

# PRE-SESSION REPORT

// 2017 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA  
MARCH 7, 2017



# // PRE-SESSION REPORT

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Greetings! The Florida Legislature will be converging on Tallahassee to officially kick off the 2017 Legislative Session on March 7.

Marine Industries Association of Florida has been tracking filed legislation for several months and analyzing impacts to boating in Florida. It is evident from the number of filed bills to date that this is going to be another busy year for boating-related issues.

The nine-week legislative session will be intense and your continued support and voice to your local legislators is imperative.

As always, we will be sending you a weekly report on the happenings in Tallahassee during the legislative session.

In the following pages you will find a preview of Week 1 with the current status of relevant legislation and issues.

As a brief reminder, here are some highlights of just a few of the bills we worked on last year during the **2016 Legislative Session**:

#### Anchoring

HB 1051 contains the following provisions:

- States "Anchoring Limitation Area"
- Provides for densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant recreational areas designated as anchoring limitation areas.
- Applies to section of Middle River lying between Northeast 21st Court and the Intracostal Waterway in Broward County, Sunset Lake in Miami-Dade County, sections of Biscayne Bay in Miami-Dade County lying between Rivo Alto Island and Di Lido Island, San Marino Island and San Marco Island and finally San Marco Island and Biscayne Island.

*Continued on next page >>*

- 
- Provides an exemption for a vessel to anchor in a zone if mechanical failure poses harm for a certain number of days
  - Provides an exemption if weather conditions pose unreasonable risk of harm
  - Provides for an exemption for special events
  - Provides exemptions for government entities, law enforcement, firefighting, military or rescue
  - Allows for vessels actively engaged in commercial and recreational fishing
  - Provides if a vessel refuses to leave an anchoring limitation area after being asked to leave a law enforcement officer can have the vessel removed or impounded.
  - Provides a sunset provision for this act once the Legislature adopts FWC recommendations for the regulation of mooring vessels outside of public mooring fields.
  - Provides violation of this act is a noncriminal infraction and may be enforced by a uniform boating citation. First offense is \$50, second offense is \$100, and third and subsequent offense is \$250.

This bill passed the House 105-12 and the Senate 36-2. The bill was approved by the Governor and the effective date is July 1, 2016.

It is important to note, Crab Island was eliminated from the bill three times and a Lake Boca amendment was withdrawn twice after filing.

For background, below are a few of the changes requested by MIAF from original bill as filed:

- Changes “recreational boating area” to “anchoring limitation areas”
- Deletes Crab Island
- Provides an exemption for a vessel may anchor in a zone if mechanical failure poses harm for a certain number of days
- Provides an exemption if weather conditions pose unreasonable risk of harm
- Provides for an exemption for special events
- Provides exemptions for government entities, law enforcement, firefighting, military or rescue
- Allows for vessels actively engaged in fishing

### **Emergency Position Industry Radio Beacon Bill**

House Bill 427, relating to Vessel Registration, also known as the “Emergency Position-Industry Radio Beacon,” bill passed the House 115-0 and the Senate 39-0. The fiscal impact for the bill is \$250,000 and did not come out of any of our boating line items in the FWC budget. This bill provides for reduced registration fees starting July 1, 2016-June 30, 2017 for individuals who have an EPIRB. This bill is not a mandate. This bill is in response to the two teenagers who lost their

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lives last summer.

Important note: no legislation passed this year requiring a boating license or age restriction.

## **Derelict Vessels**

At Risk Vessels, a major priority for MIAF, became law with the Governor's signature. HB 7025 passed the House 116-1 and passed the Senate 39-0. This bill is effective July 1, 2016. MIAF appreciates Representative Raschein and Senator Dean for championing this good bill. MIAF hopes by taking care of the numerous derelict vessels in the state, the anchoring issue will hopefully lessen. Also, MIAF worked closely to get money in the state budget for DV removal. This year's budget includes \$1.4 million for derelict vessel removal.

## **Vessels**

HB 703 passed the House 104-13 and the Senate 39-0. This bill is relating to Vessels and revises the offense of careless operation of a vessel, provides an operator of a vessel upon compliance with safety equipment shall be issued a safety inspection decal and provides that law enforcement may not stop a vessel solely to inspect safety equipment when a vessel properly displays safety inspection decal. This bill was approved by the Governor and becomes effective July 1, 2016.

## **Manatees**

Senate Bill 1506 and House Bill 1273 never were heard in all the committees of reference. The bills died in committee.

## **Springs**

The original bill filed was Senate Bill 1312 by Senator Dean. SB 1312 did not pass, but an amendment similar to the originally filed bill did pass on the Senate floor on the State Lands Bill, HB 1075. HB 1075 is still awaiting the Governor's action. The Governor has until April 14th to act.

### *Background*

Simply, FWC and DEP were in a bind on what to do regarding vessels, which were destroying springs. The long and short of it is, FWC has the enforcement authority but has no expertise on water quality and quantity and no direct authority over springs. DEP has no authority over boats, so there was a necessity for some language directing them to work together to address this issue.

However, there are many important differences between this bill and the finalized amendment that ultimately passed in the State Lands bill.

First, the language is significantly different and less stringent than the originally filed bill. The original bill required FWC to create rules to address the Springs issue. However, Senator Dean felt like a one size fits all approach was not the way to go and so the FWC now MAY create a protection zone by rule instead of requiring them.

The original bill inadvertently left DEP out of the consulting process and DEP now must coordinate

with FWC in figuring out what springs are becoming derelict and if a vessel protection zone would help restore the spring.

The last major difference is in the penalty structuring. The original bill has a much more advanced penalty enhancement which goes into criminal penalties. However, the finalized amendment which passed keeps the penalties to civil fines and the fines match those penalties which already exist for vessels disrupting sea grass areas.

**Appropriations of Interest**

1762 SPECIAL CATEGORIES BOATING AND WATERWAYS ACTIVITIES FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . .	1,926,025
1762A SPECIAL CATEGORIES DERELICT VESSEL REMOVAL PROGRAM FROM GENERAL REVENUE FUND . . . . .	1,400,000
1766 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . .	850,650
1767 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE FROM FEDERAL GRANTS TRUST FUND . . . . .	3,900,000
1768 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY FLORIDA BOATING IMPROVEMENT PROGRAM FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . FROM STATE GAME TRUST FUND . . . . .	592,600 1,250,000

As always, we look forward to representing you during the 2017 Legislative Session. Thank you for the opportunity to be the industry’s voice in Tallahassee!



Margaret M. Timmins  
President  
Timmins Consulting, LLC

## // BOATING IN SALT WATER

**Senate Bill 1262 // Sen. Gary Farmer // Referred to: Criminal Justice; Environmental Preservation and Conservation; Transportation; Rules**

**House Bill 1227 // Rep. Kristin Jacobs // Not yet referred**

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

**Senate Bill 1262**, Prohibiting minors of a certain age from operating vessels powered by a motor of 10 horsepower or greater or certain sailboats or other rigged vessels in salt water, except under specified conditions; providing penalties for parents or guardians who knowingly permit their children or wards to violate the prohibition, etc. Effective Date: 10/1/2017

**Upcoming Consideration/Most Recent Action:** Referred to Criminal Justice; Environmental Preservation and Conservation; Transportation; Rules

**House Bill 1227** prohibits certain minors from operating specified vessels; provides exceptions; provides that parents, guardians, & supervising persons are subject to penalties under certain conditions. Effective Date: October 1, 2017

**Upcoming Consideration/Most Recent Action:** Filed

*Attached documents: SB 1262 (as filed); HB 1227 (as filed)*

## // VESSELS

**Senate Bill 1338 // Sen. Lauren Book // Not yet referred**

**House Bill 7043 // Natural Resources & Public Lands Subcommittee; Rep. Holly Raschein // Referred to Agriculture & Natural Resources Appropriations Subcommittee; Government Accountability Committee // Formerly PCB NRPL1**

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

**Senate Bill 1338**, Providing an additional condition for a vessel at risk of becoming derelict on waters of this state; prohibiting anchoring or mooring of vessels or floating structures in certain areas; authorizing a local government to enact and enforce regulations related to proof of pumpout in certain areas; providing for issuance of uniform boating citations for certain violations, etc. Effective Date: 7/1/2017

**Last Action:** Filed

**House Bill 7043** provides condition under which vessel is at risk of becoming derelict; prohibits certain anchoring or mooring; authorizes local government to enact & enforce certain sewage disposal requirements; requires FWCC review such requirements; provides for issuance of uniform boating citations; provides & revises penalties. Effective Date: July 1, 2017

Summary:

- In 2009, the Legislature required the Fish and Wildlife Conservation Commission (FWC) to establish a pilot
- program to explore potential policy options for regulating the anchoring and mooring of vessels outside public
- mooring fields, including the authority that should be granted to local governments to regulate such activities
- (pilot program). With the exception of those participating in the pilot program, local governments are prohibited
- from enacting or enforcing regulations on the anchoring or mooring of vessels, other than a live-aboard vessel,
- outside the marked boundaries of mooring fields.
- FWC was required to submit a report of its findings and recommendations on the pilot program to the
- Legislature by January 1, 2017. The pilot program and the ordinances adopted by the pilot program
- participants under the pilot program will expire on July 1, 2017, unless reenacted by the Legislature.
- The bill incorporates many of the findings and recommendations from the pilot program. The bill:
- Revises the definition of “live-aboard vessel” and defines “effective means of propulsion for safe navigation”;
- Provides that a vessel is at risk of becoming derelict if an owner or operator of the vessel cannot demonstrate, after 72 hours of notification by a law enforcement officer, that the vessel has an effective means of propulsion for safe navigation;
- Removes the expiration of anchoring limitation areas;
- Prohibits a vessel or floating structure from anchoring or mooring within 150 feet of any marina, boat ramp, or other vessel launching or loading facility to protect maritime infrastructure, or within 300 feet of mooring field boundaries to protect legally moored vessels. Provides time-limited exemptions for mechanical failure and for imminent and existing weather conditions. Provides blanket exemptions for government owned or operated vessels, construction or dredging vessels on an active job site, and vessels

actively engaged in commercial or recreational fishing. Provides the following penalties:

- For a first violation, a noncriminal infraction; and
- For a second or subsequent violation, a misdemeanor of the second degree.
- Prohibits a vessel or floating structure from anchoring, mooring, tying, or otherwise affixing to an unpermitted or unauthorized object that is on or affixed to the bottom of waters of the state and provides the following penalties:
  - For a first violation, a noncriminal infraction; and
  - For a second or subsequent violation, a misdemeanor of the second degree.
- Authorizes local governments to enact and enforce regulations that require owners or operators of vessels or floating structures subject to marine sanitation requirements to provide proof of proper sewage disposal within marked boundaries of a permitted mooring field or federally designated no discharge zones, provided the local government has adequate pumpout services and FWC has verified such before any ordinance is effective.
- Clarifies that local governments may enact and enforce pumpout requirements for live-aboard vessels.
- Elevates the penalty for a vessel with an expired registration of more than 6 months, upon a second or subsequent offense, from a noncriminal infraction to a misdemeanor of the second degree.

**Last Action:** Submitted as Committee Bill by Natural Resources & Public Lands Subcommittee; 12 Yeas, 0 Nays; Committee Bill filed as H 7043; Referred to Agriculture & Natural Resources Appropriations Subcommittee; Government Accountability Committee

*Attached documents: SB 1338 (as filed), HB 7043 (as filed) + NRPL1 staff analysis*

## // WATER RESOURCES

**Senate Bill 10 // Sen. Rob Bradley // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations**

**House Bill 761 // Rep. Thad Altman // Referred to: Natural Resources & Public Lands Subcommittee; Appropriations Committee; Government Accountability Committee**

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*



**Senate Bill 10**, providing an exception to the requirement that bonds issued for acquisition and improvement of land, water areas, and related property interests and resources be deposited into the Florida Forever Trust Fund and distributed in a specified manner; requiring the South Florida Water Management District to seek proposals from willing sellers of property within the Everglades Agricultural Area for land that is suitable for the reservoir project; increasing the minimum annual funding for certain Everglades projects under specified circumstances, etc.

Summary:

SB 10 establishes options for additional water storage south of Lake Okeechobee to reduce the damaging discharges to the St. Lucie and Caloosahatchee estuaries. The bill provides the following three options:

- (A) The South Florida Water Management District (SFWMD) is required to seek proposals from willing sellers of land within the Everglades Agricultural Area for land that is suitable to build one or two reservoirs with a total storage capacity of 360,000 acre-feet.
- (B) If the SFWMD is unable to acquire such land then the option to purchase lands from the United States Sugar Corporation, which is available pursuant to the 2010 agreement, must be exercised.
- (C) If land is not acquired pursuant to the first two options then Legacy Florida funding is increased by \$50 million annually for the Comprehensive Everglades Restoration Project (CERP), including the Everglades Agricultural Area Reservoir project component.

Under each option the SFWMD, unless other funding is available, is required to begin the planning study under the CERP for the Everglades Agricultural Area Reservoir project component by certain dates. If land is acquired under Options A or B, the bill authorizes the distribution of \$1.2 billion in Florida Forever bonds and provides contingent appropriations for the debt service payments on such bonds. The bill requires that the SFWMD seek any applicable federal credits towards the reservoir project.

**Upcoming Consideration:** On Committee agenda - Appropriations Subcommittee on the Environment and Natural Resources, 03/08/17, 9:30 am

**House Bill 761** revises requirements for issuance of certain bonds; provides for reservoir project in Everglades Agricultural Area; requires South Florida Water Management District to seek out specified property & coordinate with U.S. Army Corps of Engineers; provides project requirements; provides contingent appropriations.

**Last Action:** Referred to Natural Resources & Public Lands Subcommittee; Appropriations Committee; Government Accountability Committee

*Attached documents: SB 10 (as filed) + staff analysis, HB 761 (as filed)*

## // MARINE TURTLE PROTECTION

**Senate Bill 1228 // Sen. George Gainer // Referred to: Criminal Justice; Environmental Preservation and Conservation; Appropriations**

**House Bill 1031 // Rep. Thad Altman // Referred to: Natural Resources & Public Lands Subcommittee; Criminal Justice Subcommittee; Government Accountability Committee**

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1168, adding the existing offense of possession of any marine turtle species or hatchling, or parts thereof, or nests to level 3 of the offense severity ranking chart for the purpose of increasing sentencing points for conviction of the offense, etc. Effective Date: 7/1/2017

**Last Action:** Referred to Criminal Justice; Environmental Preservation and Conservation; Appropriations

House Bill 1031 ranks & revises description of criminal violations of Marine Turtle Protection Act in offense severity ranking chart of Criminal Punishment Code. Effective Date: July 1, 2017

**Last Action:** Referred to Natural Resources & Public Lands Subcommittee; Criminal Justice Subcommittee; Government Accountability Committee

*Attached documents: SB 1228 (as filed); HB 1031 (as filed)*

## // SEAGRASS

**Senate Bill 1542 // Sen. Frank Artiles // Not referred**

*BILL WITHDRAWN PRIOR TO INTRODUCTION*

Senate Bill 1542, permitting private owners of submerged lands to establish, upon application and approval of the Fish and Wildlife Conservation Commission, boating-restricted areas in certain seagrass areas to protect seagrasses, etc.

**Last Action:** Withdrawn prior to introduction

// **DEEPWATER HORIZON INCIDENT RECOVERY // TRIUMPH GULF COAST**

**Senate Bill 364 // Sen. George Gainer // Referred to: Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations**

**House Bill SOT1 // Select Committee on Triumph Gulf Coast //**

**House Bill SOT2 // Select Committee on Triumph Gulf Coast //**

**Senate Bill 364** appropriates 75 percent of Florida’s economic damage settlement funds to Triumph Gulf Coast, Inc., a nonprofit corporation responsible for creating and administering a Recovery Fund to assist with economic recovery in the 8 counties disproportionately affected by the Deepwater Horizon oil spill.

**Last Action:** Temporarily Postponed by Commerce and Tourism

**House Bill SOT1: Gulf Coast Economic Corridor**

The Gulf Coast Economic Corridor Act (act) was passed by the 2013 Legislature to create Triumph Gulf Coast, Inc., a nonprofit corporation administratively housed within the Department of Economic Opportunity (department). The act directed the corporation to create and administer a trust or “recovery fund” for the benefit of the disproportionately affected counties. The principal of the fund was to be derived from seventy-five percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon oil spill.

PCB SOT 17-01a (PCB) substantially amends the act to require seventy-five percent of all payments Florida receives pursuant to the settlement agreement between the five gulf states and the BP entities be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund (created in PCB SOT 17-02a)

within the department. The PCB repeals existing statutory provisions relating to the recovery fund, the investment of funds, money managers, and investment earnings.

The PCB revises provisions in the act governing the corporation’s board of directors and its operations. The current requirement that a member of the board refrain from having any direct interest in any contract, franchise, privilege, project, program, or other benefit arising from an award by the corporation is extended from two years to six years after termination of appointment. The same change is applied to the corporation’s staff. Additional changes address administrative expenses and the corporation’s staff.

The PCB revises the type of awards the corporation is authorized to make and the criteria used to prioritize projects and programs. The corporation is required to ensure that each of the eight

disproportionately affected counties directly benefit from awards and to ensure that at least 4 percent of funds appropriated for awards from the Triumph Gulf Coast Trust Fund are expended in each county over the lifetime of the settlement agreement.

The PCB repeals s. 377.43, F.S., relating to the disbursement of funds received for damages caused by the Deepwater Horizon oil spill, which was passed during the 2011 Legislative Session.

Effective July 1, 2017, the PCB appropriates \$299,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation to fund awards for programs and projects authorized in the act. The PCB also appropriates \$1,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation to pay administrative costs. The PCB authorizes appropriated funds to be expended through the 2018-2019 fiscal year.

**Last Action:** On Committee agenda - Select Committee on Triumph Gulf Coast, 03/06/17, 3:00 pm; Meeting Cancelled

### **House Bill SOT2:** Triumph Gulf Coast Trust Fund

Section 19(f), Art. III of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund.

A companion bill to this bill, PCB SOT 17-01a relates to the Gulf Coast Economic Corridor. That bill amends s. 288.8013, F.S. to require that seventy-five percent of all payments to the State of Florida pursuant to the settlement agreement entered into on October 5, 2015, in the case styled In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, MDL 2179 in the United States District Court for the Eastern District of Louisiana be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity. That bill also amends s. 288.8017, F.S. to authorize Triumph Gulf Coast Inc., to make awards to projects or programs for certain specified purposes.

This bill creates the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity and provides that the trust fund is established as a depository for the settlement funds described above. The bill also provides that the funds shall be used in conformity with the requirements of ss. 288.8011-288.8018, F.S., as amended by PCB SOT 17-01a, and exempts the trust fund from the general revenue service charge provided in s. 215.20, F.S.

This bill has no fiscal impact. The bill takes effect on the same date that PCB SOT 17-01a or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes law, and only if this act is enacted by a three-fifths vote of the membership of each house of the Legislature.

**Last Action:** On Committee agenda - Select Committee on Triumph Gulf Coast, 03/06/17, 3:00 pm; Meeting Cancelled

// BUDGET

**Boating Budget Highlights**

Governor Rick Scott's Proposed Budget

1511 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL  
OUTLAY CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND ... 3,000,000

FROM GRANTS AND DONATIONS TRUST FUND ..... 300,000

1760 SPECIAL CATEGORIES BOAT RAMP MAINTENANCE CATEGORY

FROM FEDERAL GRANTS TRUST FUND ... 431,250

FROM MARINE RESOURCES CONSERVATION TRUST FUND ..... 111,878

FROM STATE GAME TRUST FUND ..... 143,750

1764 SPECIAL CATEGORIES BOATING AND WATERWAYS ACTIVITIES

FROM MARINE RESOURCES CONSERVATION TRUST FUND ..... 1,926,025

1765 SPECIAL CATEGORIES DERELICT VESSEL REMOVAL PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND ..... 1,488,550

1769 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND ..... 850,650

1770 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND ... 3,900,000

1771 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL  
OUTLAY FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND ..... 592,600

FROM STATE GAME TRUST FUND ..... 1,250,000

# APPENDIX

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## // BOATING IN SALT WATER

SB 1262  
HB 1227

## // VESSELS

SB 1338  
HB 7043 + NRPL1 Staff Analysis

## // WATER RESOURCES

SB 10 + Staff Analysis  
HB 761

## // MARINE TURTLE PROTECTION

SB 1228  
HB 1031

## // DEEPWATER HORIZON/TRIUMPH

SB 364 + Staff Analysis  
HB SOT1 + Staff Analysis  
HB SOT2 + Staff Anlysis

## // CURRENT BILL TRACKING LIST

By Senator Farmer

34-00530C-17

20171262\_\_

1                   A bill to be entitled  
2           An act relating to boating in salt water; creating s.  
3           327.396, F.S.; defining terms; prohibiting minors of a  
4           certain age from operating vessels powered by a motor  
5           of 10 horsepower or greater or certain sailboats or  
6           other rigged vessels in salt water, except under  
7           specified conditions; providing penalties for parents  
8           or guardians who knowingly permit their children or  
9           wards to violate the prohibition; providing penalties  
10          for persons under the influence who supervise certain  
11          minors operating a specified vessel; providing an  
12          effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16           Section 1. Section 327.396, Florida Statutes, is created to  
17 read:

18           327.396 Operation of a vessel by a minor.—

19           (1) As used in this subsection, the term:

20           (a) "Specified vessel" means a vessel powered by a motor of  
21 10 horsepower or greater or a sailboat, or other rigged vessel,  
22 with a length of hull of 10 feet or more. The term does not  
23 include a sailboard or sail kayak.

24           (b) "Under the influence" means a person meeting one of the  
25 standards specified in s. 327.35(1)(a), (b), or (c).

26           (2) A person may not operate a specified vessel in salt  
27 water, as defined in s. 379.101, if the person is younger than  
28 16 years of age, unless such person:

29           (a) Is under the physical supervision of another person 21

34-00530C-17

20171262\_\_

30 years of age or older. Such supervising person may not be under  
31 the influence.

32 (b) Is participating in a school-sanctioned activity. For  
33 the purposes of this section, the term "school" means any  
34 elementary school, middle school, junior high school, secondary  
35 school, career center, or postsecondary school, whether public  
36 or nonpublic.

37 (3) (a) A parent or guardian who knowingly permits his or  
38 her child or ward to operate a specified vessel in violation of  
39 paragraph (2) (a) commits a misdemeanor of the second degree,  
40 punishable as provided in s. 775.082 or s. 775.083.

41 (b) A person who supervises a minor as specified in  
42 paragraph (2) (b) and who is under the influence during the  
43 supervision commits a misdemeanor of the second degree,  
44 punishable as provided in s. 775.082 or s. 775.083.

45 Section 2. This act shall take effect October 1, 2017.



1                   A bill to be entitled  
 2           An act relating to boating in salt water; creating s.  
 3           327.396, F.S.; defining terms; prohibiting minors of a  
 4           certain age from operating vessels powered by a motor  
 5           of 10 horsepower or greater or certain sailboats or  
 6           other rigged vessels in salt water, except under  
 7           specified conditions; providing penalties for parents  
 8           or guardians who knowingly permit their children or  
 9           wards to violate the prohibition; providing penalties  
 10          for persons under the influence who supervise certain  
 11          minors operating a specified vessel; providing an  
 12          effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16          Section 1.   Section 327.396, Florida Statutes, is created  
 17          to read:

18          327.396   Operation of a vessel by a minor.-

19          (1)   As used in this subsection, the term:

20          (a)   "Specified vessel" means a vessel powered by a motor  
 21          of 10 horsepower or greater or a sailboat, or other rigged  
 22          vessel, with a length of hull of 10 feet or more. The term does  
 23          not include a sailboard or sail kayak.

24          (b)   "Under the influence" means a person meeting one of  
 25          the standards specified in s. 327.35(1)(a), (b), or (c).

HB 1227

2017

26        (2) A person may not operate a specified vessel in salt  
27 water, as defined in s. 379.101, if the person is younger than  
28 16 years of age, unless such person:

29        (a) Is under the physical supervision of another person 21  
30 years of age or older. Such supervising person may not be under  
31 the influence.

32        (b) Is participating in a school-sanctioned activity. For  
33 the purposes of this section, the term "school" means any  
34 elementary school, middle school, junior high school, secondary  
35 school, career center, or postsecondary school, whether public  
36 or nonpublic.

37        (3) (a) A parent or guardian who knowingly permits his or  
38 her child or ward to operate a specified vessel in violation of  
39 paragraph (2) (a) commits a misdemeanor of the second degree,  
40 punishable as provided in s. 775.082 or s. 775.083.

41        (b) A person who supervises a minor as specified in  
42 paragraph (2) (b) and who is under the influence during the  
43 supervision commits a misdemeanor of the second degree,  
44 punishable as provided in s. 775.082 or s. 775.083.

45        Section 2. This act shall take effect October 1, 2017.

By Senator Book

32-01187A-17

20171338\_\_

1                   A bill to be entitled  
2       An act relating to vessels; amending s. 327.02, F.S.;  
3       defining the term "effective means of propulsion for  
4       safe navigation"; revising the definition of the term  
5       "live-aboard vessel"; amending s. 327.391, F.S.;  
6       making a conforming change; amending s. 327.4107,  
7       F.S.; providing an additional condition for a vessel  
8       at risk of becoming derelict on waters of this state;  
9       amending s. 327.4108, F.S.; removing the expiration  
10      for a section relating to anchoring of vessels in  
11      anchoring limitation areas; creating s. 327.4109,  
12      F.S.; prohibiting anchoring or mooring of vessels or  
13      floating structures in certain areas; providing  
14      exceptions for certain conditions; providing  
15      exceptions for certain vessels; prohibiting vessels or  
16      floating structures from affixing to unlawful objects  
17      that are on or affixed to the bottom of waters of the  
18      state; providing penalties; amending s. 327.60, F.S.;  
19      authorizing a local government to enact and enforce  
20      regulations related to proof of pumpout in certain  
21      areas; requiring the Fish and Wildlife Conservation  
22      Commission to review such regulations; amending s.  
23      327.70, F.S.; providing for issuance of uniform  
24      boating citations for certain violations; amending s.  
25      327.73, F.S.; providing penalties; amending s. 328.72,  
26      F.S.; providing penalties; providing an effective  
27      date.

28  
29   Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsections (11) through (44) of section 327.02, Florida Statutes, are renumbered as subsections (12) through (45), respectively, present subsection (19) of that section is amended, and a new subsection (11) is added to that section, to read:

327.02 Definitions.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(11) "Effective means of propulsion for safe navigation" means the vessel is equipped with:

(a) A functioning motor, controls, and steering system; or  
(b) Rigging and sails that are present and in good working order, and a functioning steering system.

(20)~~(19)~~ "Live-aboard vessel" means:

(a) A vessel used solely as a residence and not for navigation;

(b) A vessel represented as a place of business or a professional or other commercial enterprise; ~~or~~

(c) A vessel for which a declaration of domicile has been filed pursuant to s. 222.17; or

(d) A vessel as described in paragraph (a) or paragraph (b) which does not have an effective means of propulsion for safe navigation.

A commercial fishing boat is expressly excluded from the term "live-aboard vessel."

Section 2. Subsection (1) of section 327.391, Florida Statutes, is amended to read:

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59 327.391 Airboats regulated.—

60 (1) The exhaust of every internal combustion engine used on  
61 any airboat operated on the waters of this state shall be  
62 provided with an automotive-style factory muffler, underwater  
63 exhaust, or other manufactured device capable of adequately  
64 muffling the sound of the exhaust of the engine as described in  
65 s. 327.02(28) ~~s. 327.02(27)~~. The use of cutouts or flex pipe as  
66 the sole source of muffling is prohibited, except as provided in  
67 subsection (4). Any person who violates this subsection commits  
68 a noncriminal infraction punishable as provided in s. 327.73(1).

69 Section 3. Paragraph (e) is added to subsection (2) of  
70 section 327.4107, Florida Statutes, to read:

71 327.4107 Vessels at risk of becoming derelict on waters of  
72 this state.—

73 (2) An officer of the commission or of a law enforcement  
74 agency specified in s. 327.70 may determine that a vessel is at  
75 risk of becoming derelict if any of the following conditions  
76 exist:

77 (e) The owner or operator of a vessel receives notice from  
78 an officer that the vessel does not have an effective means of  
79 propulsion for safe navigation and 72 hours after notification  
80 by the officer, the vessel still does not have an effective  
81 means of propulsion for safe navigation.

82 Section 4. Subsection (7) of section 327.4108, Florida  
83 Statutes, is amended to read:

84 327.4108 Anchoring of vessels in anchoring limitation  
85 areas.—

86 ~~(7) This section expires upon the Legislature's adoption of~~  
87 ~~the commission's recommendations for the regulation of mooring~~

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88 ~~vessels outside of public mooring fields pursuant to s.~~  
89 ~~327.4105.~~

90 Section 5. Section 327.4109, Florida Statutes, is created  
91 to read:

92 327.4109 Anchoring or mooring prohibited; exceptions;  
93 penalties.—

94 (1) A vessel or floating structure may not anchor or moor:

95 (a) Within 150 feet of any marina, boat ramp, or other  
96 vessel launching or loading facility; or

97 (b) Within 300 feet of public mooring field boundaries.

98 (2) Notwithstanding subsection (1), an owner or operator of  
99 a vessel may anchor or moor within 150 feet of any marina, boat  
100 ramp, or other vessel launching or loading facility or within  
101 300 feet of public mooring field boundaries:

102 (a) If the vessel suffers a mechanical failure that poses  
103 an unreasonable risk of harm to the vessel or the persons  
104 onboard unless the vessel anchors or moors. The vessel may  
105 anchor or moor for 3 business days or until the vessel is  
106 repaired, whichever occurs first.

107 (b) If imminent or existing weather in the vicinity of the  
108 vessel poses an unreasonable risk of harm to the vessel or the  
109 persons onboard unless the vessel anchors or moors. The vessel  
110 may anchor or moor until weather conditions no longer pose such  
111 risk. During a hurricane or tropical storm, weather conditions  
112 are deemed to no longer pose an unreasonable risk of harm when  
113 the hurricane or tropical storm warning affecting the area has  
114 expired.

115 (3) Subsection (1) does not apply to:

116 (a) Vessels owned or operated by a governmental entity.

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117 (b) Construction or dredging vessels on an active job site.

118 (c) Vessels actively engaged in commercial fishing.

119 (d) Vessels engaged in recreational fishing and the persons  
120 onboard are actively tending hook and line fishing gear or nets.

121 (4) A vessel or floating structure may not anchor, moor,  
122 tie, or otherwise affix to an unpermitted, unauthorized, or  
123 otherwise unlawful object that is on or affixed to the bottom of  
124 waters of this state. This subsection does not apply to a  
125 private mooring lawfully owned on private submerged lands.

126 (5) A violation of this section is:

127 (a) For a first violation, a noncriminal infraction  
128 punishable as provided in s. 327.73; and

129 (b) For a second or subsequent violation, a misdemeanor of  
130 the second degree punishable as provided in s. 775.082 or s.  
131 775.083.

132 Section 6. Subsection (2) of section 327.60, Florida  
133 Statutes, is amended, and subsection (4) is added to that  
134 section, to read:

135 327.60 Local regulations; limitations.—

136 (2) Nothing in this chapter or chapter 328 shall be  
137 construed to prevent the adoption of any ordinance or local  
138 regulation relating to operation of vessels, except that a  
139 county or municipality shall not enact, continue in effect, or  
140 enforce any ordinance or local regulation:

141 (a) Establishing a vessel or associated equipment  
142 performance or other safety standard, imposing a requirement for  
143 associated equipment, or regulating the carrying or use of  
144 marine safety articles;

145 (b) Relating to the design, manufacture, or installation~~7~~

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146 ~~or use~~ of any marine sanitation device on any vessel, except as  
147 authorized in subsection (4);

148 (c) Regulating any vessel upon the Florida Intracoastal  
149 Waterway;

150 (d) Discriminating against personal watercraft;

151 (e) Discriminating against airboats, for ordinances adopted  
152 after July 1, 2006, unless adopted by a two-thirds vote of the  
153 governing body enacting such ordinance;

154 (f) Regulating the anchoring of vessels ~~other than live-~~  
155 ~~aboard vessels~~ outside the marked boundaries of mooring fields  
156 permitted as provided in s. 327.40, other than live-aboard  
157 vessels;

158 (g) Regulating engine or exhaust noise, except as provided  
159 in s. 327.65; or

160 (h) That conflicts with any provisions of this chapter or  
161 any amendments thereto or rules adopted thereunder.

162 (4) (a) A local government may enact and enforce regulations  
163 requiring owners or operators of vessels or floating structures  
164 subject to the marine sanitation requirements of s. 327.53 to  
165 provide proof of properly disposed of sewage by means of an  
166 approved sewage pumpout service, pumpout facility, or waste  
167 reception facility within the following areas:

168 1. Marked boundaries of a permitted mooring field under the  
169 jurisdiction of the local government; or

170 2. Designated no discharge zones, as provided under 53 F.R.  
171 1678, January 21, 1988; 64 F.R. 46390, August 25, 1999; and 67  
172 F.R. 35735, May 21, 2002.

173 (b) Before a local government may adopt an ordinance to  
174 enact and enforce such regulations, the local government must



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175 provide adequate pumpout services. Any ordinance adopted  
176 pursuant to this subsection may not take effect until the  
177 commission has reviewed the ordinance and determined the local  
178 government provides adequate pumpout services within its  
179 jurisdiction to protect public health and the marine  
180 environment.

181 (c) This subsection may not be construed to prohibit a  
182 local government from enacting or enforcing such pumpout  
183 requirements for live-aboard vessels within any areas of its  
184 jurisdiction.

185 Section 7. Paragraph (d) is added to subsection (3) of  
186 section 327.70, Florida Statutes, to read:

187 327.70 Enforcement of this chapter and chapter 328.—

188 (3)

189 (d) A noncriminal violation of s. 327.4109 may be enforced  
190 by a uniform boating citation issued to the operator of a vessel  
191 unlawfully anchored, moored, tied, or otherwise affixed where  
192 such is prohibited.

193 Section 8. Paragraph (g) of subsection (1) of section  
194 327.73, Florida Statutes, is amended, and paragraph (bb) of that  
195 subsection, is added to read:

196 327.73 Noncriminal infractions.—

197 (1) Violations of the following provisions of the vessel  
198 laws of this state are noncriminal infractions:

199 (g) Section 328.72(13) (a) and (b), relating to operation  
200 with an expired registration.

201 (bb) Section 327.4109, relating to anchoring and mooring in  
202 a prohibited area.

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204 Any person cited for a violation of any provision of this  
205 subsection shall be deemed to be charged with a noncriminal  
206 infraction, shall be cited for such an infraction, and shall be  
207 cited to appear before the county court. The civil penalty for  
208 any such infraction is \$50, except as otherwise provided in this  
209 section. Any person who fails to appear or otherwise properly  
210 respond to a uniform boating citation shall, in addition to the  
211 charge relating to the violation of the boating laws of this  
212 state, be charged with the offense of failing to respond to such  
213 citation and, upon conviction, be guilty of a misdemeanor of the  
214 second degree, punishable as provided in s. 775.082 or s.  
215 775.083. A written warning to this effect shall be provided at  
216 the time such uniform boating citation is issued.

217 Section 9. Subsection (13) of section 328.72, Florida  
218 Statutes, is amended to read:

219 328.72 Classification; registration; fees and charges;  
220 surcharge; disposition of fees; fines; marine turtle stickers.-

221 (13) EXPIRED REGISTRATION.-The operation, use, or storage  
222 on the waters of this state of a previously registered vessel is  
223 subject to the following penalty provisions:

224 (a) The owner or operator of a vessel having a registration  
225 that has been expired for 6 months or less commits a noncriminal  
226 infraction, punishable as provided in s. 327.73;

227 (b) The owner or operator of a vessel having a registration  
228 that has been expired for more than 6 months, upon a first  
229 offense, commits a noncriminal infraction punishable as provided  
230 in s. 327.73;

231 (c) The owner or operator of a vessel having a registration  
232 that has been expired for more than 6 months, upon a second or

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233 subsequent offense, commits a misdemeanor of the second degree  
234 punishable as provided in s. 775.082 or s. 775.083. ~~after the~~  
235 ~~expiration of the registration period is a noncriminal~~  
236 ~~violation, as defined in s. 327.73.~~

237

238 This subsection does not apply to vessels lawfully stored at a  
239 dock or in a marina.

240 Section 10. This act shall take effect July 1, 2017.

1                   A bill to be entitled  
2           An act relating to vessels; amending s. 327.02, F.S.;  
3           providing and revising definitions; amending s.  
4           327.391, F.S.; conforming a cross-reference; amending  
5           s. 327.4107, F.S.; providing a condition under which a  
6           vessel is at risk of becoming derelict; amending s.  
7           327.4108, F.S.; removing the expiration of provisions  
8           relating to anchoring of vessels in anchoring  
9           limitation areas; creating s. 327.4109, F.S.;  
10          prohibiting anchoring or mooring of vessels and  
11          floating structures in certain areas; providing  
12          exceptions and penalties; amending s. 327.60, F.S.;  
13          authorizing a local government to enact and enforce  
14          certain requirements for sewage disposal by certain  
15          vessels and floating structures; requiring local  
16          governments with requirements for sewage disposal to  
17          provide adequate sewage pumpout services; requiring  
18          the Fish and Wildlife Conservation Commission to  
19          review such requirements and make certain  
20          determinations; providing applicability; amending s.  
21          327.70, F.S.; providing for issuance of uniform  
22          boating citations for unlawful anchoring or mooring in  
23          prohibited areas; amending s. 327.73, F.S.; conforming  
24          a cross-reference; providing a penalty for unlawful  
25          anchoring or mooring in prohibited areas; amending s.

26 328.72, F.S.; revising the penalties for operation,  
 27 use, or storage of a vessel with an expired  
 28 registration; providing an effective date.

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

31  
 32 Section 1. Subsections (11) through (13) of section  
 33 327.02, Florida Statutes, are renumbered as subsections (12)  
 34 through (14), respectively, present subsection (14) is  
 35 renumbered as subsection (16), present subsections (16) through  
 36 (44) are renumbered as subsections (17) through (45),  
 37 respectively, present subsection (19) is amended, and a new  
 38 subsection (11) is added to that section, to read:

39 327.02 Definitions.—As used in this chapter and in chapter  
 40 328, unless the context clearly requires a different meaning,  
 41 the term:

42 (11) "Effective means of propulsion for safe navigation"  
 43 means the vessel is equipped with:

44 (a) A functioning motor, controls, and steering system; or

45 (b) Rigging and sails that are present and in good working  
 46 order, and a functioning steering system.

47 ~~(20)~~~~(19)~~ "Live-aboard vessel" means:

48 (a) A vessel used solely as a residence and not for  
 49 navigation;

50 (b) A vessel represented as a place of business or a

51 professional or other commercial enterprise; ~~or~~

52 (c) A vessel for which a declaration of domicile has been  
53 filed pursuant to s. 222.17; or

54 (d) A vessel as described in paragraph (a) or paragraph  
55 (b) that does not have an effective means of propulsion for safe  
56 navigation.

57  
58 A commercial fishing boat is expressly excluded from the term  
59 "live-aboard vessel."

60 Section 2. Subsection (1) of section 327.391, Florida  
61 Statutes, is amended to read:

62 327.391 Airboats regulated.—

63 (1) The exhaust of every internal combustion engine used  
64 on any airboat operated on the waters of this state shall be  
65 provided with an automotive-style factory muffler, underwater  
66 exhaust, or other manufactured device capable of adequately  
67 muffling the sound of the exhaust of the engine as described in  
68 s. 327.02(28) ~~327.02(27)~~. The use of cutouts or flex pipe as the  
69 sole source of muffling is prohibited, except as provided in  
70 subsection (4). Any person who violates this subsection commits  
71 a noncriminal infraction punishable as provided in s. 327.73(1).

72 Section 3. Paragraph (e) is added to subsection (2) of  
73 section 327.4107, Florida Statutes, to read:

74 327.4107 Vessels at risk of becoming derelict on waters of  
75 this state.—

76 (2) An officer of the commission or of a law enforcement  
 77 agency specified in s. 327.70 may determine that a vessel is at  
 78 risk of becoming derelict if any of the following conditions  
 79 exist:

80 (e) The vessel does not have an effective means of  
 81 propulsion for safe navigation within 72 hours after the owner  
 82 or operator of the vessel receives notice stating such fact from  
 83 an officer.

84 Section 4. Subsection (7) of section 327.4108, Florida  
 85 Statutes, is amended to read:

86 327.4108 Anchoring of vessels in anchoring limitation  
 87 areas.—

88 ~~(7) This section expires upon the Legislature's adoption~~  
 89 ~~of the commission's recommendations for the regulation of~~  
 90 ~~mooring vessels outside of public mooring fields pursuant to s.~~  
 91 ~~327.4105.~~

92 Section 5. Section 327.4109, Florida Statutes, is created  
 93 to read:

94 327.4109 Anchoring or mooring prohibited; exceptions;  
 95 penalties.—

96 (1) (a) A vessel or floating structure may not anchor or  
 97 moor:

98 1. Within 150 feet of any marina, boat ramp, or other  
 99 vessel launching or loading facility; or

100 2. Within 300 feet of public mooring field boundaries.

101 (b) This subsection does not apply to:

102 1. A vessel owned or operated by a governmental entity.

103 2. A construction or dredging vessel on an active job  
104 site.

105 3. A vessel actively engaged in commercial fishing.

106 4. A vessel actively engaged in recreational fishing if  
107 the persons onboard are actively tending hook and line fishing  
108 gear or nets.

109 (2) Notwithstanding subsection (1), an owner or operator  
110 of a vessel may anchor or moor within 150 feet of any marina,  
111 boat ramp, or other vessel launching or loading facility or  
112 within 300 feet of public mooring field boundaries if:

113 (a) The vessel suffers a mechanical failure that poses an  
114 unreasonable risk of harm to the vessel or the persons onboard  
115 such vessel unless the vessel anchors or moors. The vessel may  
116 anchor or moor for 3 business days or until the vessel is  
117 repaired, whichever occurs first.

118 (b) Imminent or existing weather conditions in the  
119 vicinity of the vessel pose an unreasonable risk of harm to the  
120 vessel or the persons onboard unless the vessel anchors or  
121 moors. The vessel may anchor or moor until weather conditions no  
122 longer pose such risk. During a hurricane or tropical storm,  
123 weather conditions are deemed to no longer pose an unreasonable  
124 risk of harm when the hurricane or tropical storm warning  
125 affecting the area has expired.



126       (3) A vessel or floating structure may not anchor, moor,  
 127 tie, or otherwise affix to an unpermitted, unauthorized, or  
 128 otherwise unlawful object that is on or affixed to the bottom of  
 129 the waters of this state. This subsection does not apply to a  
 130 private mooring lawfully owned on private submerged lands.

131       (4) (a) For a first violation of this section, the person  
 132 commits a noncriminal infraction, punishable as provided in s.  
 133 327.73.

134       (b) For a second or subsequent violation of this section,  
 135 the person commits a misdemeanor of the second degree,  
 136 punishable as provided in s. 775.082 or s. 775.083.

137       Section 6. Paragraphs (b) and (f) of subsection (2) of  
 138 section 327.60, Florida Statutes, are amended, and subsection  
 139 (4) is added to that section, to read:

140       327.60 Local regulations; limitations.—

141       (2) Nothing in this chapter or chapter 328 shall be  
 142 construed to prevent the adoption of any ordinance or local  
 143 regulation relating to operation of vessels, except that a  
 144 county or municipality shall not enact, continue in effect, or  
 145 enforce any ordinance or local regulation:

146       (b) Relating to the design, manufacture, or installation,  
 147 ~~or use~~ of any marine sanitation device on any vessel, except as  
 148 authorized in subsection (4);

149       (f) Regulating the anchoring of vessels ~~other than live-~~  
 150 ~~aboard vessels~~ outside the marked boundaries of mooring fields

151 permitted as provided in s. 327.40, other than live-aboard  
152 vessels;

153 (4) (a) A local government may enact and enforce  
154 regulations requiring owners or operators of vessels or floating  
155 structures subject to the marine sanitation requirements of s.  
156 327.53 to provide proof of proper sewage disposal by means of an  
157 approved sewage pumpout service, approved sewage pumpout  
158 facility, or approved waste reception facility within the  
159 following areas:

160 1. Marked boundaries of a permitted mooring field under  
161 the jurisdiction of the local government; or

162 2. Designated no-discharge zones as provided in Volume 53,  
163 No. 13 of the Federal Register, page 1678 (1988); Volume 64, No.  
164 164 of the Federal Register, pages 46390-46391 (1999); and  
165 Volume 67, No. 98 of the Federal Register, pages 35735-35743  
166 (2002).

167 (b) Before a local government may adopt an ordinance to  
168 enact and enforce such regulations, the local government must  
169 provide adequate sewage pumpout services. Any ordinance adopted  
170 pursuant to this subsection may not take effect until the  
171 commission has reviewed the ordinance and determined that the  
172 local government provides adequate sewage pumpout services  
173 within its jurisdiction to protect public health and the marine  
174 environment.

175 (c) This subsection does not prohibit a local government

176 from enacting or enforcing such sewage pumpout requirements for  
 177 live-aboard vessels within any areas of its jurisdiction.

178 Section 7. Paragraph (d) is added to subsection (3) of  
 179 section 327.70, Florida Statutes, to read:

180 327.70 Enforcement of this chapter and chapter 328.—

181 (3)

182 (d) A noncriminal violation of s. 327.4109 may be enforced  
 183 by a uniform boating citation issued to an owner or operator of  
 184 a vessel unlawfully anchored, moored, tied, or otherwise affixed  
 185 in a prohibited area.

186 Section 8. Paragraph (g) of subsection (1) of section  
 187 327.73, Florida Statutes, is amended, and paragraph (bb) is  
 188 added to that subsection, to read:

189 327.73 Noncriminal infractions.—

190 (1) Violations of the following provisions of the vessel  
 191 laws of this state are noncriminal infractions:

192 (g) Section 328.72(13) (a) and (b) ~~328.72(13)~~, relating to  
 193 operation with an expired registration.

194 (bb) Section 327.4109, relating to anchoring or mooring in  
 195 a prohibited area.

196

197 Any person cited for a violation of any provision of this  
 198 subsection shall be deemed to be charged with a noncriminal  
 199 infraction, shall be cited for such an infraction, and shall be  
 200 cited to appear before the county court. The civil penalty for

201 any such infraction is \$50, except as otherwise provided in this  
 202 section. Any person who fails to appear or otherwise properly  
 203 respond to a uniform boating citation shall, in addition to the  
 204 charge relating to the violation of the boating laws of this  
 205 state, be charged with the offense of failing to respond to such  
 206 citation and, upon conviction, be guilty of a misdemeanor of the  
 207 second degree, punishable as provided in s. 775.082 or s.  
 208 775.083. A written warning to this effect shall be provided at  
 209 the time such uniform boating citation is issued.

210 Section 9. Subsection (13) of section 328.72, Florida  
 211 Statutes, is amended to read:

212 328.72 Classification; registration; fees and charges;  
 213 surcharge; disposition of fees; fines; marine turtle stickers.-

214 (13) EXPIRED REGISTRATION.-The operation, use, or storage  
 215 on the waters of this state of a previously registered vessel is  
 216 subject to the following penalties:

217 (a) The owner or operator of a vessel with an expired  
 218 registration of 6 months or less commits a noncriminal  
 219 infraction, punishable as provided in s. 327.73.

220 (b) The owner or operator of a vessel with an expired  
 221 registration of more than 6 months, upon a first offense,  
 222 commits a noncriminal infraction, punishable as provided in s.  
 223 327.73.

224 (c) The owner or operator of a vessel with an expired  
 225 registration of more than 6 months, upon a second or subsequent

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226 | offense, commits a misdemeanor of the second degree, punishable  
227 | as provided in s. 775.082 or s. 775.083 ~~after the expiration of~~  
228 | ~~the registration period is a noncriminal violation, as defined~~  
229 | ~~in s. 327.73.~~

230

231 | This subsection does not apply to vessels lawfully stored at a  
232 | dock or in a marina.

233 | Section 10. This act shall take effect July 1, 2017.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB NRPL 17-01 Vessels  
**SPONSOR(S):** Natural Resources & Public Lands Subcommittee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Natural Resources & Public Lands Subcommittee		Moore	Shugar

### SUMMARY ANALYSIS

In 2009, the Legislature required the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to explore potential policy options for regulating the anchoring and mooring of vessels outside public mooring fields, including the authority that should be granted to local governments to regulate such activities (pilot program). With the exception of those participating in the pilot program, local governments are prohibited from enacting or enforcing regulations on the anchoring or mooring of vessels, other than a live-aboard vessel, outside the marked boundaries of mooring fields.

FWC was required to submit a report of its findings and recommendations on the pilot program to the Legislature by January 1, 2017. The pilot program and the ordinances adopted by the pilot program participants under the pilot program will expire on July 1, 2017, unless reenacted by the Legislature.

The bill incorporates many of the findings and recommendations from the pilot program. The bill:

- Revises the definition of “live-aboard vessel” and defines “effective means of propulsion for safe navigation”;
- Provides that a vessel is at risk of becoming derelict if an owner or operator of the vessel cannot demonstrate, after 72 hours of notification by a law enforcement officer, that the vessel has an effective means of propulsion for safe navigation;
- Removes the expiration of anchoring limitation areas;
- Prohibits a vessel or floating structure from anchoring or mooring within 150 feet of any marina, boat ramp, or other vessel launching or loading facility to protect maritime infrastructure, or within 300 feet of mooring field boundaries to protect legally moored vessels. Provides time-limited exemptions for mechanical failure and for imminent and existing weather conditions. Provides blanket exemptions for government owned or operated vessels, construction or dredging vessels on an active job site, and vessels actively engaged in commercial or recreational fishing. Provides the following penalties:
  - For a first violation, a noncriminal infraction; and
  - For a second or subsequent violation, a misdemeanor of the second degree.
- Prohibits a vessel or floating structure from anchoring, mooring, tying, or otherwise affixing to an unpermitted or unauthorized object that is on or affixed to the bottom of waters of the state and provides the following penalties:
  - For a first violation, a noncriminal infraction; and
  - For a second or subsequent violation, a misdemeanor of the second degree.
- Authorizes local governments to enact and enforce regulations that require owners or operators of vessels or floating structures subject to marine sanitation requirements to provide proof of proper sewage disposal within marked boundaries of a permitted mooring field or federally designated no discharge zones, provided the local government has adequate pumpout services and FWC has verified such before any ordinance is effective.
- Clarifies that local governments may enact and enforce pumpout requirements for live-aboard vessels.
- Elevates the penalty for a vessel with an expired registration of more than 6 months, upon a second or subsequent offense, from a noncriminal infraction to a misdemeanor of the second degree.

The bill may have an indeterminate fiscal impact on state and local governments and the private sector.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Fish and Wildlife Conservation Commission Anchoring and Mooring Pilot Program**

##### Present Situation

In 2009, the Legislature required the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to explore potential policy options for regulating the anchoring and mooring of vessels<sup>1</sup> outside public mooring fields, including the authority that should be granted to local governments to regulate such activities (pilot program).<sup>2</sup> With the exception of those participating in the pilot program, local governments are prohibited from enacting or enforcing regulations on the anchoring or mooring of vessels, other than live-aboard vessels,<sup>3</sup> outside the marked boundaries of mooring fields.<sup>4</sup>

The goals of the pilot program are to encourage the establishment of additional mooring fields and to develop and test policies and regulatory regimes that:

- Promote the establishment and use of public mooring fields;
- Promote access to the waters of the state;
- Enhance navigational safety;
- Protect maritime infrastructure;
- Protect marine environment; and
- Deter improperly stored, abandoned, or derelict vessels.<sup>5</sup>

Each location selected for inclusion in the pilot program was required to have a properly permitted mooring field.<sup>6</sup> FWC, in consultation with DEP, selected two locations off the east coast, two locations off the west coast, and one location within Monroe County. The locations had to be geographically diverse and take into consideration various users and means of using the waters of the state.<sup>7</sup> The pilot program participants include:

- The City of St. Augustine;<sup>8</sup>
- The City of St. Petersburg;<sup>9</sup>
- The City of Sarasota;<sup>10</sup>
- Martin County in partnership with the City of Stuart;<sup>11</sup> and
- Monroe County in partnership with the cities of Marathon and Key West.<sup>12</sup>

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<sup>1</sup> A “vessel” is synonymous with a boat as referenced in article VII, section 1(b) of the Florida Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water; s. 327.02(43), F.S.

<sup>2</sup> Ch. 2009-86, Laws of Fla.; s. 327.4105, F.S.

<sup>3</sup> A “live-aboard vessel” is a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed pursuant to section 222.17, F.S. The term expressly excludes commercial fishing boats; s. 327.02(19), F.S.

<sup>4</sup> ss. 327.60(2)(f) and 327.60(3), F.S.

<sup>5</sup> s. 327.4105(1)(a)-(f), F.S.

<sup>6</sup> DEP provides a general permit for local governments to develop and operated mooring fields, which can hold up to 100 vessels, including associated docks and parking facilities; s. 373.118(4), F.S.; r. 62-330.420, F.A.C.

<sup>7</sup> s. 327.4105(2), F.S.

<sup>8</sup> The City of St. Augustine ordinance, [http://www.citystaug.com/document\\_center/Marina/Ord2011-10-2.pdf](http://www.citystaug.com/document_center/Marina/Ord2011-10-2.pdf) (last visited Feb. 14, 2017).

<sup>9</sup> The City of St. Petersburg ordinance, <http://myfwc.com/media/2221101/StPeteOrdinance.pdf> (last visited Feb. 14, 2017).

<sup>10</sup> The City of Sarasota ordinance, <http://myfwc.com/media/2405171/Sarasota-final-Ord-12-5003.pdf> (last visited Feb. 14, 2017).

<sup>11</sup> Martin County ordinance, <https://www.martin.fl.us/sites/default/files/151-538.pdf> (last visited Feb. 14, 2017).

<sup>12</sup> Monroe County anchoring and mooring ordinance, <https://fl-monroecounty.civicplus.com/Documentview.aspx?DID=4039> (last visited Feb. 14, 2017).

Any ordinance enacted under the pilot program could not take effect or become enforceable until approved by FWC. FWC could not approve an ordinance that was inconsistent with the goals of the pilot program.<sup>13</sup> FWC was required to:

- Provide consultation and technical assistance to each pilot program participant to facilitate accomplishment of the pilot program's goals;
- Coordinate the review of any proposed ordinance with DEP; the United States Coast Guard; the Florida Inland Navigation District or the West Coast Inland Navigation District, as appropriate; and associations or other organizations representing vessel owners or operators; and
- Monitor and evaluate at least annually each pilot program participant and make modifications necessary to accomplish the goals of the pilot program.<sup>14</sup>

FWC was required to submit a report of its findings and recommendations of the pilot program to the Legislature by January 1, 2014.<sup>15</sup> At that time, FWC recommended an extension of the pilot program for an additional three years to allow a more thorough and complete assessment of the implementation of ordinances adopted by the pilot program participants.<sup>16</sup> The pilot program was extended by the Legislature, and FWC was required to submit an updated report by January 1, 2017.<sup>17</sup>

The pilot program and the ordinances adopted by the pilot program participants under the pilot program will expire on July 1, 2017, unless reenacted by the Legislature.<sup>18</sup>

### *FWC's Anchoring and Mooring Pilot Program Findings and Recommendations*

On December 31, 2016, FWC submitted its report and made the following recommendations categorized by pilot program goals:

- For promoting the establishment and use of public mooring fields:
  - Provide additional safety precautions in the immediate vicinity of public mooring fields by establishing a 300 foot buffer outside the boundaries of public mooring fields within which no anchoring is allowed;
  - Retain regulatory authority for anchoring of vessels outside of mooring fields to the state, but if authority is granted to local governments, then authority should be granted to counties only and with certain stipulations;
  - Conduct research to quantify the economic benefits of mooring fields; and
  - Conduct research on the environmental benefits of mooring fields.
- For promoting access to the waters of the state, enhancing navigational safety, and protecting maritime infrastructure:
  - Create a statewide anchoring limited area whereby anchoring would be prohibited within 150 feet of marinas, boat ramps, or other vessel launching and loading facilities; and
  - Provide exceptions for when there is an unreasonable risk of harm due to weather conditions, vessels owned by government entities, construction and dredging vessels on an active job site, and vessels engaged in commercial or recreational fishing.
- For the prevention of derelict vessels:<sup>19</sup>
  - Place a "hold" on titles of vessels that have been deemed derelict. Provide that such would be released upon court order or when a responsible party comes forward to take possession of the vessel and remove it from the waters of the state;
  - Limit who may renew a vessel registration to the owner or person with power of attorney;
  - Increase the penalty for a repeat violation of an expired vessel registration that is expired by more than 6 months to mirror that in current motor vehicle law.<sup>20</sup> This would elevate

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<sup>13</sup> s. 327.4105(3), F.S.

<sup>14</sup> s. 327.4105(4), F.S.

<sup>15</sup> s. 327.4105(5), F.S.

<sup>16</sup> FWC, *Anchoring and Mooring Pilot Program Report of Findings and Recommendations* (Dec. 31, 2013), <http://myfwc.com/media/2704721/FindingsRecommendations.pdf> (last visited Feb. 14, 2017).

<sup>17</sup> Ch. 2014-136, Laws of Fla.; s. 327.4105(5), F.S.

<sup>18</sup> s. 327.4105(6), F.S.

<sup>19</sup> A "derelict vessel" is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in this state without the consent of the agency having jurisdiction thereof; or docked, grounded, or beached upon the property of another without the consent of the property owner; s. 823.11(1)(b), F.S.



the penalty for a second and any subsequent time a vessel owner is cited for having a registration expired for more than 6 months from a non-criminal infraction<sup>21</sup> to a second degree misdemeanor;<sup>22</sup>

- Waive the certified mailing requirement for abandoned or lost property<sup>23</sup> in instances where the owner of a derelict vessel has been notified by law enforcement through a written citation. Provide a 60 day exception for a vessel that has become derelict as a result of a declared natural disaster or state of emergency.
- Provide that a vessel may be determined to be at risk of becoming a derelict vessel if a vessel owner or operator cannot demonstrate, after 72 hours of notification by a law enforcement officer, that the vessel has an effective means of propulsion for the purpose of safe navigation. For purposes of this provision, an effective means of propulsion for the purpose of safe navigation for a sailing vessel would mean there is a steering system, rigging, and sail(s) in working order and is equipped with a functioning motor, and for all other vessels would mean there is a functioning motor, controls, and steering system.
- For protecting the marine environment:
  - Prohibit a vessel or floating structure<sup>24</sup> from being moored to unauthorized moorings. Provide an exception for private moorings on privately owned bottomland. Provide penalties for such violation as follows:
    - For a first violation, the penalty would be a noncriminal infraction; and
    - For a second and subsequent violation, the penalty would be a second degree misdemeanor.<sup>25</sup>

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<sup>20</sup> s. 320.07(3), F.S.

<sup>21</sup> s. 328.72(13), F.S.; Provides that a person cited for a violation of certain vessel laws of the state is charged with a noncriminal infraction, will be cited for the infraction, and ordered to appear in county court. The civil penalty for an infraction is \$50, except as otherwise provided by law. A person who fails to appear or otherwise properly respond to the citation will, in addition to the civil penalty, be charged with failing to respond to the citation and upon conviction will be guilty of a misdemeanor of the second degree.

<sup>22</sup> ss. 775.082 and 775.083, F.S.; Provides that a person who has been convicted of a misdemeanor of the second degree may be sentenced by a definite term of imprisonment not exceeding 60 days and may be sentenced to pay a fine which must not exceed \$500.

<sup>23</sup> s. 705.103, F.S.

<sup>24</sup> A “floating structure” is a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes, but is not limited to, an entity used as a residence, place of business or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term “vessel.” Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from classification as a floating structure; s. 327.02(11), F.S.

<sup>25</sup> FWC, *Anchoring and Mooring Pilot Program Proposed Report of Findings and Recommendations* (Dec. 21, 2016),

<http://myfwc.com/media/4126646/anchoringandmooringpilotprogramreport122116.pdf> (last visited Feb. 14, 2017).

Though the pilot program and pilot program participants tried to address issues associated with stored vessels, inoperable vessels being used as residences, marine sanitation concerns, and setbacks from shorelines or private docks these issues remained unresolved. FWC provided the following discussion on these unresolved issues as follows:

- Stored vessels:
  - Ordinances created by the city of St. Petersburg and Monroe County in partnership with the cities of Marathon and Key West prohibited vessels from remaining on the water if conditions existed that indicated the vessel could not effectively navigate. The city of St. Augustine's ordinance required vessels to demonstrate operability twice annually by navigating to the city's marina to receive a decal which served to verify operability. The ordinance enacted by Martin County in partnership with the City of Stuart required that a vessel demonstrate operability if it remained in certain areas for more than 10 consecutive days.
  - Enacting a statewide law regarding stored vessels would be very challenging to implement. Instead, FWC believes that implementing some of its recommendations would serve to remedy many of the problems associated with long-term storage of vessels, particularly:
    - Establishing a statewide 300 foot no anchoring buffer outside the permitted boundaries of public mooring fields;
    - Establishing a statewide prohibition on anchoring within 150 feet of any marina, boat ramp, or other vessel launching or loading facility;
    - Increasing the penalty for repeat violations of an expired vessel registration that is expired for more than 6 months, mirroring motor vehicle law;
    - Providing that a vessel may be determined to be at risk of becoming derelict if, after 72 hours of notification by law enforcement, the owner or operator of the vessel cannot demonstrate that the vessel has an effective means of propulsion for the purpose of safe navigation; and
    - Prohibiting a vessel or floating structure from mooring to unauthorized moorings.
- Inoperable vessels being used as residences:
  - Clarification to the definition of live-aboard vessel may help local governments in their efforts to regulate live-aboard vessels that are inoperable.
- Marine sanitation issues:
  - Clarification relating to whether local governments are authorized to regulate the use of a marine sanitation device<sup>26</sup> on a live-aboard vessel would be helpful.
  - Under the pilot program, ordinances created by Martin County in partnership with the City of Stuart, and Monroe County in partnership with the cities of Marathon and Key West require a proof of pump-out for vessels subject to marine sanitation requirements.<sup>27</sup>
  - Many marinas on Florida's waterways offer pump-out services, but there are considerable expanses of state waters where these services are limited that make it difficult to create a statewide program.
  - Attempting to enact a statewide pump-out program would be costly and extremely difficult to implement.
  - The topic warrants further consideration, perhaps resulting in enhancements to marine sanitation laws and/or expansion of pump-out services around the state.
- Setbacks from shorelines and private docks:
  - Much discussion has occurred throughout the timeframe of the pilot program regarding the establishment of setbacks where anchoring is limited from private property along the shoreline of waters of the state. Current law does not have such restrictions.
  - The cities of Sarasota and St. Augustine authorized a setback from either the shoreline or private docks, but these efforts did not yield a clear resolution.

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<sup>26</sup> A "marine sanitation device" is equipment, other than a toilet, for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage. Marine sanitation device Types I, II, and III are defined as provided in 33 C.F.R. § 159; s. 327.02(23), F.S.

<sup>27</sup> s. 327.53, F.S.

- A consensus on a statewide setback has not been identified that would be practical throughout the state.<sup>28</sup>

### Effect of Proposed Changes

The bill amends s. 327.02, F.S., regarding definitions, amending the definition of “live-aboard vessel” to include a vessel which does not have an effective means of propulsion for safe navigation, whether that vessel is used solely as a residence and not for navigation, or whether the vessel is represented as a place of business or a professional or other commercial enterprise. The bill defines “effective means of propulsion for safe navigation” to mean the vessel is equipped with:

- A functioning motor, controls, and steering system; or
- Rigging and sail(s) that are present and in good working order, and a functioning steering system.

The bill makes conforming renumbering changes to s. 327.02, F.S., resulting from the addition of the definition of “effective means of propulsion for safe navigation” and amends s. 327.391, F.S., to conform a cross reference.

The bill amends s. 327.4107(2), F.S., regarding vessels at risk of becoming derelict on waters of the state, to include that a vessel is at risk of becoming derelict if the owner or operator of the vessel receives notice from a law enforcement officer that the vessel does not have an effective means of propulsion for safe navigation and after 72 hours of notification by the officer, the vessel still does not have an effective means of propulsion for safe navigation.

The bill amends s. 327.4108, F.S., regarding the anchoring of vessels in anchoring limitation areas, to save the section from expiring upon the Legislature’s adoption of the pilot program recommendations.

The bill creates s. 327.4109, F.S., prohibiting anchoring or mooring in certain areas, providing exceptions and penalties, as follows:

- A vessel or floating structure may not anchor or moor:
  - Within 150 feet of any marina, boat ramp, or other vessel launching or loading facility; or
  - Within 300 feet of public mooring field boundaries.
- However, an owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, or other vessel launching or loading facility or within 300 feet of public mooring field’s boundaries:
  - If the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors or moors. The vessel may anchor or moor for 3 business days or until the vessel is repaired, whichever occurs first; or
  - If imminent or existing weather in the vicinity of the vessel poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors or moors. The vessel may anchor or moor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.
- The anchoring or mooring prohibitions described above do not apply to:
  - Vessels owned or operated by a governmental entity;
  - Construction or dredging vessels on an active job site;
  - Vessels actively engaged in commercial fishing; and
  - Vessels engaged in recreational fishing and the persons onboard are actively tending hook and line fishing gear or nets.
- A vessel or floating structure may not anchor, moor, tie, or otherwise affix to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of waters of the

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<sup>28</sup> FWC, *Anchoring and Mooring Pilot Program Proposed Report of Findings and Recommendations* (Dec. 21, 2016), <http://myfwc.com/media/4126646/anchoringandmooringpilotprogramreport122116.pdf> (last visited Feb. 14, 2017).

state. The requirement does not apply to a private mooring lawfully owned on private submerged lands.

- A violation of these anchoring or mooring prohibitions is as follows:
  - For a first violation, a noncriminal infraction punishable as provided in s. 327.73, F.S.; and
  - For a second or subsequent violation, a misdemeanor of the second degree punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

The bill amends s. 327.60, F.S., regarding local government regulations, to:

- Allow a local government to enact and enforce regulations requiring owners or operators of vessels or floating structures subject to the marine sanitation requirements of s. 327.53, F.S., to provide proof of properly disposed of sewage by means of an approved sewage pumpout service, pumpout facility, or waste reception facility within the following areas:
  - Marked boundaries of a permitted mooring field under the jurisdiction of the local government; or
  - Designated no discharge zones, as provided under 53 F.R. § 1678 (1988) for Destin Harbor, 64 F.R. 46390 (1999) for the City of Key West, and 67 F.R. § 35735 (2002) for the Florida Keys National Marine Sanctuary.<sup>29</sup>
- Require a local government adopting such ordinance to provide adequate pumpout services and for FWC to review the ordinance to determine the local government provides adequate pumpout services to protect public health and the marine environment before the ordinance may take effect.
- Provide that a local government may enact or enforce such pumpout requirements for live-aboard vessels within any areas of its jurisdiction.

The bill amends s. 327.70, F.S., regarding enforcement, to provide that a noncriminal violation of s. 327.4109, F.S., may be enforced by a uniform boating citation issued to the operator of a vessel unlawfully anchored, moored, tied, or otherwise affixed where such is prohibited.

The bill amends s. 327.73, F.S., regarding noncriminal infractions, to make conforming changes to operating a vessel with an expired registration, and to add s. 327.4109, F.S., relating to anchoring and mooring in a prohibited area.

The bill amends s. 328.72(13), F.S., regarding an expired vessel registration, to provide the following penalty provisions:

- The owner or operator of a vessel with an expired registration of 6 months or less commits a noncriminal infraction, punishable as provided in s. 327.73, F.S.;
- The owner or operator of a vessel with an expired registration of more than 6 months, upon a first offense, commits a noncriminal infraction punishable as provided in s. 327.73, F.S.;
- The owner or operator of a vessel with an expired registration of more than 6 months, upon a second or subsequent offense, commits a misdemeanor of the second degree punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

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<sup>29</sup> United States Environmental Protection Agency, *No-Discharge Zones by State*, <https://www.epa.gov/vessels-marinas-and-ports/no-discharge-zones-ndzs-state> (last visited Feb. 14, 2017); DEP, *Vessel Discharge*, <http://www.dep.state.fl.us/water/wastewater/vessel.htm> (last visited Feb. 14, 2017).

## B. SECTION DIRECTORY:

- Section 1. Amends s. 327.02, F.S., defining “effective means of propulsion for safe navigation” and revising the definition of “live-aboard vessel.”
- Section 2. Amends s. 327.391(1), F.S., conforming a cross reference.
- Section 3. Amends s. 327.4107(2), F.S., regarding vessels at risk of becoming derelict on waters of this state.
- Section 4. Amends s. 327.4108(7), F.S., regarding anchoring of vessels in anchoring limitation areas.
- Section 5. Creates s. 327.4109, F.S., prohibiting anchoring or mooring in certain areas; providing exceptions; penalties.
- Section 6. Amends s. 327.60, F.S., regarding local regulations.
- Section 7. Amends s. 327.70(3), F.S., regarding enforcement.
- Section 8. Amends s. 327.73(1), F.S., regarding noncriminal infractions of vessel laws of the state.
- Section 9. Amends s. 328.72(13), F.S., regarding an expired vessel registration.
- Section 10. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill may have an indeterminate fiscal impact on state government. While FWC may experience positive fiscal impacts resulting from the issuance of boating citations, it may also experience increased costs due to increased enforcement efforts.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill may have an indeterminate fiscal impact on local governments. While local governments may experience positive fiscal impacts resulting from the issuance of boating citations, local governments may also experience increased costs due to increased enforcement efforts.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill creates a noncriminal boating infraction for a first offense related to anchoring or mooring in a prohibited area. As such, a violator would be charged with a noncriminal infraction, cited, and ordered to appear in county court. A person who fails to appear or otherwise properly respond to the citation would, in addition to the civil penalty, be charged with failing to respond to the citation and upon

conviction would be guilty of a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or a fine which must not exceed \$500.

The bill creates a criminal infraction, a misdemeanor of the second degree, for:

- A second and subsequent offense of anchoring or mooring in a prohibited area.
- An owner or operator of a vessel with an expired registration of more than 6 months, upon a second or subsequent offense.

A misdemeanor of the second degree is punishable by a term of imprisonment not exceeding 60 days or a fine which must not exceed \$500.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

By Senator Bradley

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1                   A bill to be entitled  
 2           An act relating to water resources; amending s.  
 3           201.15, F.S.; revising the requirements under which  
 4           certain bonds may be issued; amending s. 215.618,  
 5           F.S.; providing an exception to the requirement that  
 6           bonds issued for acquisition and improvement of land,  
 7           water areas, and related property interests and  
 8           resources be deposited into the Florida Forever Trust  
 9           Fund and distributed in a specified manner; creating  
 10          s. 373.4598, F.S.; providing legislative findings and  
 11          intent; defining terms; requiring the South Florida  
 12          Water Management District to seek proposals from  
 13          willing sellers of property within the Everglades  
 14          Agricultural Area for land that is suitable for the  
 15          reservoir project; clarifying that all appraisal  
 16          reports, offers, and counteroffers are confidential  
 17          and exempt from public records requirements; requiring  
 18          the district to assign the Entire Option Property Non-  
 19          Exclusive Option of a specified agreement to the Board  
 20          of Trustees of the Internal Improvement Trust Fund  
 21          under certain circumstances; requiring the district to  
 22          retain the agreement's option under certain  
 23          circumstances; requiring the board or the district, as  
 24          applicable, to exercise the specified option by a  
 25          certain date under certain circumstances; providing  
 26          requirements for the Proposed Option Property Purchase  
 27          Price; authorizing the disposal or exchange of certain  
 28          land or interests in land for certain purposes;  
 29          requiring the district to begin, seek permitting for,  
 30          and construct the reservoir project under certain  
 31          circumstances; requiring the district, in coordination  
 32          with the United States Army Corps of Engineers, to

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33 begin the planning study for the reservoir project by  
34 a specified date under certain circumstances;  
35 requiring the district to identify specified lands  
36 under certain circumstances; providing requirements  
37 for the planning study; requiring the district, in  
38 coordination with the United States Army Corps of  
39 Engineers, to seek Congressional authorization for the  
40 reservoir project under certain circumstances;  
41 authorizing certain costs to be funded using Florida  
42 Forever bond proceeds under certain circumstances;  
43 specifying how such bond proceeds shall be deposited;  
44 authorizing the use of state funds for the reservoir  
45 project; requiring the district to seek additional  
46 sources of funding; requiring the district to seek  
47 federal credits under certain circumstances; requiring  
48 the district to request the United States Army Corps  
49 of Engineers, in the Corps' review of the regulation  
50 schedule, to consider any increase in southern outlet  
51 capacity of Lake Okeechobee; amending s. 375.041,  
52 F.S.; increasing the minimum annual funding for  
53 certain Everglades projects under specified  
54 circumstances; requiring the district and the board to  
55 notify the Division of Law Revision and Information by  
56 a certain date of specified land acquisitions;  
57 providing a directive to the division; providing  
58 contingent appropriations; providing effective dates,  
59 one of which is contingent.

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



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Section 1. Paragraph (a) of subsection (3) of section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017, secured by revenues distributed pursuant to this section. All taxes remaining after deduction of costs shall be distributed as follows:

(3) Amounts on deposit in the Land Acquisition Trust Fund

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91 shall be used in the following order:

92 (a) Payment of debt service or funding of debt service  
93 reserve funds, rebate obligations, or other amounts payable with  
94 respect to Florida Forever bonds issued pursuant to s. 215.618.  
95 The amount used for such purposes may not exceed \$300 million in  
96 each fiscal year. It is the intent of the Legislature that all  
97 bonds issued to fund the Florida Forever Act be retired by  
98 December 31, 2040. Except for bonds issued to refund previously  
99 issued bonds, no series of bonds may be issued pursuant to this  
100 paragraph unless such bonds are approved and the debt service  
101 for the remainder of the fiscal year in which the bonds are  
102 issued is specifically appropriated in the General  
103 Appropriations Act or other law with respect to bonds issued for  
104 the purposes of s. 373.4598.

105

106 Bonds issued pursuant to s. 215.618 or s. 215.619 are equally  
107 and ratably secured by moneys distributable to the Land  
108 Acquisition Trust Fund.

109 Section 2. Subsection (5) of section 215.618, Florida  
110 Statutes, is amended to read:

111 215.618 Bonds for acquisition and improvement of land,  
112 water areas, and related property interests and resources.—

113 (5) The proceeds from the sale of bonds issued pursuant to  
114 this section, less the costs of issuance, the costs of funding  
115 reserve accounts, and other costs with respect to the bonds,  
116 shall be deposited into the Florida Forever Trust Fund. The bond  
117 proceeds deposited into the Florida Forever Trust Fund shall be  
118 distributed by the Department of Environmental Protection as  
119 provided in s. 259.105. This subsection does not apply to

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120 proceeds from the sale of bonds issued for the purposes of s.  
121 373.4598.

122 Section 3. Section 373.4598, Florida Statutes, is created  
123 to read:

124 373.4598 Reservoir project in the Everglades Agricultural  
125 Area.-

126 (1) LEGISLATIVE FINDINGS AND INTENT.-

127 (a) The Legislature declares that an emergency exists  
128 regarding the St. Lucie and Caloosahatchee estuaries due to the  
129 harmful freshwater discharges east and west of the lake. Such  
130 discharges have manifested in widespread algae blooms, public  
131 health impacts, and extensive environmental harm to wildlife and  
132 the aquatic ecosystem. These conditions threaten the ecological  
133 integrity of the estuaries and the economic viability of the  
134 state and affected communities.

135 (b) The Legislature finds that the acquisition of  
136 strategically located lands south of the lake and the  
137 construction of the reservoir project will increase the  
138 availability of water storage and reduce the harmful freshwater  
139 discharges. Additionally, water storage south of the lake will  
140 increase the availability of water for the Everglades and to  
141 meet irrigation demands for the Everglades Agricultural Area;  
142 restore the hydrological connection to the Everglades; and  
143 provide flood protection by reducing, through additional storage  
144 capacity, some of the demands on the Herbert Hoover Dike.

145 (c) The Legislature recognizes that the reservoir project  
146 is authorized in the Water Resources Development Act of 2000 as  
147 a project component of CERP. Unless other funding is available,  
148 the Legislature directs the district in implementation of the

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149 reservoir project to abide by applicable state and federal law  
150 in order to do that which is required to obtain federal credit  
151 under CERP. If the district implements the reservoir project as  
152 a project component as defined in s. 373.1501, the district must  
153 abide by all applicable state and federal law relating to such  
154 projects.

155 (d) Nothing in this section is intended to diminish the  
156 commitments made by the state in chapter 2016-201, Laws of  
157 Florida.

158 (2) DEFINITIONS.—As used in this section, the term:

159 (a) "Agreement" means the Second Amended and Restated  
160 Agreement for Sale and Purchase between the United States Sugar  
161 Corporation, SBG Farms, Inc., Southern Garden Groves  
162 Corporation, and the South Florida Water Management District,  
163 dated August 12, 2010.

164 (b) "Board" means the Board of Trustees of the Internal  
165 Improvement Trust Fund.

166 (c) "Comprehensive Everglades Restoration Plan" or "CERP"  
167 has the same meaning as the term "comprehensive plan" as defined  
168 in s. 373.470.

169 (d) "District" means the South Florida Water Management  
170 District.

171 (e) "Everglades Agricultural Area" or "EAA" has the same  
172 meaning as provided in s. 373.4592.

173 (f) "Lake" means Lake Okeechobee.

174 (g) "Reservoir project" means a project to construct one or  
175 two above-ground reservoirs that have a total water storage  
176 capacity of approximately 360,000 acre-feet and are located in  
177 the EAA.

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178 (3) LAND ACQUISITION.—The Legislature declares that  
179 acquiring land for the reservoir project is in the public  
180 interest and that the governing board of the district and the  
181 board may acquire fee title for the purpose of implementing the  
182 reservoir project.

183 (a) Upon the effective date of this act, the district shall  
184 seek proposals from willing sellers of property within the  
185 Everglades Agricultural Area in order to acquire approximately  
186 60,000 acres of land that is suitable for the reservoir project.  
187 All appraisal reports, offers, and counteroffers are  
188 confidential and exempt from s. 119.07(1), as provided in s.  
189 373.139.

190 (b) If the district does not acquire land pursuant to  
191 paragraph (a) by December 31, 2017:

192 1. The district must assign, by January 31, 2018, the  
193 agreement's Entire Option Property Non-Exclusive Option to the  
194 board, as authorized in, and in accordance with, the agreement.  
195 If, for any reason, the Seller, as defined in the agreement,  
196 does not find the assignment to be reasonably acceptable in form  
197 and substance, the district must retain the Entire Option  
198 Property Non-Exclusive Option; and

199 2. The board or the district, whichever holds the option,  
200 must, by March 1, 2018, exercise the option in accordance with  
201 the agreement. The Buyer's Proposed Option Property Purchase  
202 Price, as specified in the agreement, may not be less than the  
203 average of \$7,400 per acre, unless the maximum offer allowed by  
204 law is less than the average of \$7,400 per acre.

205 3. The board or the district, if applicable, may dispose of  
206 or exchange any land or lease interest in the land that is

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207 acquired pursuant to this paragraph in order to achieve optimal  
208 siting for the reservoir project or to dispose of land that is  
209 not necessary for the reservoir project. Any such exchange or  
210 disposition may not be in violation of the agreement.

211 (4) DESIGN, PERMITTING, AND CONSTRUCTION.—If the district  
212 finds willing sellers of property pursuant to paragraph (3) (a),  
213 the district:

214 (a) Once the land has been agreed upon for purchase, must  
215 immediately begin the reservoir project with the goal of  
216 providing adequate water storage and conveyance south of the  
217 lake to reduce the volume of regulatory discharges of water from  
218 the lake to the east and west; and

219 (b) Once the land is acquired, must expeditiously pursue  
220 necessary permitting and begin implementation and construction  
221 of the reservoir project as soon as practicable.

222 (5) PLANNING STUDY.—

223 (a) If land is acquired pursuant to paragraph (3) (a) and  
224 other funding is not available, the district must, in  
225 coordination with the United States Army Corps of Engineers,  
226 begin the planning study for the reservoir project by March 1,  
227 2018.

228 (b) If land is not acquired pursuant to paragraph (3) (a) by  
229 December 31, 2017, the district must, in coordination with the  
230 United States Army Corps of Engineers, begin the planning study  
231 for the reservoir project by October 1, 2019.

232 1. If land is acquired pursuant to paragraph (3) (b), the  
233 district must identify which of the acquired land is suitable  
234 for the reservoir project.

235 2. If land is not acquired pursuant to paragraph (3) (b),

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236 the district must identify land that is suitable for the  
237 reservoir project and the best option for securing such land.

238 (c) The district, when developing the planning study, must  
239 focus on the goal of the reservoir project, which is to provide  
240 adequate water storage and conveyance south of the lake to  
241 reduce the volume of regulatory discharges of water from the  
242 lake to the east and west.

243 (d) Upon completion of the planning study and the  
244 finalization of the project implementation report, as defined in  
245 s. 373.470, the district, in coordination with the United States  
246 Army Corps of Engineers, shall seek Congressional authorization  
247 for the reservoir project.

248 (6) FUNDING.—

249 (a) Pursuant to s. 11(e), Art. VII of the State  
250 Constitution, state bonds are authorized under this section to  
251 finance or refinance the acquisition and improvement of land,  
252 water areas, and related property interests and resources for  
253 the purposes of conservation, outdoor recreation, water resource  
254 development, restoration of natural systems, and historic  
255 preservation. In accordance with s. 17, Art. X of the State  
256 Constitution, funds deposited into the Everglades Trust Fund may  
257 be expended for the purposes of conservation and protection of  
258 natural resources in the Everglades Protection Area and the  
259 Everglades Agricultural Area.

260 (b) Any cost related to this section, including, but not  
261 limited to, the costs for land acquisition, construction, and  
262 operation and maintenance, may be funded using proceeds from  
263 Florida Forever bonds issued under s. 215.618, as authorized  
264 under that section. The Legislature determines that the

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265 authorization and issuance of such bonds is in the best interest  
266 of the state and determines that the reservoir project should be  
267 implemented. Notwithstanding any other provision of law,  
268 proceeds from the sale of such bonds, less the costs of  
269 issuance, the costs of funding reserve accounts, and other costs  
270 with respect to the bonds, shall be deposited in the following  
271 manner:

272 1. If land is acquired pursuant to paragraph (3)(a), the  
273 amount of up to \$800 million in bond proceeds in the 2017-2018  
274 fiscal year to the Everglades Trust Fund for the purposes of  
275 this section, and the amount of up to \$400 million in bond  
276 proceeds in the 2018-2019 fiscal year to the Everglades Trust  
277 Fund for the purposes of this section; or

278 2. If land is acquired pursuant to paragraph (3)(b), the  
279 amount of up to \$1.2 billion in bond proceeds in the 2018-2019  
280 fiscal year to the Board of Trustees of the Internal Improvement  
281 Trust Fund, or the Everglades Trust Fund, if applicable, to be  
282 used for the purposes of this section.

283 (c) Notwithstanding s. 373.026(8)(b) or any other provision  
284 of law, the use of state funds is authorized for the reservoir  
285 project.

286 (d) The district shall actively seek additional sources of  
287 funding, including federal funding, for the reservoir project.

288 (e) If the reservoir project receives Congressional  
289 authorization, the district must seek applicable federal credits  
290 toward the state's share of funding the land acquisition and  
291 implementation of the reservoir project.

292 (7) LAKE OKEECHOBEE REGULATION SCHEDULE.—The district shall  
293 request that the United States Army Corps of Engineers include



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294 in its evaluation of the regulation schedule for the lake any  
 295 increase in outlet capacity south of the lake which offsets the  
 296 harmful freshwater discharges to the St. Lucie and  
 297 Caloosahatchee estuaries.

298 Section 4. Effective January 1, 2019, and contingent upon  
 299 the failure of the district or board to acquire land by November  
 300 30, 2018, pursuant to section 373.4598(3)(a) or (b), Florida  
 301 Statutes, subsection (3) of section 375.041, Florida Statutes,  
 302 is amended to read:

303 375.041 Land Acquisition Trust Fund.—

304 (3) Funds distributed into the Land Acquisition Trust Fund  
 305 pursuant to s. 201.15 shall be applied:

306 (a) First, to pay debt service or to fund debt service  
 307 reserve funds, rebate obligations, or other amounts payable with  
 308 respect to Florida Forever bonds issued under s. 215.618; and  
 309 pay debt service, provide reserves, and pay rebate obligations  
 310 and other amounts due with respect to Everglades restoration  
 311 bonds issued under s. 215.619; and

312 (b) Of the funds remaining after the payments required  
 313 under paragraph (a), but before funds may be appropriated,  
 314 pledged, or dedicated for other uses:

315 1. A minimum of the lesser of 30 ~~25~~ percent or \$250 ~~\$200~~  
 316 million shall be appropriated annually for Everglades projects  
 317 that implement the Comprehensive Everglades Restoration Plan as  
 318 set forth in s. 373.470, including the Central Everglades  
 319 Planning Project subject to Congressional authorization; the  
 320 Long-Term Plan as defined in s. 373.4592(2); and the Northern  
 321 Everglades and Estuaries Protection Program as set forth in s.  
 322 373.4595. From these funds, \$32 million shall be distributed

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323 each fiscal year through the 2023-2024 fiscal year to the South  
324 Florida Water Management District for the Long-Term Plan as  
325 defined in s. 373.4592(2). After deducting the \$32 million  
326 distributed under this subparagraph, from the funds remaining, a  
327 minimum of the lesser of 80 ~~76.5~~ percent or \$150 ~~\$100~~ million  
328 shall be appropriated each fiscal year through the 2025-2026  
329 fiscal year for the planning, design, engineering, and  
330 construction of the Comprehensive Everglades Restoration Plan as  
331 set forth in s. 373.470, including the Everglades Agricultural  
332 Area Storage Reservoir, component G, and including the Central  
333 Everglades Planning Project subject to Congressional  
334 authorization. The Department of Environmental Protection and  
335 the South Florida Water Management District shall give  
336 preference to those Everglades restoration projects that reduce  
337 harmful discharges of water from Lake Okeechobee to the St.  
338 Lucie or Caloosahatchee estuaries in a timely manner. For the  
339 purpose of performing the calculation provided in this  
340 subparagraph, the amount of debt service paid pursuant to  
341 paragraph (a) for bonds issued after July 1, 2016, for the  
342 purposes set forth under paragraph (b) shall be added to the  
343 amount remaining after the payments required under paragraph  
344 (a). The amount of the distribution calculated shall then be  
345 reduced by an amount equal to the debt service paid pursuant to  
346 paragraph (a) on bonds issued after July 1, 2016, for the  
347 purposes set forth under this subparagraph.

348 2. A minimum of the lesser of 7.6 percent or \$50 million  
349 shall be appropriated annually for spring restoration,  
350 protection, and management projects. For the purpose of  
351 performing the calculation provided in this subparagraph, the

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352 amount of debt service paid pursuant to paragraph (a) for bonds  
353 issued after July 1, 2016, for the purposes set forth under  
354 paragraph (b) shall be added to the amount remaining after the  
355 payments required under paragraph (a). The amount of the  
356 distribution calculated shall then be reduced by an amount equal  
357 to the debt service paid pursuant to paragraph (a) on bonds  
358 issued after July 1, 2016, for the purposes set forth under this  
359 subparagraph.

360 3. The sum of \$5 million shall be appropriated annually  
361 each fiscal year through the 2025-2026 fiscal year to the St.  
362 Johns River Water Management District for projects dedicated to  
363 the restoration of Lake Apopka. This distribution shall be  
364 reduced by an amount equal to the debt service paid pursuant to  
365 paragraph (a) on bonds issued after July 1, 2016, for the  
366 purposes set forth in this subparagraph.

367 Section 5. The South Florida Water Management District and  
368 the Board of Trustees of the Internal Improvement Trust Fund  
369 shall notify the Division of Law Revision and Information no  
370 later than December 1, 2018, whether they have acquired land  
371 pursuant to s. 373.4598, Florida Statutes.

372 Section 6. The Division of Law Revision and Information is  
373 directed to replace the phrase "the effective date of this act"  
374 wherever it occurs in this act with the date the act becomes a  
375 law.

376 Section 7. Contingent upon bonds being issued for the  
377 purposes of s. 373.4598, Florida Statutes, and if land is  
378 acquired pursuant to s. 373.4598(3)(a), Florida Statutes, the  
379 sum of \$64,000,000 in recurring funds from the Land Acquisition  
380 Trust Fund is appropriated for the 2017-2018 fiscal year to pay

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381 debt service on bonds that implement this act and are issued  
382 pursuant to s. 215.618, Florida Statutes.

383 Section 8. Contingent upon bonds being issued for the  
384 purposes of s. 373.4598, Florida Statutes, and if land is  
385 acquired pursuant to s. 373.4598(3)(a), Florida Statutes, the  
386 sum of \$36,000,000 in recurring funds from the Land Acquisition  
387 Trust Fund is appropriated for the 2018-2019 fiscal year to pay  
388 debt service on bonds that implement this act and are issued  
389 pursuant to s. 215.618, Florida Statutes.

390 Section 9. Contingent upon bonds being issued for the  
391 purposes of s. 373.4598, Florida Statutes, and if land is  
392 acquired pursuant to s. 373.4598(3)(b), Florida Statutes, the  
393 sum of \$100,000,000 in recurring funds from the Land Acquisition  
394 Trust Fund is appropriated for the 2018-2019 fiscal year to pay  
395 debt service on bonds that implement this act and are issued  
396 pursuant to s. 215.618, Florida Statutes.

397 Section 10. Except as otherwise expressly provided in this  
398 act, this act shall take effect upon becoming a law.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

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BILL: SB 10  
INTRODUCER: Senator Bradley  
SUBJECT: Water Resources  
DATE: February 6, 2017      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	<b>Favorable</b>
2.			AEN	
3.			AP	

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**I. Summary:**

SB 10 establishes options for additional water storage south of Lake Okeechobee to reduce the damaging discharges to the St. Lucie and Caloosahatchee estuaries. The bill provides the following three options:

- (A) The South Florida Water Management District (SFWMD) is required to seek proposals from willing sellers of land within the Everglades Agricultural Area for land that is suitable to build one or two reservoirs with a total storage capacity of 360,000 acre-feet.<sup>1</sup>
- (B) If the SFWMD is unable to acquire such land then the option to purchase lands from the United States Sugar Corporation, which is available pursuant to the 2010 agreement,<sup>2</sup> must be exercised.
- (C) If land is not acquired pursuant to the first two options then Legacy Florida funding is increased by \$50 million annually for the Comprehensive Everglades Restoration Project (CERP), including the Everglades Agricultural Area Reservoir project component.

Under each option the SFWMD, unless other funding is available, is required to begin the planning study under the CERP for the Everglades Agricultural Area Reservoir project component by certain dates. If land is acquired under Options A or B, the bill authorizes the distribution of \$1.2 billion in Florida Forever bonds and provides contingent appropriations for the debt service payments on such bonds. The bill requires that the SFWMD seek any applicable federal credits towards the reservoir project.

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<sup>1</sup> One acre-foot of water equals 325,851 billion gallons of water.

<sup>2</sup> See Second Amended and Restated Agreement for Sale and Purchase (2010), available at [https://www.sfwmd.gov/sites/default/files/documents/rog\\_0\\_amended\\_restated\\_agt\\_for\\_sale\\_and\\_purchase.pdf](https://www.sfwmd.gov/sites/default/files/documents/rog_0_amended_restated_agt_for_sale_and_purchase.pdf) (last visited Jan. 31, 2017).

## II. Present Situation:

### Lake Okeechobee and the Central Everglades Overview

In the mid-1800s the state began planning for the development of central and south Florida, with the primary obstacle being water.<sup>3</sup> Extensive drainage projects were implemented to enable land development for urban and agricultural uses. In the early 1900s the St. Lucie and Caloosahatchee Rivers were widened and deepened for navigation and to serve as outlets from Lake Okeechobee to the east and west, respectively. After major hurricanes devastated the region in the 1920s and 1940s, the state partnered with the federal government, through the United States Army Corps of Engineers (USACE), to implement additional flood control projects that were necessary for the land development to progress. Congress authorized the Central and Southern Florida Project (C&SF) in 1948.<sup>4</sup>

The C&SF included channelizing the Kissimmee River; draining the area south of the lake, known as the Everglades Agricultural Area for agricultural production; and diking Lake Okeechobee for flood protection.<sup>5</sup> Additionally, central portions of the Everglades were diked to create water conservation areas (WCAs) to store water for water supply in the lower east coast and for deliveries to Everglades National Park.<sup>6</sup> While some fish and wildlife value was expected to remain in the WCAs, the only area intended for preservation in its natural state was Everglades National Park.<sup>7</sup>



<sup>3</sup> United States Army Corps of Engineers (USACE) and South Florida Water Management District (SFWMD), *Central and Southern Florida Project Comprehensive Review Study, Final Feasibility Report and Programmatic Environmental Impact Statement*, 1-1 (April 1999) [hereinafter *Restudy*], available at [http://141.232.10.32/pm/projects/project\\_docs/pdp\\_asr\\_combined/052808\\_asr\\_report/052808\\_asr\\_ch1\\_restudy\\_feas\\_rpt\\_pro\\_g\\_eis.pdf](http://141.232.10.32/pm/projects/project_docs/pdp_asr_combined/052808_asr_report/052808_asr_ch1_restudy_feas_rpt_pro_g_eis.pdf) (last visited Jan. 31, 2017).

<sup>4</sup> The Flood Control Act of 1948 (P.L. 858, 80<sup>th</sup> Congress, 2<sup>nd</sup> Session).

<sup>5</sup> *Restudy* at 1-1.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

### ***Kissimmee River Basin***

The Kissimmee River Basin extends from Orlando southward to Lake Okeechobee and encompasses approximately 3,000 square miles.<sup>8</sup> The C&SF project turned the once meandering 103 mile Kissimmee River into a 56-mile long, 30 foot deep canal called the C-38.<sup>9</sup> The resulting floodplain, the remnant river channels, and the C-38 canal are collectively referred to as the channelized system.<sup>10</sup> Prior to channelization the flow of the river inundated much of the floodplain for a majority of the year.<sup>11</sup> While the project proved successful for flood control, it had a significant impact on the wetland ecosystem.<sup>12</sup> The first public hearing to discuss the restoration of the Kissimmee River was held just one year after the channelization was completed.<sup>13</sup>

### ***Lake Okeechobee***

Lake Okeechobee is the second largest freshwater lake located entirely within the contiguous United States, covering approximately 730 square miles.<sup>14</sup> The waters of the lake were impounded by a system of encircling levees, collectively referred to as the Herbert Hoover Dike.<sup>15</sup> The lake is managed as a multi-purpose reservoir for navigation, water supply, flood control, and recreation.<sup>16</sup>

Thirty-nine percent of the water that comes into the lake is from direct rainfall, 31 percent comes from the Kissimmee River, and then a smaller percentage of the water flows from other areas such as Fisheating Creek and Taylor Creek/Nubbin Slough.<sup>17</sup> Prior to the construction of the Herbert Hoover Dike water would flow from the Kissimmee River Basin into the lake and, once the lake would fill, water would overflow the lake's southern rim and deliver sheet flow runoff to the Everglades.<sup>18</sup>

Because of the acceleration of the flows into the lake as a result of C&SF and land use modifications, the water quality in the lake has degraded over time due to high phosphorous loadings.<sup>19</sup> The Total Maximum Daily Load for Lake Okeechobee proposes an annual load of 140 metric tons (mt) of phosphorous to achieve an in-lake target phosphorous concentration of 40 parts per billion (ppb) in the pelagic zone of the lake.<sup>20</sup>

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<sup>8</sup> *Id.* at 1-10.

<sup>9</sup> SFWMD, *Kissimmee River Restoration Studies*, 1 (Sept. 2006), available at [https://www.sfwmd.gov/sites/default/files/documents/krr\\_exec\\_summary.pdf](https://www.sfwmd.gov/sites/default/files/documents/krr_exec_summary.pdf) (last visited Jan. 31, 2017).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Florida Department of Environmental Protection (FDEP), *Lake Okeechobee*, <http://www.dep.state.fl.us/everglades/lakeo.htm> (last visited Jan. 31, 2017).

<sup>15</sup> *Restudy* at 1-13.

<sup>16</sup> *Id.*

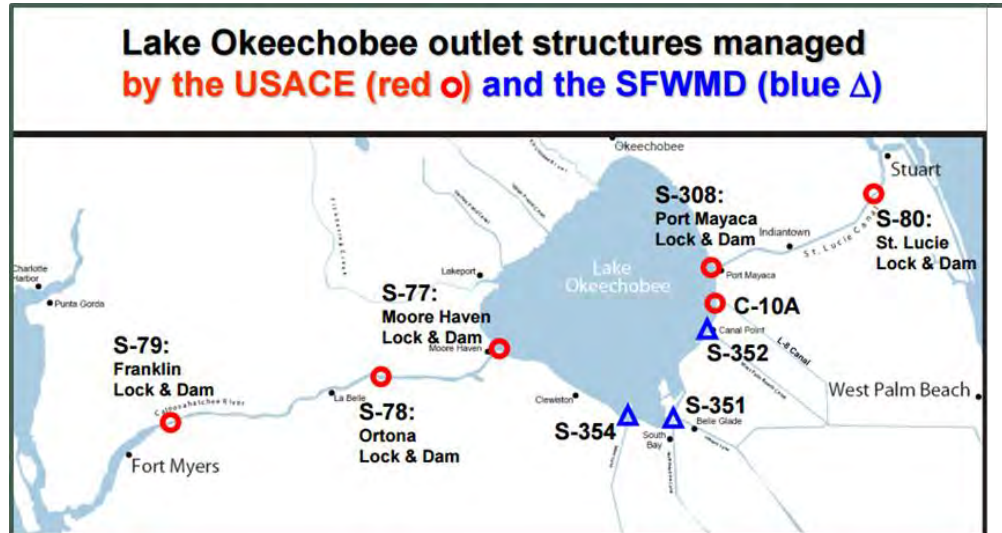
<sup>17</sup> FDEP, *Total Maximum Daily Load for Total Phosphorous, Lake Okeechobee, Florida*, 6 (Aug. 2001), available at [http://www.dep.state.fl.us/water/tmdl/docs/tmdls/final/gp1/Lake\\_O\\_TMDL\\_Final.pdf](http://www.dep.state.fl.us/water/tmdl/docs/tmdls/final/gp1/Lake_O_TMDL_Final.pdf) (last visited Jan. 31, 2017).

<sup>18</sup> *Id.* at 6, 7.

<sup>19</sup> FDEP, *Lake Okeechobee*, <http://www.dep.state.fl.us/everglades/lakeo.htm> (last visited Jan. 31, 2017).

<sup>20</sup> FDEP, *supra* note 17, at 1.

The lake's outlets with the largest capacity include eastward (S-308) through the St. Lucie Canal to the Atlantic Ocean and westward (S-77) through the Caloosahatchee River Canal to the Gulf of Mexico.<sup>21</sup> Additionally, water flows out of the lake through the four major agricultural canals—the West Palm Beach Canal (S-352), the Hillsboro and North New River Canals (S-351), and the Miami Canal (S-354).<sup>22</sup>



The USACE, in conjunction with the South Florida Water Management District (SFWMD) regulates the outlet structures to manage lake levels.<sup>23</sup> After back-to-back hurricanes in south Florida in 2004 and 2005 and the devastation in Louisiana caused by Hurricane Katrina, the USACE launched a major effort to rehabilitate the Herbert Hoover Dike in light of concerns regarding its structural integrity. Concerns regarding the dam's ability to perform satisfactorily for Lake Okeechobee levels above an elevation of 15.5 ft. resulted in the labeling of the project as high-risk.<sup>24</sup> The Lake Okeechobee Regulation Schedule Study was initiated to design an alternative schedule to lower the normal operating limits of the lake.<sup>25</sup>

The Lake Okeechobee Regulation Schedule (LORS) was implemented in April of 2008. The revised schedule lowered the maximum stage of the lake from 18.5 ft. to 17.25 ft. with the primary goal of maintaining the lake between 12.5 ft. and 15.5 ft. The areas most affected by a change to the lake's regulation schedule were the lake itself, particularly the littoral and marsh areas of the lake, and the St. Lucie and Caloosahatchee estuaries.<sup>26</sup> Additionally, because the

<sup>21</sup> *Restudy* at 1-13.

<sup>22</sup> *Id.*

<sup>23</sup> FDEP, *supra* note 17, at 7.

<sup>24</sup> USACE, *Herbert Hoover Dike Dam Safety Modification Study Final Environmental Impact Statement*, 1 (June 2016), available at

[http://www.saj.usace.army.mil/Portals/44/docs/Planning/EnvironmentalBranch/EnvironmentalDocs/Multiple%20Counties/Herbert\\_Hoover\\_Dike\\_Dam\\_Safety\\_Modification%20Study\\_FEIS\\_Main\\_Report.pdf?ver=2016-05-31-131919-377](http://www.saj.usace.army.mil/Portals/44/docs/Planning/EnvironmentalBranch/EnvironmentalDocs/Multiple%20Counties/Herbert_Hoover_Dike_Dam_Safety_Modification%20Study_FEIS_Main_Report.pdf?ver=2016-05-31-131919-377) (last visited Jan. 31, 2017).

<sup>25</sup> USACE, *Lake Okeechobee Regulation Schedule, Final Supplemental Environmental Impact Statement*, ii (Nov. 2007) [hereinafter *LORS FSEIS*], available at

[http://www.saj.usace.army.mil/Portals/44/docs/h2omgmt/LORSdocs/ACOE\\_STATEMENT\\_APPENDICES\\_A-G.pdf](http://www.saj.usace.army.mil/Portals/44/docs/h2omgmt/LORSdocs/ACOE_STATEMENT_APPENDICES_A-G.pdf) (last visited Jan. 31, 2017).

<sup>26</sup> *Id.* at 1.



LORS high management band is 1.00 to 1.75 ft. lower than the previous schedule, the revision to the schedule resulted in a loss of storage ranging from 460,000 to 800,000 acre-feet depending on the time of year.<sup>27</sup>

The USACE expects to operate under the LORS until the earlier of the implementation of a new Lake Okeechobee schedule as a component of the system-wide operating plan to accommodate Everglades restoration projects or the completion of Herbert Hoover Dike seepage berm construction or equivalent dike repairs.<sup>28</sup> According to the latest Integrated Delivery Schedule, rehabilitation of the Herbert Hoover Dike should be completed by 2025 and initiation of a new lake regulation schedule study would begin in 2022.<sup>29</sup>

***Caloosahatchee River Watershed***

The Caloosahatchee River was originally a shallow, meandering river with headwaters near Lake Okeechobee.<sup>30</sup> In the early 1900s, the river was modified and now functions as the C-43 canal. The canal is divided into freshwater and marine segments by a series of locks.<sup>31</sup> The river



<sup>27</sup> The National Academies of Sciences, Engineering, and Medicine, *Progress Toward Restoring the Everglades: The Sixth Biennial Review*, 133 (2016) [hereinafter *The Sixth Biennial Review*], available at <https://www.nap.edu/catalog/23672/progress-toward-restoring-the-everglades-the-sixth-biennial-review-2016> (last visited Jan. 31, 2017).

<sup>28</sup> LORS FSEIS at 2.

<sup>29</sup> USACE and SFWMD, *Integrated Delivery Schedule 2016 Update* (Dec. 2016), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS\\_PLACEMAT\\_05JAN2017\\_web.pdf?ver=2017-01-07-164638-380](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS_PLACEMAT_05JAN2017_web.pdf?ver=2017-01-07-164638-380) (last visited Jan. 31, 2017).

<sup>30</sup> LORS FSEIS at 108.

<sup>31</sup> Caloosahatchee Estuary Basin Technical Stakeholders and FDEP, *Final Caloosahatchee Estuary Basin, Basin Management Action Plan for the Implementation of Total Maximum Daily Loads for Nutrients Adopted by the FDEP*, 1 (Dec. 2012), available at <http://www.dep.state.fl.us/water/watersheds/bmap.htm> (last visited Jan. 31, 2017).

conveys freshwater to the Caloosahatchee Estuary through the S-79 structure from both runoff from the Caloosahatchee River Watershed and releases from Lake Okeechobee.<sup>32</sup>

Approximately half of the volume of water that reaches the Caloosahatchee Estuary is water that passed through the S-77 structure from Lake Okeechobee.<sup>33</sup> The hydrological changes have affected the timing distribution, quality and volume of freshwater entering the estuary which has resulted in negative ecological impacts.<sup>34</sup> Excess water that is released results in an unnatural surge of freshwater to the Caloosahatchee River and reduces the estuarine salinity levels.<sup>35</sup> Alternately, during the dry season, little to no water is released to the river which causes the salinity levels to increase.<sup>36</sup> Both high and low salinity levels trigger die-offs of seagrasses and oysters, species that are indicators of the estuary's overall health.<sup>37</sup>

### *St. Lucie River Watershed*

In the 1800s local residents dug an inlet to provide direct access to the Atlantic Ocean, effectively changing the river into an estuary.<sup>38</sup> Then in the early 1890s the St. Lucie River was altered to provide an outlet from Lake Okeechobee to the Atlantic Ocean. The inland portion of the St. Lucie Estuary is composed of a North Fork and a South Fork, which converge at the



<sup>32</sup> LORS FSEIS at 108.

<sup>33</sup> Caloosahatchee Estuary Basin Technical Stakeholders and FDEP, *Final Caloosahatchee Estuary Basin, Basin Management Action Plan for the Implementation of Total Maximum Daily Loads for Nutrients Adopted by the FDEP*, 3 (Dec. 2012).

<sup>34</sup> LORS FSEIS at 108.

<sup>35</sup> USACE, *Fact Sheet: Caloosahatchee River (C-43) West Basin Storage Reservoir* (Jan. 2016), available at [http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/C-43\\_FS\\_January2016\\_web.pdf](http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/C-43_FS_January2016_web.pdf) (last visited Jan. 31, 2017).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

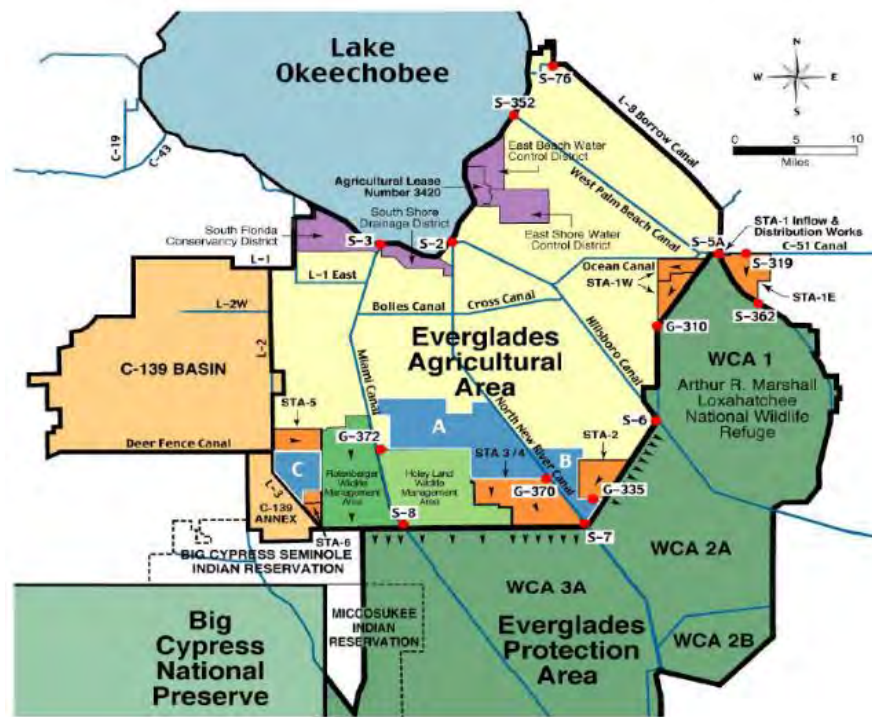
<sup>38</sup> LORS FSEIS at 110.

Roosevelt Bridge to form a single waterbody that extends eastward and joins the Indian River Lagoon.<sup>39</sup> The St. Lucie River, referred to as the C-44 Canal, is used for navigation and releases from Lake Okeechobee.<sup>40</sup> The C-44 Canal is the largest overflow canal for Lake Okeechobee.<sup>41</sup>

Home to more than 4,300 species of plants and animals and supporting an annual economic contribution of more than \$730 million, the St. Lucie Estuary and the Indian River Lagoon are two of the country’s most productive and threatened estuaries.<sup>42</sup> The estuary is affected by freshwater runoff from agricultural and urban sources in the watershed and freshwater releases from Lake Okeechobee.<sup>43</sup> Approximately 42 percent of the freshwater inflows from canals that discharge into the St. Lucie Estuary are from Lake Okeechobee and these discharges carry significant nutrient loads, which have a known impact on the estuary.<sup>44</sup>

**Everglades Agricultural Area**

The Everglades Agricultural Area (EAA) consists of lands located within the eastern portion of Hendry County and western portion of Palm Beach County.<sup>45</sup> This area includes approximately



<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Restudy* at 1-14.

<sup>42</sup> USACE, *Fact Sheet: Indian River Lagoon – South* (Jan. 2017), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/C-44/IRL\\_FactSheet\\_January2017\\_web.pdf?ver=2017-01-18-122229-807](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/C-44/IRL_FactSheet_January2017_web.pdf?ver=2017-01-18-122229-807) (last visited Jan. 31, 2017).

<sup>43</sup> *Id.*

<sup>44</sup> St. Lucie River and Estuary Basin Technical Stakeholders and FDEP, *Final Basin Management Action Plan for the Implementation of Total Maximum Daily Loads for Nutrients and Dissolve Oxygen by the FDEP in the St. Lucie River and Estuary Basin*, xiv (May 2013), available at <http://www.dep.state.fl.us/water/watersheds/bmap.htm> (last visited Jan. 31, 2017).

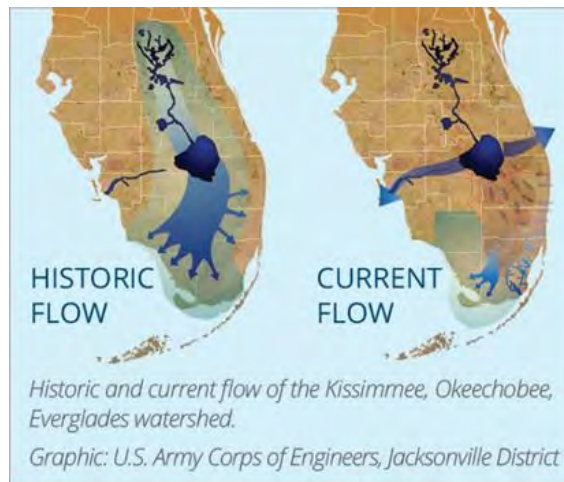
<sup>45</sup> *LORS FSEIS* at 7.

700,000 acres of fertile agricultural land, a large portion of which is dedicated to the production of sugarcane.<sup>46</sup> This area is considered one of the most important agricultural regions in Florida.<sup>47</sup> Water is supplied and managed in the EAA through conveyance and drainage canals including the Miami, the North New River, the Hillsboro, and the West Palm Beach Canals, which traverse north and south, and the Bolles and Cross Canals, which traverse east and west.<sup>48</sup>

### Restoration Efforts

Beginning in the 1970s concerns regarding the effects of the C&SF began mounting. The design of system, while effective for flood control, resulted in unintended consequences including:

- Extreme fluctuations in high and low water levels in the lake;
- Extreme fluctuations between too much and too little freshwater discharged into the coastal estuaries;
- Detrimental hydrological conditions in freshwater wetland habitats; and
- Unsuitable freshwater flows to Florida Bay, Biscayne Bay, and the Lake Worth Lagoon.<sup>49</sup>



With nearly half of the original footprint of the Everglades system drained and converted to urban and agricultural uses, there has been a substantial acceleration in the flow of water through the system and a significant reduction in water storage capacity.<sup>50</sup> The Central and Southern Florida Project Comprehensive Review Study Final Integrated Feasibility Report and Programmatic Environmental Impact Statement (Restudy) concluded:

The lack of storage in the system, particularly during wet periods, has led to ecological damage of Lake Okeechobee's littoral zone and damaging regulatory releases to the St. Lucie and Caloosahatchee estuaries. Conversely, in dry periods, this lack of storage has led to water supply shortages for both the human and natural environment.<sup>51</sup>

<sup>46</sup> Restudy at 1-15.

<sup>47</sup> LORS FSEIS at 7.

<sup>48</sup> Restudy at 1-15.

<sup>49</sup> Restudy at iii.

<sup>50</sup> Id. at 1-2.

<sup>51</sup> Id. at 1-2.

### ***Kissimmee River Restoration (KRR)***

The Kissimmee River Restoration project (KRR) was authorized by Congress in 1992 with the goal of restoring a third of the river flood plain system that was altered when the river was channelized back in the 1960s. The project includes backfilling 22 miles of canals, removing water control structures, and reconnecting remnant river segments. The KRR is designed to attenuate peak flows into Lake Okeechobee and, once complete, the project is expected to provide an additional storage capacity of 130,000 acre-feet.<sup>52</sup> When restoration is complete in 2020, more than 40 square miles of river-floodplain ecosystem will be restored, including almost 20,000 acres of wetlands and 44 miles of the historic river channel.<sup>53</sup>

Three construction phases are now complete, and a continuous water flow has been reestablished to 24 miles of meandering river.<sup>54</sup> The environmental improvements resulting from the project have already been documented.<sup>55</sup> In October of 2016, testing began to evaluate the ability to retain additional water in the Kissimmee River basin to reduce flows into Lake Okeechobee and, consequently, into the Caloosahatchee and St. Lucie estuaries.<sup>56</sup>

### ***Comprehensive Everglades Restoration Plan (CERP)***

In light of the unintended consequences of the C&SF, Congress required the USACE to reevaluate the performance and impacts of the project and to provide recommended improvements and modifications to restore the south Florida ecosystem and to protect the water quality in, and reduce the loss of freshwater from the Everglades and Florida Bay.<sup>57</sup> The USACE, in coordination with the state, developed the Restudy which provided a recommended plan for Everglades restoration. The Comprehensive Everglades Restoration Plan (CERP) was approved by Congress in the Water Resources Development Act of 2000.<sup>58</sup>

The Water Resources Development Act of 2000 provided the framework for the CERP as a 50/50 cost-share program between the state and the federal government. The CERP covers approximately 18,000 square miles and includes all or part of 16 counties in central and southern Florida, constituting about one-half of the State's population.<sup>59</sup> The future progress of the CERP projects and their relationship among other relevant state and federally funded South Florida ecosystem restoration projects is outlined in the Integrated Delivery Schedule (IDS).<sup>60</sup> The IDS is not an action or decision document, rather it is a guide for planning, design, construction

<sup>52</sup> USACE, *South Florida Ecosystem Restoration (SFER) Program Overview* (June 2016), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/Everglades%20Restoration%20Overview%20Placemat\\_June2016\\_web.pdf?ver=2016-08-08-154107-193](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/Everglades%20Restoration%20Overview%20Placemat_June2016_web.pdf?ver=2016-08-08-154107-193) (last visited Jan. 31, 2017).

<sup>53</sup> USACE, *Kissimmee River Restoration Project* (Jan. 2017), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/Kissimmee/Kissimmee\\_FS\\_January2017\\_web.pdf?ver=2017-01-18-114834-273](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/Kissimmee/Kissimmee_FS_January2017_web.pdf?ver=2017-01-18-114834-273) (last visited Jan. 31, 2017).

<sup>54</sup> SFWMD, *SFWMD Begins Historic Test to Help Reduce Discharges to the Coastal Estuaries* (Oct. 12, 2016), available at [https://www.sfwmd.gov/sites/default/files/documents/nr\\_2016\\_1012\\_kiss\\_headwaters\\_test.pdf](https://www.sfwmd.gov/sites/default/files/documents/nr_2016_1012_kiss_headwaters_test.pdf) (last visited Jan. 31, 2017).

<sup>55</sup> USACE, *Kissimmee River Restoration Project* (Jan. 2017).

<sup>56</sup> SFWMD, *SFWMD Begins Historic Test to Help Reduce Discharges to the Coastal Estuaries* (Oct. 12, 2016).

<sup>57</sup> The Water Resources Development Act of 1996 (P.L. 104-303, Oct. 12, 1996).

<sup>58</sup> The Water Resources Development Act of 2000 (P.L. 106-541, Dec. 11, 2000).

<sup>59</sup> United States Department of Interior Office of Everglades Restoration Initiatives, *Comprehensive Everglades Restoration Plan, CERP: The Plan in Depth – Part 1*, [http://141.232.10.32/about/rest\\_plan\\_pt\\_01.aspx](http://141.232.10.32/about/rest_plan_pt_01.aspx) (last visited Jan. 31, 2017).

<sup>60</sup> *The Sixth Biennial Review* at 46.

sequencing, and budgeting.<sup>61</sup> The IDS serves as a communication tool that reflects diverse stakeholder input.<sup>62</sup>

The CERP includes more than 68 project components which focus on improving the water delivery and timing within the Everglades system by increasing the size of natural areas, improving water quality, releasing water in a manner that mimics historical flow patterns, and storing and distributing water for urban, agricultural, and ecological uses. Major features of the CERP include surface water storage reservoirs, water preserve areas, management of Lake Okeechobee as an ecological resource, improvement of water deliveries to the estuaries, underground water storage, treatment wetlands, improvement of water deliveries to the Everglades, removal of barriers to sheet flow, storage of water in existing quarries, reuse of wastewater, and the improvement of water flows to Florida Bay.<sup>63</sup>



<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 47.

<sup>63</sup> *Restudy* at vii-ix.

***CERP: Aquifer Storage and Recovery***

The CERP recommended the construction and operation of up to 333 Aquifer Storage and Recovery (ASR) systems located throughout south Florida.<sup>64</sup> ASR systems are designed to store large volumes of water in the Floridan Aquifer System during the wet periods for subsequent recovery during dry periods. In 2015 the ASR Regional Study was completed and found that large capacity ASR systems could be built and operated in south Florida; however, due to groundwater monitoring evaluations, the study recommended that the overall number of wells be reduced to 131, or about one-third of the original proposed amount.<sup>65</sup> Overall, the amount of water that can be stored through ASR was reduced by about 60 percent.<sup>66</sup> Additionally, two pilot projects were completed: one in the Kissimmee Basin and one near the Hillsboro Canal, which determined that ASR systems north of Lake Okeechobee could achieve a rate of recoverability of upwards of 100 percent of stored water due to the freshwater quality of the aquifer in that region, but, conversely, ASR systems south of the lake, because of the brackish quality of the aquifer in that region, would require successive cycles over a few years to achieve a target of 70 percent recoverability.<sup>67</sup>

***CERP: C-43 Basin Storage Reservoir***

The Caloosahatchee River (C-43) West Basin Storage Reservoir project is designed to help ensure that a more consistent, natural flow of freshwater is delivered to the estuary. The project is designed to capture and store runoff from the local basin along with a portion of water discharged from Lake Okeechobee to be released slowly to the estuary as needed.<sup>68</sup> The project includes an above-ground reservoir with the total storage capacity of 170,000 acre-feet.<sup>69</sup> The first phase of construction began in late 2015 and is anticipated to be completed in 2020.<sup>70</sup>

***CERP: Indian River Lagoon – South***

The Indian River Lagoon–South (IRL-S) project is designed to help restore the balance of fresh and salt water in the lagoon and estuary and capture, store, and treat runoff from the local basins before it enters the natural system.<sup>71</sup> The IRL-S includes one above-ground storage reservoir in the C-44, C-23, C-24, and C-25 basins, with a total storage capacity of approximately 200,000

<sup>64</sup> USACE, *Aquifer Storage and Recovery (ASR) Regional Study Fact Sheet* (June 2015), available at [http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/ASR\\_FS\\_June2015\\_web.pdf](http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/ASR_FS_June2015_web.pdf) (last visited Jan. 31, 2017).

<sup>65</sup> USACE and SFWMD, *Final Regional Aquifer Storage and Recovery Technical Data Report*, xx (May 2015), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/ASR%20Regional%20Study/Final\\_Report/ASR\\_RegionalStudy\\_Final\\_2015.pdf.pdf](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/ASR%20Regional%20Study/Final_Report/ASR_RegionalStudy_Final_2015.pdf.pdf) (last visited Jan. 31, 2017).

<sup>66</sup> *Id.* at 131.

<sup>67</sup> *Id.*

<sup>68</sup> USACE, *Fact Sheet: Caloosahatchee River (C-43) West Basin Storage Reservoir* (Jan. 2016), available at [http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/C-43\\_FS\\_January2016\\_web.pdf](http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/C-43_FS_January2016_web.pdf) (last visited Jan. 31, 2017).

<sup>69</sup> USACE, *South Florida Ecosystem Restoration (SFER) Program Overview* (June 2016).

<sup>70</sup> USACE and SFWMD, *Integrated Delivery Schedule 2016 Update* (Dec. 2016), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS\\_PLACEMAT\\_05JAN2017\\_web.pdf?ver=2017-01-07-164638-380](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS_PLACEMAT_05JAN2017_web.pdf?ver=2017-01-07-164638-380) (last visited Jan. 31, 2017).

<sup>71</sup> USACE, *Fact Sheet: Indian River Lagoon – South* (Jan. 2017), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/C-44/IRL\\_FactSheet\\_January2017\\_web.pdf?ver=2017-01-18-122229-807](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/C-44/IRL_FactSheet_January2017_web.pdf?ver=2017-01-18-122229-807) (last visited Jan. 31, 2017).

acre-feet, and three stormwater treatment areas (STAs).<sup>72</sup> Additionally, water from the C-23/C-24 basin will be redirected to the North Fork of the St. Lucie River to attenuate freshwater flows to the St. Lucie Estuary.<sup>73</sup> Construction is completed on some features included in the C-44 reservoir, including intake and drainage canals, access roads, and staging areas. Construction also began on the C-44 reservoir pump station and STA, with reservoir construction expected to be completed in 2019.<sup>74</sup>

***CERP: Central Everglades Planning Project (CEPP)***

The Central Everglades Planning Project (CEPP) consists of a suite of the CERP projects whose purpose is to improve the quantity, quality, timing, and distribution of water flows to the Northern Estuaries, central Everglades, Everglades National Park, and Florida Bay while increasing the water supply for urban and agricultural users.<sup>75</sup> The CEPP received Congressional authorization in the 2016 Water Infrastructure Improvements for the Nation Act.<sup>76</sup>

The project is designed to send an annual average of approximately 210,000 acre-feet of water south from Lake Okeechobee and set the foundation for restoring the central portion of the Everglades ecosystem.<sup>77</sup> The project includes:

- Increasing storage, treatment and conveyance of water south of Lake Okeechobee;
- Removing canals and levees within the central Everglades; and
- Retaining water within the Everglades National Park and protecting urban and agricultural areas to the east from flooding.<sup>78</sup>

Some of the features included in the CEPP are an A-2 Flow Equalization Basin (FEB)<sup>79</sup> that will be integrated with the A-1 FEB, a project that is part of the Restoration Strategies Plan; removal of approximately six miles of the Old Tamiami Trail road; construction of seepage barriers; and increases in structural capacities.<sup>80</sup>

<sup>72</sup> *The Sixth Biennial Review* at 70; Stormwater Treatment Areas, or STAs, are constructed wetlands that remove and store nutrients through plant growth and the accumulation of dead plant material that is slowly converted to a layer of peat soil; See SFWMD, *Water Quality Improvement*, available at <https://www.sfwmd.gov/our-work/wq-stas> (last visited Feb. 6, 2017).

<sup>73</sup> *Id.*

<sup>74</sup> USACE and SFWMD, *Integrated Delivery Schedule 2016 Update* (Dec. 2016), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS\\_PLACEMAT\\_05JAN2017\\_web.pdf?ver=2017-01-07-164638-380](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS_PLACEMAT_05JAN2017_web.pdf?ver=2017-01-07-164638-380) (last visited Jan. 31, 2017).

<sup>75</sup> USACE and SFWMD, *Central Everglades Planning Project Final Project Implementation Report and Environmental Impact Statement*, 1-3 (July 2014), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/CEPP/01\\_CEPP%20Final%20PIR-EIS%20Main%20Report.pdf](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/CEPP/01_CEPP%20Final%20PIR-EIS%20Main%20Report.pdf) (last visited Jan. 31, 2017).

<sup>76</sup> The Water Infrastructure Improvements for the Nation Act (P.L. 114-322, Dec. 16, 2016).

<sup>77</sup> USACE, *Central Everglades Planning Project*, Facts & Information (Jan. 2017), available at [http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CEPP\\_FS\\_January2017\\_revised\\_web.pdf](http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CEPP_FS_January2017_revised_web.pdf) (last visited Jan. 31, 2017).

<sup>78</sup> *Id.*

<sup>79</sup> A flow equalization basin (FEB) is a constructed storage feature used to capture and temporarily store peak stormwater flows. Water managers can move water from FEBs to Stormwater Treatment Areas (STAs) at steady rates to optimize STA performance and help achieve water quality improvement targets. See SFWMD, *Just the Facts: A-1 Flow Equalization Basin (FEB)*, available at [https://www.sfwmd.gov/sites/default/files/documents/jtf\\_a1\\_feb.pdf](https://www.sfwmd.gov/sites/default/files/documents/jtf_a1_feb.pdf) (last visited Jan. 31, 2017).

<sup>80</sup> *Id.*



### ***Northern Everglades and Estuaries Protection Program (NEEPP)***

The Northern Everglades and Estuaries Protection Program (NEEPP) was established to promote a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie watersheds. It includes the Lake Okeechobee Watershed Protection Program and the Caloosahatchee and St. Lucie River Watershed Protection Programs.<sup>81</sup> The NEEPP led to the creation of the Lake Okeechobee Phase II Technical Plan in 2008 which requires, in part, that the SFWMD:

- Provide for additional measures, including voluntary water storage and water quality improvements on private land, increase water storage and reduce excess water levels in Lake Okeechobee, and reduce excess discharges to the estuaries; and
- Develop the appropriate water quantity storage goal to achieve the desired Lake Okeechobee range of lake levels and inflow volumes to the Caloosahatchee and St. Lucie estuaries while meeting the other water-related needs of the region, including water supply and flood protection.<sup>82</sup>

The NEEPP provided the basis for the development of Basin Management Action Plans (BMAPs). A BMAP is the blueprint for restoring impaired water by reducing pollutant loadings to meet a Total Maximum Daily Load (TMDL). The BMAP is a comprehensive set of strategies including water quality and water storage projects, permit limits on wastewater facilities, urban and agricultural best management practices (BMPs), and conservation programs, to implement the nutrient load reductions necessary to achieve a TMDL.

The 2016 Legislature enacted, ch. 2016-1, Laws of Florida, to update and restructure the NEEPP to reflect and build upon the Department of Environmental Protection's implementation of BMAPs for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary. The BMAP will include the construction of water projects, water monitoring programs, and the implementation, verification, and enforcement of BMPs within these watersheds. The BMAPs are now required to include 5-, 10-, and 15-year milestones towards achieving the TMDLs for those water basins within 20 years.<sup>83</sup>

### ***River of Grass – U.S. Sugar Land Acquisition***

In 2008, Governor Charlie Crist announced a plan to acquire more than 180,000 acres of agricultural land for Everglades restoration from the United States Sugar Corporation. The River of Grass planning process was started to evaluate the lands to be acquired under the plan and analyze how the land would affect the future of Everglades restoration. During this planning process, additional treatment capacity necessary to achieve state and federal Everglades water quality standards and the volume of storage needed to reduce damaging discharges and move more water south of the lake was evaluated.<sup>84</sup>

Because of the magnitude of the acquisition, restoration projects were effectively put on hold during the re-evaluation process. Ultimately, the SFWMD approved an agreement on August 12, 2010, to purchase approximately 26,800 acres of land, substantially less land than

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<sup>81</sup> Section 373.4595, F.S.

<sup>82</sup> *Id.*

<sup>83</sup> Chapter 2016-1, Laws of Fla.

<sup>84</sup> *Id.*

originally envisioned, because of a decline in the SFWMD revenues.<sup>85</sup> Under the Second Amended and Restated Agreement for Purchase and Sale (Agreement), the SFWMD took ownership of approximately 17,900 citrus acres in Hendry County and 8,900 sugarcane acres in Palm Beach County.<sup>86</sup>

Under the Agreement, the SFWMD retained the following various options to purchase the remaining 153,200 acres of land over the next ten years:

- An exclusive 3-year option to purchase either a specified 46,800 acres or the entire 153,200 acres at a fixed price of \$7,400 per acre. This option expired in 2013.
- After the expiration of this exclusive option period, a subsequent 2-year non-exclusive option to purchase approximately 46,800 acres at fair market value. This option expired in 2015.
- A subsequent 7-year non-exclusive option to purchase the remaining acres at fair market value. Because the previous options were not exercised, the entire remaining option property, approximately 153,200 acres, is available to be purchased. This option will expire in 2020.<sup>87</sup>

### ***Restoration Strategies***

After years of litigation concerning the water quality in the Everglades Protection Area (EPA), a consent decree was entered in the case of *United States v. South Florida Water Management District* in 1992.<sup>88</sup> The consent decree, as implemented by the Everglades Forever Act in 1994, set forth a two-pronged approach consisting of building STAs and implementing best management practices (BMPs) in the EAA to reduce the total phosphorous levels in the Everglades Protection Area. The plan originally consisted of the construction of four STAs covering 35,000 acres, but by 2006 the need for additional STA acreage became clear. By 2010, approximately 57,000 acres of STAs were built and operating.<sup>89</sup> Subsequently conversations began between the United States Environmental Protection Agency and the SFWMD and, in 2012, they were able to reach a consensus on a new strategy for improving the water quality in the Everglades called the Restoration Strategies Regional Water Quality Plan.<sup>90</sup>

Restoration Strategies is a \$800 million technical plan to complete a suite of projects intended to expand water quality improvement projects necessary to achieve phosphorous water quality standards. Under these strategies, the SFWMD must complete six projects that will create more than 6,500 acres of new STAs and 110,000 acre-feet of additional water storage.<sup>91</sup>

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<sup>85</sup> SFWMD, *Just the Facts: Revising the River of Grass, Second Amended & Restated Agreement for Sale and Purchase* (Aug. 12, 2010), available at [https://www.sfwmd.gov/sites/default/files/documents/jtf\\_2010\\_081210\\_final\\_gbvote.pdf](https://www.sfwmd.gov/sites/default/files/documents/jtf_2010_081210_final_gbvote.pdf). See [https://www.sfwmd.gov/sites/default/files/documents/rog\\_0\\_amended\\_restated\\_agt\\_for\\_sale\\_and\\_purchase.pdf](https://www.sfwmd.gov/sites/default/files/documents/rog_0_amended_restated_agt_for_sale_and_purchase.pdf) (last visited Jan. 31, 2017).

<sup>86</sup> *Id.*

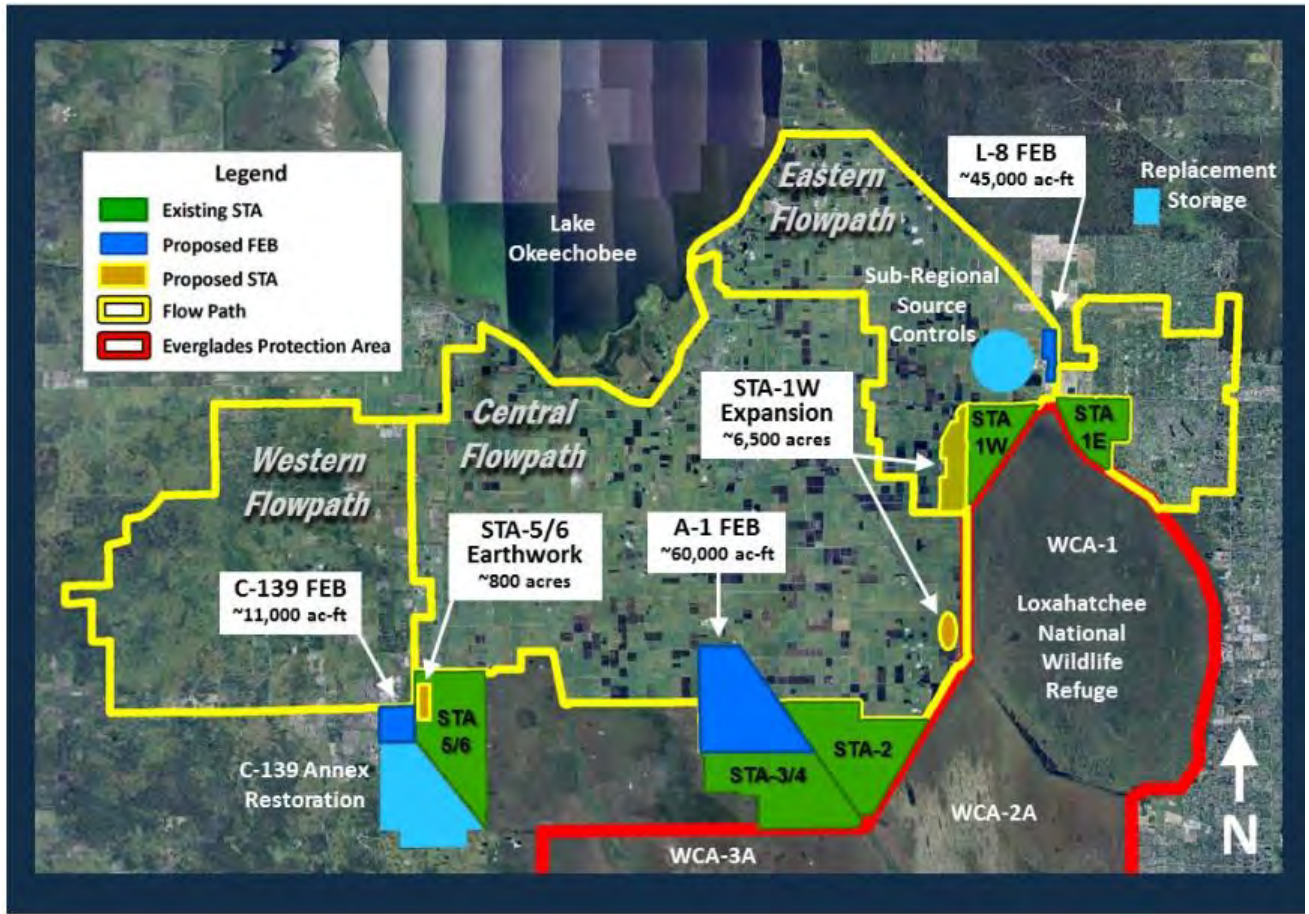
<sup>87</sup> *Id.*

<sup>88</sup> Case No. 88-1886-CIV-Moreno (S.D. Fla. 1992); see also SFWMD, *Restoration Strategies Regional Water Quality Plan, Science Plan for the Everglades Stormwater Treatment Areas*, 2 (June 2013) [hereinafter *Science Plan*], available at [https://www.sfwmd.gov/sites/default/files/documents/rs\\_scienceplan\\_060713\\_final.pdf](https://www.sfwmd.gov/sites/default/files/documents/rs_scienceplan_060713_final.pdf) (last visited Jan. 31, 2017).

<sup>89</sup> *Science Plan* at 2.

<sup>90</sup> SFWMD, *quick facts on...Restoration Strategies for Clean Water for the Everglades* (Feb. 2016), available at [https://www.sfwmd.gov/sites/default/files/documents/spl\\_restoration\\_strategies.pdf](https://www.sfwmd.gov/sites/default/files/documents/spl_restoration_strategies.pdf) (last visited Jan. 31, 2017).

<sup>91</sup> *Science Plan* at 3.



Design and construction of the projects is scheduled to be accomplished in three phases over a 12-year timeframe, with completion set for 2025.<sup>92</sup> In 2013, the Legislature appropriated \$32 million on a recurring basis through the 2023-2024 Fiscal Year to support the implementation of the plan.<sup>93</sup> The A-1 FEB, providing approximately 60,000 acre-feet of storage, was completed in 2015 and is currently in an operational and testing phase and has proved successful at improving the performance of the STAs, effectively reducing the total phosphorous loads to the STAs by approximately 80 percent.<sup>94</sup> The expansion of STA-1W is expected to be completed in December of 2018. The L-8 FEB is designed to provide 48,000 acre-feet of storage and substantial completion of the project has been achieved, except the outflow pump station, but full capacity is not yet available due to manufacturing issues with the pumping units.<sup>95</sup>

<sup>92</sup> Science Plan at 3.

<sup>93</sup> Ch. 2013-59, s. 2, Laws of Fla.

<sup>94</sup> SFWMD, *Restoration Strategies Program Update* (Jan. 2017), available at [https://www.sfwmd.gov/sites/default/files/documents/restoration\\_strategies\\_update\\_2017\\_jan\\_0.pdf](https://www.sfwmd.gov/sites/default/files/documents/restoration_strategies_update_2017_jan_0.pdf) (last visited Jan. 31, 2017); See also Terrie Bates, Water Resources Division Director, SFWMD, Governing Board Meeting, *Environmental Conditions Update*, slide 26 (June 09, 2016), available at <https://www.sfwmd.gov/news-events/meetings> (last visited Jan. 31, 2017).

<sup>95</sup> SFWMD, *Restoration Strategies Program Update* (Jan. 2017).

## Damaging Discharges from Lake Okeechobee to the Coastal Estuaries

Because of the lack of operational flexibility within the system's design, the LORS requires lake levels to be kept low before the wet season to account for additional inflow to ensure that lake levels do not rise to dangerous levels which could cause the dike to be breached.<sup>96</sup> Furthermore, during a high rainfall event water enters into the lake from direct rainfall, large basins, and other sources which causes the water levels in the lake to rise six times faster than can be discharged from the lake.<sup>97</sup> The only outlets that are capable of quickly releasing the necessary volume of water from the lake are through the St. Lucie and Caloosahatchee Canals to the coastal estuaries.<sup>98</sup> Therefore, when heavy rainfall events occur, the only option in the current system to maintain safe lake levels is to send high volumes of water east and west.

For the majority of 2016, Martin, St. Lucie, and Lee counties were under a state of emergency due to the negative effects of freshwater discharges from Lake Okeechobee on the coastal communities and ecosystems.<sup>99</sup> Due to El Nino conditions, the dry season of Water Year 2016 (May 1, 2015-April 30, 2016) was unusually wet with 26.67 inches of rainfall, much greater than the long-term average of 12.78 inches.<sup>100</sup> January of 2016 was the wettest January on record, with rainfall amounts approximately 476 percent more than the historical average.<sup>101</sup> The wetter than normal dry season necessitated releases from Lake Okeechobee to the St. Lucie and Caloosahatchee estuaries, compounding the freshwater inflow to the estuaries from the local basins. From January to November of 2016, approximately 2.23 million acre-feet, which is approximately 727 billion gallons of freshwater, was released from Lake Okeechobee alone to the St. Lucie and Caloosahatchee estuaries.<sup>102</sup>

High volume freshwater discharges have significant effects on the coastal estuaries. The releases from the lake along with other local basin inflows cause large fluctuations in salinity, which often expose the animal and plant life within the estuary to salinities outside of their tolerance ranges.<sup>103</sup> When the high flows last for a sustained time period, the impacts to the estuaries are more severe.<sup>104</sup> Species, such as oysters and seagrasses, become more susceptible to disease and

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<sup>96</sup> *The Sixth Biennial Review* at 131.

<sup>97</sup> Erika Skolte, USACE, *Lake Okeechobee: Following the flow*, <http://www.saj.usace.army.mil/Media/News-Stories/Article/479659/lake-okeechobee-following-the-flow/> (last visited Jan. 31, 2017).

<sup>98</sup> University of Florida Water Institute, *Options to Reduce High Volume Freshwater Flows to the St. Lucie and Caloosahatchee Estuaries and Move More Water from Lake Okeechobee to the Southern Everglades*, 17 (2015) [hereinafter *UF Study*], available at <http://waterinstitute.ufl.edu/research/downloads/contract95139/UF%20Water%20Institute%20Final%20Report%20March%202015.pdf> (last visited Jan. 31, 2017).

<sup>99</sup> Fla. Exec. Order No. 16-59 (Feb. 26, 2016); Fla. Exec. Order No. 16-155 (June 29, 2016); and Fla. Exec. Order No. 16-156 (June 30, 2016). Note that Palm Beach County was also under a state of emergency but only during the June 30, 2016, Executive Order.

<sup>100</sup> SFWMD, *Draft 2017 South Florida Environmental Report*, 8c-10 (Sept. 2016), available at [http://apps.sfwmd.gov/sfwmd/SFER/2017\\_SFER\\_DRAFT/v1/sfer\\_toc\\_v1.pdf](http://apps.sfwmd.gov/sfwmd/SFER/2017_SFER_DRAFT/v1/sfer_toc_v1.pdf) (last visited Jan. 31, 2017).

<sup>101</sup> See John Mitnik, Bureau Chief of Engineering and Construction, SFWMD, Water Resources Advisory Council, *Operations in Response to Recent Heavy Rains*, slide 4 (Feb. 2, 2016), available at <https://www.sfwmd.gov/news-events/meetings> (last visited Jan. 31, 2017).

<sup>102</sup> SFWMD, *Release Volumes from Lake Okeechobee and Local Basin Inflow to the Estuaries – CY 2016* (Jan. 6, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>103</sup> *LORS FSEIS* at 147.

<sup>104</sup> *Id.* at 149.

predation as the duration of the high volume discharges increase.<sup>105</sup> Oysters and seagrasses are indicator species and are widely used to evaluate the effects of the discharges on overall estuarine health. Beginning in February the salinity levels of the St. Lucie Estuary dropped significantly. The levels rebounded slightly as the freshwater discharges decreased, but plummeted again at the end of May when the discharges were again increased. The drop in salinity levels greatly affected oyster spat recruitment in May of 2016.<sup>106</sup>

In addition to requiring high volume discharges, higher lake stages correlate with algae blooms in the lake.<sup>107</sup> The lake receives large amounts of nutrients from its tributaries and has high levels of nutrients within the water column which support the growth of algae blooms.<sup>108</sup> Periodically conditions are just right and cyanobacteria, referred to as blue-green algae, rapidly reproduces to form a bloom.<sup>109</sup> In May of 2016, a massive *Microcystis* algae bloom formed in Lake Okeechobee.<sup>110</sup> The algae in the lake was sampled and tested positive for levels well above the low-level risk threshold.<sup>111</sup> Operating under the LORS, the USACE continued the regulatory releases east and west to the coastal estuaries to maintain the lake's level. The discharges carried the algae from the lake through the C-44 canal and out through the S-80 structure into the St. Lucie Estuary.

The National Academies of Sciences, Engineering, and Medicine in their biennial review of Everglades restoration progress stated:

What causes *Microcystis* blooms in the St. Lucie Estuary? Philips et. al (2012) found that internally driven blooms are mainly limited to the north fork of the St. Lucie Estuary and occur during dry periods when water residence time is long enough to allow the algae to proliferate. Those blooms are mainly caused by a kind of algae called dinoflagellate. In contrast, externally driven blooms are much more severe, happen in the main stem of the estuary, and are caused by *Microcystis*. Philips et al. (2012) documented that the 2005 algal bloom, which coincided with regulatory water discharges from the lake, was seeded by an upstream bloom that happened in Lake Okeechobee...It is highly likely that the same situation occurred in 2016.

The *Microcystis* algae bloom covered the waterways of the St. Lucie River and Estuary during the peak of the 2016 tourist season. Health advisories were issued and even some of the beaches closed. Usually the *Microcystis* algae blooms, which consists of freshwater algae, are unable to survive off-shore, due to the high salinity levels. However, because the system had been

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<sup>105</sup> *Id.*

<sup>106</sup> See Terrie Bates, Water Resources Division Director, SFWMD, Governing Board Meeting, *Environmental Conditions Update*, slides 9-12 (June 09, 2016), available at <https://www.sfwmd.gov/news-events/meetings> (last visited Jan. 31, 2017).

<sup>107</sup> United States Fish and Wildlife Service, *Final Fish and Wildlife Coordination Act Report, 2006 Lake Okeechobee Regulation Schedule Study*, 21 (Oct. 12, 2007), available at [http://www.saj.usace.army.mil/Portals/44/docs/h2omgmt/LORSdocs/ACOE\\_STATEMENT\\_APPENDICES\\_A-G.pdf](http://www.saj.usace.army.mil/Portals/44/docs/h2omgmt/LORSdocs/ACOE_STATEMENT_APPENDICES_A-G.pdf) (last visited Jan. 31, 2017).

<sup>108</sup> *The Sixth Biennial Review* at 30.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> For full sampling results see FDEP, *South Florida Algal Bloom Response and Monitoring*, <https://depnewsroom.wordpress.com/algae-bloom-monitoring-and-response/> (last visited Jan. 31, 2017).

experiencing high volume freshwater discharges for a long duration, the salinity levels off-shore were low enough for the bloom to survive. Samples taken at Bathtub Reef Beach in Martin County confirmed that the algae present was highly toxic *Microcystis* algae.<sup>112</sup>

Exposure to algal toxins may occur through the consumption of tainted water, fish or shellfish; recreational activities; or inhalation of aerosolized toxins.<sup>113</sup> The toxins can have a range of lethal and non-lethal effects on humans, wildlife, and companion animals.<sup>114</sup> The excessive freshwater discharges in 2016 impacted not only the ecology of the estuaries, but the quality of life of the residents, regional property values, revenues of area businesses, and continue to have effects on the local economies.<sup>115</sup>

### **Additional Storage**

According to the National Academies of Sciences, Engineering, and Medicine in their biennial review of Everglades restoration progress, little has been accomplished through CERP to reduce the high volume discharges to the St. Lucie and Caloosahatchee estuaries.<sup>116</sup> Additionally, the review noted that storage components in CERP have been scaled back and provided an analysis of the significance of that loss of storage. The review concluded that a scaled-back CERP under LORS has resulted in 104 and 167 percent increases in regulatory releases by volume to the St. Lucie and Caloosahatchee estuaries, respectively, compared to the original CERP projections under the previous regulation schedule.<sup>117</sup>

The 2015 University of Florida Water Institute Study (UF Study), titled *Options to Reduce High Volume Freshwater Flows to the St. Lucie and Caloosahatchee Estuaries and Move More water From Lake Okeechobee to the Southern Everglades*, concluded that providing relief to the estuaries would require an enormous increase in storage and treatment both north and south of the lake and that all existing and currently authorized projects are insufficient to achieve these goals.<sup>118</sup> The KRR project is expected to attenuate the flows into Lake Okeechobee; the C-43 and C-44 reservoir projects are expected to significantly reduce local-basin flows into the estuaries; and Restoration Strategies and CEPP together are expected to increase the delivery of clean water to the Everglades.<sup>119</sup> The UF Study concluded, however, that even after all of these projects are completed as planned, the lake-triggered high volume discharges to the estuaries would be reduced by less than 55 percent.<sup>120</sup>

<sup>112</sup> FDEP, *South Florida Algal Bloom Response and Monitoring* (June 30, 2016).

<sup>113</sup> The United States Department of Interior, United States Geological Survey (USGS), *Harmful Algal Blooms* (Jan. 2007), available at [https://pubs.usgs.gov/fs/2006/3147/pdf/FS2006\\_3147.pdf](https://pubs.usgs.gov/fs/2006/3147/pdf/FS2006_3147.pdf) (last visited Jan. 31, 2017).

<sup>114</sup> USGS, *New Science Challenges Old Assumptions about Harmful Algal Blooms*, <https://www.usgs.gov/news/new-science-challenges-old-assumptions-about-harmful-algal-blooms> (last visited Jan. 31, 2017).

<sup>115</sup> See Caloosahatchee Watershed Regional Management Issues, *Storage and Treatment Progress Summary*, 1 (updated July 1, 2016), available at <https://estero-fl.gov/wp-content/uploads/library/Agenda%20Attachments/Caloosahatchee%20Watershed%20Regional%20Water%20Management%20Issues%20White%20Paper%20-%20205a.pdf> (last visited Jan. 31, 2017).

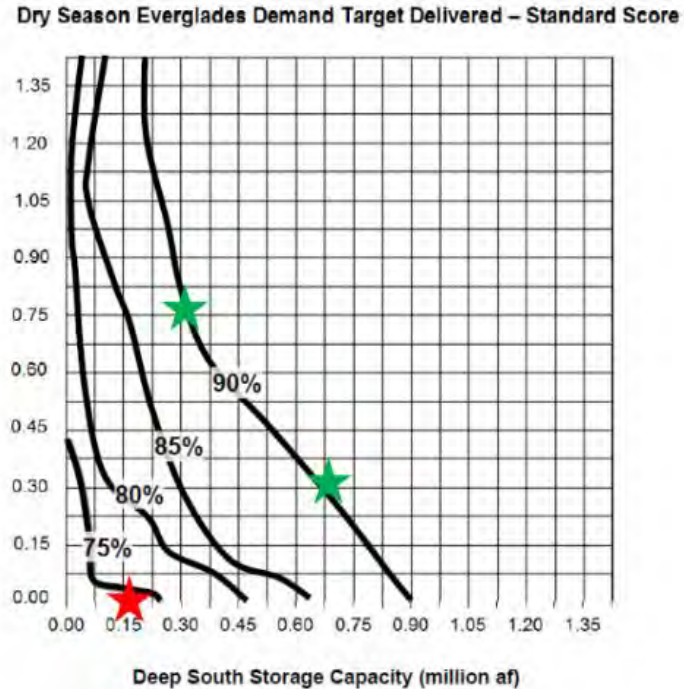
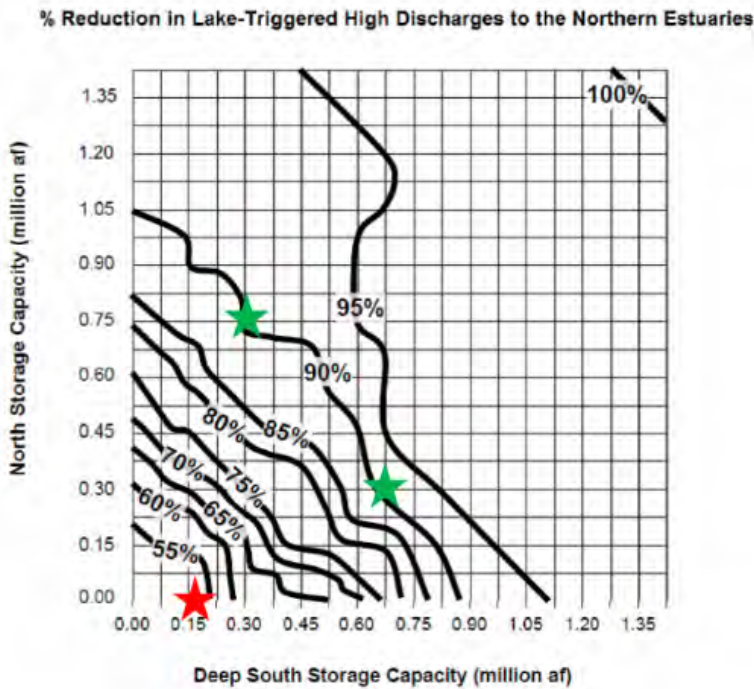
<sup>116</sup> *The Sixth Biennial Review* at 108.

<sup>117</sup> *Id.* at 139.

<sup>118</sup> *UF Study* at 36.

<sup>119</sup> *Id.* at 85.

<sup>120</sup> *Id.*



The UF Study provided two possible configurations that are expected to provide a 90 percent reduction in lake-triggered discharges. In the graphs above, the red stars represent system performance after 112,000 acre-feet of storage is added under current projects and the green stars represent the two possible configurations that would achieve 90 percent restoration.<sup>121</sup>

Based on the modeling results, the UF Study made the following findings:

[These figures show] that storage can be effective at reducing damaging discharges to the St. Lucie and Caloosahatchee estuaries whether it is constructed north or south of the lake. Storage north of the lake is effective for managing lake levels within a desirable range and thus reducing damaging discharges to the estuaries. Furthermore, water storage and treatment is needed north of the lake to meet the Lake Okeechobee TMDL. However, due to the extended time it takes to route water from north of the lake to the Water Conservation Areas (WCAs), northern storage is not likely to be as effective as southern storage in meeting the timing and distribution objectives of the water deliveries to the [Everglades Protection Area]. Furthermore, it is likely that water stored north of the lake, if passed through the Lake or through perimeter canals subject to agricultural runoff, may need to undergo additional water quality treatment to meet applicable standards before it is released to the [Everglades Protection Area]. Thus, the additional required storage will be needed to be distributed both north and south of the lake to achieve all restoration objectives.<sup>122</sup>

<sup>121</sup> *Id.* at 86.

<sup>122</sup> *Id.* at 87.

### ***Lake Okeechobee Watershed Project***

Planning began in August 2016 under the CERP for the Lake Okeechobee Watershed Project (LOW). The study area for the project consists of approximately 950,000 acres, primarily located north of Lake Okeechobee extending to Lake Istokpoga.<sup>123</sup> The LOW is designed to increase water storage capacity in the northern watershed which will improve water levels in Lake Okeechobee; improve the quantity and timing of discharges to the St. Lucie and Caloosahatchee estuaries; restore degraded habitat for fish and wildlife; and increase the spatial extent and functionality of wetlands.<sup>124</sup> The following conceptual storage and restoration features under consideration to be included in the LOW are a Taylor Creek/Nubbin Slough storage and treatment area, a 5,000 acre reservoir with total storage capacity of 50,000 acre-feet; and the North of the Lake Okeechobee Storage Reservoir, a 17,500 acre reservoir with a total storage capacity of 200,000 acre-feet.<sup>125</sup>

### ***Everglades Agricultural Area Storage Reservoir***

The EAA Storage Reservoirs – Phase I project was initially authorized in the Water Resources Development Act of 2000.<sup>126</sup> The CERP originally planned for 360,000 acre-feet of storage located in the EAA.<sup>127</sup> The initial design assumed 60,000 acres, divided into three, equally sized compartments with water depth fluctuating up to 6 ft.<sup>128</sup> The purpose of the project was to improve the timing of environmental water deliveries to the WCAs by reducing damaging flood releases from the EAA; reduce Lake Okeechobee regulatory releases to the estuaries; meet supplemental agricultural irrigation demands; and increase flood protection within the EAA.<sup>129</sup>

Planning began under the assumption that the project would be located on lands associated with the Talisman Land purchase in the EAA and the Woerner South property acquisition.<sup>130</sup> A portion of such lands are commonly referred to as the A-1 and A-2 land parcels: A-1 consists of approximately 17,000 acres and A-2 consists of approximately 14,000 acres. In 2005, the State of Florida initiated the Acceler8 program to accelerate the funding, design, and construction of critical restoration projects, one of which was the EAA Reservoir A-1 project.<sup>131</sup>

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<sup>123</sup> USACE, *Fact Sheet: Lake Okeechobee Watershed Project* (Jan. 2017), available at [http://www.saj.usace.army.mil/Portals/44/LOW\\_FS\\_January2017\\_web.pdf](http://www.saj.usace.army.mil/Portals/44/LOW_FS_January2017_web.pdf) (last visited Jan. 31, 2017).

<sup>124</sup> *Id.*

<sup>125</sup> USACE, *Lake Okeechobee Watershed Project, Frequently Asked Questions* (Sept. 2016), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/Lake%20O%20Watershed/LakeO\\_FAQs\\_September2016\\_web.pdf?ver=2016-09-21-150613-913](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/Lake%20O%20Watershed/LakeO_FAQs_September2016_web.pdf?ver=2016-09-21-150613-913) (last visited Jan. 31, 2017).

<sup>126</sup> The Water Resources Development Act of 2000 (P.L. 106-541, Dec. 11, 2000).

<sup>127</sup> *Restudy* at 9-9.

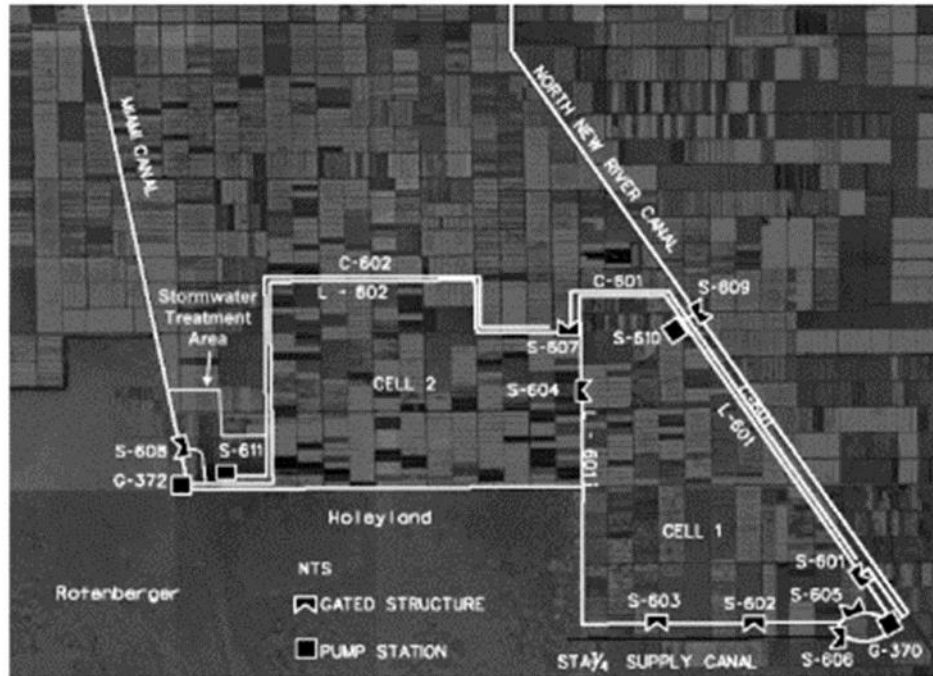
<sup>128</sup> *Id.*

<sup>129</sup> USACE and SFWMD, *Everglades Agricultural Area Storage Reservoirs – Phase I, Project Management Plan*, 11 (Jan. 2002), available at [http://141.232.10.32/pm/pmp/pmp\\_docs/pmp\\_08\\_eaa/pmp\\_eaa\\_main\\_current.pdf](http://141.232.10.32/pm/pmp/pmp_docs/pmp_08_eaa/pmp_eaa_main_current.pdf) (last visited Jan. 31, 2017).

<sup>130</sup> *Id.*

<sup>131</sup> USACE and SFWMD, *Central and Southern Florida Project Everglades Agricultural Area Storage Reservoirs Revised Draft Project Implementation Report and Environmental Impact Statement*, ES-xiv (Feb. 2006), available at [http://141.232.10.32/pm/projects/project\\_docs/pdp\\_08\\_eaa\\_store/revised\\_draft\\_pir/022206\\_eaa\\_pir\\_mainbody.pdf](http://141.232.10.32/pm/projects/project_docs/pdp_08_eaa_store/revised_draft_pir/022206_eaa_pir_mainbody.pdf) (last visited Jan. 31, 2017).





The SFWMD moved forward under the Acceler8 program and completed the detailed design and engineering work on the A-1 reservoir project, which was to be constructed on the A-1 land parcel, as depicted in Cell 1 on the map above.<sup>132</sup> During 2007, construction for the A-1 reservoir was in full swing and was expected to be completed in the spring of 2011.<sup>133</sup> Then, in May of 2008, a lawsuit was filed against the USACE alleging that the Section 404 Dredge and Fill Permit to construct the A-1 reservoir was inconsistent with the intent of the Water Resources Development Act of 2000 and the National Environmental Policy Act.<sup>134</sup> Due to the litigation and in light of the pending *River of Grass* land acquisition the reservoir construction contract was terminated so that the site could be integrated into plans developed following the major acquisition.<sup>135</sup>

The state decided to use some of the Talisman lands to expand the existing STAs and another portion of the lands for interim shallow features to help improve the water quality and treatment in STA 3/4.<sup>136</sup> To fulfill federal water quality standards, the A-1 Reservoir was converted to a FEB as part of the mandated Restoration Strategies Plan. The project is now in an operational testing and monitoring phase and has proved successful at improving the performance of the

<sup>132</sup> *Id.*

<sup>133</sup> SFWMD, *2008 South Florida Environmental Report*, 7A-14 (2008), available at [http://my.sfwmd.gov/portal/page/portal/pg\\_grp\\_sfwmd\\_sfer/portlet\\_sfer/tab2236041/volume1/chapters/v1\\_ch\\_7a.pdf](http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_sfer/tab2236041/volume1/chapters/v1_ch_7a.pdf) (last visited Jan. 31, 2017).

<sup>134</sup> SFWMD, *2009 South Florida Environmental Report*, 7A-3 (2009), available at [http://my.sfwmd.gov/portal/page/portal/pg\\_grp\\_sfwmd\\_sfer/portlet\\_sfer/tab2236041/2009report/report/v1/chapters/v1\\_ch7A.pdf](http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_sfer/tab2236041/2009report/report/v1/chapters/v1_ch7A.pdf) (last visited Jan. 31, 2017).

<sup>135</sup> *Id.*

<sup>136</sup> USACE, *CERP 2010 Report to Congress*, 11 (2010), available at [https://evergladesrestoration.gov/content/cerp/cerp\\_2010\\_rpt\\_to\\_congress.pdf](https://evergladesrestoration.gov/content/cerp/cerp_2010_rpt_to_congress.pdf) (last visited Jan. 31, 2017).

STAs, effectively reducing the total phosphorous loads to the STAs by approximately 80 percent.<sup>137</sup>

The A-2 land parcel, Cell 2 as depicted in the map above, is subject to lease agreements which are set to expire in 2018. The A-2 parcel is included in the project implementation report for the Central Everglades Planning Project (CEPP) as an FEB that will work in conjunction with the A-1 FEB. Cumulatively A-1 and A-2 FEBs will provide 116,000 acre-feet of storage, with the primary purpose of optimizing the performance of the STAs.<sup>138</sup>

### **Land Acquisition Trust Fund and Legacy Florida**

In 2014, Florida voters approved a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, for 20 years, 33 percent of net revenues derived from the existing excise tax on documents be deposited into the Land Acquisition Trust Fund (LATF).

To comply with s. 28, Art. X of the State Constitution, the Legislature in the 2015 Special Session A passed ch. 2015-229 Laws of Florida.<sup>139</sup> Chapter 2015-229 Laws of Florida, amended:

- Section 201.15, F.S., to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from the existing excise tax on documents; and
- Section 375.041, F.S., to designate the LATF within the Department of Environmental Protection as the trust fund to serve as the depository for the constitutionally required funds.<sup>140</sup>

In 2016, the Florida Legislature passed ch. 2016-201, Laws of Florida, referred to as “Legacy Florida.”<sup>141</sup> Legacy Florida amended s. 375.041, F.S., to provide minimum distributions required from the funds deposited into the LATF. Under s. 375.041, F.S., funds deposited into the LATF must be distributed in the following order:

- First, obligations relating to debt service, specifically:
  - First to payments relating to Florida Forever Bonds and Everglades restoration bonds; and
  - Then, to payments relating to bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- Then, of the funds remaining after the payment of debt service, and before funds are authorized to be appropriated for other uses:
  - A minimum of the lesser of 25 percent or \$200 million annually for Everglades projects that implement the CERP, the Long-Term Plan,<sup>142</sup> and the NEEPP, with priority given to projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner, of these funds;

<sup>137</sup> See Terrie Bates, Water Resources Division Director, SFWMD, Governing Board Meeting, *Environmental Conditions Update*, slide 26 (June 09, 2016), available at <https://www.sfwmd.gov/news-events/meetings> (last visited Jan. 31, 2017).

<sup>138</sup> *The Sixth Biennial Review* at 128.

<sup>139</sup> Ch. 2015-229, Laws of Fla.

<sup>140</sup> Ch. 2015-229, s. 9, 50, Laws of Fla.

<sup>141</sup> Ch. 2016-201, Laws of Fla.

<sup>142</sup> Note that the “Long-Term Plan” includes the Restoration Strategies Regional Water Quality Plan.

- \$32 million is required to be distributed through the 2023-2024 Fiscal Year for the Long-Term Plan;
- After deducting the \$32 million, the minimum of the lesser of 76.5 percent of the remainder or \$100 million through the 2025-2026 Fiscal Year for the CERP; and
- The remainder is available for Everglades projects under the CERP, the Long-Term Plan, or the NEEPP.
- A minimum of the lesser of 7.6 percent or \$50 million annually for springs restoration, protection, and management projects; and
- Five million annually for the restoration of Lake Apopka.<sup>143</sup>
- Then any remaining moneys are authorized to be appropriated from time to time for the purposes set forth in s. 28, Art. X, of the State Constitution.<sup>144</sup>

The General Revenue Estimating Conference in December of 2016 estimated that for the 2017- 2018 Fiscal Year a total of \$2.48 billion would be collected in documentary stamp taxes with \$814.1 million required to be deposited into the LATF in accordance with s. 28, Art. X of the State Constitution.<sup>145</sup>

### Florida Forever Bonds

Pursuant to s. 11(e) of the State Constitution, the issuance of Florida Forever bonds are authorized in s. 215.618 , F.S., not to exceed \$5.3 billion.<sup>146</sup> Florida Forever bonds pledge part of a dedicated state tax revenue: documentary stamp taxes. Documentary stamp taxes are levied on deeds and other documents related to real property and are collected under ch. 201, F.S. The debt service for such bonds is required to be specifically appropriated in the General Appropriations Act in the Fiscal Year in which the bonds are issued.<sup>147</sup> The proceeds from the sale of Florida Forever Bonds are required to be deposited into the Florida Forever Trust Fund to be distributed by the Department of Environmental Protection as provided in the Florida Forever Act.<sup>148</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 201.15, F.S., to authorize the payment on debt service on bonds issued for the purposes of s. 373.4598, F.S., for the remainder of the Fiscal Year (FY) in which such bonds are issued to be specifically appropriated by law other than in the General Appropriations Act.

**Section 2** amends s. 215.618, F.S., to provide that bond proceeds from Florida Forever bonds issued for the purposes of s. 373.4598, F.S., are exempt from certain distribution requirements.

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<sup>143</sup> Section 375.041, F.S.

<sup>144</sup> *Id.*

<sup>145</sup> Office of Economic and Demographic Research, Revenue Estimating Conference, *Documentary Stamp Tax, Executive Summary* (Dec. 12, 2016) available at <http://www.edr.state.fl.us/Content/conferences/docstamp/docstampexecsummary.pdf>.

<sup>146</sup> Section 11(e), Art. X of the State Constitution authorizes the issuance of bonds by the state in a manner provided by general law, which pledges all or part of a dedicated state tax revenue to finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation.

<sup>147</sup> Section 201.15(3), F.S.

<sup>148</sup> Section 215.618(5), F.S.

**Sections 3 and 4** create s. 373.4598, F.S., and amend s. 375.041, F.S., respectively, to set out legislative findings and intent, define terms, and establish options for additional storage south of Lake Okeechobee which are intended to reduce the damaging discharges to the St. Lucie and Caloosahatchee estuaries.

***Option A: Acquire the Land from Willing Sellers***

The bill requires the South Florida Water Management District (SFWMD), upon the effective date of the act, to seek proposals from willing sellers of property within the Everglades Agricultural Area in order to acquire approximately 60,000 acres of land that is suitable for one or two above-ground storage reservoirs that have a total storage capacity of 360,000 acre-feet.

If the SFWMD is able to find willing sellers of property that is suitable for the reservoir project, then, once the land has been agreed upon, the SFWMD must immediately begin the reservoir project with the goal of providing adequate storage and conveyance south of Lake Okeechobee to reduce the volume of regulatory discharges to the St. Lucie and Caloosahatchee estuaries. Additionally, once the land has been acquired, the SFWMD is required to expeditiously pursue the necessary permits required for the reservoir project and begin implementation and construction as soon as practicable.

Unless other funding is available, the bill directs the SFWMD, in coordination with the United States Army Corps of Engineers (USACE), to begin the planning study for the Everglades Agricultural Area Reservoir Project by March 1, 2018. According to the 2016 Draft IDS schedule, the project is presently planned to begin in 2021.<sup>149</sup> Additionally, the SFWMD is required to abide by applicable federal and state law in order to obtain federal credit under the Comprehensive Everglades Restoration Plan (CERP). The bill specifies that the SFWMD, when developing the planning study must focus on the goal of the reservoir project, which is to provide adequate storage and conveyance south of the lake to reduce the volume of regulatory discharges of water from the lake to the St. Lucie and Caloosahatchee estuaries.

The bill requires \$800 million in Florida Forever bond proceeds in the 2017-2018 FY and \$400 million in Florida Forever bond proceeds in the 2018-2019 FY to be deposited into the Everglades Trust Fund if the SFWMD acquires land from willing sellers of property that is suitable for the reservoir project. If the reservoir project receives Congressional authorization, the SFWMD is required to seek applicable federal credits towards the state's share of funding the land acquisition and implementation of the reservoir project.

The SFWMD has until December 31, 2017, to acquire the land before Option B is triggered.

***Option B: Exercise the Option***

Under Option B the SFWMD is required to assign the Entire Option Property Non-Exclusive Option (Option) to the Board of Trustees of the Internal Improvement Trust Fund (Board) by January 31, 2018. Such Option is available to the SFWMD pursuant to the 2010 Second

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<sup>149</sup> USACE and SFWMD, *Integrated Delivery Schedule 2016 Update* (Dec. 2016), available at [http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS\\_PLACEMAT\\_05JAN2017\\_web.pdf?ver=2017-01-07-164638-380](http://www.saj.usace.army.mil/Portals/44/docs/Environmental/IDS/IDS_PLACEMAT_05JAN2017_web.pdf?ver=2017-01-07-164638-380) (last visited Jan. 31, 2017).

Amended and Restated Agreement (Agreement).<sup>150</sup> If the U.S. Sugar Corporation, the seller, does not find the assignment to be “reasonably acceptable in form and substance,” the SFWMD is required to retain the Option. The assignment of the Option to the Board is authorized in the Agreement which also provides the seller with the opportunity to decline acceptance of such assignment.

The bill requires the Board or the SFWMD, whichever holds the Option, to exercise the Option by March 1, 2018. The Board or the SFWMD, the buyer, is not authorized to propose a purchase price for less than the average of \$7,400 per acre, unless the highest appraised value of the land is less than the average of \$7,400 per acre. Under the Agreement, if the proposed purchase price is less than the average of \$7,400 per acre, the seller has the absolute right to not sell the Option property by providing written notice to the buyer within 60 days after the purchase price has been determined.

If land is acquired under Option B then the SFWMD is required to identify which of the acquired land is suitable for the reservoir project. The bill authorizes the Board or the SFWMD, if applicable, to dispose of or exchange any land or lease interest in the land in order to achieve the optimal siting for the reservoir project or to dispose of land that is not necessary for the reservoir project. However, any such exchange or disposal may not be in violation of the Agreement.

Additionally, the SFWMD, in coordination with the USACE, is required to begin the planning study for the Everglades Agricultural Area Reservoir Project by October 1, 2019. According to the 2016 Draft IDS schedule, the project is presently planned to begin in 2021.<sup>151</sup> The bill specifies that the SFWMD, when developing the planning study must focus on the goal of the reservoir project, which is to provide adequate storage and conveyance south of the lake to reduce the volume of regulatory discharges of water from the lake to the St. Lucie and Caloosahatchee estuaries.

If the Board or the SFWMD, if applicable, acquires land pursuant to the agreement, then in the 2018-2019 FY \$1.2 billion in Florida Forever bond proceeds are required to be deposited into the Everglades Trust Fund. If the reservoir project receives Congressional authorization, the SFWMD is required to seek applicable federal credits towards the state’s share of funding the land acquisition and implementation of the reservoir project.

The Board or the SFWMD, if applicable, has until November 30, 2018, to acquire the land before Option C is triggered.

### ***Option C: Legacy Florida***

Under Option C, if the SFWMD or the Board fail to acquire land under Option A or Option B, then, effective January 1, 2019, the annual minimum distribution required under Legacy Florida for Everglades restoration projects is increased from “25 percent or \$200 million” to “30 percent

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<sup>150</sup> See Second Amended and Restated Agreement for Sale and Purchase (2010), available at [https://www.sfwmd.gov/sites/default/files/documents/rog\\_0\\_amended\\_restated\\_agt\\_for\\_sale\\_and\\_purchase.pdf](https://www.sfwmd.gov/sites/default/files/documents/rog_0_amended_restated_agt_for_sale_and_purchase.pdf) (last visited Jan. 31, 2017).

<sup>151</sup> USACE and SFWMD, *Integrated Delivery Schedule 2016 Update* (Dec. 2016).

or \$250 million.” The bill applies this increase in funding to the distribution to the CERP, which includes the Everglades Agricultural Area Storage Reservoir as a project component.

Additionally, the SFWMD, in coordination with the USACE, is required to begin the planning study for the Everglades Agricultural Area Reservoir Project by October 1, 2019. According to the 2016 Draft IDS schedule, the project is presently planned to begin in 2021.<sup>152</sup> The bill specifies that the SFWMD, when developing the planning study must focus on the goal of the reservoir project, which is to provide adequate storage and conveyance south of the lake to reduce the volume of regulatory discharges of water from the lake to the St. Lucie and Caloosahatchee estuaries.

#### ***Lake Okeechobee Regulation Schedule***

The bill requires the SFWMD to request that the USACE include in its evaluation of the regulation schedule any increase in outlet capacity south of the lake which has the potential to offset the harmful freshwater discharges to the St. Lucie and Caloosahatchee estuaries.

**Section 5** requires the SFWMD or the Board to notify the Division of Law Revision and Information no later than December 1, 2018, whether they have acquired land pursuant to s. 373.4598, F.S.

**Section 6** requires the Division of Law Revision and Information to replace the phrase “the effective date of this act” with the date the act becomes a law.

**Sections 7, 8, and 9** provide contingent appropriations for debt service payments on Florida Forever bonds that are authorized to be issued for the purposes of s. 373.4598, F.S. Contingent upon bonds being issued for Option A: \$64 million in recurring funds from the LATF are appropriated for the 2017-2018 FY and \$36 million in recurring funds from the LATF are appropriated for the 2018-2019 FY. Contingent upon bonds being issued for Option B: \$100 million in recurring funds from the LATF are appropriated for the 2018-2019 FY.

**Section 10** provides that the bill takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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<sup>152</sup> USACE and SFWMD, *Integrated Delivery Schedule 2016 Update* (Dec. 2016).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The impact to the private sector is indeterminate. There will be an immediate positive impact to the landowners whose property is purchased.

**C. Government Sector Impact:**

If land is acquired under Option A or B there may be a negative indeterminate fiscal impact to local governments due to a loss of property tax revenue. This impact is indeterminate because the specific land to be acquired has not been determined. Depending on the land that is acquired and if the SFWMD purchases the land, the impact to property tax revenues could be offset under s. 373.59, F.S., for any affected county, or local government within a county, with a population of 150,000 people or fewer.

Any amount recovered under s. 373.59, F.S., as payment in lieu of taxes would have a negative indeterminate impact on the SFWMD. The SFWMD would have a negative indeterminate fiscal impact due to a loss of ad valorem tax revenues. Additionally, the SFWMD may have a negative fiscal impact associated with a reduction of the Everglades Agricultural Privilege Tax pursuant to s. 373.4592(6), F.S.

The impact to the state will depend on which option is exercised under the bill. Under Options A and B there will be a negative fiscal impact of \$100 million in recurring funds through the 2037-2038 Fiscal Year to pay debt service on bonds issued under the bill. Under Option C, the required annual minimum distribution to Everglades restoration projects from the LATF is increased by \$50 million.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 201.15, 215.618, and 375.041.

This bill creates section 373.4598 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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1                   A bill to be entitled  
2           An act relating to water resources; amending s.  
3           201.15, F.S.; revising the requirements under which  
4           certain bonds may be issued; amending s. 215.618,  
5           F.S.; providing an exception to the requirement that  
6           bonds issued for acquisition and improvement of land,  
7           water areas, and related property interests and  
8           resources be deposited into the Florida Forever Trust  
9           Fund and distributed in a specified manner; creating  
10          s. 373.4598, F.S.; providing legislative findings and  
11          intent; defining terms; requiring the South Florida  
12          Water Management District to seek proposals from  
13          willing sellers of property within the Everglades  
14          Agricultural Area for land that is suitable for the  
15          reservoir project; clarifying that all appraisal  
16          reports, offers, and counteroffers are confidential  
17          and exempt from public records requirements; requiring  
18          the district to assign the Entire Option Property Non-  
19          Exclusive Option of a specified agreement to the Board  
20          of Trustees of the Internal Improvement Trust Fund  
21          under certain circumstances; requiring the district to  
22          retain the agreement's option under certain  
23          circumstances; requiring the board or the district, as  
24          applicable, to exercise the specified option by a  
25          certain date under certain circumstances; providing

26 requirements for the Proposed Option Property Purchase  
27 Price; authorizing the disposal or exchange of certain  
28 land or interests in land for certain purposes;  
29 requiring the district to begin, seek permitting for,  
30 and construct the reservoir project under certain  
31 circumstances; requiring the district, in coordination  
32 with the United States Army Corps of Engineers, to  
33 begin the planning study for the reservoir project by  
34 a specified date under certain circumstances;  
35 requiring the district to identify specified lands  
36 under certain circumstances; providing requirements  
37 for the planning study; requiring the district, in  
38 coordination with the United States Army Corps of  
39 Engineers, to seek Congressional authorization for the  
40 reservoir project under certain circumstances;  
41 authorizing certain costs to be funded using Florida  
42 Forever bond proceeds under certain circumstances;  
43 specifying how such bond proceeds shall be deposited;  
44 authorizing the use of state funds for the reservoir  
45 project; requiring the district to seek additional  
46 sources of funding; requiring the district to seek  
47 federal credits under certain circumstances; requiring  
48 the district to request the United States Army Corps  
49 of Engineers, in the Corps' review of the regulation  
50 schedule, to consider any increase in southern outlet

51 capacity of Lake Okeechobee; amending s. 375.041,  
52 F.S.; increasing the minimum annual funding for  
53 certain Everglades projects under specified  
54 circumstances; requiring the district and the board to  
55 notify the Division of Law Revision and Information by  
56 a certain date of specified land acquisitions;  
57 providing a directive to the division; providing  
58 contingent appropriations; providing effective dates,  
59 one of which is contingent.

60  
61 Be It Enacted by the Legislature of the State of Florida:

62  
63 Section 1. Paragraph (a) of subsection (3) of section  
64 201.15, Florida Statutes, is amended to read:

65 201.15 Distribution of taxes collected.—All taxes  
66 collected under this chapter are hereby pledged and shall be  
67 first made available to make payments when due on bonds issued  
68 pursuant to s. 215.618 or s. 215.619, or any other bonds  
69 authorized to be issued on a parity basis with such bonds. Such  
70 pledge and availability for the payment of these bonds shall  
71 have priority over any requirement for the payment of service  
72 charges or costs of collection and enforcement under this  
73 section. All taxes collected under this chapter, except taxes  
74 distributed to the Land Acquisition Trust Fund pursuant to  
75 subsections (1) and (2), are subject to the service charge

76 imposed in s. 215.20(1). Before distribution pursuant to this  
77 section, the Department of Revenue shall deduct amounts  
78 necessary to pay the costs of the collection and enforcement of  
79 the tax levied by this chapter. The costs and service charge may  
80 not be levied against any portion of taxes pledged to debt  
81 service on bonds to the extent that the costs and service charge  
82 are required to pay any amounts relating to the bonds. All of  
83 the costs of the collection and enforcement of the tax levied by  
84 this chapter and the service charge shall be available and  
85 transferred to the extent necessary to pay debt service and any  
86 other amounts payable with respect to bonds authorized before  
87 January 1, 2017, secured by revenues distributed pursuant to  
88 this section. All taxes remaining after deduction of costs shall  
89 be distributed as follows:

90 (3) Amounts on deposit in the Land Acquisition Trust Fund  
91 shall be used in the following order:

92 (a) Payment of debt service or funding of debt service  
93 reserve funds, rebate obligations, or other amounts payable with  
94 respect to Florida Forever bonds issued pursuant to s. 215.618.  
95 The amount used for such purposes may not exceed \$300 million in  
96 each fiscal year. It is the intent of the Legislature that all  
97 bonds issued to fund the Florida Forever Act be retired by  
98 December 31, 2040. Except for bonds issued to refund previously  
99 issued bonds, no series of bonds may be issued pursuant to this  
100 paragraph unless such bonds are approved and the debt service

101 for the remainder of the fiscal year in which the bonds are  
 102 issued is specifically appropriated in the General  
 103 Appropriations Act or other law with respect to bonds issued for  
 104 the purposes of s. 373.4598.

105  
 106 Bonds issued pursuant to s. 215.618 or s. 215.619 are equally  
 107 and ratably secured by moneys distributable to the Land  
 108 Acquisition Trust Fund.

109 Section 2. Subsection (5) of section 215.618, Florida  
 110 Statutes, is amended to read:

111 215.618 Bonds for acquisition and improvement of land,  
 112 water areas, and related property interests and resources.—

113 (5) The proceeds from the sale of bonds issued pursuant to  
 114 this section, less the costs of issuance, the costs of funding  
 115 reserve accounts, and other costs with respect to the bonds,  
 116 shall be deposited into the Florida Forever Trust Fund. The bond  
 117 proceeds deposited into the Florida Forever Trust Fund shall be  
 118 distributed by the Department of Environmental Protection as  
 119 provided in s. 259.105. This subsection does not apply to  
 120 proceeds from the sale of bonds issued for the purposes of s.  
 121 373.4598.

122 Section 3. Section 373.4598, Florida Statutes, is created  
 123 to read:

124 373.4598 Reservoir project in the Everglades Agricultural  
 125 Area.—

126 (1) LEGISLATIVE FINDINGS AND INTENT.—

127 (a) The Legislature declares that an emergency exists  
128 regarding the St. Lucie and Caloosahatchee estuaries due to the  
129 harmful freshwater discharges east and west of the lake. Such  
130 discharges have manifested in widespread algae blooms, public  
131 health impacts, and extensive environmental harm to wildlife and  
132 the aquatic ecosystem. These conditions threaten the ecological  
133 integrity of the estuaries and the economic viability of the  
134 state and affected communities.

135 (b) The Legislature finds that the acquisition of  
136 strategically located lands south of the lake and the  
137 construction of the reservoir project will increase the  
138 availability of water storage and reduce the harmful freshwater  
139 discharges. Additionally, water storage south of the lake will  
140 increase the availability of water for the Everglades and to  
141 meet irrigation demands for the Everglades Agricultural Area;  
142 restore the hydrological connection to the Everglades; and  
143 provide flood protection by reducing, through additional storage  
144 capacity, some of the demands on the Herbert Hoover Dike.

145 (c) The Legislature recognizes that the reservoir project  
146 is authorized in the Water Resources Development Act of 2000 as  
147 a project component of CERP. Unless other funding is available,  
148 the Legislature directs the district in implementation of the  
149 reservoir project to abide by applicable state and federal law  
150 in order to do that which is required to obtain federal credit

151 under CERP. If the district implements the reservoir project as  
152 a project component as defined in s. 373.1501, the district must  
153 abide by all applicable state and federal law relating to such  
154 projects.

155 (d) Nothing in this section is intended to diminish the  
156 commitments made by the state in chapter 2016-201, Laws of  
157 Florida.

158 (2) DEFINITIONS.—As used in this section, the term:

159 (a) "Agreement" means the Second Amended and Restated  
160 Agreement for Sale and Purchase between the United States Sugar  
161 Corporation, SBG Farms, Inc., Southern Garden Groves  
162 Corporation, and the South Florida Water Management District,  
163 dated August 12, 2010.

164 (b) "Board" means the Board of Trustees of the Internal  
165 Improvement Trust Fund.

166 (c) "Comprehensive Everglades Restoration Plan" or "CERP"  
167 has the same meaning as the term "comprehensive plan" as defined  
168 in s. 373.470.

169 (d) "District" means the South Florida Water Management  
170 District.

171 (e) "Everglades Agricultural Area" or "EAA" has the same  
172 meaning as provided in s. 373.4592.

173 (f) "Lake" means Lake Okeechobee.

174 (g) "Reservoir project" means a project to construct one  
175 or two above-ground reservoirs that have a total water storage

176 capacity of approximately 360,000 acre-feet and are located in  
177 the EAA.

178 (3) LAND ACQUISITION.—The Legislature declares that  
179 acquiring land for the reservoir project is in the public  
180 interest and that the governing board of the district and the  
181 board may acquire fee title for the purpose of implementing the  
182 reservoir project.

183 (a) Upon the effective date of this act, the district  
184 shall seek proposals from willing sellers of property within the  
185 Everglades Agricultural Area in order to acquire approximately  
186 60,000 acres of land that is suitable for the reservoir project.  
187 All appraisal reports, offers, and counteroffers are  
188 confidential and exempt from s. 119.07(1), as provided in s.  
189 373.139.

190 (b) If the district does not acquire land pursuant to  
191 paragraph (a) by December 31, 2017:

192 1. The district must assign, by January 31, 2018, the  
193 agreement's Entire Option Property Non-Exclusive Option to the  
194 board, as authorized in, and in accordance with, the agreement.  
195 If, for any reason, the Seller, as defined in the agreement,  
196 does not find the assignment to be reasonably acceptable in form  
197 and substance, the district must retain the Entire Option  
198 Property Non-Exclusive Option; and

199 2. The board or the district, whichever holds the option,  
200 must, by March 1, 2018, exercise the option in accordance with



201 the agreement. The Buyer's Proposed Option Property Purchase  
202 Price, as specified in the agreement, may not be less than the  
203 average of \$7,400 per acre, unless the maximum offer allowed by  
204 law is less than the average of \$7,400 per acre.

205 3. The board or the district, if applicable, may dispose  
206 of or exchange any land or lease interest in the land that is  
207 acquired pursuant to this paragraph in order to achieve optimal  
208 siting for the reservoir project or to dispose of land that is  
209 not necessary for the reservoir project. Any such exchange or  
210 disposition may not be in violation of the agreement.

211 (4) DESIGN, PERMITTING, AND CONSTRUCTION.—If the district  
212 finds willing sellers of property pursuant to paragraph (3) (a),  
213 the district:

214 (a) Once the land has been agreed upon for purchase, must  
215 immediately begin the reservoir project with the goal of  
216 providing adequate water storage and conveyance south of the  
217 lake to reduce the volume of regulatory discharges of water from  
218 the lake to the east and west; and

219 (b) Once the land is acquired, must expeditiously pursue  
220 necessary permitting and begin implementation and construction  
221 of the reservoir project as soon as practicable.

222 (5) PLANNING STUDY.—

223 (a) If land is acquired pursuant to paragraph (3) (a) and  
224 other funding is not available, the district must, in  
225 coordination with the United States Army Corps of Engineers,

226 begin the planning study for the reservoir project by March 1,  
227 2018.

228 (b) If land is not acquired pursuant to paragraph (3) (a)  
229 by December 31, 2017, the district must, in coordination with  
230 the United States Army Corps of Engineers, begin the planning  
231 study for the reservoir project by October 1, 2019.

232 1. If land is acquired pursuant to paragraph (3) (b), the  
233 district must identify which of the acquired land is suitable  
234 for the reservoir project.

235 2. If land is not acquired pursuant to paragraph (3) (b),  
236 the district must identify land that is suitable for the  
237 reservoir project and the best option for securing such land.

238 (c) The district, when developing the planning study, must  
239 focus on the goal of the reservoir project, which is to provide  
240 adequate water storage and conveyance south of the lake to  
241 reduce the volume of regulatory discharges of water from the  
242 lake to the east and west.

243 (d) Upon completion of the planning study and the  
244 finalization of the project implementation report, as defined in  
245 s. 373.470, the district, in coordination with the United States  
246 Army Corps of Engineers, shall seek Congressional authorization  
247 for the reservoir project.

248 (6) FUNDING.—

249 (a) Pursuant to s. 11(e), Art. VII of the State  
250 Constitution, state bonds are authorized under this section to

251 finance or refinance the acquisition and improvement of land,  
252 water areas, and related property interests and resources for  
253 the purposes of conservation, outdoor recreation, water resource  
254 development, restoration of natural systems, and historic  
255 preservation. In accordance with s. 17, Art. X of the State  
256 Constitution, funds deposited into the Everglades Trust Fund may  
257 be expended for the purposes of conservation and protection of  
258 natural resources in the Everglades Protection Area and the  
259 Everglades Agricultural Area.

260 (b) Any cost related to this section, including, but not  
261 limited to, the costs for land acquisition, construction, and  
262 operation and maintenance, may be funded using proceeds from  
263 Florida Forever bonds issued under s. 215.618, as authorized  
264 under that section. The Legislature determines that the  
265 authorization and issuance of such bonds is in the best interest  
266 of the state and determines that the reservoir project should be  
267 implemented. Notwithstanding any other provision of law,  
268 proceeds from the sale of such bonds, less the costs of  
269 issuance, the costs of funding reserve accounts, and other costs  
270 with respect to the bonds, shall be deposited in the following  
271 manner:

272 1. If land is acquired pursuant to paragraph (3) (a), the  
273 amount of up to \$800 million in bond proceeds in the 2017-2018  
274 fiscal year to the Everglades Trust Fund for the purposes of  
275 this section, and the amount of up to \$400 million in bond

276 proceeds in the 2018-2019 fiscal year to the Everglades Trust  
277 Fund for the purposes of this section; or

278 2. If land is acquired pursuant to paragraph (3)(b), the  
279 amount of up to \$1.2 billion in bond proceeds in the 2018-2019  
280 fiscal year to the Board of Trustees of the Internal Improvement  
281 Trust Fund, or the Everglades Trust Fund, if applicable, to be  
282 used for the purposes of this section.

283 (c) Notwithstanding s. 373.026(8)(b) or any other  
284 provision of law, the use of state funds is authorized for the  
285 reservoir project.

286 (d) The district shall actively seek additional sources of  
287 funding, including federal funding, for the reservoir project.

288 (e) If the reservoir project receives Congressional  
289 authorization, the district must seek applicable federal credits  
290 toward the state's share of funding the land acquisition and  
291 implementation of the reservoir project.

292 (7) LAKE OKEECHOBEE REGULATION SCHEDULE.—The district  
293 shall request that the United States Army Corps of Engineers  
294 include in its evaluation of the regulation schedule for the  
295 lake any increase in outlet capacity south of the lake which  
296 offsets the harmful freshwater discharges to the St. Lucie and  
297 Caloosahatchee estuaries.

298 Section 4. Effective January 1, 2019, and contingent upon  
299 the failure of the district or board to acquire land by November  
300 30, 2018, pursuant to section 373.4598(3)(a) or (b), Florida

301 Statutes, subsection (3) of section 375.041, Florida Statutes,  
 302 is amended to read:

303 375.041 Land Acquisition Trust Fund.—

304 (3) Funds distributed into the Land Acquisition Trust Fund  
 305 pursuant to s. 201.15 shall be applied:

306 (a) First, to pay debt service or to fund debt service  
 307 reserve funds, rebate obligations, or other amounts payable with  
 308 respect to Florida Forever bonds issued under s. 215.618; and  
 309 pay debt service, provide reserves, and pay rebate obligations  
 310 and other amounts due with respect to Everglades restoration  
 311 bonds issued under s. 215.619; and

312 (b) Of the funds remaining after the payments required  
 313 under paragraph (a), but before funds may be appropriated,  
 314 pledged, or dedicated for other uses:

315 1. A minimum of the lesser of 30 ~~25~~ percent or \$250 ~~\$200~~  
 316 million shall be appropriated annually for Everglades projects  
 317 that implement the Comprehensive Everglades Restoration Plan as  
 318 set forth in s. 373.470, including the Central Everglades  
 319 Planning Project subject to Congressional authorization; the  
 320 Long-Term Plan as defined in s. 373.4592(2); and the Northern  
 321 Everglades and Estuaries Protection Program as set forth in s.  
 322 373.4595. From these funds, \$32 million shall be distributed  
 323 each fiscal year through the 2023-2024 fiscal year to the South  
 324 Florida Water Management District for the Long-Term Plan as  
 325 defined in s. 373.4592(2). After deducting the \$32 million

326 distributed under this subparagraph, from the funds remaining, a  
327 minimum of the lesser of 80 ~~76.5~~ percent or \$150 ~~\$100~~ million  
328 shall be appropriated each fiscal year through the 2025-2026  
329 fiscal year for the planning, design, engineering, and  
330 construction of the Comprehensive Everglades Restoration Plan as  
331 set forth in s. 373.470, including the Everglades Agricultural  
332 Area Storage Reservoir, component G, and including the Central  
333 Everglades Planning Project subject to Congressional  
334 authorization. The Department of Environmental Protection and  
335 the South Florida Water Management District shall give  
336 preference to those Everglades restoration projects that reduce  
337 harmful discharges of water from Lake Okeechobee to the St.  
338 Lucie or Caloosahatchee estuaries in a timely manner. For the  
339 purpose of performing the calculation provided in this  
340 subparagraph, the amount of debt service paid pursuant to  
341 paragraph (a) for bonds issued after July 1, 2016, for the  
342 purposes set forth under paragraph (b) shall be added to the  
343 amount remaining after the payments required under paragraph  
344 (a). The amount of the distribution calculated shall then be  
345 reduced by an amount equal to the debt service paid pursuant to  
346 paragraph (a) on bonds issued after July 1, 2016, for the  
347 purposes set forth under this subparagraph.

348 2. A minimum of the lesser of 7.6 percent or \$50 million  
349 shall be appropriated annually for spring restoration,  
350 protection, and management projects. For the purpose of

351 performing the calculation provided in this subparagraph, the  
352 amount of debt service paid pursuant to paragraph (a) for bonds  
353 issued after July 1, 2016, for the purposes set forth under  
354 paragraph (b) shall be added to the amount remaining after the  
355 payments required under paragraph (a). The amount of the  
356 distribution calculated shall then be reduced by an amount equal  
357 to the debt service paid pursuant to paragraph (a) on bonds  
358 issued after July 1, 2016, for the purposes set forth under this  
359 subparagraph.

360 3. The sum of \$5 million shall be appropriated annually  
361 each fiscal year through the 2025-2026 fiscal year to the St.  
362 Johns River Water Management District for projects dedicated to  
363 the restoration of Lake Apopka. This distribution shall be  
364 reduced by an amount equal to the debt service paid pursuant to  
365 paragraph (a) on bonds issued after July 1, 2016, for the  
366 purposes set forth in this subparagraph.

367 Section 5. The South Florida Water Management District and  
368 the Board of Trustees of the Internal Improvement Trust Fund  
369 shall notify the Division of Law Revision and Information no  
370 later than December 1, 2018, whether they have acquired land  
371 pursuant to s. 373.4598, Florida Statutes.

372 Section 6. The Division of Law Revision and Information is  
373 directed to replace the phrase "the effective date of this act"  
374 wherever it occurs in this act with the date the act becomes a  
375 law.

376           Section 7. Contingent upon bonds being issued for the  
377 purposes of s. 373.4598, Florida Statutes, and if land is  
378 acquired pursuant to s. 373.4598(3)(a), Florida Statutes, the  
379 sum of \$64,000,000 in recurring funds from the Land Acquisition  
380 Trust Fund is appropriated for the 2017-2018 fiscal year to pay  
381 debt service on bonds that implement this act and are issued  
382 pursuant to s. 215.618, Florida Statutes.

383           Section 8. Contingent upon bonds being issued for the  
384 purposes of s. 373.4598, Florida Statutes, and if land is  
385 acquired pursuant to s. 373.4598(3)(a), Florida Statutes, the  
386 sum of \$36,000,000 in recurring funds from the Land Acquisition  
387 Trust Fund is appropriated for the 2018-2019 fiscal year to pay  
388 debt service on bonds that implement this act and are issued  
389 pursuant to s. 215.618, Florida Statutes.

390           Section 9. Contingent upon bonds being issued for the  
391 purposes of s. 373.4598, Florida Statutes, and if land is  
392 acquired pursuant to s. 373.4598(3)(b), Florida Statutes, the  
393 sum of \$100,000,000 in recurring funds from the Land Acquisition  
394 Trust Fund is appropriated for the 2018-2019 fiscal year to pay  
395 debt service on bonds that implement this act and are issued  
396 pursuant to s. 215.618, Florida Statutes.

397           Section 10. Except as otherwise expressly provided in this  
398 act, this act shall take effect upon becoming a law.



By Senator Gainer

2-01499-17

20171228\_\_

1                                   A bill to be entitled  
 2       An act relating to the Marine Turtle Protection Act;  
 3       amending s. 921.0022, F.S.; adding the existing  
 4       offense of possession of any marine turtle species or  
 5       hatchling, or parts thereof, or nests to level 3 of  
 6       the offense severity ranking chart for the purpose of  
 7       increasing sentencing points for conviction of the  
 8       offense; updating a cross-reference; providing an  
 9       effective date.

10

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

12

13           Section 1. Paragraph (c) of subsection (3) of section  
 14 921.0022, Florida Statutes, is amended to read:

15           921.0022 Criminal Punishment Code; offense severity ranking  
 16 chart.—

17           (3) OFFENSE SEVERITY RANKING CHART

18           (c) LEVEL 3

19

Florida Statute	Felony Degree	Description
119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.

21

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23  
24  
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26  
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28

316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.

29	2-01499-17	20171228__	
	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
30	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
31	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
32	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
33			

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34	<u>379.2431</u> <u>(1) (e) 6.</u>	3rd	<u>Possessing any marine</u> <u>turtle species or</u> <u>hatchling, or parts</u> <u>thereof, or nest.</u>
35	<u>379.2431</u> <u>(1) (e) 7.</u> <del>379.2431</del> <del>(1) (e) 6.</del>	3rd	Soliciting <del>to commit</del> or conspiring to commit a violation of the Marine Turtle Protection Act.
36	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
37	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
38	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
38	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially

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39

false/misleading  
information.

624.401 (4) (a)

3rd

Transacting insurance  
without a certificate of  
authority.

40

624.401 (4) (b) 1.

3rd

Transacting insurance  
without a certificate of  
authority; premium  
collected less than  
\$20,000.

41

626.902 (1) (a) &  
(b)

3rd

Representing an  
unauthorized insurer.

42

697.08

3rd

Equity skimming.

43

790.15 (3)

3rd

Person directs another to  
discharge firearm from a  
vehicle.

44

806.10 (1)

3rd

Maliciously injure,  
destroy, or interfere with  
vehicles or equipment used  
in firefighting.

45

806.10 (2)

3rd

Interferes with or assaults  
firefighter in performance

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of duty.

46

810.09(2)(c)

3rd

Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.

47

812.014(2)(c)2.

3rd

Grand theft; \$5,000 or more but less than \$10,000.

48

812.0145(2)(c)

3rd

Theft from person 65 years of age or older; \$300 or more but less than \$10,000.

49

815.04(5)(b)

2nd

Computer offense devised to defraud or obtain property.

50

817.034(4)(a)3.

3rd

Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.

51

817.233

3rd

Burning to defraud insurer.

52

817.234  
(8)(b) & (c)

3rd

Unlawful solicitation of persons involved in motor vehicle accidents.

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53  
54  
55  
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58  
59  
60

817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413 (2)	3rd	Sale of used goods as new.
817.505 (4)	3rd	Patient brokering.
828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of instruments

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61	838.021 (3) (b)	3rd	for counterfeiting driver licenses or identification cards.
62	843.19	3rd	Threatens unlawful harm to public servant.
63	860.15 (3)	3rd	Injure, disable, or kill police dog or horse.
64	870.01 (2)	3rd	Overcharging for repairs and parts.
65	893.13 (1) (a) 2.	3rd	Riot; inciting or encouraging.
66	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
			Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5.,



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(2) (c) 6., (2) (c) 7.,  
 (2) (c) 8., (2) (c) 9., (3), or  
 (4) drugs within 1,000 feet  
 of university.

67

893.13 (1) (f) 2.

2nd

Sell, manufacture, or  
 deliver s. 893.03 (1) (c),  
 (2) (c) 1., (2) (c) 2.,  
 (2) (c) 3., (2) (c) 5.,  
 (2) (c) 6., (2) (c) 7.,  
 (2) (c) 8., (2) (c) 9., (3), or  
 (4) drugs within 1,000 feet  
 of public housing facility.

68

893.13 (4) (c)

3rd

Use or hire of minor;  
 deliver to minor other  
 controlled substances.

69

893.13 (6) (a)

3rd

Possession of any  
 controlled substance other  
 than felony possession of  
 cannabis.

70

893.13 (7) (a) 8.

3rd

Withhold information from  
 practitioner regarding  
 previous receipt of or  
 prescription for a  
 controlled substance.

71

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72	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
73	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
74	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
75	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a

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76

controlled substance.

893.13 (8) (a) 3.

3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

77

893.13 (8) (a) 4.

3rd

Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

78

918.13 (1) (a)

3rd

Alter, destroy, or conceal investigation evidence.

79

944.47  
(1) (a) 1. & 2.

3rd

Introduce contraband to correctional facility.

80

944.47 (1) (c)

2nd

Possess contraband while upon the grounds of a correctional institution.

81

985.721

3rd

Escapes from a juvenile facility (secure detention or residential commitment

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facility).

82

83

Section 2. This act shall take effect July 1, 2017.

A bill to be entitled  
 An act relating to marine turtle protection; amending  
 s. 921.0022, F.S.; ranking and revising the  
 description of criminal violations of the Marine  
 Turtle Protection Act in the offense severity ranking  
 chart of the Criminal Punishment Code; providing an  
 effective date.

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

Section 1. Paragraph (c) of subsection (3) of section  
 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity  
 ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066	3rd	Unlawfully obtaining or using

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20	(3) (b) - (d)		confidential crash reports.
21	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
22	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
23	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
24	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
25	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
26	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.

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27	327.35 (2) (b)	3rd	Felony BUI.
28	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
29	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
30	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
31	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

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32	379.2431 (1) (e) 6.	3rd	<u>Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described</u> <del>in Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.</del>
33	<u>379.2431(1) (e) 7.</u>	3rd	<u>Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.</u>
34	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
35	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
	440.1051 (3)	3rd	False report of workers' compensation fraud or



			retaliation for making such a report.
36	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
37	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
38	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
39	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
40	697.08	3rd	Equity skimming.
41	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
42			

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43	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
44	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
45	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
46	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
47	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
48	815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud

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			Act), property valued at less than \$20,000.
49	817.233	3rd	Burning to defraud insurer.
50	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
51	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
52	817.236	3rd	Filing a false motor vehicle insurance application.
53	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
54	817.413 (2)	3rd	Sale of used goods as new.
55	817.505 (4)	3rd	Patient brokering.
56	828.12 (2)	3rd	Tortures any animal with intent

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57			to inflict intense pain, serious physical injury, or death.
	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
58			
	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
59			
	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
60			
	843.19	3rd	Injure, disable, or kill police dog or horse.
61			
	860.15 (3)	3rd	Overcharging for repairs and parts.
62			
	870.01 (2)	3rd	Riot; inciting or encouraging.
63			
	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver

64	893.13(1)(d)2.	2nd	<p>cannabis (or other s.              893.03(1)(c), (2)(c)1.,              (2)(c)2., (2)(c)3., (2)(c)5.,              (2)(c)6., (2)(c)7., (2)(c)8.,              (2)(c)9., (3), or (4) drugs).</p> <p>Sell, manufacture, or deliver              s. 893.03(1)(c), (2)(c)1.,              (2)(c)2., (2)(c)3., (2)(c)5.,              (2)(c)6., (2)(c)7., (2)(c)8.,              (2)(c)9., (3), or (4) drugs              within 1,000 feet of              university.</p>
65	893.13(1)(f)2.	2nd	<p>Sell, manufacture, or deliver              s. 893.03(1)(c), (2)(c)1.,              (2)(c)2., (2)(c)3., (2)(c)5.,              (2)(c)6., (2)(c)7., (2)(c)8.,              (2)(c)9., (3), or (4) drugs              within 1,000 feet of public              housing facility.</p>
66	893.13(4)(c)	3rd	<p>Use or hire of minor; deliver              to minor other controlled              substances.</p>

67	893.13 (6) (a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
68	893.13 (7) (a) 8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
69	893.13 (7) (a) 9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
70	893.13 (7) (a) 10.	3rd	Affix false or forged label to package of controlled substance.
71	893.13 (7) (a) 11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
72	893.13 (8) (a) 1.	3rd	Knowingly assist a patient,

73	893.13(8)(a)2.	3rd	<p>other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.</p>
74	893.13(8)(a)3.	3rd	<p>Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.</p>
75	893.13(8)(a)4.	3rd	<p>Knowingly write a prescription for a controlled substance for a fictitious person.</p> <p>Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the</p>

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76			practitioner.
	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
77			
	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
78			
	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
79			
	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
80			
81	Section 2. This act shall take effect July 1, 2017.		



By Senators Gainer, Broxson, and Montford

2-00613-17

2017364\_\_

1 A bill to be entitled

2 An act relating to the Recovery Fund for the Deepwater  
3 Horizon incident; amending s. 288.8012, F.S.; defining  
4 the term "settlement agreement"; amending s. 288.8013,  
5 F.S.; revising the funding source of the principal of  
6 the Recovery Fund for the Deepwater Horizon incident;  
7 requiring that certain funds be transferred to the  
8 Recovery Fund within a specified timeframe; providing  
9 an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13 Section 1. Subsection (5) is added to section 288.8012,  
14 Florida Statutes, to read:

15 288.8012 Definitions.—As used in ss. 288.80-288.8017, the  
16 term:

17 (5) "Settlement agreement" means the agreement between the  
18 gulf states and the BP entities with respect to economic claims  
19 arising from the Deepwater Horizon incident.

20 Section 2. Subsection (2) of section 288.8013, Florida  
21 Statutes, is amended to read:

22 288.8013 Triumph Gulf Coast, Inc.; Recovery Fund; creation;  
23 investment.—

24 (2) (a) Triumph Gulf Coast, Inc., must create and administer  
25 the Recovery Fund for the benefit of the disproportionately  
26 affected counties. The principal of the fund shall derive from  
27 75 percent of all moneys received by the state pursuant to the  
28 settlement agreement ~~funds recovered by the Attorney General for~~  
29 ~~economic damage to the state resulting from the Deepwater~~  
30 ~~Horizon disaster~~, after payment of reasonable and necessary  
31 attorney fees, costs, and expenses, including such attorney  
32 fees, costs, and expenses pursuant to s. 16.0155.

2-00613-17

2017364\_\_

33       (b)1. After reasonable and necessary payment of attorney  
34 fees, costs, and related expenses, 75 percent of the remaining  
35 moneys received by the state before June 30, 2017, pursuant to  
36 the settlement agreement is appropriated to Triumph Gulf Coast,  
37 Inc., and shall be transferred to the Recovery Fund no later  
38 than August 1, 2017.

39       2. Seventy-five percent of the moneys received by the state  
40 pursuant to the settlement agreement on or after July 1, 2017,  
41 is appropriated to Triumph Gulf Coast, Inc., and shall be  
42 transferred to the Recovery Fund no later than 30 days after  
43 such funds are received by the state.

44       Section 3. This act shall take effect July 1, 2017.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 364

INTRODUCER: Senator Gainer and others

SUBJECT: Recovery Fund for the Deepwater Horizon Incident

DATE: February 17, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Little	McKay	CM	<b>Pre-meeting</b>
2.			ATD	
3.			AP	

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## I. Summary:

SB 364 appropriates 75 percent of Florida's economic damage settlement funds to Triumph Gulf Coast, Inc., a nonprofit corporation responsible for creating and administering a Recovery Fund to assist with economic recovery in the 8 counties disproportionately affected by the Deepwater Horizon oil spill.

The bill provides an effective date of July 1, 2017.

## II. Present Situation:

### Deepwater Horizon Oil Spill

On April 20, 2010, an offshore drilling rig, known as Deepwater Horizon, exploded in the Gulf of Mexico.<sup>1</sup> The explosion claimed the lives of 11 crewmembers<sup>2</sup> and caused nearly 5 million barrels of crude oil to spill into the Gulf of Mexico.<sup>3</sup> The five states bordering the Gulf of Mexico (Alabama, Florida, Louisiana, Mississippi, and Texas) were quickly determined to have experienced the most devastating economic and environmental effects of the oil spill.<sup>4</sup>

On July 6, 2012, President Obama signed the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies the Gulf Coast States Act of 2012 (RESTORE Act) in an

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<sup>1</sup> Campbell Robertson, *Gulf Spill Is the Largest of Its Kind, Scientists Say*, The New York Times, Aug. 2, 2010, available at <http://www.nytimes.com/2010/08/03/us/03spill.html> (last visited Feb. 17, 2017).

<sup>2</sup> Bradley Blackburn, *BP Oil Spill: Families Gather to Honor 11 Who Died, Express Frustration with BP, Transocean*, ABC News, May 25, 2010, available at <http://abcnews.go.com/WN/bp-oil-spill-transocean-holds-memorial-11-lost/story?id=10739080> (last visited Feb. 17, 2017).

<sup>3</sup> Robertson, *supra* note 1.

<sup>4</sup> Exec. Order No. 13554, 75 Fed. Reg. 62313, (October 5, 2010), available at <https://obamawhitehouse.archives.gov/the-press-office/2010/10/05/executive-order-13554-gulf-coast-ecosystem-restoration-task-force> (last visited Feb. 17, 2017).

effort to provide a mechanism for funding restoration of the Gulf Coast region.<sup>5</sup> The RESTORE Act required 80 percent of administrative and civil penalties paid by responsible parties<sup>6</sup> under provisions of the federal Clean Water Act to be deposited into the Gulf Coast Restoration Trust Fund.<sup>7</sup> The RESTORE Act set forth the following framework for allocation of the Trust Fund:

- 35 percent equally divided among the five states;
- 30 percent to the Gulf Coast Ecosystem Restoration Council;
- 30 percent to the Oil Spill Restoration Impact;
- 2.5 percent to the Gulf Coast Ecosystem Restoration Science Observation Monitoring and Technology Program; and
- 2.5 percent to Centers of Excellence.<sup>8</sup>

In addition to penalties imposed under the Clean Water Act, responsible parties were liable for Natural Resource Damage Assessment Penalties under the Oil Pollution Act of 1990 and criminal penalties asserted by the National Fish and Wildlife Foundation.<sup>9</sup> The funds awarded to the Gulf States were determined pursuant to a consent decree, approving a \$20.8 billion settlement of a civil lawsuit filed by the United States and the five Gulf States against parties responsible for the oil spill.<sup>10</sup>

### ***Economic Loss Claims***

In an agreement separate from the civil lawsuit, BP also agreed to pay a total of \$4.9 billion to the five Gulf States, and up to \$1 billion to local government entities for economic damage claims related to the oil spill.<sup>11</sup> Pursuant to this agreement, the state of Florida will receive a total of \$2 billion in economic damage claims over an 18-year period.<sup>12</sup> Attorney General Pam Bondi received BP's initial settlement payment of \$400 million in July of 2016, and the funds were placed into the state General Revenue Fund.<sup>13</sup> Subsequent settlement payments are scheduled to be paid annually to the state in the amount of \$106,666,666 from 2019 until 2033.<sup>14</sup>

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<sup>5</sup> Pub. L. No. 112-141 (113<sup>th</sup> Congress). Codified at 33 U.S.C. 1321.

<sup>6</sup> Transocean Ltd., British Petroleum (BP), and The Halliburton Company were among the parties found to be responsible.

<sup>7</sup> The remaining 20 percent of the administrative and civil penalties are to be deposited into the federal Oil Spill Liability Trust Fund, which funds removal costs or damages resulting from discharges of oil. *See* 33 U.S.C. 1321.

<sup>8</sup> A table of Projected BP Annual Deposits into the Gulf Coast Restoration Trust Fund is available at [https://www.treasury.gov/services/restore-act/Documents/BP\\_Estimated\\_Deposits\\_Schedule\\_June302016.pdf](https://www.treasury.gov/services/restore-act/Documents/BP_Estimated_Deposits_Schedule_June302016.pdf) (last visited Feb. 17, 2017).

<sup>9</sup> Consent Decree, In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010 (no. 2179, M.D.L., April 4, 2016), available as document no. 15, at <https://www.justice.gov/enrd/file/838066/download> (last visited Feb. 17, 2017).

<sup>10</sup> A flowchart of the funds awarded in the approved settlement is available at <http://www.oceanconservancy.org/places/gulf-of-mexico/spill-funds-flowchart-spring.pdf> (last visited Feb. 17, 2017)

<sup>11</sup> Attorney General Pam Bondi, *Deepwater Horizon Oil Spill Settlement Fact Sheet*

[http://myfloridalegal.com/webfiles.nsf/WF/KMAN-9Y2H9C/\\$file/BP+Fact+Sheet.pdf](http://myfloridalegal.com/webfiles.nsf/WF/KMAN-9Y2H9C/$file/BP+Fact+Sheet.pdf) (last visited Feb. 17, 2017).

<sup>12</sup> Consent Decree, In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010 (no. 2179, M.D.L., April 4, 2016), available as document no. 15435-2.

<sup>13</sup> Court settlement funds negotiated by the state are placed in the General Revenue Fund pursuant to s. 216.216, F.S.

<sup>14</sup> Document no. 15435-2, *supra* note 8.

## Florida Legislation

### *Disbursement of Funds*

In 2011, the Legislature began to address the negative economic and environmental impacts of the oil spill.<sup>15</sup> Section 377.43, F.S., was created to provide a mechanism for the disbursement of funds received by the state for damages associated with the oil spill.<sup>16</sup> Section 377.43, F.S., ensures that 75 percent of “[a]ny funds received by the state from any governmental or private entity for damages caused by the Deepwater Horizon oil spill...” are utilized for the benefit of the eight counties disproportionately affected by the oil spill.<sup>17</sup> The eight disproportionately affected counties are: Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa Count, Walton County, and Wakulla County.<sup>18</sup> Section 377.43, F.S., designates the Department of Environmental Protection (DEP) as the lead agency for expending funds directed to environmental restoration and the Department of Economic Opportunity (DEO) as the lead agency for expending funds directed to economic incentives and diversification efforts.<sup>19</sup>

### *Gulf Coast Economic Corridor Act*

In 2013, the Legislature created the “Gulf Coast Economic Corridor Act” (the Act) to provide a long-term source of funding for economic recovery and enhancement efforts in the Gulf Coast region. The Act was intended to help businesses, individuals, and local governments recover from the Deepwater Horizon oil spill.<sup>20</sup> The Act created Triumph Gulf Coast, Inc. (Triumph Gulf Coast), a nonprofit corporation administratively housed under the DEO.<sup>21</sup>

### Triumph Gulf Coast, Inc.

Triumph Gulf Coast must create and administer a “Recovery Fund,” to be utilized as a long-term source of revenue for the disproportionately affected counties.<sup>22</sup> Triumph Gulf Coast is tasked with investing the principal of the Recovery Fund, which is derived from “75 percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon disaster, after payment of reasonable and necessary attorney fees, costs, and expenses....”<sup>23</sup> The Recovery Fund is required to decline over a 30-year period, in equal amounts each year. Any funds remaining after 30 years will revert to the State Treasury.<sup>24</sup>

The duties of Triumph Gulf Coast include:

- Responsibly and prudently managing all funds received and ensuring that the use of funds is in accordance with applicable laws, bylaws, and contractual requirements;
- Administering the program set forth by the Act;

<sup>15</sup> Chapter 2011-142, Laws of Fla.

<sup>16</sup> See ss. 377.43(2) and (3), F.S.

<sup>17</sup> Section 377.43(3), F.S.

<sup>18</sup> Section 377.43(1), F.S.

<sup>19</sup> Section 377.43(5), F.S.

<sup>20</sup> Section 288.8011, F.S.

<sup>21</sup> Sections 288.8013(1), F.S.

<sup>22</sup> The “Recovery Fund” is defined as, “a trust account established by Triumph Gulf Coast, Inc., for the benefit of the disproportionately affected counties.” Section 288.2012(3), F.S.

<sup>23</sup> Sections 288.8013(2) and (3), F.S.

<sup>24</sup> Section 288.8013(3), F.S.

- Monitoring, reviewing, and annually evaluating awardees and their projects or programs to determine whether awards should be continued, terminated, reduced, or increased; and
- Operating in a transient manner, providing public access to information, notice of meetings, awards, and the status of projects and programs.<sup>25</sup>

Triumph Gulf Coast is required to competitively procure one or more money managers to invest the funds.<sup>26</sup> While Triumph Gulf Coast is permitted to hire or contract for staff deemed necessary to execute the program, the corporation is required to retain all of the following staff members:

- An independent certified public accountant;
- An independent financial advisor;
- An economic advisor; and
- A legal advisor.<sup>27</sup>

### Board of Directors

Triumph Gulf Coast is comprised of a 5-member board of directors (the board).<sup>28</sup> Each of the Trustees of the State Board of Administration,<sup>29</sup> the President of the Senate, and the Speaker of the House of Representatives, appoint an individual from the private sector to serve as a board member.<sup>30</sup> To achieve staggered terms, the initial board members appointed by the President of the Senate and the Speaker of the House of Representatives will serve for a period of 5 years.<sup>31</sup> All other initially appointed, and subsequently appointed, board members will serve for a term of 4 years.<sup>32</sup>

The board annually elects a chairperson, who is responsible for the official seal of Triumph Gulf Coast and ensuring that records are properly recorded and maintained.<sup>33</sup> The board is required to meet at least quarterly, upon the call of the chairperson or at the request of a majority of the membership. A majority of the board members constitutes a quorum and board members cannot vote by proxy.<sup>34</sup>

The board is required to formulate an investment policy governing the investment of the principal of the Recovery Fund, under the advice of the financial advisor, and in consultation with the State Board of Administration.<sup>35</sup> The board's powers include the ability to:

- Make and enter into contracts;
- Make expenditures;
- Adopt, use, and alter a common corporate seal;

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<sup>25</sup> Section 288.8016, F.S.

<sup>26</sup> Section 288.8013(4)(b), F.S.

<sup>27</sup> Section 288.8014(9)(a), F.S.

<sup>28</sup> Section 288.8014(2), F.S.

<sup>29</sup> The State Board of Administration Trustees are the Governor, the Attorney General, and the Chief Financial Officer. *See* FLA. CONST. art. IV, s.4.

<sup>30</sup> Section 288.8014(2), F.S.

<sup>31</sup> In 2014, the Legislature amended the length of the terms and specified the initial terms would begin once the Legislature appropriated funds to the Recovery Fund. *See* ch. 2014-218, Laws of Fla.

<sup>32</sup> Section 288.8014(3), F.S.

<sup>33</sup> Section 288.8014(2), F.S.

<sup>34</sup> Section 288.8014(7), F.S.

<sup>35</sup> Section 288.8013(4)(a), F.S.

- Adopt, amend, and repeal bylaws; and
- Use the state seal.<sup>36</sup>

The board may also request the presence of, and consult with, the executive director of the DEO, the secretary of the DEP, the chair of the Committee of 8 Disproportionately Affected Counties, and any retained staff. However, these individuals are not able to vote on any matters before the board.<sup>37</sup>

Triumph Gulf Coast and its board members are subject to public records and meeting requirements.<sup>38</sup> Board members and staff must adhere to the same standards of conduct as public officers and employees and are required to file financial disclosure forms.<sup>39</sup> Board members are required to serve uncompensated, except for travel and per diem expenses. Additionally, each board member must agree to refrain from having any direct interest in any contract, program, project, or other benefit arising from an award from the Recovery Fund during the term of appointment to the board and for 2 years following the end of the appointment.<sup>40</sup> It is a misdemeanor of the first degree for a board member to violate these requirements.<sup>41</sup>

### Awards

Triumph Gulf Coast is permitted to make awards from available earnings and principal for projects or programs that meet the priorities for economic recovery, diversification, and enhancement of the disproportionately affected counties.<sup>42</sup> Triumph Gulf Coast may provide awards for any of the following projects or programs:

- Ad valorem tax reduction;
- Payment of impact fees;
- Administrative funding for economic development organizations;
- Local match requirements for certain economic incentives programs;
- Economic development projects;
- Infrastructure projects that are shown to enhance economic development;
- Grants to local governments to establish and maintain equipment and trained personnel for local action plans of response to disasters;
- Grants to support programs of excellence that prepare students for future occupations and careers at K-20 institutions; or
- Grants to Visit Florida for advertising and promoting tourism, the Fresh From Florida program, or other related content.<sup>43</sup>

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<sup>36</sup> Section 288.8015, F.S.

<sup>37</sup> See s. 288.8014(9), F.S.

<sup>38</sup> Section 288.8014(1), F.S.

<sup>39</sup> These standards of conduct include restrictions on employment of relatives, voting conflicts, and standards of conduct for public officers, which include prohibitions on self-dealing, solicitation of gifts, and postemployment restrictions. See ss. 288.8014(4) and(9), F.S.

<sup>40</sup> Section 288.8014(5), F.S.

<sup>41</sup> Punishable by a fine of up to \$1,000 and up to one-year imprisonment. See ss. 775.082 and 775.083, F.S.

<sup>42</sup> Section 288.8017(1), F.S.

<sup>43</sup> See s. 288.8017(1), F.S.

Triumph Gulf Coast must establish an application and scoring process for all awards. The scoring process should lead to the selection of projects or programs that “have the potential to generate increased economic activity in the disproportionately affected counties.”<sup>44</sup> Awards may not finance 100 percent of a project or program, and an awardee is prohibited from receiving all of the available funds in any given calendar year. A one-to-one private-sector match may be required if applicable and deemed prudent by the board.<sup>45</sup> The application and scoring process should give priority to projects or programs that meet the following criteria:

- Generate maximum economic benefits;
- Expand household income above the national average;
- Expand or establish new high growth industries;
- Leverage or enhance key regional assets, including research facilities and military bases;
- Partner with local governments, convention and visitor bureaus, chambers of commerce, school districts, or educational institutions;
- Have investment commitments from private equity or venture capital funds;
- Provide or encourage seed-stage investments;
- Provide advice or technical assistance to companies on restructuring existing management, operations, or production to attract business opportunities;
- Benefit the environment in addition to the economy; and
- Provide outcome measures for program of excellence.<sup>46</sup>

Contracts for awards must include provisions requiring the awardee to submit a performance report to Triumph Gulf Coast. Contracts must also include provisions to provide for recovery of the award if the awardee is not meeting performance expectations or the awardee gave fraudulent information to obtain the award.<sup>47</sup>

#### Administrative Costs

Earnings generated by investments and interest of the Recovery Fund are required to be utilized for awards and administrative costs under the program. Administrative costs include management fees for investments, audit expenses, travel and per diem expenses, staff salaries, and other allowable costs. Administrative costs are limited to 2.25 percent of the earnings each calendar year.<sup>48</sup> Management fees for investments are limited to 150 basis points.<sup>49</sup>

#### Auditing and Reporting

Triumph Gulf Coast is required to report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on June 30 and December 30 of each year. The report should provide the financial status of the Recovery Fund and its investments, including a detailed list of approved awards, submitted applications, and any reasons for approval or denial. The report must also include information on the program’s established priorities and the application selection process.<sup>50</sup>

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<sup>44</sup> Section 288.8017(2), F.S.

<sup>45</sup> Section 288.8017(3), F.S.

<sup>46</sup> See s. 288.8017(2), F.S.

<sup>47</sup> Section 288.8014(4), F.S.

<sup>48</sup> Section 288.8013(3).

<sup>49</sup> Section 288.2013(4)(c), F.S.

<sup>50</sup> Section 288.8013(5), F.S.



Triumph Gulf Coast is also required to have two annual audits – one of the investment of the Recovery Fund by an independent certified public accountant,<sup>51</sup> and one of the Recovery Fund and Triumph Gulf Coast by the Auditor General. Triumph Gulf Coast is required to provide the Auditor General details or supplemental data necessary to perform the audit.<sup>52</sup>

### **III. Effect of Proposed Changes:**

The bill defines “settlement agreement” as “the agreement between the gulf states and the BP entities with respect to economic claims arising from the Deepwater Horizon incident.” Adding the definition clarifies that the Act relates to the \$2 billion of economic damage settlement funds negotiated by the Attorney General.<sup>53</sup>

The bill appropriates economic damage settlement funds to Triumph Gulf Coast. After reasonable and necessary payment of attorney fees, costs, and reasonable expenses, the bill requires settlement funds received by the state prior to June 30, 2017 to be transferred to the Recovery Fund no later than August 1, 2017.

The bill also creates a recurring appropriation to ensure that settlement funds received by the state on or after July 1, 2017 are appropriated to Triumph Gulf Coast and transferred to the Recovery Fund no later than 30 days after the funds are received.

The bill provides an effective date of July 1, 2017.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

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<sup>51</sup> Section 288.8013(4), F.S.

<sup>52</sup> Section 288.8013(6), F.S.

<sup>53</sup> See *supra*, note 8.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The bill reduces General Revenue funds by \$300 million in Fiscal Year 2017-2018. Seventy-five percent of future economic damage settlement payments received by the state will be transferred from General Revenue to the Recovery Fund.

**VI. Technical Deficiencies:**

Line 35 of the bill refers to moneys received *before* June 30, 2017 and line 40 of the bill refers to moneys received *on or after* July 1, 2017. The language inadvertently does not provide guidance for a scenario in which the state receives settlement funds on July 30, 2017.

**VII. Related Issues:**

Line 33 of the bill relates to 75 percent of the moneys after “reasonable and necessary payment of attorney fees, costs, and related expenses.” The Attorney General negotiated fees, costs, and expenses in an agreement separate from the settlement for economic damages. Without a deduction of these funds, Triumph Gulf Coast will receive 75 percent of the total amount of moneys received before June 30, 2017.

**VIII. Statutes Affected:**

This bill creates section 288.8012(5) of the Florida Statutes. This bill amends section 288.8013 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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1                                   A bill to be entitled  
 2           An act relating to the Gulf Coast Economic Corridor;  
 3           amending s. 288.80, F.S.; conforming provisions;  
 4           amending s. 288.8012, F.S.; providing and revising  
 5           definitions; amending s. 288.8013, F.S.; deleting the  
 6           creation and identification of purposes of the  
 7           Recovery Fund; requiring a specified percentage of  
 8           payments to the state from the Deepwater Horizon  
 9           lawsuit to be transferred from the General Revenue  
 10          Fund to the Triumph Gulf Coast Trust Fund; revising  
 11          provisions concerning the trust account managed by  
 12          Triumph Gulf Coast, Inc.; requiring interest in the  
 13          trust account to be deposited into the Triumph Gulf  
 14          Coast Trust Fund; revising provisions related to the  
 15          investment of funds in the trust account; revising  
 16          annual reporting requirements; amending s. 288.8014,  
 17          F.S.; deleting references to the Recovery Fund;  
 18          deleting obsolete language; revising conflict of  
 19          interest restrictions imposed on board members of  
 20          Triumph Gulf Coast, Inc.; removing the requirement  
 21          that Triumph Gulf Coast, Inc., retain an independent  
 22          financial advisor and an economic advisor; revising  
 23          provisions relating to conflict of interest  
 24          restrictions imposed on retained staff; amending s.  
 25          288.8015, F.S.; conforming a provision to changes made

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26 | by the act; amending s. 288.8016, F.S.; requiring  
 27 | Triumph Gulf Coast, Inc., to publish on its website  
 28 | specified information prior to making an award;  
 29 | amending s. 288.8017, F.S.; conforming provisions to  
 30 | changes made by the act; revising provisions governing  
 31 | the uses of awards from Triumph Gulf Coast, Inc.;  
 32 | requiring Triumph Gulf Coast, Inc., to ensure that a  
 33 | minimum percentage of funds appropriated for such  
 34 | awards from the trust fund be expended in certain  
 35 | affected counties; repealing s. 377.43, F.S., relating  
 36 | to the disbursement of funds received for damages  
 37 | caused by the Deepwater Horizon oil spill; providing  
 38 | appropriations; authorizing appropriations in the  
 39 | 2017-2018 fiscal year to be spent in the 2018-2019  
 40 | fiscal year; specifying that the conflict of interest  
 41 | restrictions imposed on board members of the Triumph  
 42 | Gulf Coast, Inc., apply to members after a specified  
 43 | date; providing an effective date.

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

47 | Section 1. Section 288.80, Florida Statutes, is amended to  
 48 | read:

49 | 288.80 Short title—This section and ss. 288.8011-288.8018  
 50 | ~~288.8011-288.8017~~ may be cited as the "Gulf Coast Economic

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51 Corridor Act."

52 Section 2. Section 288.8012, Florida Statutes, is amended  
53 to read:

54 288.8012 Definitions.—As used in ss. 288.80-288.8017, the  
55 term:

56 (1) "Awardee" means a person, organization, or local  
57 government granted an award of funds as authorized in s.  
58 288.8017 ~~from the Recovery Fund~~ for a project or program.

59 (2) "Department" means the Department of Economic  
60 Opportunity.

61 (3)-(2) "Disproportionately affected county" means Bay  
62 County, Escambia County, Franklin County, Gulf County, Okaloosa  
63 County, Santa Rosa County, Walton County, or Wakulla County.

64 ~~(3) "Earnings" means all the income generated by~~  
65 ~~investments and interest.~~

66 (4) "Settlement agreement" means the settlement agreement  
67 entered into between the parties on October 5, 2015, in the case  
68 styled *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in*  
69 *the Gulf of Mexico, on April 20, 2010*, MDL 2179 in the United  
70 States District Court for the Eastern District of Louisiana

71 ~~"Recovery Fund" means a trust account established by Triumph~~  
72 ~~Gulf Coast, Inc., for the benefit of the disproportionately~~  
73 ~~affected counties.~~

74 Section 3. Section 288.8013, Florida Statutes, is amended  
75 to read:

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76 288.8013 Triumph Gulf Coast, Inc.; ~~Recovery Fund;~~  
 77 creation; funding; investment.—

78 (1) There is created within the department ~~of Economic~~  
 79 ~~Opportunity~~ a nonprofit corporation, to be known as Triumph Gulf  
 80 Coast, Inc., which shall be registered, incorporated, organized,  
 81 and operated in compliance with chapter 617, and which is not a  
 82 unit or entity of state government. ~~Triumph Gulf Coast, Inc.,~~  
 83 ~~may receive, hold, invest, and administer the Recovery Fund in~~  
 84 ~~support of this act.~~ Triumph Gulf Coast, Inc., is a separate  
 85 budget entity and is not subject to control, supervision, or  
 86 direction by the department ~~of Economic Opportunity~~ in any  
 87 manner, including, but not limited to, personnel, purchasing,  
 88 transactions involving real or personal property, and budgetary  
 89 matters.

90 (2) Seventy-five percent of all payments to the state  
 91 pursuant to the settlement agreement shall be transferred  
 92 immediately from the General Revenue Fund to the Triumph Gulf  
 93 Coast Trust Fund within the department. ~~Triumph Gulf Coast,~~  
 94 ~~Inc., must create and administer the Recovery Fund for the~~  
 95 ~~benefit of the disproportionately affected counties. The~~  
 96 ~~principal of the fund shall derive from 75 percent of all funds~~  
 97 ~~recovered by the Attorney General for economic damage to the~~  
 98 ~~state resulting from the Deepwater Horizon disaster, after~~  
 99 ~~payment of reasonable and necessary attorney fees, costs, and~~  
 100 ~~expenses, including such attorney fees, costs, and expenses~~

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101 ~~pursuant to s. 16.0155.~~

102       (3) ~~The Recovery Fund must be maintained as a long term~~  
103 ~~and stable source of revenue, which shall decline over a 30-year~~  
104 ~~period in equal amounts each year. Triumph Gulf Coast, Inc.,~~  
105 ~~shall establish a trust account at a federally insured financial~~  
106 ~~institution to hold funds appropriated to it from the Triumph~~  
107 ~~Gulf Coast Trust Fund and make deposits and payments. Interest~~  
108 ~~earned in the trust account shall be deposited monthly into the~~  
109 ~~Triumph Gulf Coast Trust Fund. Earnings generated by investments~~  
110 ~~and interest of the fund, plus the amount of principal available~~  
111 ~~each year, shall be available to make awards pursuant to this~~  
112 ~~act and pay administrative costs. Earnings shall be accounted~~  
113 ~~for separately from principal funds set forth in subsection (2).~~  
114 ~~Administrative costs are limited to amounts appropriated for~~  
115 ~~this purpose 2.25 percent of the earnings in a calendar year.~~  
116 ~~Administrative costs include payment of ~~investment fees~~, travel~~  
117 ~~and per diem expenses of board members, audits, salary or other~~  
118 ~~costs for employed or contracted staff, including required staff~~  
119 ~~under s. 288.8014(9), and other allowable costs. The annual~~  
120 ~~salary for any employee or contracted staff may not exceed~~  
121 ~~\$130,000 and associated benefits may not exceed 35 percent of~~  
122 ~~salary. Any funds remaining in the Recovery Fund after 30 years~~  
123 ~~shall revert to the State Treasury.~~

124       ~~(4) Triumph Gulf Coast, Inc., shall invest and reinvest~~  
125 ~~the principal of the Recovery Fund in accordance with s.~~

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126 | ~~617.2104, in such a manner not to subject the funds to state or~~  
 127 | ~~federal taxes, and consistent with an investment policy~~  
 128 | ~~statement adopted by the corporation.~~

129 |       ~~(a) The board of directors shall formulate an investment~~  
 130 | ~~policy governing the investment of the principal of the Recovery~~  
 131 | ~~Fund. The policy shall pertain to the types, kinds, or nature of~~  
 132 | ~~investment of any of the funds, and any limitations, conditions~~  
 133 | ~~or restrictions upon the methods, practices, or procedures for~~  
 134 | ~~investment, reinvestments, purchases, sales, or exchange~~  
 135 | ~~transactions, provided such policies shall not conflict with nor~~  
 136 | ~~be in derogation of any state constitutional provision or law.~~  
 137 | ~~The policy shall be formulated with the advice of the financial~~  
 138 | ~~advisor in consultation with the State Board of Administration.~~

139 |       ~~(b) Triumph Gulf Coast, Inc., must competitively procure~~  
 140 | ~~one or more money managers, under the advice of the financial~~  
 141 | ~~advisor in consultation with the State Board of Administration,~~  
 142 | ~~to invest the principal of the Recovery Fund. The applicant~~  
 143 | ~~manager or managers may not include representatives from the~~  
 144 | ~~financial institution housing the trust account for the Recovery~~  
 145 | ~~Fund. The applicant manager or managers must present a plan to~~  
 146 | ~~invest the Recovery Fund to maximize earnings while prioritizing~~  
 147 | ~~the preservation of Recovery Fund principal. Any agreement with~~  
 148 | ~~a money manager must be reviewed by Triumph Gulf Coast, Inc.,~~  
 149 | ~~for continuance at least every 5 years. Plans should include~~  
 150 | ~~investment in technology and growth businesses domiciled in, or~~



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151 ~~that will be domiciled in, this state or businesses whose~~  
 152 ~~principal address is in this state.~~

153 ~~(c) Costs and fees for investment services shall be~~  
 154 ~~deducted from the earnings as administrative costs. Fees for~~  
 155 ~~investment services shall be no greater than 150 basis points.~~

156 ~~(d) Annually, Triumph Gulf Coast, Inc., shall cause an~~  
 157 ~~audit to be conducted of the investment of the Recovery Fund by~~  
 158 ~~the independent certified public accountant retained in s.~~  
 159 ~~288.8014. The expense of such audit shall be paid from earnings~~  
 160 ~~for administrative purposes.~~

161 (4)~~(5)~~ Triumph Gulf Coast, Inc., shall report on June 30  
 162 and December 30 each year to the Governor, the President of the  
 163 Senate, and the Speaker of the House of Representatives on ~~the~~  
 164 ~~financial status of the Recovery Fund and its investments,~~ the  
 165 established priorities, the project and program selection  
 166 process, including a list of all submitted projects and programs  
 167 and reasons for approval or denial, and the status of all  
 168 approved awards.

169 (5)~~(6)~~ The Auditor General shall conduct an operational  
 170 audit of ~~the Recovery Fund and~~ Triumph Gulf Coast, Inc.,  
 171 annually. Triumph Gulf Coast, Inc., shall provide to the Auditor  
 172 General any detail or supplemental data required.

173 Section 4. Subsections (3), (4), (7), and (9) of section  
 174 288.8014, Florida Statutes, are amended to read:

175 288.8014 Triumph Gulf Coast, Inc.; organization; board of

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176 | directors.-

177 |       (3) Notwithstanding s. 20.052(4)(c), each initial  
 178 | appointment to the board of directors by the Board of Trustees  
 179 | of the State Board of Administration shall serve for a term that  
 180 | ends 4 years after the Legislature appropriates funds to Triumph  
 181 | Gulf Coast, Inc. ~~the Recovery Fund~~. To achieve staggered terms  
 182 | among the members of the board, each initial appointment to the  
 183 | board of directors by the President of the Senate and the  
 184 | Speaker of the House of Representatives shall serve for a term  
 185 | that ends 5 years after the Legislature appropriates funds to  
 186 | Triumph Gulf Coast, Inc. ~~the Recovery Fund~~. Thereafter, each  
 187 | member of the board of directors shall serve for a term of 4  
 188 | years. A member is not eligible for reappointment to the board,  
 189 | except, however, any member appointed to fill a vacancy for a  
 190 | term of 2 years or less may be reappointed for an additional  
 191 | term of 4 years. ~~The initial appointments to the board must be~~  
 192 | ~~made by November 15, 2013.~~ Vacancies on the board of directors  
 193 | shall be filled by the officer who originally appointed the  
 194 | member. A vacancy that occurs before the scheduled expiration of  
 195 | the term of the member shall be filled for the remainder of the  
 196 | unexpired term.

197 |       (4) The Legislature determines that it is in the public  
 198 | interest for the members of the board of directors to be subject  
 199 | to the requirements of ss. 112.313, 112.3135, and 112.3143,  
 200 | notwithstanding the fact that the board members are not public

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201 officers or employees. For purposes of those sections, the board  
 202 members shall be considered to be public officers or employees.  
 203 In addition to the postemployment restrictions of s. 112.313(9),  
 204 a person appointed to the board of directors must agree to  
 205 refrain from having any direct interest in any contract,  
 206 franchise, privilege, project, program, or other benefit arising  
 207 from an award by Triumph Gulf Coast, Inc., during the term of  
 208 his or her appointment and for 6 ~~2~~ years after the termination  
 209 of such appointment. It is a misdemeanor of the first degree,  
 210 punishable as provided in s. 775.082 or s. 775.083, for a person  
 211 to accept appointment to the board of directors in violation of  
 212 this subsection or to accept a direct interest in any contract,  
 213 franchise, privilege, project, program, or other benefit granted  
 214 by Triumph Gulf Coast, Inc., to an awardee within 6 ~~2~~ years  
 215 after the termination of his or her service on the board.  
 216 Further, each member of the board of directors who is not  
 217 otherwise required to file financial disclosure under s. 8, Art.  
 218 II of the State Constitution or s. 112.3144 shall file  
 219 disclosure of financial interests under s. 112.3145.

220 (7) The board of directors shall meet at least quarterly,  
 221 upon the call of the chairperson or at the request of a majority  
 222 of the membership, to ~~review the Recovery Fund,~~ establish and  
 223 review priorities for economic recovery, diversification, and  
 224 enhancement of the ~~in~~ disproportionately affected counties, and  
 225 determine use of funds ~~the earnings~~ available. A majority of the

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226 members of the board of directors constitutes a quorum. Members  
 227 may not vote by proxy.

228 (9) (a) Triumph Gulf Coast, Inc., is permitted to hire or  
 229 contract for all staff necessary to the proper execution of its  
 230 powers and duties to implement this act. The corporation is  
 231 required to retain:

232 1. An independent certified public accountant licensed in  
 233 this state pursuant to chapter 473 to inspect the records of and  
 234 to annually audit the expenditure of funds ~~the earnings and~~  
 235 ~~available principal disbursed~~ by Triumph Gulf Coast, Inc.

236 ~~2. An independent financial advisor to assist Triumph Gulf~~  
 237 ~~Coast, Inc., in the development and implementation of a~~  
 238 ~~strategic plan consistent with the requirements of this act.~~

239 ~~3. An economic advisor who will assist in the award~~  
 240 ~~process, including the development of priorities, allocation~~  
 241 ~~decisions, and the application and process; will assist the~~  
 242 ~~board in determining eligibility of award applications and the~~  
 243 ~~evaluation and scoring of applications; and will assist in the~~  
 244 ~~development of award documentation.~~

245 ~~2.4.~~ A legal advisor with expertise in not-for-profit  
 246 ~~investing and~~ contracting ~~and~~ who is a member of The Florida Bar  
 247 to assist with contracting and carrying out the intent of this  
 248 act.

249 (b) All Triumph Gulf Coast, Inc., shall require all  
 250 employees of the corporation shall ~~to~~ comply with the code of

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251 ethics for public employees under part III of chapter 112.  
 252 Retained staff under paragraph (a) must agree to refrain from  
 253 having any direct interest in any contract, franchise,  
 254 privilege, project, program, or other benefit arising from an  
 255 award of funds by Triumph Gulf Coast, Inc., during the term of  
 256 his or her appointment and for 6 2 years after the termination  
 257 of such appointment.

258 ~~(c) Retained staff under paragraph (a) shall be available~~  
 259 ~~to consult with the board of directors and shall attend meetings~~  
 260 ~~of the board of directors. These individuals shall not be~~  
 261 ~~permitted to vote on any matter before the board.~~

262 Section 5. Subsection (2) of section 288.8015, Florida  
 263 Statutes, is amended to read:

264 288.8015 Board of directors; powers.—In addition to the  
 265 powers and duties prescribed in chapter 617 and the articles and  
 266 bylaws adopted in compliance with that chapter, the board of  
 267 directors may:

268 (2) Make expenditures including any necessary  
 269 administrative expenditure ~~from earnings~~ consistent with its  
 270 powers.

271  
 272 Under no circumstances may the credit of the State of Florida be  
 273 pledged on behalf of Triumph Gulf Coast, Inc.

274 Section 6. Subsection (4) of section 288.8016, Florida  
 275 Statutes, is amended to read:

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276 288.8016 Triumph Gulf Coast, Inc.; duties.—Triumph Gulf  
 277 Coast, Inc., shall have the following duties:

278 (4) Operate in a transparent manner, providing public  
 279 access to information, notice of meetings, awards, and the  
 280 status of projects and programs. To this end, Triumph Gulf  
 281 Coast, Inc., shall maintain a website that provides public  
 282 access to this information. No less than 14 calendar days before  
 283 approving an award pursuant to s. 288.8017, Triumph Gulf Coast,  
 284 Inc., shall publish on the website a summary of the project or  
 285 program and indicate its intent to approve the award.

286 Section 7. Section 288.8017, Florida Statutes, is amended  
 287 to read:

288 288.8017 Awards.—

289 (1) Triumph Gulf Coast, Inc., shall make awards from  
 290 available appropriations ~~earnings and principal derived under s.~~  
 291 ~~288.8013(2)~~ to projects or programs that meet the priorities for  
 292 economic recovery, diversification, and enhancement of the  
 293 disproportionately affected counties, ~~notwithstanding s. 377.43.~~  
 294 Awards may be provided for:

295 (a) Ad valorem tax rate reduction within  
 296 disproportionately affected counties;

297 ~~(b) Payment of impact fees adopted pursuant to s.~~  
 298 ~~163.31801 and imposed within disproportionately affected~~  
 299 ~~counties;~~

300 ~~(c) Administrative funding for economic development~~

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301 ~~organizations located within the disproportionately affected~~  
 302 ~~counties;~~

303 (b)-(d) Local match requirements of s.288.0655 ~~ss.~~  
 304 ~~288.0655, 288.0659, 288.1045, and 288.106~~ for projects in the  
 305 disproportionately affected counties;

306 ~~(c) Economic development projects in the~~  
 307 ~~disproportionately affected counties;~~

308 (c)-(f) Public infrastructure projects that are shown to  
 309 enhance economic recovery, diversification, and enhancement of  
 310 ~~development in~~ the disproportionately affected counties;

311 (d)-(g) Grants to local governments in the  
 312 disproportionately affected counties to establish and maintain  
 313 equipment and trained personnel for local action plans of  
 314 response to respond to disasters, such as plans created for the  
 315 Coastal Impacts Assistance Program;

316 (e) Early childhood development and educational programs  
 317 and services for children from birth to 5 years of age in the  
 318 disproportionately affected counties;

319 (f)-(h) Grants to support programs ~~of excellence~~ that  
 320 prepare students for future occupations and careers at K-20  
 321 institutions that have ~~home~~ campuses in the disproportionately  
 322 affected counties. Eligible programs include those that increase  
 323 students' technology skills and knowledge; encourage industry  
 324 certifications; provide rigorous, alternative pathways for  
 325 students to meet high school graduation requirements; strengthen

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326 career readiness initiatives; fund high-demand programs of  
 327 emphasis at the bachelor's and master's level designated by the  
 328 Board of Governors; and, similar to or the same as talent  
 329 retention programs created by the Chancellor of the State  
 330 University System and the Commission of Education, encourage  
 331 students with interest or aptitude for science, technology,  
 332 engineering, mathematics, and medical disciplines to pursue  
 333 postsecondary education at a state university within the  
 334 disproportionately affected counties; ~~and~~

335 (g) Grants to support programs that provide participants  
 336 in the disproportionately affected counties with transferrable,  
 337 sustainable workforce skills that are not confined to a single  
 338 employer; and

339 (h)~~(i)~~ Grants to the tourism entity created under s.  
 340 288.1226 for the purpose of advertising and promoting tourism,  
 341 Fresh From Florida, or related content on behalf of one or all  
 342 of the disproportionately affected counties.

343 (2) Triumph Gulf Coast, Inc., shall establish an  
 344 application procedure for awards and a scoring process for the  
 345 selection of projects and programs that have the potential to  
 346 generate increased economic activity in the disproportionately  
 347 affected counties, giving priority to projects and programs  
 348 that:

349 (a) Generate maximum estimated economic benefits, based on  
 350 tools and models not generally employed by economic input-output



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351 analyses, including cost-benefit, return-on-investment, or  
 352 dynamic scoring techniques to determine how the long-term  
 353 economic growth potential of the disproportionately affected  
 354 counties may be enhanced by the investment.

355 (b) Increase household income in the disproportionately  
 356 affected counties above national average household income.

357 ~~(c) Expand high growth industries or establish new high~~  
 358 ~~growth industries in the region.~~

359 ~~1. Industries that are supported must have strong growth~~  
 360 ~~potential in the disproportionately affected counties.~~

361 ~~2. An industry's growth potential is defined based on a~~  
 362 ~~detailed review of the current industry trends nationally and~~  
 363 ~~the necessary supporting asset base for that industry in the~~  
 364 ~~disproportionately affected counties region.~~

365 (c)~~(d)~~ Leverage or further enhance key regional assets,  
 366 including educational institutions, research facilities, and  
 367 military bases.

368 (d)~~(e)~~ Partner with local governments to provide funds,  
 369 infrastructure, land, or other assistance for the project.

370 ~~(f) Have investment commitments from private equity or~~  
 371 ~~private venture capital funds.~~

372 ~~(g) Provide or encourage seed stage investments in start-~~  
 373 ~~up companies.~~

374 ~~(h) Provide advice and technical assistance to companies~~  
 375 ~~on restructuring existing management, operations, or production~~

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376 ~~to attract advantageous business opportunities.~~

377 (e)~~(i)~~ Benefit the environment in addition to the economy.

378 (f)~~(j)~~ Provide outcome measures ~~for programs of excellence~~  
 379 ~~support, including terms of intent and metrics.~~

380 (g)~~(k)~~ Partner with K-20 educational institutions or  
 381 school districts located within the disproportionately affected  
 382 counties.

383 ~~(l) Partner with convention and visitor bureaus, tourist~~  
 384 ~~development councils, or chambers of commerce located within the~~  
 385 ~~disproportionately affected counties.~~

386 (3) Triumph Gulf Coast, Inc., may make awards as  
 387 applications are received or may establish application periods  
 388 for selection. Awards may not be used to finance 100 percent of  
 389 any project or program. Triumph Gulf Coast, Inc., may require a  
 390 one-to-one private-sector match or higher for an award, if  
 391 applicable and deemed prudent by the board of directors. An  
 392 awardee may not receive all of the funds ~~earnings~~ or available  
 393 in the trust account ~~principal~~ in any given year. Triumph Gulf  
 394 Coast, Inc., shall ensure that each of the eight  
 395 disproportionately affected counties directly benefit from  
 396 awards and ensure that at least 4 percent of funds appropriated  
 397 for awards from the Triumph Gulf Coast Trust Fund are expended  
 398 in each of those counties over the lifetime of the settlement  
 399 agreement.

400 (4) A contract executed by Triumph Gulf Coast, Inc., with

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401 an awardee must include provisions requiring a performance  
 402 report on the contracted activities, must account for the proper  
 403 use of funds provided under the contract, and must include  
 404 provisions for recovery of awards in the event the award was  
 405 based upon fraudulent information or the awardee is not meeting  
 406 the performance requirements of the award. Awardees must  
 407 regularly report to Triumph Gulf Coast, Inc., the expenditure of  
 408 funds and the status of the project or program on a schedule  
 409 determined by the corporation.

410 Section 8. Section 377.43, Florida Statutes, is repealed.

411 Section 9. Effective July 1, 2017, the sum of \$299,000,000  
 412 in nonrecurring funds from the Triumph Gulf Coast Trust Fund is  
 413 appropriated to Triumph Gulf Coast, Inc., for deposit into the  
 414 trust account to fund awards for programs and projects  
 415 authorized in s. 288.8017.

416 Section 10. The sum of \$1,000,000 in nonrecurring funds  
 417 from the Triumph Gulf Coast Trust Fund is appropriated to  
 418 Triumph Gulf Coast, Inc., for deposit into the trust account to  
 419 pay administrative costs.

420 Section 11. Notwithstanding s. 216.301, and pursuant to s.  
 421 216.351, funds appropriated pursuant to this act for the 2017-  
 422 2018 fiscal year may be expended through the 2018-2019 fiscal  
 423 year.

424 Section 12. The revision to s. 288.8014(4), made by this  
 425 act applies only to persons who serve on the board of trustees

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426 | of Triumph Gulf Coast, Inc., on or after July 1, 2017.

427 |       Section 13. This act shall take effect upon becoming a  
428 | law.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB SOT 17-01a Gulf Coast Economic Corridor  
**SPONSOR(S):** Select Committee on Triumph Gulf Coast  
**TIED BILLS:** PCB SOT 17-02a **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Select Committee on Triumph Gulf Coast		Smith	Hamby

### SUMMARY ANALYSIS

The Gulf Coast Economic Corridor Act (act) was passed by the 2013 Legislature to create Triumph Gulf Coast, Inc., a nonprofit corporation administratively housed within the Department of Economic Opportunity (department). The act directed the corporation to create and administer a trust or "recovery fund" for the benefit of the disproportionately affected counties. The principal of the fund was to be derived from seventy-five percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon oil spill.

PCB SOT 17-01a (PCB) substantially amends the act to require seventy-five percent of all payments Florida receives pursuant to the settlement agreement between the five gulf states and the BP entities be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund (created in PCB SOT 17-02a) within the department. The PCB repeals existing statutory provisions relating to the recovery fund, the investment of funds, money managers, and investment earnings.

The PCB revises provisions in the act governing the corporation's board of directors and its operations. The current requirement that a member of the board refrain from having any direct interest in any contract, franchise, privilege, project, program, or other benefit arising from an award by the corporation is extended from two years to six years after termination of appointment. The same change is applied to the corporation's staff. Additional changes address administrative expenses and the corporation's staff.

The PCB revises the type of awards the corporation is authorized to make and the criteria used to prioritize projects and programs. The corporation is required to ensure that each of the eight disproportionately affected counties directly benefit from awards and to ensure that at least 4 percent of funds appropriated for awards from the Triumph Gulf Coast Trust Fund are expended in each county over the lifetime of the settlement agreement.

The PCB repeals s. 377.43, F.S., relating to the disbursement of funds received for damages caused by the Deepwater Horizon oil spill, which was passed during the 2011 Legislative Session.

Effective July 1, 2017, the PCB appropriates \$299,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation to fund awards for programs and projects authorized in the act. The PCB also appropriates \$1,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation to pay administrative costs. The PCB authorizes appropriated funds to be expended through the 2018-2019 fiscal year.

The PCB has an effective date of upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Deepwater Horizon Oil Spill**

On April 20, 2010, an offshore drilling rig known as the Deepwater Horizon exploded, caught fire, and eventually sank, resulting in a massive release of oil and other substances from BP's Macondo well. Initial efforts to cap the well following the explosion were unsuccessful, and for 87 days the well blasted oil and natural gas continuously and uncontrollably into the northern Gulf of Mexico.<sup>1</sup> According to the U.S. District Court's findings of fact, approximately 3.19 million barrels (134 million gallons) of oil were released into the ocean (U.S. v. BP et al. 2015), resulting in the largest offshore marine oil spill in U.S. history.

Cumulatively, over the course of the spill, oil was detected on over 43,300 square miles of the ocean, an area about the size of Virginia. Currents, winds, and tides carried these surface oil slicks to the Gulf states, fouling more than 1,300 miles of shoreline, including beaches, bays, estuaries, and marshes from eastern Texas to the Florida Panhandle.<sup>2</sup>

##### **Deepwater Horizon Settlement - Economic Damages**

On April 4, 2016, a federal court in New Orleans entered a consent decree resolving civil claims against BP arising from the April 20, 2010 Macondo well blowout and the resulting oil spill in the Gulf of Mexico. The settlement resolves the economic loss claims asserted by Florida, Alabama, Louisiana, Mississippi, and Texas; the natural resources claims of the various state and federal trustees; and the Clean Water Act penalties sought by the federal government. Taken together the resolution of claims is worth more than \$20 billion, with Florida receiving a total of \$2 billion for economic damages alone.

Under the economic damages settlement, BP will pay Florida \$2 billion that resolves the economic damage claims arising from Deepwater Horizon incident. Florida will receive payments over the course of several years per an agreed schedule. An initial payment of \$400 million was received in 2016 and, beginning in 2019, Florida will receive annual payments of approximately \$106,666,666 through 2033.<sup>3</sup>

##### **Disbursement of funds received for damages caused by the Deepwater Horizon oil spill**

In 2011, to address the negative economic impacts of the Deepwater Horizon oil spill, the Legislature established section 377.43, F.S., which broadly addressed the use of any funds that the state may receive from any government or private entity for damages caused by the Deepwater Horizon oil spill. Specifically, the legislation:

- Defined the term "disproportionately affected county" to mean Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County;
- Allowed seventy-five percent of funds received for damages from the oil spill to be used for specified types of expenditures in any disproportionately affected county;

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<sup>1</sup> Deepwater Horizon Natural Resource Damage Assessment Trustees. (2016). *Deepwater Horizon oil spill: Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement*. Retrieved from <http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>

<sup>2</sup> *Id.*

<sup>3</sup> *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, No. 2:10-md-02179-CJB-SS, Doc. No. 15435-2, Joint Motion for Dismissal at 42 (E.D. La. Oct., 5, 2015).

- Allowed the remaining twenty-five percent of such funds to be used for the same specified types of expenditures in any non-disproportionately affected county; and
- Designated the Department of Environmental Protection as the lead agency for expending funds designated for environmental restoration efforts and the Department of Economic Opportunity as the lead agency for expending funds designated for economic incentives and diversification efforts.

### **Gulf Coast Economic Corridor Act**

Subsequent to the 2011 legislation, new legislation known as the “Gulf Coast Economic Corridor Act”<sup>4</sup> was enacted by the 2013 Legislature, and amended in 2014. Unlike the 2011 legislation, this act specifically addresses the use of funds recovered by the Attorney General for economic damages to the state resulting from the Deepwater Horizon oil spill. The intent was to provide a long-term source of funding for efforts of economic recovery and enhancement to the Gulf Coast region.<sup>5</sup>

#### Creation of Triumph Gulf Coast, Inc.

Created within the act is a nonprofit corporation, to be known as Triumph Gulf Coast, Inc., administratively housed within the Department of Economic Opportunity. The corporation is directed to create and administer a trust or “recovery fund” for the benefit of the disproportionately affected counties. The principal of the fund is derived from seventy-five percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon oil spill.<sup>6</sup> The corporation is a separate budget entity and is not subject to control, supervision, or direction by the Department of Economic Opportunity in any manner.<sup>7</sup>

Anticipating a lump-sum payment of damages, the Recovery Fund is set in law to be maintained as a long-term and stable source of revenue, which shall decline over a 30-year period in equal amounts each year.<sup>8</sup> Earnings generated by investments and interest of the fund, plus the principal available each year, shall be used by the corporation to make awards and pay administrative costs. After a 30-year period, any funds remaining within the recovery fund are to revert to the State Treasury.<sup>9</sup>

Triumph Gulf Coast, Inc., is required to report on June 30 and December 30 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the financial status of the recovery fund and its investments, established priorities, project and program selection process, including a list of all submitted projects and reasons for approval or denial, and the status of all approved awards.<sup>10</sup> The duties of the corporation include the monitor, review, and annual evaluation of awardees and their projects or programs to determine whether an award should be continued, terminated, reduced, or increased.<sup>11</sup>

#### Organization: Board of Directors

The act provides general authority for Triumph Gulf Coast, Inc., to hire or contract necessary staff, but specifically requires the corporation to retain the following staff persons: a certified public accountant, a financial advisor, an economic advisor, and a legal advisor.<sup>12</sup> The corporation is limited to total administrative costs of 2.25 percent of annual earnings, which includes payment of investment fees,

<sup>4</sup> ss. 288.80–288.8017, F.S.

<sup>5</sup> s. 288.8011, F.S.

<sup>6</sup> After payment of reasonable and necessary attorney fees, costs, and expenses, including such attorney fees, costs, and expenses pursuant to s. 16.0155, F.S., relating to contingency fee agreements.

<sup>7</sup> s. 288.8013(1), F.S.

<sup>8</sup> s. 288.8013(3), F.S.

<sup>9</sup> s. 288.8013(3), F.S.

<sup>10</sup> s. 288.8013(5), F.S.

<sup>11</sup> s. 288.8016, F.S.

<sup>12</sup> s. 288.8014(9)(a)1.–4., F.S.

travel and per diem expenses, audits, salary for employed and contracted staff, and other allowable costs.<sup>13</sup> Employees of the corporation are required to comply with the code of ethics standards for public employees and must refrain from having a direct financial interest in contract, franchise, privilege, project, program, or other benefit arising from an award by Triumph Gulf Coast, Inc., during the term of his or her appointment and for two years after the termination of such appointment.<sup>14</sup>

A five-member board of directors is to govern Triumph Gulf Coast, Inc., comprised of individuals from the private sector, with the Trustees of the State Board of Administration<sup>15</sup>, the President of the Senate and the Speaker of the House of Representatives each appointing one member to the board.<sup>16</sup> Terms of the initial board of directors appointed by the State Board of Administration shall end 4 years after the Legislature appropriates funds to Triumph Gulf Coast, Inc. Terms of the initial board of directors appointed by the President of the Senate and the Speaker of the House of Representatives shall end 5 years after the Legislature appropriates funds to the Recovery Fund. Thereafter, each member of the board of directors shall serve for a term of 4 ears. A member is not eligible for reappointment to the board, however, any member appointed to fill a vacancy for a term of 2 years or less may be reappointed for an additional term of 4 years. Members of the board serve without compensation.<sup>17</sup>

The board is required to meet at least quarterly to review the Recovery Fund, establish and review priorities for economic recovery in disproportionately affected counties, and determine use of the earnings available.<sup>18</sup> The executive director of the Department of Economic Opportunity, the secretary of the Department of Environmental Protection, and the chair of the Committee of 8 Disproportionately Affected Counties<sup>19</sup>, or their designee, are required to be available for consult with the board of directors and may be requested to attend meetings. These members do not have the authority to vote on matters before the board.<sup>20</sup>

In addition to the powers and duties prescribed to non-profit corporations in ch. 617, F.S., and in the articles and by laws of corporation, the board of directors may:

- Enter into certain contracts or instruments;
- Make expenditures from earnings consistent with its powers;
- Adopt, use, and alter a common corporate seal; and
- In certain cases, when appropriate, use the state seal for standard corporate identity applications.<sup>21</sup>

Under no circumstances may the board pledge the credit of the State of Florida on behalf of Triumph Gulf Coast, Inc.<sup>22</sup>

### Awards Criteria

Triumph Gulf Coast, Inc., is authorized to make awards for projects or programs that provide for economic recovery, diversification, and enhancement of the disproportionately affected counties. Awards may be provided for:

- Ad valorem tax reduction;

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<sup>13</sup> s. 288.8013(3), F.S.

<sup>14</sup> s. 288.8014(9)(b), F.S.

<sup>15</sup> The Governor, the Chief Financial Officer, and the Attorney General are the Trustees of the State Board of Administration.

<sup>16</sup> s. 288.8014(2), F.S.

<sup>17</sup> To achieve staggered terms, the initial appointments to the board of directors made by the President of the Senate and the Speaker of the House of Representatives will be for a term of five years, other appointees will serve four year terms.

<sup>18</sup> s. 288.8014(7), F.S.

<sup>19</sup> The federal RESTORE Act directs Florida's share to "a consortia of local political subdivisions that include at least one representative of each affected county" which is known as the Gulf Consortium. The Committee of 8 Disproportionately Affected Counties is an advisory committee established within the Gulf Consortium.

<sup>20</sup> s. 288.8014(8), F.S.

<sup>21</sup> s. 288.8015, F.S.

<sup>22</sup> *Id.*



- Payment of impact fees;
- Administrative funding economic development organizations;
- Local match requirements for projects related to the:
  - Rural Infrastructure Fund (s. 288.0655, F.S.)
  - Local Government Distressed Area Matching Grant Program (s. 288.0659, F.S.)
  - Qualified Defense Contractor and Space Flight Business Tax Refund Program (s. 288.1045, F.S.)
  - Tax Refund Program for Qualified Target Industry Businesses (s. 288.106, F.S.)
- Economic development projects;
- Infrastructure projects shown to enhance economic development; and
- Grants related to:
  - Local government emergency preparedness and disaster response
  - Programs of excellence at K-20 institutions
  - Advertising and tourism promotion by Visit Florida (s. 288.1226, F.S.).<sup>23</sup>

The corporation must establish an application procedure for awards and a scoring process for the selection of projects and programs with priority given to projects and programs that:

- Generate maximum estimated economic benefit, based on certain tools and models;
- Increase household income above the national average household income;
- Expand high growth industries or establish new high growth industries;
- Leverage key regional assets, including educational institutions, research facilities, and military bases;
- Partner with local governments to provide funds, infrastructure, land, or other assistance;
- Receive investment commitments from private equity or venture capital funds;
- Provide seed stage investments in start-up companies;
- Provide advice and technical assistance to companies related to management or production;
- Benefit the environment and the economy;
- Provide outcome measures and metrics for programs of excellence support;
- Partner with K-20 educational institutions or school districts; and
- Partner with convention and visitor bureaus, tourist development councils, or chambers of commerce.<sup>24</sup>

The corporation may distribute awards as applications are received or after established application periods. Triumph Gulf Coast, Inc., has the flexibility to require a private-sector match as an application condition. An award may not finance 100 percent of any project or program nor shall an awardee receive all of the earnings or available principle in any given year.<sup>25</sup> Awarded contracts must include a required performance report on contracted activities, an accounting of the proper use of funds, and a provision for the recovery of the award if warranted. The status of the project or program must be regularly reported to Triumph Gulf Coast, Inc. by an awardee based on a determined schedule.<sup>26</sup>

### *Audit and Reporting Requirements*

The Auditor General must conduct an operational audit of the Recovery Fund and Triumph Gulf Coast, Inc., annually.<sup>27</sup> Additionally, the independent certified public accountant, required to be retained by Triumph Gulf Coast, Inc., must annually conduct an audit of the investment of the Recovery Fund and the expenditure of earnings and available principle disbursed by the corporation.<sup>28</sup>

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<sup>23</sup> s. 288.8017(1), F.S.

<sup>24</sup> s. 288.8017(2), F.S.

<sup>25</sup> s. 288.8017(3), F.S.

<sup>26</sup> s. 288.8017(4), F.S.

<sup>27</sup> s. 288.8013(6), F.S.

<sup>28</sup> s. 288.8013(4)(d), F.S. and s. 288.8014(9)(a)1., F.S.

Any local government entity which receives or expends funds related to the Deepwater Horizon oil spill, including funds provided through the RESTORE Act and by Triumph Gulf Coast, Inc., must include an accounting of such funds when conducting their annual financial audit pursuant to s. 218.39, F.S.. The Auditor General must biennially conduct an operational audit of any oil spill funds received or expended by a local government entity and is authorized to report findings to the Secretary of the Treasury of the United States in addition to reporting requirements mandated by state law.<sup>29</sup>

### **Effect of Proposed Changes**

#### **Triumph Gulf Coast, Inc.**

##### **Funding**

PCB SOT 17-01a (PCB) requires seventy-five percent of all payments to the State of Florida pursuant to the settlement agreement entered into on October 5, 2015, in the case styled *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico*, on April 20, 2010, MDL 2179 in the United States District Court for the Eastern District of Louisiana, be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund (created in PCB SOT 17-02a) within the Department of Economic Opportunity (department).

Triumph Gulf Coast, Inc. (corporation), is required to establish a trust account at a federally insured financial institution to hold funds released to it from the Triumph Gulf Coast Trust Fund and make deposits and payments. The PCB requires interest earned in the corporation's trust account be deposited monthly into the Triumph Gulf Coast Trust Fund.

The PCB repeals provisions in the Gulf Coast Economic Corridor Act (act) relating to the recovery fund, the investment of funds, money managers, and investment earnings that were enacted by the 2013 Legislature under the assumption the corporation would receive a single payment from any settlement agreement to manage and spend over a thirty year period. Since, as explained in the Present Situation, the settlement payments are spread over 18 years, this approach is no longer applicable.

##### **Board of Directors**

The PCB makes several changes to provisions in the act relating to the corporation's board of directors and their responsibilities. These changes include:

- Extending from two years to six years after termination of appointment, the current requirement that a member of the board of directors refrain from having any direct interest in any contract, franchise, privilege, project, program, or other benefit arising from an award by the corporation. This revision applies only to members serving on the corporation's board of directors on or after July 1, 2017.
- Revising the list of staff the corporation is required to retain to delete the requirement to retain a financial advisor and an economic advisor, but leaving in place the requirement to retain an independent certified public accountant and a legal advisor.
- Limiting the annual salary for any single employee or contracted staff to no more than \$130,000, and limits associated benefits to not more than thirty-five percent of salary.
- Explicitly requiring, rather than directing the corporation to require, all employees of the corporation to comply with the code of ethics for public employees under part III of ch. 112, F.S.
- Extending from two years to six years after termination of appointment, the current requirement that retained staff refrain from having any direct interest in any contract, franchise, privilege, project, program, or other benefit arising from an award by the corporation.
- Limiting the corporation's allowed administrative costs to amounts appropriated for this purpose.

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<sup>29</sup> s. 288.8018, F.S.

## Awards

The PCB substantially revises provisions in the act governing awards the corporation is authorized to make. As revised, the following types of awards are allowed:

- Ad valorem tax rate reduction within disproportionately affected counties.
- Local match requirements of s. 288.0655, F.S., (Rural Infrastructure Fund) for projects in the disproportionately affected counties.
- Public infrastructure projects that are shown to enhance economic recovery, diversification, and enhancement of the disproportionately affected counties.
- Grants to local governments in the disproportionately affected counties to establish and maintain equipment and trained personnel for local action plans of response to respond to disasters, such as plans created for the Coastal Impacts Assistance Program.
- Early childhood development and educational programs and services for children from birth to 5 years of age in the disproportionately affected counties.
- Grants to support programs that prepare students for future occupations and careers at K-20 institutions that have campuses in the disproportionately affected counties.
- Grants to support programs that provide participants in the disproportionately affected counties with transferrable, sustainable workforce skills that are not confined to a single employer.
- Grants to the tourism entity created under s. 288.1226, F.S., for the purpose of advertising and promoting tourism, Fresh From Florida, or related content on behalf of one or all of the disproportionately affected counties.

The following currently authorized types of programs and projects are deleted:

- Payment of impact fees imposed within disproportionately affected counties.
- Administrative funding for economic development organizations located within the disproportionately affected counties.
- Local match requirements of ss. 288.0659, F.S., (Local Government Distressed Area Matching Grant Program), 288.1045, F.S., (Qualified Defense Contractor and Space Flight Business Tax Refund Program), and 288.106 F.S., (Tax Refund Program for Qualified Target Industry Businesses).
- Economic development projects in the disproportionately affected counties.

The PCB also revises provisions directing priority to be given to projects and programs meeting certain criteria to reflect the deletion of some types of projects and programs from the list of eligible programs and projects. Current provisions governing contracts with awardees are revised to require awardees to regularly report to the corporation the expenditure of funds on a schedule determined by the corporation.

The PCB requires the corporation to publish on its website, no less than 14 calendar days prior to making an award, its intent to make the award and a summary of the proposed project or program to be funded.

The PCB requires the corporation to ensure that each of the eight disproportionately affected counties directly benefit from awards and to ensure that at least 4 percent of funds appropriated for awards from the Triumph Gulf Coast Trust Fund are expended in each county over the lifetime of the settlement agreement.

## **Repeal of 2011 Statute**

The PCB repeals s. 377.43, F.S., which was passed during the 2011 Legislative Session and, for purposes of the eight disproportionately affected counties, was supplanted by the passage of the act in 2013. The net effect is to repeal language that addresses the uses of the remaining 25 percent of funds received by the state from any governmental or private entity for damages caused by the Deepwater Horizon oil spill.

## **Appropriations**

Effective July 1, 2017, the PCB appropriates \$299,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation for deposit into the trust account to fund awards for programs and projects authorized in s. 288.8017, F.S. In addition, the PCB appropriates \$1,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation for deposit in the trust account to pay administrative costs. The PCB authorizes funds appropriated in the proposed bill to be expended through the 2018-2019 fiscal year.

### **B. SECTION DIRECTORY:**

**Section 1** amends s. 288.80, F.S., to conform provisions related to the short title.

**Section 2** amends s. 288.8012, F.S., relating to definitions.

**Section 3** amends s. 288.8013, F.S., relating to the creation of Triumph Gulf Coast, Inc., the Recovery Fund, investment, and funding.

**Section 4** amends s. 288.8014, F.S., relating to the organization and board of directors of Triumph Gulf Coast, Inc.

**Section 5** amends s. 288.8015, F.S., relating to the powers of the board of directors of Triumph Gulf Coast, Inc., conforming provisions.

**Section 6** amends 288.8016, F.S., relating to the duties of Triumph Gulf Coast, Inc.

**Section 7** amends s. 288.8017, F.S., relating to awards Triumph Gulf is authorized to make.

**Section 8** repeals s. 377.43, F.S., relating to the disbursement of funds received for damages caused by the Deepwater Horizon oil spill.

**Section 9** appropriates \$299,000,000, effective July 1, 2017, to Triumph Gulf Coast, Inc., to fund awards.

**Section 10** appropriates \$1,000,000 to Triumph Gulf Coast, Inc., to pay administrative costs.

**Section 11** authorizes funds appropriated in the PCB to be expended through the 2018 – 2019 fiscal year, notwithstanding s. 216.301, F.S., and pursuant to s. 216.351, F.S.

**Section 12** provides that the amendments to s. 288.8014(4), F.S., relating to the extension of the post service prohibitions, do not apply to any person unless the person is a member of the board of directors of Triumph Gulf Coast, Inc., on or after July 1, 2017.

**Section 13** 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:

Effective July 1, 2017, the PCB appropriates \$299,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation for deposit into the trust account established by the corporation to fund awards for programs and projects authorized in s. 288.8017, F.S. In addition, the PCB appropriates \$1,000,000 in nonrecurring funds from the Triumph Gulf Coast Trust Fund to the corporation for deposit into the trust account to pay administrative costs. The PCB authorizes funds appropriated in the proposed bill to be expended through the 2018-2019 fiscal year.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

PCB SOT 17-01a (PCB) requires seventy-five percent of all payments to the State of Florida pursuant to the settlement agreement entered into on October 5, 2015, in the case styled *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico*, on April 20, 2010, MDL 2179 in the United States District Court for the Eastern District of Louisiana, be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund (created in PCB SOT 17-02a) within the Department of Economic Opportunity (department).

An initial payment of \$400 million was received in 2016 and, beginning in 2019, Florida will receive annual payments of approximately \$106,666,666 through 2033. Pursuant to the provisions in section 2 of the bill, upon taking effect the bill will require the transfer of \$300,000,000 from the General Revenue Fund to the Triumph Gulf Coast Trust Fund. Beginning in 2019 through 2033, it is anticipated the bill will require the transfer of approximately \$80 million each year from the General Revenue Fund to the Triumph Gulf Coast Trust Fund.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

BILL

ORIGINAL

YEAR

1                                    A bill to be entitled  
 2                    An act relating to trust funds; creating s. 288.80125,  
 3                    F.S.; creating the Triumph Gulf Coast Trust Fund  
 4                    within the Department of Economic Opportunity;  
 5                    exempting the trust fund from the general revenue  
 6                    service charge; providing for purpose of trust fund  
 7                    and source of funds; providing for future review and  
 8                    termination or re-creation of trust fund; providing a  
 9                    contingent effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13                    Section 1. Section 288.80125, Florida Statutes, is created  
 14 to read:

15                    288.80125 Triumph Gulf Coast Trust Fund.—

16                    (1) The Triumph Gulf Coast Trust Fund is created within  
 17 the department. The trust fund is established as a depository  
 18 for funds transferred, as set forth in s. 288.8013, from the  
 19 General Revenue Fund pursuant to the settlement agreement  
 20 entered into on October 5, 2015, in the case styled *In re: Oil*  
 21 *Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico,*  
 22 *on April 20, 2010, MDL 2179 in the United States District Court*  
 23 for the Eastern District of Louisiana. The trust fund is exempt  
 24 from the general revenue service charge provided in s. 215.20.

25                    (2) Funds from the trust fund shall be used for the

BILL

ORIGINAL

YEAR

26 | purposes described in ss. 288.8011-288.8018.

27 |       (3) In accordance with s. 19(f)(2), Art. III of the State  
 28 | Constitution, the Triumph Gulf Coast Trust Fund shall, unless  
 29 | terminated sooner, be terminated on July 1, 2021. Before its  
 30 | scheduled termination, the trust fund shall be reviewed as  
 31 | provided in s. 215.3206(1) and (2).

32 |       Section 2. This act shall take effect on the same date  
 33 | that PCB SOT 17-01 or similar legislation takes effect, if such  
 34 | legislation is enacted in the same legislative session or an  
 35 | extension thereof and becomes law, and only if this act is  
 36 | enacted by a three-fifths vote of the membership of each house  
 37 | of the Legislature.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB SOT 17-02a Triumph Gulf Coast Trust Fund  
**SPONSOR(S):** Select Committee on Triumph Gulf Coast  
**TIED BILLS:** PCB SOT 17-01a **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Select Committee on Triumph Gulf Coast		Smith	Hamby

### SUMMARY ANALYSIS

Section 19(f), Art. III of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund.

A companion bill to this bill, PCB SOT 17-01a relates to the Gulf Coast Economic Corridor. That bill amends s. 288.8013, F.S. to require that seventy-five percent of all payments to the State of Florida pursuant to the settlement agreement entered into on October 5, 2015, in the case styled *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL 2179 in the United States District Court for the Eastern District of Louisiana be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity. That bill also amends s. 288.8017, F.S. to authorize Triumph Gulf Coast Inc., to make awards to projects or programs for certain specified purposes.

This bill creates the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity and provides that the trust fund is established as a depository for the settlement funds described above. The bill also provides that the funds shall be used in conformity with the requirements of ss. 288.8011-288.8018, F.S., as amended by PCB SOT 17-01a, and exempts the trust fund from the general revenue service charge provided in s. 215.20, F.S.

This bill has no fiscal impact. The bill takes effect on the same date that PCB SOT 17-01a or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes law, and only if this act is enacted by a three-fifths vote of the membership of each house of the Legislature.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

*Constitutional requirements:* Section 19(f), Art. III of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. State trust funds terminate not more than four years after the initial creation unless re-created.

*Provisions of companion bill:* A companion bill to this bill, PCB SOT 17-01a relates to the Gulf Coast Economic Corridor. That bill amends s. 288.8013, F.S. to require that seventy-five percent of all payments to the State of Florida pursuant to the settlement agreement entered into on October 5, 2015, in the case styled *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL 2179 in the United States District Court for the Eastern District of Louisiana be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity. The bill also amends s. 288.8017, F.S. to authorize Triumph Gulf Coast Inc., to make awards to projects or programs for certain specified purposes.

*Creation of trust fund:* This bill creates the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity for the deposit of the settlement funds described above. This bill provides that funds from the trust fund shall be used for the purposes described in ss. 288.8011-288.8018, F.S., as amended by the companion bill.

Pursuant to the requirements of the Florida Constitution, the trust fund will terminate on July 1, 2021, unless re-created by the Legislature.

#### B. SECTION DIRECTORY:

Section 1 creates s. 288.80125, F.S. relating to the Triumph Gulf Coast Trust Fund.

Section 2 provides effective date contingent on passage of PCB SOT 17-01a and a three-fifths vote of the membership of each house of the Legislature.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill has no fiscal impact.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

# MIAF Bill Tracking

Sorted by Bill Number

- HB 9** **Relating to Florida Tourism Industry Marketing Corporation** Renner  
Florida Tourism Industry Marketing Corporation: Authorizes Florida Tourism Industry Marketing Corporation to enter into agreement with DEO for certain purposes & to use certain funds; provides that certain funds shall be transferred to or deposited in General Revenue Fund; transfers certain responsibilities from Enterprise Florida, Inc., to DEO; terminates certain trust funds; revises provisions relating to expenses, funds, duties, & transparency of corporation & requires one-to-one match of private to public contributions to corporation; terminates Division of Tourism Marketing of Enterprise Florida, Inc. Effective Date: July 1, 2017  
3/6/2017 HOUSE Placed on Special Order Calendar for 03/09/2017
- SB 10** **Relating to Water Resources** Bradley  
Water Resources; Providing an exception to the requirement that bonds issued for acquisition and improvement of land, water areas, and related property interests and resources be deposited into the Florida Forever Trust Fund and distributed in a specified manner; requiring the South Florida Water Management District to seek proposals from willing sellers of property within the Everglades Agricultural Area for land that is suitable for the reservoir project; increasing the minimum annual funding for certain Everglades projects under specified circumstances, etc. APPROPRIATION: Indeterminate. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law  
3/3/2017 SENATE On Committee agenda - Appropriations Subcommittee on the Environment and Natural Resources, 03/08/17, 9:30 am, 301 S
- HB 13** **Relating to Community Redevelopment Agencies** Raburn  
Community Redevelopment Agencies: Providing reporting requirements; revises requirements for operating community redevelopment agencies; prohibits creation of new community redevelopment agencies after date certain; provides phase-out period; creates criteria for determining whether community redevelopment agency is inactive; provides hearing procedures; authorizes certain financial activity from inactive community redevelopment agencies; revises requirements for use of redevelopment trust fund proceeds; revises county & municipal governments reporting requirements; revises criteria for finding that county or municipality failed to file report; requires DFS to provide report to DEO concerning community redevelopment agencies with no revenues, expenditures, or debts. Effective Date: July 1, 2017  
3/6/2017 HOUSE On Committee agenda - Local, Federal & Veterans Affairs Subcommittee, 03/08/17, 8:00 am, 12 H
- HB 17** **Relating to Local Regulation Preemption** Fine  
Local Regulation Preemption: Prohibits certain local governments from imposing or adopting certain regulations on businesses, professions, & occupations after certain date; preempts to state regulations concerning businesses, professions, & occupations; provides exceptions to preemption. Effective Date: July 1, 2017  
2/23/2017 HOUSE Committee Substitute Text (C1) Filed
- SB 64** **Relating to State Park Fees** Bean  
State Park Fees; Providing certain discounts on state park fees to specified foster and adoptive families; requiring the Division of Recreation and Parks within the Department of Environmental Protection to establish certain documentation standards and create a procedure for obtaining the discounts, etc. Effective Date: 7/1/2017  
2/24/2017 SENATE Now in Appropriations Subcommittee on the Environment and Natural Resources
- HB 99** **Relating to Internship Tax Credit Program** Jones  
Internship Tax Credit Program: Authorizes corporate income tax credit of up to specified amount for degree-seeking student hired by certain businesses after internship by student; provides eligibility criteria; authorizes DOR to adopt rules governing applications & establish qualification requirements; authorizes business to carry forward tax credit for specified period. Effective Date: July 1, 2017  
1/9/2017 HOUSE Now in Post-Secondary Education Subcommittee
- SB 140** **Relating to Openly Carrying a Handgun** Steube  
Openly Carrying a Handgun; Authorizing a compliant licensee to openly carry a handgun, etc. Effective Date: 7/1/2017  
1/4/2017 SENATE Meeting Cancelled - Judiciary, 01/10/17, 2:00 pm, 110 S
- SB 160** **Relating to Minimum Wage** Rodriguez (J)  
Minimum Wage; Revising the formula for the adjusted state minimum wage, etc. Effective Date: 7/1/2017  
1/10/2017 SENATE Referred to Commerce and Tourism; Community Affairs; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
- HB 181** **Relating to Natural Hazards** Jacobs  
Natural Hazards: Creates interagency workgroup to share information, coordinate efforts, & collaborate on initiatives relating to natural hazards; requires certain agencies to designate liaisons to the workgroup; requires the Division of Emergency Management to prepare annual report; requires report to be posted on agency websites & submitted to the Governor & Legislature. Effective Date: July 1, 2017  
3/3/2017 HOUSE On Committee agenda - Natural Resources & Public Lands Subcommittee, 03/07/17, 4:00 pm, 12 H

- HB 185** **Relating to State Park Fees** Lee Jr. (L)  
State Park Fees: Provides certain discounts on state park fees to specified foster & adoptive families; requires Division of Recreation & Parks within DEP to establish certain documentation standards & create procedure for obtaining discounts. Effective Date: July 1, 2017  
3/3/2017 HOUSE On Committee agenda - Natural Resources & Public Lands Subcommittee, 03/07/17, 4:00 pm, 12 H
- SB 198** **Relating to Environmental Regulation Commission** Stewart  
Environmental Regulation Commission; Requiring the Governor to make appointments to the commission within a certain time frame; allowing for provisional membership under certain circumstances, etc. Effective Date: 7/1/2017  
1/10/2017 SENATE Referred to Environmental Preservation and Conservation; Ethics and Elections; Rules
- SB 230** **Relating to Nonnative Animals** Artilles  
Nonnative Animals; Directing the Fish and Wildlife Conservation Commission, in consultation with the Department of Environmental Protection, to establish a pilot program for the eradication of specific species; requiring the commission to enter into specified contracts, etc. Effective Date: 7/1/2017  
2/24/2017 SENATE Now in Appropriations Subcommittee on the Environment and Natural Resources
- SB 234** **Relating to Land Acquisition Trust Fund** Bradley  
Land Acquisition Trust Fund; Requiring a specified appropriation for certain projects related to the St. Johns River and its tributaries or the Keystone Lake Region, etc. APPROPRIATION: Indeterminate Effective Date: 7/1/2017  
3/3/2017 SENATE On Committee agenda - Appropriations Subcommittee on the Environment and Natural Resources, 03/08/17, 9:30 am, 301 S
- SB 236** **Relating to Sports Development** Lee (T)  
Sports Development; Repealing provisions relating to state funding for sports facility development by a unit of local government, or by a certified beneficiary or other applicant, on property owned by the local government, etc. Effective Date: 7/1/2017  
1/12/2017 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations; Rules
- HB 269** **Relating to High-Speed Passenger Rail** Magar  
High-Speed Passenger Rail: Provides powers & duties of DOT; authorizes DOT to regulate railroads & collect information; requires DOT to keep records, offer accident response training, & adopt rules; provides reporting requirements for railroad companies; provides minimum safety standards & requirements for operating high-speed passenger rail system; requires compliance w/federal laws & regulations; requires construction, maintenance, & repair of infrastructure; provides railroad inspector certification requirements; requires coordination w/federal inspectors; requires DOT to adopt rules for conducting field surveys & to hold public meetings; requires railroad companies to construct & maintain fences, be liable for certain damages, & be responsible for certain improvements/upgrades; prohibits local government/state from being responsible for certain costs; provides for calculation & disposition of administrative fines; authorizes certain suits; provides for attorney fees & costs; authorizes local governments to enact certain railroad speed ordinances. Effective Date: July 1, 2017  
1/25/2017 HOUSE Now in Transportation & Infrastructure Subcommittee
- HB 275** **Relating to State Work Opportunity Tax Credit** Alexander  
State Work Opportunity Tax Credit: Provides credit against corporate income tax for businesses hiring certain persons convicted of felony; provides requirements & limitations; requires DOR & DEO to adopt rules & authorizes certain guidelines. Effective Date: upon becoming a law  
2/8/2017 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/10/17, 10:00 am, 117 K (No Votes Will Be Taken)
- SB 276** **Relating to State Work Opportunity Tax Credit** Bracy  
State Work Opportunity Tax Credit; Providing an additional credit against the corporate income tax, beginning on a specified date and under certain circumstances, for businesses hiring certain persons convicted of a felony, etc. Effective Date: Upon becoming a law  
2/8/2017 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/10/17, 10:00 am, 117 K (No Votes Will Be Taken)
- SB 282** **Relating to Towing and Storage Fees** Artilles  
Towing and Storage Fees; Prohibiting counties and municipalities from enacting certain ordinances or rules to impose a fee or charge on wrecker operators or vehicle storage companies, etc. Effective Date: 7/1/2017  
1/25/2017 SENATE Referred to Community Affairs; Transportation; Appropriations Subcommittee on Finance and Tax; Appropriations
- HB 333** **Relating to Rural Economic Development Initiative** Clemons (C)  
Rural Economic Development Initiative: Requires analysis of Rural Economic Development Initiative (REDI) & rural areas of opportunity; revises legislative intent; redefines term "rural area of opportunity"; revises duties, responsibilities, & membership of REDI; revises reporting requirements. Effective Date: upon becoming a law  
2/6/2017 HOUSE Now in Agriculture & Property Rights Subcommittee

- HB 349** **Relating to Legislation by Initiative** Geller  
 Legislation by Initiative: Proposes amendment to State Constitution to allow proposal of laws by initiative without legislative or gubernatorial approval; prescribe requirements for subject matter, proposal, & approval of such initiatives; require extraordinary vote of each house of Legislature to amend or repeal laws approved by voters; require Legislature to adopt procedures for initiatives; provide for Supreme Court review of initiative petitions; require ballot statements for such initiatives to include statement of economic impact.  
 2/6/2017 HOUSE Now in Oversight, Transparency & Administration Subcommittee
- SB 364** **Relating to Recovery Fund for the Deepwater Horizon Incident** Gainer  
 Recovery Fund for the Deepwater Horizon Incident; Revising the funding source of the principal of the Recovery Fund for the Deepwater Horizon incident; requiring that certain funds be transferred to the Recovery Fund within a specified timeframe, etc. Effective Date: 7/1/2017  
 2/21/2017 SENATE Temporarily Postponed by Commerce and Tourism
- HB 365** **Relating to Legislative Reauthorization of Agency Rulemaking Authority** Eisnaugle  
 Legislative Reauthorization of Agency Rulemaking Authority: Provides for suspension of certain rulemaking authority after specified period until reauthorized by general law; provides for expiration of reauthorization after specified period; requires legislative ratification of rules adopted while rulemaking authority is suspended; authorizes Governor to delay suspension of rulemaking authority for specified period upon declaration of public necessity; provides exceptions; revises circumstances for renewal of emergency rules. Effective Date: July 1, 2017  
 2/6/2017 HOUSE Now in Oversight, Transparency & Administration Subcommittee
- SB 386** **Relating to High-speed Passenger Rail** Mayfield  
 High-speed Passenger Rail; Citing this act as the "Florida High-Speed Passenger Rail Safety Act"; providing minimum safety standards for high-speed passenger rail; providing certain requirements for railroad companies before operating a high-speed passenger rail system; requiring a railroad company operating a high-speed passenger rail system to be solely responsible for all rail corridor improvements or upgrades relating to its operation and safety, etc. Effective Date: 7/1/2017  
 2/1/2017 SENATE Referred to Transportation; Community Affairs; Appropriations
- SB 406** **Relating to Compassionate Use of Low-THC Cannabis and Marijuana** Bradley  
 Compassionate Use of Low-THC Cannabis and Marijuana; Authorizing physicians to issue physician certifications to specified patients who meet certain conditions; requiring written consent of a parent or legal guardian for the treatment of minors; requiring that certain physicians annually reexamine and reassess patients and update patient information in the compassionate use registry; requiring the Department of Health to register caregivers meeting certain requirements on the compassionate use registry; Effective Date: Upon becoming a law  
 2/1/2017 SENATE Referred to Health Policy; Appropriations Subcommittee on Health and Human Services; Appropriations
- HB 419** **Relating to Permits for Mangrove Alteration and Trimming** Altman  
 Permits for Mangrove Alteration and Trimming: Authorizes DEP to issue permits for mangrove alteration & trimming to owners of certain residential property; provides conditions for issuance of such permits. Effective Date: July 1, 2017  
 2/6/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee
- SB 532** **Relating to Public Notification of Pollution** Galvano  
 Public Notification of Pollution; Creating the "Public Notice of Pollution Act"; specifying authority of the Department of Environmental Protection; specifying that the act does not alter or affect the emergency management responsibilities of certain other governmental entities; requiring the department to establish and publish the types and amounts of a substance that, if released, would constitute a reportable release; specifying that providing a notice does not constitute an admission of liability or harm, etc. Effective Date: 7/1/2017  
 3/2/2017 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/07/17, 4:00 pm, 37 S
- HB 551** **Relating to Onsite Sewage Treatment and Disposal Systems** Stone  
 Onsite Sewage Treatment and Disposal Systems: Specifies appropriation from Land Acquisition Trust Fund for grant program to offset property owner costs to retrofit certain onsite sewage treatment & disposal systems, connect certain properties to central sewer systems, & for certain dredging & stormwater improvements; directs DEP to develop specified onsite sewage treatment & disposal system remediation plans under certain conditions. Effective Date: July 1, 2017  
 2/6/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee
- HB 555** **Relating to Sales and Use Tax Exemptions** Fischer  
 Sales and Use Tax Exemptions: Provides tax exemption for certain tangible personal property related to disaster preparedness; provides expiration date & appropriation. Effective Date: upon becoming law  
 2/15/2017 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/17/17, 1:30 pm, 117 K (No Votes Will Be Taken)
- HB 587** **Relating to Nonnative Animals** Beshears  
 Nonnative Animals: Directs FWCC, in consultation with DEP, to establish pilot program for eradication of specific

species; requires FWCC to enter into specified contracts & to submit report to Governor & Legislature; provides appropriation. Effective Date: July 1, 2017  
3/3/2017 HOUSE On Committee agenda - Natural Resources & Public Lands Subcommittee, 03/07/17, 4:00 pm, 12 H

- SB 600** **Relating to Rural Economic Development Initiative** Grimsley  
Rural Economic Development Initiative; Requiring an analysis of the Rural Economic Development Initiative and rural areas of opportunity; revising legislative intent relating to the Rural Economic Development Initiative; revising the duties, responsibilities, and membership of the Rural Economic Development Initiative, etc. Effective Date: Upon becoming a law  
2/9/2017 SENATE Referred to Commerce and Tourism; Agriculture; Governmental Oversight and Accountability;
- SB 614** **Relating to Medical Marijuana** Brandes  
Medical Marijuana; Creating the "Florida Medical Marijuana Act"; authorizing a qualifying patient or his or her caregiver to purchase, acquire, and possess up to the allowed amount of marijuana, medical marijuana products, and associated paraphernalia for a qualifying patient's medical use; providing that a physician must certify, on a specified form, that a patient is suffering from a debilitating medical condition and that the benefits to the patient of using marijuana outweigh the potential health risks before a patient may register with the department and obtain a registry identification card; requiring that the department create a secure, online, electronic medical marijuana patient registry containing a file containing specified information for each qualifying patient, caregiver, and certifying physician, etc. Effective Date: Upon becoming a law  
2/16/2017 SENATE Referred to Health Policy; Appropriations Subcommittee on Health and Human Services; Appropriations
- SB 620** **Relating to Concealed Weapons or Firearms** Steube  
Concealed Weapons or Firearms; Authorizing a concealed weapons or concealed firearms licensee to carry a concealed weapon or firearm into any meeting or committee meeting of the Legislature, etc. Effective Date: 7/1/2017  
2/16/2017 SENATE Referred to Judiciary; Governmental Oversight and Accountability; Rules
- SB 646** **Relating to Weapons And Firearms** Steube  
Weapons And Firearms; Providing that a person licensed to carry a concealed weapon or firearm who is lawfully carrying a firearm does not violate certain provisions if the firearm is temporarily and openly displayed; authorizing each member of the Florida Cabinet to carry a concealed weapon or firearm if he or she is licensed to carry a concealed weapon or firearm and does not have full-time security provided by the Department of Law Enforcement, etc. Effective Date: 7/1/2017  
3/2/2017 SENATE On Committee agenda - Judiciary, 03/07/17, 4:00 pm, 110 S
- HB 663** **Relating to Implementation of the Water and Land Conservation Constitutional Amendment** Peters  
Implementation of the Water and Land Conservation Constitutional Amendment: Requires minimum specified percentage of funds within Land Acquisition Trust Fund to be appropriated to DEP for specified water supply, water restoration, & water resource development projects; requires distribution to be reduced by amount equal to debt service paid on certain bonds. Effective Date: July 1, 2017  
2/15/2017 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee
- SB 664** **Relating to Disaster Preparedness Tax Exemption** Bean  
Disaster Preparedness Tax Exemption; Providing a sales and use tax exemption for certain tangible personal property related to disaster preparedness during a specified period, etc. Effective Date: Upon becoming a law  
3/6/2017 SENATE Favorable with CS by Commerce and Tourism; 8 Yeas, 0 Nays
- SB 718** **Relating to Vessel Registrations** Powell  
Vessel Registrations; Revising a reduction of vessel registration fees for recreational vessels equipped with certain position indicating and locating beacons, etc. APPROPRIATION: \$500,000.00 Effective Date: 7/1/2017  
2/22/2017 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/24/17, 9:00 am, 117 K (No Votes Will Be Taken)
- HB 753** **Relating to Contaminated Site Cleanup** Stone  
Contaminated Site Cleanup: Provides exceptions to certain application & cost-share requirements for advanced cleanup; specifies prioritization of requests; requires & authorizes DEP to make determinations & initiate activities relating to advanced clean up; increases amount of funds available for advanced cleanup work; requires certain funds be made available for certain tax credit authorizations. Effective Date: July 1, 2017  
2/23/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee
- SB 802** **Relating to Regulated Professions and Occupations** Passidomo  
Regulated Professions and Occupations; Requiring an individual applicant to apply for licensure in the name of the business organization that he or she proposes to operate under; requiring that a license be in the name of a qualifying agent rather than the name of a business organization; prohibiting a business organization from engaging in certain practices until it is qualified by a qualifying agent; requiring the board to certify an applicant to qualify one or more business organizations or to operate using a fictitious name under certain circumstances, etc. Effective Date: 10/1/2017  
3/3/2017 SENATE On Committee agenda - Regulated Industries, 03/08/17, 4:00 pm, 301 S

- HB 823** **Relating to Sharks** Miller (A)  
 Sharks: Prohibits possession, sale, offer for sale, trade, or distribution of shark fins & shark tails; provides exemptions for certain licensees & permitholders; requires FWCC to destroy certain shark fins & shark tails; provides penalties. Effective Date: October 1, 2017  
 3/3/2017 HOUSE On Committee agenda - Natural Resources & Public Lands Subcommittee, 03/07/17, 4:00 pm, 12 H
- HB 847** **Relating to Implementation of Water and Land Conservation Constitutional Amendment** Payne  
 Implementation of Water and Land Conservation Constitutional Amendment: Requires specified funds within Land Acquisition Trust Fund appropriation for restoration projects related to St. Johns River & tributaries or Keystone Lake Region; authorizes use of funds for certain land management & acquisition; requires distribution to be reduced by amount equal to debt service paid on certain bonds. Effective Date: July 1, 2017  
 2/23/2017 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee
- HB 855** **Relating to Sports Development** Avila  
 Sports Development: Repeals a provision relating to state funding for sports facility development by unit of local government, or by certified beneficiary or other applicant, on property owned by local government. Effective Date: July 1, 2017  
 2/17/2017 HOUSE Withdrawn prior to introduction
- HB 861** **Relating to Environmental Regulation Commission** Willhite  
 Environmental Regulation Commission: Requires Governor to make appointments to commission within certain time frame; allows for provisional membership under certain circumstances; requires supermajority vote for certain proposed rules. Effective Date: July 1, 2017  
 3/1/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee
- SB 884** **Relating to Sharks** Hutson  
 Sharks; Prohibiting the possession, sale, offer for sale, trade, or distribution of shark fins or shark tails; requiring any shark fin or shark tail seized by the Fish and Wildlife Conservation Commission to be destroyed, etc. Effective Date: 10/1/2017  
 2/23/2017 SENATE Referred to Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations
- HB 889** **Relating to Florida Government Support Organizations** Gruters  
 Florida Government Support Organizations: Revises responsibilities & duties of certain state government support organizations; requires DEO to perform certain responsibilities & duties regarding specified programs & organizations, rather than Enterprise Florida, Inc.; provides that Florida Tourism Industry Marketing Corporation is direct-support organization of DEO; requires DEO to establish Florida Sports Foundation as direct-support organization; requires Enterprise Florida, Inc., to develop, maintain, & market small business liasion service; repeals provisions relating to Division of Tourism Marketing. Effective Date: July 1, 2017  
 3/1/2017 HOUSE Now in Careers & Competition Subcommittee
- HB 897** **Relating to Public Notices by Local Governmental Entities** Stark  
 Public Notices by Local Governmental Entities: Authorizes certain local governmental entities to publish legally required notices & advertisements on publicly accessible websites under certain circumstances. Effective Date: October 1, 2017  
 3/1/2017 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee
- HB 945** **Relating to Minimum Wage** Jacquet  
 Minimum Wage: Revises formula for adjusted state minimum wage. Effective Date: July 1, 2017  
 3/1/2017 HOUSE Now in Careers & Competition Subcommittee
- SB 982** **Relating to Implementation of the Water and Land Conservation Constitutional Amendment** Mayfield  
 Implementation of the Water and Land Conservation Constitutional Amendment; Requiring a specified appropriation for certain projects related to the Indian River Lagoon system; requiring the distribution to be reduced by an amount equal to the debt service paid on certain bonds, etc. APPROPRIATION: Indeterminate Effective Date: 7/1/2017  
 2/23/2017 SENATE Referred to Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations
- HB 983** **Relating to Alcoholic Beverages** Altman  
 Alcoholic Beverages: Specifies persons who provide alcoholic beverages to certain identified persons are liable for injury or damage caused by intoxication; provides failure of person to check specified identification documents of minor to whom alcoholic beverage is served creates rebuttable presumption that person willfully & unlawfully sold or furnished alcoholic beverage; prohibits person from allowing party to take place if minor is in possession of or consuming alcohol or drugs; provides liability for damage or injury occurring as a result of allowing minor to possess or consume alcohol or drugs at open party. Effective Date: July 1, 2017  
 3/1/2017 HOUSE Now in Civil Justice & Claims Subcommittee
- HB 995** **Relating to Tax Incentive to Hire Veterans** Silvers



Tax Incentive to Hire Veterans: Creates "Florida Veterans Employment Act" to provide tax credit for hiring veterans & to establish additional credit for hiring disabled veterans; provides cap on total tax credits per calendar year; authorizes DOR to establish guidelines & to adopt emergency rules; revises "adjusted federal income" to include tax credit.

Effective Date: July 1, 2017

3/1/2017 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee

**SB 996**

**Relating to Administrative Proceedings**

Perry

Administrative Proceedings; Requiring an award of attorney fees and costs to be made to a prevailing party in specified administrative proceedings subject to certain requirements; requiring an administrative law judge to conduct an evidentiary hearing and issue a final order on application for such award, etc. Effective Date: 7/1/2017

2/23/2017 SENATE Referred to Judiciary; Appropriations Subcommittee on General Government; Appropriations

**HB 997**

**Relating to Florida Equal Access to Justice Act**

Killebrew

Florida Equal Access to Justice Act: Provides legislative intent re: persons who may be unjustly affected by delay & expense caused by challenges to permits/orders issued by government agencies initiated through administrative proceedings; provides for award of attorney fees & costs to prevailing party in administrative proceeding initiated by party seeking to challenge permit; provides procedures for applying for award & limits award. Effective Date: July 1, 2017

3/1/2017 HOUSE Now in Oversight, Transparency & Administration Subcommittee

**SB 1008**

**Relating to Public Records/Injured or Deceased Employee/Department of Financial Services**

Perry

Public Records/Injured or Deceased Employee/Department of Financial Services; Providing an exemption from public records requirements for the personal identifying information of an injured or deceased employee which is contained in certain notices or reports filed with the Division of Workers' Compensation of the Department of Financial Services; authorizing the division to disclose such information under certain circumstances; providing for future review and repeal of the exemption; providing a statement of public necessity, etc. Effective Date: 7/1/2017

2/23/2017 SENATE Referred to Banking and Insurance; Governmental Oversight and Accountability; Rules

**SB 1018**

**Relating to Contaminated Site Cleanup**

Grimsley

Contaminated Site Cleanup; Providing an exception to a requirement that an applicant for advanced cleanup demonstrate an ability to pay cost share; requiring that the Department of Environmental Protection determine whether specified requirements are acceptable under certain circumstances; authorizing the department to initiate site assessment and remediation activities under certain circumstances; requiring that certain funds not pledged as loan guarantees or loan loss reserves be made available for certain voluntary tax credit authorizations, etc. Effective Date: 7/1/2017

2/23/2017 SENATE Referred to Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations

**HB 1031**

**Relating to Marine Turtle Protection**

Altman

Marine Turtle Protection: Ranks & revises description of criminal violations of Marine Turtle Protection Act in offense severity ranking chart of Criminal Punishment Code. Effective Date: July 1, 2017

3/6/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee

**SB 1036**

**Relating to Permits for Mangrove Alteration and Trimming**

Mayfield

Permits for Mangrove Alteration and Trimming; Authorizing the Department of Environmental Protection to issue permits for mangrove alteration and trimming to the owner of certain residential property; providing conditions for issuance of such permits, etc. Effective Date: 7/1/2017

2/23/2017 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Rules

**HB 1065**

**Relating to Public Notification of Pollution**

Peters

Public Notification of Pollution: Requires owners & operators of certain installations to notify DEP of specified pollution releases; requires DEP to publish information for such releases; provides civil penalties. Effective Date: July 1, 2017

3/6/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee

**SB 1076**

**Relating to Florida Government Support Organizations**

Passidomo

Florida Government Support Organizations; Prohibiting the Florida Commission on Community Service from entering into a contract if a commission member or his or her immediate family member would receive a direct financial benefit from such contract; authorizing the department, rather than Enterprise Florida, Inc., to establish a cooperative advertising matching grants program, make certain expenditures, and enter into contracts with local governments and nonprofit corporations for a specified purpose; requiring the department to establish a direct-support organization known as the Florida Sports Foundation to assist the department, rather than the Office of Tourism, Trade, and Economic Development, with specified duties, etc. Effective Date: 7/1/2017

3/6/2017 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Appropriations; Rules

**SB 1082**

**Relating to Implementation of the Water and Land Conservation Constitutional Amendment**

Brandes

Implementation of the Water and Land Conservation Constitutional Amendment; Requiring a minimum specified amount of funds within the Land Acquisition Trust Fund to be appropriated to the Department of Environmental Protection for

specified water supply, water restoration, and water resource development projects, etc. APPROPRIATION:  
Indeterminate Effective Date: 7/1/2017

3/6/2017 SENATE Referred to Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations

- HB 1087** **Relating to Annexation Procedures for Municipalities** Silvers  
Annexation Procedures for Municipalities: Revises circumstances under which municipality is prohibited from annexing certain lands in contiguous, compact, or unincorporated areas without getting consent from specified landowners; specifies circumstances under which vote of electors in area to be annexed is not required. Effective Date: July 1, 2017  
3/6/2017 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee
- HB 1089** **Relating to Ocean Highway and Port Authority, Nassau County** Byrd  
Ocean Highway and Port Authority, Nassau County: Updates powers of authority consistent with law. Effective Date: upon becoming a law  
3/6/2017 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee
- HB 1107** **Relating to Pub. Rec./Workers' Compensation** Albritton  
Pub. Rec./Workers' Compensation: Provides exemption from public records requirements for personal identifying information of injured or deceased employees contained in certain notices or reports filed with DFS; authorizes division to disclose such information under specified circumstances; provides for future review & repeal of exemption; provides statement of public necessity. Effective Date: July 1, 2017  
3/6/2017 HOUSE Now in Insurance & Banking Subcommittee
- SB 1110** **Relating to Economic Development** Brandes  
Economic Development; Requiring the Department of Economic Opportunity to contract with a specified direct-support organization to guide, stimulate, and promote the sports industry, the participation of residents in amateur athletic competitions, and this state as a host for national and international athletic competitions; requiring the Office of Economic and Demographic Research to calculate the net state gross domestic product per state dollar of certain programs; creating the Quick Action Closing Fund Escrow Account within the State Economic Enhancement and Development Trust Fund; creating the Start-Up Florida Grant Program, etc. Effective Date: 7/1/2017  
3/6/2017 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations; Rules
- SB 1142** **Relating to Tax Credit for Hiring Veterans** Artiles  
Tax Credit for Hiring Veterans; Citing this act as the "Florida Veterans Employment Act; establishing a tax credit for hiring veterans; establishing an additional credit for hiring disabled veterans; revising the order in which credits against the corporate income tax or franchise tax may be taken to include credits for hiring veterans; revising the term "adjusted federal income" to include certain tax credits taken relating to hiring veterans, etc. Effective Date: 7/1/2017  
3/6/2017 SENATE Referred to Military and Veterans Affairs, Space, and Domestic Security; Appropriations Subcommittee on Finance and Tax; Appropriations
- HB 1143** **Relating to Coral Reefs** Jacobs  
Coral Reefs: Establishes Southeast Florida Coral Reef Ecosystem Protection Area; requires Coral Reef Conservation Program, in coordination with FWCC, to develop specified comprehensive management plan for area; requires DEP to submit proposed plan to Board of Trustees of Internal Improvement Trust Fund. Effective Date: July 1, 2017  
3/6/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee
- SB 1148** **Relating to Unemployment Compensation** Rader  
Unemployment Compensation; Requiring the Department of Economic Opportunity to designate an alternative base period in certain circumstances for benefit years commencing after a specified date; requiring employers to provide wage information to support an individual's eligibility for benefits upon request of the department; providing a penalty for employers who fail to timely provide that information; Effective Date: 7/1/2017  
3/6/2017 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
- SB 1158** **Relating to Regulation of Commerce, Trade, and Labor** Passidomo  
Regulation of Commerce, Trade, and Labor; Reserving to the state the exclusive right to regulate matters of commerce, trade, and labor under certain circumstances; prohibiting counties, municipalities, and special districts from engaging in specified actions that regulate commerce, trade, or labor, unless otherwise expressly authorized to do so by special or general law; providing that an ordinance, rule, or regulation that violates a specified provision is null and void, etc. Effective Date: Upon becoming a law  
3/6/2017 SENATE Referred to Commerce and Tourism; Community Affairs; Appropriations; Rules
- HB 1163** **Relating to Agency Rulemaking** Spano  
Agency Rulemaking: Requires agency to prepare statement of estimated regulatory costs before adopting, amending, or repealing any rule other than emergency rule; requires Department of State to maintain website that solely includes statements of estimated regulatory costs; requires agency that prepares or revises statement to provide statement to department for publication on website; requires agency to include website link to department's website on agency's website; requires department's website to be accessible to public. Effective Date: July 1, 2017  
3/6/2017 HOUSE Now in Oversight, Transparency & Administration Subcommittee

- HB 1227**      **Relating to Boating in Salt Water**      Jacobs  
Boating in Salt Water; Prohibits certain minors from operating specified vessels; provides exceptions; provides that parents, guardians, & supervising persons are subject to penalties under certain conditions. Effective Date: October 1, 2017  
3/3/2017      HOUSE Filed
- SB 1228**      **Relating to Marine Turtle Protection Act**      Gainer  
Marine Turtle Protection Act; Adding the existing offense of possession of any marine turtle species or hatchling, or parts thereof, or nests to level 3 of the offense severity ranking chart for the purpose of increasing sentencing points for conviction of the offense, etc. Effective Date: 7/1/2017  
3/6/2017      SENATE Referred to Criminal Justice; Environmental Preservation and Conservation; Appropriations
- SB 1254**      **Relating to Drugs and Alcohol**      Rouson  
Drugs and Alcohol; Providing that a person who knowingly furnishes alcoholic beverages to a person who is visibly intoxicated is liable for injury or damage caused by or resulting from the furnishing of alcoholic beverages to such person; providing that a person who knowingly furnishes alcoholic beverages to a minor is liable for injury or damage caused by or resulting from the furnishing of alcoholic beverages to the minor, etc. Effective Date: 10/1/2017  
3/6/2017      SENATE Referred to Criminal Justice; Judiciary; Rules
- SB 1262**      **Relating to Boating in Salt Water**      Farmer  
Boating in Salt Water; Prohibiting minors of a certain age from operating vessels powered by a motor of 10 horsepower or greater or certain sailboats or other rigged vessels in salt water, except under specified conditions; providing penalties for parents or guardians who knowingly permit their children or wards to violate the prohibition, etc. Effective Date: 10/1/2017  
3/6/2017      SENATE Referred to Criminal Justice; Environmental Preservation and Conservation; Transportation; Rules
- SB 1278**      **Relating to Fuel Storage**      Grimsley  
Fuel Storage; Specifying that funds in the Inland Protection Trust Fund may be used for certain purposes relating to damage or potential damage to petroleum storage systems caused by ethanol or biodiesel; specifying the process for petroleum storage system owners or operators to request approval for work and payment from the Department of Environmental Protection; requiring the department to ensure that petroleum storage systems approved after a certain date meet certain standards for ethanol blend, biodiesel blend, and other alternative fuel compatibility, etc. Effective Date: 7/1/2017  
3/6/2017      SENATE Referred to Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations
- SB 1306**      **Relating to Florida Sports Foundation**      Montford  
Florida Sports Foundation; Requiring the Department of Economic Opportunity to contract with a direct-support organization to promote the sports industry and the participation of residents in certain athletic competitions in this state and to promote the state as a host for certain athletic competitions; requiring the department to establish a direct-support organization known as the "Florida Sport Foundation," rather than authorizing the Office of Tourism, Trade, and Economic Development to authorize a direct-support organization, to assist the department in certain promotion and development activities, etc. Effective Date: 7/1/2017  
2/28/2017      SENATE Filed
- SB 1338**      **Relating to Vessels**      Book  
Vessels; Providing an additional condition for a vessel at risk of becoming derelict on waters of this state; prohibiting anchoring or mooring of vessels or floating structures in certain areas; authorizing a local government to enact and enforce regulations related to proof of pumpout in certain areas; providing for issuance of uniform boating citations for certain violations, etc. Effective Date: 7/1/2017  
3/1/2017      SENATE Filed
- SB 1396**      **Relating to Regulated Professions and Occupations**      Brandes  
Regulated Professions and Occupations; Deleting a requirement that yacht and ship brokers maintain a separate license for each branch office and a requirement that the Division of Florida Condominiums, Timeshares, and Mobile Homes establish a certain fee; deleting provisions authorizing the Department of Business and Professional Regulation to access and inspect certain records of athlete agents, to take certain related disciplinary actions, and to exercise certain subpoena powers; revising the process by which a business organization obtains the requisite license to perform architectural services, etc. Effective Date: 7/1/2017  
3/1/2017      SENATE Filed
- SB 1488**      **Relating to Annexation Procedures for Municipalities**      Clemens (J)  
Annexation Procedures for Municipalities; Revising circumstances under which a municipality is prohibited from annexing certain lands in contiguous, compact, or unincorporated areas without getting consent from a specified percent of landowners in the area, etc. Effective Date: 7/1/2017  
3/2/2017      SENATE Filed
- SB 1542**      **Relating to Seagrass**      Artilles

Seagrass; Permitting private owners of submerged lands to establish, upon application and approval of the Fish and Wildlife Conservation Commission, boating-restricted areas in certain seagrass areas to protect seagrasses, etc.

Effective Date: 7/1/2017

3/3/2017 SENATE Withdrawn prior to introduction

- SB 1624**      **Relating to Coral Reefs**      Farmer  
Coral Reefs; Establishing the Southeast Florida Coral Reef Ecosystem Protection Area; requiring the Coral Reef Conservation Program, in coordination with the Fish and Wildlife Conservation Commission, to develop a comprehensive management plan for the area using and building on previous stakeholder engagement and public comment, etc.  
Effective Date: 7/1/2017  
3/3/2017      SENATE Filed
- SB 1640**      **Relating to Administrative Procedures**      Broxson  
Administrative Procedures; Requiring an agency to prepare a statement of estimated regulatory costs before adoption, amendment, or repeal of any rule other than an emergency rule, etc. Effective Date: 7/1/2017  
3/3/2017      SENATE Filed
- HB 2349**      **Relating to Economic Analysis of Florida's Oceans and Coasts**      Latvala (C)  
Economic Analysis of Florida's Oceans and Coasts: Provides an appropriation for the Economic Analysis of Florida's Oceans and Coasts. Effective Date: July 1, 2017  
2/15/2017      HOUSE Now in Transportation & Tourism Appropriations Subcommittee
- HB 6001**      **Relating to Concealed Weapons and Firearms**      Raburn  
Concealed Weapons and Firearms: Revises areas of an airport where person is prohibited from openly carrying handgun or from carrying concealed weapon or firearm. Effective Date: July 1, 2017  
1/9/2017      HOUSE Now in Criminal Justice Subcommittee
- HB 6005**      **Relating to Licenses to Carry Concealed Weapons or Firearms**      Plakon  
Licenses to Carry Concealed Weapons or Firearms: Removes provision prohibiting concealed carry licensees from openly carrying handgun or carrying concealed weapon or firearm into college or university facility. Effective Date: July 1, 2017  
1/9/2017      HOUSE Now in Criminal Justice Subcommittee
- HB 6023**      **Relating to Sports Development**      Avila  
Sports Development: Repeals provision relating to state funding for sports facility development by unit of local government, or by certified beneficiary or other applicant, on property owned by local government. Effective Date: July 1, 2017  
3/1/2017      HOUSE Now in Careers & Competition Subcommittee
- HB 7005**      **Relating to Economic Programs**      Careers & Competition Subcommittee  
Economic Programs: Repeals specified programs; transfers duties, records, pending issues, rules, & unexpended balances of appropriations, allocations, & other public funds relating to certain programs to DEO; provides transitional provisions for terminated programs; provides for transfer of certain funds to General Revenue Fund; requires DEO to pay outstanding debts & obligations of certain trust funds & CFO to close out & remove such trust funds from state accounting systems. Effective Date: July 1, 2017  
3/6/2017      HOUSE Placed on Special Order Calendar for 03/09/2017
- HB 7043**      **Relating to Vessels**      Natural Resources & Public Lands Subcommittee  
Vessels: Provides condition under which vessel is at risk of becoming derelict; prohibits certain anchoring or mooring; authorizes local government to enact & enforce certain sewage disposal requirements; requires FWCC review such requirements; provides for issuance of uniform boating citations; provides & revises penalties. Effective Date: July 1, 2017  
3/1/2017      HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee
- CCS1**      **Relating to Economic Programs**      Careers & Competition Subcommittee  
PCB CCS 17-01 -- Economic Programs  
2/14/2017      HOUSE Committee Bill Filed as H 7005
- SOT1**      **Relating to Gulf Coast Economic Corridor**      Select Committee on Triumph Gulf Coast  
PCB SOT 17-01 -- Gulf Coast Economic Corridor  
3/3/2017      HOUSE Meeting Cancelled - Select Committee on Triumph Gulf Coast, 03/06/17, 3:00 pm, 17 H
- SOT2**      **Relating to Triumph Gulf Coast Trust Fund**      Select Committee on Triumph Gulf Coast  
PCB SOT 17-02 -- Triumph Gulf Coast Trust Fund

3/3/2017 HOUSE Meeting Cancelled - Select Committee on Triumph Gulf Coast, 03/06/17, 3:00 pm, 17 H

**CCS2**

**Relating to Deregulation of Professions and Occupations**

Careers & Competition  
Subcommittee

PCB CCS 17-02 -- Deregulation of Professions and Occupations

3/3/2017 HOUSE On Committee agenda - Careers & Competition Subcommittee, 03/07/17, 1:00 pm, 212 K