



Natural Resources & Public Lands Subcommittee

January 23, 2018
12:00 PM – 3:00 PM
12 HOB

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Natural Resources & Public Lands Subcommittee

Start Date and Time: Tuesday, January 23, 2018 12:00 pm

End Date and Time: Tuesday, January 23, 2018 03:00 pm

Location: 12 HOB

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 869 Ranger Drainage District, Orange County by Plasencia

HB 1075 Inland Protection by Raburn

HB 1149 Environmental Regulation by Payne

State Park Fees Workshop

NOTICE FINALIZED on 01/19/2018 4:17PM by Herndon.Angela

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 869 Ranger Drainage District, Orange County
SPONSOR(S): Plasencia
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Darden	Miller
2) Natural Resources & Public Lands Subcommittee		Gregory	Shugar <i>YAS</i>
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Ranger Drainage District (District) is independent special district in eastern Orange County created by a decree of the Ninth Judicial Circuit in 1970. A three-member board elected on a one-acre, one-vote basis governs the District while exercising all powers set forth in Chapter 298, F.S.

The District is comprised of approximately 10,000 acres of land along the Econlockhatchee River (river). The lands east of the river comprise approximately 7,000 acres, primarily residential. In this area, the District provides all works and improvements necessary to execute the water control plan and levies assessments to provide services. The lands west of the river are generally for institutional and commercial uses, with site development controlled directly by the St. Johns River Water Management District. The lands west of the river currently are neither taxed nor serviced by the District.

The bill removes all lands west of the Econlockhatchee River from the District.

The bill shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Special Districts

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

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

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.⁸

Chapter 298, F.S., governs the creation and operation of a water control district (WCD).⁹ A WCD has the authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.¹⁰ A WCD may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of the district. A WCD also may acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including pumping stations, pumping machinery, motive equipment, electric lines, and all appurtenant or auxiliary machines, devices, or equipment.¹¹ Any special or local law the Legislature enacts pertaining to a WCD prevails on the WCD and has the same force and effect as if it were part of ch. 298, F.S., at the time the WCD was created and organized.¹²

¹ Section 189.031(3), F.S.

² *Id.*

³ Section 189.02(1), F.S.

⁴ Section 190.005(1), F.S. *See, generally,* s. 189.012(6), F.S.

⁵ *2017 – 2018 Local Gov't Formation Manual*, p. 21, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911> (last accessed Dec. 18, 2017).

⁶ Section 189.012(2), F.S.

⁷ Section 189.012(3), F.S.

⁸ Art. VII, s. 9(a), Fla. Const.

⁹ All special districts operating under ch. 298, F.S., and formerly known as "drainage districts" or "water management districts" are now officially called water control districts. Section 298.001, F.S.

¹⁰ Section 298.22, F.S.

¹¹ Section 298.22(3), F.S.

¹² Section 298.76(5), F.S.

Ranger Drainage District

The Ranger Drainage District (District) is an independent special district in eastern Orange County, southeast of Orlando.¹³ The District was created by a decree of the Ninth Judicial Circuit in 1970.¹⁴ A three-member board elected on a one-acre, one-vote basis governs the District.¹⁵ The board of the District is authorized to exercise all powers set forth in Chapter 298, F.S.¹⁶ The board is also authorized to provide services to parcels adjoining the district with consent of the landowner, to allow fishing in district-owned canals, and to sponsor events “intended to foster community spirit,” including a fishing tournament for children of the community.¹⁷

The District is comprised of approximately 10,000 acres of land along the Econlockhatchee River (river).¹⁸ The lands to the east of the river, approximately 7,000 acres, are primarily zoned for residential use. Lands to the west of the river are generally zoned into large-scale institutional, utility, commercial, and conservation tracts. When the district was created in 1970, these lands were intended to be developed as residential and mixed-use development.¹⁹ Developers continued to pay capital improvement taxes on these properties until the District’s bonds were retired in 1994, but obtained authorization for site development directly from the St. Johns River Water Management District.²⁰ The lands west of the river currently are not taxed to fund District services since the District has no water control facilities in the area.²¹

Effect of Proposed Changes

The bill revises the boundaries of the district to remove all lands west of the Econlockhatchee River. This will reduce the size of the district by approximately 3,000 acres.

B. SECTION DIRECTORY:

Section 1: Amends ch. 99-453, Laws of Fla., removing lands west of the Econlockhatchee River from the Ranger Drainage District.

Section 2: Provides that the bill shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 5, 2017

WHERE? *Orlando Sentinel*, a daily newspaper of general circulation published in Orange County, Florida.

¹³ See Ranger Drainage District, *Third Amended Water Control Plan*, January 2008, at 67, available at https://docs.wixstatic.com/ugd/f79a5a_90c3d17f56a24be9a9e4fe3846dd912c.pdf (map of the district in relation to city of Orlando).

¹⁴ Ch. 99-453, s. 3, Laws of Fla. Prior to July 1, 1980, drainage districts could be created by order of the circuit court with jurisdiction over the majority of the land being made part of the district, on petition of the land owners. See s. 298.01, F.S.

¹⁵ Ch. 99-453, s. 7(5), Laws of Fla. Landowners owning less than one acre are entitled one vote, while landowners owning more than one acre are entitled to one additional vote for each acre owned beyond the first.

¹⁶ Ch. 99-453, s. 7(1), Laws of Fla.

¹⁷ Ch. 99-453, s. 5, Laws of Fla.

¹⁸ Ranger Drainage District, *Third Amended Water Control Plan*, *supra* note 9, at 7.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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A bill to be entitled
An act relating to Ranger Drainage District, Orange
County; amending ch. 99-453, Laws of Florida, as
amended; revising district boundaries; providing an
effective date.

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

Section 1. Section 4 of chapter 99-453, Laws of Florida,
as amended by chapter 2005-309, Laws of Florida, is amended to
read:

Section 4. Status and boundaries of ranger drainage
district.—The Ranger Drainage District is hereby declared to be
an independent water control district and a public corporation
of the State of Florida pursuant to chapter 298, Florida
Statutes, as it may be amended from time to time, and the lands
lying within the area described as follows in Orange County,
Florida, shall hereby constitute the Ranger Drainage District:

The South one-half of Section 1, less that part lying
East of the West right-of-way line of State Road No.
520; The South one-half of Section 2; the East three-
eighths of Section 10; all of Sections 11, 12, 13, 14,
23, 24, 25, 26, together with portions of Sections 27
and 28, in Township 23 South, Range 32 East in Orange

26 County, Florida, being more particularly described as
 27 follows:
 28
 29 BEGINNING at the Southeast corner of Section 25, run
 30 northerly along the easterly line of Sections 25, 24,
 31 13, 12 and 1 to the westerly right-of-way line of
 32 State Road No. 520; thence northwesterly along said
 33 westerly right-of-way line of State Road No. 520 to a
 34 point of intersection with the north line of the South
 35 one-half of Section 1; thence westerly along the north
 36 line of the South one-half of Sections 1 and 2 to the
 37 westerly quarter corner of Section 2; thence southerly
 38 along the West line of Section 2 to the Southwest
 39 corner of Section 2; thence westerly along the North
 40 line of Section 10 to the Northwest corner of the
 41 easterly three-eighths of Section 10; thence southerly
 42 along the west line of the easterly three-eighths of
 43 Section 10 to the Southwest corner of the easterly
 44 three-eighths of Section 10; thence easterly along the
 45 south line of Section 10 to the Southeast corner of
 46 Section 10; thence southerly along the west line of
 47 Sections 14 and 23 to the Southwest corner of Section
 48 23; thence westerly along the north line of Sections
 49 27 and 28 to the Northeast corner of Tract A,
 50 CAPE/ORLANDO ESTATES UNIT 11A, according to the plat

51 thereof, as recorded in Plat Book 3, at Pages 107
 52 through 109, inclusive, of the Public Records of
 53 Orange County, Florida; thence southerly along the
 54 easterly boundary of said Tract A to the Southeast
 55 corner of said Tract A; thence easterly along the
 56 south line of Sections 27, 26 and 25 to the POINT OF
 57 BEGINNING.

58
 59 ~~The South one-half of Sections 1 and 2, the easterly~~
 60 ~~three-eighths of Section 10, all of Sections, 11, 12,~~
 61 ~~13, 14, 19, 23, 24, 25, 26, 27, 28, 29, 30, and 31 in~~
 62 ~~Township 23 South, Range 32 East in Orange County,~~
 63 ~~Florida, the boundary of which is more particularly~~
 64 ~~described as follows:~~

65
 66 ~~Commence at the Southeast corner of Section 25, run~~
 67 ~~northerly along the easterly lines of Sections 25, 24,~~
 68 ~~13, 12, and 1 to the westerly right-of-way of State~~
 69 ~~Road 520; thence proceed northwesterly along said~~
 70 ~~westerly right-of-way of State Road 520 to the~~
 71 ~~intersection of State Road 520 and the north line of~~
 72 ~~the South one-half of Section 1; thence westerly along~~
 73 ~~the North line of the South one-half of Sections 1 and~~
 74 ~~2 to the westerly quarter corner of Section 2; thence~~
 75 ~~southerly along the West line of Section 2 to the~~

76 ~~Southwest corner of Section 2; thence westerly along~~
 77 ~~the North line of Section 10 to the Northwest corner~~
 78 ~~of the easterly three eighths of Section 10; thence~~
 79 ~~southerly along the west line of the easterly three~~
 80 ~~eighths of Section 10 to the Southwest corner of the~~
 81 ~~easterly three eighths of Section 10; thence easterly~~
 82 ~~along the south line of Section 10 to the Southeast~~
 83 ~~corner of Section 10; thence southerly along the west~~
 84 ~~line of Section 14 and 23 to the Southwest corner of~~
 85 ~~Section 23; thence westerly along the North line of~~
 86 ~~Sections 27, 28, and 29 to the Northwest corner of~~
 87 ~~Section 29; thence northerly along the east line of~~
 88 ~~Section 19 to the Northeast corner of Section 19;~~
 89 ~~thence westerly along the North line of Section 19 to~~
 90 ~~the Northwest corner of Section 19; thence southerly~~
 91 ~~along the west line of Sections 19, 30, and 31 to the~~
 92 ~~Southwest corner of Section 31; thence easterly along~~
 93 ~~the south line of Section 31 to the Southeast corner~~
 94 ~~of Section 31; thence northerly along the east line of~~
 95 ~~Section 31 to the Northeast corner of Section 31;~~
 96 ~~thence easterly along the south lines of Sections 29,~~
 97 ~~28, 27, 26, and 25 to the point of beginning.~~
 98
 99 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1075 Inland Protection
SPONSOR(S): Raburn
TIED BILLS: IDEN./SIM. **BILLS:** SB 1438

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee		Gregory ✓	Shugar KS
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Department of Environmental Protection (DEP) regulates underground and aboveground storage tank systems in an effort to protect Florida's groundwater from past and future petroleum releases. DEP may establish criteria for the prioritization, assessment and cleanup, and reimbursement for cleanup of areas contaminated by leaking underground petroleum storage tanks. The Petroleum Restoration Program (PRP) establishes the requirements and procedures for cleaning up contaminated land, as well as the circumstances under which the state will pay for the cleanup. To fund the cleanup of contaminated sites, the Legislature created the Inland Protection Trust Fund (IPTF). An excise tax per barrel on petroleum and petroleum products in or imported into the state funds the IPTF.

In response to significant discharges of drycleaning solvents at drycleaning facilities as part of the normal operation of these facilities, the Legislature created the Drycleaning Solvent Cleanup Program (program) because these discharges pose a significant threat to the quality of the state's groundwater and inland surface waters. The program facilitates remedial measures, provides reliable alternative sources of water, encourages real property owners to voluntarily cleanup property contaminated with drycleaning solvents, and improves the marketability and use of property contaminated with drycleaning solvents. DEP may use funds from the Water Quality Assurance Trust Fund (WQATF) to rehabilitate contaminated facilities. The WQATF receives its funds from taxes collected on gross receipts on all charges imposed by the drycleaning facility or the dry drop-off facility for the drycleaning or laundering of clothing or other fabrics; taxes collected on each gallon of perchloroethylene sold; fees collected for registration of drycleaning facilities and wholesale supply facilities; and all penalties, judgments, recoveries, reimbursements, loans, and other fees and charged under the drycleaning solvent cleanup program.

The bill expands the use of the Inland Protection Trust Fund (IPTF), traditionally used for petroleum contamination site cleanup, for use for the program. Specifically, the bill:

- Requires a minimum of \$150 million to be appropriated annually to the IPTF;
- Directs \$30 million annually from the IPTF to the WQATF for the program;
- Authorizes the WQATF to receive \$30 million annually from the IPTF for use in the program;
- Directs all penalties, judgments, recoveries, reimbursements, loans, and other fees and charges related to implementation of the program to the IPTF; and
- Requires DEP to create, by rule, a scoring system to assign state contractors to program tasks and sites.

The bill may have a negative fiscal impact on DEP. The bill may have a positive fiscal impact on owners of eligible facilities contaminated with drycleaning solvents. The bill may have negative fiscal impact on petroleum contaminated sites.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Cleanup for Petroleum Contaminated Sites, Inland Protection Trust Fund

Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur because of accidental spills, storage tank system leaks, or poor maintenance practices. These discharges pose a significant threat to groundwater quality, the source of 90 percent of Florida's drinking water. The identification and cleanup of petroleum contamination is particularly challenging due to the diverse geology in Florida, diverse water systems, and the complex dynamics between contaminants and the environment.

In 1983, Florida began enacting legislation to regulate underground and aboveground storage tank systems in an effort to protect Florida's groundwater from past and future petroleum releases.¹ The Department of Environmental Protection (DEP) regulates these storage tank systems.² Further, DEP may establish criteria for the prioritization, assessment and cleanup, and reimbursement for cleanup of areas contaminated by leaking underground petroleum storage tanks.³ The Petroleum Restoration Program (PRP) establishes the requirements and procedures for cleaning up contaminated land, as well as the circumstances under which the state will pay for the cleanup.⁴

An owner of contaminated land or the person who caused the discharge is responsible for rehabilitating the land, unless the site owner can show that the contamination resulted from the activities of a previous owner or other third party (responsible party), who is then responsible.⁵ Over the years, DEP has implemented different eligibility programs to provide state financial assistance to certain site owners and responsible parties for site rehabilitation. To receive rehabilitation funding assistance, a site must qualify for one of the Petroleum Cleanup Eligibility Programs:

- Early Detection Incentive Program, s. 376.3071(10), F.S.;
- Petroleum Liability and Restoration Insurance Program, s. 376.3072, F.S.;
- Abandoned Tank Restoration Program, s. 376.305(6), F.S.;
- Innocent Victim Petroleum Storage System Restoration Program, s. 376.30715, F.S.;
- Petroleum Cleanup Participation Program, s. 376.3071(13), F.S.; and
- Consent Order (aka "Hardship" or "Indigent"), s. 376.3071(8)(e), F.S.

To fund the cleanup of contaminated sites, the Legislature created the Inland Protection Trust Fund (IPTF).⁶ An excise tax per barrel on petroleum and petroleum products in or imported into the state funds the IPTF.⁷ The amount of the excise tax per barrel is determined by a formula that is dependent upon the unobligated balance of the IPTF.⁸ In fiscal year 2016 – 2017, the Legislature appropriated \$166,705,572 to the IPTF and \$118 million from the IPTF for petroleum tank cleanup.⁹ In fiscal year

¹ Chapter 83-310, Laws of Fla.

² Sections 376.30(3)(a) and 376.303, F.S.

³ Section 376.3071(5), F.S.

⁴ DEP, *Petroleum Restoration Program*, <https://floridadep.gov/waste/petroleum-restoration> (last visited January 14, 2018).

⁵ Section 376.308, F.S.

⁶ Sections 376.3071(3) and (4), F.S.

⁷ Sections 206.9935(3) and 376.3071(7), F.S.

⁸ The amount of the excise tax per barrel is based on the following formula: 30 cents if the unobligated balance is between \$100 million and \$150 million; 60 cents if the unobligated balance is above \$50 million, but below \$100 million; and 80 cents if the unobligated balance is \$50 million or less; s. 206.9935(3), F.S.

⁹ Chapter 2016-66, s. 1671, Laws of Fla.

2017 – 2018, the Legislature appropriated \$169,667,360 to the IPTF and \$115 million from the IPTF for petroleum tank cleanup.¹⁰

DEP provides funding for site rehabilitation on a relative risk scoring system.¹¹ Each funding-eligible site receives a numeric score based on the threat the site contamination poses to the environment or to human health, safety, or welfare.¹² Sites currently in the PRP range in score from five to 115 points. DEP funds the rehabilitation of sites in priority order beginning with the highest score, with available budget.¹³ DEP sets the priority score funding threshold, which is the minimum score a site must achieve to receive restoration funding at a particular point in time. The threshold is periodically raised or lowered depending on the PRP's current budget, projected expenditures for the remainder of the fiscal year, and the next fiscal year's anticipated budget of the PRP. Currently, the threshold is set at 20 points.¹⁴ DEP directs state contractors to conduct rehabilitation tasks based on its rules.¹⁵

As of January 2018, 19,332 eligible discharges existed throughout the state. DEP completed cleanup of 9,903 sites. DEP is currently working on 6,610 discharges in the following discharges categories: Assessment - 3,986; Active Remediation - 497; Remedial Action Plans - 725; and Passive Remediation - 1,402.¹⁶

Drycleaning Solvent Cleanup, Water Quality Assurance Trust Fund

Drycleaning solvents are all nonaqueous solvents used in the cleaning of clothing and other fabrics. Solvents may include perchloroethylene (also known as tetrachloroethylene) and petroleum-based solvents, and their breakdown products.¹⁷ Drycleaning solvents can be safely used if managed properly. However, drycleaning solvents can harm people, animals, and plants if released into the environment by contaminating soil and water.¹⁸

In response to significant discharges of drycleaning solvents at drycleaning facilities as part of the normal operation of these facilities, the Legislature created the Drycleaning Solvent Cleanup Program (program) because these discharges pose a significant threat to the quality of the state's groundwater and inland surface water.¹⁹ The program facilitates remedial measures, provides reliable alternative sources of water, encourages real property owners to voluntarily cleanup property contaminated with drycleaning solvents, and improves the marketability and use of property contaminated with drycleaning solvents.²⁰

The program pays for the cleanup of properties contaminated from the operation of drycleaning facilities or wholesale supply facilities. DEP may use funds from the Water Quality Assurance Trust Fund (WQATF) to rehabilitate contaminated facilities.²¹ The WQATF receives its funds from taxes collected on gross receipts on all charges imposed by the drycleaning facility or the dry drop-off facility for the drycleaning or laundering of clothing or other fabrics; taxes collected on each gallon of perchloroethylene sold; fees collected for registration of drycleaning facilities and wholesale supply facilities; and all penalties, judgments, recoveries, reimbursements, loans, and other fees and charged

¹⁰ Chapter 2017-70, s. 1673, Laws of Fla.

¹¹ Sections 376.3071(5)(a) and (6), F.S.

¹² Rule 62-771.100, F.A.C.

¹³ Rule 62-771.300(6), F.A.C.

¹⁴ DEP, *Petroleum Restoration Program Priority Score Funding Threshold History*, <https://floridadep.gov/waste/petroleum-restoration/content/priority-score-funding-threshold-history> (last visited January 14, 2018).

¹⁵ Section 376.3071(5)(b), F.S.

¹⁶ Email from Kevin Cleary, Director of Legislative Affairs, DEP, Re: PRP and Drycleaning Questions (January 16, 2018).

¹⁷ Section 376.301(15), F.S.

¹⁸ United States Environmental Protection Agency, *State Coalition for Remediation of Drycleaners, A Citizen's Guide to Drycleaner Cleanup*, https://drycleancoalition.org/download/citizens_guide_drycleaner_cleanup.pdf (last visited January 14, 2018).

¹⁹ Sections 376.3078(1)(a) and (b), F.S.

²⁰ Sections 376.3078(1)(c) through (f), F.S.

²¹ Section 376.3078(2)(b), F.S.

under the drycleaning solvent cleanup program.²² During fiscal years 2016 – 2017 and 2017 – 2018, the Legislature appropriated \$8.5 million from the WQATF for the program.²³

Like the PRP, DEP scores each facility to determine the order in which it will begin site rehabilitation activities.²⁴ Each facility's score is based on fire risk, threat to drinking water supplies, groundwater vulnerability, aquifer classification, conditions favoring continual scoring, and environmental setting.²⁵ Facilities with the highest score receive the highest priority for rehabilitation.²⁶ DEP incorporates scored sites into the priority list on a quarterly basis with the ranking of all sites previously on the list adjusted accordingly.²⁷ State contractors are assigned program tasks according to the current priority list and based on DEP's determination of contractor logistics, geographical considerations, and other criteria DEP determines necessary to achieve cost-effective site rehabilitation.²⁸ DEP assigns program tasks beginning with the highest-ranked sites on the priority list at the effective date DEP makes the assignment and proceeds through lower-ranked sites.²⁹ DEP adds all scored sites to the priority list on a quarterly basis until it has assigned all the sites.³⁰ Once DEP makes an assignment, a subsequent quarterly adjustment to the priority list does not alter that assignment unless DEP can achieve a more cost-effective approach by reassignment, a compelling public health condition or an environmental condition warrants a reassignment, or the reassignment is otherwise in the public interest.³¹

In 2017, the Legislature created advanced site assessment for the program to allow real property owners eligible for site rehabilitation at an eligible facility under the program to request a site assessment in advance of the priority ranking if they meet certain criteria.³² The law reserved ten percent of the WQATF appropriation for the drycleaning solvent cleanup program to fund advanced site assessment.³³

The state pays for the costs incurred for site rehabilitation from the WQATF, minus a deductible paid by the applicant or current real property owner.³⁴ The facilities are rehabilitated using the principles of risk based corrective action found in chapter 62-780, F.A.C.³⁵ There are 1,421 eligible facilities. DEP has rehabilitated 210 facilities and initiated cleanup activities at 259 sites.³⁶

The application period for entry into the program ended December 31, 1998. DEP no longer accepts applications to the program.³⁷

Effect of the Proposed Changes

The bill creates s. 376.3071(15), F.S., and amends s. 376.3071(1)(d) and 376.3071(3), F.S., to require a minimum of \$150 million to be appropriated annually to the IPTF to implement the PRP and the program.

²² Sections 376.307(4)(e) and 376.3078(2)(a), F.S.

²³ Chapters 2016 – 66, s. 1668 and 2017 – 70, s. 1670, L.O.F.

²⁴ Sections 376.3078(7) and (8), F.S.

²⁵ Section 376.3078(7), F.S.

²⁶ Section 376.3078(8)(b), F.S.

²⁷ Section 376.3078(8)(c), F.S.

²⁸ Section 376.3078(8)(d), F.S.

²⁹ Section 376.3078(8)(e), F.S.

³⁰ Section 376.3078(8)(f), F.S.

³¹ Section 376.3078(8)(g), F.S.

³² Chapter 2017 – 95, s. 8 Laws of Fla.; s. 378.3078(14), F.S.

³³ Section 378.3078(14)(e), F.S.

³⁴ Section 376.3078(3)(e), F.S.

³⁵ Section 376.3078(4), F.S.

³⁶ Email from Kevin Cleary, Director of Legislative Affairs, DEP, Re: PRP and Drycleaning Questions (January 16, 2018).

³⁷ Section 376.3078(3)(e)4., F.S.

The bill expands the use of the Inland Protection Trust Fund (IPTF), traditionally used for petroleum contamination site cleanup, for the program. Specifically, the bill:

- Creates s. 376.3071(12)(c), F.S., to direct \$30 million annually from the IPTF to the WQATF for the program;
- Amends s. 376.3078(2)(a), F.S., to authorize the WQATF to receive \$30 million annually from the IPTF for use in the program;
- Amends s. 376.3071(1)(a), F.S., to identify drycleaning solvents stored in the state as a hazardous undertaking;
- Amends s. 376.3071(1)(g), F.S., to require the program be implemented in a manner that reduces costs and improves the efficiency of rehabilitation activities to reduce the significant backlog of contaminated sites eligible for state-funded rehabilitation and the corresponding threat to the public health, safety, and welfare, water resources, and the environment;
- Amends s. 376.3078(2)(a), F.S., to state that the Legislature intends to use the IPTF to respond without delay to incidents of inland contamination related to the storage of drycleaning solvents in order to protect the public health, safety, and welfare and to minimize environmental damage;
- Amends s. 376.3078(2)(b), F.S., to state that the Legislature intends DEP to implement rules and procedures to improve the efficiency and productivity of the program;
- Amends s. 376.3078(3), F.S., to authorize use of the IPTF to fund the program;
- Amends s. 376.3078(3), F.S., to direct all penalties, judgments, recoveries, reimbursements, loans, and other fees and charges related to implementation of the program to the IPTF;
- Amends s. 376.3078(4), (4)(i), (4)(o), and (4)(p), F.S., to authorize DEP to use the IPTF to obligate money to address incidents of inland contamination related to the storage of drycleaning solvents that may pose a threat to the public health, safety, or welfare, water resources, or the environment;
- Amends s. 376.3078(2)(b), F.S., to prohibit DEP from obligating funds from the WQATF in excess of its annual appropriation from the WQATF and the IPTF; and
- Amends s. 376.3078(14)(e), F.S., to authorize the use of funds received from the IPTF for advanced site assessment for the program.

The bill also creates s. 376.3078(15), F.S., to require DEP to create, by rule, a scoring system to assign state contractors to program tasks and sites. DEP must have 25 individual state contractors for the program by December 31, 2018. The scoring system, at a minimum, must consider the contractor's qualifications, the contractor's rates, and any of the contractor's performance evaluations for previous work performed for the program. The bill also amends s. 376.3078(8)(d) to require the assignment of program tasks or sites based on DEP's scoring system. The bill amends s. 376.3078(8)(d) and (8)(e), F.S., to add sites to the items that state contractors may be assigned for the program. This appears to create a task assignment system for state contractors similar to the PRP.

B. SECTION DIRECTORY:

Section 1. Amends s. 376.3071, F.S., relating to the IPTF, creating, purpose, and funding.

Section 2. Amends s. 376.3078, F.S., relating to drycleaning facility restoration, funds, uses, liability, and recovery of expenditures.

Section 3. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a negative fiscal impact on DEP by requiring the department to create, by rule, a scoring system to assign state contractors to program tasks and sites, soliciting state contractors to perform drycleaning facility cleanup, and implementing the task assignment system.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on owners of eligible facilities contaminated with drycleaning solvents by directing more funds to the WQATF for drycleaning solvent cleanup.

The bill may have negative fiscal impact of owners of sites contaminated with petroleum by directing a portion of the IPTF to the WQATF for drycleaning solvent cleanup.

D. FISCAL COMMENTS:

The bill may have a positive fiscal impact on DEP by directing a minimum of \$150 million annually to the IPTF and \$30 million annual to the WQATF from the IPTF.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DEP to create, by rule, a scoring system to assign state contractors to program tasks and sites.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Currently, all penalties, judgments, recoveries, reimbursements, loans, and other fees and charges collected under the drycleaning solvent cleanup program are directed to the WQATF.³⁸ The bill direct all penalties, judgments, recoveries, reimbursements, loans, and other fees and charges related to implementation of the drycleaning solvent cleanup program to the IPTF. It is unclear if the WQATF should no longer receive these funds or whether these funds should be split in some manner.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to inland protection; amending s.
3 376.3071, F.S.; revising legislative findings and
4 intent; authorizing the Inland Protection Trust Fund
5 to be used for the cleanup of drycleaning solvents
6 under the drycleaning solvent cleanup program;
7 specifying an appropriation to the Water Quality
8 Assurance Trust Fund for use in the drycleaning
9 solvent cleanup program; specifying an annual
10 appropriation; amending s. 376.3078, F.S.; revising
11 the sources of funds for the drycleaning solvent
12 cleanup program; revising the maximum amount of funds
13 the Department of Environmental Protection may
14 obligate under the program annually; making a
15 technical change; revising the use of the scoring
16 system application to include program sites;
17 specifying that assignments use a specific scoring
18 system created by rule; revising the annual funding
19 available for advanced site assessment; requiring the
20 department to have a specified number of individual
21 contractors participating in the program by a
22 specified date; requiring the department to adopt a
23 scoring system by rule for scoring contractors;
24 specifying system requirements; providing an effective
25 date.

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

Section 1. Paragraphs (a), (d), and (g) of subsection (1), paragraphs (a) and (b) of subsection (2), and subsections (3) and (4) of section 376.3071, Florida Statutes, are amended, paragraph (c) is added to subsection (12), and subsection (15) is added to that section, to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(1) FINDINGS.—In addition to the legislative findings set forth in s. 376.30, the Legislature finds and declares:

(a) That significant quantities of drycleaning solvents, petroleum, and petroleum products are being stored in storage systems in this state, which is a hazardous undertaking.

(d) That adequate financial resources must be readily available, including the appropriation specified in subsection (15), to provide for the expeditious supply of safe and reliable alternative sources of potable water to affected persons and to provide a means for investigation and cleanup of contamination sites without delay.

(g) That the drycleaning solvent cleanup program under s. 376.3078 and the Petroleum Restoration Program must be implemented in a manner that reduces costs and improves the efficiency of rehabilitation activities to reduce the

51 significant backlog of contaminated sites eligible for state-
 52 funded rehabilitation and the corresponding threat to the public
 53 health, safety, and welfare, water resources, and the
 54 environment.

55 (2) INTENT AND PURPOSE.—

56 (a) It is the intent of the Legislature to establish the
 57 Inland Protection Trust Fund to serve as a repository for funds
 58 which will enable the department to respond without delay to
 59 incidents of inland contamination related to the storage of
 60 drycleaning solvents, petroleum, and petroleum products in order
 61 to protect the public health, safety, and welfare and to
 62 minimize environmental damage.

63 (b) It is the intent of the Legislature that the
 64 department implement rules and procedures to improve the
 65 efficiency and productivity of the drycleaning solvent cleanup
 66 program under s. 376.3078 and the Petroleum Restoration Program.
 67 The department is directed to implement rules and policies to
 68 eliminate and reduce duplication of site rehabilitation efforts,
 69 paperwork, and documentation, and micromanagement of site
 70 rehabilitation tasks. The department shall make efficiency and
 71 productivity a priority in the administration of the Petroleum
 72 Restoration Program and to this end, when necessary, shall use
 73 petroleum program contracted services to improve the efficiency
 74 and productivity of the program. Furthermore, when implementing
 75 rules and procedures to improve such efficiency and

76 productivity, the department shall recognize and consider the
 77 potential value of utilizing contracted inspection and
 78 professional resources to efficiently and productively
 79 administer the program.

80 (3) CREATION.—There is created the Inland Protection Trust
 81 Fund, hereinafter referred to as the "fund," to be administered
 82 by the department. This fund shall be used by the department as
 83 a nonlapsing revolving fund, consisting of the appropriation
 84 specified in subsection (15), for carrying out the purposes of
 85 this section and ss. 376.3073 and 376.3078 ~~s. 376.3073~~. To this
 86 fund shall also be credited all penalties, judgments,
 87 recoveries, reimbursements, loans, and other fees and charges
 88 related to the implementation of this section and ss. 376.3073
 89 and 376.3078 ~~s. 376.3073~~ and the excise tax revenues levied,
 90 collected, and credited pursuant to ss. 206.9935(3) and
 91 206.9945(1)(c). Charges against the fund shall be made pursuant
 92 to this section.

93 (4) USES.—Whenever, in its determination, incidents of
 94 inland contamination related to the storage of drycleaning
 95 solvents, petroleum, or petroleum products may pose a threat to
 96 the public health, safety, or welfare, water resources, or the
 97 environment, the department shall obligate moneys available in
 98 the fund to provide for:

99 (a) Prompt investigation and assessment of contamination
 100 sites.

101 (b) Expeditious restoration or replacement of potable
 102 water supplies as provided in s. 376.30(3)(c)1.

103 (c) Rehabilitation of contamination sites, which shall
 104 consist of cleanup of affected soil, groundwater, and inland
 105 surface waters, using the most cost-effective alternative that
 106 is technologically feasible and reliable and that provides
 107 adequate protection of the public health, safety, and welfare,
 108 and water resources, and that minimizes environmental damage,
 109 pursuant to the site selection and cleanup criteria established
 110 by the department under subsection (5), except that this
 111 paragraph does not authorize the department to obligate funds
 112 for payment of costs which may be associated with, but are not
 113 integral to, site rehabilitation, such as the cost for
 114 retrofitting or replacing petroleum storage systems.

115 (d) Maintenance and monitoring of contamination sites.

116 (e) Inspection and supervision of activities described in
 117 this subsection.

118 (f) Payment of expenses incurred by the department in its
 119 efforts to obtain from responsible parties the payment or
 120 recovery of reasonable costs resulting from the activities
 121 described in this subsection.

122 (g) Payment of any other reasonable costs of
 123 administration, including those administrative costs incurred by
 124 the Department of Health in providing field and laboratory
 125 services, toxicological risk assessment, and other assistance to

126 the department in the investigation of drinking water
 127 contamination complaints and costs associated with public
 128 information and education activities.

129 (h) Establishment and implementation of the compliance
 130 verification program as authorized in s. 376.303(1)(a),
 131 including contracting with local governments or state agencies
 132 to provide for the administration of such program through
 133 locally administered programs, to minimize the potential for
 134 further contamination sites.

135 (i) Funding of the provisions of ss. 376.305(6), and
 136 376.3072, and 376.3078.

137 (j) Activities related to removal and replacement of
 138 petroleum storage systems, exclusive of costs of any tank,
 139 piping, dispensing unit, or related hardware, if soil removal is
 140 approved as a component of site rehabilitation and requires
 141 removal of the tank where remediation is conducted under this
 142 section or if such activities were justified in an approved
 143 remedial action plan.

144 (k) Reasonable costs of restoring property as nearly as
 145 practicable to the conditions which existed before activities
 146 associated with contamination assessment or remedial action
 147 taken under s. 376.303(4).

148 (l) Repayment of loans to the fund.

149 (m) Expenditure of sums from the fund to cover ineligible
 150 sites or costs as set forth in subsection (13), if the

151 department in its discretion deems it necessary to do so. In
 152 such cases, the department may seek recovery and reimbursement
 153 of costs in the same manner and pursuant to the same procedures
 154 established for recovery and reimbursement of sums otherwise
 155 owed to or expended from the fund.

156 (n) Payment of amounts payable under any service contract
 157 entered into by the department pursuant to s. 376.3075, subject
 158 to annual appropriation by the Legislature.

159 (o) Drycleaning solvent remediation on eligible sites in
 160 the drycleaning solvent cleanup program and petroleum
 161 remediation pursuant to this section throughout a state fiscal
 162 year. The department shall establish a process to uniformly
 163 encumber appropriated funds throughout a state fiscal year and
 164 shall allow for emergencies and imminent threats to public
 165 health, safety, and welfare, water resources, and the
 166 environment as provided in paragraph (5)(a). This paragraph does
 167 not apply to appropriations associated with the free product
 168 recovery initiative provided in paragraph (5)(c) or the advanced
 169 cleanup program provided in s. 376.30713.

170 (p) Enforcement of this section and ss. 376.30-376.317 by
 171 the Fish and Wildlife Conservation Commission. The department
 172 shall disburse moneys to the commission for such purpose.

173 (q) Payments for program deductibles, copayments, and
 174 limited contamination assessment reports that otherwise would be
 175 paid by another state agency for state-funded drycleaning

176 solvent or petroleum contamination site rehabilitation.
 177
 178 The issuance of a site rehabilitation completion order pursuant
 179 to subsection (5) or paragraph (12)(b) for contamination
 180 eligible for programs funded by this section does not alter the
 181 project's eligibility for state-funded remediation if the
 182 department determines that site conditions are not protective of
 183 human health under actual or proposed circumstances of exposure
 184 under subsection (5). The Inland Protection Trust Fund may be
 185 used only to fund the activities in ss. 376.30-376.317 except s.
 186 376.3079 ~~ss. 376.3078 and 376.3079~~. Amounts on deposit in the
 187 fund in each fiscal year must first be applied or allocated for
 188 the payment of amounts payable by the department pursuant to
 189 paragraph (n) under a service contract entered into by the
 190 department pursuant to s. 376.3075 and appropriated in each year
 191 by the Legislature before making or providing for other
 192 disbursements from the fund. This subsection does not authorize
 193 the use of the fund for cleanup of contamination caused
 194 primarily by a discharge of solvents as defined in s.
 195 206.9925(6), or polychlorinated biphenyls when their presence
 196 causes them to be hazardous wastes, except solvent contamination
 197 which is the result of chemical or physical breakdown of
 198 petroleum products and is otherwise eligible or solvent
 199 contamination from a drycleaning facility that is eligible for
 200 funding in the drycleaning solvent cleanup program. Facilities

201 used primarily for the storage of motor or diesel fuels as
 202 defined in ss. 206.01 and 206.86 are not excluded from
 203 eligibility pursuant to this section.

204 (12) SITE CLEANUP.—

205 (c) Drycleaning solvent facility restoration.—An annual
 206 appropriation of \$30 million shall be deposited from the fund
 207 into the Water Quality Assurance Trust Fund to be used for the
 208 drycleaning solvent cleanup program under s. 376.3078.

209 (15) APPROPRIATION.—A minimum of \$150 million is
 210 appropriated annually to the Inland Protection Trust Fund to
 211 implement this section.

212 Section 2. Paragraphs (a) and (b) of subsection (2),
 213 paragraph (m) of subsection (3), paragraphs (d) and (e) of
 214 subsection (8), and paragraph (e) of subsection (14) of section
 215 376.3078, Florida Statutes, are amended, and subsection (15) is
 216 added to that section, to read:

217 376.3078 Drycleaning facility restoration; funds; uses;
 218 liability; recovery of expenditures.—

219 (2) FUNDS; USES.—

220 (a) All penalties, judgments, recoveries, reimbursements,
 221 loans, and other fees and charges related to the implementation
 222 of this section and the tax revenues levied, collected, and
 223 credited pursuant to ss. 376.70 and 376.75, and fees collected
 224 pursuant to s. 376.303(1)(d), ~~and~~ deductibles collected pursuant
 225 to paragraph (3)(d), and the funds appropriated from the Inland

226 Protection Trust Fund pursuant to s. 376.3071(12)(c), shall be
 227 deposited into the Water Quality Assurance Trust Fund, to be
 228 used upon appropriation as provided in this section and s.
 229 376.3071(12)(c). Charges against the funds for drycleaning
 230 facility or wholesale supply site rehabilitation shall be made
 231 in accordance with ~~the provisions of~~ this section.

232 (b) Whenever, in its determination, incidents of
 233 contamination by drycleaning solvents related to the operation
 234 of drycleaning facilities and wholesale supply facilities may
 235 pose a threat to the environment or the public health, safety,
 236 or welfare, the department shall obligate moneys available
 237 pursuant to this section to provide for:

238 1. Prompt investigation and assessment of the contaminated
 239 drycleaning facility or wholesale supply facility sites.

240 2. Expeditious treatment, restoration, or replacement of
 241 potable water supplies as provided in s. 376.30(3)(c)1.

242 3. Rehabilitation of contaminated drycleaning facility or
 243 wholesale supply facility sites, which shall consist of
 244 rehabilitation of affected soil, groundwater, and surface
 245 waters, using the most cost-effective alternative that is
 246 technologically feasible and reliable and that provides adequate
 247 protection of the public health, safety, and welfare and
 248 minimizes environmental damage, in accordance with the site
 249 selection and rehabilitation criteria established by the
 250 department under subsection (4), except that nothing in this

251 subsection shall be construed to authorize the department to
 252 obligate drycleaning facility restoration funds for payment of
 253 costs that may be associated with, but are not integral to,
 254 drycleaning facility or wholesale supply facility site
 255 rehabilitation.

256 4. Maintenance and monitoring of contaminated drycleaning
 257 facility or wholesale supply facility sites.

258 5. Inspection and supervision of activities described in
 259 this subsection.

260 6. Payment of expenses incurred by the department in its
 261 efforts to obtain from responsible parties the payment or
 262 recovery of reasonable costs resulting from the activities
 263 described in this subsection.

264 7. Payment of any other reasonable costs of
 265 administration, including those administrative costs incurred by
 266 the Department of Health in providing field and laboratory
 267 services, toxicological risk assessment, and other assistance to
 268 the department in the investigation of drinking water
 269 contamination complaints and costs associated with public
 270 information and education activities.

271 8. Reasonable costs of restoring property as nearly as
 272 practicable to the conditions that existed prior to activities
 273 associated with contamination assessment or remedial action.

274

275 The department may ~~shall~~ not obligate funds in excess of the sum

276 of the annual appropriation plus the appropriation specified in
 277 s. 376.3071(12)(c).

278 (3) REHABILITATION LIABILITY.—

279 (m) The owner, operator, and either the real property
 280 owner or agent of the real property owner may apply for the
 281 drycleaning solvent ~~contamination~~ cleanup program by jointly
 282 submitting a completed application package to the department
 283 pursuant to the rules that shall be adopted by the department.
 284 If the application cannot be jointly submitted, then the
 285 applicant shall provide notice of the application to other
 286 interested parties. After reviewing the completed application
 287 package, the department may ~~shall~~ notify the applicant in
 288 writing as to whether the drycleaning facility or wholesale
 289 supply facility is eligible for the program. If the department
 290 denies eligibility for a completed application package, the
 291 notice of denial shall specify the reasons for the denial,
 292 including specific and substantive findings of fact, and shall
 293 constitute agency action subject to the provisions of chapter
 294 120. For the purposes of ss. 120.569 and 120.57, the real
 295 property owner and the owner and operator of a drycleaning
 296 facility or wholesale supply facility which is the subject of a
 297 decision by the department with regard to eligibility shall be
 298 deemed to be parties whose substantial interests are determined
 299 by the department's decision to approve or deny eligibility.

300 (8) SCORING SYSTEM APPLICATION.—

301 (d) Assignments for program tasks or sites to be conducted
 302 by state contractors ~~shall be made according to the current~~
 303 ~~priority list and~~ shall be based on the department scoring
 304 system created pursuant to paragraph (15)(b) ~~determination of~~
 305 ~~contractor logistics, geographical considerations, and other~~
 306 ~~criteria the department determines are necessary to achieve~~
 307 ~~cost-effective site rehabilitation.~~

308 (e) Assignments for the program tasks or sites shall be
 309 made beginning with the highest-ranked sites on the priority
 310 list at the effective date the assignment is made and proceed
 311 through lower-ranked sites.

312 (14) ADVANCED SITE ASSESSMENT.—It is in the public
 313 interest, and of substantial environmental and economic benefit
 314 to the state, to provide an opportunity to conduct site
 315 assessment on a limited basis at contaminated sites in advance
 316 of the ranking of the sites on the priority list as specified in
 317 subsection (8).

318 (e) Available funding for advanced site assessments may
 319 not exceed 10 percent of the annual Water Quality Assurance
 320 Trust Fund appropriation for the drycleaning solvent cleanup
 321 program under this section plus the appropriation specified in
 322 s. 376.3071(12)(c).

323 (15) STATE CONTRACTOR PARTICIPATION AND SCORING SYSTEM.—

324 (a) The department must have at least 25 individual state
 325 contractors participating in the drycleaning solvent cleanup

326 program by December 31, 2018.

327 (b) The department shall by rule create a system for
 328 scoring contractors to be assigned to drycleaning solvent
 329 cleanup program tasks and sites. Such system, at a minimum, must
 330 consider the contractor's qualifications, the contractor's
 331 rates, and any of the contractor's performance evaluations for
 332 previous work performed pursuant to this section.

333 Section 3. This act shall take effect July 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Natural Resources & Public
 2 Lands Subcommittee

3 Representative Raburn offered the following:

4

5 **Amendment**

6 Remove lines 88-89 and insert:
 7 related to the implementation of this section and s. 376.3073
 8 and the excise tax revenues levied,

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1149 Environmental Regulation
SPONSOR(S): Payne
TIED BILLS: IDEN./SIM. BILLS: SB 1308

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee		Moore <i>ML</i>	Shugar <i>XAS</i>
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill revises policies relating to Florida’s environmental regulation by:

- Providing examples of reclaimed water use that may create an impact offset to include those that prevent or stop further saltwater intrusion; raise aquifer levels; improve the water quality of an aquifer; or augment surface water to increase the quantity of water available for water supply;
- Requiring the Department of Environmental Protection (DEP) to revise the water resource implementation rule to create criteria by which an impact offset or substitution credit may be applied to the issuance, renewal, or extension of a consumptive use permit (CUP) or may be used to address additional water resource constraints imposed by the adoption of a recovery or prevention strategy;
- Including the reuse of reclaimed water through aquifer recharge as a critical component of meeting the state’s existing and future water supply needs while sustaining natural systems;
- Requiring DEP and water management districts to develop and enter into a memorandum of agreement, no later than December 1, 2018, providing for coordinated review of any reclaimed water project requiring a reclaimed water facility permit, a underground injection control permit, and a CUP, to be used solely at the permit applicant’s request;
- Prohibiting a county or municipality from requiring the recycling of contaminated recyclable material and providing that a county, municipality, or recyclable material contractor is not required to collect, transport, or process contaminated recyclable material. The bill defines “contaminated recyclable material” to mean recyclable material having 15 percent or more, measured by weight or volume, of municipal solid waste or nonrecyclable material comingled with recyclable material. The bill provides an exclusion for executed contracts between a county or municipality and a recyclable material contractor for the collection, transportation, or processing of recyclable material that includes stated terms allowing contamination percentages of 15 percent or more that was executed before the effective date of the act and provides that the exclusion expires when the existing contract expires or on July 1, 2023, whichever occurs first;
- Prohibiting local governments from requiring verification from DEP that a particular activity meets a permit exception; and
- Revising the permit exception for the replacement or repair of existing docks and piers to allow for the repair or replacement if it is in approximately the same location, no larger in size than the existing dock or pier, and no additional aquatic resources are adversely and permanently impacted.

The bill appears to have a minimal negative fiscal impact on state government and a positive fiscal impact on local governments and the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Reuse of Reclaimed Water in Consumptive Use Permitting

Present Situation

Reclaimed Water

Reclaimed water¹ is water from a domestic wastewater² treatment facility, which has received at least secondary treatment³ and basic disinfection for reuse.⁴

Water Resource Implementation Rule

The water resource implementation rule, ch. 62-40, F.A.C., sets forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives.⁵ The Legislature required the Department of Environmental Protection (DEP) to initiate rulemaking, by October 1, 2012, to revise the rule to include:

- Criteria for the use of a proposed impact offset⁶ derived from the use of reclaimed water when a water management district (WMD) evaluated an application for a consumptive use permit (CUP); and
- Criteria for the use of substitution credits⁷ where a WMD had adopted rules establishing withdrawal limits from a specified water resource within a defined geographic area.⁸

The revisions to the water resource implementation rule can be found in rules 62-40.416(7) and (8), F.A.C., respectively.

Consumptive Use Permitting

Before using waters of the state,⁹ a person must apply for and obtain a CUP from the applicable WMD¹⁰ or the DEP. The WMD or DEP may impose reasonable conditions necessary to assure that such use is consistent with the overall objectives of the WMD or DEP and is not harmful to the water resources of the area.¹¹ To obtain a CUP, an applicant must establish that the proposed use of water is

¹ Section 373.019(17), F.S.; r. 62-610.200(48), F.A.C.

² Rule 62-610.200(15), F.A.C.

³ Rule 62-610.200(54), F.A.C.

⁴ Rules 62-610.200(12), 62-600.200(18), and 62-600.440(5), F.A.C.

⁵ Sections 373.019(25), and 373.036, F.S.

⁶ Section 373.250(5)(a)1., defines “impact offset” to mean the use of reclaimed water to reduce or eliminate a harmful impact that has occurred or would otherwise occur as a result of other surface water or groundwater withdrawals.

⁷ Section 373.250(5)(a)2., defines “substitution credit” to mean the use of reclaimed water to replace all or a portion of an existing permitted use of resource-limited surface water or groundwater, allowing a different user or use to initiate a withdrawal or increase its withdrawal from the same resource-limited surface water or groundwater source provided that the withdrawal creates no net adverse impact on the limited water resource or creates a net positive impact if required by water management district rule as part of a strategy to protect or recover a water resource.

⁸ Section 373.250(5)(a)1.-2., F.S.

⁹ Section 373.019(22), F.S., defines “water” or “waters of the state” to mean any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

¹⁰ Section 373.216, F.S.; see chs. 40A-2, 40B-2, 40C-2, 40D-2, and 40E-2, F.A.C., for CUP permitting requirements.

¹¹ Section 373.219(1), F.S.; An individual solely using water for domestic consumption is exempt from CUP requirements.

a reasonable-beneficial use,¹² will not interfere with any presently existing legal use of water, and is consistent with the public interest.¹³

Recovery or Prevention Strategy

If, at the time a minimum flow¹⁴ or minimum water level¹⁵ (MFL) is initially established for a water body or is revised, and the existing flow or water level in the water body is below or is projected to fall within 20 years below, the applicable MFL, the DEP or WMD must concurrently adopt or modify and implement a recovery or prevention strategy. If a MFL has been established for a water body and the existing flow or water level in the water body falls below, or is projected to fall within 20 years below, the applicable MFL, the DEP or the WMD must expeditiously adopt a recovery or prevention strategy.¹⁶

A recovery or prevention strategy must include the development of additional water supplies and other actions to achieve recovery to the established MFL as soon as practicable or prevent the existing flow or water level from falling below the established MFL. A recovery or prevention strategy must also include a phased-in approach or a timetable that will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses, including implementation of conservation and other efficiency measures to offset reductions in permitted withdrawals.¹⁷

Effect of the Proposed Changes

The bill amends s. 373.250(5), F.S., regarding the reuse of reclaimed water, to delete the obsolete rulemaking provision that directs DEP to initiate rulemaking to develop criteria for the use of impact offsets and substitution credits under the water resource implementation rule.

The bill amends s. 373.250(5)(a)1., F.S., providing examples of reclaimed water use that may create an impact offset to include those that prevent or stop further saltwater intrusion; raise aquifer levels; improve the water quality of an aquifer; or augment surface water to increase the quantity of water available for water supply.

The bill creates s. 373.250(5)(a)3., F.S., requiring DEP to revise the water resource implementation rule to create criteria by which an impact offset or substitution credit may be applied to the issuance, renewal, or extension of a utility's or another user's CUP or may be used to address additional water resource constraints imposed through the adoption of a recovery or prevention strategy.

Reuse of Reclaimed Water and Pollution Control

Present Situation

Aquifer Recharge

Aquifer recharge is the underground injection and storage of water into an aquifer. It is primarily considered a water resource development and conservation strategy used to preserve and enhance

¹² Section 373.019(16), F.S., defines "reasonable-beneficial use" to mean the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.

¹³ Section 373.223(1), F.S.

¹⁴ The minimum flow is the limit at which further water withdrawals would be significantly harmful to the water resources or ecology of the area; s. 373.042(1)(a), F.S.

¹⁵ The minimum level is the level of groundwater in an aquifer or the level of a surface waterbody at which further withdrawals will significantly harm the water resources of the area; s. 373.042(1)(b), F.S.

¹⁶ Section 373.0421(2), F.S.

¹⁷ *Id.*

water resources and natural systems (e.g., sustain water levels, meet MFLs) and to attenuate flooding.¹⁸ Aquifer recharge wells include:

- Recharge wells used to replenish, augment, or store water in an aquifer;
- Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;
- Subsidence control wells used to inject fluids into a zone which does not produce oil or gas to reduce or eliminate subsidence associated with the overdraft of fresh water; and
- Connector wells used to connect two aquifers to allow interchange of water between those aquifers.¹⁹

Reclaimed Water Facility Permitting

Any facility or activity that discharges wastes into waters of the state, or which will reasonably be expected to be a source of water pollution, must obtain a wastewater permit from DEP.²⁰ DEP may issue construction permits for wastewater systems, treatment works, or reuse or disposal systems based upon review of a preliminary design report, application forms, and other required information, all of which shall be formulated by DEP rule. Upon a demonstration that a system constructed in accordance with a construction permit issued operates as designed, DEP must issue a permit for operation of the system.²¹

Underground Injection Control Permitting

DEP has general control and supervision over underground water, lakes, rivers, streams, canals, ditches, and coastal waters under the jurisdiction of the state insofar as their pollution may affect the public health or impair the interest of the public or persons lawfully using them.²² DEP's regulates the disposal of appropriately treated fluids via underground injection wells through its underground injection control (UIC) program. The UIC permitting program prevents degradation of the quality of aquifers adjacent to the injection zone. Subsurface injection, the practice of emplacing fluids in a permeable underground aquifer by gravity flow or under pressure through an injection well, is one of a variety of wastewater disposal or reuse methods used in the state.²³

Effect of the Proposed Changes

The bill amends s. 403.064(1), F.S., providing legislative findings, regarding the reuse of reclaimed water, to include reuse through aquifer recharge as a critical component of meeting the state's existing and future water supply needs while sustaining natural systems.

The bill creates s. 403.064(17), F.S., requiring DEP and the WMDs to develop and enter into a memorandum of agreement (MOA) providing for coordinated review of any reclaimed water project requiring a reclaimed water facility permit, a UIC permit, and a CUP no later than December 1, 2018. The bill requires the MOA to provide such coordinated review solely at the applicant's request. The bill provides that the goal of the coordinated review is to share information, avoid requesting the applicant to submit redundant information, and ensure, to the extent feasible, a harmonized review of the reclaimed water project under these various permitting programs, including the use of a proposed impact offset or substitution credit.

¹⁸ DEP, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water*, pg. 83, <https://floridadep.gov/sites/default/files/SB536%20Final%20Report.pdf> (last visited Jan. 16, 2018).

¹⁹ Rule 62-528.300(1)(e), F.A.C.

²⁰ Section 403.087(1), F.S.; DEP and WMD, *Florida's Water Permitting Portal*. <http://flwaterpermits.com/typesofpermits.html> (last visited Jan. 16, 2018).

²¹ Section 403.0881, F.S.; see chs. 62-610, and 62-620, F.A.C., for reuse and wastewater permitting requirements, respectively.

²² Section 403.062, F.S.;

²³ DEP and WMD, *Florida's Water Permitting Portal*. <http://flwaterpermits.com/typesofpermits.html> (last visited Jan. 16, 2018); see ch. 62-528, F.A.C., for UIC permitting requirements.

Recyclable Materials and Contamination

Present Situation

Recyclable material is material that is capable of being recycled and that would otherwise be processed or disposed of as solid waste.²⁴ Each county must implement a recyclable materials recycling program with a goal of recycling recyclable solid waste by 40 percent by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020 (recycling goal).

Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs.²⁵ Recycling programs must recover a significant portion of at least four of the following materials from the solid waste stream prior to final disposal at a solid waste disposal facility and to offer these materials for recycling: newspaper, aluminum cans, steel cans, glass, plastic bottles, cardboard, office paper, and yard trash. Local governments are also encouraged to separate all plastics, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other mechanically treated solid waste into compost available for agricultural and other acceptable uses.²⁶

To assess the progress in meeting the recycling goal, counties are annually required to provide information to DEP regarding their annual solid waste management program and recycling activities.²⁷ If the recycling goal is not met, DEP is required to provide a report to the Legislature, which identifies additional programs or statutory changes needed to achieve the recycling goal.²⁸

The state, having achieved 56 percent, fell short of its 2016 recycling goal. DEP provided its report to the Legislature, which provided some insight into the issue of contamination of recyclable materials.²⁹ In its report, DEP found that many local governments have instituted single stream recycling programs, which allow all accepted recyclables in a single, curbside recycling cart, comingling materials such as paper, plastic bottles, metal cans and glass containers. These single stream recycling programs have been successful in providing curbside collection efficiency by increasing the amount of recyclables collected and residential participation. The unexpected consequence of single stream recycling has been the collection of unwanted materials and poorly sorted recyclables, resulting in increased contamination originating in the curbside recycling cart. Although some local governments have implemented successful single stream recycling programs with low contamination rates, contamination rates for other programs have continued to rise, in some cases reaching contamination rates of more than 30 to 40 percent by weight.³⁰

Contamination of recyclables occurs when residents place materials that are not recyclable into curbside recycling bins (e.g., plastic bags, styrofoam peanuts, and other increasingly popular thin plastics). While materials recovery facilities³¹ (MRFs) are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process resulting in additional sorting, processing, energy consumption, and other increased costs due to equipment downtime, repair or

²⁴ Section 403.703(30), F.S.

²⁵ Section 403.706(2)(a), F.S.

²⁶ Section 403.706(2)(g), F.S.

²⁷ Section 403.706(7), F.S.

²⁸ Section 403.706(2)(e), F.S.

²⁹ DEP, *Florida and the 2020 75% Recycling Goal*, https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Jan. 16, 2018).

³⁰ *Id.*

³¹ Section 403.703(29), F.S.

replacement needs. In addition to increased recycling processing costs, contamination also results in poorer quality recyclables, and increased rejection and landfilling of unusable materials.³²

DEP, waste industry groups and local governments have worked to address rising single stream contamination rates and boost residential participation in curbside recycling statewide. In 2016, DEP rolled out a statewide public education campaign, "Rethink. Reset. Recycle." The campaign addresses the need to educate Florida residents on how to reduce single stream curbside recycling contamination.

Effect of the Proposed Changes

The bill creates s. 403.706(22), F.S., prohibiting a county or municipality from requiring the recycling of contaminated recyclable material and provides that a county, municipality, or recyclable material contractor is not required to collect, transport, or process contaminated recyclable material. The bill defines "contaminated recyclable material" to mean recyclable material having 15 percent or more, measured by weight or volume, of municipal solid waste³³ or nonrecyclable material comingled with recyclable material.

The bill provides an exclusion from the requirements of the bill for executed contracts between a county or municipality and a recyclable material contractor for the collection, transportation, or processing of recyclable material that includes stated terms allowing contamination percentages of 15 percent or more that was executed before the effective date of the act. The bill provides this exclusion expires when the existing contract expires or on July 1, 2023, whichever occurs first.

Verification of State Permit Exceptions

Present Situation

Current law provides exceptions from state environmental permitting³⁴ for certain types of projects.³⁵ Generally, these permit exceptions restrict how the project is undertaken, provide size and location requirements, or provide for maintenance, repair or replacement of existing structures.³⁶ These exceptions do not relieve an applicant from obtaining permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a WMD or from complying with local pollution control programs, or other requirements of local governments.³⁷

Effect of Proposed Changes

The bill amends s. 403.813(1), F.S., prohibiting local governments from requiring verification from DEP that a particular activity meets a permit exception.

Dock and Pier Replacement and Repair Permit Exception

Present Situation

Currently, an exception from environmental permitting applies for the replacement or repair of existing docks and piers if fill³⁸ material is not used and the replacement or repaired dock or pier is in the same

³² DEP, *Florida and the 2020 75% Recycling Goal*, https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Jan. 16, 2018).

³³ Section 403.706(5), F.S.

³⁴ See chs. 373, and 403, F.S.

³⁵ Section 403.803(1), F.S.

³⁶ Section 403.803(1)(a)-(v), F.S.

³⁷ Section 403.813(1), F.S.

³⁸ Filling means deposition of any material (such as sand, dock pilings or seawalls) in wetlands or other surface waters; <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-dredging-and-filling> (last visited Jan. 14, 2018).

location and of the same configuration and dimensions as the dock or pier being replaced or repaired. The exception allows the use of different construction materials or minor deviations to allow upgrades to current structural and design standards.³⁹ Other permit exceptions that allow for repair or replacement also require the repair or replacement to be of the same configuration, location, length, and dimensions. These include the repair or replacement of stormwater pipes or culverts,⁴⁰ open-trestle foot bridges and vehicular bridges that are 100 feet or less in length and two lanes or less in width,⁴¹ and insect control impoundment dikes, which are less than 100 feet in length.⁴² Another permit exception, regarding the restoration of seawalls, allows for the restoration of the seawall to take place at the previous location or upland of, or within 18 inches waterward of the previous location.⁴³

Effect of the Proposed Changes

The bill amends s. 403.813(1)(d), F.S., regarding the exception for replacement or repair of existing docks or piers. The bill removes the requirement that a dock or pier replacement or repair remain in the same location and be of the same configuration and dimensions as the existing dock or pier. The bill provides that the repair or replacement of the dock or pier must be in approximately the same location, and no larger in size than the existing dock or pier, and no additional aquatic resources may be adversely and permanently impacted.

B. SECTION DIRECTORY:

- Section 1. Amends s. 327.250, F.S., relating to reuse of reclaimed water.
- Section 2. Amends s. 403.064, F.S., relating to reuse of reclaimed water.
- Section 3. Amends s. 403.706, F.S., relating to local government solid waste responsibilities.
- Section 4. Amends s. 403.813, F.S., relating to permit exceptions.
- Section 5. Directs the Division of Law Revision and Information to replace the effective date of the act with the date the act becomes a law.
- Section 6. Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a minimal negative fiscal impact on DEP because of an increased workload associated with the rulemaking requirements of the bill. The bill may also have a minimal negative fiscal impact on DEP and WMDs in the development of the MOA required by the bill. The bill may also have a minimal negative fiscal impact on DEP created by expanding the permit exception for

³⁹ Section 403.813(1)(d), F.S.

⁴⁰ Section 403.813(1)(h), F.S.

⁴¹ Section 403.813(1)(l), F.S.

⁴² Section 403.813(1)(p), F.S.

⁴³ Section 403.813(1)(e), F.S.

the replacement or repair of existing docks and piers by having less permit applications coming in for review.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have a positive fiscal impact on local governments who are no longer required to collect, transport, or process contaminated recyclable material. The bill may have a positive fiscal impact on the on local governments with wastewater utilities that results from revisions to the water resource implementation rule creating criteria by which an impact offset or substitution credit may be applied to the issuance, renewal, or extension of a utility's or another user's CUP or may be used to address additional water resource constraints imposed through the adoption of a MFL recovery or prevention strategy.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on the private sector that result from revisions to the water resource implementation rule creating criteria by which an impact offset or substitution credit may be applied to the issuance, renewal, or extension of a utility's or another user's CUP or may be used to address additional water resource constraints imposed through the adoption of a MFL recovery or prevention strategy.

The bill may have a positive fiscal impact on the private sector in implementing a reclaimed water project that requires a reclaimed water facility permit, a UIC permit, and a CUP by utilizing the coordinated review process established by DEP and WMD MOA required by the bill.

The bill may have a positive fiscal impact on a recyclable material contractor who is no longer required to collect, transport, or process contaminated recyclable material.

The bill may have a positive fiscal impact on the private sector by prohibiting a local government from requiring verification from DEP on a permit exception under s. 403.813, F.S. The bill may also have a positive fiscal impact on the private sector by expanding the permit exception for the replacement or repair of existing docks and piers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DEP to revise the water resource implementation rule to create criteria by which an impact offset or substitution credit may be applied to the issuance, renewal, or extension of a utility's or

another user's CUP or may be used to address additional water resource constraints imposed through the adoption of a recovery or prevention strategy.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Recyclable Materials and Contamination

The bill provides that local governments and their contractors are not required to collect, transport, or process contaminated recyclable materials, but is unclear on how this determination would be made curbside. The bill is also unclear on how the 15 percent, calculated by weight or volume, would be determined.

The bill also appears as though it may hinder the state's recycling goal that is not currently being met. While DEP's report indicates contamination rates of more than 30 to 40 percent by weight may be high, DEP does not indicate what a low contamination rate would be.⁴⁴

Dock and Pier Replacement and Repair Permit Exception

The bill allows the location of a replaced or repaired dock or pier to be in approximately the same location, which could make verification of this exception difficult to measure. Perhaps adding some measurable information such as that provided for the allowable placements for the restoration of seawalls⁴⁵ would be helpful.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

⁴⁴ DEP, *Florida and the 2020 75% Recycling Goal*, https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Jan. 16, 2018).

⁴⁵ Section 403.813(1)(e), F.S.

26 verification from the department for certain projects;
 27 revising the types of dock and pier replacements and
 28 repairs that are exempt from such verification and
 29 certain permitting requirements; providing a directive
 30 to the Division of Law Revision and Information;
 31 providing an effective date.
 32

33 Be It Enacted by the Legislature of the State of Florida:
 34

35 Section 1. Subsection (5) of section 373.250, Florida
 36 Statutes, is amended to read:

37 373.250 Reuse of reclaimed water.—

38 (5) (a) ~~No later than October 1, 2012, the department shall~~
 39 ~~initiate rulemaking to adopt revisions to~~ The water resource
 40 implementation rule, as defined in s. 373.019(25), must ~~which~~
 41 ~~shall~~ include:

42 1. Criteria for the use of a proposed impact offset
 43 derived from the use of reclaimed water when a water management
 44 district evaluates an application for a consumptive use permit.
 45 As used in this subparagraph, the term "impact offset" means the
 46 use of reclaimed water to reduce or eliminate a harmful impact
 47 that has occurred or would otherwise occur as a result of other
 48 surface water or groundwater withdrawals. Examples of reclaimed
 49 water use that may create an impact offset include, but are not
 50 limited to, the use of reclaimed water to:

- 51 a. Prevent or stop further saltwater intrusion;
- 52 b. Raise aquifer levels;
- 53 c. Improve the water quality of an aquifer; or
- 54 d. Augment surface water to increase the quantity of water
- 55 available for water supply.

56 2. Criteria for the use of substitution credits where a
 57 water management district has adopted rules establishing
 58 withdrawal limits from a specified water resource within a
 59 defined geographic area. As used in this subparagraph, the term
 60 "substitution credit" means the use of reclaimed water to
 61 replace all or a portion of an existing permitted use of
 62 resource-limited surface water or groundwater, allowing a
 63 different user or use to initiate a withdrawal or increase its
 64 withdrawal from the same resource-limited surface water or
 65 groundwater source provided that the withdrawal creates no net
 66 adverse impact on the limited water resource or creates a net
 67 positive impact if required by water management district rule as
 68 part of a strategy to protect or recover a water resource.

69 3. Criteria by which an impact offset or substitution
 70 credit may be applied to the issuance, renewal, or extension of
 71 the utility's or another user's consumptive use permit or may be
 72 used to address additional water resource constraints imposed
 73 through the adoption of a recovery or prevention strategy under
 74 s. 373.0421.

75 (b) Within 60 days after the final adoption by the

76 department of the revisions to the water resource implementation
 77 rule required under paragraph (a), each water management
 78 district must ~~shall~~ initiate rulemaking to incorporate those
 79 revisions by reference into the rules of the district.

80 Section 2. Subsection (1) of section 403.064, Florida
 81 Statutes, is amended, and subsection (17) is added to that
 82 section, to read:

83 403.064 Reuse of reclaimed water.—

84 (1) The encouragement and promotion of water conservation,
 85 and reuse of reclaimed water, as defined by the department, are
 86 state objectives and are considered to be in the public
 87 interest. The Legislature finds that the reuse of reclaimed
 88 water, including reuse through aquifer recharge, is a critical
 89 component of meeting the state's existing and future water
 90 supply needs while sustaining natural systems. The Legislature
 91 further finds that for those wastewater treatment plants
 92 permitted and operated under an approved reuse program by the
 93 department, the reclaimed water shall be considered
 94 environmentally acceptable and not a threat to public health and
 95 safety. The Legislature encourages the development of incentive-
 96 based programs for reuse implementation.

97 (17) The department and the water management districts
 98 shall develop and enter into a memorandum of agreement providing
 99 for a coordinated review of any reclaimed water project
 100 requiring a reclaimed water facility permit, an underground

101 injection control permit, and a consumptive use permit. The
 102 memorandum of agreement must provide that the coordinated review
 103 is performed only if the applicant for such permits requests a
 104 coordinated review. The goal of the coordinated review is to
 105 share information, avoid requesting the applicant to submit
 106 redundant information, and ensure, to the extent feasible, a
 107 harmonized review of the reclaimed water project under these
 108 various permitting programs, including the use of a proposed
 109 impact offset or substitution credit in accordance with s.
 110 373.250(5). The department and the water management districts
 111 must develop and execute such memorandum of agreement no later
 112 than December 1, 2018.

113 Section 3. Present subsection (22) of section 403.706,
 114 Florida Statutes, is renumbered as subsection (23), and a new
 115 subsection (22) is added to that section, to read:

116 403.706 Local government solid waste responsibilities.—
 117 (22) Upon the effective date of this act and except as
 118 provided in paragraph (d):

119 (a) A county or municipality may not require the recycling
 120 of contaminated recyclable material.

121 (b) A county, municipality, or recyclable material
 122 contractor is not required to collect, transport, or process
 123 contaminated recyclable material.

124 (c) As used in this subsection, the term "contaminated
 125 recyclable material" means recyclable material having 15 percent

126 or more, measured by weight or volume, of municipal solid waste
 127 or nonrecyclable material comingled with recyclable material.

128 (d) This subsection does not apply to a contract between a
 129 county or municipality and a recyclable material contractor for
 130 the collection, transportation, or processing of recyclable
 131 material that includes stated terms allowing contamination
 132 percentages of 15 percent or more and that was executed before
 133 the effective date of this act. This exclusion continues until
 134 the remaining term of the existing contract expires or until
 135 July 1, 2023, whichever occurs first.

136 Section 4. Subsection (1) of section 403.813, Florida
 137 Statutes, is amended to read:

138 403.813 Permits issued at district centers; exceptions.—

139 (1) A permit is not required under this chapter, chapter
 140 373, chapter 61-691, Laws of Florida, or chapter 25214 or
 141 chapter 25270, 1949, Laws of Florida, and a local government may
 142 not require further verification from the department, for
 143 activities associated with the following types of projects;
 144 however, except as otherwise provided in this subsection, this
 145 subsection does not relieve an applicant from any requirement to
 146 obtain permission to use or occupy lands owned by the Board of
 147 Trustees of the Internal Improvement Trust Fund or a water
 148 management district in its governmental or proprietary capacity
 149 or from complying with applicable local pollution control
 150 programs authorized under this chapter or other requirements of

151 county and municipal governments:

152 (a) The installation of overhead transmission lines,
 153 having ~~with~~ support structures that ~~which~~ are not constructed in
 154 waters of the state and which do not create a navigational
 155 hazard.

156 (b) The installation and repair of mooring pilings and
 157 dolphins associated with private docking facilities or piers and
 158 the installation of private docks, piers, and recreational
 159 docking facilities, or piers and recreational docking facilities
 160 of local governmental entities when the local governmental
 161 entity's activities will not take place in any manatee habitat,
 162 any of which docks:

163 1. Has 500 square feet or less of over-water surface area
 164 for a dock ~~which is~~ located in an area designated as Outstanding
 165 Florida Waters or 1,000 square feet or less of over-water
 166 surface area for a dock ~~which is~~ located in an area that ~~which~~
 167 is not designated as Outstanding Florida Waters;

168 2. Is constructed on or held in place by pilings or is a
 169 floating dock ~~which is~~ constructed so as not to involve filling
 170 or dredging other than that necessary to install the pilings;

171 3. May ~~shall~~ not substantially impede the flow of water or
 172 create a navigational hazard;

173 4. Is used for recreational, noncommercial activities
 174 associated with the mooring or storage of boats and boat
 175 paraphernalia; and

176 5. Is the sole dock constructed pursuant to this exemption
 177 as measured along the shoreline for a distance of 65 feet,
 178 unless the parcel of land or individual lot as platted is less
 179 than 65 feet in length along the shoreline, in which case there
 180 may be one exempt dock allowed per parcel or lot.

181

182 ~~Nothing in~~ This paragraph does not ~~shall~~ prohibit the department
 183 from taking appropriate enforcement action pursuant to this
 184 chapter to abate or prohibit any activity otherwise exempt from
 185 permitting pursuant to this paragraph if the department can
 186 demonstrate that the exempted activity has caused water
 187 pollution in violation of this chapter.

188 (c) The installation and maintenance to design
 189 specifications of boat ramps on artificial bodies of water where
 190 navigational access to the proposed ramp exists or the
 191 installation of boat ramps open to the public in any waters of
 192 the state where navigational access to the proposed ramp exists
 193 and where the construction of the proposed ramp will be less
 194 than 30 feet wide and will involve the removal of less than 25
 195 cubic yards of material from the waters of the state, and the
 196 maintenance to design specifications of such ramps; however, the
 197 material to be removed shall be placed upon a self-contained
 198 upland site so as to prevent the escape of the spoil material
 199 into the waters of the state.

200 (d) The replacement or repair of existing docks and piers,

201 except that fill material may not be used and the replacement or
 202 repaired dock or pier must be in approximately the same location
 203 and no larger in size than the existing dock or pier, and no
 204 additional aquatic resources may be adversely and permanently
 205 impacted by such replacement or repair ~~the same location and of~~
 206 ~~the same configuration and dimensions as the dock or pier being~~
 207 ~~replaced or repaired.~~ This does not preclude the use of
 208 different construction materials or minor deviations to allow
 209 upgrades to current structural and design standards.

210 (e) The restoration of seawalls at their previous
 211 locations or upland of, or within 18 inches waterward of, their
 212 previous locations. However, this may ~~shall~~ not affect the
 213 permitting requirements of chapter 161, and department rules
 214 shall clearly indicate that this exception does not constitute
 215 an exception from the permitting requirements of chapter 161.

216 (f) The performance of maintenance dredging of existing
 217 manmade canals, channels, intake and discharge structures, and
 218 previously dredged portions of natural water bodies within
 219 drainage rights-of-way or drainage easements which have been
 220 recorded in the public records of the county, where the spoil
 221 material is to be removed and deposited on a self-contained,
 222 upland spoil site which will prevent the escape of the spoil
 223 material into the waters of the state, provided that no more
 224 dredging is to be performed than is necessary to restore the
 225 canals, channels, and intake and discharge structures, and

226 | previously dredged portions of natural water bodies, to original
 227 | design specifications or configurations, provided that the work
 228 | is conducted in compliance with s. 379.2431(2)(d), provided that
 229 | no significant impacts occur to previously undisturbed natural
 230 | areas, and provided that control devices for return flow and
 231 | best management practices for erosion and sediment control are
 232 | utilized to prevent bank erosion and scouring and to prevent
 233 | turbidity, dredged material, and toxic or deleterious substances
 234 | from discharging into adjacent waters during maintenance
 235 | dredging. Further, for maintenance dredging of previously
 236 | dredged portions of natural water bodies within recorded
 237 | drainage rights-of-way or drainage easements, an entity that
 238 | seeks an exemption must notify the department or water
 239 | management district, as applicable, at least 30 days before
 240 | ~~prior to~~ dredging and provide documentation of original design
 241 | specifications or configurations where such exist. This
 242 | exemption applies to all canals and previously dredged portions
 243 | of natural water bodies within recorded drainage rights-of-way
 244 | or drainage easements constructed before ~~prior to~~ April 3, 1970,
 245 | and to those canals and previously dredged portions of natural
 246 | water bodies constructed on or after April 3, 1970, pursuant to
 247 | all necessary state permits. This exemption does not apply to
 248 | the removal of a natural or manmade barrier separating a canal
 249 | or canal system from adjacent waters. When no previous permit
 250 | has been issued by the Board of Trustees of the Internal

251 Improvement Trust Fund or the United States Army Corps of
 252 Engineers for construction or maintenance dredging of the
 253 existing manmade canal or intake or discharge structure, such
 254 maintenance dredging shall be limited to a depth of no more than
 255 5 feet below mean low water. The Board of Trustees of the
 256 Internal Improvement Trust Fund may fix and recover from the
 257 permittee an amount equal to the difference between the fair
 258 market value and the actual cost of the maintenance dredging for
 259 material removed during such maintenance dredging. However, no
 260 charge shall be exacted by the state for material removed during
 261 such maintenance dredging by a public port authority. The
 262 removing party may subsequently sell such material; however,
 263 proceeds from such sale that exceed the costs of maintenance
 264 dredging shall be remitted to the state and deposited in the
 265 Internal Improvement Trust Fund.

266 (g) The maintenance of existing insect control structures,
 267 dikes, and irrigation and drainage ditches, provided that spoil
 268 material is deposited on a self-contained, upland spoil site
 269 which will prevent the escape of the spoil material into waters
 270 of the state. In the case of insect control structures, if the
 271 cost of using a self-contained upland spoil site is so
 272 excessive, as determined by the Department of Health, pursuant
 273 to s. 403.088(1), that it will inhibit proposed insect control,
 274 then-existing spoil sites or dikes may be used, upon
 275 notification to the department. In the case of insect control

276 where upland spoil sites are not used pursuant to this
 277 exemption, turbidity control devices shall be used to confine
 278 the spoil material discharge to that area previously disturbed
 279 when the receiving body of water is used as a potable water
 280 supply, is designated as shellfish harvesting waters, or
 281 functions as a habitat for commercially or recreationally
 282 important shellfish or finfish. In all cases, no more dredging
 283 is to be performed than is necessary to restore the dike or
 284 irrigation or drainage ditch to its original design
 285 specifications.

286 (h) The repair or replacement of existing functional pipes
 287 or culverts the purpose of which is the discharge or conveyance
 288 of stormwater. In all cases, the invert elevation, the diameter,
 289 and the length of the culvert may ~~shall~~ not be changed. However,
 290 the material used for the culvert may be different from the
 291 original.

292 (i) The construction of private docks of 1,000 square feet
 293 or less of over-water surface area and seawalls in artificially
 294 created waterways where such construction will not violate
 295 existing water quality standards, impede navigation, or affect
 296 flood control. This exemption does not apply to the construction
 297 of vertical seawalls in estuaries or lagoons unless the proposed
 298 construction is within an existing manmade canal where the
 299 shoreline is currently occupied in whole or part by vertical
 300 seawalls.

301 (j) The construction and maintenance of swales.

302 (k) The installation of aids to navigation and buoys
 303 associated with such aids, provided the devices are marked
 304 pursuant to s. 327.40.

305 (l) The replacement or repair of existing open-trestle
 306 foot bridges and vehicular bridges that are 100 feet or less in
 307 length and two lanes or less in width, provided that no more
 308 dredging or filling of submerged lands is performed other than
 309 that which is necessary to replace or repair pilings and that
 310 the structure to be replaced or repaired is the same length, the
 311 same configuration, and in the same location as the original
 312 bridge. No debris from the original bridge shall be allowed to
 313 remain in the waters of the state.

314 (m) The installation of subaqueous transmission and
 315 distribution lines laid on, or embedded in, the bottoms of
 316 waters in the state, except in Class I and Class II waters and
 317 aquatic preserves, provided no dredging or filling is necessary.

318 (n) The replacement or repair of subaqueous transmission
 319 and distribution lines laid on, or embedded in, the bottoms of
 320 waters of the state.

321 (o) The construction of private seawalls in wetlands or
 322 other surface waters where such construction is between and
 323 adjoins at both ends existing seawalls; follows a continuous and
 324 uniform seawall construction line with the existing seawalls; is
 325 no more than 150 feet in length; and does not violate existing

326 water quality standards, impede navigation, or affect flood
 327 control. However, in estuaries and lagoons the construction of
 328 vertical seawalls is limited to the circumstances and purposes
 329 stated in s. 373.414(5)(b)1.-4. This paragraph does not affect
 330 the permitting requirements of chapter 161, and department rules
 331 must clearly indicate that this exception does not constitute an
 332 exception from the permitting requirements of chapter 161.

333 (p) The restoration of existing insect control impoundment
 334 dikes which are less than 100 feet in length. Such impoundments
 335 shall be connected to tidally influenced waters for 6 months
 336 each year beginning September 1 and ending February 28 if
 337 feasible or operated in accordance with an impoundment
 338 management plan approved by the department. A dike restoration
 339 may involve no more dredging than is necessary to restore the
 340 dike to its original design specifications. For the purposes of
 341 this paragraph, restoration does not include maintenance of
 342 impoundment dikes of operating insect control impoundments.

343 (q) The construction, operation, or maintenance of
 344 stormwater management facilities which are designed to serve
 345 single-family residential projects, including duplexes,
 346 triplexes, and quadruplexes, if they are less than 10 acres
 347 total land and have less than 2 acres of impervious surface and
 348 if the facilities:

- 349 1. Comply with all regulations or ordinances applicable to
- 350 stormwater management and adopted by a city or county;

351 2. Are not part of a larger common plan of development or
352 sale; and

353 3. Discharge into a stormwater discharge facility exempted
354 or permitted by the department under this chapter which has
355 sufficient capacity and treatment capability as specified in
356 this chapter and is owned, maintained, or operated by a city,
357 county, special district with drainage responsibility, or water
358 management district; however, this exemption does not authorize
359 discharge to a facility without the facility owner's prior
360 written consent.

361 (r) The removal of aquatic plants, the removal of
362 tussocks, the associated replanting of indigenous aquatic
363 plants, and the associated removal from lakes of organic
364 detrital material when such planting or removal is performed and
365 authorized by permit or exemption granted under s. 369.20 or s.
366 369.25, provided that:

367 1. Organic detrital material that exists on the surface of
368 natural mineral substrate shall be allowed to be removed to a
369 depth of 3 feet or to the natural mineral substrate, whichever
370 is less;

371 2. All material removed pursuant to this paragraph shall
372 be deposited in an upland site in a manner that will prevent the
373 reintroduction of the material into waters in the state except
374 when spoil material is permitted to be used to create wildlife
375 islands in freshwater bodies of the state when a governmental

376 entity is permitted pursuant to s. 369.20 to create such islands
 377 as a part of a restoration or enhancement project;

378 3. All activities are performed in a manner consistent
 379 with state water quality standards; and

380 4. No activities under this exemption are conducted in
 381 wetland areas, as defined in s. 373.019(27), which are supported
 382 by a natural soil as shown in applicable United States
 383 Department of Agriculture county soil surveys, except when a
 384 governmental entity is permitted pursuant to s. 369.20 to
 385 conduct such activities as a part of a restoration or
 386 enhancement project.

387
 388 The department may not adopt implementing rules for this
 389 paragraph, notwithstanding any other provision of law.

390 (s) The construction, installation, operation, or
 391 maintenance of floating vessel platforms or floating boat lifts,
 392 provided that such structures:

393 1. Float at all times in the water for the sole purpose of
 394 supporting a vessel so that the vessel is out of the water when
 395 not in use;

396 2. Are wholly contained within a boat slip previously
 397 permitted under ss. 403.91-403.929, 1984 Supplement to the
 398 Florida Statutes 1983, as amended, or part IV of chapter 373, or
 399 do not exceed a combined total of 500 square feet, or 200 square
 400 feet in an Outstanding Florida Water, when associated with a

401 dock that is exempt under this subsection or associated with a
 402 permitted dock with no defined boat slip or attached to a
 403 bulkhead on a parcel of land where there is no other docking
 404 structure;

405 3. Are not used for any commercial purpose or for mooring
 406 vessels that remain in the water when not in use, and do not
 407 substantially impede the flow of water, create a navigational
 408 hazard, or unreasonably infringe upon the riparian rights of
 409 adjacent property owners, as defined in s. 253.141;

410 4. Are constructed and used so as to minimize adverse
 411 impacts to submerged lands, wetlands, shellfish areas, aquatic
 412 plant and animal species, and other biological communities,
 413 including locating such structures in areas where seagrasses are
 414 least dense adjacent to the dock or bulkhead; and

415 5. Are not constructed in areas specifically prohibited
 416 for boat mooring under conditions of a permit issued in
 417 accordance with ss. 403.91-403.929, 1984 Supplement to the
 418 Florida Statutes 1983, as amended, or part IV of chapter 373, or
 419 other form of authorization issued by a local government.

420

421 Structures that qualify for this exemption are relieved from any
 422 requirement to obtain permission to use or occupy lands owned by
 423 the Board of Trustees of the Internal Improvement Trust Fund
 424 and, with the exception of those structures attached to a
 425 bulkhead on a parcel of land where there is no docking

426 structure, may ~~shall~~ not be subject to any more stringent
 427 permitting requirements, registration requirements, or other
 428 regulation by any local government. Local governments may
 429 require either permitting or one-time registration of floating
 430 vessel platforms to be attached to a bulkhead on a parcel of
 431 land where there is no other docking structure as necessary to
 432 ensure compliance with local ordinances, codes, or regulations.
 433 Local governments may require either permitting or one-time
 434 registration of all other floating vessel platforms as necessary
 435 to ensure compliance with the exemption criteria in this
 436 section; to ensure compliance with local ordinances, codes, or
 437 regulations relating to building or zoning, which are no more
 438 stringent than the exemption criteria in this section or address
 439 subjects other than subjects addressed by the exemption criteria
 440 in this section; and to ensure proper installation, maintenance,
 441 and precautionary or evacuation action following a tropical
 442 storm or hurricane watch of a floating vessel platform or
 443 floating boat lift that is proposed to be attached to a bulkhead
 444 or parcel of land where there is no other docking structure. The
 445 exemption provided in this paragraph shall be in addition to the
 446 exemption provided in paragraph (b). The department shall adopt
 447 a general permit by rule for the construction, installation,
 448 operation, or maintenance of those floating vessel platforms or
 449 floating boat lifts that do not qualify for the exemption
 450 provided in this paragraph but do not cause significant adverse

451 impacts to occur individually or cumulatively. The issuance of
 452 such general permit shall also constitute permission to use or
 453 occupy lands owned by the Board of Trustees of the Internal
 454 Improvement Trust Fund. No local government shall impose a more
 455 stringent regulation, permitting requirement, registration
 456 requirement, or other regulation covered by such general permit.
 457 Local governments may require either permitting or one-time
 458 registration of floating vessel platforms as necessary to ensure
 459 compliance with the general permit in this section; to ensure
 460 compliance with local ordinances, codes, or regulations relating
 461 to building or zoning that are no more stringent than the
 462 general permit in this section; and to ensure proper
 463 installation and maintenance of a floating vessel platform or
 464 floating boat lift that is proposed to be attached to a bulkhead
 465 or parcel of land where there is no other docking structure.

466 (t) The repair, stabilization, or paving of existing
 467 county maintained roads and the repair or replacement of bridges
 468 that are part of the roadway, within the Northwest Florida Water
 469 Management District and the Suwannee River Water Management
 470 District, provided:

471 1. The road and associated bridge were in existence and in
 472 use as a public road or bridge, and were maintained by the
 473 county as a public road or bridge on or before January 1, 2002;

474 2. The construction activity does not realign the road or
 475 expand the number of existing traffic lanes of the existing

476 road; however, the work may include the provision of safety
 477 shoulders, clearance of vegetation, and other work reasonably
 478 necessary to repair, stabilize, pave, or repave the road,
 479 provided that the work is constructed by generally accepted
 480 engineering standards;

481 3. The construction activity does not expand the existing
 482 width of an existing vehicular bridge in excess of that
 483 reasonably necessary to properly connect the bridge with the
 484 road being repaired, stabilized, paved, or repaved to safely
 485 accommodate the traffic expected on the road, which may include
 486 expanding the width of the bridge to match the existing
 487 connected road. However, no debris from the original bridge
 488 shall be allowed to remain in waters of the state, including
 489 wetlands;

490 4. Best management practices for erosion control shall be
 491 employed as necessary to prevent water quality violations;

492 5. Roadside swales or other effective means of stormwater
 493 treatment must be incorporated as part of the project;

494 6. No more dredging or filling of wetlands or water of the
 495 state is performed than that which is reasonably necessary to
 496 repair, stabilize, pave, or repave the road or to repair or
 497 replace the bridge, in accordance with generally accepted
 498 engineering standards; and

499 7. Notice of intent to use the exemption is provided to
 500 the department, if the work is to be performed within the

501 Northwest Florida Water Management District, or to the Suwannee
 502 River Water Management District, if the work is to be performed
 503 within the Suwannee River Water Management District, 30 days
 504 before ~~prior to~~ performing any work under the exemption.

505
 506 Within 30 days after this act becomes a law, the department
 507 shall initiate rulemaking to adopt a no fee general permit for
 508 the repair, stabilization, or paving of existing roads that are
 509 maintained by the county and the repair or replacement of
 510 bridges that are part of the roadway where such activities do
 511 not cause significant adverse impacts to occur individually or
 512 cumulatively. The general permit shall apply statewide and, with
 513 no additional rulemaking required, apply to qualified projects
 514 reviewed by the Suwannee River Water Management District, the
 515 St. Johns River Water Management District, the Southwest Florida
 516 Water Management District, and the South Florida Water
 517 Management District under the division of responsibilities
 518 contained in the operating agreements applicable to part IV of
 519 chapter 373. Upon adoption, this general permit shall, pursuant
 520 to ~~the provisions of~~ subsection (2), supersede and replace the
 521 exemption in this paragraph.

522 (u) Notwithstanding any provision to the contrary in this
 523 subsection, a permit or other authorization under chapter 253,
 524 chapter 369, chapter 373, or this chapter is not required for an
 525 individual residential property owner for the removal of organic

526 | detrital material from freshwater rivers or lakes that have a
 527 | natural sand or rocky substrate and that are not Aquatic
 528 | Preserves or for the associated removal and replanting of
 529 | aquatic vegetation for the purpose of environmental enhancement,
 530 | providing that:

531 | 1. No activities under this exemption are conducted in
 532 | wetland areas, as defined in s. 373.019(27), which are supported
 533 | by a natural soil as shown in applicable United States
 534 | Department of Agriculture county soil surveys.

535 | 2. No filling or peat mining is allowed.

536 | 3. No removal of native wetland trees, including, but not
 537 | limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

538 | 4. When removing organic detrital material, no portion of
 539 | the underlying natural mineral substrate or rocky substrate is
 540 | removed.

541 | 5. Organic detrital material and plant material removed is
 542 | deposited in an upland site in a manner that will not cause
 543 | water quality violations.

544 | 6. All activities are conducted in such a manner, and with
 545 | appropriate turbidity controls, so as to prevent any water
 546 | quality violations outside the immediate work area.

547 | 7. Replanting with a variety of aquatic plants native to
 548 | the state shall occur in a minimum of 25 percent of the
 549 | preexisting vegetated areas where organic detrital material is
 550 | removed, except for areas where the material is removed to bare

551 rocky substrate; however, an area may be maintained clear of
 552 vegetation as an access corridor. The access corridor width may
 553 not exceed 50 percent of the property owner's frontage or 50
 554 feet, whichever is less, and may be a sufficient length
 555 waterward to create a corridor to allow access for a boat or
 556 swimmer to reach open water. Replanting must be at a minimum
 557 density of 2 feet on center and be completed within 90 days
 558 after removal of existing aquatic vegetation, except that under
 559 dewatered conditions replanting must be completed within 90 days
 560 after reflooding. The area to be replanted must extend waterward
 561 from the ordinary high water line to a point where normal water
 562 depth would be 3 feet or the preexisting vegetation line,
 563 whichever is less. Individuals are required to make a reasonable
 564 effort to maintain planting density for a period of 6 months
 565 after replanting is complete, and the plants, including
 566 naturally recruited native aquatic plants, must be allowed to
 567 expand and fill in the revegetation area. Native aquatic plants
 568 to be used for revegetation must be salvaged from the
 569 enhancement project site or obtained from an aquatic plant
 570 nursery regulated by the Department of Agriculture and Consumer
 571 Services. Plants that are not native to the state may not be
 572 used for replanting.

573 8. No activity occurs any farther than 100 feet waterward
 574 of the ordinary high water line, and all activities must be
 575 designed and conducted in a manner that will not unreasonably

576 restrict or infringe upon the riparian rights of adjacent upland
 577 riparian owners.

578 9. The person seeking this exemption notifies the
 579 applicable department district office in writing at least 30
 580 days before commencing work and allows the department to conduct
 581 a preconstruction site inspection. Notice must include an
 582 organic-detrital-material removal and disposal plan and, if
 583 applicable, a vegetation-removal and revegetation plan.

584 10. The department is provided written certification of
 585 compliance with the terms and conditions of this paragraph
 586 within 30 days after completion of any activity occurring under
 587 this exemption.

588 (v) Notwithstanding any other provision in this chapter,
 589 chapter 373, or chapter 161, a permit or other authorization is
 590 not required for the following exploratory activities associated
 591 with beach restoration and nourishment projects and inlet
 592 management activities:

593 1. The collection of geotechnical, geophysical, and
 594 cultural resource data, including surveys, mapping, acoustic
 595 soundings, benthic and other biologic sampling, and coring.

596 2. Oceanographic instrument deployment, including
 597 temporary installation on the seabed of coastal and
 598 oceanographic data collection equipment.

599 3. Incidental excavation associated with any of the
 600 activities listed under subparagraph 1. or subparagraph 2.

601 Section 5. The Division of Law Revision and Information is
602 directed to replace the phrase "the effective date of this act"
603 wherever it occurs in this act with the date the act becomes a
604 law.

605 Section 6. This act shall take effect upon becoming a law.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Natural Resources & Public
 2 Lands Subcommittee

3 Representative Payne offered the following:

Amendment (with title amendment)

6 Remove lines 117-135 and insert:

7 (22) Counties and municipalities shall address the
 8 contamination of recyclable material in contracts for the
 9 collection, transportation, and processing of residential
 10 recyclable material based upon the following:

11 (a) A residential recycling collector may not be required
 12 to collect or transport contaminated recyclable material. As
 13 used in this subsection, the term "residential recycling
 14 collector" means a for-profit business entity that collects and
 15 transports residential recyclable material on behalf of a county
 16 or municipality.



Amendment No.

17 (b) A materials recovery facility may not be required to
18 process contaminated recyclable material.

19 (c) Each contract between a residential recycling
20 collector and a county or municipality for the collection or
21 transport of residential recyclable material, and each request
22 for proposal for residential recyclable material, must define
23 the term "contaminated recyclable material" in a manner that is
24 appropriate for the local community, based on the available
25 markets for recyclable material. The contract and request for
26 proposal must include:

27 1. The respective strategies and obligations of the county
28 or municipality and the collector to reduce the amount of
29 contaminated recyclable material being collected;

30 2. The procedures for identifying, documenting, managing,
31 and rejecting residential recycling containers, carts, or bins
32 that contain contaminated recyclable material;

33 3. The remedies that will be used if a container, cart, or
34 bin contains contaminated recyclable material; and

35 4. The education and enforcement measures that will be
36 used to reduce the amount of contaminated recyclable material.

37 (d) Each contract between a materials recovery facility
38 and a county or municipality for processing residential
39 recyclable material must define the term "contaminated
40 recyclable material" in a manner that is appropriate for the
41 local community, based on the available markets for recyclable



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42 material. The contract must include:
 43 1. The respective strategies and obligations of the
 44 parties to reduce the amount of contaminated recyclable material
 45 being processed;
 46 2. The procedures for identifying, documenting, managing,
 47 and rejecting residential recycling containers or loads that
 48 contain contaminated recyclable material; and
 49 3. The remedies that will be used if a container or load
 50 contains contaminated recyclable material.
 51 (e) This subsection shall apply to each contract between a
 52 municipality or county and a residential recycling collector or
 53 materials recovery facility executed or renewed after the
 54 effective date of this act.

55 -----
 56
 57 **T I T L E A M E N D M E N T**

58 Remove lines 17-23 and insert:
 59 amending s. 403.706, F.S.; requiring counties and
 60 municipalities to address contamination of recyclable
 61 material in specified contracts; prohibiting counties
 62 and municipalities from requiring the collection or
 63 transport of contaminated recyclable material by
 64 residential recycling collectors; defining the term
 65 "residential recycling collector"; specifying required
 66 contract provisions in residential recycling collector



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67 and materials recovery facility contracts with
68 counties and municipalities; providing