertainty for their families and the Nation"*.

The importance of the League's POW/MIA flag lies in its continued visibility, a constant reminder of the plight of America's POW/MIAs. Other than the flag of the United States, the League's POW/MIA flag is the only flag ever to fly over the White House, having been displayed in this place of honor on National POW/MIA Recognition Day since 1982. With passage of Section 1082 of the 1998 Defense Authorization Act during the first term of the 105th Congress, the League's POW/MIA flag will fly each year on Armed Forces Day, Memorial Day, Flag Day, Independence Day, National POW-MIA Recognition Day and Veterans Day on the grounds or in the public lobbies of major military installations as designated by the Secretary of the Defense, all Federal national cemeteries, the national Korean War Veterans Memorial, the National Vietnam Veterans Memorial, the White House, the United States Postal Service post offices and at the official offices of the Secretaries of State, Defense and Veteran's Affairs, and Director of the Selective Service System.

[1] History adapted from http://www.dtic.mil/dpmo/powday/flaghistory.htm; © 1998, *National League of POW/MIA Families.*

Present Situation

Section 256.12, F.S., requires that on or after September 19, 1990, at each state-owned building at which the flag of the United States is displayed, a POW-MIA flag must also be displayed if the POW-MIA flag is available free of charge to the agency that occupies the building and if such display is in accordance with federal laws and regulations. Federal regulations regarding the display of the POW-MIA flag are found in 4 USC § 7 and 36 USC § 902. At present there is no other requirement that POW-MIA flags be displayed at state parks.

The Division of Recreation and Parks (DRP), DEP has implemented a program to display donated POW-MIA flags at the one-hundred-twenty-two parks at which the DRP's staff daily raise and lower both the US flag and the State of Florida flag. Although Florida has one-hundred-sixty-one state parks, flags are only flown at parks which are staffed and appropriately developed. DRP began raising the POW-MIA flags at state parks on November 10, 2007.[2]

Effect of Proposed Changes

The bill requires the DEP to display the POW-MIA flag year round at each state park where the flag of the United States is displayed.

The U.S. Code of Federal Regulations does not address the protocol for display of the POW-MIA flag if a state flag is also displayed. Consequently, the protocol for flying the POW-MIA flag is unclear if a state flag is part of the display. One protocol[3] in use is as follows: On one flagpole, the POW-MIA flag is flown below the flag of the United States and above any state flag. On two flagpoles, the POW/MIA flag is flown on the same pole as the flag of the United States, below the American flag -- this pole should be to the flag's own right of the second pole. Any state flag should fly on the second pole. On three flagpoles, the flag of the United States should be flown on the pole located to the flag's own right, the POW-MIA flag should be flown on the middle pole, and any state flag should be flown on the pole to the flag's own left. A second protocol[4] in use is as follows: the POW-MIA flag may be flown directly under the flag of the United States with the state flag on a separate pole. When flying all three flags on a single pole, the state flag is flown below the flag of the United States and the POW-MIA flag is flown below the state flag.

The Florida Department of Veteran Affairs believes that federal legislation may soon be proposed to establish a single protocol for anyone flying the POW-MIA flag and a state flag in conjunction with the flag of the United States. The State of Florida presently employs protocol number two for the display of the POW-MIA flag above the Capitol

C. SECTION DIRECTORY:

Section 1: Creates s. 256.14, F.S., requiring DEP to obtain and then display POW-MIA flags at certain state parks.

Section 2: Provides an effective date.

[2] Source: Division of Recreation and Parks, Department of Environmental Protection.
[3] *Viet Nam Veterans of America*. http://www.vva133.com/powmia.htm.
[4] *State of Washington*. http://www.dva.wa.gov/POW-MIA%20flag.html.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

DEP reports that DRP has received a donation of POW-MIA flags for the one-hundred-twenty-two parks where the flag will be displayed.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DEP reports that the necessary flags have been donated to the Division of Recreation and Parks and that DRP began raising the POW-MIA flags at state parks beginning November 10, 2007.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On December 12, 2007, the Committee on Conservation and State Lands adopted an amendment that requires DEP to purchase the necessary POW-MIA flags. The cost to purchase the necessary POW-MIA flags is estimated to be $1,096.

A bill to be entitled

An act relating to the POW-MIA flag; creating s. 256.14, F.S.; requiring the Department of Environmental Protection to display the POW-MIA flag at state parks displaying the United States flag; providing an effective date.

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

Section 1. Section 256.14, Florida Statutes, is created to read:

256.14 POW-MIA flag; display at state parks.--The Department of Environmental Protection shall display the POW-MIA flag year round at each of the state parks where the flag of the United States is displayed.

Section 2. This act shall take effect July 1, 2008.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 39**

COUNCIL/COMMITTEE ACTION

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

This amendment is traveling with the bill and requires no further action

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Council hearing bill: Environment & Natural Resources. Committee on Conservation & State Lands recommends the following:

Amendment (with title amendment)

Remove line 12 and insert:

Department of Environmental Protection shall purchase and display the POW-MIA

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

Remove line 4 and insert:

to purchase and display the POW-MIA flag at state parks displaying the

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 147 Expedited Permitting Process for Economic Development Projects
SPONSOR(S): Schenck
TIED BILLS: **IDEN./SIM. BILLS:** SB 402

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Environmental Protection	4 Y, 2 N	Deslatte	Kliner
2) Environment & Natural Resources Council		Deslatte / Perkins	Dixon / Hamby
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

The bill creates the "Mike McHugh Act". The bill requires the Department of Environmental Protection (DEP) and the water management districts to create a thirty-day expedited permitting process for businesses that have been identified by a municipality or county as a target industry business pursuant to s. 288.106, F.S. The program is limited to wetland resource and environmental resource permits.

The fiscal impact is indeterminate due to the uncertainty of the number of permits affected by the expedited permitting process.

The bill takes effect July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—the bill creates a program to expedite the processing of wetland resource and environmental resource permits for certain businesses.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida, through the DEP, has several programs that regulate most land (upland, wetland, and other surface water) alterations throughout the state. One such program is the Environmental Resource Permit (ERP) program. The ERP program includes new activities in uplands that generate stormwater runoff from upland construction, as well as dredging and filling in wetlands and other surface waters. The ERP program is in effect throughout the State, excluding the Northwest Florida Water Management, which has just implemented rules for stormwater permitting only effective October 1, 2007. In 2006, a phased approach for implementation of environmental resource permitting in Northwest Florida was enacted. The law requires the DEP and the District to jointly develop rules "taking into consideration the differing physical and natural characteristics of the area" for stormwater management by January 1, 2007, and for the Management and Storage of Surface Waters, by January 1, 2008. The new rules for ERP permitting are contained in Chapter 62-346, F.A.C., which has been adopted with an implementation date of October 1, 2007. Rules for the Management and Storage of Surface Waters (wetlands) will be effective no sooner than January 1, 2008. When the Rules are completed the entire state will be subject to the ERP program.

Environmental Resource Permit applications are processed by either the Department or one of the state's water management districts, in accordance with the division of responsibilities specified in operating agreements between the Department and the water management districts. Under these agreements, the DEP generally reviews and takes actions on applications involving:

- Solid waste, hazardous waste, domestic waste, and industrial waste facilities
- Mining (except borrow pits that do not involve on-site material grading or sorting)
- Power plants, transmission and communication cables and lines, and natural gas and petroleum exploration, production, and distribution lines and facilities
- Docking facilities and attendant structures and dredging that are not part of a larger plan of residential or commercial development
- Navigational dredging conducted by governmental entities, except when part of a larger project that a WMD has the responsibility to permit
- Systems serving only one single-family dwelling unit or residential unit not part of a larger common plan of development
- Systems located in whole or in part seaward of the coastal construction control line
- Seaports, and
- Smaller, separate water-related activities not part of a larger plan of development (such as boat ramps, mooring buoys, and artificial reefs)

The water management districts review and take action on all other ERP applications, mostly commercial and residential development.

Currently, s. 373.4141, F.S., provides that a permit under Part IV of Chapter 373, F.S., including ERP and wetland resource permits, shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application. Currently, ERP and wetland resource permits may be expedited in at least seven instances.

1. Section 373.4141(3), F.S. – requires applications for permits associated with affordable housing, including ERP and wetland resource permits, to be expedited to a greater degree than other projects.
2. Section 373.4592, F.S. – various references to expediting the Everglades, Lake Okeechobee, Caloosahatchee and St. Lucie River permits and activities.
3. Section 403.0752, F.S. – creates the Ecosystem Management Agreement program. The program allows the DEP to offer expedited permitting as an incentive under an ecosystem management agreement. This would include ERP and wetland resource permits, though the statute does not specify the degree to which a permit must be expedited.
4. Various provisions in Chapter 403 dealing with power plant sitings as they relate to ERP's portion of the review.
5. Section 403.973, F.S. – creates an expedited permitting program for certain economic development projects. To be eligible, an applicant business must be creating either: 100 jobs, 50 jobs if the business is located in an enterprise zone or in a county of a certain population, or on a case-by-case basis at the request of a county or municipal government. The program includes ERP and wetland resource permits, though it does not specify the degree to which a permit must be expedited.
6. Section 337.0261, F.S. – expedited permitting for aggregate mining.
7. Section 380.0655, F.S. – expedited permitting for marinas with 10% or more of the slips open to the public.

Effect of Proposed Changes

The bill creates s. 380.0657, F.S., which requires the DEP and the water management districts to adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, F.S. The proposed bill requires DEP to either approve or deny a permit application within 30 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

Pursuant to s. 288.106(o), F.S., a "target industry business" means a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by the Office of Tourism, Trade and Economic Development (OTTED) in consultation with Enterprise Florida, Inc.:

1. **Future growth**—Industry forecasts should indicate strong expectation for future growth in both.
2. **Stability**—The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the employment and output, according to the most recent available data. Special consideration should be given to Florida's growing access to international markets or to replacing imports demand for products of this industry is not necessarily subject to decline during an economic downturn.
3. **High wage**—The industry should pay relatively high wages compared to statewide or area averages.

4. **Market and resource independent**—The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis. Special consideration should be given to the development of strong industrial clusters which include defense and homeland security businesses.
5. **Industrial base diversification and strengthening**—The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis.
6. **Economic benefits**—The industry should have strong positive impacts on or benefits to the state and regional economies.

OTTED, in consultation with Enterprise Florida, Inc., shall develop a list of such target industries annually and submit such list as part of the final agency legislative budget request submitted pursuant to s. 216.023(1), F.S. A target industry business may not include any industry engaged in retail activities; any electrical utility company; any phosphate or other solid minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.[1]

In order to receive an expedited permit pursuant to the bill, a business would have to be within a target industry listed by Enterprise Florida and be designated as a target industry business by a county or municipality by resolution of the county or city commission.

C. SECTION DIRECTORY:

Section 1. Creates the "Mike McHugh Act"

Section 2. Creates s. 380.0657, F.S., requiring the DEP and the water management districts to expedite wetland and environmental resource permits for economic development projects that meet the target industry definition.

Section 3. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

[1] Section 288.106(6), F.S.

2. Expenditures:

See Fiscal Comments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certain businesses would be eligible for expedited permits under this section, creating possible savings for the private sector.

D. FISCAL COMMENTS:

To be eligible for incentives a business must be designated as a target industry business by a county or municipality. The number of businesses designated by a county or municipality to receive incentives under this bill could vary substantially. Currently, counties and municipalities do not designate target industry businesses, making it difficult to estimate the number of projects that this bill may affect. The bill requires a permit covered by this section to be issued within 30 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application; thus, the bill may significantly increase the workload on certain DEP staff and water management district staff depending on the number of eligible permit applicants. Due to the uncertainty of the number of permits affected, the increase in workload and fiscal impact on the DEP is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that counties and municipalities have to raise revenue.

2. Other:

None

B. RULE-MAKING AUTHORITY:

Sections 373.043 and 373.044, F.S., grant rulemaking authority to DEP and the WMDs, respectively, to implement the provisions of Chapter 373, F.S.; which includes ERP and wetland resource permitting. However, according to the Joint Administrative Procedures Committee, that grant of rule-making authority does not appear to extend to Chapter 380, F.S. which this bill amends. However, the bill may be able to be implemented without rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following comments were provided by the Southwest Florida Water Management District:

> It is unclear whether the proposed Bill would complement or conflict with past OTTED (Office of Tourism Trade and Economic Development) Legislation, under which we all now function. This was promulgated in 1996. OTTED Legislation dictated a very detailed process to be followed. How would this improve that Legislation?
>
> We already provide fast-tracking for any government entity that requests it. The general guidelines state that we conduct field visits, pre-applications, and assign the project to the same

individuals. We attempt to avoid RAIs and communicate via emails and phone calls. We assign the more experienced staff to these types of projects that have exceptional communication skills. The government entity agrees to use a conservative design, have a government representative attend every meeting involving their consultant, and avoid parcels that will result in wetland impacts and or floodplain impacts. The fast-tracking is primarily for ERP since the timing is so critical for the financing vs. WUP.

The following comments were provided by the South Florida Water Management District:

Expedited permitting is already addressed in s. 403.973, F.S. This section does not specifically address industries defined in s. 288.106, F.S. However, s. 403.973, F.S. does address businesses creating at least 100 jobs, or 50 jobs in an enterprise zone. It would be preferable to amend s. 403.973, F.S. to specifically include businesses defined under s. 288.106, F.S. then to create a new section in Chapter 380, Florida Statutes.

Section 403.973, F.S. sets forth details such as how challenges to state agency action in the expedited permitting process shall proceed. Details of that nature are not found in HB 147.

HB 147 provides that permits shall be approved or denied within 30 days after the receipt the project is complete. This may create a problem with Governing Board meetings. The scheduled meetings may not always fall within the 30 day timeframe. Or, if a project is complete the day before a Governing Board meeting, it would have to be presented to the Board the next day or the 30 day time frame would be missed. This is unworkable administratively.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A

A bill to be entitled

An act relating to expedited permitting process for economic development projects; providing a short title; creating s. 380.0657, F.S.; requiring the Department of Environmental Protection and water management districts to adopt programs to expedite the processing of permits for certain economic development projects; requiring municipalities and counties to identify certain businesses by commission resolution; providing a timeframe for permit application approval or denial; providing an effective date.

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

Section 1. This act may be cited as the "Mike McHugh Act."

Section 2. Section 380.0657, Florida Statutes, is created to read:

380.0657 Expedited permitting process for economic development projects.--The Department of Environmental Protection and, as appropriate, the water management districts created under chapter 373 shall adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106. A municipality or county shall provide an identified business with a city or county commission resolution identifying the business as a targeted industry business for the purposes of this section.

Permit applications pursuant to this section shall be approved or denied within 30 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

Section 3. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 197 Pest Control Call Centers
SPONSOR(S): Kendrick
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Agribusiness	7 Y, 0 N	Kaiser	Reese
2) Environment & Natural Resources Council		Kaiser / Smith TLS	Dixon / Hamby
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

HB 197 allows the establishment of out-of-state call centers for the sale and solicitation of pest control services from Florida customers. The Department of Agriculture and Consumer Services (department) is authorized to issue a permit for establishment of such call centers, which may be operated within or outside the state. The bill instructs the department to establish a fee, not to exceed $250, for the issuance or renewal of the permit.

The department is given authority to assess a late renewal charge of $50, in addition to the renewal fee, for permits that are renewed more than 30 days after the anniversary renewal date. If a permit is not timely renewed, it will expire 60 calendar days after the anniversary renewal date and may be reinstated only upon application and payment of the issuance fee and the late renewal fee. An application for a permit, or the renewal of a permit, may be denied based on certain criteria.

The bill appears to have a minimal fiscal impact to state government. The effective date of this legislation is upon becoming law.

HB 197 has one strike-all amendment traveling with the bill. For an explanation of this amendment, please refer to Section IV. (Amendments/Council Substitute Changes).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill authorizes the establishment of out-of-state call centers but does not give the Department of Agriculture and Consumer Services the authority to enforce any violations of Chapter 482, F.S., made by employees of the call centers.

B. EFFECT OF PROPOSED CHANGES:

Many nationally-franchised pest control companies, such as Orkin and Terminex, incorporate telephone call centers in their business plans. These call centers generally handle incoming calls for a particular region. The services provided by the call center include termite claims, handling of complaints, and public relations, in addition to regular pest control and termite customer service. According to a press release by Rollins, Inc., the parent company of Orkin Pest Control, the Rollins Customer Care Center (RCCC) in Atlanta handled just under 1.2 million calls in 2004, and averaged about 23 percent more in 2005.[1]

Telephone call centers are an integral part of many businesses, playing an important economic role. For example, it is estimated that telephone call centers handle more than 70% of all business interactions and that they employ more than 3.5 million people, or 2.5% of the workforce, in the U.S.[2] In a study conducted by Columbia University,[3] it was found "*...In a large, best-practice call center, many hundreds of agents can cater to many thousands of phone callers per hour; agent utilization levels can average between 90% to 95%; no customer encounters a busy signal and, in fact, about half of the customers are answered immediately; the waiting time of those delayed is measured in seconds, and the fraction that abandon while waiting varies from the negligible to a mere 1-2%.*"

Florida law currently prohibits the operation of a call center that serves more than one business location for the purpose of solicitation of pest control business. While the prohibition is not explicit, a combination of current requirements in the law[4] has the effect of making the operation of such a call center illegal. Additionally, a current rule[5] issued to implement Chapter 482, F.S., requires that each phone used in the sales and solicitation of pest control terminate in a licensed business location.

HB 197 allows the establishment of out-of-state call centers for the sale and solicitation of pest control services from Florida customers. The Department of Agriculture and Consumer Services (department) is authorized to issue a permit for establishment of such call centers, which may be operated within or outside the state. The bill instructs the department to establish a fee, not to exceed $250, for the issuance or renewal of the permit. The department is given authority to assess a late renewal charge of $50, in addition to the renewal fee, for permits that are renewed more than 30 days after the anniversary renewal date. If a permit is not timely renewed, it will expire 60 calendar days after the anniversary renewal date and may be reinstated only upon application and payment of the issuance fee and the late renewal fee.

Persons seeking a call center permit, or the renewal of a permit, who were directors, officers, owners or general partners of a pest control business that went out of business or was sold in the past five years that failed to reimburse the prorated value of the customer's remaining contract or arrange for another company to assume the existing contract may be denied a permit by the department.

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[1] http://www.bizjournals.com/atlanta/stories/2005/11/21/daily10.html
[2] Uchitelle, 2002; Call Center Statistics
[3] www.columbia.edu/~ww2040
[4] Section 482.091, F.S.
[5] Chapter 5E-14.142(3)(B), FAC

Persons providing call center service are exempt from requirements relating to employee identification cards.

C. SECTION DIRECTORY:

Section 1: Creating s. 482.072, F.S.; authorizing the Department of Agriculture and Consumer Services (DACS) to issue a permit to operate a telephone call center within or outside the state; requiring application for permit; requiring annual renewal; requiring fee for issuance and renewal of permit; providing for a late fee; providing for automatic expiration; providing grounds for non-renewal; and, providing exemption for pest control identification cards for call center personnel meeting certain requirements.

Section 2: Providing an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	(FY 08-09) Amount	(FY 09-10) Amount	(FY 10-11) Amount
Recurring	$2,500*	$2,500	$2,500
Non-recurring	-	-	-

2. Expenditures:

Recurring	70.90**	70.90	70.90
Non-recurring	-	-	-

*Based on a new fee of $250 for each call center permit and assuming 10 companies apply for and renew these permits.

**Based on unit cost for license issuance for FY 06-07 of $7.09.

NOTE: The cost for investigations is not included. Due to the inability of the Department of Agriculture and Consumer Services to enforce the provisions of Chapter 482, F.S., for call center employees, no inspection or complaint investigative costs are anticipated. Unit cost for inspections/investigations for FY 06-07 was $610.69.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

An exemption from requirements to comply with certain provisions of Chapter 482, F.S., would provide pest control companies, using centralized call centers, with a competitive advantage in their sales and solicitation activities. If the bill is enacted, centralized call center staff, employed by qualified pest

control businesses, would be exempt from attending the initial 40 hour training classes, as well as continuing education training, that are currently required for employees who conduct sales and solicitation for pest control.

Additionally, if centralized call center employees are not required to have state issued identification cards, administrative action for misrepresentation, false or fraudulent claims, or advertising in a category for which they are not qualified (e.g., fumigation) would be more difficult or impractical, since there would be no state-issued credential to take action against.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Agriculture and Consumer Services (department) has concerns regarding this legislation. In particular, there is no recourse for administrative action against individuals employed by a permitted call center who commit a violation of Chapter 482, F.S., or Chapter 5E-14, FAC. The department also states a concern regarding persons providing call center service being exempt from the requirements of obtaining employee identification cards. Additionally, the department states that if call centers were located out-of-state, it would be impractical, or impossible, to conduct an investigation or issue an action against an individual.

The department and the industry have been working together regarding an agreeable resolution to the concerns stated by the department. They have recently agreed to conduct a pilot project over the next year whereby the department would travel to an out-of-state call center 3-4 times during the year and examine the records and other available data to ascertain that the call center is operating within the purview of Chapter 482, F.S. and Chapter 5E-14, FAC. Once data has been collected and analyzed, necessary statutory changes can be made during the next legislative session.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On January 23, 2008, the Committee on Agribusiness adopted a strike-all amendment to HB 197. The strike-all amendment codifies the Interstate Pest Control Compact (IPCC) into Florida statutes, which was necessary for Florida to maintain membership in the IPCC.

The IPCC was formed in 1968 with the assistance of the Council of State Governments and is comprised of 37 states, including Florida. The IPCC provides funding resources to states that may not have the necessary available capital to respond to a new pest outbreak posing a threat to agriculture. Member states pay an initial assessment of $2,000 base plus a percentage of the value of the state's agriculture and forestry crop values. Over the six year period of 1995-2001, Florida's payment totaled $39,342. Since becoming a member in 1995, Florida has received $240,522 in funding for noxious weed and tomato virus control activities.

The strike-all amendment provides for:

- The departments, agencies and officers of the state to cooperate with the Insurance Fund established by the IPCC;
- The bylaws, and any amendments to the bylaws, to be filed with the Commissioner of Agriculture;
- The Commissioner of Agriculture to be the compact administrator for the state;
- The Commissioner to have the authority to request assistance from the Insurance Fund;
- The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program to credit the appropriate account in the state treasury for the amount of any payments made to the state to defray the cost of such programs; and,
- The executive head being the Governor.

The strike-all amendment provides findings regarding the necessity of the IPCC and the importance of each state's participation. The amendment also provides definitions for terms used in relation to the IPCC. The amendment provides for the Insurance Fund to be administered by a Governing Board and Executive Committee. The members of the Governing Board are entitled to one vote of the board. Action of the Governing Board shall be taken only at a meeting where a majority of the members are present. The amendment provides for the Insurance Fund to have a seal to serve as an official symbol and to be used as the Governing Board sees fit.

The amendment provides criteria regarding the election of officers from among the members of the Governing Board. The Governing Board may also appoint an executive director and fix his/her duties and compensation. The Governing Board shall provide personnel policies and programs of the Insurance Fund in its bylaws. The Insurance Fund may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation. The Insurance Fund may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, use and dispose of the same. All such donations, gifts, or grants accepted by the Governing Board or services borrowed must be reported in the annual report of the Insurance Fund. The Governing Board has the authority to adopt bylaws as well as the power to amend and rescind said bylaws. The bylaws shall be published and furnished to the appropriate agency or officer in each party state. Additionally, the Insurance Fund shall provide an annual report, which covers its activities for the preceding year, to the Governor and Legislature of each party state.

The amendment provides for a compact administrator in each party state to be selected to assist in the coordination of activities pursuant to the compact in his/her state. The compact administrator will also represent his/her state on the Governing Board of the Insurance Fund. The amendment provides for the United States to have no more than three representatives on the Governing Board of the Insurance Fund; however, no such representative of the United States shall have a vote on the Governing Board or the Executive Committee of the Governing Board. The Governing Board shall meet at least once a year for the purpose of determining policies and procedures regarding the Insurance Fund. Additional meetings of the Governing Board shall be held at the call of the chair, the Executive Committee, or a majority of the membership of the Governing Board. If the Governing Board is meeting, it may pass upon applications for assistance from the Insurance Fund and authorize disbursements; however, when the Governing Board is not in session, the Executive Committee has full authority to act in place of the Governing Board in passing upon

such applications. The Executive Committee shall be composed of the chairperson of the Governing Board and four additional members of the Governing Board, chosen by it so that there will be one member representing each of four geographic groupings of party states. The Governing Board shall make such geographic groupings. One representative of the United States may meet with the Executive Committee. The chair of the Governing Board shall be the chair of the Executive Committee. For an action of the Executive Committee to be binding, at least four members of the committee must be present and vote in favor of said action. Necessary expenses of the five members of the Executive Committee incurred in attending meetings of such committee, when not held in conjunction with the Governing Board, shall be charged against the Insurance Fund.

Each party state pledges to other party states that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. Party states may request the Governing Board to authorize expenditures from the Insurance Fund for eradication or control measures to be taken by one or more other party states in an effort to eradicate or control an infestation of pests. The amendment provides criteria for requesting states to submit in writing in order to receive expenditures from the Insurance Fund. The Governing Board or Executive Committee must give due notice of any meeting at which an application for assistance from the Insurance Fund is to be considered. The requesting state and any other party state are entitled to be represented and present evidence and argument at such meeting. After reviewing information submitted by the requesting state and determining that an expenditure of funds is within the purposes of the compact and justified, the Governing Board or Executive Committee shall authorize support of the program. All determinations of the Governing Board or Executive Committee with respect to an application shall be recorded in such manner as to show and preserve the votes of the individual members. The amendment provides criteria for a requesting state, dissatisfied with a determination of the Executive Committee, to be entitled to a review of the facts at the next meeting of the Governing Board. Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the Insurance Fund either at the time such state incurs expenditures on account of such measures or as reimbursement for expenses incurred and chargeable to the Insurance Fund. The Insurance Fund may ascertain the extent and nature of any timely assistance or participation available from the Federal Government and request the appropriate agency or agencies for such assistance and participation prior to authorizing the expenditure of funds from the Insurance Fund. The Insurance Fund may negotiate and execute a memorandum of understanding defining the extent and degree of assistance or participation between and among the Insurance Fund, cooperating federal agencies, states, and any other entities concerned.

The Governing Board may establish advisory and technical committees composed of state, local, and federal officials and private persons to advise it with respect to any one or more of its functions. An advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the Insurance Fund being considered by the Governing Board or the Executive Committee.

A party state may make application for assistance from the Insurance Fund with respect to a pest in a nonparty state. Such application shall be considered and disposed of by the Governing Board or Executive Committee in the same manner as an application with respect to a pest within a party state. A nonparty state is entitled to appear, participate, and receive information only to such extent as the Governing Board or Executive Committee sees fit. A nonparty state is not entitled to review of any determination made by the Executive Committee. The Governing Board or Executive Committee may authorize expenditures from the Insurance Fund to be made in a nonparty state only after determining the conditions in such state and the value of such expenditures to the party states as a whole justify them. The Governing Board or Executive Committee may set any conditions that it deems appropriate with respect to the expenditure of moneys from the Insurance Fund in a nonparty state and may enter into such agreement with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the Insurance Fund with respect to expenditures and activities outside of party states.

The Insurance Fund shall submit to each party state a budget for the Insurance Fund for such period as required by the laws of that party state. The amendment provides criteria for the Insurance Fund to determine the amounts to be appropriated. The financial assets of the Insurance Fund shall be maintained in two

accounts to be designated respectively as the "operating account" and the "claims account." The amendment provides criteria for determining the moneys to be maintained in each account. The Insurance Fund shall not pledge the credit of any party state. The Insurance Fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Insurance Fund shall be subject to the audit and accounting procedures established under its bylaws. The amendment calls for the Insurance Fund to be audited annually by a certified or licensed public accountant and for the report of the audit to be included in and become part of the annual report of the Insurance Fund. The accounts of the Insurance Fund shall be open at any reasonable time for inspection by authorized officers of the party states and by any persons authorized by the Insurance Fund.

The compact shall become active when enacted by any five or more states. Thereafter, the compact shall become effective as to any other state upon its enactment. A party state may withdraw from the compact by enacting a statute repealing the same, but such withdrawal shall not take effect until 2 years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

The amendment provides a severability clause whereas if any part of the compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of the compact shall not be affected thereby. If this compact is held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

While the Department of Agriculture and Consumer Services does not anticipate any expenditures associated with this legislation, the revenues/funding provided by the IPCC is indeterminate at this time.

A bill to be entitled

An act relating to pest control call centers; creating s. 482.072, F.S.; authorizing the Department of Agriculture and Consumer Services to issue a permit to a qualified pest control business to operate a telephone call center to serve its business locations; requiring applications for permits; requiring annual renewal; establishing maximum fees for issuance and renewal of a permit; requiring the department to prescribe and furnish application forms and to establish fees; providing grounds for denial of a permit; providing exemption from requirement for pest control employee identification cards for call center personnel meeting certain requirements; providing an effective date.

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

Section 1. Section 482.072, Florida Statutes, is created to read:

482.072 Telephone call centers; permits.--

(1) The department may issue a permit to a qualified pest control business to operate a telephone call center to serve one or more of its business locations licensed under this chapter. The telephone call center may be operated within or outside of the state.

(2)(a) Before operating a telephone call center serving any Florida business locations, pest control businesses must apply to the department for a permit, which permit may be

renewed annually. Application forms shall be prescribed and furnished by the department.

(b) The department shall establish a fee for the issuance and renewal of a permit, which may not be more than $250. After a grace period, not exceeding 30 calendar days following the anniversary renewal date, the department shall assess a late renewal charge of $50 that must be paid in addition to the renewal fee.

(c) Unless timely renewed, a permit automatically expires 60 calendar days after the anniversary renewal date. After the expiration date, a permit may be reinstated only upon application and payment of the issuance fee and the late renewal fee.

(d) The department may deny the issuance of a telephone call center permit to any applicant or refuse to renew the permit of any licensee if the department finds that the applicant or licensee or any of its directors, officers, owners, or general partners are or were directors, officers, owners, or general partners of a pest control business that meets the conditions of s. 482.071(2)(g).

(e) Persons providing telephone call center services for a pest control business permitted under this section are exempt from the provisions of s. 482.091; provided, however, the performance of any inspection, treatment, application, execution of a contract, or acceptance of remuneration may be performed only by an identification cardholder employed by the licensee.

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

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 197**

COUNCIL/COMMITTEE ACTION

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

This amendment is traveling with the bill and requires no further action.

Council/Committee hearing bill: Environment & Natural Resources Council

The Committee on Agribusiness offered the following:

Strike-all Amendment (with title amendment)

Remove lines 18-55 and insert:

Section 1. Section 570.345, Florida Statutes, is created to read:

570.345 Pest Control Compact.--

(1) ENACTMENT OF COMPACT.--The Pest Control Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as provided in this section.

(a) Consistent with law and within available appropriations, the departments, agencies, and officers of this state may cooperate with the Insurance Fund established by the Pest Control Compact.

(b) Pursuant to paragraph (5)(h), copies of bylaws and amendments thereto shall be filed with the Commissioner of Agriculture.

(c) The compact administrator for this state shall be the Commissioner of Agriculture.

(d) Within the meaning of paragraph (7)(b) or paragraph (9)(a), a request or application for assistance from the Insurance Fund may be made by the Commissioner of Agriculture.

(e) The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the compact shall have credited to the appropriate account in the state treasury the amount or amounts of any payments made to this state to defray the cost of such program, or any part thereof, or as reimbursement thereof.

(f) As used in this compact, with reference to this state, the term "executive head" means the Governor.

(2) FINDINGS.--

(a) In the absence of the higher degree of cooperation possible under this compact, the annual loss of approximately $137 billion from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of the varying climatic, geographic, and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against pests that present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one

another to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible to infestation by many species of pests not now causing damage to its crops and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an Insurance Fund, from which individual states may obtain financial support for pest-control programs of benefit to them in other states and to which they may contribute in accordance with their relative interest, the most equitable means of financing cooperative pest-eradication and control programs.

(3) DEFINITIONS.--As used in this compact, the term:

(a) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Requesting state" means a state that invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.

(c) "Responding state" means a state that is requested to undertake or intensify the measures referred to in paragraph (b).

(d) "Pest" means any invertebrate animal, pathogen, parasitic plant, or similar or allied organism that can cause disease or damage in any crops, trees, shrubs, grasses, or other plants of substantial value.

(e) "Insurance Fund" means the Pest Control Insurance Fund established pursuant to this compact.

(f) "Governing Board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) "Executive Committee" means the committee established pursuant to paragraph (6)(e).

(4) INSURANCE FUND.--There is established a Pest Control Insurance Fund for the purpose of financing other than normal pest-control operations that states may be called upon to engage in pursuant to this compact. The Insurance Fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, except that the Insurance Fund may not accept any donation or grant whose terms are inconsistent with any provision of this compact.

(5) PEST CONTROL INSURANCE FUND; INTERNAL OPERATIONS AND MANAGEMENT.--

(a) The Insurance Fund shall be administered by a Governing Board and Executive Committee as hereinafter provided. The actions of the Governing Board and the Executive Committee pursuant to this compact shall be deemed the actions of the Insurance Fund.

(b) The members of the Governing Board are entitled to one vote on the board. Action by the Governing Board is not binding unless taken at a meeting at which a majority of the total number of votes on the Governing Board is cast in favor thereof.

Action of the Governing Board shall be taken only at a meeting at which a majority of the members are present.

(c) The Insurance Fund shall have a seal that may be employed as an official symbol and that may be affixed to documents and otherwise used as the Governing Board may provide.

(d) The Governing Board shall elect annually, from among its members, a chairperson, a vice chairperson, a secretary, and a treasurer. The chairperson may not succeed himself or herself. The Governing Board may appoint an executive director and fix his or her duties and compensation, if any. Such executive director shall serve at the pleasure of the Governing Board. The Governing Board shall make provision for the bonding of such of the officers and employees of the Insurance Fund as may be appropriate.

(e) Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director or, if there is no executive director, the chairperson, in accordance with such procedures as the bylaws may provide, shall appoint, remove, or discharge such personnel as may be necessary for the performance of the functions of the Insurance Fund and shall fix the duties and compensation of such personnel. The Governing Board in its bylaws shall provide for the personnel policies and programs of the Insurance Fund.

(f) The Insurance Fund may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation.

(g) The Insurance Fund may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services,

conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, use, and dispose of the same. Any donation, gift, or grant accepted by the Governing Board pursuant to this paragraph or services borrowed pursuant to paragraph (f) shall be reported in the annual report of the Insurance Fund. Such report must include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender.

(h) The Governing Board shall adopt bylaws for the conduct of the business of the Insurance Fund and shall have the power to amend and to rescind these bylaws. The Insurance Fund shall publish its bylaws in a convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The Insurance Fund shall make an annual report to the Governor and Legislature of each party state which covers its activities for the preceding year. The Insurance Fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the Insurance Fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

(6) COMPACT AND INSURANCE FUND ADMINISTRATION.--

(a) In each party state there shall be a compact administrator who shall be selected and serve in such manner as the laws of his or her state may provide, who shall assist in the coordination of activities pursuant to the compact in his or her state, and who shall represent his or her state on the Governing Board of the Insurance Fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Governing Board of the Insurance Fund by not more than three representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the Governing Board or the Executive Committee thereof.

(c) The Governing Board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the Insurance Fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of moneys from the Insurance Fund. Additional meetings of the Governing Board shall be held at the call of the chairperson, the Executive Committee, or a majority of the membership of the Governing Board.

(d) At such times as it may be meeting, the Governing Board shall pass upon applications for assistance from the Insurance Fund and authorize disbursements therefrom. When the Governing Board is not in session, the Executive Committee thereof shall act as agent of the Governing Board, and has full authority to act for it in passing upon such applications.

(e) The Executive Committee shall be composed of the chairperson of the Governing Board and four additional members of the Governing Board chosen by it so that there shall be one member representing each of four geographic groupings of party states. The Governing Board shall make such geographic groupings. If there is representation of the United States on the Governing Board, one such representative may meet with the

Executive Committee. The chairperson of the Governing Board shall be the chairperson of the Executive Committee. No action of the Executive Committee shall be binding unless taken at a meeting at which at least four members of such committee are present and vote in favor thereof. Necessary expenses of each of the five members of the Executive Committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the Governing Board, shall be charged against the Insurance Fund.

(7) ASSISTANCE AND REIMBURSEMENT.--

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest-control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.

2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests and finds that such activities are or would be impracticable or substantially more difficult by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the Governing Board to authorize expenditures from the Insurance Fund for eradication or control

measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization, the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys available from the Insurance Fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the Insurance Fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances that occasion the request for invoking the compact.

2. Evidence that the pest for which eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass, or other plant having a substantial value to the requesting state.

3. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made, or budgeted therefor, in connection with the eradication, control, or prevention of introduction of the pest concerned.

4. Proof that the expenditures being made or budgeted as detailed in subparagraph 3. do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in subparagraph 3. constitutes a normal level of pest-control activity.

5. A declaration as to whether, to the best of the requesting state's knowledge and belief, the conditions that

occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the Insurance Fund within 1 year or less, or whether the request is for an installment in a program that is likely to continue for a longer period of time.

6. Such other information as the Governing Board may require consistent with the provisions of this compact.

(d) The Governing Board or Executive Committee shall give due notice of any meeting at which an application for assistance from the Insurance Fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state is entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission of the information required by paragraph (c) and such other information as the requesting state may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the Governing Board or Executive Committee shall authorize support of the program. The Governing Board or Executive Committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the Governing Board or Executive Committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state that is dissatisfied with a determination of the Executive Committee shall, upon notice in writing given within 20 days after the determination with which

it is dissatisfied, be entitled to receive a review thereof at the next meeting of the Governing Board. Determinations of the Executive Committee shall be reviewable only by the Governing Board at one of its regular meetings or at a special meeting held in such manner as the Governing Board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the Insurance Fund either at the time or times when such state incurs expenditures on account of such measures or as reimbursement for expenses incurred and chargeable to the Insurance Fund. The Governing Board shall adopt, and from time to time may amend or revise, procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of moneys from the Insurance Fund pursuant to an application of a requesting state, the Insurance Fund shall ascertain the extent and nature of any timely assistance or participation that may be available from the Federal Government and shall request the appropriate agency or agencies of the Federal Government for such assistance and participation.

(i) The Insurance Fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the Insurance Fund, cooperating federal agencies, states, and any other entities concerned.

(8) ADVISORY AND TECHNICAL COMMITTEES.--The Governing Board may establish advisory and technical committees composed of state, local, and federal officials and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members

thereof, may meet with and participate in its deliberations upon request of the Governing Board or Executive Committee. An advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the Insurance Fund being considered by the board or committee and the board or committee may receive and consider the same; except that any participant in a meeting of the Governing Board or Executive Committee held pursuant to paragraph (7)(d) is entitled to know the substance of any such information and recommendations at the time of the meeting if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the Governing Board or Executive Committee makes its disposition of the application.

(9) RELATIONS AND NONPARTY JURISDICTIONS.--

(a) A party state may make application for assistance from the Insurance Fund with respect to a pest in a nonparty state. Such application shall be considered and disposed of by the Governing Board or Executive Committee in the same manner as an application with respect to a pest within a party state, except as provided in this subsection.

(b) At or in connection with any meeting of the Governing Board or Executive Committee held pursuant to paragraph (7)(d), a nonparty state is entitled to appear, participate, and receive information only to such extent as the Governing Board or Executive Committee may provide. A nonparty state is not entitled to review of any determination made by the Executive Committee.

(c) The Governing Board or Executive Committee shall authorize expenditures from the Insurance Fund to be made in a nonparty state only after determining that the conditions in

such state and the value of such expenditures to the party states as a whole justify them. The Governing Board or Executive Committee may set any conditions that it deems appropriate with respect to the expenditure of moneys from the Insurance Fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the Insurance Fund with respect to expenditures and activities outside of party states.

(10) FINANCE.--

(a) The Insurance Fund shall submit to the executive head or designated officer or officers of each party state a budget for the Insurance Fund for such period as may be required by the laws of that party state for a presentation to the Legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The request for appropriations shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products, the Insurance Fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning the value of products.

(c) The financial assets of the Insurance Fund shall be maintained in two accounts to be designated respectively as the

"Operating Account" and the "Claims Account." The Operating Account shall consist only of those assets necessary for the administration of the Insurance Fund during the next ensuing 2-year period. The Claims Account shall contain all moneys not included in the Operating Account and may not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims against the Insurance Fund for a period of 3 years. At any time when the Claims Account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the Governing Board shall reduce its budget requests on a pro rata basis in such manner as to keep the Claims Account within such maximum limit. Any moneys in the Claims Account by virtue of conditional donations, grants, or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such moneys are available to meet demands arising out of the claims.

(d) The Insurance Fund shall not pledge the credit of any party state. The Insurance Fund may meet any of its obligations in whole or in part with moneys available to it under paragraph (5)(g), provided that the Governing Board takes specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the Insurance Fund makes use of moneys available to it under paragraph (5)(g), the Insurance Fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

(e) The Insurance Fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Insurance Fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts

and disbursements of funds handled by the Insurance Fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the Insurance Fund.

(f) The accounts of the Insurance Fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the Insurance Fund.

(11) ENTRY INTO FORCE AND WITHDRAWAL.--

(a) This compact shall enter into force when enacted into law by any five or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 2 years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(12) CONSTRUCTION AND SEVERABILITY.--This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the

constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

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

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

Remove lines 2-14 and insert:

An act relating to pest control; creating s. 570.345, F.S., the Pest Control Compact; providing for enactment of the compact; requiring the Commissioner of Agriculture to administer the compact; requiring that an application for assistance under the compact be made by the commissioner; providing for crediting of funds to appropriate accounts of a state treasury under certain circumstances; providing findings with respect to the need for all states to cooperate in pest-eradication and control programs; providing definitions; providing for the establishment of the Pest Control Insurance Fund for the purpose of financing pest-control operations under the compact; specifying sources of funds deposited into the Pest Control Insurance Fund and any conditions that may be placed on such funds; providing for the Pest Control Insurance Fund to be administered by a Governing Board and Executive Committee; providing for the internal operations and management of the Governing Board; requiring an annual report to the Governor and Legislature of each state that is a party to the compact; providing for the

administration of the compact and the Pest Control Insurance Fund; providing procedures for applying for an expenditure from the fund; providing for a determination with respect to expenditures from the fund and for the review thereof; authorizing the Governing Board to establish advisory and technical committees; providing for an application for assistance from the fund on behalf of a nonparty state; providing requirements for the fund with respect to preparing budgets and maintaining financial assets; prohibiting a pledge of the assets of a state that is a party to the compact; providing for the compact to enter into force upon its enactment by five or more states; providing a procedure for a state to withdraw from the compact; providing for construction and severability; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 199 Desalination Technology
SPONSOR(S): Kelly and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 708

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Environmental Protection	7 Y, 0 N	Deslatte	Kliner
2) Environment & Natural Resources Council		Deslatte / Perkins	Sexton / Hamby
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

The bill requires the Secretary of the Department of Environmental Protection (DEP), in coordination with the five water management districts (wmds), to conduct a study examining all current and available desalination technologies. The study must include an analysis of existing desalination projects in the state and recommendations for a plan to implement desalination technologies that are environmentally and fiscally sound and that will provide sustainability of the current water supply demands of the state as well as long-term potable water supply demands based on projected population growth. The study and plan recommendations must be submitted by June 30, 2009.

DEP suggests hiring a part-time OPS position for the one-time study and will pay the cost out of existing operating funds. The estimated expense associated with this position is less than $40,000.

The bill takes effect July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:
Provide limited government—The bill requires DEP, in coordination with the five wmds, to conduct a study examining all desalination technologies. The study must include an analysis of existing desalination projects in the state and recommendations for a plan to implement desalination technologies that are environmentally and fiscally sound and that will provide sustainability of the current water supply demands of the state as well as long-term potable water supply demands based on projected population growth.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Desalination is a process in which salt is removed from saline water (seawater, brackish groundwater) and de-mineralized to produce freshwater, leaving behind waste effluent referred to as brine. Seawater desalination has been around since at least the 4th century B.C. There are many types of desalination. One type is distillation and it is the most common thermal process for desalination worldwide. England is the home of the first patented distillation process, which took place in 1869.
Today, one of the leading methods of desalination is reverse osmosis. With the development of new membranes (which use thin sheets of special materials that act as selective barriers separating pure water from salts), reverse osmosis typically uses less energy than that of reverse osmosis plants in the past, which can lead to a reduction in overall desalination costs. However, desalination still remains energy intensive and future costs will continue to depend on the price of both energy and desalination technology.

Desalination is capable of producing large quantities of drinking water; however, desalination typically requires large amounts of energy as well as specialized, expensive infrastructure, making the process very costly. The large energy reserves of many Middle Eastern countries, along with their relative water scarcity, have led to extensive construction of desalination plants in this region. Saudi Arabia's desalination plants account for about 24% of total world capacity. The world's largest desalination plant is the Jebel Ali Desalination Plant (Phase 2) in the United Arab Emirates. It is a dual-purpose facility that uses multi-stage flash distillation and is capable of producing 300 million cubic meters of water per year.[1]

The global desalination industry estimates that the worldwide desalination capacity will increase 61% between 2006 and 2010 and a total of 140% by 2015 to 97.5 million cubic meters of water per day. Most of the growth in capacity will occur in the Middle East and northern Africa, but capacity will also increase in China, India, Australia, Spain, the U.S., and even the U.K.[2]
In the U.S., the largest reverse osmosis seawater desalination facility is the Tampa Bay Seawater Desalination plant. In December, 2007, the plant started producing 25 million gallons of drinking water per day.

The plant uses three main elements in its desalination process:

1. **Pretreatment**— Seawater is first treated with chemicals to allow eventual settling of particles. It then goes through traveling screens that filter out shells and other larger debris. The screened water then goes through settling chambers. Similar to a traditional surface water treatment

[1] http://www.worldwater.org/data20062007/Table21.pdf 100 Largest Desalination Plants Planned, in Construction, or in Operation—January 1, 2005]

[2] Environmental Science & Technology, http://pubs.acs.org/subscribe/journals/esthag-w/2007/july/policy/kc_desalination.html

process, particles in the conditioned water clump together and settle out. The next step in pretreatment is sand filtration, where smaller particles are filtered from the water. Next, diatomaceous earth filters eliminate microscopic materials before the water passes through cartridge filters, the last barrier before the reverse osmosis process. [3]

2. **Reverse Osmosis**— High pressure forces the pretreated water through semi-permeable membranes, separating saltwater from freshwater and leaving salt and other minerals behind in a salty solution.

3. **Post-treatment**—Chemicals are added to stabilize the water.

The concentrated seawater left over from the desalination process will not significantly increase Tampa Bay's salinity because it is diluted in up to 1.4 billion gallons per day of power plant cooling water, a 70-to-1 dilution ratio.[4]

Besides the Tampa Bay Seawater Desalination Plant, Florida has about 130 other drinking water systems which use reverse osmosis. Many of these are smaller facilities. Desalination is typically a component of the water supply planning required by s. 373.0361, F.S., for the five water management districts. In fact, the St. John's River and Southwest Florida Water Management Districts have undertaken analyses on the feasibility of desalination projects.

Proposed Changes

The bill requires the Secretary of DEP, in coordination with the five water management districts, to conduct a study examining all current and available desalination technologies. The study must include an analysis of existing desalination projects in the state and recommendations for a plan to implement desalination technologies that are environmentally and fiscally sound and that will provide sustainability of the current water supply demands of the state as well as long-term potable water supply demands based on projected population growth. The report is due no later than June 30, 2009, and must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

C. SECTION DIRECTORY:

Section 1. Finds that desalination of seawater is a proven technology; requires DEP, in coordination with the water management districts, to issue a report on the current state of desalination projects and technologies including recommendations for a plan to implement desalination technologies; requires the report to be due no later than June 30, 2009.

Section 2. The bill takes effect July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   See Fiscal Comments

[3] Tampa Bay Seawater Desalination website, www.tampabaywater.org/watersupply/tbdesalprocess.aspx

[4] *Id.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the DEP analysis, the report and its recommendations could help the water management districts determine whether to use desalination projects in the future. The projects are technologically advanced and complicated to build and may require contract operator assistance. The private sector would have to provide the personnel and expertise to build and operate such facilities.

D. FISCAL COMMENTS:

DEP suggests hiring a part-time OPS position for the one-time study and will pay the cost out of existing operating funds. The estimated expense associated with this position is less than $40,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This 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:

The bill directs the Secretary of DEP to coordinate with the water management districts to conduct a study examining all current and available desalination technologies. No rulemaking authority is necessary nor granted by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following comments were provided by DEP:

> It should be noted that many local fiscal and site-specific environmental considerations affect the choice to build desalination facilities. The dynamic of these considerations is changing as the cost of desalination, particularly by reverse osmosis, has come down and the availability of freshwater supplies is drying up. The linkage between growth management and water supply provided for in chapter 373, F.S., and specifically the regional water supply planning provisions of s. 373.0361, F.S., provide an appropriate framework for evaluating desalination and other water supply projects at the planning stage.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A

A bill to be entitled

An act relating to desalination technology; providing legislative intent; directing the Secretary of Environmental Protection to coordinate with the water management districts to conduct a study of certain desalination technologies; providing study requirements; requiring the secretary to report to the Governor and the Legislature by a specified date; providing an effective date.

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

Section 1. (1) LEGISLATIVE INTENT.--The Legislature finds that desalination of seawater is a proven technology for providing water supply solutions for countries around the world and an increasingly cost-competitive alternative for coastal cities within the United States. The potential success of desalination projects would benefit the communities they directly serve and the state as a whole by preserving existing natural water resources and providing a practical means of ensuring adequate supplies of water for future generations of Floridians. Therefore, it is the intent of the Legislature to aggressively pursue desalination technologies for use in the state.

(2) DESALINATION TECHNOLOGY STUDY; REPORT.--The Secretary of Environmental Protection is directed to coordinate with the water management districts to conduct a study examining all current and available desalination technologies. The study shall

include an analysis of the existing desalination projects in the state and recommendations for a plan to effectively utilize and implement desalination technologies that are environmentally and fiscally sound and that will provide sustainability of the current water supply demands of the state as well as long-term potable water supply demands based on projected population growth. The secretary shall submit a report of the findings of the study and plan recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2009.

Section 2. This act shall take effect July 1, 2008.

STORAGE NAME: h0201.ENRC
DATE: March 3, 2008

March 3, 2008

SPECIAL MASTER'S FINAL REPORT

The Honorable Marco Rubio
Speaker, The Florida House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

Re: HB 201 - Representative Mayfield
Relief of Relief/Laura Laporte/DOACS

THIS IS A CONTESTED, VERDICT-BASED EXCESS JUDGMENT CLAIM FOR $5,500,647.81 ON FUNDS OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO COMPENSATE LAURA LAPORTE FOR DAMAGES SHE SUSTAINED IN A MOTOR VEHICLE ACCIDENT IN WHICH HER VEHICLE WAS STRUCK BY A VEHICLE DRIVEN BY AN EMPLOYEE OF THE DEPARTMENT. THE DEPARTMENT HAS PAID $100,000 PURSUANT TO THE SOVEREIGN IMMUNITY CAP SPECIFIED BY LAW.

FINDING OF FACT:

On October 9, 1999, Sandra Jackson was driving a four-wheel drive truck within the course and scope of her employment with the Department of Agriculture and Consumer Services (hereinafter referred to as the 'Department') as a grove inspector. She was traveling south on 66th Avenue in Indian River County, a straight two-lane road west of Vero Beach. At the same time, Laura Laporte was driving north on 66th Avenue in a safe and lawful manner. Ms. Jackson attempted to turn left in front of Ms. Laporte onto 65th Street and pulled directly into her path, striking her nearly head-on and causing extensive damage to both vehicles. Ms. Jackson was cited for violation of the right of way.

The Department admitted liability for the crash.

As a result of the accident Ms. Laporte suffered fractures to her left femur, her right ankle, and to her pubic bone. She suffered a puncture wound to her left knee and also received a gash on her left heel and sprain to her left ankle. Ms. Laporte has undergone four surgeries to try to repair her legs. The first surgery attempted to repair her broken femur by the insertion of a metal rod in the bone. Due to hardware failure, a second attempt was made to remove the broken hardware and to realign her femur. This required the surgeon to re-break the bone. The hardware failed again, and Ms. Laporte required a third surgery to reset the femur. The fourth surgery fused her right ankle to her leg bone. The ankle surgery resulted in an infection that was successfully treated with antibiotics.

Ms. Laporte's injuries have left her with a permanent deformity in her left leg which will require a knee replacement and an additional femur surgery in order to repair bowing. She will also require further corrective surgery to her right ankle, which will involve cutting and repositioning of the heel bone for added stability. She currently experiences significant pain, decreased mobility, and walks with a waddling gait. She is unable to get up on her own when she falls.

Ms. Laporte's injuries are more significant because of a diagnosis of muscular dystrophy, first made in 1978. The type of muscular dystrophy affecting Ms. Laporte mainly diminished her upper body strength. Since 1990, Ms. Laporte has received social security disability due to her muscular dystrophy; however the jury was properly precluded from hearing evidence of Ms. Laporte's social security disability payments. Ms. Laporte was 42 years old at the time of the accident. She was active as the owner of a mobile petting zoo, an avid horsewoman, and the director of numerous summer and after-school programs for children. Since the accident, Ms. Laporte is increasingly immobile and is not able to care for her animals.

STANDARDS FOR FINDINGS OF FACT:

Findings of fact must be supported by a preponderance of the evidence, although the Special Master is not bound by the formal rules of evidence or procedure applicable in the trial of civil cases. The claimant has the burden of proof on each required element.

LEGAL PROCEEDINGS:

Ms. Laporte filed suit against the Department on December, 6, 2000 in the Circuit Court of the 19th Judicial Circuit in and for Indian River County, Case No. 00-0738-CA-10. The Department admitted liability, but contended Ms. Laporte's muscular dystrophy was responsible for some of her injuries.

The claimant requested compensation for past and future

medical expenses, and for past and future pain and suffering. No claim was made for past or future lost wages.

The jury returned the following verdict:

• Past medical expenses:	$ 160,536.82
• Future medical expenses reduced to present value:	422,240.00
• Past pain & suffering:	500,000.00
• Future pain & suffering:	4,500,000.00
• TOTAL DAMAGES	$ 5,582,776.82

A final judgment was entered in the amount of $5,600,647.81, which included $17,870.99 in costs. The Department's motions for remittitur and for a new trial were denied. No appeal was filed.

CLAIMANT'S POSITION:

- Ms. Laporte's muscular dystrophy did not significantly affect her quality of life prior to the accident; however, the combination of her injuries and the muscular dystrophy will likely lead to the premature loss of her ability to function independently.
- The jury verdict was completely reasonable considering the extent of Ms. Laporte's injuries.

RESPONDENT'S POSITION:

- Ms. Laporte's pre-existing muscular dystrophy is the cause of much of her damages.
- The Department was unable to introduce social security records, which would have showed that Ms. Laporte misrepresented certain business activities in order to collect disability payments. If the claimant's social security records had been considered by the jury, her credibility would have been called into question.
- Evidence of the claimant's inability to maintain her petting zoo was not due to the accident, but instead due to property division inherent in her dissolution of marriage.
- Ms. Laporte aggravated her injuries by riding her horse prematurely, not following her physical therapy regime, and quitting therapy prematurely.
- The claim bill amount is clearly excessive and more than the claimant's attorney requested in closing arguments.

CONCLUSION OF LAW:

As discussed earlier, the Respondent admits liability in this case. Nevertheless, the Claimant has the burden of proof on liability and damages. As discussed below, I find that the Claimant has met that burden.

Liability: Evidence presented at the Special Master's hearing indicated that Ms. Jackson turned left within an intersection

directly in the path of Ms. Laporte's vehicle, which was close enough to constitute an immediate hazard. Section 316.122, F.S., requires a left-turning driver to yield the right-of-way under such circumstance. Therefore, I find that Ms. Jackson had the duty to yield to Ms. Laporte's vehicle, and that the breach of this duty was the proximate cause of the claimant's damages.

Damages: A respondent that assails a jury verdict as being excessive should have the burden of showing the Legislature that the verdict was unsupported by sufficient credible evidence; or that it was influenced by corruption, passion, prejudice, or other improper motives; or that it has no reasonable relation to the damages shown; or that it imposes an overwhelming hardship on the Respondent out of proportion to the injuries suffered; or that it obviously and grossly exceeds the maximum limit of a reasonable range within which a jury may properly operate. The portion of damages most at issue is the amount for pain and suffering. I find that the Department did not present evidence sufficient to overturn the jury verdict in this case.

- Pre-Existing Muscular Dystrophy: Ms. Laporte was diagnosed in 1978 with fascioscapulohumeral muscular dystrophy (FSHMD). The evidence indicated that FSHMD has primarily affected Ms. Laporte's upper extremities. Ms. Laporte has difficulty raising her arms above her head, and her face muscles droop slightly. Medical records indicated that FSHMD has had some affect upon Ms. Laporte's legs. She admitted that prior to the accident she had good days and bad days and would fall down from time to time. In times of great stress, Ms. Laporte had greater trouble with her legs than usual. During the twenty years up to the accident, however, the disease progressed slowly, owing in part to Ms. Laporte's attempts to remain as physically active as possible. Based upon video taped evidence of Ms. Laporte just prior to the accident, it appeared that she functioned like a healthy, average person.

Ms. Laporte's neurologist, Dr. James Shafer, testified that with FSHMD a percentage of the patient's muscles remain healthy. He indicated that by keeping those muscles active, it was possible to maintain relatively normal function. He indicated that Ms. Laporte's injuries "significantly forever altered the natural course of the disease." He testified that Ms. Laporte's disease would likely progress at a faster rate, because the injuries would limit her mobility.

- Social Security Disability: Prior to 1991, Ms. Laporte worked as a clerk for a newspaper company. In November of 1990, she was diagnosed as 100% disabled due to FSHMD. Ms. Laporte began collecting social security disability payments in 1991. Ms. Laporte receives an average of $10,000 per year.

Subsequent to receiving disability payments, Ms. Laporte

started a mobile petting zoo and numerous summer and after-school horseback-riding programs for children under the name of Laporte Farms. One of Ms. Laporte's claims at trial was that the injuries sustained from her accident incapacitated her to the point where she could no longer care for animals or run her programs. At trial, the Department attempted to characterize Ms. Laporte's petting zoo and programs as an income-generating business and that she was untruthful in claiming social security payments during that time.

The Department argues that for social security purposes the Claimant was 100% disabled, yet for purposes of the trial, she was an active woman for whom FSHMD was only a "minor inconvenience." It alleges that had it been allowed to introduce the social security records into evidence, Ms. Laporte's credibility may have been called into question, and the jury may have awarded a lesser verdict.

The Department's argument remains speculative. The greater weight of the evidence indicates that Laporte Farms was a means by which Ms. Laporte could remain physically active, enjoy life, and feel productive. Social security records indicate that Ms, Laporte did report the existence of Laporte farms to the Social Security Administration. Records indicated that her income from Laporte Farms was applied to its expenses. Ms. Laporte made no claim at trial for lost wages, and the jury specifically received that instruction. Therefore, the social security benefits are immaterial, and the trial court properly ruled to exclude them. Case law holds that social security payments should not be withheld from a verdict where the benefits are for a disability that is not the subject of the lawsuit. Morales v. Scherer, 528 So. 2d 1 (Fla. 4th DCA 1988), aff'd in part, quashed in part {on other grounds} sub nom. Florida Patient's Compensation Fund v. Scherer, 558 So.2d 411 (Fla. 1990).

Furthermore, the Department did have the opportunity to use the social security records when questioning Ro Baltayan, a rehabilitative counselor hired by the Ms. Laporte's attorney to assess her future needs, to attempt to show inconsistencies in Ms. Laporte's statements. Ms. Baltayan testified that there was no inconsistency; that she was never lead to believe that the Farm was anything other than a hobby. She stated that, "It was something that allows her to feel good about herself, give her something to do, be productive, give to the community. It was not something that generated an income." Ms. Baltayan also testified that she did not include any costs of running Laporte Farms into her calculation for future needs.

- Petting Zoo: The Department also argues that Ms. Laporte's inability to maintain her petting zoo resulted from a property division in a divorce settlement, not the accident.

The evidence shows that a final dissolution of marriage between David and Laura Laporte was entered on July 31, 2002. However, the mediation agreement attached to the judgment indicates that Ms. Laporte would retain sole ownership of Laporte Farms.

- Aggravation of Injuries: The Department asserts that Ms. Laporte aggravated her injuries by attempting to ride horseback too soon following her initial femur surgery, and by failing to attend prescribed physical therapy sessions. The Department specifically cites an accident on April 13, 2000, when Ms. Laporte fell while attempting to ride a horse.

Ms. Laporte's initial femur surgery was performed by Dr. O'Brien immediately after her accident in October of 1999. In February of 2000, Dr. O'Brien examined Ms. Laporte and indicated that she could resume normal activities as the pain would allow. Sometime during the following month, Ms. Laporte heard a "popping" sound in her leg. On April 13, 2000, Ms. Laporte attempted to ride a horse for the first time since the accident. She attempted to climb onto the horse from the back of a truck, but the horse shifted, and Ms. Laporte fell to the ground. Records from Sebastian River Medical Center indicate that Ms. Laporte fell on her "butt." She was diagnosed with lumbar strain, but there was nothing to suggest that she reinjured her femur.

Subsequent to the incident with the horse, Ms. Laporte's husband mentioned to an acquaintance, Dr. Cynthia Crawford, that Ms. Laporte was experiencing pain in her left leg. Dr. Crawford examined Ms. Laporte and prescribed physical therapy. Evidence indicates that Ms. Laporte attempted physical therapy. At times she did not attend, because her insurance company did not cover certain care providers. Ms. Laporte testified that at other times, the pain was too great. In September of 2000, Dr. O'Brien examined Ms. Laporte and determined that her femur had not properly healed. He referred Ms. Laporte to an orthopedic surgeon, Dr. Cole, who determined that Ms. Laporte's problem resulted from broken surgical hardware. Dr. Cole broke and reset the bone in November of 2000; however, the hardware failed again, and another surgery was performed in January of 2001.

The Department's medical expert testified that the failure of the femur to properly heal could have resulted despite the best medical care. He indicated that the assertion that Ms. Laporte's failure to follow therapy caused the hardware failure was speculative. He indicated that hardware failure could occur in a "perfectly compliant patient." Further, neither orthopedic surgeon – Dr. O'Brien or Dr. Cole – prescribed physical therapy. Additionally, there is no evidence to establish that hardware failure resulted from a horseback-riding accident.

- Excessive Jury Award: A major contention in this case is the $5,000,000 award for pain and suffering. The Department states that the amount is clearly excessive when compared with other cases, and the award exceeded the amount requested by Ms. Laporte's attorney during his closing argument at trial.

Both parties provided numerous jury award summaries from other cases. The Department provided samples of multiple - fracture cases where the injured party was awarded far less than $5,000,000. The Claimant's attorney provided cases involving partial paralysis or amputation. Neither side could point to an identical scenario to the case at hand, and the samples provided did not include extensive details regarding the actual facts of each case. With regard to the amount requested by Ms. Laporte's attorney, the trial transcript indicates that he recommended a minimum figure of $500,000 for past pain and suffering and $100,000 a year for life, for future pain and suffering to the jury.

I find that the greater weight of the evidence supports the pain and suffering award in this case. The Claimant has demonstrated that Ms. Laporte suffered a devastating injury, which has left her in great pain, has significantly affected her ability to walk, will require additional painful surgery and recovery, and will likely result in her continued health deterioration. Additionally, Ms. Laporte has suffered a loss to her capacity for enjoyment of life due to her inability to maintain her animals and to conduct children's programs. I therefore find that the jury properly evaluated the evidence in making its decision, and the amount awarded is reasonable under the circumstances.

Collateral sources: Mrs. Laporte has received $10,000 in PIP benefits from her automobile insurer; and $25,000 from the driver's insurance. Deductions of both of these collateral sources should be made pursuant to section 768.76, Florida Statutes. Medicare has been reimbursed a total of $16,378.23. A balance of $26,135.75 remains to be paid to Medicare, but it is unknown how much Medicare will demand as reimbursement. Medicare benefits are not considered collateral sources under Florida law. $100,000 was paid by Ms. Laporte's insurance company (USAA) for uninsured motorist coverage. As USAA has a right to subrogation for any amount paid by a tortfeasor, this amount is not considered a collateral source pursuant to s. 768.76, F.S.

LEGISLATIVE HISTORY:

This bill has been filed since 2003, but had not received a committee hearing in either chamber until 2006. A Special Master hearing was conducted in 2003 by both House and Senate Special Masters.

In 2006, HB 1159 was filed by Rep. Mayfield and died in the Claims Committee. SB 50 (2006) was filed by Sen. Clary and died in the Rules and Calendar committee. In anticipation of the 2007 legislation, both parties were given the opportunity to update the record.

In 2007, HB 189 was filed by Rep. Mayfield. CS/CS/HB 189 passed the House by a vote of 117-0 but died in Senate Messages. SB 30 was filed by Sen. Lawton and died in the Committee on The Special Master on Claim Bills.

The claimant reports that her muscular dystrophy has remained stable, but her injuries are progressing to the point where her ability to live alone is in jeopardy. In December, 2004 she suffered a fall outside of her house and was found unconscious in her driveway. In August of 2005, Ms. Laporte underwent tendon transfer surgery with Dr. Cole. In 2006, Ms. Laporte fell and broke the tendons that were previously transferred to her damaged ankle and required another surgery. Whole Laporte Farms was under contract in 2005, the buyer is reported to have backed out. Ms. Laporte is left caring for several animals and additional debt. Her home has been on the market for over two years.

ATTORNEY'S/ LOBBYING FEES:

Claimant's attorney has acknowledged and verified in writing that any recovery of fees will be limited to 25% of any award received by the claimant in this matter. There are outstanding costs in the amount of $27,205.78. The lobbyist reports that his fees will not exceed 6% of the award, to be paid **in addition to** the 25% attorney's fees.

RECOMMENDATIONS:

I recommend that the amount of the award not be reduced by the $35,000 collateral payments made to Ms. Laporte as that amount was subsumed by the Legislature's award, which reduced the jury award by more than $1.5 million. Based upon the findings herein, I respectfully recommend HB 201 FAVORABLY.

Respectfully submitted,

Michael Kliner, House Special Master

cc: Rep. Mayfield, House Sponsor
Senator Lawson, Senate Sponsor
Judge Bram Canter, Senate Special Master
Jason Vail, Senate Special Counsel.

A bill to be entitled

An act for the relief of Laura Laporte; providing an appropriation to compensate Laura Laporte for injuries she sustained as a result of the negligence of an employee of the Department of Agriculture and Consumer Services; authorizing specified trust fund expenditures; providing for a limitation on payment of fees and costs; providing an effective date.

WHEREAS, on October 9, 1999, Sandra Jackson, a grove inspector for the Department of Agriculture and Consumer Services, was driving a four-wheel-drive truck southward on 66th Avenue in Indian River County, Florida, a straight two-lane road, and

WHEREAS, Ms. Jackson's vehicle pulled into the path of a vehicle driven northward on 66th Avenue by Laura Laporte, causing the vehicles to collide nearly head-on and extensively damaging both vehicles, and

WHEREAS, at the time of the accident, Ms. Jackson was acting within the course and scope of her employment, and the Department of Agriculture and Consumer Services admitted liability for the negligent conduct of its employee, and

WHEREAS, medical records obtained during the court case filed on behalf of Laura Laporte revealed that Ms. Jackson had opiates and benzodiazepines in her system at the time of the accident, and

WHEREAS, the crash severely injured Laura Laporte's lower extremities and, over the following 2 years, Ms. Laporte

underwent four major orthopedic surgeries to her legs at a cost in excess of $160,000, and

WHEREAS, notwithstanding surgical intervention, Ms. Laporte remains in extensive pain, has impaired mobility, and, according to her physicians, will be permanently impaired, in spite of anticipated surgery, and

WHEREAS, the cost of future medical expenses and household assistance for Ms. Laporte is anticipated to approach $500,000, and

WHEREAS, in addition to the injuries suffered on October 9, 1999, Ms. Laporte suffers from muscular dystrophy, which was diagnosed when she was a teenager and which mainly affects the strength of her upper extremities, and

WHEREAS, notwithstanding her physical limitations, before the accident Ms. Laporte was very active as the owner of a mobile petting zoo, operated numerous summer and after-school programs for children, and spent many hours riding horses, and

WHEREAS, following the accident, Ms. Laporte is unable to properly care for her animals and requires assistance if she falls, and

WHEREAS, on January 10, 2002, a jury returned a verdict awarding $5,582,776.82 in damages to Laura Laporte, and the Department of Agriculture and Consumer Services moved for a remittitur, claiming that the damage award was excessive, and

WHEREAS, the trial judge affirmed the jury's decision, and a final judgment in the amount of $5,600,647.81, representing the amount of the verdict plus taxable costs, was signed by the court on May 13, 2002, and

WHEREAS, the Department of Agriculture and Consumer Services has paid $100,000 pursuant to its obligation under section 768.28, Florida Statutes, leaving a remaining excess judgment amount of $5,500,647.81, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. (1) The total sum of $4,000,000 is appropriated to the Department of Agriculture and Consumer Services as follows:

(a) Two million dollars from the General Revenue Fund; and

(b) Two million dollars from the Incidental Trust Fund within the Department of Agriculture and Consumer Services

for the relief of Laura Laporte for injuries and damages sustained.

(2) Notwithstanding any statutory limitation on the use of money in the Incidental Trust Fund within the Department of Agriculture and Consumer Services from which money is appropriated by this act, expenditures from that trust fund are hereby authorized during the 2008-2009 fiscal year as provided by this act.

(3) The amount awarded under this act is intended to provide the sole compensation for any present and future claims arising out of the factual situation in connection with the injury to Laura Laporte. Not more than 25 percent of the award

may be paid by the claimant for attorney's fees, lobbying fees, costs, or other similar expenses.

Section 3. The Chief Financial Officer is directed to draw a warrant in favor of Laura Laporte in the sum of $4,000,000 upon funds of the Department of Agriculture and Consumer Services, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 261 State Parks
SPONSOR(S): Culp
TIED BILLS: **IDEN./SIM. BILLS:** SB 192

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Conservation & State Lands	9 Y, 0 N	Palmer	Zeiler
2) Environment & Natural Resources Council		Palmer / Perkins	Dixon / Hamby
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

This bill decriminalizes violations of the Department of Environmental Protection, Division of Recreation and Parks' rules except for those specifically identified by statute. Penalties are established for noncriminal infractions and specific violations are identified which would be misdemeanors of the second degree.

The bill further provides that the Division of Recreation and Parks may authorize the use of golf carts on park roads when the posted speed limit is 35 mph or less, and authorizes the operation of golf carts by Division of Recreation and Parks personnel on certain public, non-park roads for the purpose of conducting official business subject to the same authority and restrictions as municipalities.

Fines are established for violations of certain rules. Proceeds from the collection of fines are to be deposited into the State Park Trust Fund. Otherwise the bill does not appear to have a significant fiscal impact on state or local governments.

The bill will take effect on July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty; Promote Personal Responsibility: The bill decriminalizes violations of the Division of Recreation and Parks' rules except for specifically identified acts.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

From its beginning in 1935, Florida's state park system has expanded to one of the largest and most heavily used systems in the country. Containing over 700,000 acres in 161 separate units, the state park system today represents a major commitment by the State of Florida to the preservation of its scenic resources. Florida state parks provide outstanding recreation opportunities for its citizens and visitors.[1]

Section 258.004, F.S., directs the Division of Recreation and Parks (division), Department of Environmental Protection (DEP) to preserve, manage, regulate, and protect all parks and recreational areas held by the state. To facilitate this charge, s. 258.007(2), F.S., authorizes the division to adopt rules for administrating the park system. This section further stipulates that any violation of the rules adopted by the division shall be a misdemeanor – the statute does not specify the misdemeanor degree nor does it address punishment other than to say "punishable accordingly".

Chapter 316, F.S., provides the state's intent for uniform traffic control. Although this statute addresses the limited operation of golf carts on certain public roads, it does not address the operation of golf carts within state park boundaries or the operation, by state park personnel or state park volunteers, of golf carts or utility vehicles on public roads within municipal corporate limits.

Effect of Proposed Changes

This bill decriminalizes violations of the division's rules except for certain identified violations. Penalties are established for noncriminal infractions that include ejection from all properties managed by the division and a fine of up to $500.00. Unless a person has been granted specific permission by the division to engage in the activity, any of the following activities are violations identified by the bill as misdemeanors of the second degree, punishable as provided in ss. 775.082 and 775.083, F.S.:

- Cutting, carving, injuring, mutilating, moving, displacing, or breaking off any water bottom formation or growth within the boundaries of a state park.
- Capturing, trapping, injuring, or harassing wild animals within the boundaries of a state park.
- Collecting plant or animal specimens within the boundaries of a state park.
- Leaving the designated public roads with a vehicle within the boundaries of a state park.
- Hunting within the boundaries of a state park.
- Failing to timely pay a civil penalty imposed under the statute.

[1] DEP, 2008. http://www.dep.state.fl.us/mainpage/programs/parks.htm

The bill further provides that the Division of Recreation and Parks may authorize the use of golf carts on park roads when the posted speed limit is 35 mph or less and authorizes the Division of Recreation and Parks' personnel and state park volunteers to operate golf carts and utility vehicles on public roads within municipal corporate limits or state park boundaries for public purposes.

C. SECTION DIRECTORY:

Section 1: Amends s. 258.007(2), F.S., authorizing the Division of Recreation and Parks to impose penalties and deleting a criminal penalty.

Section 2: Creates s. 258.008, F.S., providing penalties for non-criminal violations of Division of Recreation and Parks' rules, setting a maximum fine for violation of those rules, establishing certain specified violations of division rules as a misdemeanor of the second degree, providing that fines collected are to be deposited into the State Park Trust Fund.

Section 3: Amends s. 316.212, F.S., authorizing the operation of a golf cart within a state park under certain circumstances and conforming cross-references.

Section 4: Amends s. 316.2125(1), F.S., providing conforming cross-references.

Section 5: Amends s. 316.2126, F.S., authorizing the Division of Recreation and Parks to operate golf carts and utility vehicles on public roads within municipal corporate limits or state park boundaries for public purposes, allowing others to operate golf carts in State Parks with specified conditions, and conforming cross-references.

Section 6: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Any fines collected pursuant to this bill shall be deposited in the State Parks Trust Fund.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Fines are established for violations of certain rules.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is granted for implementing the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill does not address the duration of "ejection" – whether only an immediate removal from division property or a permanent ban from division property.

D. STATEMENT OF THE SPONSOR

This bill will allow park rangers to do their jobs more efficiently and will allow them to have more control over individual situations when dealing with visitors to our park facilities.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A

A bill to be entitled

An act relating to state parks; amending s. 258.007, F.S.; deleting a penalty for a rule violation; creating s. 258.008, F.S.; creating penalties for the violation of rules adopted under ch. 258, F.S., and for specified activities within the boundaries of a state park; providing for fines to be deposited into the State Park Trust Fund; amending s. 316.212, F.S.; authorizing the operation of a golf cart within a state park under certain circumstances; amending s. 316.2125, F.S.; conforming a cross-reference; amending s. 316.2126, F.S.; authorizing municipalities and the Division of Recreation and Parks of the Department of Environmental Protection to operate golf carts and utility vehicles on public roads within municipal corporate limits or state park boundaries for public purposes; conforming cross-references; providing an effective date.

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

Section 1. Subsection (2) of section 258.007, Florida Statutes, is amended to read:

258.007 Powers of division.--

(2) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties on it~~,~~ and <u>authority to impose penalties as provided in s. 258.008 for</u> the violation of any rule authorized by this section ~~shall be a misdemeanor and punishable~~

~~accordingly~~.

Section 2. Section 258.008, Florida Statutes, is created to read:

258.008 Prohibited activities; penalties.--

(1) Except as provided in subsection (3), any person who violates or otherwise fails to comply with the rules adopted under this chapter commits a noncriminal infraction for which ejection from all property managed by the Division of Recreation and Parks and a fine of up to $500 may be imposed by the division. Fines paid under this subsection shall be paid to the Department of Environmental Protection and deposited in the State Park Trust Fund.

(2) In addition to penalties imposed under subsection (1), any person who fails to sign a citation given under subsection (1), fails to appear in court in response to such citation, or fails to comply with the court's order commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who engages in any of the following activities within the boundaries of a state park without first obtaining the express permission of the Division of Recreation and Parks commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and shall be ejected from all property managed by the division:

(a) Cutting, carving, injuring, mutilating, moving, displacing, or breaking off any water-bottom formation or coral.

(b) Capturing, trapping, or injuring a wild animal.

(c) Collecting plant or animal specimens.

(d) Leaving the designated public roads in a vehicle.

(e) Hunting.

Section 3. Section 316.212, Florida Statutes, is amended to read:

316.212 Operation of golf carts on certain roadways.--The operation of a golf cart upon the public roads or streets of this state is prohibited except as provided herein:

(1) A golf cart may be operated only upon a county road that has been designated by a county, or a municipal street that has been designated by a municipality, for use by golf carts. Prior to making such a designation, the responsible local governmental entity must first determine that golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street. Upon a determination that golf carts may be safely operated on a designated road or street, the responsible governmental entity shall post appropriate signs to indicate that such operation is allowed.

(2) A golf cart may be operated on a part of the State Highway System only under the following conditions:

(a) To cross a portion of the State Highway System which intersects a county road or municipal street that has been designated for use by golf carts if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

(b) To cross, at midblock, a part of the State Highway System where a golf course is constructed on both sides of the

highway if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

(c) A golf cart may be operated on a state road that has been designated for transfer to a local government unit pursuant to s. 335.0415 if the Department of Transportation determines that the operation of a golf cart within the right-of-way of the road will not impede the safe and efficient flow of motor vehicular traffic. The department may authorize the operation of golf carts on such a road if:

1. The road is the only available public road along which golf carts may travel or cross or the road provides the safest travel route among alternative routes available; and

2. The speed, volume, and character of motor vehicular traffic using the road is considered in making such a determination.

Upon its determination that golf carts may be operated on a given road, the department shall post appropriate signs on the road to indicate that such operation is allowed.

(3) Notwithstanding any other provision of this section ~~to the contrary notwithstanding~~, a golf cart may be operated for the purpose of crossing a street or highway where a single mobile home park is located on both sides of the street or highway and is divided by that street or highway, provided that the governmental entity having original jurisdiction over such street or highway shall review and approve the location of the crossing and require implementation of any traffic controls

needed for safety purposes. This subsection shall apply only to residents or guests of the mobile home park. ~~Any other provision of law to the contrary notwithstanding,~~ If notice is posted at the entrance and exit of ~~to~~ any mobile home park where ~~that~~ residents of the park operate ~~utilize~~ golf carts or electric vehicles within the confines of the park, it is ~~shall~~ not ~~be~~ necessary for ~~that~~ the park to have a gate or other device at the entrance and exit in order for such golf carts or electric vehicles to be lawfully operated in the park.

(4) Notwithstanding any other provision of this section, if authorized by the Division of Recreation and Parks of the Department of Environmental Protection, a golf cart may be operated on a road that is part of the State Park Road System if the posted speed limit is 35 miles per hour or less.

(5) ~~(4)~~ A golf cart may be operated only during the hours between sunrise and sunset, unless the responsible governmental entity has determined that a golf cart may be operated during the hours between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.

(6) ~~(5)~~ A golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.

(7) ~~(6)~~ A golf cart may not be operated on public roads or streets by any person under the age of 14.

(8) ~~(7)~~ A local governmental entity may enact an ordinance regarding golf cart operation and equipment which is more restrictive than those enumerated in this section. Upon

enactment of ~~any~~ such ordinance, the local governmental entity shall post appropriate signs or otherwise inform the residents that such an ordinance exists and that it will ~~shall~~ be enforced within the local government's jurisdictional territory. An ordinance referred to in this section must apply only to an unlicensed driver.

(9) ~~(8)~~ A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as a moving violation for infractions of subsections (1)-(5) ~~subsection (1), subsection (2), subsection (3), subsection (4),~~ or a local ordinance corresponding thereto and enacted pursuant to subsection (8) ~~(7)~~, or punishable pursuant to chapter 318 as a nonmoving violation for infractions of subsection (6) ~~(5)~~, subsection (7) ~~(6)~~, or a local ordinance corresponding thereto and enacted pursuant to subsection (8) ~~(7)~~.

Section 4. Subsection (1) of section 316.2125, Florida Statutes, is amended to read:

316.2125 Operation of golf carts within a retirement community.--

(1) Notwithstanding the provisions of s. 316.212, the reasonable operation of a golf cart, equipped and operated as provided in s. 316.212~~(4),~~ (5), ~~and~~ (6), and (7), within any self-contained retirement community is permitted unless prohibited under subsection (2).

Section 5. Section 316.2126, Florida Statutes, is amended to read:

316.2126 Use of golf carts and utility vehicles by municipalities and the Division of Recreation and Parks of the

Department of Environmental Protection.--In addition to the powers granted by ss. 316.212 and 316.2125, municipalities and the Division of Recreation and Parks of the Department of Environmental Protection are ~~hereby~~ authorized to operate ~~utilize~~ golf carts and utility vehicles, as defined in s. 320.01, upon any state, county, or municipal roads located within the corporate limits of such municipalities or the boundaries of state parks managed by the Division of Recreation and Parks, subject to the following conditions:

(1) Golf carts and utility vehicles must comply with the operational and safety requirements in ss. 316.212 and 316.2125, and with any more restrictive ordinances enacted by the local governmental entity pursuant to s. 316.212(8) ~~(7)~~, and shall ~~only~~ be operated only by municipal or division employees or state park volunteers for municipal or state park purposes, including, but not limited to, police patrol, traffic enforcement, ~~and~~ inspection of public facilities, and official state park duties.

(2) In addition to the safety equipment required under subsection (1) ~~in s. 316.212(5) and any more restrictive safety equipment required by the local governmental entity pursuant to s. 316.212(7)~~, such golf carts and utility vehicles must be equipped with sufficient lighting and turn signal equipment.

(3) Golf carts and utility vehicles may ~~only~~ be operated only on state roads that have a posted speed limit of 30 miles per hour or less.

(4) A municipal or division employee or a state park volunteer operating a golf cart or utility vehicle pursuant to this section must possess a valid driver's license as required

by s. 322.03.

Section 6. This act shall take effect July 1, 2008.

PCS for HB 547

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS FOR HB 547 Water Pollution Control
SPONSOR(S): Kreegel
TIED BILLS: **IDEN./SIM. BILLS:** SB 1208

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Environmental Protection	8 Y, 0 N	Deslatte	Kliner
2) Environment & Natural Resources Council		Deslatte / Perkins	Dixon / Hamby
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

The bill amends current law governing water quality credit trading and authorizes the Department of Environmental Protection (DEP) to adopt rules to implement a water quality credit trading program. Water quality credit trading is a voluntary, market-based approach to promote the protection and restoration of Florida's rivers, lakes, streams and estuaries and is intended to enhance other voluntary, regulatory and financial assistance programs already in place.

The bill authorizes Basin Management Action Plans (BMAPs) to allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted Total Maximum Daily Load (TMDL) or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation if the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices (BMPs). The plans must allow trading between National Pollutant Discharge Elimination System (NPDES) permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to DEP water discharge permits whose owner voluntarily elects to obtain DEP authorization for the generation and sale of credits. All regulated parties must fulfill their DEP permit obligations as they engage in water quality trading. For permits that are issued by a federally authorized DEP program, DEP has the authority to assure consistency between any trading actions and federal regulatory requirements. The bill makes water quality credit trading available to nonpoint source dischargers to supplement their ability to meet pollutant load reduction requirements through the implementation of BMPs.

The bill requires DEP to incorporate trades into permits, BMAPs, certifications, or other binding mechanisms that assure enforceability, and authorizes DEP to establish, by rule, trading mechanisms and procedures, including a registry to track trades. The bill authorizes trading in BMAPs for trading in the Lower St. Johns River Basin.

The bill requires that reasonable implementation schedules necessary for reducing pollutants in order to comply with water quality requirements be incorporated into the permit revisions that would accompany most trades.

The fiscal impact is estimated to be $220,000. Rulemaking for DEP would cost approximately $20,000 and the database would cost approximately $200,000.

The effective date is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill increases DEP workload by authorizing DEP to adopt rules related to the trading of water quality credits within a BMAP; by authorizing DEP to revise a water pollution operation permit under certain circumstances; and by authorizing DEP to revise, renew, issue, or reissue such a permit if a water quality credit trade that meets the requirements of a TMDLs allocation has been approved in a final order issued pursuant to state law. However, the water quality credit trading program is a voluntary, market-based approach to promote the protection and restoration of Florida's rivers, lakes, streams and estuaries and is intended to enhance other voluntary, regulatory and financial assistance programs already in place.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The federal Water Pollution Control Act of 1972, commonly referred to as the Clean Water Act (CWA), established the basic framework for pollution control in the nation's water bodies. Its primary goal was to have the nation's water bodies clean and useful. By setting national standards and regulations for the discharge of pollution, the CWA was intended to restore and protect the health of the nation's water bodies. Section 305(b) of the CWA requires states to submit to Congress a biennial report on the water quality of their lakes, streams, and rivers. A partial list of water bodies that qualify as "impaired" (i.e., do not meet specific pollutant limits for their designated uses) must be submitted to the U.S. Environmental Protection Agency (EPA) under section 303(d) of the CWA. States are required to develop TMDLs for each pollutant that exceeds the legal limits for that water body. The 303(d) list is updated every two years. The list sets a prioritized schedule for TMDL development for all water bodies on the list. The scope of this process is enormous since Florida has about 52,000 miles of rivers and streams, nearly 800 lakes, 4,500 square miles of estuaries, and more than 700 springs.

Florida Watershed Restoration Act

Total Maximum Daily Loads

In 1999, the Florida Legislature passed the Florida Watershed Restoration Act (WRA) which codified the establishment of TMDLs for pollutants of water bodies as required by the federal CWA. The WRA required DEP to promulgate rules relating to the methodology for assessing, calculating, allocating, and implementing the TMDL process. The WRA also directed that the TMDL process be integrated with existing protection and restoration programs, and coordinated with all state agencies and affected parties.

TMDLs establish the amount of each pollutant a water body can receive without violating state water quality standards. TMDLs are characterized as the sum of waste load allocations, load allocations, and a margin of safety to account for uncertain conditions. *Waste load allocations* are pollutant loads attributable to existing and future point sources, such as discharges from industry and sewage facilities. *Load allocations* are pollutant loads attributable to existing and future nonpoint sources such as the runoff from farms, forests, and urban areas. Even though an individual discharge into a water body may meet established standards, the cumulative and multiplier effect of discharges from numerous sources can cause a water body to fail to meet quality water standards.

Basin Management Action Plan

DEP develops BMAPs as part of the development and implementation of a TMDL for a water body. First the BMAP establishes a pollution allocation. Then the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations, the basis for evaluating the plan's effectiveness and making adaptive changes, and funding strategies. The BMAP represents the opportunity for local stakeholders, including affected dischargers, local government and community leaders, and the general public to collectively determine and share water quality clean-up responsibilities. DEP works with stakeholders to develop effective BMAPs, which then must be adopted by Secretarial order pursuant to s. 403.067(7), F.S.

When one pollutant source determines that there may be a lower cost alternative for achieving its required reductions and the alternative requires the assistance of another pollutant source or sources, a potential market is created. It is the BMAP process and the adoption of formal, inter-related pollution reduction requirements that create the conditions where market exchanges become more likely.

BMAPs must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years, and revisions to the plan must be made as appropriate.

TMDL Implementation and Permitting

DEP is the lead agency in coordinating the implementation of the TMDLs through existing water quality protection programs. Applications of a TMDL by a water management district must be consistent with s. 403.067, F.S., and may not require the issuance of an order or a separate action pursuant to chapter 120, F.S., for the adoption of the calculation and allocation previously established by DEP. Such programs include:

- Permitting and other existing regulatory programs, including water-quality-based effluent limitations;
- Nonregulatory and incentive-based programs, including best management practices (bmps) cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), F.S., and public education;
- Other water quality management and restoration activities;
- Public works including capital facilities; or
- Land acquisition

A nonpoint pollutant source discharger included in a BMAP must demonstrate compliance with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring. A nonpoint source discharger may be subject to enforcement action by DEP or a water management district based upon a failure to implement these responsibilities.

Provisions of a BMAP must be included in subsequent NPDES permits. DEP is prohibited from imposing limits or conditions on implementing an adopted TMDL in a NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted BMAP.

NPDES permits issued between the time a TMDL is established and a BMAP is adopted contain a compliance schedule allowing time for the BMAP to be developed. Once the BMAP is developed, a permit will be reopened and individual allocations consistent with the BMAP will be established in the permit. The timeframe for this to occur cannot exceed 5 years. NPDES permittees may request an individual allocation during the interim and DEP may include an individual allocation in the permit.

Water Quality Credit Trading

Water quality credit trading is a voluntary, market-based approach to promote protection and restoration of Florida's rivers, lakes, streams and estuaries and would supplement and enhance the other voluntary, regulatory and financial assistance programs already in place. Trading is based on the fact that businesses and industries, wastewater treatment facilities, urban stormwater systems, and agricultural sites that discharge the same pollutants to a waterbody (basin, watershed or other defined area) may face substantially different costs to control those pollutants. Trading allows pollutant reduction activities to be environmentally valued in the form of "credits" that can then be traded on a local "market" to promote cost-effective water quality improvements.

The purpose of water quality credit trading is to promote more effective, lower cost reductions of pollutants in order to restore Florida's surface waters. Financial savings will accrue to parties that buy trading credits (pollutant reductions) from others for less than the cost of implementing the reductions themselves; those that sell credits will do so only if the value of the trade is equal to or higher than their investment in the facilities or activities necessary to achieve the pollutant reductions. Credits are not in any sense a right to pollute; they are solely an accounting mechanism to establish and verify the market exchange of effective pollutant reduction actions.

The 2005 Florida Legislature directed DEP, no later than November 30, 2006, to report to the Governor, the President of the Senate, and the Speaker of the House of Representatives with recommendations on water quality credit trading.

Section 403.067(8), F.S., authorizes the DEP to adopt various rules related to restoring surface water quality in Florida, including the general content of trading rules in paragraph (c):

> Procedures for pollutant trading among the pollutant sources to a water body or water body segment, including a mechanism for the issuance and tracking of pollutant credits. Such procedures may be implemented through permits or other authorizations and must be legally binding. Prior to adopting rules for pollutant trading under this paragraph, and no later than November 30, 2006, the Department of Environmental Protection shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing recommendations on such rules, including the proposed basis for equitable economically based agreements and the tracking and accounting of pollution credits or other similar mechanisms. Such recommendations shall be developed in cooperation with a technical advisory committee that includes experts in pollutant trading and representatives of potentially affected parties.

DEP consulted extensively with a Pollutant Trading Policy Advisory Committee (PTPAC) comprising expertise from regulated interests, environmental organizations, water management districts, and local governments, and submitted the required report in December 2006.

Within this report, DEP provided its recommendations for the statutory and rule changes necessary to promote an effective trading program, including:

- Basic foundational authority to create and implement a trading program that can effectively account for the environmental value of trading pollutant reduction actions and assure their enforceability (statutory).
- Formal trading should take place only where BMAPs—detailed water quality clean-up plans, including implementation schedules and financing options—have been publicly adopted (statutory).
- Trades should be incorporated into permits, BMAPs, certifications, or other binding mechanisms that assure the enforceability required by the Watershed Restoration Act (statutory).

- An existing, outmoded form of public interest test (so-called "equitable abatement") should be limited to areas where a BMAP has not yet been adopted and a new, more effective public interest test should be established for areas where a BMAP has been adopted (statutory).
- The limitation that administrative orders, a legal compliance mechanism, may only be issued with permits and permit renewals should be expanded so that these orders may also be issued with permit revisions and modifications, which would be used to sanction trades and the reasonable implementation schedules necessary for reducing pollutants (statutory).
- Mechanisms for and limitations on credit generation (rule).
- Credit adjustment factors, including location and uncertainty factors, to reflect that some technologies and activities are more effective at reducing pollutants than others, but that trading may still take place when this fact is appropriately accounted (rule).
- Establishment of a credit tracking registry to account for the environmental value of credits and their exchanges in the trading market (or markets), without assessing the shifting monetary value of credits and, thus, leaving proprietary and privacy issues to be addressed between trading parties (rule).[1]

Effect of Proposed Changes

The bill authorizes BMAPs for specified basins to allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted TMDL or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation if the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted BMPs. The plans must also allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to DEP water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits. Each permit holder must remain responsible for compliance with its discharge permit limits, including its load or wasteload allocation. The bill makes water quality credit trading available to nonpoint source dischargers to supplement their ability to meet pollutant load reduction requirements through the implementation of BMPs.

DEP's current rulemaking authority for pollutant trading is amended to authorize adoption of rules for water quality credit trading initially limited to the Lower St. Johns River basin as a pilot project. The trading must be consistent with federal requirements and implemented through permits, including water quality credit trading permits, other authorizations, or other legally binding agreements as established by department rule. By July 1, 2008, rulemaking must be initiated which provides for the following:

1. The process to be used to determine how credits are generated, quantified, and validated;
2. A publicly accessible water quality credit trading registry that tracks water quality credits and trades and lists the prices paid for such credits. Entities that participate in water quality credit trades must report to the DEP the prices for credits, how the prices were determined, and any state funding received for the facilities or activities that generated the credits. DEP may not participate in the establishment of such prices;
3. Limitations on the availability and use of water quality credits, including a list of eligible pollutants or parameters and limited water quality requirements and, where appropriate, adjustments to reflect BMP performance uncertainties and water-segment-specific location factors;
4. The timing and duration of credits and allowance for credit transferability; and

[1] DEP Water Quality Credit Trading Report, December 2006, http://www.dep.state.fl.us/water/tmdl/docs/WQ_CreditTradingReport_final_December2006.pdf

5. Mechanisms for determining and ensuring compliance with trading procedures, including recordkeeping, monitoring, reporting, and inspections. Generators of traded credits are responsible for achieving the load reductions on which the credits are based. Persons or entities acquiring credits are responsible for enforcing the terms of water quality credit acquisition agreements and meeting applicable permit conditions.

The bill requires any amendment to a BMAP to be adopted by secretarial order pursuant to chapter 120, F.S., including amendments necessary to implement the provisions of the trading program. If required by federal law or regulation, DEP is authorized to impose limits or conditions implementing an adopted TMDL in an NPDES permit prior to the permit expiring, the discharge being modified or the permit being reopened pursuant to an adopted BMAP.

The bill provides that DEP's rule relating to the equitable abatement of pollutants into surface waters may not be applied to water bodies or water body segments for which a BMAP that takes into account future new or expanded activities or discharges has been adopted pursuant to s. 403.067, F.S.[2]

The bill authorizes DEP to allow trading in the Lower St. Johns River basin prior to the adoption of rules authorized by the bill. DEP must provide an annual report to the Legislature on the status of the trading program no later than 24 months after the adoption of the BMAP for the Lower St. Johns River. The report must include a summary of how water quality credit trading was implemented, including the number of pounds of pollutants traded; a description of the individual trades and estimated pollutant load reductions that are expected to result from each trade; a description of any conditions placed on traded; prices associated with the trades, as reported by the traders and; a recommendation as to whether other areas of the state would benefit from water quality credit trading and, if so, an identification of the statutory changes necessary to expand the scope of trading.

For discharges that will not meet permit conditions or applicable statutes and rules, the bill authorizes DEP to revise a water pollution operation permit under certain circumstances and authorizes DEP to revise, renew, issue, or reissue such a permit if a water quality credit trade that meets the requirements of a TMDLs allocation has been approved in a final order issued pursuant to state law. The bill requires that revised permits be accompanied by an order establishing a schedule for achieving compliance with all permit conditions.

C. SECTION DIRECTORY:

Section 1. Amends s. 403.067, F.S., providing requirements for BMAPs; allowing such plans to take into account the benefits of pollutant load reduction achieved by point or nonpoint sources; requiring that DEP adopt all or part of any such plan, or any amendment by secretarial order as provided by state law; providing that the provisions of DEP's rule relating to the equitable abatement of pollutants into surface waters may not be applied to water bodies or water body segments for which a BMAP that takes into account future or new expanded activities or discharges has been adopted; authorizing water quality protection programs to include the trading of water quality credits; authorizing DEP to adopt rules related to the trading of credits; requiring that such rulemaking include certain provisions; specifying basins within which the trading of water quality credits shall be initially authorized; requiring that DEP provide the Legislature with an annual report regarding the status of the trading program; correcting cross-references to conform to changes made by the act.

Section 2. Amends s. 403.088, F.S.; authorizing DEP to revise a water pollution operation permit under certain circumstances; authorizing DEP to revise, renew, issue, or reissue such a permit if a water quality credit trade that meets the requirement of a TMDL allocation has been approved in a final order issued pursuant to state law; requiring that revised permits be accompanied by an order establishing a schedule for achieving compliance with all permit conditions.

Section 3. Provides the act take effect July 1, 2008.

[2] Equitable Abatement Rule, Section 62-4.242, F.A.C.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The following comments were provided by DEP:

> Water quality credit trading has the potential to reduce the costs of pollutant reduction activities to businesses, industries, agriculture, and all taxpayers.

D. FISCAL COMMENTS:

State

DEP estimates rulemaking to cost about $20,000 and a database system for the registry to cost about $200,000.

Local

Water quality credit trading has the potential to reduce the costs of pollutant reduction activities to local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This 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:

The bill authorizes DEP to adopt rules related to the trading of water quality credits. Prior to the adoption of such rules, the bill allows DEP to authorize trading and establish specific requirements for

trading in the adopted BMAP for the Lower St. Johns River basin. The bill also authorizes DEP to revise a water pollution operation permit under certain circumstances and authorizes DEP to revise, renew, issue, or reissue such a permit if a water quality credit trade that meets the requirements of a TMDLs allocation has been approved in a final order issued pursuant to state law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 20, 2008, the Committee on Environmental Protection adopted seven amendments and passed HB 547. This PCS incorporates these amendments, which are described below:

Amendment 1 is a technical amendment.

Amendment 2 moves all water quality trading language into one place.

Amendment 3 requires that regulated parties fulfill their DEP permit obligations as they engage in water quality trading.

Amendment 4 recognizes that federal requirements must be accounted for and ensures that trading provisions can be built into permits and permit renewals.

Amendment 5 ensures that agricultural operations, in particular, have flexibility to use credit trading in addition to best management practices to protect water quality.

Amendment 6 revises provisions in the original filed bill authorizing DEP to adopt rules allowing water quality credit trading. The revisions require trade participants to report prices for credits and any state funding received relating to the generation of credits; require persons or entities acquiring credits to be responsible for enforcing the terms of trade agreements and meeting applicable permit conditions; clarify that trades may be authorized through various legally binding mechanisms; initially limit trading to a pilot project in the Lower St. Johns River basin to allow trading to be evaluated in practice; authorize trading prior to the adoption of authorized rules and require DEP to report to the Legislature.

Amendment 7 fixes a clerical oversight provisions in the original filed bill.

A bill to be entitled

An act relating to water pollution control; amending s. 403.067, F.S.; providing requirements for basin management action plans; allowing such plans to take into account the benefits of pollutant load reduction achieved by point or nonpoint sources, where appropriate; requiring that the Department of Environmental Protection adopt all or part of any such plan, or any amendment thereto, by secretarial order as provided by state law; providing that the provisions of the department's rule relating to the equitable abatement of pollutants into surface waters may not be applied to water bodies or water body segments for which a basin management plan that takes into account future or new expanded activities or discharges has been adopted; authorizing water quality protection programs to include the trading of water quality credits; authorizing the department to adopt rules related to the trading of water quality credits; requiring that such rulemaking include certain provisions; specifying that water quality credit trading shall initially be limited to the Lower St. Johns River basin as a pilot project; allowing the Department of Environmental Protection to authorize water quality credit trading and establish specific requirements for trading in the adopted basin management action plan for the Lower St. Johns River Basin prior to the adoption of rules; requiring that the department provide the Legislature with an annual report regarding the effectiveness of the pilot project; correcting cross-

references to conform to changes made by the act; amending s. 403.088, F.S.; authorizing the department to revise a water pollution operation permit under certain circumstances; authorizing the department to revise, renew, issue, or reissue such a permit if a water quality credit trade that meets the requirements of s. 403.067, F.S.; requiring that revised permits be accompanied by an order establishing a schedule for achieving compliance with all permit conditions; providing an effective date.

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

Section 1. Subsections (7), (8), and (9) of section 403.067, Florida Statutes, are amended to read:

403.067 Establishment and implementation of total maximum daily loads.--

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

(a) Basin management action plans.--

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such a plan must ~~shall~~ integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies

to promote timely, cost-effective actions as provided for in s. 403.151. The plan must ~~shall~~ establish a schedule for implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, where appropriate, and, in basins listed in paragraph (8)(f) for which a basin management action plan has been adopted, voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must ~~shall~~ equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must ~~shall~~ be those practices developed pursuant to paragraph (c). Where appropriate, the plan may take into account the benefits of ~~provide~~ pollutant load reduction achieved by point or nonpoint sources ~~credits to dischargers~~ that have implemented management strategies to reduce pollutant loads, including best management practices, prior to the development of the basin management action plan. The plan must ~~shall~~ also identify the mechanisms that will address ~~by which~~ potential future increases in pollutant loading ~~will be addressed~~.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must ~~shall~~ be published in a newspaper of general circulation in each county in which the watershed or basin lies not less than 5 days nor more than 15 days before the public meeting. A basin management action plan shall not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement the provisions of this section.

5. The basin management action plan must ~~shall~~ include milestones for implementation and water quality improvement, and

an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must ~~shall~~ follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must ~~shall~~ be adopted pursuant to subparagraph 4.

6. In accordance with procedures adopted by rule under paragraph (8)(c), plans for basins listed in paragraph (9) may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits. Notwithstanding any such water quality credit trades, entities subject to a department water discharge permit shall remain

responsible for compliance with the limitations of the department water discharge permit, including any applicable load or wasteload allocation.

7. The provisions of department's rule relating to the equitable abatement of pollutants into surface waters shall not be applied to water bodies or water body segments for which a basin management action plan that takes into account future new or expanded activities or discharges has been adopted pursuant to this section.

(b) Total maximum daily load implementation.--

1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a total maximum daily load by a water management district must ~~shall~~ be consistent with this section and shall not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for the adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:

a. Permitting and other existing regulatory programs, including water-quality-based effluent limitations;

b. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), and public education;

c. Other water quality management and restoration activities, for example surface water improvement and management

plans approved by water management districts or basin management action plans developed pursuant to this subsection;

d. Trading of water quality credits ~~Pollutant trading~~ or other equitable economically based agreements;

e. Public works including capital facilities; or

f. Land acquisition.

2. For a basin management action plan adopted pursuant to paragraph (a) ~~subparagraph (a)4.~~, any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent limits set forth for a discharger subject to NPDES permitting, if any, must ~~shall~~ be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger. The department shall not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted basin management action plan, unless required by federal law or regulation.

a. Absent a detailed allocation, total maximum daily loads shall be implemented through NPDES permit conditions that provide for ~~afford~~ a compliance schedule. In such instances, a facility's NPDES permit must ~~shall~~ allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance of an order adopting the plan may ~~shall~~ not exceed 5 years. Upon issuance of an order adopting the plan, the permit must ~~shall~~ be reopened or renewed, as necessary, and permit conditions consistent with the plan must ~~shall~~ be

established. Notwithstanding ~~the~~ other provisions of this subparagraph, upon request by a NPDES permittee, the department as part of a permit issuance, renewal, or modification may establish individual allocations prior to the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer system permits and other stormwater sources, implementation of a total maximum daily load or basin management action plan must ~~shall~~ be achieved, to the maximum extent practicable, through the use of best management practices or other management measures.

c. The basin management action plan does not relieve the discharger from any requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit.

d. Management strategies set forth in a basin management action plan to be implemented by a discharger subject to permitting by the department must ~~shall~~ be completed pursuant to the schedule set forth in the basin management action plan. This implementation schedule may extend beyond the 5-year term of an NPDES permit.

e. Management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern shall not be subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a subsequent NPDES permit or permit modification.

f. For nonagricultural pollutant sources not subject to NPDES permitting but permitted pursuant to other state,

regional, or local water quality programs, the pollutant reduction actions adopted in a basin management action plan shall be implemented to the maximum extent practicable as part of those permitting programs.

g. A nonpoint source discharger included in a basin management action plan must ~~shall~~ demonstrate compliance with the pollutant reductions established under ~~pursuant to~~ subsection (6) by either implementing the appropriate best management practices established pursuant to paragraph (c) or conducting water quality monitoring prescribed by the department or a water management district. A nonpoint source discharger may, in accordance with department rules, supplement the implementation of best management practices with water quality credit trades in order to demonstrate compliance with the pollutant reductions established under subsection (6).

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in sub-subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an adopted basin management action plan shall not be required by permit, enforcement action, or otherwise to implement additional management strategies to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the

department to amend a basin management action plan as specified in subparagraph (a)5.

(c) Best management practices.--

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water management districts ~~pursuant to ss. 120.536(1) and 120.54,~~ and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (11)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other

measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must ~~shall~~ also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented pursuant to paragraph (11)(b) must ~~shall~~ be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must ~~shall~~ notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification prior to the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department

is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from the provisions of s. 376.307(5). The presumption of compliance and release is ~~shall be~~ limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is ~~shall be~~ limited to research projects on sites where the owner or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by ~~according to~~ rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the

best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3. and 4. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request, records made confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district if ~~provided that~~ the confidentiality specified by this subparagraph for such records is maintained.

6. The provisions of subparagraphs 1. and 2. do ~~shall~~ not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law to protect ~~for the purpose of protecting~~ water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department which ~~that~~ are necessary to maintain a federally delegated or approved program.

(8) RULES.--The department is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 for:

(a) Delisting water bodies or water body segments from the list developed under subsection (4) pursuant to the guidance under subsection (5).~~;~~

(b) Administering ~~Administration of~~ funds to implement the total maximum daily load and basin management action planning programs.~~;~~

(c) Water quality credit ~~Procedures for pollutant~~ trading among the pollutant sources to a water body or water body segment in basins listed in subsection (9), which shall be consistent with federal requirements and implemented through permits, including water quality credit trading permits, other authorizations, or other legally binding agreements as established by department rule. By July 1, 2008, rulemaking must be initiated which provides for the following:~~, including a mechanism for the issuance and tracking of pollutant credits. Such procedures may be implemented through permits or other authorizations and must be legally binding. Prior to adopting rules for pollutant trading under this paragraph, and no later than November 30, 2006, the Department of Environmental Protection shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing recommendations on such rules, including the proposed basis for equitable economically based agreements and the tracking and accounting of pollution credits or other similar mechanisms. Such recommendations shall be developed in cooperation with a technical advisory committee that includes~~

~~experts in pollutant trading and representatives of potentially affected parties;~~

1. The process to be used to determine how credits are generated, quantified, and validated.

2. A publicly accessible water quality credit trading registry that tracks water quality credits, trading activities, and prices paid for credits. Entities that participate in water quality credit trades shall timely report to the department the prices for credits and any state funding received for the facilities or activities that generated the credits. The department shall not participate in the establishment of credit prices.

3. Limitations on the availability and use of water quality credits, including a list of eligible pollutants or parameters and minimum water quality requirements and, where appropriate, adjustments to reflect best management practice performance uncertainties and water-segment-specific location factors.

4. The timing and duration of credits and allowance for credit transferability.

5. Mechanisms for determining and ensuring compliance with trading procedures, including recordkeeping, monitoring, reporting, and inspections. Generators of traded credits are responsible for achieving the load reductions on which the credits are based; persons or entities acquiring credits are responsible for enforcing the terms of water quality credit acquisition agreements and meeting applicable permit conditions.

(d) The total maximum daily load calculation in

accordance with paragraph (6)(a) immediately upon the effective date of this act, for those eight water segments within Lake Okeechobee proper as submitted to the United States Environmental Protection Agency pursuant to subsection (2).~~; and~~

(e) Implementation of other specific provisions.

(9) Water quality credit trading shall be limited to the Lower St. Johns River basin, as defined by the department, as a pilot project. The department may authorize water quality credit trading and establish specific requirements for trading in the adopted basin management action plan for the Lower St. Johns River basin prior to the adoption of rules under paragraph (8)(c) in order to effectively implement the pilot project. Entities that participate in water quality credit trades shall timely report to the department the prices for credits, how the prices were determined, and any state funding received for the facilities or activities that generated the credits. The department shall not participate in the establishment of credit prices. No later than 24 months after adoption of the basin management action plan for the Lower St. Johns River, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the effectiveness of the pilot project, including the following information:

1. A summary of how water quality credit trading was implemented, including the number of pounds of pollutants traded;

2. A description of the individual trades and estimated pollutant load reductions that are expected to result from each

trade;

3. A description of any conditions placed on trades;

4. Prices associated with the trades, as reported by the traders, and;

5. A recommendation as to whether other areas of the state would benefit from water quality credit trading and, if so, an identification of the statutory changes necessary to expand the scope of trading.

Section 2. Paragraphs (e) and (f) of subsection (2) of section 403.088, Florida Statutes, are amended to read:

403.088 Water pollution operation permits; conditions.--

(2)

(e) However, if the discharge will not meet permit conditions or applicable statutes and rules, the department may issue, renew, revise, or reissue the operation permit if:

1. The applicant is constructing, installing, or placing into operation, or has submitted plans and a reasonable schedule for constructing, installing, or placing into operation, an approved pollution abatement facility or alternative waste disposal system;

2. The applicant needs permission to pollute the waters within the state for a period of time necessary to complete research, planning, construction, installation, or operation of an approved and acceptable pollution abatement facility or alternative waste disposal system;

3. There is no present, reasonable, alternative means of disposing of the waste other than by discharging it into the waters of the state;

4. The granting of an operation permit will be in the public interest; ~~or~~

5. The discharge will not be unreasonably destructive to the quality of the receiving waters; or~~.~~

6. A water quality credit trade meets the requirements of s. 403.067.

(f) A permit issued, renewed, revised, or reissued pursuant to paragraph (e) shall be accompanied by an order establishing a schedule for achieving compliance with all permit conditions. Such permit may require compliance with the accompanying order.

Section 3. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 819 Hunter Safety Course Requirements
SPONSOR(S): Kendrick
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Conservation & State Lands	9 Y, 0 N	Palmer	Zeiler
2) Environment & Natural Resources Council		Palmer / Bellflower	Dixon / Hamby
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

The bill provides that a resident of Florida born on or after June 1, 1975, who is an active duty member of the United States Armed Forces, the United States Armed Forces Reserves, the National Guard, the United States Coast Guard, or the United States Coast Guard Reserve, upon submission of a valid military identification card, may satisfy the Fish and Wildlife Conservation Commission's (FWC) hunter safety course requirements by successfully completing an online military hunter safety course or a hunter safety workbook and written test provided by the FWC.

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

The bill would become effective on July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberties: This bill provides individuals who, as a result of their military training, are well versed in the use of firearms and firearm safety an additional option to satisfy FWC's hunting license hunter safety course requirements.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

In accordance with s. 372.5717, F. S., the Fish and Wildlife Conservation Commission (FWC) has instituted and coordinates a statewide hunter safety course that is offered in every county. Instruction is provided by FWC staff and approved volunteers. The hunter safety course covers the knowledge, skills and attitude needed to be a safe hunter, and includes, but is not limited to, instruction in the competent and safe handling of firearms, conservation, and hunting ethics. The traditional course requires twelve hours of classroom instruction, a written exam and three hours of hands-on instruction at a shooting range.[1] The twelve hour classroom requirement may be completed by way of an alternative on-line study course with a four hour classroom segment.[2] The FWC issues a permanent hunter safety certification card to each person who has attended and successfully completed the hunter safety course.

To be issued a license to take wild animal life in Florida with the use of a firearm, gun, bow, or crossbow, any person born on or after June 1, 1975, must have a FWC issued, permanent hunter safety certification card or have a hunter safety certification card issued by a wildlife agency of another state, or any Canadian province, which shows that the holder of the card has successfully completed a hunter safety course approved by FWC. The FWC is currently working with other states to develop a revised hunter safety course that would be used by all the participating states.[3]

The FWC hunter safety course is offered without charge to the participants.

Effect of Proposed Changes

The bill provides that a resident of Florida born on or after June 1, 1975, who is an active duty member of the United States Armed Forces, the United States Armed Forces Reserves, the National Guard, the United States Coast Guard, or the United States Coast Guard Reserve, upon submission of a valid military identification card, rather than attending a FWC hunter safety course, may satisfy the course requirements by successfully completing an online military hunter safety course or a hunter safety workbook and written test provided by the FWC. This course would differ from the traditional course in that the three hour shooting range requirement of the traditional course is not required.[4]

FWC will utilize current hunter safety course materials.[5]

C. SECTION DIRECTORY:

Section 1: Creates s. 372.5717(2)(c), F.S., relating to hunter safety course requirements.

Section 2: Creates an effective date of July 1, 2008.

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[1] http://myfwc.com/huntered/program.htm
[2] Id.
[3] FWC, 2008. Personal communication with Nick Wiley, Director, Division of Hunting and Game Management.
[4] Id.
[5] Id.

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:

The hunter safety course program is funded by a federal grant and uses no state funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

No rulemaking authority is granted to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

This legislation is a way to honor our current military personnel and show them our appreciation for their dedication and service to our State. We understand their training and abilities with regard to

handling firearms responsibly and feel it is a disservice to require they have additional shooting range time in order to enjoy the hunting resources available to them on public and private lands in Florida.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A

A bill to be entitled

An act relating to hunter safety course requirements; amending s. 372.5717, F.S.; providing that certain hunter safety course requirements for resident active duty members of the military may be satisfied by completion of certain coursework or testing; providing an effective date.

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

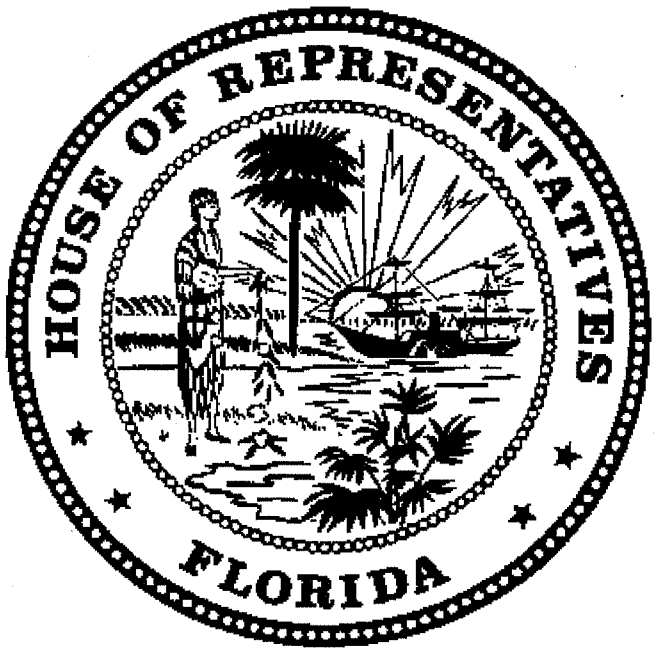
Section 1. Paragraph (c) is added to subsection (2) of section 372.5717, Florida Statutes, to read:

372.5717 Hunter safety course; requirements; penalty.--

(2)

(c) A resident of this state born on or after June 1, 1975, who is an active duty member of the United States Armed Forces, the United States Armed Forces Reserves, the National Guard, the United States Coast Guard, or the United States Coast Guard Reserve, upon submission of a valid military identification card, may satisfy the requirements of this section by successfully completing an online military hunter safety course or a hunter safety workbook and written test provided by the commission.

Section 2. This act shall take effect July 1, 2008.



Environment
&
Natural Resources Council

March 5, 2008
9:00 AM
404 HOB

ADDENDUM A – AMENDMENTS

Marco Rubio
Speaker

Rep. Stan Mayfield
Chair

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.

Bill No. **HB 261**

COUNCIL/COMMITTEE ACTION

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

Council/Committee hearing bill: Environment and Natural Resources Council

Representative Culp offered the following:

Amendment

Remove line(s) 167-197 and insert:

316.2126 Use of golf carts and utility vehicles by municipalities.-- In addition to the powers granted by ss. 316.212 and 316.2125, employees of municipalities and employees of the Division of Recreation and Parks of the Department of Environmental Protection, state park volunteers, and state park visitors are hereby authorized to utilize golf carts and utility vehicles, as defined in s. 320.01, upon any state, county, or municipal roads located within the corporate limits of such municipalities, or any state roads within the boundaries of state parks managed by the Division of Recreation and Parks of the Department of Environmental Protection, subject to the following conditions:

(1) Golf carts and utility vehicles must comply with the operational and safety requirements in ss. 316.212 and 316.2125, and with any more restrictive ordinances enacted by the local

governmental entity pursuant to s. 316.212(7), and shall only be operated by municipal employees for municipal purposes, including, but not limited to, police patrol, traffic enforcement, and inspection of public facilities, and, within a state park, by employees of the Division of Recreation and Parks of the Department of Environmental Protection, state park volunteers, and state park visitors for activities authorized by the Division of Recreation and Parks of the Department of Environmental Protection.

(2) In addition to the safety equipment required under subsection (1) in s. 316.212(5) and any more restrictive safety equipment required by the local governmental entity pursuant to s. 316.212(7), such golf carts and utility vehicles must be equipped with sufficient lighting and turn signal equipment.

(3) Golf carts and utility vehicles may only be operated on state roads that have a posted speed limit of 30 miles per hour or less.

(4) A municipal employee or employee of the Division of Recreation and Parks of the Department of Environmental Protection, state park volunteer, and state park visitor operating a golf cart or utility vehicle pursuant to this section must possess a valid driver's license as required by s. 322.03.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **0147**

COUNCIL/COMMITTEE ACTION

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

Council/Committee hearing bill: Environment & Natural Resources Council

Representative Schenck offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. This act may be cited as the "Mike McHugh Act."

Section 2. Section 380.0657, Florida Statutes, is created to read:

380.0657 Expedited permitting process for economic development projects.--

(1) The Department of Environmental Protection and, as appropriate, the water management districts created under chapter 373 shall adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, with the exception of those projects requiring approval by the Board of Trustees.

(2) A municipality or county shall provide an identified business with a city or county commission resolution identifying the business as a targeted industry business.

Amendment No. (for drafter's use only)

(3) A mandatory preapplication review process shall be required to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application review.

(4) A permit application shall be approved or denied within 30 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

Section 3. This act shall take effect July 1, 2008.

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

Remove the entire title and insert:

A bill to be entitled

An act relating to expedited permitting process for economic development projects; providing a short title; creating s. 380.0657, F.S.; requiring the Department of Environmental Protection and water management districts to adopt programs to expedite the processing of permits for certain economic development projects; providing an exception; requiring municipalities and counties to identify certain businesses by commission resolution; requiring a preapplication review; providing a timeframe for permit application approval or denial; providing an effective date.